



DEPARTMENT OF ECONOMIC
DEVELOPMENT
AND COMMERCE



CDBG-DR

ELECTRICAL POWER SYSTEM ENHANCEMENTS & IMPROVEMENTS

PROGRAM GUIDELINES

Electrical Power Reliability and Resilience Program (ER2)

ENERGY SUPPORT INCENTIVE PROGRAM 2.0 SET-ASIDE

Agosto 26, 2024

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PUERTO RICO DEPARTMENT OF ECONOMIC DEVELOPMENT AND COMMERCE
ENERGY PUBLIC POLICY PROGRAM
CDBG-DR PROGRAM - ELECTRICAL POWER SYSTEM ENHANCEMENTS
PROGRAM GUIDELINES
ENERGY SUPPORT INCENTIVE PROGRAM 2.0 SET-ASIDE
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	November 28, 2023	Original version.
2	May 24, 2024	General edits throughout to further define System requirements.
3	August 26, 2024	Minor edits were made throughout the document. For convenience and ease of reference, all edits are marked in gray. Added sections for Labor Standards and Recapture of Funds.

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1 Program Overview

The Puerto Rico Department of Housing (**PRDOH**) selected the Department of Economic Development and Commerce (**DEDC**) to be the subrecipient of \$30,000,000 in funds from the Electrical Power Reliability and Resilience Program (**ER2**) under the Puerto Rico Community Development Block Grant – Disaster Recovery (**CDBG-DR**), awarded by the U.S. Department of Housing and Urban Development (**HUD**) for the Puerto Rico's Electrical Power Systems Enhancements and Improvements. The DEDC's Public Energy Policy Program (**PEPP**), responsible for the development and implementation of Puerto Rico's energy policies, will use these funds under the Energy Support Incentive Program 2.0 (**Program**) to provide energy resilience to Puerto Rico's small and medium-sized businesses (**SMBs**).

The Energy Support Incentive Program 2.0 is designed to assist SMBs in developing renewable energy investments. Not only will renewable energy systems help stabilize the operations of participating businesses against the effects of interruptions in the electricity service, they will also reduce the overall demand for electricity and prevent overloading of the grid.

The Program will target businesses which perform critical functions (community lifelines) in the event of a natural disaster, as described by the Federal Emergency Management Agency (**FEMA**) and detailed later on in these Guidelines. Moreover, providing these critical businesses financial assistance for the installation of renewable energy systems is crucial, as it will positively impact the electrical power system as a whole. Specifically, it will reduce power outages, contribute to the grid's resilience and ease pressure on the aging grid by lowering overall electricity demand.

Likewise, the Program will, by funding investments in renewable energy, contribute to the objective established in the Puerto Rico Energy Public Policy Act, Act No. 17-2019, as amended, 22 LPRA § 1141, *et seq.*, which sets the Island on a path to forty percent (40%) and one hundred percent (100%) renewable energy by 2025 and 2050, respectively.

2 Definitions

- **Applicant Business (Applicant):** Business which submits an Application and participates in the Energy Support Incentive Program 2.0.
- **Authorized Representative of the Applicant Business:** Refers to the President, General Manager or Owner of the Applicant Business. If the Applicant Business has more than one (1) owner or partner, it must submit a Corporate Resolution to authorize the representative to make decisions.
- **Battery Storage System Capacity (BSS Capacity):** Shall be the sum of each individual nameplate capacity of batteries within a battery bank for a BSS. BSS Capacity is measured in kilowatt-hours (**kWh**). For the purposes of this program,

the minimum capacity of the BSS will be 10 kWh up to a maximum of 40 kWh, with a 10-year warranty. Batteries used for BSS shall have lithium-ion chemistry, but DEDC may approve additional battery technologies.

- **Beneficiary:** Small and medium-sized businesses (**SMBs**) approved to receive the Program's incentive. The SMB must belong to one of the following designated primary service sectors in the event of a natural disaster: Food, Water and Shelter; Health and Medicine; Safety and Security; or Energy, as specified later in these Guidelines.
- **Completed Project:** A project that has finished all installations, is fully operational, commissioned, and in compliance with program requirements and applicable regulations.
- **Electric Car Infrastructure:** Level 2 (minimum) electric car charger.
- **Installation:** All work performed, completed, and related to the project.
- **NAICS Code:** It is the North American Industry Classification System (**NAICS**) used by federal statistical agencies to classify business establishments for the purpose of collecting, analyzing and publishing statistical data related to the U.S. business economy.
- **Owner of the Structure:** Registered owner of the structure where the SMB is located.
- **Renewable Energy Photovoltaic System Capacity (PVS Capacity):** Shall be the sum of each individual direct current (**DC**) nameplate capacity ratings of the Photovoltaic Modules. PVS Capacity is measured in kilowatts (**kW**). For the purposes of this program, the minimum capacity of the PVS will be 5 kWdc up to a maximum of 100% of the monthly consumption of the SMB, according to the power utility bills provided by the Applicant.
- **Small and Medium-sized Business (SMB) Applicant:** For purposes of a Program Applicant, DEDC has defined SMBs as those businesses that have generated an average of five million dollars (\$5,000,000) or less in sales over the two (2) years prior to the fiscal year in which the Application is submitted.¹
- **Small and Medium-sized Business (SMB) Supplier:** For purposes of Program Suppliers, DEDC has defined SMBs as those businesses that have generated an average of ten million dollars (\$10,000,000) or less in sales over the three (3) years prior to the fiscal year in which the request for Suppliers is opened.²

¹ No to be confused with the SMB terminology established in Act 62-2014, commonly known as the Micro, Small, and Medium-sized Enterprises Support Act.

² No to be confused with the SMB terminology established in Act 62-2014, commonly known as the Micro, Small, and Medium-sized Enterprises Support Act.

- **Supplier:** A business dedicated to the sale and installation of Renewable Energy Systems that, after the Supplier Certification Process, has been added to the Supplier Registry of the Energy Support Incentive Program 2.0. They will install the approved system for the beneficiaries.
- **Total Project Cost:** The total cost of the renewable energy project, including the agreement with the rates of the Applicant selected Supplier, in its entirety. Any amount of the Total Project Cost that is not covered by the incentive awarded by the Program must be covered by the Applicant.

3 Program Description

The DEDC will receive and evaluate applications from SMBs for grants of up to fifty thousand dollars (\$50,000.00) to cover 60% of the total project cost. The grants are intended to help reduce costs and long-term energy consumption, thus stabilizing the operations of the beneficiaries. Each application will be evaluated based on several criteria, including location, services rendered, economic sector represented, and compliance with environmental standards.

SMB Applicants will be responsible for initiating communication with Suppliers to obtain a proposal/quotation to be included with the Application.

4 National Objective

As a general rule, all CDBG-DR funded activities must meet at least one (1) of HUD's three (3) national objectives defined in the authorizing statute of the CDBG Program in Section 104(b)(3) of the Housing and Community Development Act of 1974 (**HCDA**), 42 U.S.C. § 5304(b)(3). However, projects funded under the Energy Support Incentive 2.0 Program will meet the Urgent Need (**UN**) National Objective (24 C.F.R. § 570.483(d)).

- The provisions of 24 C.F.R. § 570.483(d) are waived at 86 FR 32681, 32693 and replaced with the alternative requirement to document how the activity responds to and addresses a disaster-related impact as identified in the Action Plan Unmet Needs Assessment.

5 Eligible Activities and Use of Funds

5.1 Eligible Activities

HUD has identified the set of electrical power system improvements to be completed with CDBG-DR funds subject to Federal Register Vol. 86, No. 117 (June 22, 2021), 86 FR 32681, as critical factors to the region's long-term recovery from Hurricanes Irma and María and its resilience to future weather events. As per 86 FR 32681, HUD recognizes that the broad scope of these activities may limit the grantees' ability to categorize these CDBG-DR funds into discrete categories of CDBG eligibility and to appropriately assign a CDBG national objective to each component of the planned improvements. As such,

HUD waived compliance with Section 105(a) (42 U.S.C. § 5305(a)) of the HCDA and established an alternative requirement only to the extent necessary to create a new eligible activity, electrical power system improvements, which shall be applicable only to the grant funded under the Electrical Power Systems Enhancements and Improvements Action Plan.

Therefore, eligible activities for this Program include³:

- Acquisition, construction, reconstruction and rehabilitation, or the installation of facilities, improvements, or other components undertaken to implement, upgrade, and otherwise enhance and improve the cost-effectiveness, reliability, efficiency, sustainability, or long-term financial viability of the recipient's electrical power system.
- Interim assistance, financing of public or private procurement for reconstruction or rehabilitation, or for the reconstruction or rehabilitation of private property.
- Activities aimed at increasing the resilience of the electrical power system to future disasters and addressing the effects of climate change.

5.2 Eligible Use of Funds

Based on the above, the eligible costs for this Program are:

- Subrecipient personnel costs and related expenses required for contract and project management, outreach efforts to market the Program, review and selection of Suppliers and Applicants, and other eligible services related to carrying out the Program;
- Cost of equipment, including photovoltaic modules, metering equipment, batteries, as well as mounting, anchoring, wiring and other electrical accessories required to assemble a functional system;
- Costs for the procurement and installation of electric vehicle chargers;
- Costs of designing and engineering systems;
- Costs of any required permits for the systems;
- Costs of installation and implementation of the systems;
- Costs of inspecting and monitoring the system; and
- Any interconnection costs to the electrical power grid.

³ 86 FR 32681.

5.3 Ineligible Use of Funds

Ineligible activities and use of funds include, but are not limited to:

- Transfer the Agreement between the DEDC and the Suppliers and/or Beneficiaries;
- Transfer a grant awarded to another business or another location;
- Exchange of incentive award for cash;
- Resell, transfer, manipulate or exchange the installed system;
- Use of pre-owned or refurbished equipment;
- Sell energy generated by the system to third parties (except to the Transmission and Distribution Operator);
- Operation and maintenance cost of a public utility or the costs of fuel or energy purchase contracts;
- General government expenses required to carry out its regular responsibilities
- Cost of improvements to the property required for it to be able to structurally support the system to be installed;
- Reimbursement of costs associated with a system purchased and installed prior to the registration of the signed Grant Agreement with the Office of the Comptroller of Puerto Rico;
- Installation of equipment that is not permanent and integral to the structure - as defined by The Puerto Rico Civil Code in Article 250⁴ and Article 252⁵;
- Use of facilities or equipment for political purposes or to engage in other partisan political activities, such as candidate forums, voter transportation, or voter registration;
- New housing construction;
- Purchase of equipment – construction equipment, fire protection equipment, furnishings, and personal property, as provided at 24 C.F.R. § 570.207:
 - o Construction equipment. The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing or depreciation pursuant to 2 C.F.R. Part 200, Subpart E, as applicable for an otherwise eligible activity is an eligible use of CDBG funds.

⁴ 31 LPRA § 6051.

⁵ 31 LPRA § 6053.

o Fire protection equipment. Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under § 570.201 (c).

o Furnishings and personal property. The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. CDBG funds may be used, however, to purchase or to pay depreciation in accordance with 2 C.F.R. Part 200, Subpart E, for such items when necessary for use by a recipient or its subrecipients in the administration of activities assisted with CDBG funds, or when eligible as firefighting equipment, or when such items constitute all or part of a public service pursuant to § 570.201 (e).

6 Program Phases

The Energy Support Incentive Program 2.0 will be divided into two (2) phases:

- **Phase I – Supplier Registration:** During this phase, DEDC will complete the Energy Support Incentive Program 2.0 Supplier Registry. Suppliers engaged in the sale and installation of renewable energy systems will complete the registration process.
- **Phase II - Evaluation, Award, and Incentive Disbursement:** DEDC will receive applications for the incentive. The applications will be evaluated and awarded per the provisions and requirements of these Guidelines and the CDBG-DR Electrical Systems Enhancements & Improvements Action Plan. Successful Applicants will proceed with the installation of their systems, after which the Suppliers will submit the corresponding Disbursement Requests to DEDC. The DEDC will review the documentation and inspect the installed systems to authorize the disbursement of the incentives granted.

7 Supplier Registration

The development of Program subsidized projects will only be conducted by Businesses that meet the criteria set for Suppliers and successfully complete the Supplier Certification Process outlined in this document. DEDC will publish the list of approved Suppliers for the Program in the Energy Support Incentive Program 2.0 Supplier Registry.

7.1 Supplier Requirements

Businesses interested in joining the Energy Support Incentive Program 2.0 Supplier Registry must:

- Be a business that has been established, created, and registered for at least three (3) years;

- Provide evidence of being an SMB as defined in these Guidelines for the Suppliers. This can be done through financial statements or tax returns;
- Provide:
 - Certificate of Incorporation or Certificate of Existence from the Department of State;
 - Unique Entity Identifier (UEI) number⁶;
 - Renewable Electrical Systems Installer's Certificate, valid and issued by the PEPP, according to Article 17 of Regulation No. 7796, or its subsequent equivalent regulation;
 - Regular employee payroll proof;
 - Negative Debt Certification issued by the Puerto Rico Department of the Treasury ("Hacienda"). If you are currently on a payment plan, you will need to provide proof of the agreement;
 - Current Certificate of Contractor Registration from the Department of Consumer Affairs (**DACO**, by its Spanish acronym);
 - Certification of Tax Return Filing;
 - Submit Income Tax Returns for the last three (3) years;
 - Public Liability Insurance of at least one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) per aggregate; and
 - Provide a current Business Registration Certificate. In those instances where the submitted Certificate has an expiration date prior to the expiration of the **Commitment of Compliance with Terms and Conditions** with the DEDC, the Supplier shall have five (5) calendar days from the expiration date of the Certificate to submit the updated document. Failure to comply with this provision shall result in the inability of the Supplier to perform the services; and
- Comply with the terms and conditions of the Program.

Upon approval, the Supplier must provide the following documents prior to signing the Commitment of Compliance with Terms and Conditions:

- Electronic Payment Authorization (Form provided by the DEDC);

⁶ <https://sam.gov/>.

- Administration for Child Support Enforcement (**ASUME**, by its Spanish acronym) certificate; and
- Certificate from the Municipal Revenue Collection Center (**CRIM**, by its Spanish acronym).

If, after thirty (30) calendar days from the opening of the call for the Supplier Registry there are not at least thirty (30) Suppliers with an average sales volume of ten million dollars (\$10,000,000) or less, the DEDC will accept as Suppliers those Businesses with an average sales volume of up to twenty million dollars (\$20,000,000) or less, during the three (3) years prior to the Fiscal Year in which the call is opened.

7.2 Supplier Certification Process

The DEDC will issue a call for the Supplier Registry. The solicitation will provide a fifteen (15) calendar day period for any interested business to submit the required documentation. Interested Businesses will fill out the information, submit the documents, and receive notifications from Program personnel via the **Economic Development** portal designated for this incentive: www.desarrollo.pr.gov. The system will delete the application if it is not submitted within the allotted fifteen (15) day period. In these cases, and only if the solicitation remains open, the interested Business will have to complete the information and submit all documents anew.

DEDC will evaluate and approve or reject interested Suppliers within a period that does not exceed thirty (30) calendar days from the date the data and documents are submitted. The DEDC will notify the Supplier if any documentation is missing and will provide ten (10) calendar days to submit the missing documents.

Businesses that are approved by the DEDC as Suppliers for the Program will receive an **Approved Supplier Notification**. Additional documentation required to sign the **Commitment of Compliance with Terms and Conditions** with the DEDC will be requested in this notification. Once all additional documents are received, the DEDC and the Supplier will sign the **Commitment of Compliance with Terms and Conditions**. Businesses that have signed the **Commitment of Compliance with Terms and Conditions** will be listed as Suppliers in the Energy Support Incentive Program 2.0 Supplier Registry. The Register shall include **(1)** the legal name, **(2)** the physical address, **(3)** telephone number, and **(4)** the email address of the approved Supplier.

Businesses rejected by the DEDC will receive a **Notification of Rejected Supplier** detailing the reasons for the denial.

8 Applicant Eligibility

8.1 SMB Applicant Eligibility

Incentives are awarded to Applicants who meet the established criteria, complete the Application, and provide all required information and documentation.

For an Applicant to be eligible:

- The SMB Applicant must comply with all Organizational Documents requested in these Guidelines;
- The SMB Applicant must have been established, created, and registered for at least two (2) years;
- The SMB Applicant has no conflict of interest, as defined in the Conflict of Interest and Standards of Conduct Policy (**COI Policy**) for CDBG-DR/MIT programs;⁷
- The Applicant SMB must have generated an average sales volume of five million dollars (\$5,000,000.00) or less during the two (2) years prior to the Fiscal Year in which the Application is submitted;
- The SMB Applicant must own the premises/structure or have current authorization from the owner of the premises/structure to carry out the Project. The owner's authorization must provide sufficient time for the SMB to operate its business with the benefit.

The SMB Applicant must provide services in one of the service sectors listed in **Table 2**. These are the sectors identified by FEMA as having the greatest need in the event of a natural disaster.⁸ The Business Registration Certificate of the SMB Applicant submitting the application must align with one of the Community Lifelines eligible for this incentive based on the NAICS code⁹ and Business Activity listed on the Certificate.

The following are the eligible Business Activities for this Program:

⁷ The COI Policy is available, in English and Spanish, at <https://cdbg-dr.pr.gov/en/download/conflict-of-interest-and-standards-of-conduct-policy/> y <https://cdbg-dr.pr.gov/download/politica-de-conflictos-de-interes-y-estandares-de-conducta/>.


⁸ Refer to the FEMA **Community Lifelines**: <https://www.fema.gov/emergency-managers/practitioners/lifelines>




⁹ In determining eligibility, the Program will use the NAICS codes identified on the Puerto Rico Department of Treasury's Unified Internal Revenue System (SURI, for its Spanish acronym) website at: <https://suri.hacienda.pr.gov/#1>.

Table 1 – Eligible Business Activities

List of Eligible Business Activities	
Industry/Activity	
Agriculture, Forestry, Fishing and Hunting	Fish and Seafood Markets
Crop Production	Fruit and Vegetable Markets
Corn Farming	Potato Farming
Vegetable and Melon Farming	Baked Goods Stores
Animal Production and Aquaculture	Health and Personal Care Stores
Beef Cattle Ranching and Farming	Pharmacies and Drug Stores
Dairy Cattle and Milk Production	Other Health and Personal Care Stores
Hog and Pig Farming	Gasoline Stations
Poultry and Egg Production	Liquefied petroleum gas (LPG) dealers
Sheep and Goat Farming	Truck Transportation
Aquaculture	Ambulatory Health Care Services
Fishing	Dialysis centers and clinics
Water, Sewage and Other Systems	Freestanding Ambulatory Surgical and Emergency Centers
Animal Food Manufacturing	Medical and Diagnostic Laboratories
Dairy Product Manufacturing	Home Health Care Services
Seafood Product Preparation and Packaging	Other Ambulatory Health Care Services
Bakeries and Tortilla Manufacturing	Ambulance Services
Ice Manufacturing	Hospitals
Medical Equipment and Supplies Manufacturing	Nursing and Residential Care Facilities
Drugs and Druggists' Sundries Merchant Wholesalers	Other Residential Care Facilities
Hardware Stores	Community Food and Housing, and Emergency and Other Relief Services
Food and Beverage Stores	Full-service restaurant
Supermarkets and Other Grocery Stores	Limited-Service Restaurants
Convenience Stores	Funeral Homes and Funeral Services
Specialty Food Stores	Cemeteries and Crematories
Meat Markets	

Table 2 - FEMA Community Lifelines

Community Lifelines		
Sector	Description	Exclusive List of Qualifying Companies
 <p>Food, Hydration, and Shelter</p>	<p>Water, Waste Water, Food, Shelter, Agriculture, and Handling of food and/or water materials</p>	<ul style="list-style-type: none"> • Water; Ice; • Unprepared and/or prepared foods; • Bakery, Supermarket, Grocery store; • Food manufacturing; • Food storage and cargo transportation; • Potable water storage tanks; • Hardware stores; • Farmers; • Septic tank emptying and cleaning services.

Community Lifelines		
Sector	Description	Exclusive List of Qualifying Companies
 Health and Medical	Medical Care, Patient Movement, Fatality Management, and Medical Supply Chain	<ul style="list-style-type: none"> • Health care clinics or service centers for the treatment of medical conditions and/or chronic diseases (emergency services, outpatient centers, hospitals, ambulance transport, patient transport); • Pharmacy / drugstores; • Clinical Laboratory; • Medical equipment; • Transportation of medication supplies; • Fatality management and transportation (funeral home); • Long-term care service centers for older adults; • Long-term Health Care Facilities.
 Safety and Security	Law Enforcement/Security, Community safety, Fire Service, Search and Rescue	<ul style="list-style-type: none"> • Security guard companies; • Companies dedicated to the sale of fire suppression products. • Private companies for rescue services.
 Energy	Gasoline, Diesel, Liquefied Gas	<ul style="list-style-type: none"> • Gas stations; • Liquefied Gas Plant; • Transportation of fuel and/or liquefied gas; • Fuel storage tanks.

- The SMB Applicant must comply with the Federal Emergency Management Agency (**FEMA**) National Flood Insurance Reform Act of 1994 (**NFIRA**);
- The SMB Applicant must not have received a previous grant under the Energy Support Incentive Program; and

- The SMB Applicant cannot have a Duplication of Benefits (See the *Duplication of Benefits* section of these Guidelines) that exceeds the grant to be offered.

8.2 Project Eligibility

For a project to be eligible for the Program:

- It should consist of a combination of the following:
 - Installation of a photovoltaic panel system together with the storage system (battery);
 - Integration of storage (batteries) in structures that already have an operational photovoltaic panel system in optimal conditions; or
 - Installation of electric vehicle charging infrastructure (Level 2). The installation of the electric vehicle charger will not be permitted as the sole activity of the Project. This activity must be carried out in conjunction with one of the aforementioned eligible activities;
- The photovoltaic panels will be exclusively installed on the roof of the property;
- Batteries, control panels and chargers for electric vehicles will be installed on the walls of the structures and must be permanently attached to the structure, and ductwork must not be buried;
- The project must have a simple payback period of no more than twelve (12) years;
- Only projects that have not been purchased and installed prior to the date of the Program's Notification of Approval and Incentive Reservation will be considered;
- The installation of the systems will be carried out exclusively by Suppliers in the Program's Supplier Registry;
- All installed systems must complete the net metering process and submit either an Application for Assessment to Interconnect¹⁰ or a Registration of Distributed Generation System with Capacity of 25 kW or Less ("Registro de Sistema de Generación Distribuida de 25 kW o Menos") to the Power Grid Operator, as applicable.¹¹ This request is the responsibility of the Supplier hired by the Beneficiary; and

¹⁰ An Application for Assessment to Interconnect must be submitted to the Electric Grid Operator in accordance with Regulation No. 8915 of February 6, 2017, known as "Regulation to Interconnect Generators with the Electric Distribution System of the Electric Power Authority and Participate in Net Metering Programs" or the regulation in force and equivalent at the time of installation.

¹¹ The corresponding application must be submitted under the expedited processes available. The requirement shall be considered satisfied when the corresponding application is submitted to the Power Grid Operator; not when the Power Grid Operator notifies a determination.

- The equipment to be installed must be warranted as specified below:
 - Minimum of ten (10) years for photovoltaic panels;
 - Minimum of twenty-five (25) years for the Linear Performance Warranty of photovoltaic modules; and
 - Minimum of ten (10) years for battery banks and inverters.
 - Minimum of two (2) years warranty for electric vehicle chargers.

SMB Applicants and Suppliers must agree to comply with the terms and conditions set forth in these Guidelines and agree to repay Program funds if spent on ineligible costs.

8.3 Equipment Requirements

All PVS and BSS equipment must be duly certified in accordance with Section IV of Regulation No. 7796. Equipment that requires certification prior to installation includes: photovoltaic modules, inverters, charge controllers, batteries, and any other equipment that will be installed for a renewable energy generation system in Puerto Rico. Systems with equipment not certified under Section IV are not eligible for the Energy Support Incentive 2.0 Program. A list of certified equipment is published periodically by the OGPe.

Also, inverters are required to comply with the grid support and communication characteristics and capabilities required in the Institute of Electrical and Electronics Engineers' (IEEE) Standard for Interconnection and Interoperability of Distributed Energy Resources with Associated Electric Power Systems Interfaces (IEEE 1547-2018).

9 Applicant Intake

The DEDC will provide notice of the start of the Applicant intake process. SMB Applicants must provide complete and accurate information about their business composition and the Program's eligibility criteria. Failure to do so may affect eligibility and disqualify the Applicant. Additional actions, such as payment to the DEDC for costs incurred in connection with the Application, may be taken if it is found that inaccurate or incomplete information was submitted to appear to meet eligibility requirements.

The SMB Applicant must obtain three (3) quotes from different Suppliers listed in the Energy Support Incentive Program 2.0 Supplier Registry. The SMB Applicant must select the quote and preferred Supplier prior to submitting the Application. Suppliers cannot request payment from an SMB Applicant for preparing a proposal for the Program. Nor can they request an advance on any incentives that may be granted.

The application acceptance period will be seven (7) calendar days. DEDC will announce the dates for the application period prior to its opening. The following information must be included with the Application:

- Evidence of being an SMB company, according to the definition established in these Guidelines. For this purpose, the SMB Applicant may provide its financial statements or tax returns;
- Certificate of Incorporation or Certificate of Existence from the Department of State;
- Business Registration Certificate;
- Regular employee payroll proof;
- Negative Debt Certification issued by the Puerto Rico Department of the Treasury ("Hacienda"). If you are currently on a payment plan, you will need to provide proof of the agreement;
- Income Tax Returns for the last two (2) years;
- Electric utility bills for the last three (3) months issued in the name of the SMB Applicant. If the electricity service account is not registered with the name of the SME Applicant, it must submit evidence that certifies that the SME Applicant is the one who makes the payments of the monthly bills.
- If the SME Applicant is not connected to the electric power service through LUMA, it may submit an electrical certification or some equivalent (load study, etc.) that is certified by a Professional Electrical Engineer.
- Current Business Registration Certificate. In those instances where the Certificate has an expiration date prior to the expiration of the Grant Agreement with the DEDC, the business shall have five (5) days from the expiration date of the Certificate to submit the updated document.
- Certificate from the Municipality where the business is located, stating the absence of debt and the validity of the municipal business permit.
- If the Applicant is the owner of the structure, they must demonstrate ownership through a certified copy of the Public Deed or a registration certification from the Property Registry of Puerto Rico, issued within six (6) months prior to the date of the application.
- If the Applicant does not own the premises/structure, the owner of the structure must provide a copy of the current lease agreement and submit an **Owner's Authorization Affidavit** authorizing the installation of the system on their property.¹²

¹² The format of this Affidavit will be available on the portal and must be completed and submitted at the time the application is completed.

- The three (3) quotes provided by Program Suppliers. You must indicate the selected quotation and Supplier;
- A Partial Installation Agreement between the selected Supplier and the Applicant. This agreement would be void if the Application is rejected or disqualified;
- An **Environmental Acknowledgment and Consent Form** in which the SMB Applicant and Supplier agree that (1) they will not initiate or perform any work for the installation of the system, (2) they will not order or take any action to acquire equipment or materials for the system, and (3) they will not incur or pay any costs related to the work or other responsibilities for the installation phases of the system until a Grant Agreement is executed between the DEDC and the SMB Applicant;
- A **Duplication of Benefit Self-Certification Form**;
- The proposal of the Supplier selected by the SMB Applicant;
- Any other document requested by the DEDC for the Application.

The Application will not be final until the SMB Applicant completes the entire process and submits the Application.

9.1 Proposal/Quote:

All SMB Applicants must submit the proposal and documentation required by the Program. The proposal provided by the Applicant selected Supplier will include the following documentation.

- Partial Agreement between the Supplier and Applicant
- Proposal of the Applicant selected Supplier
- Documents/Specifications of the equipment to be installed
- Schematic drawing showing the location of the equipment to be installed on the roof and wall
- One (1) photo of the facade of the structure
- Two (2) photos of different areas of the roof
- One photo (1) that showing the wall of the area of the meter
- Photovoltaic panel warranty- minimum ten (10) years
- Linear Performance Warranty of photovoltaic modules- minimum twenty-five (25) years
- Battery bank and inverter warranties - minimum ten (10) years

- Electric vehicle charger warranty- minimum of two (2) years warranty

10 SMB Applicant Evaluation Process

10.1 Eligibility Evaluation

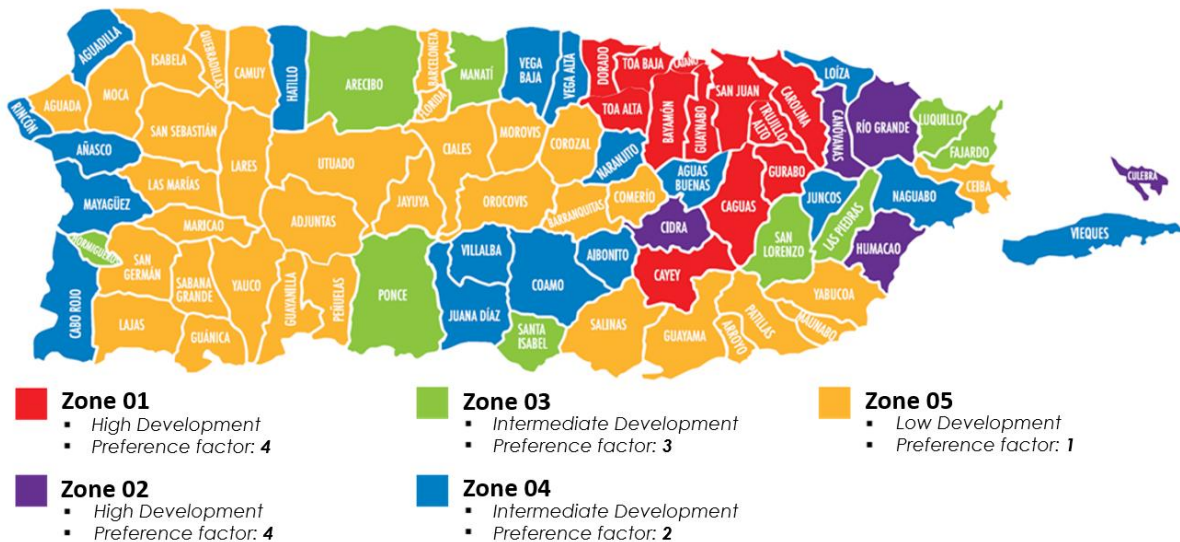
The DEDC will evaluate applications according to the eligibility criteria in these Guidelines. First, the eligibility of the SMB Applicant and the proposed project will be evaluated. Refer to the *SMB Applicant Eligibility* section for more details.

The evaluation by DEDC will result in a determination of eligibility or ineligibility. It will also result in a determination of the incentive amount for eligible applications.

10.2 Preliminary Selection of Eligible Applications

DEDC conducted a study entitled Economic Development Index by Municipality 2019 (“Índice de Desarrollo Económico por Municipios 2019”) revised on April 13, 2022, on the economic development zones in Puerto Rico through the input of a large group of socioeconomic variables or components that have the purpose of measuring the social and economic development condition of each municipality on the Island.

The study identified five (5) zones, wherein Zones 1 and 2 are zones of high economic development, Zones 3 and 4 are zones of intermediate development and Zone 5 is a low economic development zone. Below, is a map that classifies the municipalities into the five (5) zones. Each zone was assigned a preference factor ranging from one (1) to four (4). See the map for details.



Once the eligibility evaluation is finalized, DEDC will organize the applications: (1) first, by the preference factor of the municipality/zone where the project is located; and (2)

second, by the date and time the application was received. DEDC will select applications on a first-come, first-served basis until all of the available funds for the Program have been awarded. Selected applications will be referred to PRDOH for an Environmental Review.

10.3 Environmental Review

An environmental review must be conducted to examine the potential environmental impacts and determine compliance with federal, state and local environmental standards. Every project undertaken with CDBG-DR funds, and all activities associated with such project, are subject to the provisions of the National Environmental Policy Act of 1969 (**NEPA**), 42 U.S.C. § 4321 *et seq.* and the HUD environmental review regulations, 24 C.F.R. Part 58, on Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities, to ensure that proposed activities will not adversely impact the surrounding environment and that the property itself will not have adverse effects on the environment or the health of those who use it. All projects shall have an Environmental Review Record (**ERR**) as required by NEPA and related laws.

Once the Program confirms, through evaluation, that the SMB Applicant meets the eligibility requirements, each pre-approved application will be sent to PRDOH to prepare an ERR. The ERR for each award will be completed **prior** to the notification of a favorable eligibility determination, i.e., Approved Application.

Components of the environmental review include a historic preservation evaluation for the installation of equipment on the roof of a historic building or site, structures located within a traditional downtown or town center, or structures that are over 45 years old.

The environmental review may require the implementation of environmental mitigation measures as part of the project (flood insurance, historic preservation, safe handling of explosives and flammables, toxic/hazardous/radioactive materials, pollution, chemicals or gases, etc.).

If the scope of work presented in the ERR changes, a re-evaluation of the environmental review is required. If PRDOH determines the change does not impact the environmental review, the determination is documented, and the project continues. If the change is determined to have a potential impact on the environmental review, project activities should cease until the re-evaluation is performed.

For more information on Environmental Review requirements, refer to the ER2 Program Guidelines, available in English and Spanish at: <https://cdbg-dr.pr.gov/download/programa-para-la-optimizacion-de-la-red-electrica-de-puerto-rico-er2/> and <https://cdbg-dr.pr.gov/en/download/puerto-ricos-electrical-power-system-enhancements-program-er2/>.

10.4 Final Selection, Notification, and Award Reservation

After the environmental reviews are completed, DEDC will notify the selected SMB Applicant through a **Notification of Approval and Incentive Reservation**. The notification will include the favorable approval determination and the incentive amount awarded for the Project. It will also provide information to the SMB Applicant about the procedure for reviewing and signing the Grant Agreement, which is to be executed between the DEDC and the SMB Applicant. DEDC will then register the executed agreement with the Office of the Comptroller of Puerto Rico. The project may not begin until the **Grant Agreement** has been duly registered with the Office of the Comptroller of Puerto Rico. Once the Grant Agreement is executed, the SMB Applicant is considered a Beneficiary.

Suppliers and Beneficiaries may not modify approved and duly notified applications, nor the criteria reviewed for the evaluation and approval process, namely: the Supplier's proposal, total project cost, change of location or premises, size of renewable energy system, size of battery storage and, if requested, electric vehicle infrastructure.

Those applications that are eligible but not selected will receive an **Eligibility and Depletion of Funds Notification**. Ineligible applications will receive an **Ineligibility Notice**.

11 Incentive Calculation

The Program's incentive will be 60% of the total cost of the project, up to a maximum of fifty thousand dollars (\$50,000). The remaining 40% will be the responsibility of the SMB Applicant.

11.1 Cost Reasonableness

All federally funded grants must be reasonable; meaning that they must not exceed what a prudent and reasonable person would incur under similar circumstances, as evidenced by the market price for comparable goods and services.¹³ The DEDC will review the reasonableness of costs through:

- Comparison of various proposed prices;
- Comparison of proposed prices with historical contracts;
- Comparison of the proposed prices with an independent cost estimate; or
- Comparison of proposed prices with prices obtained through market research.

DEDC will maintain evidence of cost reasonableness in its records. Refer to the *Cost Reasonableness* section of the ER2 Program Guidelines for more details. The ER2 Program Guidelines are available in English and Spanish at: <https://cdbg-dr.pr.gov/download/programa-para-la-optimizacion-de-la-red-electrica-de-puerto->

¹³ 2 C.F.R. § 200.404, Reasonable Costs.

[rico-er2/](#) and <https://cdbg-dr.pr.gov/en/download/puerto-ricos-electrical-power-system-enhancements-program-er2/>.

11.2 Eligible Cost Determination

The Program can only subsidize eligible costs. Refer to the *Eligible Use of Funds* Section of these Guidelines. SMB Applicants will demonstrate the eligible costs of their system through the Project Quote. DEDC will review the quotes and other aspects of the Project to determine the total eligible cost for the grant.¹⁴

11.3 Duplication of Benefits

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (**Stafford Act**), as amended, 42 U.S.C. § 5121 et seq. prohibits a person, business or other entity from receiving Federal funds for losses for which financial assistance has already been received under another program, from private insurance, charitable assistance, or any other source.¹⁵ To avoid duplication of benefits (**DOB**) and potential recovery of funds, PRDOH and its subrecipients must take measures to evaluate all potential sources of funding, as well as enter into information-sharing agreements with other federal agencies providing assistance, before awarding CDBG-DR funds to a project.

Therefore, DEDC must consider any assistance received or available to SMB program applicants for the same purposes and determine whether there is a duplication of benefits.¹⁶ The Program will deduct any assistance or benefits determined to be duplicative of the total need before granting any financial assistance to an SMB applicant.

Pursuant to a recent amendment to the Disaster Recovery Reform Act of 2018 (**DRRA**), L. Pub. 115-254, a subsidized loan is not a duplication of other forms of financial assistance, provided that all federal assistance is used for a loss resulting from a major disaster or emergency. The amendment to the DRRA provisions applies to disasters occurring between 2016 and 2021 and expires on October 5, 2023. Therefore, the determining factor in applying the amendment to the DRRA provisions is the date on which the assistance is granted through a loan agreement (signed by all required parties, executed and recorded, and final). Subsidized loans granted after the expiration date of the amendment must be included in the DOB evaluation.¹⁷

¹⁴ The Program will adjust the PV capacity for the calculation of the award amount, provided that the PV capacity exceeds the monthly energy consumption of the eligible SMB Applicant. The Program may also adjust the battery storage capacity for the calculation of the award amount, provided that the battery storage capacity exceeds the monthly energy consumption of the eligible SMB Applicant. Furthermore, the Program will not pay costs in excess of the result of the calculation of the award amount.

¹⁵ 42 U.S.C.A. § 5155

¹⁶ This includes any other disaster assistance that the Program may need to consider in the future as part of its DOB assessment required by the Stafford Act, including financial assistance for COVID-19.

¹⁷ For additional guidance regarding the DRRA amendment sunset please review HUDs <https://www.hud.gov/sites/dfiles/CPD/documents/FAQs-on-Duplication-of-Benefits.pdf>.

The DEDC will conduct an eligibility review and DOB analysis for every SMB financial assistance applicant under the Program and will verify all financial assistance benefits received or available. The Program will not include in the DOB analysis assistance received or available to an applicant business owner for the repair, relocation, or reconstruction of his or her home or personal property. For more information on DOB and other sources, exceptions, and calculations, please refer to the PRDOH CDBG-DR Duplication of Benefits Policy available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/duplication-of-benefits-policy/> and <https://cdbg-dr.pr.gov/download/politica-sobre-la-duplicacion-de-beneficios/>.

11.4 Declined SBA Loans

Grant administrators must comply with the DOB guidelines included in the Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836. The 2019 DOB notice updates the treatment of declined loans. Rejected loans are loans offered by a lender, but turned down by the SMB Applicant, meaning that the SMB Applicant never signed loan documents to receive loan disbursements. According to the Bipartisan Budget Act of 2018 (Pub. L. 115-123, approved February 9, 2018) recipients "shall not take into consideration or reduce the amount provided to any applicant for assistance from the grantee where such applicant applied for and was approved, but declined assistance related to such major disasters that occurred in 2014, 2015, 2016, and 2017 from the Small Business Administration" (**SBA**). Declined loans, including SBA loans will not to be included in the DOB analysis.

The Program will attempt to verify declined loan amounts using data from SBA. If the data provided by the SBA to the Program does not reflect the amount of the declined loans, making it impossible to verify the amounts declined by the SMB applicant, the Program may exclude the loan amount from the DOB calculation if the SMB Applicant provides written certification that they did not accept the SBA subsidized loan.

11.5 Cancelled SBA Loans

Cancelled loans are loans offered by a lender, accepted by the SMB Applicant, but for a variety of reasons, all or a portion of the loan amount was not disbursed and is no longer available to the applicant. The Program must exclude the undisbursed amounts of SBA-backed loans from the DOB analysis. This is provided that the SMB Applicant can provide documentation that the undisbursed amount of an accepted loan was cancelled and is not available to the applicant. To prove that an SBA loan was cancelled, the applicant must submit either a written notice from the lender confirming that the loan was cancelled and is no longer available or a legally binding agreement between PRDOH and the SMB Applicant. This agreement must state the expiration date of the loan availability period and the applicant's agreement not to reinstate the loan or make additional withdrawals from the undisbursed amounts. The Program must also notify the

SBA that the SMB Applicant has agreed not to reinstate or withdraw additional loan amounts.

11.6 Incentive Amount Determination

The incentive amount to be offered to Beneficiaries will be determined following the steps below:

1. The total eligible project cost is calculated;
2. Sixty percent (60%) of the total project cost is determined and may not exceed fifty thousand dollars (\$50,000);
3. The final incentive is calculated by subtracting the duplication of benefits from the maximum incentive computed above, if applicable.

The Beneficiary is responsible for paying the costs not covered by the Program.

The Beneficiary must agree to pay the Supplier for the project costs not covered by the incentive.

12 Installation

Beneficiaries will have a period of six (6) months to complete the installation with the selected Supplier. This period will start on the date of the **Notification of Approval and Incentive Reservation**. The period will be considered fulfilled once an Award Disbursement Claim is submitted to the Program. The Program reserves the right to consider time extensions, on a case-by-case basis if just cause can be provided.

12.1 Supplier Change

After the **Notification of Approval and Incentive Reservation** is received, the Beneficiary may submit a Supplier Change Request **only** in specific cases where justified reason exists due to the Supplier's closure, bankruptcy, and/or contractual default, in which case this must be promptly notified. The request will be evaluated, and the results will be subsequently notified to the Beneficiary. If the request is approved, the new Supplier selected by the Beneficiary will also be notified. The Supplier Change does not entail any changes to the original quotation for the project, the size of the system to be installed, or total project cost.

All change requests must be completed by the Beneficiary. The submission of a request does not imply the change is automatically approved. If a Supplier Change Request is denied, the beneficiary may request a Program-Based Reconsideration, as described in these Guidelines.

No new Supplier may start installing the Beneficiary's renewable energy system until a final notification of the request determination is received from the DEDC.

12.2 System Commissioning

Once the Supplier completes the installation process for the Program Beneficiaries, the Systems will undergo a commissioning process to ensure and document that all systems operate interactively in accordance with the intended design and operational needs. The commissioning process will include documentation, equipment start-up, control system calibration, testing, balancing, and performance testing. Commissioning shall be performed following current industry standards.

13 Disbursement Claim and Program Inspection

The disbursement of Program funds will be subject to the strictest standards to ensure compliance with federal regulations and best practices. Therefore, each disbursement claim will be duly documented and subject to audits and controls.

The incentive will be disbursed in a lump sum for the total granted, to be paid directly to the Supplier contracted by the Beneficiary, after the documents submitted for disbursement are evaluated and approved and the work related to the project is inspected.

The process of final inspection and incentive disbursement will start with the submission of a Disbursement Claim by the Supplier to DEDC. The disbursement claim must include the following documents:

- A **Project Completion Form** with all the requested information, the certification of a PE Electrical Engineer, and the Beneficiary's signature;
- Supplier's invoice showing:
 - The description of the system installed;
 - The final cost for the system installation. It may not include costs not approved by the Program;
 - Signatures of the Supplier and the Beneficiary;
- At least six (6) distinct photos of the renewable energy system installed, including:
 - One (1) photo of the front part (façade) of the business;
 - One (1) photo of the roof showing the installed fasteners;
 - Two (2) photos of the roof (different angles) after the system is installed;
 - One (1) wide-angle photo showing the installed inverters and/or controllers;
 - One (1) photo showing the installed battery(ies);
 - One (1) photo showing other installed equipment (electric vehicle charger);

- DEDC reserves the right to request additional photos;
- Documentation of Network Interconnection Request;
- Distributed Energy Resource (DER) Certificate for the electrical installation;
- Evidence of Registration as a Distributed Generation System;
- Warranty information/documents for the installed equipment;
- Copy of the Partial Installation Agreement between Supplier and Beneficiary;
- Any other document required by DEDC.

Once DEDC confirms that the Disbursement Claim is complete, an on-site inspection will be scheduled. This inspection will ensure compliance and certify that the submitted documents and information are correct. The factors to be assessed as part of the inspection are:

- The system design and the permits obtained;
- The capacity of the installed system;
- Compliance of the installed equipment;
- Compliance of the issued warranties;
- The Partial Installation Agreements between the Supplier and the Beneficiary;
- The Supplier's invoice; and
- Any other element that DEDC deems necessary to assess.

If any of the documents is missing or needs to be corrected, the Disbursement Claim will be returned, and DEDC will inform the Supplier, who must submit the requested documents or information.

In the event of deficiencies in the Systems, the Program will notify the Supplier said deficiencies that must be resolved prior to a re-inspection of the Systems. The Supplier will support the Beneficiaries in resolving any identified deficiencies within ninety (90) calendar days from the date of the failed inspection, so as not to affect the Participants' eligibility for the funds set aside by the Program.

14 Civil Rights and Non-Discrimination

The CDBG-DR Program will be implemented so that no individual is denied the opportunity to participate in, access, or benefit from the Program in a discriminatory manner on the basis of any federally or locally designated protected class. Funded activities will be designed and implemented so as to avoid having a negative and disproportionate impact on protected classes and vulnerable communities, while also

creating opportunities to address the economic disparities experienced by these communities. PRDOH has adopted several policies that must be observed by it, its own subrecipients (in this case, DEDC), and all contractors, in the design and implementation of the Program and of the funded projects. All CDBG-DR General Policies are available in English and Spanish on the PRDOH website, at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

14.1 Fair Housing and Equal Opportunity Policy

The Fair Housing and Equal Opportunity (**FHEO**) Policy establishes the requirements and provides guidance to ensure that the CDBG-DR programs will not discriminate against protected classes of people. This policy includes a summary of all the applicable civil rights and anti-discrimination laws, the programs' affirmative marketing strategies and requirements for prospective participants, how discrimination complaints are handled, equal opportunity employment requirements, communication requirements, recordkeeping requirements, and any other information needed to ensure compliance in the design and implementation of the CDBG-DR Program.

For more information, refer to the CDBG-DR Fair Housing and Equal Opportunity Policy, available in English and Spanish at <https://cdbg-dr.pr.gov/en/download/fair-housing-and-equal-opportunity-fheo-policy-for-cdbg-dr-programs/> and <https://cdbg-dr.pr.gov/download/politica-de-equidad-de-vivienda-e-igualdad-de-oportunidades-para-los-programas-cdbg-dr/>.

14.2 Section 504, Americans with Disabilities Act, and Equal Employment Opportunity Act

All entities receiving an award from the Program are required to comply with the requirements of Section 504, ADA, and Equal Employment Opportunity (**EEO**) both in the infrastructure project and in the activities to create or maintain jobs. Based on the Applicant's entity type and project activities, the infrastructure and facilities, as well as the employment practices, must comply with Section 504 and the ADA in such a way as to be physically accessible to persons with disabilities, and employers must comply with employment requirements under these statutes, as well as with the EEO.

14.3 Reasonable Accommodation Policy

Section 504 of the Rehabilitation Act of 1973, as amended, requires federally funded programs to provide reasonable accommodations and modifications for individuals with disabilities. The purpose of Section 504 is to avoid discrimination and ensure that these individuals will have an equal opportunity to access and enjoy the Program's benefits. Requests for reasonable accommodations (changes to a rule, policy, practice, or service) and modifications (structural changes to a building or dwelling) are more common in housing programs; however, Section 504 applies to all federally funded programs and activities.

Any person with disability-related needs may submit a request for accommodation or modification to PRDOH, to its subrecipients, or to the contractors engaged in the implementation of the CDBG-DR programs. PRDOH has instituted the Reasonable Accommodation Policy to provide guidance on how to submit requests unrelated to the employment and instructions for PRDOH employees, subrecipients, and contractors to receive and evaluate requests for reasonable accommodation and modification. Any request for reasonable accommodation related to the employment should be directed to the individual's employer.

PRDOH and its subrecipients will ensure that every effort is made to meet the disability-related needs of those requesting accommodation to the greatest extent feasible, up to the point where it is deemed reasonable to provide the requested accommodations or modifications.

The Reasonable Accommodation Policy is available in English and Spanish on the PRDOH website, at <https://cdbg-dr.pr.gov/en/fair-housing/policy-documents/> and <https://cdbg-dr.pr.gov/fair-housing/politicas-documentos/>.

14.4 Language Access Plan

PRDOH and its subrecipients and contractors are responsible for complying with the PRDOH Language Access Plan (LAP). The LAP's purpose is to ensure meaningful access to federally assisted programs and activities for persons who, due to their national origin, are of limited Spanish or English proficiency. The LAP provides concrete action steps to be followed by PRDOH, subrecipients, developers, and contractors to ensure that appropriate language services and translated vital documents are made available to potential and actual Program participants, as well as in outreach activities, in accordance with the LAP.

The CDBG-DR LAP is available in English and Spanish on the PRDOH website, at <https://cdbg-dr.pr.gov/en/download/plan-de-acceso-al-idioma/> and <https://cdbg-dr.pr.gov/download/plan-de-acceso-al-idioma/>.

15 Labor Standards

Projects receiving CDBG-MIT funding are required to comply with federal labor standards laws, including Davis-Bacon Act of 1931, as amended, 40 U.S.C. § 3141 *et seq.*, and Related Acts (**DBRA**); Fair Labor Standards Act of 1938 (**FLSA**), as amended, 29 U.S.C. § 201 *et seq.*; Contract Work Hours and Safety Standards Act (**CWHSSA**), as amended, 40 § 3701 *et seq.*; and Copeland Anti-Kickback Act, as amended, 40 U.S.C. § 3145 *et seq.* Together, these laws ensure that workers are paid the appropriate prevailing wage rate and are treated fairly by employers receiving CDBG-DR funding to execute program activities. Each of these laws requires important recordkeeping practices to ensure compliance and allow for accurate and efficient reporting as required by PRDOH.

For more information about applicable labor standards, refer to the Davis Bacon and Related Acts Policy available in English and Spanish at: <https://recuperacion.pr.gov/en/download/davis-bacon-and-related-acts-policy/> and <https://recuperacion.pr.gov/download/politica-sobre-la-ley-davis-bacon-y-las-leyes-relacionadas/>.

16 Voluntary Withdrawal

The SMB Applicant or Beneficiary may request to withdraw from the Program before the selected Supplier initiates the system installation process. If an Applicant or Beneficiary requests to withdraw from the Program, the voluntary withdrawal and incentive cancellation procedure will be followed.

To withdraw, the SMB Applicant or Beneficiary must provide written notice of their desire to withdraw from the Program, either by mail¹⁸ or by email to ApoyoEnergético@dedc.pr.gov. This request must include the case number assigned to the project, the name of the beneficiary business, and the name of the owner or representative listed in the original application. Then, DEDC will send a **Notification of Voluntary Withdrawal** to the SMB Applicant or Beneficiary, including the corresponding form, which must be signed and returned within five (5) calendar days. DEDC will have fifteen (15) calendar days from the date of receipt of the duly completed and signed form to send the SMB Applicant or Beneficiary a **Voluntary Withdrawal Confirmation Notification** informing that the application status has been updated and the case has been closed, so that the SMB Applicant or Beneficiary will no longer be able to participate in the Program, and their Supplier will not be able to submit any claim for incentive funds.

17 Non-Responsive Suppliers, Applicants and Beneficiaries

The Energy Support Incentive Program 2.0 will make reasonable efforts to contact the Suppliers SMB Applicants and Beneficiaries to schedule meetings, gather documentation, or obtain any other information necessary. Contact attempts should be made using different methods of communication and at different times of the day or week. The following is a list of circumstances under which the Energy Support Incentive Program 2.0 may trigger a Non-Responsive process. This list includes, but is not limited to:

- If the **Energy Support Incentive Program 2.0** has made **three (3) consecutive unsuccessful attempts** to contact a Supplier, SMB Applicant or Beneficiary, with no follow-up contact from the Supplier, SMB Applicant or Beneficiary, a **Non-Responsive Notification** will be sent.

¹⁸ PO Box 362350 San Juan, PR 00936-2350.

- If the **Energy Support Program 2.0** sends a **Notification of Required Documents** to a Supplier, SMB Applicant or Beneficiary and no response is received within **ten (10) calendar days** from the date of the letter, a **Non-Responsive Notification** will be sent.
- If the **Energy Support Program 2.0** sends an SMB Applicant a **Notification of Approval and Incentive Reservation** and the SMB Applicant fails to return the signed **Grant Agreement** within **ten (10) calendar days** from the date of the letter, a **Non-Responsive Notification** will be sent.
- If a Supplier fails to submit a Disbursement Claim within sixty (60) days from the date the installation was completed, the DEDC will send a **Non-Responsive Notification**.

The **Non-Responsive Notification** provides contact information for the **Energy Support Incentive Program 2.0**, advises the Supplier, SMB Applicant or Beneficiary of the reasons for the notification, and asks them to contact the Program or complete the pending action within **fourteen (14) calendar days** from the date of the notification.

If the SMB Applicant or Beneficiary fails to contact the Program or complete the action within the allotted **fourteen (14) calendar days**, a **Non-Responsive Confirmation Notification** will be sent, and the application will be closed. This determination is subject to Reconsideration or Administrative Review.

18 Request for Program-Based Reconsideration and/or Administrative Review

Applicants or Beneficiaries of the **Energy Support Incentive Program 2.0** may contest any determination or denial based on Program policy. However, Applicants may not challenge federal legal requirements. Applicants or Beneficiaries have the right to request a Program-Based Reconsideration or an Administrative Review, as stated below. If the Applicant or Beneficiary fails to contest a determination within the allotted time, their inaction will be deemed as an acceptance of the determination.

18.1 Program-Based Reconsideration Request

Applicants or Beneficiaries who wish to contest a determination may submit a Program-Based Reconsideration Request by sending it in writing by email (apoyoenergetico@dedc.pr.gov) or mail¹⁹ within **twenty (20) calendar days** from the date the copy of the notification was filed in the agency records. Provided that, if the date the notification copy is filed in the agency records differs from the date it is sent by electronic or regular mail, the term of **twenty (20) calendar days** will be calculated from the date the notification is sent by electronic or regular mail. All notifications distributed electronically will be considered valid. If the same notification is sent by both regular and

¹⁹ PO Box 362350 San Juan PR 00936-2350

electronic mail, the earliest will be considered the date of notification. Program notifications will list the electronic and postal addresses where the applications will be received, as these may vary.

Applicants or Beneficiaries who request Program-Based Reconsideration are encouraged to provide specific facts or circumstances, as well as supporting documents, to justify their request. When reviewing a Reconsideration Request, the Program will only consider the facts and information already included in the Applicant's record.

The Program will review and process the Reconsideration Request within **fifteen (15) calendar days** from its receipt. Applicants or Beneficiaries will be informed of the determination on their request for Program-Based Reconsideration by means of a **Reconsideration Request Approval Notification** or a **Reconsideration Request Denial Notification**.

Filing a Program-Based Reconsideration Request does not supersede, impair, or preclude any of the Applicant's or Beneficiary's legal rights to contest a determination made by the Program. Therefore, Applicants who believe the Program's initial determination is incorrect may submit, at their discretion, either a Program-Based Reconsideration Request or an Administrative Review Request at PRDOH, in accordance with Regulation Number 4953, of August 19, 1993, which regulates the Formal Adjudication Process for PRDOH and its Adjunct Agencies (**Regulation 4953**).

18.2 Administrative Review Request

If an Applicant or Beneficiary disagrees with a Program determination or with the denial of a Program-Based Reconsideration Request, they may submit directly to PRDOH, as grantee, an Administrative Review Request, in accordance with Regulation 4953. The Applicant or Beneficiary must submit the request in writing within **twenty (20) calendar days** from the date a copy of the notification of Program determination or Program-Based Reconsideration Request Denial Notification is filed in the agency records. Provided that, if the date the notification copy is filed in the agency records differs from the date it is sent by electronic or regular mail, the term of **twenty (20) calendar days** will be calculated from the date the notification is sent by electronic or regular mail. All notifications distributed electronically will be considered valid. If the same notification is sent by both regular and electronic mail, the earliest will be considered the sent date. You may submit your request by email to LegalCDBG@vivienda.pr.gov; by postal mail to CDBG-DR Legal Division, P.O. Box 21365, San Juan, PR 00928-1365; or in person, at PRDOH's Headquarters at CDBG-DR Legal Division, 606 Barbosa Ave, Juan C. Cordero Dávila Building, Río Piedras, PR 00918.

After the Administrative Adjudicative Procedure is completed, If the Applicant or Beneficiary still disagrees with any **final** determination on an Administrative Review Request notified by PRDOH, they may file an appeal for Judicial Review before the Court

of Appeals of Puerto Rico within **thirty (30) calendar days** after the notification copy is filed. See Law No. 201-2003, as amended, 4 LPRA § 24 *et seq.*, known as the Judiciary Act of the Commonwealth of Puerto Rico of 2003, and Section 4.2 of Act No. 201-2003, as amended, and Section 4.2 of Law No. 38-2017, as amended, 3 LPRA § 9672, known as the Uniform Administrative Procedure Act of the Government of Puerto Rico.

19 Procurement

The “Procurement” section of the Electrical Power Reliability and Resilience Program (ER2) Guidelines will apply. Please refer to the Guidelines, available in English and Spanish at <https://cdbg-dr.pr.gov/download/programa-para-la-optimizacion-de-la-red-electrica-de-puerto-rico-er2/> and <https://cdbg-dr.pr.gov/en/download/puerto-ricos-electrical-power-system-enhancements-program-er2/>.

20 Program Closeout

The closeout process is designed to ensure that all CDBG-DR funded activities are completed, and funds are spent in accordance with the agreement, the program guidelines, and state and federal requirements. Closeout is the process to determine that all CDBG-DR program costs have been fully expended and were reasonable and necessary, that the work has been completed in accordance with all applicable laws and regulations, and that all of the Subrecipient's responsibilities have been completed in accordance with the Agreement terms and conditions. This process certifies that the CDBG-DR funded activities described in the CDBG-DR (Energy) Action Plan and in the Guidelines for the Energy Support Incentive Program 2.0 have helped people affected by the hurricanes and/or disaster recovery activities.

The CDBG-DR Closeout Policy is available in English and Spanish at: <https://cdbg-dr.pr.gov/en/download/closeout-policy/> and <https://cdbg-dr.pr.gov/download/politica-de-cierre/>.

21 Recapture

Instances may arise where a Beneficiary must return all or part of the awarded funds to the Program. The Program is responsible for recapturing duplicative funds, funds awarded to Beneficiaries who become non-compliant, funds identified as potential overpayments, and funds awarded due to fraudulent information provided by the Beneficiary, among other circumstances. All files will be reviewed and reconciled for accuracy to ensure compliance with Program requirements and federal guidelines.

Once it has been determined that a Beneficiary must return funds to the CDBG-MIT Program, they must repay the funds in a timely manner. All repayments shall be expected to be repaid in full as one lump sum amount.

For more information about the PRDOH CDBG-DR/MIT Recapture Policy, see: <https://recuperacion.pr.gov/en/download/recapture-of-funds-policy/> (English) and <https://recuperacion.pr.gov/download/politica-de-recaptura-de-fondos/> (Spanish).

22 General Provisions

22.1 Scope of Program Guidelines

This document constitutes the Program policy. These Guidelines are intended to assist and provide guidance on the Program's implementation and closeout activities and should not be considered a comprehensive set of instructions for the Program. All Program activities must comply with the policies stated herein. In addition, all staff working in the Program must comply with the provisions in these guidelines, with the Program's established procedures, and, in their performance of Program activities, must abide by all applicable laws, both at federal and state levels.

22.2 Amendments to Program Guidelines

DEDC and PRDOH reserve the right to amend the policies set forth in these guidelines, as adopted, if they no longer reflect what is intended, prove impractical to implement, or require the inclusion of interim guidelines issued before said amendment, among other reasons. If a new version of these guidelines is approved, such version will completely replace all previous versions, and the latest approved version is to be adopted as the applicable version in the implementation and/or continuation of Program activities from the date of its approval, i.e., the date shown on the cover of these guidelines. Every version of these guidelines will include a version control table outlining any significant amendments, additions and/or changes.

22.3 Extension of Terms

The Program may extend any deadline, on a case-by-case basis. The Program may refuse to extend a deadline if granting such extension would in any way jeopardize or compromise the scheduled activities to complete the Program or an individual construction project. The aforementioned strictly applies to deadlines or terms established by the Program. Under no circumstances will the faculty to extend deadlines apply to terms established in any applicable federal or state law or regulation, or to the terms established in these Guidelines to request a Program-Based Reconsideration, an Administrative Review, and/or a Judicial Review.

22.4 Calculation of Terms

Unless otherwise specified, any time period mentioned in these, or any other CDBG-DR Program guidelines will be considered calendar days. In this regard, PRDOH, as CDBG-DR grantee, will follow Rule 68.1 of the Rules of Civil Procedure of Puerto Rico, 32 LPRA Ap. V, R. 68.1.

22.5 Written Notifications

All determinations made by the Program will be notified in writing. If an Applicant or Beneficiary believes a determination was made verbally without providing them with written notice, they may require that such decision be put in writing and be duly justified.

22.6 Conflict of Interest

As established in Federal Register Vol. 86, No. 117 (June 22, 2021), 86 FR 32681, federal regulations require that state grantees, in the direct administration of a Grant and the implementation of eligible activities, comply with the program administrative requirements, including those established in 24 C.F.R. § 570.489(h), in relation to conflicts of interest.

A number of federal and state regulations address concerns regarding conflicts of interest and govern the activities supported by CDBG-DR and CDBG-MIT funds. Therefore, PRDOH has taken into account the regulations listed below in the development and implementation of the Conflict of Interest and Standards of Conduct Policy (**COI Policy**) for the CDBG-DR program:

1. HUD regulations on conflict of interest, 24 C.F.R. § 570.611;
2. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200 at § 200.112 and § 200.318 (c)(1);
3. Organic Act of the Puerto Rico Department of Housing, Law No. 97 of June 10, 1972, as amended, 3 LPRC § 441 *et seq.*;
4. Anticorruption Code for the New Puerto Rico, Law No. 2-2018, as amended, 3 LPRC § 1881 *et seq.*; and
5. Puerto Rico Government Ethics Office Organic Act, Law No. 1-2012, as amended, 3 LPRC § 16854 *et seq.*

The COI Policy outlines PRDOH's responsibility, in its role as grantee, to identify, evaluate, disclose, and manage apparent, potential, or actual conflicts of interest related to projects, activities and/or operations supported with CDBG-DR and CDBG-MIT funds. Therefore, this COI Policy is intended to serve as guidance to identify apparent, potential, or actual conflicts of interest in all activities and/or operations assisted by the CDBG-DR and CDBG-MIT Program. As set forth in 24 C.F.R. § 570.489, the COI Policy also includes standards of conduct that apply to any employees involved in awarding or managing contracts.

The COI Policy defines "conflict of interest" as a situation where anyone who is a public servant, employee, agent, consultant, officer, or elected or appointed official or director of PRDOH, or of any designated public agency or subrecipient receiving funds through the CDBG-DR Program, could derive some personal or financial gain or benefit that is or could reasonably be inconsistent with public interest, either for themselves, for those with

whom they do business, or for any organization employing or about to employ any of the parties stated herein or their family members, during their appointment and for **two (2) years** thereafter.

PRDOH will not tolerate such conflicts of interest. PRDOH, the Program officers, and their employees, agents, and/or appointees are subject to the state laws and regulations on ethics, including but not limited to Law No. 1-2012, as amended, regarding their conduct in the administration, awarding of funds, and activities of the program. According to said Law No. 1-2012, no public servant shall intervene, directly or indirectly, in any matter where they have a conflict of interest, which could be to their benefit. No public servant may intervene, directly or indirectly, in matters where a family member, relative, partner, or housemate has a conflict of interest that could benefit any of the aforementioned parties. If any of the previously mentioned relationships ended in the **two (2) years** prior to the public servant's appointment, the public servant may not intervene, directly or indirectly, in any matter related to the other party until **two (2) years** have elapsed from their appointment. This prohibition will remain in effect as long as there is a relationship of benefit to the public servant. Once this relationship of benefit ends, the public servant may not intervene, directly or indirectly, in such matters until **two (2) years** have elapsed.

This statement on conflicts of interest does not necessarily preclude any official, employee, agent, and/or appointee of the Program administered by PRDOH from receiving assistance from the Program. The eligibility of the officials, employees, agents, and/or appointees of the Program administered by PRDOH to apply for and receive the Program's assistance will be evaluated on a case-by-case basis, provided that they meet all the eligibility criteria established by the Program, as set forth in these Guidelines. All officials, employees, agents, and/or appointees of the Program administered by PRDOH must disclose their relationship with PRDOH when completing their application.

The COI Policy and all CDBG-DR and CDBG-MIT Program policies are available in English and Spanish on the PRDOH website, at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

22.7 Citizen Engagement

Throughout the duration of the Program, all citizen comments on PRDOH's published Action Plan, any substantial amendments to the Action Plan, performance reports, and/or other issues related to the general administration of CDBG-DR and CDBG-MIT funds, including all programs supported by this grant, are welcomed.

Citizens may submit their comments using any of the following means:

Phone: 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
Attention hours: Monday – Friday, 8:00 a.m. to 5:00 p.m.

Email: infoCDBG@vivienda.pr.gov

Online: <https://www.cdbg-dr.pr.gov/en/contact/> (English)
<https://www.cdbg-dr.pr.gov/contact/> (Spanish)

Postal mail: Puerto Rico CDBG-DR Program
P.O. Box 21365
San Juan, PR 00928-1365

The Citizen Participation Plan and all CDBG-DR and CDBG-MIT Program policies, are available in English and Spanish on the PRDOH website, at <https://www.cdbg-dr.pr.gov/en/citizen-participation/> and <https://www.cdbg-dr.pr.gov/participacion-ciudadana/>. For more information on how to contact PRDOH, please refer to www.cdbg-dr.pr.gov.

22.8 Citizen Complaints

As part of addressing the Island's recovery needs, the Program will handle any complaints regarding the general administration of CDBG-DR and CDBG-MIT funds. It is the responsibility of PRDOH, as grantee, to ensure that all complaints are addressed in a timely and consistent manner. Likewise, PRDOH must, at a minimum, provide a meaningful response **in writing** to each written complaint received within **fifteen (15) business days**, if feasible. See 24 C.F.R. §91.115(h) and 24 C.F.R. § 570.486(a)(7).

Citizens who wish to submit a formal written complaint regarding activities implemented with CDBG-DR and CDBG-MIT funds may do so by:

Email: LegalCDBG@vivienda.pr.gov

Online: <https://cdbg-dr.pr.gov/en/complaints/> (English)
<https://cdbg-dr.pr.gov/quejas/> (Spanish)

Postal mail: Puerto Rico CDBG-DR Program
Attn: CDBG-DR Legal Division-Complaints
P.O. Box 21365
San Juan, PR 00928-1365

Although formal complaints should be submitted in writing, they may be submitted verbally and by other means necessary, as the case may be, when PRDOH determines that, due to the complainant's particular circumstances, they are unable to submit a written complaint. However, in these instances, PRDOH will need to convert such complaints to a written format. Alternative methods include, but are not limited to:

- **By phone:** * 1-833-234-CDBG or 1-833-234-2324 (TTY: 787-522-5950)
- **In person:** * PRDOH Headquarters Office or Program-Specific Intake Centers

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

The Citizen Complaints Policy and all CDBG-DR and CDBG-MIT Program policies are available in English and Spanish on the PRDOH website, at <https://www.cdbg-dr.pr.gov/en/resources/policies/general-policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/politicas-generales/>.

22.9 Anti-Fraud, Waste, Abuse, or Mismanagement

PRDOH, as grantee, is committed to the responsible management of CDBG-DR and CDBG-MIT funds by being a good resource advocate while also keeping a comprehensive policy in place to prevent, detect, report, and rectify fraud, waste, abuse, or mismanagement.

Pursuant to 86 FR 32681, PRDOH implements adequate measures to detect and prevent fraud, waste, abuse, or mismanagement in all programs administered with CDBG-DR/MIT funds, to encourage anyone who is aware or suspects of any kind of conduct or activity that may be considered an act of fraud, waste, abuse, or mismanagement in relation to the CDBG-DR/MIT Program to report such acts to the CDBG-DR Internal Audit Office, directly to the HUD Office of Inspector General (**OIG**), or to any state or federal law enforcement agency.

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

REPORT ANY FRAUD, WASTE, ABUSE, OR MISMANAGEMENT TO PRDOH CDBG-DR/MIT	
CDBG-DR Hotline	787-274-2135 (English/Spanish/TTY)
Mailing Address	Puerto Rico Department of Housing CDBG-DR Internal Audit Office P.O. BOX 21355 San Juan, PR 00928-1355
Email	hotlineCDBG@vivienda.pr.gov
Online	Fill out the AFWAM Submission Form , available in English and Spanish at www.cdbg-dr.pr.gov or https://cdbg-dr.pr.gov/app/cdbgdpublic/Fraud

In person	Request a meeting with the Deputy Audit Director of the CDBG-DR Internal Audit Office located at PRDOH's Headquarters at 606 Barbosa Avenue, Building Juan C. Cordero Davila, Río Piedras, PR 00918.
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REPORT FRAUD, WASTE, ABUSE, OR MISMANAGEMENT DIRECTLY TO HUD OIG	
HUD OIG Hotline	1-800-347-3735 (toll-free) 787-766-5868 (Spanish)
Mailing Address	HUD Office of Inspector General (OIG) Hotline 451 7th Street SW Washington, D.C. 20410
Email	HOTLINE@hudoig.gov
Online	https://www.hudoig.gov/hotline

The AFWAM Policy and all CDBG-DR and CDBG-MIT Program policies are available in English and Spanish, respectively, on the PRDOH website, at <https://www.cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

22.10 Related Laws and Regulations

These Guidelines provide a frame of reference on multiple legal provisions applicable to the Program. However, there may be other applicable laws or regulations that have not been included. If such is the case, this does not preclude the Program from enforcing them, or the applicant from receiving the services provided by the Program, as the case may be. In addition, PRDOH may enact or have enacted regulations addressing the application of any of the legal provisions mentioned in these guidelines. If there is a discrepancy between these guidelines and any law and/or regulation mentioned herein, such legal provisions will prevail over the guidelines. Likewise, if any law and/or regulation mentioned in these guidelines is amended at any time, such amendments will apply without the need to amend these guidelines.

22.11 Cross Cutting Guidelines

Certain federal and local requirements apply to all programs supported with CDBG-DR and CDBG-MIT funds. The Cross Cutting Guidelines cover topics such as financial management, environmental review, labor standards, procurement, relocation, and fair housing, among others. The requirements described in the aforementioned Cross Cutting

Guidelines apply to all the Programs described in PRDOH's CDBG-DR and CDBG-MIT Action Plans and their amendments.

The Cross Cutting Guidelines and all CDBG-DR and CDBG-MIT Program policies are available in English and Spanish on the PRDOH website, at <https://cdbg-dr.pr.gov/en/resources/policies/> and <https://www.cdbg-dr.pr.gov/recursos/politicas/>.

23 Program Oversight

The contents of these Program Guidelines by no means limit the role of PRDOH, HUD, and/or other relevant authorities in the oversight and monitoring of Program activities.

END OF PROGRAM GUIDELINES