

GOVERNMENT OF PUERTO RICO  
DEPARTMENT OF HOUSING

MEMORANDUM OF UNDERSTANDING  
BETWEEN THE  
PUERTO RICO DEPARTMENT OF HOUSING  
AND  
FOUNDATION FOR PUERTO RICO



WHOLE COMMUNITY RESILIENCY PLANNING PROGRAM

This **MEMORANDUM OF UNDERSTANDING** is entered into this 28 day of December 2018 (the "**Memorandum**"), by and between the **PUERTO RICO DEPARTMENT OF HOUSING**, a public agency of the Government of Puerto Rico created under Act No. 97, dated June 10, 1972, as amended, known as the "Department of Housing Organic Act" ("**Organic Act**"), with principal offices at 606 Barbosa Ave., San Juan, Puerto Rico, represented herein by its Secretary, Hon. Fernando A. Gil-Enseñat, of legal age, attorney, married, and resident of Guaynabo, Puerto Rico (herein the "**PRDOH**"); and **FOUNDATION FOR PUERTO RICO, INC.**, a charitable organization under Section 1101.01 (a)(2)(A) of the Puerto Rico Internal Revenue Code and a public charity under Section 501 (c)(3) of the United States Internal Revenue Code (herein the "**FPR**"), herein represented by its President, Annie Mayol, of legal age, married, executive and resident of Guaynabo, Puerto Rico. *AM*

RECITALS

**WHEREAS**, Pursuant to Public Law 115-56 (the "**Appropriations Act**") and the Federal Register Notice dated February 9, 2018, at 83 FR 5844, the U.S. Department of Housing and Urban Development ("**HUD**") has awarded \$1,507,179,000 in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to the PRDOH for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.) (the "**Federal Award**") and described in the PRDOH's approved Action Plan (the "**Action Plan**"); and

**WHEREAS**, according to the approved Action Plan, Puerto Rico intends to undertake a Whole Community Resilience Planning Program ("**Program**") that will result in comprehensive community recovery plans, which will allow eligible communities to develop policy, planning, and management capacity so that they may more rationally and effectively determine their needs, set long-term goals and short-term objectives, devise programs and activities to meet goals

and objectives, evaluate the progress of such programs in accomplishing these goals and objectives, and carry out management, coordination, and monitoring of activities necessary for effective planning implementation. The Program has a designated total budget of \$37,500,000 to be funded by CDBG-DR grant, account number: R01P02CRP-FPR-NA 6090-01-0000.

**WHEREAS**, the PRDOH wishes to engage FPR to assist the PRDOH in administering the Program to be funded with CDBG-DR funds.

**WHEREAS**, FPR has legal authority to enter into this Memorandum and has agreed to undertake the corresponding administrative responsibilities under the Program. FPR's Board of Directors has duly adopted a Resolution dated December 11, 2018, included as **Exhibit A** (the "Resolution"), authorizing FPR to enter this Memorandum and by signing this Memorandum, to comply with all the requirements described herein.

#### GENERAL AWARD INFORMATION

The Subaward from PRDOH to the FPR contemplated hereunder is for the purpose of carrying out a portion of the Federal Award described in the above Recitals; thus, creating a federal assistance relationship with the FPR. This Memorandum shall be updated to reflect any changes to the Federal Award and the following award information.

CDBG-DR Grantee Federal Award Identification Number:	PRDOH DUNS #:054115628
CDBG-DR Grantee Federal Award Date:	September 20, 2018
Federal Award project description:	See <b>Exhibit B</b> for <u>Scope of Services</u>
FPR Unique Identifier:	FPR DUNS #: 079405384
Subaward Period of Performance:	Start Date: Effective Date, as defined in Section IV of this Memorandum. End Date: thirty-six (36) months from Start Date
Amount of funds obligated under FPR Memorandum:	\$37,500,000

**NOW, THEREFORE**, in consideration of the need for recovery from Hurricanes Irma and Maria and the premises and mutual covenants described herein, the parties mutually agree as follows:

## **TERMS AND CONDITIONS**

### **I. SCOPE OF SERVICES**

FPR will be responsible for performing the activities detailed in **Exhibit B** herein attached and made integral part of this Memorandum (the "Scope of Services"), which may be amended from time to time with the consent of both parties. FPR shall complete the Scope of Services in a manner reasonably satisfactory to the PRDOH and consistent with the terms and conditions of this Memorandum and applicable Federal and local statutes and regulations, including, but not limited, to the "Project Procedures" set forth in **Exhibit C** and the "Whole Community Resilience Planning Guidelines" set forth in **Exhibit D**.

#### **A. General Administration**

**Prohibited Activities.** FPR may only carry out the roles and responsibilities described in this Memorandum and the activities related to the performance of the Scope of Services described in **Exhibit B** of this Memorandum. Notwithstanding anything to the contrary in this Memorandum, FPR shall not be obligated to perform any work or services outside the Scope of Services described in **Exhibit B** of this Memorandum.

FPR shall not incur in any CDBG and/or CDBG-DR ineligible activities nor shall it invoice or request reimbursement of any ineligible costs, including those described at 24 CFR 570.207, as may be amended from time to time, and shall not use funds provided herein or personnel employed in the administration of activities under this Memorandum for political activities, inherently religious activities, or lobbying. PRDOH agrees that it may not and shall not require or instruct FPR to perform any services outside of the Scope of Services described in **Exhibit B** hereto. FPR acknowledges that it may be financially liable for costs and expenses incurred if FPR carries out activities outside of its roles and responsibilities under this Memorandum and the Scope of Services described in **Exhibit B** of this Memorandum.

#### B. Levels of Accomplishment – Performance Goals and Timelines

FPR shall complete the activities required under the Scope of Services of this Memorandum in accordance with the timeframes and performance goals set forth in **Exhibit E** ("Timeline") herein attached and made integral part of this Memorandum.

#### C. Right to Terminate Program if Activity Does Not Begin

If at the end of a Two (2) Year period commencing on the Effective Date of this Memorandum the program activity has not begun for reasons attributable solely to FPR (except to the extent that such delays were mainly due to Unavoidable Delays), the PRDOH, may, at its option, terminate this Memorandum by giving written notice thereof to FPR. No contract extensions will be granted unless FPR can document and justify the circumstances beyond its control constituting Unavoidable Delay that caused its nonperformance.

For purposes of this Memorandum, the term "Unavoidable Delay" means any delay in connection with any of the obligations of FPR under this Memorandum which results from an event beyond the control of the FPR, including the refusal or delay of the appropriate governmental authority to issue required permits and approvals (provided that such refusal or delay does not occur solely as a result of the act or omissions of the FPR), explosion, flood, hurricane, wind storm, embargo, disaster, fire other casualty, earthquake, taking under power of eminent domain, strike, lockout and other labor disturbances, shortage of labor, equipment or materials, acts of God or public enemy, riot, civil disturbance, uprising or war. *Am*

#### D. Staffing

FPR shall supervise and direct the completion of all activities under this Memorandum. Any changes in the Key Personnel assigned or their responsibilities under the activities are subject to the approval of the PRDOH. If possible, it is the best practice for FPR to provide the PRDOH with ample written notice of personnel changes. Ample notice in this context shall be five (5) business days. If that is not possible, then FPR shall make all reasonable effort to notify the PRDOH of changes. PRDOH will notify its approval within forty-five (45) days of receiving notice from FPR. While the approval process is pending, FPR may effect the personnel changes. If PRDOH disapproves of the personnel change then FPR shall leave the personnel change without effect.

At a minimum, FPR shall assign the staff with the identified responsibilities (the "**Key Personnel**") to the identified activities as described in **Exhibit F** of this Memorandum.

## II. **PERFORMANCE MONITORING & REPORTING**

### A. Monitoring

The PRDOH will monitor the performance of FPR as necessary and in accordance with regulations on Subrecipient Monitoring and Management, set forth at 2 CFR 200.330 – 2 CFR 200.332, to ensure FPR's compliance with all of the requirements of this Memorandum, including the timeframes and performance goals set forth in **Exhibit E**. Substandard performance as reasonably determined by the PRDOH will constitute noncompliance with this Memorandum. If, absent an Unavoidable Delay, action to correct such substandard performance is not taken by FPR within 30 days after being notified in writing by the PRDOH, the PRDOH may impose additional conditions on FPR and/or suspend or terminate this Memorandum, disallow all or part of the cost of all activities or actions in noncompliance or initiate other remedies for noncompliance, as appropriate and permitted under 2 CFR 200.338.

### B. Reporting

FPR shall submit regular monthly progress reports to the PRDOH, on the form and with the content specified and required by the PRDOH.

## III. **EFFECTIVE DATE AND TERM**

FPR hereby acknowledges that this Memorandum is subject to the execution of a grant agreement between the Government of Puerto Rico or the PRDOH, and HUD (the "Grant Agreement"); and the availability of the allocated CDBG-DR funds.

### **Effective Date:**

Accordingly, this Memorandum shall become effective and the Parties shall become bound by all provisions applicable to them pursuant to this Memorandum on the date on which the conditions set forth below have been fully satisfied or waived by the Parties (the "Effective Date"):

- (i) this Memorandum has been fully executed and delivered; and

(ii) the Grant Agreement has been fully executed and delivered and shall have become effective.

**Term:**

The term of this Memorandum (the "Term") commences on the Effective Date and expires on the earlier of: (i) December 31, 2021; (ii) the date as of which the parties agree in writing that all Close-Out Requirements<sup>1</sup> have been satisfied or, where no Close-Out Requirements are applicable to this Memorandum, the date as of which the Parties agree in writing that no Close-Out Requirements are applicable hereto; or (iii) such later date as the parties may agree to in writing and signed by both parties.

**IV. BUDGET**

The FPR shall complete all activities in the Scope of Services of this Memorandum (**Exhibit B**) in accordance with the Budget herein incorporated as **Exhibit G** attached herein and made integral part of this Memorandum (the "Budget") as such Budget may be amended from time to time.

The PRDOH may require a more detailed budget breakdown than the one contained herein, and FPR shall provide such supplementary budget information in a timely fashion in the form and content prescribed by the PRDOH. Any amendments to the budget must be approved in writing and signed by both the PRDOH and FPR.

The Budget shall include a reserve of two-percent of the Subaward for PRDOH's activity delivery costs and expenditures related to the Program. FPR may not Access the 2% reserve without written consent from the PRDOH.

Any indirect costs invoiced by the FPR must be consistent with the terms and conditions set forth herein.

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<sup>1</sup> Close-Out Requirements" means all requirements to be satisfied by each party in order to close-out this Memorandum and the CDBG-DR funds provided herein in accordance with applicable Requirements of Law, including the execution and delivery by one or more of the parties of all close-out agreements or other legal instruments and the taking of any actions by one or more of the Parties in connection with such close-out, in any case as required under applicable Requirements of Law.

Indirect costs may be invoiced to PRDOH under the cost allocation plan prepared in accordance with 2 CFR part 200, subpart E, and which shall be included in the Budget (**Exhibit G**).

A. Program Income

All program income (as defined at 24 C.F.R. 570.500) generated by activities carried out with the CDBG-DR Funds must be reported to PRDOH, and PRDOH shall determine on a case-by-case basis whether such Program Income may be retained by the FPR. If PRDOH approves in writing the FPR's retention of Program Income, the FPR may only use the Program Income for the eligible activities identified under this Memorandum. Program income is subject to all applicable CDBG laws and regulations for so long as it exists. Any interest earned on cash advances from the U.S. Treasury and from funds held in a revolving fund account is not Program Income and shall be remitted promptly to the PRDOH.

B. Reversion of Assets

**Use and Reversion of Assets**

The use and disposition of real property and equipment under this Memorandum shall be in compliance with the requirements of 24 CFR Part 84 and 24 CFR 570.502, 570.503, and 570.504, as applicable, which include but are not limited to the following:


1. The FPR shall transfer to PRDOH any CDBG-DR funds on hand and any accounts receivable attributable to the use of funds under this Memorandum at the time of expiration, cancellation, or termination.
2. Real property under the FPR's control that was acquired or improved, in whole or in part, with funds under this Memorandum in excess of \$25,000 shall be used to meet one of the CDBG National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of this Memorandum [or such longer period of time as PRDOH deems appropriate]. If the FPR fails to use CDBG-DR assisted real property in a manner that meets a CDBG National Objective for the prescribed period of time, the FPR shall pay PRDOH an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for acquisition of, or improvement to, the property. Such payment shall constitute Program Income to the PRDOH. The FPR may retain real property acquired or improved under this Memorandum after the expiration of the

five-year period [or such longer period of time as PRDOH deems appropriate].

In all cases in which equipment acquired, in whole or in part, with funds under this Memorandum is sold, the proceeds shall be Program Income (prorated to reflect the extent to that funds received under this Memorandum were used to acquire the equipment). Equipment not needed by the FPR for activities under this Memorandum shall be (a) transferred to the PRDOH for the CDBG-DR program or (b) retained after compensating the PRDOH [an amount equal to the current fair market value of the equipment less the percentage of non-CDBG-DR funds used to acquire the equipment].

## **V. PAYMENT**

The funds herein allocated by PRDOH shall be used to reimburse FPR for eligible CDBG-DR costs and expenses approved by PRDOH under this Memorandum.

It is expressly agreed and understood that the total amount to be paid by the PRDOH to the FPR under this Memorandum shall not exceed the amount specified in the Budget. However, PRDOH reserves the right to reduce the funding amount if CDBG-DR funding is not provided at the currently anticipated levels and/or if the actual costs for the approved activities are less than those set forth in the Budget. Such payment shall be compensation for any and all services required, performed and accepted under this Memorandum. Any additional funds to complete the services requested by the PRDOH to the FPR will be subject to their availability and will require a written amendment to this Memorandum. 

### **Requests for Reimbursements:**

The FPR shall submit to the PRDOH requests for reimbursement under this Memorandum and consistent with the approved Budget (the "Request for Reimbursement") and Scope of Services on a monthly basis. Each Request for Reimbursement shall be broken down into requested draws against the Budget.

The Requests for Payments must be submitted with all supporting invoices, bills, time sheets, monthly reports, and any other document necessary to justify the payment, or any other supporting document requested by the PRDOH. The Request for Reimbursement form must also be accompanied by documentation from the FPR demonstrating that all procurements for which payment is requested have been made in accordance with this Memorandum.



In the event that any Request for Reimbursement by the FPR is rejected by the PRDOH, the FPR shall have the right to request in writing that the PRDOH reconsider their rejection of such Request for Reimbursement. In such case, the FPR shall have the right to submit any additional supporting documentation it deems necessary.

If PRDOH determines that the submitted Request for Reimbursement and supporting documents are acceptable, then the invoice will be approved for payment.

An authorized representative of the PRDOH will review each Request for Reimbursement and, if adequate, will approve and process its payment. Payments to the FPR shall be made by check or electronic funds transfer (EFT). PRDOH reserves the right to conduct any audit it deems necessary.

In order for the FPR to receive payment for any work performed hereunder, the following certification must be included in each Request for Reimbursement submitted to the PRDOH:

**"Under penalty of absolute nullity, I certify that no public servant of the government entity is a party to or has an interest in the profits or benefits that are the product of the contract subject of this invoice, and to be a party to or have an interest in the profits or benefits of resulting from the contract, under this invoice a prior dispensation has been issued. The sole consideration to furnish the contracted goods or services subject of the contract is the payment agreed upon with the authorized representative of the parties. The amount that appears in the invoice is fair and correct. The work has been performed, the products have been delivered and the services rendered, and no payment has been received for them."**

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The PRDOH shall pay to FPR CDBG-DR funds available under this Memorandum based upon information submitted by the FPR for allowable costs permitted under this Memorandum and consistent with the approved Budget. With the exception of advances, payments will be made for eligible and allowed expenses actually incurred by the FPR, and not to exceed actual cash requirements. Payments will be adjusted by the PRDOH in accordance with advance fund and program income balances available in FPR accounts.

**Pre-agreement costs are eligible for payment under the terms and conditions of the Action Plan and this Memorandum.**

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FPR may submit for reimbursement, those costs incurred for activities undertaken in accordance with this Memorandum prior to the Effective Date of this Memorandum, and in compliance with 24 CFR section 570.200(h), 2 CFR 200 and HUD CDBG-DR Allocation Rules contained in the February 9, 2018 Federal Register Notice and subsequent notices as applicable. Specifically, pre-agreement costs may include the following: activities supporting program development, action plan development and stakeholder involvement support, and other qualifying eligible costs incurred in response to an eligible disaster covered under Public Law 115-56. These costs include the cost for salary, employer fringe benefits, and direct operating cost for each employee based on their individual percentage of time spent on the planning of the CDBG-DR program during a pay period.

## **VI. NOTICES**

All notices, requests, approvals, and consents of any kind made pursuant to this Memorandum shall be in writing and shall be deemed to be effective as of the date sent by certified mail, return receipt requested. All notices and other written communications under this Memorandum shall be addressed to the individuals in the capacities indicated below, unless otherwise modified by subsequent written notice. Communication and details concerning this Memorandum shall be directed to the following contract representatives:

PRDOH: Secretary, Honorable Fernando A. Gil-Enseñat  
Puerto Rico Department of Housing  
606 Barbosa Avenue  
Juan C. Cordero Building  
Rio Piedras, Puerto Rico 00918

FPR: Foundation for Puerto Rico  
1500 Calle Antosanti  
Suite K- Collaboratory  
San Juan, PR. 00912-3150  
Attention: Annie Mayol

## **VII. AMENDMENTS, DEFAULTS AND TERMINATION**

### **A. Amendments**

This Memorandum may be amended provided that such amendments make specific reference to this Memorandum, comply with programmatic policies, procedures, and guidelines, are executed in writing and signed by a duly authorized representative of each party, and approved by PRDOH. Such amendments shall not invalidate this Memorandum, nor relieve or release the parties from their obligations under this Memorandum.

The PRDOH may, in its discretion, amend this Memorandum to conform with Federal, state or local governmental guidelines, policies and available funding amounts, or for other reasons. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this Memorandum, such modifications will be incorporated only by written amendment signed by both the PRDOH and the FPR.

However, PRDOH reserves the right to notify in writing to FPR any applicable policies, procedures, regulations, requirements or guidelines, whether existing or to be established, as well as changes and/or amendments thereof, and the notified policies, procedures, regulations, requirements or guidelines shall be deemed incorporated by reference to this Memorandum without the need of executing a separate written and signed amendment. *Full*

B. Default.

The PRDOH may terminate this Memorandum, in whole or in part, upon 30 days' notice, whenever it determines that the FPR has failed to comply with any term, condition, requirement, or provision of this Memorandum (except to the extent that such failure is due to an Unavoidable Delay, in which case the period for performance shall be adjusted by an amount of days equal to the duration of the Unavoidable Delay). Failure to comply with any terms of this Memorandum, include (but are not limited to) the following:

- a. Failure to comply with any of the rules, regulations or provisions referred to herein, or such statutes, regulations, executive orders, and HUD guidelines, policies or directives as may become applicable at any time;
- b. Failure, for any reason, of the FPR to fulfill in a timely and proper manner its material obligations under this Memorandum;
- c. Ineffective or improper use of funds provided under this Memorandum; or


- d. Submission by the FPR to the PRDOH reports that are incorrect or incomplete in any material respect.

### C. Termination

#### 1. Termination for Cause

Without limiting any other remedies available to a party hereto under this Memorandum, at law or in equity, upon the occurrence of a default that is not cured (absent an Unavoidable Delay) within 30 days from the date on which such default is notified to the defaulting party, the non-defaulting party hereto may terminate this Memorandum, in whole or in part, by giving the defaulting party 30 days' written notice thereof.

#### 2. Unilateral Termination

The PRDOH may terminate this Memorandum, in whole or in part, at PRDOH's sole discretion, with or without cause, at any time. The PRDOH will terminate this Memorandum by delivering to the FPR a thirty (30) day notice of termination specifying the extent to which the performance of the work under this Memorandum is terminated, and the effective date of termination. Upon receipt of such notice, the FPR shall immediately discontinue all services affected and deliver to the PRDOH all information, studies and other materials property of the PRDOH. In the event of a termination by Notice, the PRDOH shall be liable only for payment of services rendered up to and including the effective date of termination. 

This Memorandum may also be terminated in whole or in part by either the PRDOH or the FPR, or based upon agreement by both the PRDOH and the FPR in accordance with the requirements set forth at 2 CFR part 200, subpart D.

#### 3. Notification and Recoupment of Costs Incurred Prior to Termination

The PRDOH shall promptly notify the FPR, in writing, of its determination and the reasons for the termination together with the date on which the termination shall take effect and any other notifications required under 2 CFR part 200, subpart D. Upon termination, the PRDOH retains the right to recover any improper expenditures from the FPR and the FPR shall return to the PRDOH any improper expenditures no later than thirty (30) days after the date of termination. In the case of a Termination for Convenience only, the PRDOH may, at its sole discretion,

allow the FPR to retain or be reimbursed for costs reasonably incurred prior to termination, that were not made in anticipation of termination and cannot be canceled provided that said costs meet the provisions of this Memorandum, 2 CFR Part 200, Subpart E, *Cost Principles*, and any other applicable state or Federal statutes, regulations or requirements.

#### 4. Suspension

The PRDOH may suspend this Memorandum in whole or in part at any time for the PRDOH's convenience. The PRDOH shall give the FPR ten days' prior written notice of such suspension. Upon receipt of said notice the FPR shall immediately discontinue all Services affected.

#### 5. Immediate Termination

In the event (i) (A) the FPR is subjected to a criminal or civil action, suit, proceeding in a court of applicable jurisdiction, or by any governmental agency, or (B) the FPR shall be subject to an order, judgment, or opinion, issued by any federal or local authority, a court of applicable jurisdiction, or any governmental agency, in each case in connection with the execution, delivery, and performance by the FPR of this Memorandum or (ii) there is a breach or inaccuracy of any representation or warranties, or the certifications provided herein, whether the breach or inaccuracy takes place before or after the execution of this Memorandum, the PRDOH shall have the right to the immediate termination of this Memorandum notwithstanding, any provisions to the contrary herein. This section will apply in the event of any judgment that may obligate the PRDOH to terminate the Memorandum pursuant to Act Number 2 of January 2, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico. *Ad*

In the event that the grant of funds by HUD under any allocations of the CDBG-DR may be suspended, withdraw or canceled, this Memorandum will be immediately terminated.

#### 6. Period of Transition.

Upon termination of this Memorandum, and for 90 consecutive calendar days thereafter (the Transition Period), FPR agrees to make itself available to assist the PRDOH with the transition of services assigned to FPR by the PRDOH. FPR shall provide to the PRDOH the assistance reasonably requested to facilitate the orderly transfer of responsibility for performance of the Services to the PRDOH or

a third party designated by the PRDOH. The parties agree to execute a Transition Services Memorandum for the Transition Period and FPR will be paid at a reasonable, agreed upon hourly rate for any work performed for the PRDOH during the Transition Period.

### **Availability of Funds**

This Memorandum is contingent upon the availability of funds from HUD. It is expressly understood and agreed that the obligation of FPR to proceed under this Contract is conditioned upon the receipt of Federal funds. If the funds anticipated for the continuing fulfillment of the Memorandum are, at any time, not forthcoming or insufficient, either through the failure of the Federal government to provide funds or the discontinuance or material alteration of the program under which funds were provided, or if funds are not otherwise available to PRDOH, the PRDOH have the right upon ten (10) working days written notice to the FPR, to terminate this Memorandum without damage, penalty, cost or expenses to PRDOH of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

### **VIII. COMPLIANCE WITH FEDERAL STATUTES, REGULATIONS AND THE TERMS AND CONDITIONS OF THE FEDERAL AWARD AND ADDITIONAL PRDOH REQUIREMENTS.**

The "Cross Cutting Program Guidelines, Applicable to all PRDOH CDBG-DR Programs", which are attached to, and made an integral part of this Memorandum as **Exhibit H**, set forth certain requirements imposed by HUD with respect to the PRDOH's Federal award or CDBG-DR Grant. The FPR agrees to carry out its obligations under this Memorandum in compliance with all the requirements described **Exhibit H** to this Memorandum to the extent that such requirements are applicable to programs such as the program contemplated in this Memorandum.

#### **A. General Compliance**

FPR shall comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this Memorandum. See Federal Register Notice 83 FR 5844 (February 9, 2018). Notwithstanding the foregoing, (1) the FPR does not assume any of the PRDOH's responsibilities for environmental review, decision-making,

and action, described in 24 CFR part 58 and (2) the FPR does not assume any of the PRDOH's responsibilities for initiating the review process under the provisions of 24 CFR Part 52. The FPR shall also comply with all other applicable Federal, state and local laws, regulations, and policies that govern the use of the CDBG-DR funds in complying with its obligations under this Memorandum, regardless of whether CDBG-DR funds are made available to the FPR on an advance or reimbursement basis.

Where waivers or alternative requirements are provided for in the applicable Federal Register Notice dated February 9, 2018, at 83 FR 5844 or any future Federal Register Notice published by HUD ("HUD Notices"), such requirements, including any regulations referenced therein, shall apply.

#### B. PRDOH Requirements

FPR agrees to comply, to the extent applicable, with the requirements set forth in the document titled "Procurement Manual and Contractual Requirements", which has been promulgated by the PRDOH, and is incorporated by reference herein. The FPR shall not enter into any contract for goods or services related to this Memorandum with any entity without the written consent of the PRDOH prior to the execution of such contract. Unless specified otherwise within this Memorandum, the FPR shall procure all materials, property, equipment, or services in accordance with the requirements of the PRDOH's procurement policies and procedures, and 2 CFR 200.318-326, as applicable, including but not limited to the need to appropriately assess the lease versus purchase alternatives. Am

FPR also agrees to include all applicable PRDOH's conditions (as revised from time to time by the PRDOH in accordance with applicable law, rule or regulation) in any contract entered into under this Memorandum. FPR shall also require all contractors to flow down the PRDOH's Conditions, as well as termination for convenience of the PRDOH, to all subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors. These Conditions include required terms for project contracts, HUD General Provisions, Participation by Minority Group Members and Women Requirements and Procedures for Contracts with Housing Trust Fund Corporation, Standard Clauses for Contracts with the PRDOH and required diversity forms. The FPR must comply with CDBG-DR regulations regarding debarred or suspended entities at 24 CFR 570.609 or 24 CFR 570.489(l) as appropriate. CDBG-DR funds may not be provided to excluded or disqualified persons.

The FPR shall maintain oversight of all activities under this Memorandum and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this Memorandum.

C. Hold Harmless

The FPR shall and hereby agrees to hold harmless, defend (with counsel acceptable to the PRDOH) and indemnify the PRDOH and each and all of its successors, affiliates, or assigns, and any of their employees, officers, directors, attorneys, consultants, agents, managers, and affiliates, from and against any and all damages, costs, attorneys' fees, claims, expenses, injuries, property damage, causes of action, violations of law, violations of this Memorandum, and losses of any form or nature arising from or related to the conduct of the FPR in the performance of the efforts called for in this Memorandum; provided, however, that the FPR's obligation to indemnify the PRDOH under this paragraph shall be limited to a total aggregate amount equal to all amounts payable to FPR hereunder for any claim or series of claims. This indemnity shall expressly include, but is not limited to, the obligation of the FPR to indemnify and reimburse the PRDOH for any and all attorneys' fees and other litigation or dispute resolution costs incurred or to be incurred in the PRDOH's enforcement of this Memorandum or any portion thereof against the FPR or otherwise arising in connection with the FPR's breach, violation, or other non-compliance with this Memorandum. FPR's obligation to indemnify under this Memorandum shall survive the expiration or earlier termination of this Memorandum.

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D. PRDOH Recognition

Unless otherwise directed by the PRDOH, the FPR shall ensure recognition of the role of HUD and the PRDOH in providing funding, services, and efforts through this Memorandum. Unless otherwise directed by the PRDOH, all activities, facilities, and items utilized pursuant to this Memorandum shall be prominently labeled as to role of HUD and of the PRDOH. In addition, the FPR will include a reference to the support provided herein in all publications made possible with funds made available under this Memorandum. The PRDOH reserves the right to direct specific reasonable recognition requirements on a case-by-case basis, including but not limited, to the size and content, waiver, removal or addition of such recognition.

E. Insurance & Bonding

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The FPR shall carry sufficient insurance coverage and, to the extent applicable, bonding from insurers licensed to conduct business in the Commonwealth of Puerto Rico to protect all contract assets from loss due to any cause, including but not limited to theft, fraud, and/or physical damage. The Commonwealth of Puerto Rico, the Puerto Rico Department of Housing and the Puerto Rico Public Housing Administration shall be named as additional insured on all such insurance. The FPR shall meet all other insurance requirements as the PRDOH may impose from time to time. In addition, all insurance carriers and bonding companies shall meet minimum size and financial stability/financial rating requirements as may be imposed by the PRDOH from time to time. Certificates of insurance shall be provided to the PRDOH and full and complete copies of the policies and/or bonds shall be provided to the PRDOH upon its request for same.

Notwithstanding the above, for construction or facility improvement performed by third parties, the FPR shall ensure that the third parties, at a minimum, comply with the bonding requirements at 2 CFR Part 200, subpart D.

F. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

The FPR shall comply with the applicable provisions in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. These provisions include:

a. Financial & Program Management

The FPR shall expend and account for all CDBG-DR funds received under this Memorandum in accordance with:

1. Accounting Standards

The FPR agrees to comply with 2 CFR Part 200 Subpart D §302 - §303 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

2. Cost Principles

The FPR shall administer its program in conformance with Cost Principles as outlined in 2 CFR Part 200 Subpart E, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

G. Documentation and Record Keeping

a. Records to be Maintained

The FPR shall maintain all records required by applicable law to be maintained, including but not limited to the Federal regulations specified in (1) 2 CFR Part 200; (2) 24 CFR 570.506; and (3) the applicable HUD Notices that are pertinent to the activities to be funded under this Memorandum, as well as any additional records required by the PRDOH. To the extent applicable, such records shall include but not be limited to:

1. Records providing a full description of each activity undertaken;
2. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR programs, as modified by the HUD Notices;
3. Records required to determine the eligibility of activities;
4. Records required to document the acquisition, improvement, use, or disposition of real property acquired or improved with CDBG-DR funds;
5. Records documenting compliance with the fair housing and equal opportunity components of the CDBG-DR program;
6. Financial records as required by (1) 24 CFR 570.502; and (2) 2 CFR Part 200;
7. Other records necessary to document compliance with Subpart K of 24 CFR Part 570.

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b. Access to Records

The FPR shall furnish and cause each of its own subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the PRDOH, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

c. Record Retention and Transmission of Records to the PRDOH

The FPR shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Memorandum for a period of four (4) years. The retention period begins on the date of the submission of the PRDOH's Quarterly Performance Report (QPR) in which the activities assisted under the Memorandum are reported on for the final time. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four (4) year


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period, then such records must be retained until completion of the actions and resolution of all issues, or the expiration of the four (4) year period, whichever occurs later.

Prior to close-out of this Memorandum, the FPR must transmit to the PRDOH records sufficient for the PRDOH to demonstrate that all costs under this Memorandum met the requirements of the Federal award.

The FPR shall retain financial records, supporting documents, statistical records, and all other FPR records pertinent to this Memorandum and any subaward for which the FPR is performing the Activities for the longer of 3 years after the expiration or termination of this Memorandum, or 3 years after the submission of the PRDOH's annual performance and evaluation report.

d. Client Data and Other Sensitive Information

In the event that the FPR comes to possess client data and other sensitive information as a result of this memorandum, then the FPR shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to PRDOH monitors or their designees for review upon request. 

To the extent applicable, the FPR must comply with 2 CFR §200.303 and shall take reasonable measures to safeguard protected personally identifiable information, as defined in 2 CFR 200.82, and other information HUD or the PRDOH designates as sensitive or the FPR considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

The FPR shall comply with all State or local requirements concerning the privacy of personal records, consistent with 24 CFR 570.508 (local governments) and 570.490(c) (States).


H. Close-out

The FPR obligation to PRDOH shall not end until all close-out requirements are completed. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the PRDOH), properly addressing Program Income (as that term is defined in section VI (A)(19)(a) of the HUD Notice 83 Fed.

Reg. 5844, 5856 (February 9, 2018, as may be amended by HUD)), balances, and accounts receivable to the PRDOH), determining the custodianship of records, and the FPR certification of compliance with the terms of this Memorandum. Notwithstanding the foregoing, the terms of this Memorandum shall remain in effect during any period that the FPR has control over CDBG-DR funds, including Program Income.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Memorandum, the FPR shall transfer to the recipient any CDBG-DR funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG-DR funds, further, any real property under the FPR's control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to the FPR in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

I. Audits, Inspections, and Monitoring

All FPR records with respect to any matters covered by this Memorandum shall be made available to the PRDOH, HUD, and the Comptroller General of the United States, or any of their authorized representatives, at any time during normal business hours, as often as deemed necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the FPR within 30 days after receipt by the FPR. Failure of the FPR to comply with the above audit requirements will constitute a violation of this Memorandum and may result in the withholding of future payments and/or termination. 

a. Single Audit

The FPR must be audited as required by 2 CFR part 200, subpart F when it is expected that the FPR's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

b. Inspections and Monitoring

The FPR shall permit the PRDOH and auditors to have access to the FPR's records and financial statements as necessary for the PRDOH to meet the requirements of 2 CFR part 200.

This review must include: (1) reviewing financial and performance reports required by the PRDOH; (2) following-up and ensuring that the FPR takes timely and

appropriate action on all deficiencies pertaining to the Federal award provided to the FPR from the PRDOH detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to this Federal award provided to the FPR from the PRDOH as required by 2 CFR §200.521.

c. Corrective Actions

The PRDOH may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. The PRDOH may require the FPR to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the FPR from the pass-through entity detected through audits, on-site reviews, and other means. A timely and appropriate action shall be predicated on reasonable standard wherein the FPR utilizes all available resources to correct the noted issue or issues. In response to audit deficiencies or other findings of noncompliance with this Memorandum, the PRDOH may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

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J. Nondiscrimination

a. 24 CFR part 6

The FPR will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance.

The FPR will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, the FPR shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

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b. Architectural Barriers Act and the Americans with Disabilities Act

The FPR shall ensure that its Activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act.

The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed, or altered in accordance with standards that insure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed, or altered with funds allocated or reallocated under this part after December 11, 1995, and that meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services, and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

The FPR agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 24 CFR 570.607, as revised by Executive Order 13279. The applicable non-discrimination provisions in Section 109 of the HCDA are still applicable.

c. Title VI of the Civil Rights Act of 1964 (24 CFR part 1)

1. General Compliance:

The FPR shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P. L. 88-352), as amended and 24 CFR 570.601 and 570.602. No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this Memorandum. The specific

nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. The FPR shall not intimidate, threaten, coerce, or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under 24 CFR part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 24 CFR part 1, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder.

2. Assurances and Real Property Covenants:

As a condition to the approval of this Memorandum and the extension of any Federal financial assistance, to the extent applicable, the FPR assures that the program or activities described in this Memorandum will be conducted and the housing, accommodations, facilities, services, financial aid, or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to 24 CFR part 1.

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If the Federal financial assistance under this Memorandum is to provide or is in the form of personal property or real property or interest therein or structures thereon, the FPR's assurance herein shall obligate the FPR or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases the assurance shall obligate the FPR for the period during which Federal financial assistance is extended pursuant to the contract or application.

This assurance gives the PRDOH and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Memorandum or acquired with CDBG-DR funds and provided to the FPR Under this Memorandum, the instrument effecting any disposition by the FPR of such real property, structures or improvements thereon, or


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interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

If the FPR receives real property interests or funds or for the acquisition of real property interests under this Memorandum, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

### 3. Affirmative Action

#### i. Approved Plan

The FPR agrees that it shall carry out pursuant to the PRDOH's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1966, as amended, and implementing regulations at 42 CFR chapter 60. The PRDOH shall provide Affirmative Action guidelines to the FPR to assist in the formulation of such program. The FPR shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this Memorandum. 

#### ii. Women- and Minority-Owned Businesses (W/MBE)

The FPR shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when the FPR procures property or services under this Memorandum. As used in this Memorandum, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian- Americans, and American Indians. The FPR may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

#### iii. Notifications



The FPR will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of the FPR's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

iv. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The FPR shall, in all solicitations or advertisements for employees placed by or on behalf of the FPR, state that it is an Equal Opportunity or Affirmative Action employer.

K. Section 3 of the Housing and Urban Development Act of 1968

Compliance with the provisions of Section 3 of the HUD Act of 1968, as amended, and as implemented by the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this Memorandum, shall be a condition of the Federal financial assistance provided under this Memorandum and binding upon PRDOH, FPR, and any of FPR's contractors, and subcontractors. Failure to fulfill these requirements shall subject PRDOH, FPR, and any of FPR's contractors, and subcontractors, as well as their successors and assigns, to those sanctions specified by the Memorandum through which Federal assistance is provided. FPR certifies and agrees that no contractual or other impediment exists that would prevent compliance with these requirements. Am

FPR further agrees to comply with the "Section 3" requirements stated below and to include verbatim this language in all subsequent contracts and subcontracts executed under this Memorandum:

- A. The work to be performed under this Memorandum is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- B. The parties to this Memorandum agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this Memorandum, the parties to this Memorandum certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.
- C. [THE CONTRACTOR] agrees to send to each labor organization or representative of workers with which [THE CONTRACTOR] has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of [THE CONTRACTOR]'s commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. [THE CONTRACTOR] agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. [THE CONTRACTOR] will not subcontract with any subcontractor where [THE CONTRACTOR] has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.
- E. [THE CONTRACTOR] will certify that any vacant employment positions, including training positions, that are filled (1) after [THE CONTRACTOR] is selected but before the Agreement is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent [THE CONTRACTOR]'s obligations under 24 CFR part 135.
- F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.

L. Conduct

a. Hatch Act

The FPR shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this Memorandum, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

b. Conflict of Interest

The FPR agrees to abide by the provisions of 2 CFR Part 200, as applicable, and 24 CFR 570.611, which include (but are not limited to) the following:

1. It is presumed that the FPR is subject to state and local ethic laws and regulations related to the conduct of its officers, employees or agents engaged in the award and administration of this Memorandum.
2. In the event the FPR is not, the FPR shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of this Memorandum. No employee, officer, or agent shall participate in the selection, award, or administration of a contract supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would rise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in the firm selected for an award. The officers, employees, and agents of the recipient shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to sub agreements. However, recipients may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient. Am
3. No covered persons who exercise or have exercised any functions or responsibilities with respect to CDBG-DR assisted activities, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest in any contract, or have a financial interest in any contract, subcontract, or agreement with respect to the CDBG-DR assisted activity, or with respect to the proceeds from the CDBG-DR assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for a period of one (1) year thereafter. For purposes of this paragraph, a "covered

person" includes any person who is an employee, agent, consultant, officer, or elected or appointed official of the PRDOH, the FPR, or any designated public agency.

#### 4. Lobbying Certification

The FPR hereby certifies that:

- i. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
- ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; Am
- iii. It shall require that the language of paragraph (i) through (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly; and
- iv. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by section 1352, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

#### M. Religious Activities

The FPR agrees that funds provided under this Memorandum shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

### IX. INDEPENDENT CONTRACTOR

Nothing contained in this Memorandum is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The FPR shall at all times remain an "independent contractor" with respect to the efforts to be performed under this Memorandum. The PRDOH shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the FPR is an independent entity.

**X. ASSIGNMENT**

FPR shall not assign or transfer any interest in this Memorandum without the prior written consent of the PRDOH.

**XI. SEVERABILITY**

If any provision of this Memorandum is held invalid, the remainder of the Memorandum shall not be affected thereby, and all other parts of this Memorandum shall nevertheless be in full force and effect.



**XII. SECTION HEADINGS AND SUBHEADINGS**

The section headings and subheadings contained in this Memorandum are included for convenience only and shall not limit or otherwise affect the terms of this Memorandum.

**XIII. WAIVER**

The PRDOH's failure to act with respect to a breach by FPR does not waive its right to act with respect to subsequent or similar breaches. The failure of the PRDOH to exercise or enforce any right or provision shall not constitute a waiver of such right or provision.

**XIV. GOVERNING LAW: JURISDICTION**


This Memorandum shall be governed by, interpreted and enforced in accordance with the laws of the Government of Puerto Rico and any applicable federal laws and regulations. The parties further agree to assert any claims or causes of action that may arise out of this Memorandum in the Puerto Rico Court of First Instance, San Juan Part, notwithstanding jurisdiction may be averred in any U.S. District Court, including for diversity of citizenship.



#### **XV. COMPLIANCE WITH LAW**

It is the intention and understanding of the Parties hereto that each and every provision of law required to be inserted in this Memorandum should be and is inserted herein. Furthermore, it is hereby stipulated that every such provision is deemed to be inserted and if, through mistake or otherwise, any such provision is not inserted herein or is not inserted in correct form, then this Memorandum shall forthwith, upon the application of any Party, be amended by such insertion so as to comply strictly with the law and without prejudice to the rights of any Party.

#### **XVI. SUBROGATION**

FPR acknowledges that funds provided through this Memorandum are Federal funds administered by HUD under the CDBG-DR Program and that all funds provided by this Memorandum are subject to audit, disallowance, and repayment. Any disagreement with adverse findings may be challenged and subject to Federal regulation, however, FPR shall promptly return any and all funds to the PRDOH, which are found to be ineligible, unallowable, unreasonable, a duplication of benefits, or non-compensable, no matter the cause. This clause shall survive indefinitely the termination of this Memorandum for any reason. 

#### **XVII. COMPTROLLER REGISTRY**

The PRDOH shall remit a copy of this Memorandum to the Office of the Comptroller for registration within fifteen (15) days following the date of execution of this Memorandum and any subsequent amendment hereto. The services object of this Memorandum may not be invoiced or paid until this Memorandum has been registered by the PRDOH at the Comptroller's Office, pursuant to Act No. 18 of October 30, 1975, as amended by Law No. 127 of May 31, 2004.

#### **XVIII. ENTIRE AGREEMENT**

This Memorandum constitutes the entire agreement among the parties for the use of funds received under this Memorandum and it supersedes all prior or contemporaneous communications and proposals, whether electronic, oral, or written among the parties with respect to this Memorandum.

**IN WITNESS THEREOF**, the parties hereto execute this Memorandum in the place and on the date first above written.

**[Signature Page Follows]**

**PUERTO RICO DEPARTMENT OF HOUSING, CDBG-DR Grantee**

By: \_\_\_\_\_

(signature)

Name: Fernando A. Gil Enseñat

Title: Secretary

TAX Id No: 660-55-8579

Date: \_\_\_\_\_

1/3/19

**FOUNDATION FOR PUERTO RICO**

By: \_\_\_\_\_

(signature)

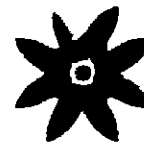
Name: Annie Mayol

Title: President and COO

TAX Id No: 660-77-6227

Date: \_\_\_\_\_

12/28/18



**RESOLUTIONS  
OF  
FOUNDATION FOR PUERTO RICO, INC.**

**WHEREAS**, the Board of Directors of **FOUNDATION FOR PUERTO RICO, INC.**, a Puerto Rico not-for-profit corporation (the "Corporation"), deems it advisable and in the best interest of the Corporation to adopt the following resolutions:

**RESOLVED**, that Annie Mayol, in her capacity as President and COO, (the "Authorized Representative") hereby is authorized and empowered to negotiate and subsequently sign the agreement as it was presented to the board of directors of Foundation for Puerto Rico, with its approved recommendations, with the Puerto Rico Housing and Urban Development Agency ("PRHUD") around the initiative "Whole Community Resiliency Planning" (WCRP).

The undersigned hereby certifies that she is the duly elected and qualified Assistant Secretary of Foundation for Puerto Rico, Inc., a Non-Profit Corporation duly formed pursuant to the laws of Puerto Rico and the foregoing is a true record of a resolution duly adopted at a Board of Director meeting of Foundation for Puerto Rico, Inc. and that meeting was held in accordance with Puerto Rico laws and the Bylaws of the above-named Corporation on December 11, 2018 and that said resolution is now full force and effect without modification or rescission.

IN WITNESS WHEREOF, I, Damaris Ocasio Nieves, as Assistant Secretary have hereunto affixed my signature and the corporate seal of the above-named Corporation this December 27<sup>th</sup> of 2018.

Assistant Secretary

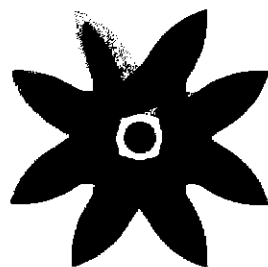


# MOU EXHIBIT B – SCOPE OF SERVICES

DECEMBER 2018



**GOVERNMENT OF PUERTO RICO**  
**Department of Housing**



**Foundation**  
**for Puerto Rico**

*Handwritten signature*

## Program Overview

The activities under this program will be managed by the Foundation for Puerto Rico (FPR), which may in its discretion procure Consultant(s) if it deems it necessary to implement any aspect of such program activities. Consistent with the requirements of this Agreement, the FPR shall be reimbursed for any Eligible Costs incurred in carrying out program activities within eligible budget amounts.

The program activities include providing grants and/or loans to qualified project applicants which shall be used for the development of Community Resilience Plans in Puerto Rico. With respect to each activity, FPR and its consultants shall implement the activity in accordance with applicable PRDOH policies, CDBG-DR regulations, and Requirements of Law.

In order to implement the foregoing, FPR will carry out the activities described in the Action Plan:

- Serve as the lead implementation partner and provide overall project management functions.
- Whole Community Resilience Planning (WCRP) Program design, including ongoing updates and/or modifications to program design and/or program policy as needed. Updates and/or modifications to program design and/or policy must be approved by PRDOH and HUD, if applicable, prior to implementation.
- Create and manage a Working Group of key stakeholders of government agencies, national and local not-for-profit organizations.
- Development of Community Resilience Web Portal (Dashboard).
- Provide technical assistance to municipalities in data validation efforts.
- Identify, collect, and analyze data to create community vulnerability and resilience profiles using official government datasets (state and federal that include: information on source, data collection/management, programming language, description, granularity and methodologies).
- Create a Social Capital Mapping Report. Identify the potential community support available during program dissemination and during the Notice of Funding Availability (NOFA) application process.
- Create a Comprehensive Outreach Strategy including drafting of any required marketing materials.
- Municipal orientation events on program guidelines and reimbursement requirements and outreach efforts to promote municipal participation in Phase I.
- Design and implement a community outreach and engagement strategy with residents, municipal staff and other stakeholders focused in preparation for Phase II. This will include trainings on resilience, community planning, and Phase II requirements in preparation for portal launch.
- Prepare and release a Request for Qualification (RFQ) development of the guidelines, solicitation process and evaluation criteria for technical expertise that will support the Community Planning Process.
- Develop a Notice of Funding Availability (NOFA). Development of the guidelines, solicitation process, selection/evaluation criteria, and evaluation process for applicants to request funding for their Whole Community Resilience plan.
- Stakeholder management and stakeholder communications regarding programs included in this MOU.
- Publication of NOFA.
- Provide technical assistance by Community Planning Specialists to applicants of the WCRP program.



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- Provide monitoring and compliance assistance to awardees of the WCRP program.
- Publish community resilience plans (prepared by awardees)
- Award agreement drafting.
- Monitoring and compliance orientation meetings to advise awardees of requirements.
- Monthly certifications for payments review and approval.
- Submit request for funds to PRDOH.
- Assist awarded applicants with the allocation of a planning associate and other planning resources previously approved through RFQ process, for support and guidance in the development of the plan.
- Assign Fiscal and Program Officers to awarded applicants for support, monitoring and compliance.
- Identification of potential funding sources for projects included in the community resilience plan.
- Pre-audit of monthly certifications for payment.
- Disbursement of monthly certifications for payment.
- Accounting and reporting of uses of CDBG-DR funds, including but not limited to: information on beneficiary demographics, and project completion status.
- Reporting and data management, including delivery of ad hoc reports when requested by PRDOH or its designee(s).
- Management of agreed upon program budget included herein. Any variances or expected variances which would cause significant impacts on the program must be reported to PRDOH along with recommended corrective action.
- Management of and adherence to agreed-upon program and project-specific schedules. Variances which may cause a significant impact on program or project must be reported to PRDOH along with recommended corrective action.
- Ensure adequate staffing levels to support program activities funded in whole or in part by CDBG-DR.
- Human resource management for all staff dedicated in whole or in-part to programs funded by CDBG-DR.
- Translation of program documents. All program documents publicly available must be available, at minimum, in Spanish and English. If requested, subrecipients must make reasonable efforts to provide program documents in languages other than Spanish or English.
- Other duties upon request.

## Program Description

The Whole Community Resilience Program will use CDBG-DR Funds that will result in the development of comprehensive community resilience plans, which will allow eligible communities to develop policy, planning, and management capacity so that they may more rationally and effectively determine their needs, set long-term goals and short-term objectives, devise programs and activities to meet goals and objectives, evaluate the progress of such programs in accomplishing these goals and objectives, and carry out management, coordination, and monitoring of activities necessary for effective planning implementation. Per the Action Plan approved by HUD on July 29, 2018, the Program has a designated total budget of \$37,500,000 to be funded by CDBG-DR.



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# MOU EXHIBIT C – PROJECT PROCEDURES

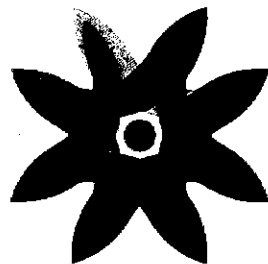
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### Project Procedures

FPR shall only perform the activities detailed in the Scope of Services with respect to the projects identified by the PRDOH and notified in writing to FPR (each a "Designated Project" and collectively the "Designated Projects"). Each Designated Project shall be carried out in accordance with a written agreement (each such agreement, a "Work Agreement") between the PRDOH and the governmental, for profit or non-profit entity (each such entity, a "Promoter") that shall perform or cause to be performed the work with respect to a Designated Project.

Each Promoter shall submit a separate project application (each a "Project Application") form that shall be provided and completed by the Promoter(s) for each Designated Project after the execution of and in accordance with this Memorandum. Project Applications shall address the housing, infrastructure, and/or economic recovery and/or revitalization needs, as applicable, of the area for which the Designated Project has been proposed.

The parties agree that the designation of the Designated Projects and the approval of the Project Applications shall be made in accordance with PRDOH guidelines (hereinafter the "Policy"), HUD guidelines and regulations, and other applicable state and federal laws and regulations.

### Project Application Acceptance

The designation of a Designated Project does not commit PRDOH to providing any CDBG-DR or other funding to a project. PRDOH shall only be committed to providing funding to a Designated Project upon the approval by PRDOH of a Project Application submitted by the Promoter of such Project.

FPR shall assist and supervise the Promoters with respect to their submissions of Project Applications to the PRDOH. The Project Applications shall set forth in reasonable detail the proposed scope, budget, and schedule for all or part of the work contemplated with respect to the Designated Project.

Any proposed budget set forth in the Project Application will clearly specify proposed funding for administrative costs and/or program delivery costs and/or design or planning costs, and/or construction costs, to the extent that such costs are considered applicable categories for funding.

### Project Application Approval

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PRDOH may, upon HUD's issuance of the authority to use grant funds for a Designated Project, (i) approve the proposed Project Application and, notwithstanding anything to the contrary contained in the Agreement, unilaterally adjust the amount of any funds obtained under a Federal grant accordingly, or; (ii) reject the project application and, notwithstanding anything to the contrary contained in the Agreement, unilaterally reduce the Grant Funds by an amount equal to the amount otherwise allocated to construction or other implementation phase of the Designated Project.

### Project Phase

Following the approval of the Project Application for a Designated Project, PRDOH will notify FPR in writing ("Clearance Letter") that PRDOH intends to commit funds for implementation of a Designated Project.

If implementation is authorized by PRDOH in the Clearance Letter, FPR must ensure that the Promoter complies with any and all conditions or required mitigation imposed by the PRDOH as well as any permit requirements, or other applicable requirements of federal and state environmental laws.

As a reimbursement-based program,<sup>1</sup> tasks and deliverables contained in the Project Application and in the PRDOH's approval thereof must be conducted in a manner satisfactory to PRDOH and in compliance with applicable federal and state requirements, laws, and regulations. FPR will monitor the performance of Promoters against goals and performance standards as stated in the Project Application and in the PRDOH's approval thereof. While PRDOH may consider additional costs, as they arise, Promoter must be prepared to perform (and document to PRDOH) the Designated Project's compliance with the Project Application and the PRDOH's approval thereof, even if the funds provided hereunder do not cover 100% of the costs of performance. In the event PRDOH's funds do not cover 100% of the agreed upon budget, Promoter must make a showing of committed supplemental funding.

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<sup>1</sup> By "reimbursement" the PRDOH means that typically costs must be actually incurred before the PRDOH will make payment to the FPR. However, this does not mean that the FPR must have previously paid these costs. Rather, these costs can be passed along to PRDOH in the form of an invoice(s) (or similar document) and appropriate supporting information as required by the terms of this Memorandum, for payment of such invoice(s), per the payment terms of this Memorandum.

# MOU EXHIBIT D – WHOLE COMMUNITY RESILIENCE PLANNING GUIDELINES

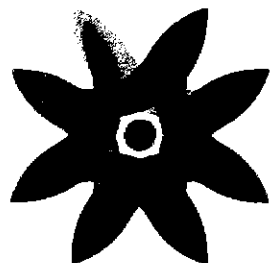
DECEMBER 2018



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for Puerto Rico

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## WHOLE COMMUNITY RESILIENCE PLANNING

### Overview/Background

In September 2017, communities across Puerto Rico were severely impacted by hurricanes Maria and Irma. These impacts were magnified due to vulnerabilities such as weak or insufficient infrastructure, poverty and inequality, lack of adequate healthcare, and structures located in floodplains. In the days, weeks, and months following the hurricanes, the impacts of the disasters expanded exponentially due to these vulnerabilities, contributing to significant hardships for residents, stunted recovery efforts, and a level of impact on human life that is still being understood.

Rebuilding the Puerto Rico of tomorrow will require innovative long-term community and regional resilience planning, to ensure that recovery solutions embody holistic and inclusive long-term adaptation strategies. It is the goal of Puerto Rico to develop recovery strategies that not only protect life and property from future hazards, but more fundamentally promote an inclusive and participatory recovery process that enables all residents to realize the benefits of revitalized communities. This outcome-oriented community planning is critical in the disadvantaged and recovering communities across the Commonwealth.

### Program Description and Priority

According to the approved Disaster Recovery Action Plan of the Puerto Rico Department of Housing, the Whole Community Resilience Planning program will result in comprehensive community recovery plans, the benefits of which will allow communities to develop policies, planning, and management capacity so they may more rationally and effectively determine their needs.

The Whole Community Resilience Planning Program (Program) has two phases which will nurture civic engagement and allow communities to create a resilience plan and increase local capacity in their decision-making processes for future investment opportunities. In the process communities will collaboratively and effectively determine their unique needs, set long-term goals and short-term objectives, identify priorities and request funding for the development of a long-term resilience plan. The program priority will be high-risk communities, which are defined as communities situated in the floodway or floodplain, landslide risk areas: and/or areas of concentrated damage.

### Administering Entity

The Foundation for Puerto Rico (FPR) is a 501(c)(3) public charity founded in 2011 with a mission to transform Puerto Rico into a destination for the world by driving economic and social development through sustainable strategies. The Foundation will be the lead partner of the Puerto Rico Department of Housing (PRDOH) on the implementation of the Whole Community Resilience Planning program. FPR will execute a memorandum of understanding (MOU) with PRDOH, wherein FPR will act as a partner of PRDOH working in close coordination with and under the oversight of PRDOH to administer the program. FPR roles and responsibilities include program design, development of program guidelines, processes and procedures; education and orientation, program implementation, including fund distribution and oversight to the awardees.



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The MOU will further detail the specific roles and responsibilities of the Foundation and how it will interact with PRDOH. FPR will be the lead partner on the two Phases of the Program and will act as a direct extension of PRDOH in coordinating with communities on support needs and development of deliverables in Phases I and II. FPR will oversee and manage the process of the allocation and distribution of funding, in collaboration and coordination with PRDOH.

FPR will serve as the primary point of contact and responsible party for coordination with other partners, municipalities, and subrecipients., FPR will collaborate with other core stakeholders such as the government, community stakeholders, and non-profit organizations to capitalize on intellectual capital resources as well as to coordinate parallel and relevant planning efforts, such as updated hazard mitigation plans. Throughout the program, PRDOH and the FPR will work with the Office of Socio-Economic and Community Development (ODSEC for its acronym in Spanish) in developing and implementing a comprehensive outreach and educational program for communities and municipalities. More details of the program are included in sections below. PRDOH and FPR will also work with the Planning Board to provide technical assistance and data to participating subrecipients. In the initial phase, each municipality will be eligible to receive reimbursement for documented staff time related to conducting community-planning efforts supporting the Program.

Stakeholders	Roles and Responsibilities
<b>Communities</b>	Communities will participate in the validation of the resilience and vulnerability data and provide support to the Social Capital Mapping Report from FPR. They will be eligible to apply for funding after publication of the NOFA for the design of community resilience plans. Additionally, the communities will have access to a technical resource component from FPR to work on the design of their resilience plans.
<b>HUD- Federal Government</b>	Grantor – The U.S. Department of Housing and Urban Development
<b>PRDOH - State Government</b>	Grantee from the Federal Government – Puerto Rico Department of Housing (PRDOH)
<b>Foundation for Puerto Rico (FPR) – NGO</b>	PRDOH Implementation Partner of the Whole Community Resilience Planning Program
<b>ODSEC</b>	Implementation Partner for the Outreach and Education Program of the Whole Community Resilience Planning Program – Office of Socio-Economic and Community Development
<b>Planning Board</b>	Provide support for the data gathering and development of Community Plans
<b>Municipalities</b>	Validate data, collaborate and support outreach efforts, support application effort from communities.
<b>Working Group</b>	Provide input on data available, guidance on index development, provide feedback on NOFA development. The members of the Working Group include representatives from a variety of local and federal government members and local NGO's.
<b>Private Contractors</b>	Provide professional services as needed (following procurement guidelines).



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<b>Local NGOs</b>	Support outreach efforts and communications with communities, some will act as solicitants of funding on behalf of a specific community or communities.
<b>Academia</b>	Provide expert support as needed.

## PHASE I

(6 to 8 months)

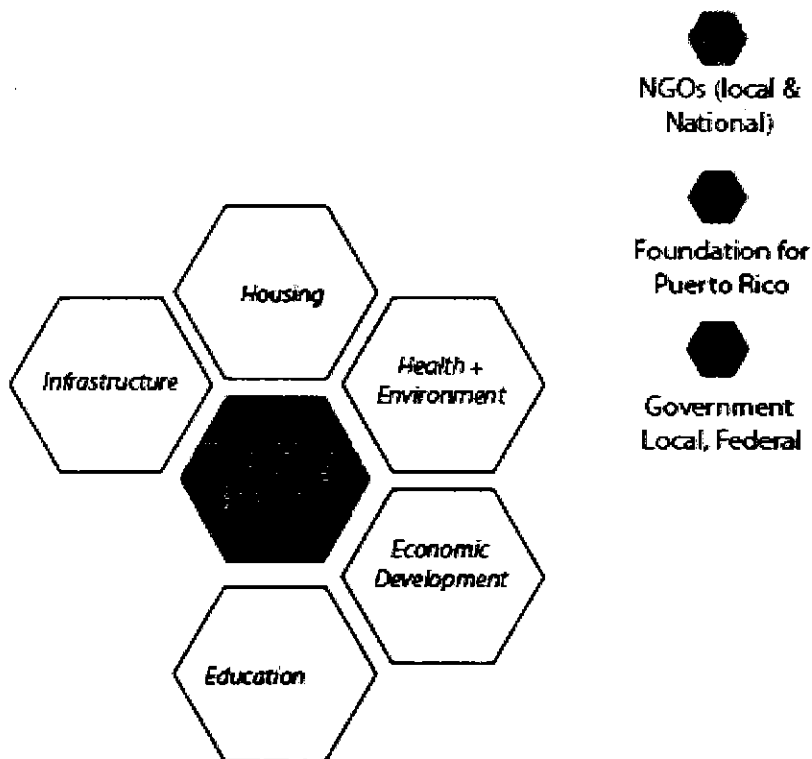
**Phase I** of the Program will prepare communities to make informed decisions and prioritize future actions and funding decisions based upon greater understanding of their specific needs of housing, infrastructure, economic development, health and environment, and education.

Phase I will focus on building a solid foundation to ensure good community planning outcomes. To achieve this, there needs to be access to quality data, clear and standardized frameworks, and strong technical support. Foundation for Puerto Rico will assemble a team of experts in the community planning, data analysis, community outreach and monitoring and compliance areas to develop tools and manage the Phase I and Phase II of the Program.

Foundation for Puerto Rico and PRDOH will lead a **“Working Group”** of key stakeholders comprised of Government Agencies and counterpart national and local not-for-profit organizations in the core areas of Housing, Infrastructure, Economic Development, Health/Environment, and Education. FPR with the assistance of the Working Group will recommend data sets in the core areas previously mentioned, collection processes and, vulnerability index development for Phase I. The Working Group will also assist FPR with content creation for the communication and outreach materials for the program, and support in the development of the NOFA for Phase II and Request for Qualifications (RFQ) for professional resources to support communities in the development of their community resilience plan.



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The following will be the Working Group functions:

- Make recommendations on data sets that will be used in each core area.
- Identifying existing data sources and support processes to incorporate into vulnerability and resilience profiles.
- Advise FPR with content creation for the communication and outreach materials for the program in Phase I.
- Advise and provide recommendations in the creation of a Data Validation Report.
- Support FPR with the creation of a Social Capital Mapping Report to provide map-based data and contact information to all communities of existing resources and NGOs in the area.

Foundation for Puerto Rico and ODSEC will develop and implement a **community outreach strategy** through a team of island-wide community planning specialists to ensure broad community participation.

Phase I more specifically will result in the development of:

- A public Community Resilience Web Portal (Dashboard) that will provide hazard, exposure, and other data elements to inform community vulnerability profiles.
- Social Capital Mapping Report.



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3. In coordination with ODSEC, a comprehensive community outreach strategy will be developed ensuring that municipalities and communities are adequately oriented about accessing and using the Dashboard, the program requirements and guidelines.
4. A Request for Qualification (RFQ): development of the guidelines, solicitation process and evaluation criteria for technical expertise that will support the community resilience planning process.
5. A Notice of Funding Availability (NOFA): Development of the guidelines, solicitation process, evaluation criteria, and evaluation process for applicants to request funding for their Whole Community Resilience plan.

Each of these components has been further explained in the following section.

1. COMMUNITY RESILIENCE WEB PORTAL (DASHBOARD)

The community resilience web portal will be developed in Phase I to provide backbone support with information and planning resources to communities across Puerto Rico, regardless of their local capacity or planning history and will allow residents to more actively participate in the planning process.

Phase I will also focus on gathering data to promote data driven decisions in future community planning activities, including Phase II of the program. Data will be collected at the state/federal level by FPR and supported by PRDOH and the Planning Board, to ensure uniform collection of local and Island-wide data. Data collected will be used to create community vulnerability and resilience index profiles using geo-referenced variables to identify communities at risk which will guide future local, regional and island-wide planning, recovery, mitigation, and resilience efforts.

The Foundation for Puerto Rico will contract with technical resources that will support the working group discussions and efforts of the municipalities to validate the data gathered in Phase I, which will be invaluable for the development of more expanded community adaptation and resilience planning efforts, identify and develop project priorities, and contribute to setting the foundation for informing decision making and project formulation strategies for future funding opportunities through PRDOH or otherwise. The vulnerability analyses created will be uploaded to the community resilience web portal, demonstrating the resilience profiles for each community.

The following are the tasks to be undertaken as part of this strategy:

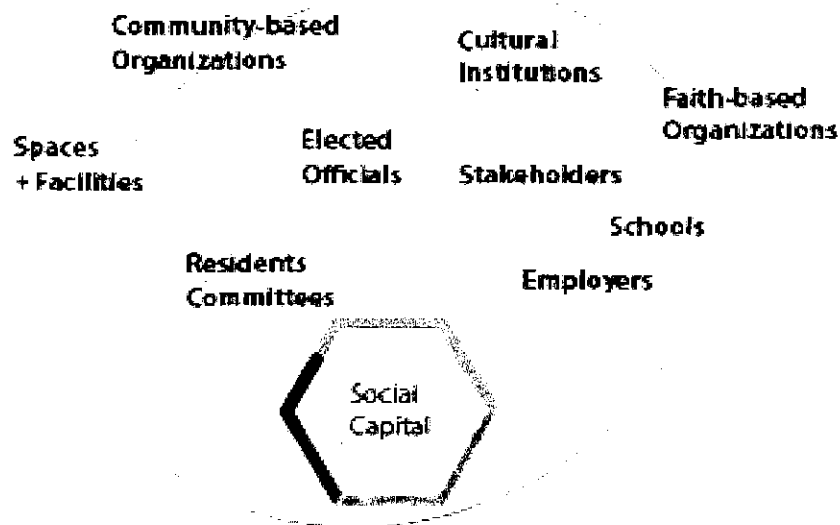
- a. Provide technical assistance to municipalities in data validation efforts.
- b. Identify, collect, and analyze data to create community vulnerability and resilience profiles - FPR will only use official government datasets (state and federal), Datasets that do not meet minimum information requirements (information on source, data collection/management, programming language, description, granularity, methodologies, etc.) will not be used in the project.
- c. FPR will lead the development and deployment of the community resilience web portal.



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## 2. SOCIAL CAPITAL MAPPING REPORT

Communities across Puerto Rico will have access to a new Social Capital Mapping Report. This report will include information on the existing social assets that allow a community to sustain economic development and have place-based knowledge of local resources and initiatives in their community. The content of the report may include but is not limited to: community-based organizations, local stakeholders, community organizers and elected officials, faith-based organizations, resident committees, employers, cultural institutions, community spaces and facilities. The information included in the report will help support communities in the creation of their community resilience plan application in the Phase II of the program.



## 3. COMPREHENSIVE OUTREACH STRATEGY

The aim of this Program is to robustly engage communities in this process, with the understanding that the most effective plans are developed collaboratively, with the input of residents, subject matter experts and local stakeholders. In the planning world, oftentimes plans are developed exclusively by outside parties, and with perhaps only trivial or superficial consultation of residents and stakeholders. For a community plan to be truly effective, it must be **developed in concert with the community it aims to serve**.

Participatory planning, then, is the process by which residents and stakeholders are involved and engage in all stages of the process – from initial conceptualization, goal setting, decision making, and prioritization of actions. Plans that are developed in a participatory manner and have the buy-in of residents and stakeholders are more likely to be implemented and followed, opposed to remaining on the shelf.

Foundation for Puerto Rico will work with ODSEC in creating a participatory planning strategy. FPR and ODSEC will implement an Island-wide communication and outreach strategy to municipalities and communities to promote engagement and participation in the program. This includes but is not limited to, reviewing and validating community data,



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individual meetings with community stakeholders, townhall meetings, and distribution of education materials. This will be executed through regional community outreach teams.

The following are the tasks to be undertaken as part of this strategy:

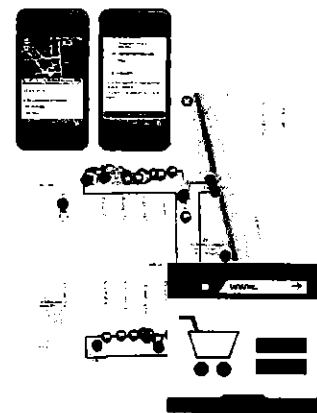
- a. Municipal orientation events on program guidelines and reimbursement requirements and outreach efforts to promote municipal participation in Phase I.
- b. Design and implement a community outreach and engagement strategy with residents, municipal staff and other stakeholders focused in preparation for Phase II. This will include trainings on resilience, community planning, and Phase II requirements in preparation for portal launch.
- c. Creation of a Social Capital Mapping Report in the municipalities to identify the potential community support available during program implementation and during the NOFA application process.



**Town Halls**  
Traditional public meeting +  
Technology to Accelerate Participatory  
Planning Process



**Pop-Up Planning**  
Mobile + Standardized + Simultaneous  
Ensure Island-wide coverage  
Diversified public feedback options



**Enhanced with  
Technology**  
Ongoing. Mobile Platforms  
and Interactive

#### 4. REQUEST FOR QUALIFICATION (RFQ)

Foundation for Puerto Rico, together with consulting experts and in coordination with PRDOH, will develop an RFQ for professional resources that will be available to the communities in Phase II. The professional services are a resource pool comprised of but not limited to planning, design, architecture, health professionals, IT, engineering services. The RFQ details will be developed during Phase I following program launch.





Christine

Contact Samantha



### **Eligible Activities for Reimbursement**

Eligible activities for reimbursement include staff time related to community outreach to discuss resilience planning, to validate vulnerability and resilience community profiles, and other related activities. All municipalities must participate in training regarding HUD's cost categories and adequate documentation for staff time to be eligible for reimbursement. Municipalities will be provided guidance on allowable activities and reimbursement protocols related to supporting the Program, and under the direction of FPR. Activities or actions not approved or directed by FPR will not be eligible for reimbursement.

### **Reimbursement Requirements**

- Have a signed agreement with PRDOH.
- Municipalities must participate in a program orientation meeting to be eligible for reimbursement.
- Submit required documentation of staff time participating for eligible activities:
  - Complete and submit data validation surveys and questionnaires developed by administrating entities.
  - Support community outreach and engagement efforts.

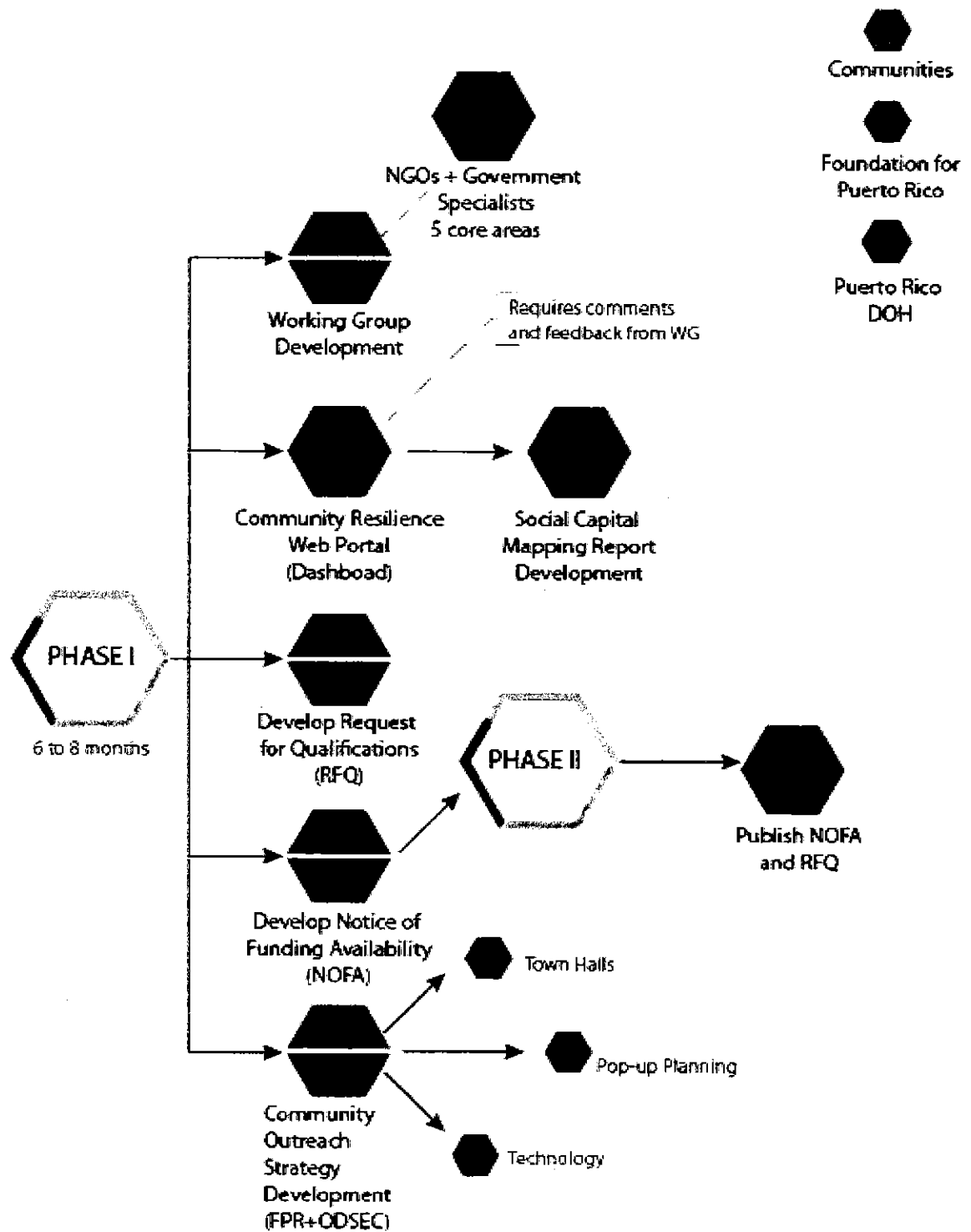
### **FPR Publication of Phase I results:**

- Digital dashboard, reports resulted from Phase I will be made public, to ensure transparency and encourage open source data sharing, and also to facilitate the submission of quality Phase II applications.



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# Phase I – Flow Chart



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## PHASE II

**(Approximately 18 months (may include multiple application cycles))**

In Phase II of the program, Foundation for Puerto Rico (FPR) with the support of the Puerto Rico Department of Housing (PRDOH) will release a Notice of Funding Availability (NOFA), wherein competitive applications may receive a planning award of up to \$500,000 for funding to develop Whole Community Resilience plans. FPR will present the NOFA and the evaluation criteria and process, to PRDH for approval, prior to public publication.

Phase II activities will include:

- Educate communities on the NOFA announcements.
- Provide eligible participants with Community Planning Specialists from Foundation for Puerto Rico for technical assistance and support during the application process. The Community Planning Specialists will be available on demand for communities that need support and will also target communities in areas that did not receive sufficient applications.
- Complete evaluations of submitted proposals with PRDOH and support of key stakeholders from the Working Group.
- Sign agreements with awardees.
- Assist awarded applicants with the allocation of a planning associate and other planning resources previously approved through RFQ process, for support and guidance in the development of the plan.
- Assign Fiscal and Program Officers to awarded applicants for support, monitoring and compliance.
- Identification of potential funding sources for projects included in the community resilience plan.

Phase II more specifically will result in the development of:

1. NOFA Publication
2. Technical Assistance to Phase II awardees by Community Planning Specialists
3. Monitoring and Compliance of Phase II awardees
4. Community resilience plans (prepared by awardees, published electronically by FPR)

Each of these components will be further explained in the following section.

### 1. NOTICE OF FUNDING AVAILABILITY (NOFA) PUBLICATION

NOFA will be published online and through local media outlets. Foundation for Puerto Rico will perform an outreach effort to ensure communities are aware of the opportunity and the process to apply. For the purpose of this Whole Community Resilience Plan community is a small or large social unit that share a sense of place that is situated in a given geographical area within a municipality (municipality – ward/barrio – community – sector). This is the entity or group of entities that can qualify to apply for the Phase II of the Community Resilience Planning CDBG-DR Program.



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The application process and selection criteria for Phase II funding will be published as part of the updated NOFA program guidelines. FPR will convene an **evaluation committee** that will include PRDOH representatives, FPR representatives, and certain additional stakeholders from the "Working Group" to evaluate and select awardees.

Suggested timeline:

- March 2019 – release of NOFA and application criteria
- June 2019 – Phase II applications received
- July 2019 – Phase II awards made

Timeline for plan completion will be a maximum of nine (9) months from the notice of award and execution of grant agreement with the awarded applicant. Dependent upon participation and funding availability, additional founding cycles may allow further participation and for additional awardees on similar nine-month cycles to complete approved grant activities. FPR will develop a roster [through a Request for Qualifications process (RFQ) developed in Phase I] of eligible consultants that are vetted and comply with all federal procurement requirements to provide grantees with specialized planning assistance.

## 2. TECHNICAL ASSISTANCE

Foundation for Puerto Rico will provide technical ongoing assistance to applicants of the NOFA through its Community Planning Unit. The Community Planning Unit will include Community Planning and Outreach Specialists that will offer support to communities and NGOs in the form of data analysis, and planning research needed to prepare and/or complete their application. The goal is to make stronger applicants, create an agile process, and identify potential sources of funding.

## 3. MONITORING AND COMPLIANCE FOR AWARDEES

Providing a strong compliance and monitoring of awardees is at the core of the Program Guidelines. Foundation for Puerto Rico will assign awardees, from each funding cycle, a Fiscal and a Program Officer that will work closely with their organization. The Fiscal and Program Officers will ensure compliance with the approved grant activities, provide guidance and support for the execution and monitor that grant expenses are appropriately documented and made according with the applicable rules and regulations. Foundation for Puerto Rico will be responsible of the disbursement of grants funds to awardees and will at minimum present quarterly reports to PRDOH.

## 4. COMMUNITY RESILIENCE PLANS

Awardees will create community resilience plans in collaboration with community members addressing community risks and vulnerabilities identified in Phase I. Plans developed in Phase II will be based upon addressing community risks and vulnerabilities identified in Phase I. The goal for the outputs of Phase II will be to develop potential

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strategies and options for funding whether as a part of an adjacent CDBG-DR initiative or program within the first or second tranche, in the third tranche of mitigation funding, or utilizing other funding streams local, federal, philanthropic, or private.

## **Eligibility Phase II**

Applications may be submitted by entities representing multiple jurisdictions, communities, or regions. Eligible applicants under Phase II include non-governmental non-profit organizations (representing one or more communities), local governments, and governmental, or quasi-governmental entities and may include private organizations. The NOFA will further specify how applicants are validated as authorized representatives of a community.

The selection criteria for Phase II funding will be released in the first quarter of 2019 as part of the NOFA guidelines. Participation in Phase I is not required to be eligible to participate in Phase II.

There will be pre-screening process for all applications with the purpose of identifying those that were deemed unresponsive. FPR will create a deficiency letter process for applications that may require additional work and next steps to ensure these communities continue to work with the process. Unresponsive applications will have a period of 60 days to resubmit their revised application to be considered for award.

## **Eligible Activities for Reimbursement**

- To be detailed in NOFA developed during Phase I

## **Reimbursement Requirements**

- To be detailed in NOFA developed during Phase I

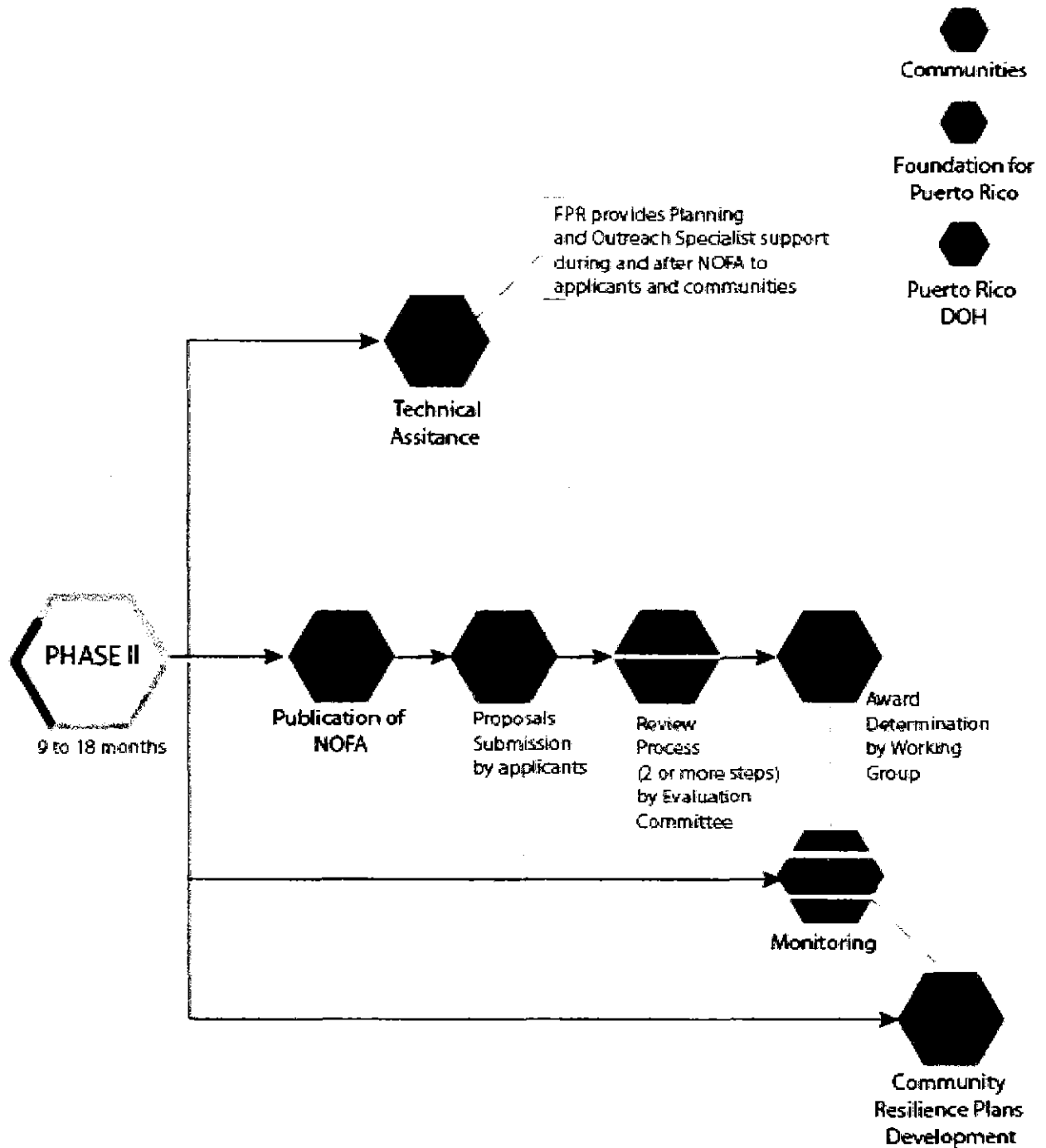
## **Publication of Phase II results:**

- Community plans will be publicly available in a digital platform and will be presented publicly to the community.



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## Phase II: Flow Chart



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## GLOSSARY

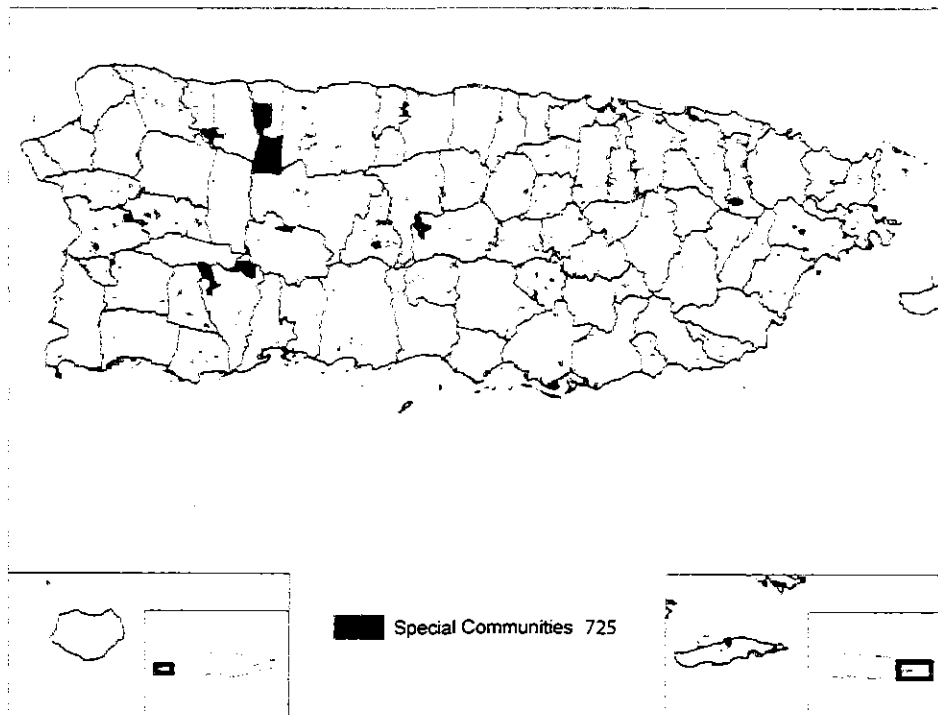
**Community** – For the purpose of the Whole Community Resilience Planning program, community is a small or large social unit that shares a sense of place that is situated in a given geographical area within a municipality (e.g. municipality, ward/barrio; local community/comunidad or neighborhood/sector). Non-Government Organizations that bring together residents from two or more communities and shares a common condition or goal will be consider as a community to apply for the Phase II of the Community Resilience Planning CDBG-DR Program.

**Special Communities** – These are certain communities designated by the government of Puerto Rico government with high concentrations of poverty, lack of basic infrastructure, unacceptable environmental conditions, poor housing status, and high social stressors. In March 2001, the Government of Puerto Rico enacted the Special Communities Integral Development Act into law to institutionalize efforts to promote a better quality of life and social development in these designated communities. This designation has allowed Puerto Rico to assess dedicated financing and governmental support to these Special Communities and to stimulate the involvement of local residents in the improvement and development in their communities.

Today, there are currently 725 Special Communities across the Island. The more than 208,000 household residents of these communities are important participants of the recovery programs. Large concentrations of special communities can be seen (in the map below) in Quebradillas, Hatillo, Yauco, Canóvanas, and Orocovis.



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**CDBG-DR**— CDBG means the annual Community Development Block Grant program as authorized by the Housing and Community Development Act of 1974, as amended, and its regulations as codified in 24 CFR part 570. CDBG-DR refers to grants previously made pursuant to one of several emergency supplemental CDBG appropriations, as administered by HUD under requirements published in a series of Federal Register Notices. In the abbreviation, “DR” refers to “disaster recovery.” The terms CDBG-DR funds is a term referring to grant funds made available by CDBG-DR awards.

**Developers** – Private individuals and entities, including profit making and nonprofit organizations, typically formed for the purpose of undertaking projects involving the development of rental or homebuyer housing developments.

**Notice of Funding Availability (NOFA)** - The Notice of Funding Availability (NOFA) will be published through local media outlets. This notice describes the type of funding available on a competitive basis and provides a contact where an application may be submitted, typically up to 60 to 90 days from the date of NOFA publication. Selection will then be made based upon specific factors and criteria identified within the NOFA.

**Resilience** – The ability to anticipate, prepare for, and adapt to changing conditions and withstand, respond to, and recover rapidly from disruptions. Such disruptions may include, for example, a flooding event, a precipitous economic change, effects of long-term environmental degradation, short-term or intermittent failure or under-performance of infrastructure such as the electrical grid. Resilience describes an area’s capacity to prepare for, withstand, and recover from unpredictable shocks -minimizing impacts on people, infrastructure, environments, and



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economies. In practice, resilience provides a framework for guiding planning, investment, and actions to reduce vulnerabilities.

**Resilient community** - In the disaster recovery lexicon, resilience is commonly described as the ability of a community to quickly respond, recover, and prepare for unexpected events, such as a natural disaster. In this way, resilience goes far beyond immediate emergency response measures, back-up power generators, and hardened protective infrastructure. Indeed, these components are part of a resilient community. However, planning for and building a truly resilient community encompasses much more. A resilient community is one that can utilize available resources to respond to, withstand, recover from and prepare for adverse situations in a timely and efficient manner.

**Social Capital** – The existing networks of relationships among people who live and work in a community, that allows it to function successfully.



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# MOU EXHIBIT E – TIMELINE

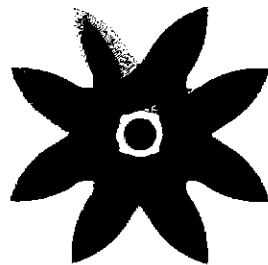
DECEMBER 2018



GOVERNMENT OF PUERTO RICO  

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Department of Housing



Foundation  
for Puerto Rico

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# 1. PROGRAM TIMELINE

FPR and its program partners will mobilize, launch and operate the Whole Community Resilience Planning CDBG-DR program based on the following timeline for its Phase I and Phase II:

Start and Finish	Key Deliverables
<b>Phase I</b>	
6 to 8 months	<ul style="list-style-type: none"> <li>• Execution of Subrecipient Agreement between Puerto Rico Department of Housing (PRDOH) and Foundation for Puerto Rico (FPR)</li> <li>• Staffing Process of key staff and technical resources for program development</li> <li>• Create and manage a Working Group of key stakeholders of government agencies, national and local not-for-profit organizations               <ul style="list-style-type: none"> <li>a. Preparation of invitation and legal agreement with Working Group members in 5 core areas</li> <li>b. Determine data requirements</li> <li>c. Identify existing data sources</li> <li>d. Creation of gap analysis to match data needs with existing data</li> </ul> </li> <li>• Create Evaluation Committee for applications of WCRP program with members of government, FPR and NGOs</li> <li>• Development of Resilience and Vulnerability Index using five (5) core areas: Infrastructure, Housing, Health and Environment, Economic Development and Education               <ul style="list-style-type: none"> <li>a. Create mobile platform to provide the communities with the risk and vulnerability index</li> </ul> </li> <li>• Data Collection and Validation process               <ul style="list-style-type: none"> <li>a. Obtain data from government sources (state and federal)</li> <li>b. Conduct interviews with agency employees to develop a metadata file for each dataset collected</li> <li>c. Data mining process starts once quality threshold for data quality has been reached</li> <li>d. Data is aggregated and converted into GIS format to perform various statistical and spatial analysis</li> </ul> </li> <li>• Development of Community Resilience Web Portal (Dashboard)</li> <li>• Create a Social Capital Mapping Report               <ul style="list-style-type: none"> <li>a. Identify sources of Social Capital information</li> <li>b. Development of Social Capital Mapping Report</li> </ul> </li> <li>• Create a Comprehensive Outreach Strategy including drafting of any required marketing materials (educate, inform, engage)               <ul style="list-style-type: none"> <li>a. Determine potential options for public meetings (town hall, pop-up planning and use of technology)</li> <li>b. Determine of components of island-wide marketing camping</li> <li>c. Create interactive online map for collection of public feedback</li> <li>d. Implementation of Community Outreach Strategy to educate, inform and engage the public with the WCRP program goals, timeline and process</li> </ul> </li> <li>• Prepare and release a Request for Qualification (RFQ) to provide the public with directory of prequalified and multi-disciplinary professionals for the development their application in Phase II of the program</li> <li>• Develop a Notice of Funding Availability (NOFA)</li> <li>• Finalize Phase II application components and NOFA development, including ongoing updates and/or modifications to program design and/or program policy as needed</li> <li>• Publication of NOFA</li> <li>• Stakeholder management and stakeholder communications regarding programs included in this MOU</li> </ul>



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Phase II	Deliverables
Approximately 18 months (may include multiple application cycles)	<ul style="list-style-type: none"> <li>• Provide Technical Assistance by Community Planning Specialists and Outreach Coordinators to applicants of the WCRP program</li> <li>• Review of applications for WCRP program by Evaluation Committee <ul style="list-style-type: none"> <li>a. Successful applications proceed to Award agreement drafting</li> <li>b. Deficient or not responsive applications will be provided with additional technical assistance from FPR and given a 60-day deadline to resubmit their application</li> </ul> </li> <li>• Award agreement drafting</li> <li>• Development of Community Resilience Plans be recipients of awards</li> <li>• Provide Planning, Outreach, Monitoring and Compliance Assistance to recipients of the WCRP program through the length of the Phase II during the development of their Community Resilience Plan (maximum of 9 months)</li> <li>• Executing Award Agreements for Phase II Applicants Closing award agreements</li> <li>• Publish Community resilience plans (prepared by awardees)</li> </ul>



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# MOU EXHIBIT F – KEY PERSONNEL

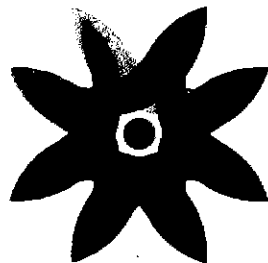
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GOVERNMENT OF PUERTO RICO  

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Department of Housing



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for Puerto Rico

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## 1. CDBG-DR WHOLE COMMUNITY RESILIENCE PROGRAM

Below is the Staffing Plan for the CDBG-DR Whole Community Resilience Program which reflects a combination of full-time employees and part-time employees as a percentage of their time dedicated to the CDBG-DR WCRP Program.

<b>FPR Existing Resources</b>		<b>%</b>
President and COO	Annie Mayol	10%
Executive Vice President	Maria Jaunarena	30%
Director of Research and Analysis	Arnaldo Cruz	40%
Director of Development and Programs Evaluation	Carla Chavez	50%
Chief Financial Officer	Damaris Ocasio	10%
Director of Operations	Ana Maria Cintrón	30%
Operations Administrator & Purchasing Officer	Adrian Medina	30%
Sr. Communications Director	Leilani Geller	25%
Accounting Supervisor	John Pantoja	30%
Community Planning Director	Luis Monterrubio	100%

<b>Individuals Hired by FPR on a timely basis</b>		<b>%</b>
Community Planning Lead	TBD	100%
Project Coordinator	TBD	100%
Lead Grant and Compliance Manager	TBD	100%



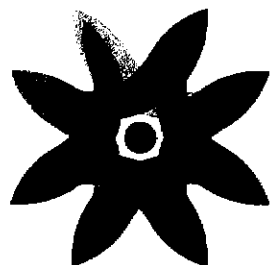
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# MOU EXHIBIT G – BUDGET

DECEMBER 2018



GOVERNMENT OF PUERTO RICO  
Department of Housing



Foundation  
for Puerto Rico

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The below summary captures the full project budget for the Whole Community Resilience Program CDBG-DR; the following sections provide additional detail on line items in the summary below, as well as additional information on budgetary distinctions.

## 1. SUMMARY BUDGET

Description	Funding Sources	% of Total Project Cost
Delivery	CDBG-DR	
<i>WCRP Temporary Staff</i>		
Internal Planning Resources for Communities	\$ 1,334,000.00	4%
Program Implementation and Oversight	\$ 813,746.00	2%
Sub Total	\$ 2,147,746.00	
<i>Existing FPR Resources</i>		
Staff Allocated to Program	\$ 1,016,299.78	3%
Staff Total	\$ 3,164,045.78	
<i>Contractual Resources Allocated</i>		
Technical Assistance (Consultants)	\$ 1,606,288.00	4%
Non-profit or Communities stipend for Working Group	\$ 380,000.00	1%
Development of Community Resiliency Plans	\$ 30,600,000.00	82%
Travel, Supplies and Equipment	\$ 397,066.22	1%
Operating Costs	\$ 1,352,600.00	4%
Grand Total	\$ 37,500,000.00	



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## 2. FOUNDATION FOR PUERTO RICO (FPR)

Foundation for Puerto Rico will submit invoices for payment based on the time and materials method. Staff will complete daily timesheets and work logs for work related to Activity Delivery, Planning and/or Administration costs.

FPR Existing Resources	%
President and COO	10%
Executive Vice President	30%
Director of Research and Analysis	40%
Director of Development and Programs Evaluation	50%
Chief Financial Officer	10%
Director of IT & Innovation	40%
Director of Operations	30%
Executive Assistant & HR Coordinator	30%
Operations Administrator & Purchasing Officer	30%
Accounting Associate	20%
Data Curator	20%
Content Curator	30%
Manager, Research & Analysis	30%
Manager, Research & Analysis	30%
Sr. Communications Director	25%
Communication Manager (Social Media / Copy)	25%
Communication Specialist (Graphic Design / Web manager)	35%
Accounting Supervisor	30%
Compliance Manager	25%
Community Planning Director	100%

SUBTOTAL EXISTING: \$1,016,299.78

Individuals Hired by FPR on a timely basis	%
Community Planning Lead	100%
Project Coordinator	100%
Lead Grant and Compliance Manager	100%
Regional Community Planning Associate	100%
Regional Community Planning Associate	100%
Regional Community Planning Associate	100%
Regional Community Planning Associate	100%
Regional Community Planning Associate	100%
Regional Community Planning Associate	100%
Regional Community Planning Associate	100%
Regional Community Planning Associate	100%
Regional Outreach Coordinators	100%
Regional Outreach Coordinators	100%
Regional Outreach Coordinators	100%
Grant -Compliance Officer 1	100%
Grant -Compliance Officer 2	100%
Grant -Compliance Officer 3	100%
Information Systems Manager	100%
Data Assistant	100%
Data Assistant	100%
Accounting Associate	100%

SUBTOTAL TEMPORARY: \$ 2,147,746

TOTAL: 3,164,045.77



GOVERNMENT OF PUERTO RICO  
Department of Housing



Foundation  
for Puerto Rico

PRDOH + Foundation for PR Workshop  
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### 3. TEMPORARY STAFFING

Foundation for Puerto Rico (FPR) will use the procurement procedures to select qualified firms to provide variety of technical assistance services for the development of the Whole Community Resilience Planning program delivery. This staff will assist FPR based on an estimate of time and volume of staff needed to complete the assignment with the 24-month period.

Contractual	Notes	Total
Technical Assistance	Assist on the preparation of materials to ensure compliance with disbursement processes	\$ 120,000.00
Technical Assistance	Data Analysis / Index Development (on-going technical support). Identify, collect, and analyze data to create community vulnerability and resilience index profiles using official government datasets	\$ 100,000.00
Technical Assistance	Community Outreach Support and Oversight	\$ 125,000.00
Technical Assistance	Communications; including program branding and communication plans, graphics, material development, media advisory.	\$ 175,000.00
Technical Assistance	Buildout of Dashboard - IT: Includes concepting, design, engineering, prototype, app build out	\$ 600,000.00
Technical Assistance	Development of Organizational Structure for Program Management Setup and Support	\$ 150,000.00
Technical Assistance	Data CRM System	\$ 36,288.00
Technical Assistance	Program workflows, internal processes for program execution and other general management service	\$ 200,000.00
Translation Services	Translation of program materials as needed, including guidelines and NOFA	\$ 100,000.00
<b>Sub Total Contractual</b>		<b>\$ 1,606,288.00</b>



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#### 4. LEGAL SERVICES

FPR will use the PRDOH procurement procedures to select a qualified firm to provide legal counseling services as part of the Whole Community Resilience Program delivery. The legal firm will assist with award agreements drafting and execution of legal documents.

Other & additional contractual services	Notes	Total
Allocation of space and other resources for (NEW) - Individuals hired by FPR on a timely basis	\$550 per month for 19 positions	\$ 250,800.00
Allocation of space and other resources (EXISTING) - Individuals working at FPR	\$550 per month for 21 positions	\$ 277,200.00
Legal	Legal counseling services, assist on award agreements drafting and execution of legal documents	\$ 250,000.00
Auditors	Preparation for audit related activities	\$ 200,000.00
Other	Advertising, communications web design, servers, as needed.	\$ 350,000.00
Insurance	Insurance + Cybersecurity	\$ 24,600.00
<b>Subtotal Other</b>		<b>\$ 1,352,600.00</b>



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## 5. OTHER ACTIVITIES

FPR will undertake multimedia print and digital outreach and marketing to generate qualified applicants for the WCRP Program, and will require reproduction and printing of programmatic documents such as printed materials, banners, to promote community engagement/outreach, award agreements, etc. Staff will have to travel with their own vehicles for meetings with stakeholders, NOFA applicants, site visits, and related program support. For this purpose, a total of 15 staff members will receive \$100 per week for mileage reimbursement for 26 weeks for Phase I, 8 weeks for Phase II in 2019 and 8 weeks for Phase II in 2020.

Additionally, computer equipment and work-related software will be acquired for field work and the development and implementation of the WCRP program.

Travel	Notes	Total
Mileage	Travel to/from meetings for field staff (\$100 per week per staff, for 15 staff members for 26 weeks for Phase I, 8 weeks for Phase II 2019 and 8 weeks for Phase II 2020)	\$ 63,000.00
<b>Subtotal Travel</b>		<b>\$ 63,000.00</b>
Supplies	Notes	Total
Community Meetings Printed Materials	Printed materials for use in community meetings. Estimated at	\$ 78,000.00
Other printed materials	Other printed materials for program support	\$ 60,000.00
Office Materials	Office supplies for field team	\$ 20,000.00
<b>Subtotal Supplies</b>		<b>\$ 158,000.00</b>
Equipment	Notes	Total
Computer Equipment	Laptops for field work estimated at 23 computers at \$1600 each for all Phases, plus PC work station for community planning div.	\$ 41,066.22
Management Software	To manage grants, GIS software, Adobe and overall project	\$ 60,000.00
Other	Field equipment including portable projectors, screens, tablets, etc.	\$ 75,000.00
<b>Sub-Total Equipment</b>		<b>\$ 176,066.22</b>
<b>Total Travel, Supplies and Equipment</b>		<b>\$ 397,066.22</b>

## 6. ADMINISTRATIVE COSTS

At this date, the WCRP program will be incurred and provided by FPR, under the \$37,500,000 Program Administration budget line item as outlined in the approved Action Plan.



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# **CDBG-DR PROGRAM GUIDELINES**

**Cross-Cutting Program Guidelines, Applicable to all PRDOH CDBG-DR  
Programs**

**October 2018 (V1.0)**

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**CDBG-DR PROGRAM GUIDELINES**  
**CROSS-CUTTING GUIDELINES; APPLICABLE TO ALL PRDOH CDBG-DR PROGRAMS**  
**PUERTO RICO DEPARTMENT OF HOUSING**  
**Version Control**

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1.0	October 2018	Original version
2.0	December 2018	Revised version

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## 1 Overview

On February 9<sup>th</sup>, 2018 an allocation of CDBG-DR funds was approved by HUD under Federal Register Notice 83 FR 5844 to aid the Commonwealth of Puerto Rico in addressing unmet need in the wake of Hurricane Maria. On August 14, 2018, an additional allocation of \$8.22 billion for recovery was allocated to Puerto Rico under 83 FR 40314. With these allocations of funding, the Puerto Rico Department of Housing (PRDOH) aims to lead a transparent, comprehensive recovery to benefit the residents of Puerto Rico. PRDOH holds accountability and is committed to the responsible, efficient, and transparent administration of CDBG-DR grant funding. The requirements described in this cross-cutting guidebook apply to all programs described in PRDOH's initial Action Plan for \$1.5 billion, which was approved by HUD on July 29, 2018 and all approved amendments to the Action Plan. Program specific requirements are outlined in the program guidelines for each program. Some programs, such as planning efforts, may not have applicability to some cross-cutting components. PRDOH staff working in relevant subject areas such as financial management, environmental review, monitoring and oversight, Section 3, etc. will provide support to subrecipients as needed to provide guidance and direction on compliance.

## 2 Financial Management

Pursuant to the Disaster Relief Appropriations Act, 2013 (Public Law 113-2) the Commonwealth of Puerto Rico maintains and has in place proficient financial controls. As the grantee, the Commonwealth of Puerto Rico ensures that PRDOH, as well as those administering CDBG-DR disaster recovery resources continuously demonstrate conformity to financial management requirements as required by the Department at 83 FR 5844 (published February 9, 2018). These requirements include, but are not limited to, areas covering: Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; and Lump Sum Drawdowns. PRDOH's financial management system will be consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable), which ensures that PRDOH funds are managed with high levels of accountability and transparency. PRDOH's Financial Management practices must adhere to the following:

1. Internal controls are in place and adequate;
2. Documentation is available to support accounting record entries;
3. Financial reports and statements are complete, current and reviewed periodically; and
4. Audits are conducted in a timely manner and in accordance with applicable standards as outlined in 2 CFR 200 subpart F



### **3 Federal Funding Accountability and Transparency Act (FFATA)**

The Federal Funding Accountability and Transparency Act (FFATA) of September 26, 2006 was signed with the intent of reducing wasteful government spending and providing citizens with the ability to hold the government accountable for spending decisions. 2 CFR Part 170 outlines the requirements of recipients' in reporting information on subawards and executive total compensation under FFATA legislation. Any non-Federal entity that receives or administers federal financial assistance in the form of grants, loans, loan guarantees, subsidies, insurance, food commodities, direct appropriations, assessed and voluntary contributions and other financial assistance transactions that authorize the non-Federal entities' expenditure of Federal fund is subject to these requirements.

A subaward is granted whenever a prime award recipient awards an eligible subrecipient a portion of the award to provide support for the performance of any portion of the project or program for which the award was received. Subawards are granted via a legal instrument or agreement considered to be a contract between the two entities. A subrecipient is any entity receiving a subaward from the prime recipient and is accountable to the recipient for the use of Federal funds provided by the subaward.

Prime contract awardees and prime grant awardees are required to report against sub-contracts and sub-grants awarded in the FFATA Subaward Reporting System (FSRS), the reporting tool for Federal prime awardees. This information reported will then be displayed on a public and searchable website, [www.USASpending.gov](http://www.USASpending.gov).

### **4 Minority and Women owned Business Enterprises (M/WBE) and Section 3 Requirements**

24 CFR 85.36 (e) requires grantee(s) and subgrantee(s) of federal funds take necessary affirmative steps to assure that minority firms and women's business enterprise firms are used when possible and establishes minimum HUD standards regarding each participating jurisdiction's outreach effort to minority business enterprises (MBE) and women-owned business enterprises (WBE). 2 CFR 200.321 requires the non-federal entity to take necessary steps to ensure that all sub-recipients, contractors, sub-contractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance ensure that contracts and other economic opportunities are directed to small and minority firms, women-owned business enterprises, and labor surplus area firms when possible.

Compliance is ensured by requiring, as applicable, sub-recipients, program partners and contractors to make best efforts to achieve an overall M/WBE



participation goal of 20 percent of the entire contract value consisting of 10 percent for MBE and 10 percent for WBE.

If, after making "good faith efforts," a subrecipient is unable to meet M/WBE goals, subrecipients may submit a request for a M/WBE Waiver for their overall goal. The request must set forth the reasons for the inability to meet any or all of the participation requirements together with an explanation of the "good faith efforts" undertaken.

Section 3 of the Housing and Urban Development Act of 1968 requires that grantees, sub-recipients, contractors, sub-contractors, and/or developers funded in whole or in part by CDBG-DR funding, to the greatest extent feasible, extend hiring opportunities and contracts to Section 3-eligible residents and businesses. Section 3-eligible residents are low- and very low- income persons, particularly those who live or reside in public or government assisted housing or who meet the income limits identified by HUD.<sup>1</sup> For each project, there is a goal for 30% of new hires to be individuals who qualify as a section 3 individual.

Businesses can qualify as section 3 in any one of 3 ways: If your business is owned in equal to or in excess of 51% by someone who is a Section 3 Individual or 30% of your staff meet the definition of a Section 3 individual or your business has a firm commitment(s) to provide 25% of the total dollar amount of subcontracts to a Section 3 business. For those entities that receive more than \$200,000 in HUD CDBG-DR assistance, and contractors that are awarded covered contracts that exceed \$100,000, it is required that an approved Section 3 plan be in place before the project is awarded and approved. For Professional Services contracts there is a 3% goal while for construction contracts there is a 10% goal. The plan for compliance with Section 3 (24 CFR Part 135) must be submitted for approval prior to the start of construction or professional services on any contract activity.

HUD has developed a business registry<sup>2</sup> for businesses who have identified themselves as a Section 3 business in order to facilitate the process of engaging in best efforts.

All documentation for Section 3 efforts should be provided to PRDOH and should include metrics to indicate efforts for new hiring or subcontracting.

Reporting for subrecipients/ program partners or contractors should be done on a quarterly basis. PRDOH is required to report on Section 3 annually in HUD's Section 3 Performance Evaluation and Reporting System (SPEARS).

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<sup>1</sup> <https://www.huduser.gov/portal/datasets/il.html#null>

<sup>2</sup> <https://portalapps.hud.gov/Sec3BusReg/BRegistry/What>

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## 5 Procurement

Federal procurement guidance can be found in 2 CFR 200, applicable to CDBG-DR funded projects. The policies and procedures ensure that federal dollars are spent fairly and encourage open competition at the best level of service and price. These requirements are to be adhered to by all parties participating in the procurement.

Standards for procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services are outlined in the PRDOH CDBG-DR Procurement Guide, available at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov). PRDOH follows these standards to ensure goods and services are procured efficiently, at a fair price, and in compliance with all applicable federal and Commonwealth laws and executive orders.

## 6 Change Orders to Contracts

Change orders are issued when the initial agreed upon pricing or work to be completed requires modification. First, the contractor must complete a Change Order Request Form. This form and supporting documentation must be delivered to the Project Manager for review. Each change order must have a cost analysis. Once the Project Manager approves the change order, it is returned to the contractor for execution. Change orders are invoiced on the final draw only and categorized as "change order." The amount listed on the invoice must match the previously approved amount and must be cost reasonable. The Project Manager is responsible for verifying cost reasonableness. Verification documentation for cost reasonableness becomes an attachment to the change order.

For programs in which homeowner-initiated scope change is allowable, it will be defined as a specific addition or deletion to the original contract scope of work requested by the homeowner. All homeowner-initiated change orders dealing with residential construction projects will require final approval of the homeowner before construction proceeds. Homeowner scope changes do not include changes that are the result of unforeseen conditions or discrepancies in the contract documents (specifications or drawings). Homeowner scope changes are **not** allowable, unless related to an accessibility issue that has developed since the negotiations of the contract.

## 7 Cost Principles

As found in 2 CFR Parts 200.400, 200.401, & 200.404, cost reasonableness and cost principles guidelines have been established for recipients of federal awards. These principles must be followed when a non-Federal entity is responsible for the administration of a Federal award and assumes responsibility for administering Federal funds. As such, it is especially important

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- that adherence to these principles be followed when a non-Federal entity is predominately federally funded.

A cost is considered reasonable if it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. When assessing cost reasonableness, it is important to consider:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.
- The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Federal award.
- Market prices for comparable goods or services for the geographic area.
- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable, its students or membership, the public at large, and the Federal Government.
- Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.<sup>3</sup>

## 8 Labor Standards

The Davis-Bacon Act and Related Acts (DBRA) applies to contractors and subcontractors carrying out federally funded or assisted contracts in excess of \$2,000 for the appropriate wage determination including fringe benefits for corresponding work on similar projects in the area. The higher prevailing wage rate between Federal Government and State must be adhered to and made applicable. For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Information on obtaining the appropriate wage determination can be found at: <https://www.wdol.gov/>. Additionally, the reporting requirements per HUD and the U.S. Department of Labor regulations must be followed. This requirement also extends to sub-recipients and contractors. Applicable programs and services must comply with DBRA through the submission of certified payroll records and interviews of prime and sub-contractor laborers.

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<sup>3</sup> 2 CFR 200.400, 200.401, 200.404



The Program must include all applicable labor standards language and the appropriate wage decision in the construction bid and contract documents. During construction, the Program is responsible for enforcing any applicable requirements outlined above. Once construction is underway, the General Contractor should complete weekly payroll for its employees and sign the Statement of Compliance. The contractor is responsible for housing the records. Compliance is monitored and ensured by the Program continuously throughout the construction process, prior to any progress or final payments being made.

The Fair Labor Standards Act of 1938, as amended (FLSA), establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract, regardless if CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under CDBG-DR program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor 8 41 CFR Part 60 in accordance with the Davis-Bacon Act, as amended.

Exceptions to FLSA include:

- Construction contracts of \$2,000 or less;
- Real property acquisition;
- Architectural and engineering fees;
- Other services (such as legal, accounting, construction management);
- Other non-construction items (such as furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and
- Debris removal, demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction).

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal contractors and federally-assisted construction contractors and subcontractors who do over \$10,000 in government business in one year from discriminating in employment decisions based on race, color, religion, sex, sexual orientation, gender identity, or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment. This regulation is adhered to within all programs.

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## 9 Environmental Review

Every project undertaken with federal funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 CFR Part 58. The primary purpose of this Act is to protect and enhance the quality of our natural environment. The HUD environmental review process must be completed before any federal funds can be accessed for program-eligible activities.

The primary objectives of the HUD environmental review are to identify specific environmental factors that may be encountered at potential project sites, and to develop procedures to ensure compliance with regulations pertaining to these factors. The HUD environmental review is designed to produce program-specific environmental review procedures in a program that can vary greatly in terms of scope of work. Laws and regulations which contain environmental provisions with which must be complied with include:

- Historic Preservation (36 CFR 800)
- Floodplain Management (24 CFR 55, Executive Order 11988)
- Wetlands Protection (Executive Order 11990)
- Coastal Zone Management Act (Sections 307 (c), (d))
- Sole Source Aquifers (40 CFR 149)
- Endangered Species Act (50 CFR 402)
- Wild and Scenic Rivers Act (Sections 7 (b) (c))
- Air Quality (Clean Air Act, Sections 176 (c) and (d) and 40 CFR 6, 51, 93)
- Farmland Protection Policy Act (7 CFR 658)
- Environmental Justice (Executive Order 12898)
- Noise Abatement and Control (24 CFR 51 b)
- Toxic/Hazardous Materials (24 CFR 58.5(i) (2))
- HUD Environmental Standards (24 CFR 51 c)
- Airport Clear Zones and Accident Potential Zones (24 CFR 51 d)

All federally funded projects and activities must have documentation that they are in compliance with NEPA and all other environmental requirements. The purpose of this Section is to provide guidance necessary to prepare the Environmental Review Record (ERR) as required by NEPA and related laws. The ERR serves as a tool to measure the environmental consequences of all federally funded CDBG-DR eligible-program activities.

The value of the environmental review is to identify:

- the existence of negative impacts on a site;
- means to mitigate negative impacts; and



- alternatives to the project, if needed.

The environmental review informs the proponent of a Federally assisted action of the existence of negative impacts on a site, of means to mitigate negative impacts, alternatives to the project if needed, and when all other options fall, that rejection of the proposed action may be the most prudent action to take. The environmental review is a means of providing decision makers with sufficient information on which to base wise choices.

The purpose of these environmental procedures is to ensure that all projects funded with HUD CDBG-DR funds including follow all applicable federal laws and authorities identified in 24 CFR Part 58: Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities. Also, these procedures are intended to ensure a suitable living environment, or more specifically, to determine if any significant environmental impact may occur because of a proposed recovery project; to release funds to support eligible projects that neither harm nor are harmed by the environment; to safeguard, enhance, and restore the environment; and to foster public participation in the development decision-making process .

There are four objectives of the ERR process:

- To comply with all legal requirements;
- To assist in project planning;
- To determine if the proposed activity will have an impact on the environment, and
- To determine whether the environment will have an impact on the proposed Program activity.

The ERR process identifies areas where project design and planning can be improved to mitigate such things as high noise levels, inadequate public safety, flooding problems, or the time constraints of archaeological findings.

In addition, no work may start on a proposed project before the environmental review process is completed, even if that work is being done using non-HUD funds. (such as signing a construction contract, etc.) In other words, environmental clearance must be obtained for each project prior to the firm commitment of federal or non-federal funds. (24 CFR 58.22). A violation of this requirement may jeopardize federal funding to this project and disallow all costs that were incurred before the completion of the Environmental Review.



## 9.1 LEAD BASED PAINT

All housing units assisted using CDBG funds must comply with the regulations regarding lead-based paint found at 24 CFR Part 35. The requirements established by this regulation are as follows:

- Notification
  - Lead Hazard Information Pamphlet - All program applicants must receive a Lead Hazard Information Pamphlet at the time of application as well as sign an acknowledgement form, a copy of which will be placed into the applicant's file
  - Notice of Lead Hazard Evaluation – Owners and tenants of program assisted properties must receive results of any lead hazard evaluation work within 15 days of the evaluation. A copy of this notice will be kept within the applicant's file
  - Notice of Lead Hazard Reduction Activity – Owners and tenants of program assisted properties must be notified of the results of any lead hazard reduction activity within 15 days of clearance. A copy of this notice will be kept within the applicant's file
- Lead Hazard Assessment/Evaluation – Including visual assessments, paint testing, and risk assessments. Each method has specific requirements defined in Subpart R of the regulation and must be done by qualified professionals.
- Lead Hazard Reduction - Including paint stabilization, interim controls, standard treatments, or abatement. Each method has specific requirements defined in Subpart R of the regulation and must be done by qualified professionals.

For houses built before 1978 (when EPA banned lead-based paint) that are to be demolished to clear a lot for new house construction, home builders will retain demolition contractors to properly demolish and dispose of construction debris.

For houses that were built before 1978 (when EPA banned lead-based paint) and are eligible for rehabilitation, a lead-based paint assessment will be conducted by a licensed lead based paint assessor.

## 9.2 ENVIRONMENTAL REVIEW RECORD

The Environmental Officer is responsible for maintaining a written record of the environmental review process. The ERR for all Programs contains all the governmental review documents, public notices and written determinations or environmental findings required by 24 CFR Part 58 as evidence of review, decision making and actions pertaining to a project of a recipient. As appropriate, the ERR:



- Describes the project and activities that PRDOH has determined to be part of a project;
- Evaluates the effects of the project or the activities on the human environment;
- Documents compliance with applicable status and authorities, in particular those cited in Section 58.5 and 58.6; and
- Records the written determinations and other review findings required by this part (e.g., exempt and categorically excluded projects determinations, and findings of no significant impact).

The ERR contains, as appropriate, verifiable source documents and relevant base data used or cited in EAs, or other project review documents. These documents may be incorporated by reference into the ERR if each source document is identified and available for inspections by interested parties.

## 10 Flood Insurance Requirements

Grantees, recipients and subrecipients of federal funding must ensure that procedures and mechanisms are put into place to monitor compliance with all flood insurance requirements as found in the Flood Disaster Protection Act of 1973, 24 CFR 570.605, 24 CFR 570.202 and 24 CFR 570.605. These regulations, along with alternative requirements provided in 83 FR 5844, are as follows:

- HUD assisted homeowners located in a Special Flood Hazard Area must purchase and maintain flood insurance in the amount and duration prescribed by FEMA's National Flood Insurance Program.
- Homeowners who have previously received Federal flood disaster assistance and were subsequently required to purchase and maintain flood insurance but failed to do so, will not be eligible to receive any additional federal disaster relief funding.
- All grantees receiving CDBG-DR funding have a responsibility to inform future purchasers of the property of the requirement to obtain and maintain flood insurance in writing.
- In accordance with 83 FR 5844, PRDOH is prohibited from providing CDBG-DR assistance for rehabilitation/reconstruction of a house if the combined household income is greater than 120%, the property was located in a floodplain at the time of the disaster, and the property owner did not maintain flood insurance, even if not required to do so. This is to ensure that higher income homeowners are not assisted at the expense of lower income households. Given this, PRDOH may only provide assistance for rehabilitation/reconstruction of a damaged property located within a floodplain if the household income is less than the greater of 120% AMI or the national median or if the homeowner had flood insurance at the time

of the qualifying disaster and still has unmet recovery needs, regardless of AMI calculation.

## 11 Duplication of Benefits

CDBG-DR funding intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance and FEMA funds. To avoid duplicative assistance and potential de-obligation of funding, PRDOH must utilize all possible funding sources before applying CDBG-DR dollars to a project. CDBG-DR programs are typically implemented *after* temporary disaster assistance programs, such as FEMA Individual Assistance which are not intended to make someone whole.

The Stafford Act established the requirements for Duplication of Benefits (DOB) analysis and more recently, the Clarification of Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant Disaster Recovery (CDBG-DR) Grantees provided additional guidance on how Grantees should determine duplication of benefits. The Stafford Act prohibits entities, including households, from receiving disaster recovery funding for a loss for which it has previously received financial assistance from any source. DOB verification and analysis ensure that program funds compensate applicants for damages and needs that have not been addressed by an alternate source, either through funding or assistance.

The Program will ensure that a DOB analysis is performed for each applicant to consider all possible disaster recovery funding sources when processing applications for assistance. Common disaster assistance sources include, but are not limited to:

- Federal Emergency Management Agency (FEMA)
- Small Business Administration (SBA)
- National Flood Insurance Program (NFIP)
- Increased Cost of Compliance (ICC)
- Private Insurance
- Private and nonprofit disaster assistance

Once sources are identified, the Program will determine an applicant's unmet need. Specifically, the Program will compare the total assistance previously received to the total estimated need for each applicant. Per the Stafford Act, the Program will confirm that the applicant spent all previously received funds for their intended purpose. Funds of similar intent are considered duplicative unless the applicant still has an unmet need. The Program will verify eligible use of funds by collecting pertinent source documentation from third parties such as invoices from a contractor, receipts from a building supply store, or utilizing an inspection



to determine repair expenses incurred by an applicant. If the documentation or inspection verifies that the applicant spent all previously received funds in accordance with the funding intent, then no duplication exists, and the applicant may be eligible to receive assistance for any remaining unmet need under CDBG-DR.

Additional guidelines on procedures for preventing Duplication of Benefits can be found in the program specific guidebooks.

## **12 Anti-Fraud, Waste and Abuse Checks**

The Anti-Fraud, Waste and Abuse (AFWA) check is designed to identify discrepancies and risk relevant issues in Applicant-provided information that may be indicative of fraud, waste, and/or abuse risk. This check is run for all program applicants and may consist of up to seven components:

1. Social Security Number check (for relevant applicant types);
2. Business status check (for relevant application types);
3. Confirmation of association with damaged property address;
4. Check of relevant watch lists and debarment lists;
5. Searches for tax liens and warrants;
6. Searches for child support warrants

### **12.1 REVIEW OF AFWA CHECK FINDINGS**

After AFWA checks are completed, findings are delivered to the program team who receives reports notifying them of any flags that were identified. In their review of AFWA check findings, Program Representatives examine application information and Applicant-provided documentation to determine if this information is consistent with flags identified through AFWA checks and to identify potential typographical/data input errors.

### **12.2 ADJUDICATION AND ESCALATION OF AFWA FINDINGS**

Using relevant policy and procedure guidelines, the program team determines:

- a. If flagged issues affect the Applicant's eligibility and
- b. If further action is necessary in order to adjudicate the application.

Examples of options that may be available to program team could include but are not limited to the following:

- If the flagged issue does not affect the Applicant's eligibility per State

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policy, the Customer Representative Team can recommend that the application be permitted to progress through the application process.

- If the flagged issue is a result of a typographical error (e.g., transposition of last and first names, hyphenation, misspelling, missed letter, missed numerical digit, incorrect ZIP codes), the Customer Representative Team can query the underlying documentation submitted by the Applicant for an extra layer of verification and recommend that the application be permitted to progress through the application process, pursuant to satisfactory confirmation of underlying documentation.
- If there is insufficient information to adjudicate the flagged issue and research of publicly available information is not able to provide the information necessary to make a determination, the Customer Representative Team can recommend that follow up be conducted with the Applicant or that the application be escalated for further examination.

### **13 Affirmatively Furthering Fair Housing**

The Fair Housing Act of 1974 dictates that grantees are required to administer all programs and activities related to housing and urban development in a manner to affirmatively further the policies of the Fair Housing Act. Per the regulations of 24 CFR 570.601 and in accordance with section 104(b)(2) of the Act, for each community receiving a grant under subpart D of this part, the certification that the grantee will affirmatively further fair housing shall specifically require the grantee to take meaningful actions to further the goals identified in the grantee's AFH plan, conducted in accordance with the requirements of 24 CFR 5.150 through 5.180 and take no action that is materially inconsistent with its obligation to affirmatively further fair housing.

The Fair Housing Act is enforced by ensuring that all grantees, sub-recipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing Act and the associated forms. The Affirmative Marketing Plan must comply with applicable Fair Housing Laws and demonstrate how the applicant will affirmatively further fair housing throughout applicable disaster recovery programs.

### **14 Civil Rights and Non-Discrimination**

Section 109 of the Fair Housing Act requires that no person in the United States shall on the grounds of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance made available pursuant to the Act. Section 109 also directs that the prohibitions against

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discrimination on the basis of age under the Age Discrimination Act and the prohibitions against discrimination on the basis of disability under Section 504 shall apply to programs or activities receiving Federal financial assistance under Title I programs. The policies and procedures necessary to ensure enforcement of section 109 are codified in 24 CFR part 6.

## **15 Debarment and Suspension**

The regulations implementing Executive Orders 12549 and 12689 in 2 CFR part 180 restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

A contract award must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM). SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

## **16 Drug Free Workplace**

The Drug-Free Workplace Act of 1988, as implemented by 24 CFR Part 24 Subpart F, requires that any grantee other than an individual must certify that it will provide a drug-free workplace. Any grantee found in violation of the requirements of this act may be subject to suspension of payments under the grant, suspension or termination of the grant or suspension or debarment of the grantee. PRDOH guarantees compliance with this Act.

## **17 Timely Distribution of Funds**

The Appropriations Act, as amended, requires that funds provided under the Act be expended within two years of the date that HUD obligates funds to a grantee unless otherwise authorized via waiver of this requirement by the Office of Management and Budget (OMB). The OMB waived the 2-year expenditure requirement under 83 FR 40314; however, the provision to expend 100% of the total allocation of CDBG-DR funds on eligible activities within six years of HUD's initial obligation of funds remains in effect. The six-year expenditure period commences with the initial obligation of funds provided under 83 FR 5844. Additionally, per 83 FR 5844, the provisions at 24 CFR 570.494 and 24 CFR 570.902 regarding timely distribution and expenditure of funds are waived and an alternative requirement was established.

Further, consistent with 31 U.S.C 1555 and OMB Circular No. All, if the Secretary or the President determines that the purposes for which the appropriation has been made have been carried out and no disbursements have been made against

the appropriation has been made have been carried out and no disbursements have been made against the appropriation for two consecutive fiscal years, any remaining unobligated balance will be made unavailable for obligation or expenditure.

## **18 Property Management and Distribution**

Regulations governing property management and distribution of real property, equipment, financial obligations and return of un-obligated cash post program closeout can be found in 24 CFR 570.506, 2 CFR 200.310, 2 CFR 200.343 and 2 CFR 200.44(d)(4).

### **18.1 USE OF REAL PROPERTY**

The standards of 24 CFR 570.506 apply to any real property under a CDBG award recipient's control acquired in whole or in part with CDBG funds in excess of \$25,000. The recipient may not change the use or planned use of the property without proper notification to affected citizens and allowable time for comment by them. If the property is not a building for general government conduct, the use of the property may be changed with citizen approval if it either meets one of the national objectives as defined in 24 CFR 570.208 or if not, the recipient may either retain or dispose of the property for the changed use if the recipient's CDBG program is reimbursed in the amount of the current fair market value of the property, less any portion of the value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property. Following such reimbursement, the property will no longer be subject to any CDBG requirements.

### **18.2 INSURANCE COVERAGE.**

In accordance with 2 CFR 200.310, a recipient must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

### **18.3 CLOSEOUT AND POST-CLOSEOUT ADJUSTMENTS**

During the period of Federal award closeout, non-Federal entities must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with the regulations cited above. After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity are met, including those for property management as applicable.

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## **19 Limited English Proficiency**

Federal Executive Order 13166 requires programs, subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing. Fair access is ensured through the implementation of a Language Assistance Plan (LAP), which includes non-English-based outreach, translation services of vital documents, free language assistance services, and staff training. Vital documents are defined as depending on the importance of the program, information, encounter, or service involved, and the consequence to the LEP person if the information in question is not provided accurately or in a timely manner.

## **20 Personally Identifiable Information**

In accordance with 2 CFR 200.303, PRDOH guarantees the protection of all Personally Identifiable Information (PII) obtained. Employees will enact necessary measures to ensure PII of all applicants is safeguarded as to avoid release of private information. If a contractor or employee should experience any loss or potential loss of PII, the Program shall be notified immediately of the breach or potential breach. Potential losses of PII may occur in forms such as:

- loss of a computer or electronic device containing PII,
- loss or compromise of paper containing PII, or
- loss of electronic communication containing PII

If the Program should be notified of loss or potential loss of PII, efforts will be undertaken on a case-by-case basis to ensure the recovery of said information. Additionally, applicants to PRDOH Programs will be granted reasonable access to program records in accordance with 24 CFR 570.508.

## **21 Conflict of Interest**

A conflict of interest, as defined by 24 CFR 570.611 exists when any person who is an employee, agent, consultant, decision maker, officer or elected/appointed official of any recipient receiving funds under the program may obtain a financial interest or benefit from a CDBG-assisted activity, has financial interest in any contract, subcontract or agreement with respect to a CDBG-assisted activity or with respect to the proceedings of such an activity, either for themselves or with those whom they have business or immediate family ties during their tenure or for one year after.

Such conflicts of interest will not be tolerated by PRDOH. To establish internal controls for identifying potential conflicts of interest, all team members,

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employees, and other parties participating in the determination of eligibility and/or the distribution of funds, are expected to practice good judgment when presented with a situation which may involve a potential or actual conflict.

All Program staff are required to make a full disclosure of any interests, relationships, and holdings, which could potentially result in a conflict of interest. Potential conflicts of interest may include relationships with neighbors, acquaintances, friends, family members, and other members of the community. As soon as a project team member is aware they have a current or prior relationship or familiarity with a potential applicant they are required to immediately notify program management, who will ensure project team members do not process or interact with applications with potential conflicts of interest.

## **22 Uniform Relocation Act**

CDBG-DR funds, administered by PRDOH and disbursed to subrecipients and direct contractors and/or beneficiaries, are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) and/or Section 104(d) of the Housing and Community Development Act of 1974. The applicable federal regulations are located at 49 CFR Part 24 (URA), 24 CFR Part 42 (Section 104(d)), and in the Real Estate Acquisition and Relocation Policy and Guidance Handbook (HUD Handbook 1378). Section 104(d) requires relocation assistance for lower-income individuals displaced as a result of the demolition or conversion of a lower-income dwelling and requires one-for-one replacement of lower-income units demolished or converted to other uses. Subrecipients or contractors must provide the following benefits to households that they displace:

- Relocation advisory services;
- A minimum of 90-day notice to vacate;
- Reimbursement for moving expenses; and
- Payments for added cost of renting or purchasing comparable replacement housing.

PRDOH programs subject to the Uniform Act and Section 104(d) includes the CDBG-DR programs. PRDOH rules, Notices of Funding Availability (NOFAs), applicant certifications and/or written agreements for funds subject to the Uniform Act and Section 104(d) shall refer to federal and State rules, as appropriate.

Additional URA requirements can be found in the housing programs guidebooks.

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## **23 Maintenance of Permanent Project Files**

All official records on programs and individual activities are maintained for a 6 (six) year period, starting once the national objective has been met and recorded, or beyond the end of the affordability period for each housing activity, whichever is longer.

## **24 Reporting**

Compliance will be maintained in accordance with the reporting requirements under the CDBG-DR regulations. This includes all information and reports as required under any executed contracts and demographic data and other information on applicants and awardees processed by contractual agreement.

Reporting is mandatory of all parties expending funds and will be provided to the grantee. PRDOH is required to use the Disaster Recovery Grant Reporting system (DRGR) for all CDBG-DR reporting.

### **24.1 QUARTERLY PERFORMANCE REPORTS (QPR)**

Subrecipients or program partners receiving federal award funds must complete a quarterly report which provides an overview of the progress of the project to date and includes a summary of the expected progress in the next quarter. All QPRs will be publicly available at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov).

### **24.2 COMPLIANCE REPORTING**

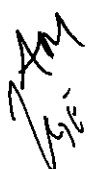
Reports required for PRDOH include those required by HUD such as Section 3 Reports and those for EEO or FHEO be completed.

## **25 Appeals**

Citizen complaints will be handled as required under the following regulations:

24 CFR 91.11(h) Citizen Participation Plan which states, "The citizen participation plan shall describe the State's appropriate and practicable procedures to handle complaints from citizens related to the consolidated plan, amendments and performance report. At a minimum, the citizen participation plan shall require that the State must provide a timely, substantive written response to every written citizen complaint, within an established period of time (within 15 working days, where practicable, if the State is a CDBG recipient)."

24 CFR 570.486(a)(7) Local Government Requirements, which states, "Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days, where practicable."



Resolution of complaints must be handled sensitively and fairly. Complete and thorough program documentation and contractual agreements, careful implementation of policies and procedures, and clear and respectful methods of communication will help prevent and resolve complaints. Incorporation of escalation procedures into the complaint process will support resolution at the earliest stage possible. Program specific appeals procedures can be found in program specific guidelines.

Information about the right and how to file a complaint shall be printed on all program applications, guidelines and associated web sites in all local languages, as appropriate and reasonable.

Types of Complaints: There are two types of complaints; formal and informal.

**Informal:** Informal complaints may be verbal and can come from any party involved in the application process, including the homeowner or building contractor. A written procedure for handling these complaints is not required.

**Formal:** Formal complaints are written complaints, including faxed and emailed statements. A written procedure for dealing with formal complaints is required.

### **25.1 INFORMAL COMPLAINTS**

Informal complaints may come from any party involved in the execution of the project, including the homeowner or building contractor. While a written procedure for handling these complaints is not required, Vivienda has posted on their website the methods of communication for providing feedback comments or other complaints.

All pertinent applicant details including name, address, contact number and application ID should be provided. The details of the question or complaint should include the names of program personnel previously contacted or the Program Manager contacted and provided details of the query. Copies or originals of any documents or correspondence received, including how any questions were answered, what information was provided and what action is required of the Program Manager should also be included.

### **25.2 FORMAL COMPLAINTS**

Formal complaints are written statements of grievance. These complaints may be provided to the Program Manager or the DR grantee in the form of a fax, email or letter and are handled through a documented set of procedures that comply with federal regulations and the grantee requirements.

All complaints received will be documented, processed, and filed. Complaints with insufficient data or submitted by a third party with no standing in the application about which the complaint is being submitted need not be accepted. A file for each complaint will be maintained. The file will document each step of the complaint process and will include the following:

- The name of the person who filed the complaint;
- The date the complaint was received;
- A description of the complaint;
- The name of each person contacted in relation to the complaint;
- A summary of the results of the review or investigation of the complaint; and
- An explanation of the reason the file was closed, if the file was closed.

In order for a formal complaint to be processed it must be received in writing (includes fax and email) and must include:

- The name of the complainant, and
- Contact information of the complainant

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: <http://www.cdbg-dr.pr.gov/contact/>
- In writing at: Puerto Rico CDBG-DR Program  
P.O. Box 21365  
San Juan, PR 00928-1365

PRDOH will provide a timely, written response to all written citizen complaints. The response to a complaint will be provided within 15 business days of receipt of the complaint. Complaints regarding fraud, waste, or abuse of government funds should be forwarded to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: [hotline@hudoig.gov](mailto:hotline@hudoig.gov)).

## 26 Monitoring

As per CDBG regulation, 24 CFR 570.501(b), grantees of CDBG-DR funds are responsible for carrying out their programs to meet compliance with CDBG Program, statutory and regulatory requirements, including monitoring their project administrators, contractors and subcontractors. As such, throughout the



application, planning, design, and implementation phase of the program, PRDOH will conduct internal monitoring of processes, procedures, policy, applications, planning, design, construction, and other applicable phases. PRDOH's Monitoring Unit will work to ensure that program funds are operating efficiently and effectively and that Disaster Recovery CDBG funds are being used appropriately. The implementation of effective internal monitoring of the program's compliance against the program requirements and procedures will inform the process to identify areas of strong performance and areas that need improvement and a corrective action.

The monitoring process has three primary objectives:

- Gauge the overall program progress and effectiveness of the contractors, State Grantees, Local Grantees and/or Subrecipients, as applicable, in meeting the program objectives, goals and requirements set forth under the Binding Agreement(s)
- Serve as a management tool to identify issues that may compromise program integrity, funding, and service delivery for corrective action and resolution
- Serve as a technical assistance tool to identify areas in which to strengthen program capacity and quality of service delivery

PRDOH's Monitoring Plan details the reasons monitoring reviews occur, timelines, specific approach to monitoring, documentation requirements and corrective actions necessary to resolve issues or concerns discovered through a review. This plan details monitoring procedures, scheduling, and standards, to provide HUD-funded activity compliance and performance reviews for all funding recipients, including internal PRDOH program operations. PRDOH performs monitoring and compliance reviews based on risk assessments developed and predetermined scheduling, as well as monitoring frequency - whether acute or chronic - if a matter is uncovered by an external audit or necessitated by the possibility of fraud, waste, or mismanagement. The monitoring process reviews consist of entrance meetings, analysis of documentation, interviews, exit meetings, development and issuance of compliance review reports, corrective action plans, and if necessary, follow up reviews and letters.

All applications are thoroughly reviewed by Program staff during the intake and verification of benefit processing levels to ensure consistency with program documentation and data requirements. Additional monitoring is then completed at regular scheduled intervals using sample populations. The monitoring strategy includes the use of desk reviews by the program staff and onsite monitoring by the compliance staff. Identification of the entities to be monitored are done quarterly, based on the results of the risk assessments and the threshold

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established (i.e., percentage of funds expended, total allocation, number of projects). The monitoring reviews are prioritized so that high-risk entities are monitored first.

#### **26.1 AUDIT FINDINGS**

All audit findings shall be recorded in detail by the DR grantee, and shall detail both compliance of application and use of funds. Issues of non-compliance shall be categorized as either material or administrative. Grant recipients, subrecipients, program partners or any party found to be in material non-compliance, or which received funds in error, may be required to repay grant or loan funds to PRDOH, as per the Terms and Conditions of their agreement. Grant recipients, subrecipients, program partners or any party found to be willfully fraudulent will be prosecuted.

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