



## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-6508-N-01]

### Waivers and Alternative Requirements for a Community Development Block Grant

#### Disaster Recovery (CDBG-DR) Grantee

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice governs Community Development Block Grant - Disaster Recovery (CDBG-DR) funds allocated to the Commonwealth of Puerto Rico pursuant to the Supplemental Appropriations for Disaster Relief Requirements Act, 2017, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018, for major disasters occurring in 2017. In response to a request by the Commonwealth of Puerto Rico, this notice provides waivers and alternative requirements of certain sections of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and waivers of certain sections of the Housing and Community Development Act of 1974 (HCDA) to acquire disaster-damaged properties and assist in the recovery of the Commonwealth.

**DATES:** Applicability Date: **[INSERT DATE 5 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER.]**

**FOR FURTHER INFORMATION CONTACT:** Tennille Parker, Director, Office of Disaster Recovery, U.S. Department of Housing and Urban Development, 451 7th Street SW, Room 7282, Washington, DC 20410, telephone number 202-708-3587 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as from individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit:

<https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>. Email inquiries may be sent to [disaster\\_recovery@hud.gov](mailto:disaster_recovery@hud.gov).

## **SUPPLEMENTARY INFORMATION:**

### **Table of Contents**

I. Authority to Grant Waivers

II. Pub. L. 115-56 and 115-123 Waiver and Alternative Requirements

III. Finding of No Significant Impact (FONSI)

### **I. Authority to Grant Waivers**

The Supplemental Appropriations for Disaster Relief Requirements Act, 2017 (Division B, Pub. L. 115-56), approved September 8, 2017, and the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1, Pub. L. 115-123), approved February 9, 2018, authorize the Secretary to waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary, or use by the recipient, of grant funds, except for requirements related to fair housing, nondiscrimination, labor standards, and the environment. HUD may also exercise its regulatory waiver authority under 24 CFR 5.110, 91.600, and 570.5.

The waiver authorized in this notice is based upon a determination by the Secretary that good cause exists and that the waiver is not inconsistent with the overall purposes of title I of the HCDA. The good cause for the waiver is summarized below.

### **II. Pub. L. 115-56 and 115-123 Waiver and Alternative Requirements**

The Department has awarded CDBG-DR funds to the Commonwealth of Puerto Rico (the Commonwealth) under Public Laws 115-56 and 115-123 to assist in the long-term recovery from the 2017 disasters, Hurricanes Irma and Maria. This notice waives requirements and specifies alternative requirements for CDBG-DR funds awarded to the Commonwealth under these two Public Laws. The CDGB-DR funds awarded to the Commonwealth under these two Public Laws remain subject to the requirements in prior applicable Federal Register notices, including environmental requirements found in HUD's Federal Register notices published on February 9, 2018 (83 FR 5844) and August 14, 2018 (83 FR 40314).

### II.A.1. *Background.*

The Puerto Rico Department of Housing (PRDOH) is using CDBG-DR funds provided under Public Laws 115-56 and 115-123 to implement its Home Repair, Reconstruction, or Relocation (R3) Program. The R3 Program is intended to provide relief for those individuals and families whose households were impacted by the qualifying disasters and have unmet housing needs.

Under the R3 Program, PRDOH provides relocation assistance to eligible low- to moderate-income (LMI) applicants who are owner-occupants of homes that are substantially damaged by the qualifying disaster (the “disaster-damaged property”). If the disaster-damaged property is in a high-risk area and it is determined that it is not reasonable to elevate the property, the owner-occupant has the option to voluntarily relocate to a lower-risk area. As part of this process, eligible owner-occupants receive relocation assistance to purchase a replacement property outside the high-risk area and an acquisition offer from PRDOH to voluntarily transfer the disaster-damaged property to PRDOH.

In order to acquire a disaster-damaged property under the R3 Program, the disaster-damaged property must be registered in the Property Registry under the owner-occupant’s name. However, there are cases where the ownership of a property cannot be transferred to PRDOH because the property title is not duly registered in the Property Registry or the owner-occupant has no legal means of documenting their proprietary interest (i.e., full or partial ownership interest). In the Commonwealth, there is no legal requirement to register a property, so many properties are not registered, and some have been subdivided without complying with applicable laws and requirements.

When a person does not have a registered and clear title (i.e., a title free of claims or disputes about ownership) to a property, an acquiring agency cannot fulfill the voluntary acquisition requirements under the URA and its implementing regulations at 49 CFR part 24. The URA regulations at 49 CFR 24.101 require that before an acquiring agency engages in a

voluntary acquisition of properties with Federal financial assistance, all owners of the property to be acquired must be provided with a written offer reflecting what the agency believes to be the market value of the property. If a R3 applicant does not have a clear title to their property because of unknown heirs or the absence of indispensable parties, then PRDOH cannot fulfill the applicable voluntary acquisition requirements for an acquiring agency under the URA regulations.

To address situations where R3 applicants do not have clear title, PRDOH created the Title Clearance (TC) Program. The goal of the TC Program is to help LMI households that own disaster-damaged properties to register and obtain clear and marketable title to their properties. However, if clear title cannot be obtained in a timely manner because of unknown heirs or the absence of indispensable parties, PRDOH's only option is to acquire the disaster-damaged property through the use of an eminent domain process, as described in this waiver (the "R3 Eminent Domain process").

#### *II.A.2. PRDOH's Proposed R3 Eminent Domain Process.*

The URA regulations at 49 CFR 24.102 require that PRDOH provide owners with just compensation when acquiring property through eminent domain for a program or project using Federal financial assistance. Based on the information provided by PRDOH, for purposes of the R3 Eminent Domain process, just compensation will be at least equal to the amount of PRDOH's determination of the fair market value of the disaster-damaged property (the PRDOH-determined FMV) that is attributable to an owner's proprietary interest in the property to be acquired, or the court's determination of an owner's entitlement to compensation through the eminent domain action if the court-determined compensation attributable to the owner's proprietary interest is higher. PRDOH will notify all parties with a proprietary interest of its intent to acquire the property through the R3 Eminent Domain process to the greatest extent possible, as set forth in the CDBG-DR action plan.

Prior to filing an eminent domain action against the property, PRDOH will compensate program participants for their proprietary interest, which includes the provision of relocation assistance for the acquisition of a replacement property.

Upon acquisition of a replacement property by the program participant, the program participant will assign their rights to the compensation they are entitled to through the eminent domain action to PRDOH, in an amount equal to the PRDOH-determined FMV attributable to the program participant's proprietary interest in the disaster-damaged property. PRDOH will not proceed with filing an eminent domain action against a disaster-damaged property until the program participant has obtained a replacement property with PRDOH's assistance and PRDOH has provided any required additional compensation based on the PRDOH-determined FMV attributable to the program participant's proprietary interests in the property. PRDOH will also not proceed with filing an eminent domain action against a property until all Known Owners (as defined below) of the property to be acquired through the R3 Eminent Domain process have received compensation based on the PRDOH-determined FMV attributable to the Known Owner's proprietary interests in the property.

Once PRDOH files the eminent domain action, PRDOH deposits the amount equal to the PRDOH-determined FMV of the property with the court, in accordance with Commonwealth laws. The court may determine the PRDOH-determined FMV is insufficient to satisfy the just compensation owed and require PRDOH to deposit an additional amount with the court. The court will distribute the deposited funds as just compensation based on the court's ownership determination. If the court-determined compensation for a program participant or Known Owner exceeds the PRDOH-determined FMV attributable to a program participant's or Known Owner's proprietary interest, PRDOH shall provide for any amounts in excess of the PRDOH-determined FMV attributable to that program participant's or Known Owner's proprietary interest to the program participant or Known Owner.

### *II.A.3. URA Waiver and Alternative Requirement for the R3 Eminent Domain Process.*

PRDOH has requested a waiver of certain sections of the URA to acquire disaster-damaged properties to implement the R3 Eminent Domain process and assist in the recovery of its municipalities. In the Department's review of PRDOH's request, the Department determined additional waivers, in addition to those requested by PRDOH, are required under the URA and sections 104(d) and 105(a)(1) of the Housing and Community Development Act of 1974 (HCDA) (42 U.S.C. 5304(d); 42 U.S.C. 5305(a)(1)). These waivers are described in sections II.A.4. and II.A.5.

The Secretary has determined there is sufficient good cause to grant the following waivers for CDBG-DR funds provided under Pub. Laws 115-56 and 115-123 because these waivers will allow PRDOH to acquire disaster-damaged properties from LMI owner-occupants, despite the property's various title issues. The following waivers will also assist LMI owner-occupants to purchase replacement housing in lower risk areas. In doing so, PRDOH will provide decent, safe, and sanitary housing in the Most Impacted and Distressed Areas to LMI owners affected by the qualifying disasters. Without the waivers, PRDOH would not be able to meet the acquisition requirements in 49 CFR part 24, subpart B and the requirements in 24 CFR part 570 for these disaster-damaged properties because of unknown heirs or the absence of indispensable parties with proprietary interests in the properties. PRDOH would also be required to consider a program participant in the R3 Eminent Domain process to be a displaced person under the URA and 24 CFR part 570, thereby causing a potential duplication of benefits in the issuance of relocation assistance. The Secretary therefore grants the following waiver to permit PRDOH to carry out the R3 Eminent Domain process for properties acquired by PRDOH, subject to the alternative requirements described below.

HUD waives 49 CFR 24.101(b), and 24 CFR 570.606(e) to the extent that the R3 Eminent Domain process is considered an involuntary acquisition subject to the requirements at 49 CFR part 24, subpart B. HUD also waives the definition of "displaced person" under 49 CFR 24.2(a), 24 CFR 42.305, and 24 CFR 570.606(b)(2) to the extent that program participants would

be considered displaced persons under these regulations. HUD imposes the following alternative requirements on the use of this waiver:

1. The R3 Eminent Domain process will only be available to R3 applicants that are owner-occupants of disaster-damaged properties under the following conditions:
  - a. The R3 applicant agrees to voluntarily relocate from their disaster-damaged property;
  - b. The R3 applicant has a proprietary interest in their disaster-damaged property;
  - c. The R3 applicant does not have clear title to their disaster-damaged property; and,
  - d. All of the following criteria have been met:
    - i. The R3 applicant has evidence of their proprietary interest in the disaster-damaged property;
    - ii. The R3 applicant and/or PRDOH has used their best efforts to clear title, as defined by PRDOH in its CDBG-DR Action Plan(s), which may include attempting to obtain clear title through the TC program; and
    - iii. The R3 applicant and/or PRDOH has used best efforts, as defined by PRDOH in its CDBG-DR Action Plan(s), to contact all indispensable parties and heirs (i.e., persons having or claiming to have a proprietary interest in the disaster-damaged property) to provide the required compensation attributable to their proprietary interests.
2. PRDOH will notify all parties with a proprietary interest in a disaster-damaged property of its intent to acquire the property through the R3 Eminent Domain process to the greatest extent possible, as set forth in the CDBG-DR action plan.
3. Prior to acquiring a property through the R3 Eminent Domain process, PRDOH must obtain written consent from all program participants and every Known Owner with a proprietary interest in the program participant's disaster-damaged property. "Known Owner" is a person having a verifiable proprietary interest in the disaster-damaged property, other than program participant(s), that PRDOH is able to contact. Written

consent must be obtained through one or more written agreements that describe the R3 Eminent Domain process, declare that there is no other means of obtaining clear title to the disaster-damaged property and the basis for the determination, and state that the program participant or Known Owner is voluntarily participating in the R3 Eminent Domain process.

4. The PRDOH-determined FMV for a disaster-damaged property must be based on a third-party appraisal completed no more than 12 months prior to the date of execution of the written agreement or any amendment of the written agreement that revises the PRDOH-determined FMV between the program participant or Known Owner and PRDOH.
5. PRDOH must provide just compensation to the property's program participant(s) and Known Owners(s). Just compensation must be at least equal to the amount of the PRDOH-determined FMV that is attributable to an owner's proprietary interest in a property to be acquired or the court's determination of an owner's entitlement to compensation through the eminent domain action if the court-determined compensation is higher than the PRDOH-determined FMV attributable to an owner's proprietary interest.
6. The fully executed written agreement with each Known Owner must contain the following specific terms and conditions:
  - a. PRDOH will provide the Known Owner with just compensation, as defined in condition 5. above;
  - b. Upon receiving compensation in the amount of the PRDOH-determined FMV attributable to the Known Owner's proprietary interest in the disaster-damaged property, the Known Owner will assign their rights to the compensation they are entitled to through the eminent domain action to PRDOH, in an amount equal to the PRDOH-determined FMV attributable to the Known Owner's proprietary interest in the disaster-damaged property; and,

- c. If the court's determination of a Known Owner's entitlement to compensation through the eminent domain action is higher than the PRDOH-determined FMV attributable to the Known Owner's proprietary interest in the disaster-damaged property, PRDOH shall provide the amount of just compensation greater than the PRDOH-determined FMV to the Known Owner, as determined by the court in the eminent domain action.
7. The fully executed written agreement with each program participant must contain the following specific terms and conditions:
  - a. PRDOH will provide the program participant with just compensation, as defined in condition 5. above;
  - b. PRDOH will assist the program participant by providing relocation assistance to acquire a replacement property;
  - c. PRDOH is only permitted to place a forgivable lien on the replacement property equal to or less than the difference between the cost of the replacement property and the PRDOH-determined estimated FMV attributable to the program participant's proprietary interest in the property, in accordance with the lien terms established in the R3 Program and disclosed in the written agreement;
  - d. If the final purchase price of the replacement property is less than the PRDOH-determined FMV attributable to the program participant's proprietary interest in the property to be acquired through the R3 Eminent Domain process, then PRDOH must provide additional compensation that is no less than the difference between the final purchase price of the replacement property and the PRDOH-determined FMV attributable to the program participant's proprietary interest;
  - e. Upon acquiring a replacement property and receiving any additional compensation (if applicable) up to the amount of the PRDOH-determined FMV attributable to the program participant's proprietary interest in the property, the program participant will

- assign their rights to the compensation determined by the court through the R3 Eminent Domain process to PRDOH. The amount of compensation assigned to PRDOH must be equal to the PRDOH-determined FMV attributable to the program participant's proprietary interest in the disaster-damaged property.
- f. If the court's determination of the program participant's entitlement to compensation through the eminent domain action is higher than the PRDOH-determined FMV attributable to the program participant's proprietary interest in the disaster-damaged property, PRDOH shall provide the amount of court-determined compensation that is greater than the PRDOH-determined FMV attributable to the proprietary interest to the program participant;
  - g. PRDOH may only require a program participant to vacate the disaster-damaged property to be acquired through the R3 Eminent Domain process after a reasonable period of time following the program participant's completed acquisition of the replacement property;
  - h. If the program participant is unable to acquire a replacement property and vacate, PRDOH shall not proceed with its acquisition of the disaster-damaged property through the R3 Eminent Domain process and is prohibited from filing the eminent domain action.
  - i. PRDOH must amend the written agreement with the program participant for any changes to the terms and conditions of the payment of just compensation and the terms and conditions of the forgivable lien placed on the replacement property.
8. Throughout the R3 Eminent Domain process, PRDOH shall provide advisory services to program participants and Known Owners including, but not limited to:
- a. Explaining the R3 program, the R3 Eminent Domain process, and the rights and requirements associated with each; and,

- b. Advising on the terms and conditions of any written agreements, assignments of their just compensation for real property, and for program participants, any liens that will be recorded against a replacement property by PRDOH.
9. If PRDOH and a program participant or Known Owner have already entered into a written agreement for just compensation or relocation and the property will be acquired by PRDOH through the R3 Eminent Domain process, then PRDOH and the program participant or Known Owner must amend the written agreement or execute a new written agreement to include all applicable terms and conditions of this waiver and alternative requirement.
11. Before PRDOH proceeds with the R3 Eminent Domain process for any disaster-damaged property, PRDOH must update its policies, procedures, and Residential Antidisplacement and Relocation Assistance Plan (RARAP).
12. Before PRDOH proceeds with the R3 Eminent Domain process for any disaster-damaged property, PRDOH must certify that it shall comply with the URA, section 104(d), and 24 CFR 570.606, as modified by all applicable waivers and alternative requirements.
13. Records for each property acquired by PRDOH through the R3 Eminent Domain process must include:
  - a. Documentation of the reasonable efforts conducted prior to starting the R3 Eminent Domain process (as described in the grantee's action plan) for any disaster-damaged property;
  - b. The written offer(s) for the amount of compensation attributable to a program participant's proprietary interest in the disaster-damaged property using the PRDOH-determined FMV and the written acceptance of the offer by a program participant;
  - c. The written offer(s) for the amount of compensation attributable to a Known Owner's proprietary interest in the disaster-damaged property using the PRDOH-determined FMV and the written acceptances of the offer by the Known Owner;

- d. The written agreements and all amendments with program participants and Known Owners;
- e. Documentation of the certified, third-party appraisal and PRDOH FMV determination;
- f. Any required certification;
- g. All notices, filings, and court records related to the R3 Eminent Domain process;
- h. Evidence of the provision of advisory services to program participants and Known Owners;
- i. Records relating to the purchase of the replacement property, including but not limited to the final sales price including all fees and closing costs and any liens placed on the property by PRDOH;
- j. Evidence of all additional compensation provided to a program participant when the final purchase price of a replacement property including all fees and closing costs is less than the PRDOH-determined FMV;
- k. If the court's determination of an owner's entitlement to compensation through the eminent domain action is higher than the PRDOH-determined FMV that is attributable to an owner, evidence that PRDOH provided that owner with additional compensation so that the owner received overall compensation in the amount of the court-determined just compensation for that owner's court-determined proprietary interest;
- l. Evidence that the property obtained through the R3 Eminent Domain process was disaster-damaged and qualified under the R3 Program; and
- m. Evidence that PRDOH provided any residential tenants of the disaster-damaged property acquired through the R3 Eminent Domain process, other than the program participant, with all services, assistance, and benefits due to them under the applicable

URA regulations at 49 CFR part 24 and CDBG regulations at 24 CFR 570.606, as amended by waivers and alternative requirements.

14. All properties obtained through the R3 Eminent Domain process must only be employed for a public use, as follows:

- a. Public use shall not be construed to include economic development that primarily benefits private entities; and
- b. Any use of funds for mass transit, railroad, airport, seaport or highway projects, as well as utility projects which benefit or serve the general public (including energy-related, communication-related, water-related and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfields as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Public Law 107-118) shall be considered a public use for purposes of eminent domain.

15. All URA requirements contained in 49 CFR part 24 or the requirements contained in 24 CFR 570.606 for tenants of disaster-damaged property obtained through the R3 Eminent Domain Process still apply. PRDOH must provide tenants living in property acquired by PRDOH through the R3 Eminent Domain process with all required written notices, advisory services, and replacement housing assistance payments required under 49 CFR part 24 and 24 CFR 570.606.

#### II.A.4. *Waiver of Section 104(d) of the HCDA for the R3 Eminent Domain Process.*

Based on the good cause described in section II.A.2., HUD waives the one-for-one replacement requirements at section 104(d)(2)(A)(i) and (ii) and 104(d)(3) of the HCDA and 24 CFR 42.375 in the purchase and demolition of the disaster-damaged properties through the R3 Eminent Domain process. The section 104(d) one-for-one replacement housing requirements

apply to occupied and vacant occupiable lower-income dwelling units demolished or converted in connection with a CDBG-assisted activity. This waiver exempts property purchased in accordance with the URA waiver and alternative requirement in II.A.2. from being replaced in accordance with the one-for-one replacement housing requirements of 24 CFR 42.375. This waiver is necessary to reduce burdensome administrative requirements by allowing the Commonwealth to document that a disaster-damaged property was acquired pursuant to these waivers and alternative requirement for the R3 Eminent Domain process instead of documenting that the acquisition of the property met another exception to, or waiver of the section 104(d) one-for-one replacement requirements contained in 24 CFR 42.375.

#### *II.A.5. Waiver of Section 105(a)(1) of the HCDA for the R3 Eminent Domain Process.*

Based on the good cause described in section II.A.2., HUD waives the definition of acquisition in section 105(a)(1) of the HCDA to allow the use of the R3 Eminent Domain process to be considered an eligible form of acquisition in the purchase of disaster-damaged properties in the R3 Program. Eminent domain is not an eligible form of acquisition under the HCDA. This waiver is necessary to enable property purchased through the R3 Eminent Domain process in accordance with the waiver and alternative requirement contained in section II.A.2. of this notice to be considered eligible CDBG-DR acquisition activities even though the purchases are made through the use of eminent domain actions.

### **III. Finding of No Significant Impact**

A Finding of No Significant Impact (FONSI) with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The FONSI is available online on HUD's CDBG-DR website at [https://www.hud.gov/program\\_offices/comm\\_planning/cdbg-dr](https://www.hud.gov/program_offices/comm_planning/cdbg-dr) and for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW, Room 10276, Washington,

DC 20410–0500. Due to security measures at the HUD Headquarters building, an advance appointment to review the docket file must be scheduled by calling the Regulations Division at 202–708–3055 (this is not a toll-free number). HUD welcomes and is prepared to receive calls from individuals who are deaf or hard of hearing, as well as individuals with speech or communication disabilities. To learn more about how to make an accessible telephone call, please visit <https://www.fcc.gov/consumers/guides/telecommunications-relay-service-trs>.

**Scott Turner,**  
*Secretary.*

[FR Doc. 2025-06549 Filed: 4/16/2025 8:45 am; Publication Date: 4/17/2025]