



Puerto Rico Department of Housing, San Juan, PR

Office of Community Planning and Development,
Community Development Block Grant Disaster
Recovery

**Office of Audit, Region 4
Atlanta GA**

**Audit Report Number: 2020-AT-1002
March 16, 2020**





To: Janet Golrick, Acting Deputy Assistant Secretary, Office of Deputy Assistant Secretary for Grant Programs, DG

//Signed//

From: Nikita N. Irons, Regional Inspector General for Audit, 4AGA

Subject: The Puerto Rico Department of Housing, San Juan, PR, Should Strengthen Its Capacity To Administer Its Disaster Grants

Attached is the U.S. Department of Housing and Urban Development (HUD), Office of Inspector General's (OIG) final results of our review of the Puerto Rico Department of Housing's Community Development Block Grant Disaster Recovery program.

HUD Handbook 2000.06, REV-4, sets specific timeframes for management decisions on recommended corrective actions. For each recommendation without a management decision, please respond and provide status reports in accordance with the HUD Handbook. Please furnish us copies of any correspondence or directives issued because of the audit.

The Inspector General Act, Title 5 United States Code, Appendix 8M, requires that OIG post its reports on the OIG website. Accordingly, this report will be posted at <https://www.hudoig.gov>.

If you have any questions or comments about this report, please do not hesitate to call me at 404-331-3369.



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The Puerto Rico Department of Housing, San Juan, PR, Should Strengthen Its Capacity To Administer Its Disaster Grants

Highlights

What We Audited and Why

We audited the Puerto Rico Department of Housing (PRDOH) in accordance with the U.S. Department of Housing and Urban Development, Office of Inspector General's (HUD OIG) goal to review disaster funding and based on a congressional request for HUD OIG to conduct capacity reviews for Hurricanes Harvey, Irma, and Maria grantees. Our audit objectives were to determine whether the PRDOH had the capacity to (1) administer its Community Development Block Grant Disaster Recovery (CDBG-DR) grants in accordance with applicable regulations and requirements and (2) whether it had in place financial and procurement policies and procedures that promote the expenditure of funds and the acquisition of goods and services in accordance with Federal requirements.

What We Found

The PRDOH should strengthen its financial and procurement capacity to administer its CDBG-DR grants in accordance with applicable regulations and requirements. Specifically, it could strengthen its capacity by (1) improving its financial controls, (2) improving its processes for preventing duplication of benefits, (3) improving its procurement controls, and (4) continuing to increase its staffing. Strengthening its capacity would help ensure that the PRDOH properly administers more than \$19 billion in CDBG-DR funds in accordance with applicable requirements.

The PRDOH did not follow Federal and its own procurement requirements when it acquired goods and services. As a result, HUD had no assurance that purchases totaling \$416,511 were reasonable, necessary, and allowable.

What We Recommend

We recommend that the Acting Deputy Assistant Secretary for Grant Programs require the PRDOH to (1) develop adequate procedures outlining steps for tracking monthly grant expenditures and reprogramming funds and program income and develop and implement a financial management system for its 2008 CDBG-DR grant, (2) review and update its policies and procedures to prevent duplication of benefits, (3) review and update its procurement policies and procedures, and (4) continue to fill its vacancies. In addition, HUD should require the PRDOH to submit supporting documentation showing compliance with procurement requirements and that \$416,511 were reasonable and necessary costs or reimburse the program \$55,010 from non-Federal funds and cancel \$361,501 of CDBG-DR obligations.

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Background and Objectives

In September 2008, Puerto Rico suffered catastrophic rainfalls, which resulted in severe flooding that caused mudslides, road damage, and structural collapse. In response, the U.S. Department of Housing and Urban Development (HUD) allocated more than \$17.9 million in Community Development Block Grant Disaster Recovery (CDBG-DR) funds appropriated under Public Law 110-329 for necessary expenses related to disaster relief efforts in areas affected by natural disasters that occurred during 2008. Federal Register Notice 74 FR 41146 (August 14, 2009) announced the creation of a Disaster Recovery Enhancement Fund (DREF) for secondary allocations to grantees. On January 27, 2011, HUD awarded Puerto Rico \$12 million in DREF funds related to the 2008 disasters. The Office of the Commissioner for Municipal Affairs (OCMA) was the former lead agency overseeing the administration of the 2008 disaster funds and the State allocation of CDBG funds. On February 15, 2017, the Puerto Rico governor¹ transferred the administration of the State CDBG program and 2008 disaster funds to the Office of Socioeconomic and Community Development (ODSEC).

In September 2017 Hurricanes Irma and Maria caused catastrophic damage to Puerto Rico. Although Hurricane Irma's eyewall did not hit Puerto Rico directly, it still caused widespread power outages, flooding, and wind damage. Two weeks after Hurricane Irma barely missed Puerto Rico, Hurricane Maria struck the island directly as a strong category 4 hurricane with sustained winds of 155 miles per hour. Hurricane Maria caused catastrophic flooding and damage, and it destroyed the power grid. In February and April 2018, HUD announced that it had awarded \$19.9 billion in CDBG-DR funds to Puerto Rico to recover from the hurricanes.

After the hurricanes affected the island, the government of Puerto Rico started the process of establishing a formal framework for the administration of the disaster funds. On October 16, 2017, Puerto Rico officials informed us that ODSEC would be the grantee for administering the disaster funds. On October 28, 2017, the Puerto Rico governor announced the creation, through an executive order, of the Central Recovery and Reconstruction Office (CRRO) as a division of the Puerto Rico Public Partnerships Authority. The newly created entity would be responsible for identifying, planning, administering, and overseeing all of the work of reconstruction paid for with private, State, or Federal funds after the catastrophe caused by Hurricanes Irma and Maria in Puerto Rico.

The creation of the CRRO introduced changes to the proposed disaster recovery framework, which were presented to us on November 28, 2017. On December 11, 2017, Puerto Rico officials informed us that ODSEC would be the State grantee for administering the 2017 disaster funds and the CRRO would have oversight responsibilities of the grantee. However, on February 23, 2018, the governor reassigned responsibility for the administration of all disaster recovery funds to the

¹ Ricardo Rosselló resigned on August 2, 2019.

Puerto Rico Department of Housing (PRDOH).² The PRDOH was created by Act No. 97 of June 10, 1972. Through a secretary appointed by the governor, the PRDOH is engaged in implementing the government’s policy related to public housing. Before becoming the grantee for the disaster funds, the PRDOH administered only HUD’s Housing Choice Voucher Program (\$55.4 million for 2018) and Continuum of Care Program (\$1.4 million for 2018). The PRDOH did not have prior experience in administering disaster funds and will be responsible for administering substantially more HUD funding than it has previously administered.

According to HUD information as of August 30, 2019, the Puerto Rico government had drawn down more than \$24 million in disaster funds.

Disaster year	Total grant	Amount drawn	Remaining amount
2008	\$29,982,887	\$23,484,242	\$6,498,645
2017	19,945,593,000 ³	1,017,892	19,944,575,108
Total	19,975,575,887	24,502,134	19,951,073,753

Our audit objectives were to determine whether the PRDOH had the capacity to (1) administer its CDBG-DR grants in accordance with applicable regulations and requirements and (2) whether it had in place financial and procurement policies and procedures that promote the expenditure of funds and the acquisition of goods and services in accordance with Federal requirements.

² On July 27, 2018, the Puerto Rico legislature approved the designation of the PRDOH as the agency responsible for overseeing the administration of the State CDBG program, the Neighborhood Stabilization Program, and the Section 108 Loan Guarantee Assistance program. These programs were in addition to the CDBG-DR funds.

³ HUD allocated \$9.7 billion on February 9 and August 14, 2018, and signed one grant agreement with the PRDOH on September 20, 2018, in the amount of \$1.5 billion. HUD has not allocated the remaining \$10.2 billion in congressional appropriations.

Results of Audit

Finding 1: The PRDOH's Financial and Procurement Capacity Need Improvement

The PRDOH should strengthen its financial and procurement capacity to administer its CDBG-DR grants in accordance with applicable regulations and requirements. Specifically, it could strengthen its capacity by (1) improving its financial controls to address weaknesses, (2) improving its processes for preventing duplication of benefits, (3) improving its procurement controls to address weaknesses, and (4) continuing to increase its staffing. These challenges existed because the PRDOH was a newly appointed grantee without experience in administering CDBG-DR funds and was in the planning stages of implementing its programs for the 2017 and 2008 disasters. In addition, the PRDOH will have responsibility for administering significantly more HUD funds than it has managed in the past.⁴ Strengthening its capacity to administer disaster funds would help ensure that the PRDOH properly administers more than \$19 billion in CDBG-DR funds in accordance with applicable requirements.

The PRDOH Needs To Improve Its Financial Controls To Address Weaknesses

We identified weaknesses in the PRDOH's financial controls over its CDBG-DR grants. Specifically, the PRDOH needs to improve the 2017 CDBG-DR accounting policies and procedures regarding the timely expenditure of program funds, reprogramming of funds assigned to stalled activities, program income of disaster funds, and cost allocations. In addition, it needs to enhance the accounting system capabilities for the 2017 and 2008 disaster grants. Improvements are also needed to the PRDOH's 2008 disaster accounting policies and procedures.

2017 CDBG-DR

The PRDOH certified to HUD on April 13, 2018, that it had proficient financial controls for its 2017 CDBG-DR grant and that it had in place adequate procedures to ensure the timely expenditure of funds. However, we determined that the following improvements were needed:

- Timely expenditure of funds - The PRDOH did not develop adequate procedures outlining the steps to follow for tracking monthly grant expenditures as required by 83 FR 5844 (February 9, 2018).⁵ The PRDOH's policy indicated that it would use HUD's CDBG-DR grantee projection of expenditures and outcomes template to forecast expenditures and outcomes of each funded activity. However, there were no procedures outlining the steps needed for maintaining HUD's template or procedures requiring

⁴ Before acquiring the administration of 2017 and 2008 disaster grants, the PRDOH had administered only HUD's Housing Choice Voucher Program (\$55.4 million) and Continuum of Care Program (\$1.4 million).

⁵ Federal Register Notice 83 FR 5844 (February 9, 2018) requires the grantee to have procedures that indicate how the grantee will track expenditures each month and how it will project expenditures to provide for the expenditure of all CDBG-DR funds within the period provided.

monthly reviews of expenditures as required by section VI, paragraph A.1.a.(4), of 83 FR 5844 (February 9, 2018).

- Reprogramming of funds - Contrary to section VI, paragraph A.1.a.(4), of 83 FR 5844 (February 9, 2018), the PRDOH did not develop adequate procedures to reprogram program funds of stalled activities. The procedures required that the finance director review profit and loss statements, costs be compared with budgets and prior periods at an appropriate level of detail, and budgets and forecasts be updated during the year. The PRDOH's procedures to determine timely expenditures were vague and lacked detailed information pertaining to timing and frequency of reviews or the steps to be followed during the review.
- Program income - The PRDOH did not develop adequate policies and procedures for program income as required by section VI, paragraph A.19, of 83 FR 5844 (February 9, 2018). The PRDOH's policies and procedures omitted two examples of program income that were included in the Federal Register alternative requirements.⁶ In addition, the policy made reference to program income from the CDBG program when it should properly refer to program income from the CDBG-DR funds.
- Cost allocation plan - In its grant agreement with the PRDOH, HUD imposed a special condition requiring that the PRDOH's policies and procedures outline a cost allocation methodology. The PRDOH's financial policy outlined a methodology for allocating payroll costs. However, the policy did not establish the methodology and steps to follow regarding other possible shared items of cost that could warrant a cost allocation, such as rents, equipment, utilities, etc.
- Accounting system - Regulations in 2 CFR (Code of Federal Regulations) 200.302 require maintaining records that contain financial information pertaining to Federal awards. The PRDOH's accounting system did not list disbursements by grant and activity type. As a best practice, this information is essential to ensure that the 2017 CDBG-DR drawdowns were adequately accounted for and used for eligible purposes. In addition, this information is crucial for the completion of accurate progress reports.

A PRDOH official informed us that the accounting system did not differentiate between grants because only one grant agreement had been signed with HUD and that the PRDOH was waiting for HUD's instructions on how to account for the additional disaster allocations. The official also stated that the PRDOH could determine the amount disbursed by activity type by manually selecting the activity that pertained to a particular type. Although the grantee could provide the amount disbursed for a specific type of activity, it was a manual process, which made it susceptible to human error and inaccurate data. In addition, this could become a cumbersome task because the number

⁶ The two missing examples were (1) interest earned on program income pending disposition of the income and (2) the gross income paid to a State, local government, or a subrecipient thereof from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG-DR assistance.

of funded activities will significantly increase in the future. The PRDOH needs to enhance its accounting system capabilities to provide accurate and reliable information.

2008 CDBG-DR

Although the PRDOH provided the financial management policies and procedures developed by the former grantee for the 2008 CDBG-DR grant, we determined that the following improvements were needed:

- Accounting system - The PRDOH did not maintain a general ledger for the 2008 CDBG-DR funds, which would have allowed us to determine whether program funds were used in accordance with HUD requirements. The accounting records maintained were Excel spreadsheets and index cards used to track expenditures of funded activities and disbursements made to subgrantees. These accounting records were in place when the PRDOH assumed the administration of the 2008 CDBG-DR funds in July 2018. The accounting records did not list disbursements by activity type and did not properly account for assets and liabilities. As a result, HUD lacked assurance that more than \$23.4 million in 2008 CDBG-DR drawdowns was adequately accounted for, safeguarded, and used for eligible purposes.

A PRDOH official informed us that the administration of the 2008 CDBG-DR grant was transferred to the PRDOH in March of 2019 from the former grantee, ODSEC. The official also stated that the PRDOH had difficulties in obtaining financial data from ODSEC's accounting system and was in the process of migrating the data to a different accounting system used by the PRDOH. The PRDOH expected to complete the financial data migration to its Elite system by December 2019.

- Accounting policies and procedures - The PRDOH provided its accounting policies and procedures that were dated June 2015 and created by the former grantee, OCMA.⁷ Contrary to regulations at 2 CFR part 200, the policies and procedures did not address the implementation of an accounting system that would provide adequate control over funds, property, and other assets;⁸ did not address the receipt and disposition of program income;⁹ and did not provide detailed procedures to minimize the time elapsing between the transfer of funds from the United States Treasury and the disbursement of funds by non-Federal entities.¹⁰ As a result, HUD lacked assurance that the PRDOH had proficient financial controls in place for its 2008 CDBG-DR grant.

The PRDOH Needs To Improve Its Processes for Preventing Duplication of Benefits

The PRDOH needs to improve its processes for preventing duplication of benefits to ensure that data-sharing agreements that allow adequate time to use the information established and that data verifications are performed in a timely manner. Regulations at 44 CFR 206.191(d)(1)(i) state

⁷ OCMA was the grantee of the 2008 disaster funds until February 2017 when it was transferred to ODSEC.

⁸ 2 CFR 200.302(b)(4)

⁹ 2 CFR 200.307

¹⁰ 31 CFR 205.11

that a duplication of benefits occurs when an agency provides assistance, which was the primary responsibility of another agency, and the agency with primary responsibility later provides assistance.

2017 CDBG-DR

The PRDOH certified to HUD on April 13, 2018, that it had established adequate procedures to prevent duplication of benefits. The PRDOH established duplication of benefits policies for its 2017 CDBG-DR grant and entered into data-sharing agreements with the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA), and the Federal Insurance Management Administration. The PRDOH's duplication of benefits policy properly considered aspects, such as unmet needs, determining individual assistance, and consideration of SBA loans. However, we found that the following improvements were needed:

- Lack of adequate procedures - The PRDOH did not have in place the procedural or implementing aspects of its duplication of benefits policies for the Small Business Financing Program and the Construction and Commercial Revolving Loan program. According to PRDOH officials, the procedures were still under development. This condition is the result of the grantee's being in the planning stages of its 2017 CDBG-DR grants. As a result, HUD lacked assurance that the PRDOH had proficient controls to prevent the risk of duplication of benefits.
- Data-sharing agreements - In March 20, 2018, the PRDOH established a data-sharing agreement with the SBA for its 2017 disaster. However, the terms of the agreement were effective for only 18 months, meaning that it should expire on September 20, 2019. As of August 30, 2019, the PRDOH still had the majority of its 2017 disaster funds to spend. The sharing agreement would expire before it could be used to provide useful information to detect and prevent duplication of benefits.

A PRDOH official informed us that the PRDOH did not establish a data-sharing agreement with the Office of the Insurance Commissioner of Puerto Rico¹¹ regarding private insurance payments to potential grant recipients. In addition, the PRDOH official stated that the PRDOH had not established a data-sharing agreement with other CDBG-DR grantees regarding payments to grant recipients not residing in Puerto Rico. The lack of data sharing increases the risk of duplication of benefits because the PRDOH must rely on applicant self-certifications.

2008 CDBG-DR

Although the PRDOH provided the financial management policies and procedures developed by the former grantee for the 2008 CDBG-DR grant, we determined that the following improvements were needed:

¹¹ The Commissioner is a local government entity that has the authority to oversee and regulate the insurance industry in Puerto Rico and was created by Law No. 77, dated June 19, 1957.

- Reviews for preventing duplication of benefits - On September 24, 2013, and May 1, 2014, the former grantee of the 2008 CDBG-DR funds requested data from its subgrantees to perform duplication of benefits analyses. A PRDOH official informed us that the data were still under review and the analysis for preventing duplication of benefits was not completed. More than 5 years had elapsed since the data were requested from its subgrantees, and the review for preventing duplication of benefits had not been completed. This issue was also identified as a concern in the April 24, 2015, HUD monitoring report, but the condition remained. The lack of reviews increased the risk of not detecting instances of possible duplication of benefits in a timely manner.
- Data-sharing agreements - On August 7, 2014, the government of Puerto Rico established a data-sharing agreement with the SBA for its 2008 disaster. However, the terms of the agreement were effective for only 36 months, meaning that it expired on August 6, 2017. As of August 30, 2019, the PRDOH still had more than \$6.4 million of its 2008 disaster funds to spend, but the SBA agreement had expired.

The PRDOH Needs To Improve Its Procurement Controls To Address Weaknesses

We identified weaknesses in the PRDOH’s procurement controls over its 2017 and 2008 CDBG-DR grants.

2017 CDBG-DR

On April 13, 2018, the PRDOH certified to HUD that it had in place proficient procurement processes for its 2017 CDBG-DR grant following the regulations at 24 CFR 570.489(g).¹² The PRDOH’s policy mostly complied with Federal and its own requirements. However, we determined that the following improvements were needed:

- Article VIII, section 7, of the procurement policy did not include a process for soliciting and accepting noncompetitive proposals as required by 24 CFR 570.489(g). Section 10.3 of HUD’s Buying Right Guide establishes that grantees must have written procedures for all procurement transactions, including noncompetitive procurement.
- Article VIII, section 8, of the policy stated that the process for General Services Administration proposals would be evaluated by an “Evaluation Committee,” with its members designated by the “Administrator.” Although there is a committee, there is no “Administrator” position in the PRDOH organizational chart for the 2017 CDBG-DR grant.
- Article XI of the policy did not reference the establishment of a contract register and the kind of information it should collect. Section 3.8 of HUD’s Buying Right Guide provides that grantees should maintain a contract register with vendor names, contractor or subcontractor, type of procurement, funding source, brief descriptions, a summary of

¹² Regulations at 24 CFR 570.489(g) provide that States (including Puerto Rico) must follow its procurement policies and procedures when procuring property or services to be paid for in whole or in part with CDBG funds.

change orders, etc.

- Article XII, section 2, of the policy did not require contracts to include language related to paragraph A of appendix II in 2 CFR part 200, which required contracts to address administrative, contractual, or legal remedies and provide sanctions and penalties as appropriate.
- Article XIII, section 1, of the PRDOH policy did not identify the internal PRDOH norms for approving change orders resulting from unilateral modifications¹³ to contracts or purchase orders.
- Article XV, section 1, of the policy required the PRDOH and its contractors to maintain contract records for a minimum of 3 years after final payment. However, 24 CFR 570.490(d) requires States to retain records for the greater of 3 years from closeout of the grant or the period required by other applicable laws and regulations. As a result, the PRDOH used a less stringent regulation, which did not comply with 24 CFR 570.490(d).
- Article XVII, section 1, of the policy regarding “Conflicts of Interest and Ethics in Public Contracting” did not reference 24 CFR 570.489(g) and (h). These two references should have been included as they explicitly require the State’s policies and procedures to include standards of conduct governing employees engaged in the award or administration of contracts, as well as provisions to avoid conflicts of interest. The policy did not outline standards of conduct and possible conflicts of interest by PRDOH officials, employees, subrecipients, or contractors. As a result, the PRDOH did not comply with requirements in 24 CFR 570.489(g) and (h).
- Article XVII, section 2, of the policy did not specify which provisions of the Puerto Rico Government Ethics Act of 2011 applied to PRDOH agents, subrecipients, and contractors. The PRDOH should specify which provisions apply to avoid confusion and misinterpretation.
- Article XVII, section 2, of the PRDOH policy had not established policies and procedures to implement Puerto Rico Law 2 of 2018 (Anticorruption Code) as required by section 10.3 of PR Law 2-2018.
- The PRDOH had procurement procedures for the acquisition of goods and services; however, these procedures were not dated or signed by an approving official. On May 13, 2019, the PRDOH’s procurement director informed us that the procedures were still in draft form and had not been approved by the compliance officer.

¹³ A unilateral modification is a contract modification that is signed only by the contracting officer.

2008 CDBG-DR

Policies and procedures - The PRDOH provided us with the procurement policies and procedures associated with its 2008 CDBG-DR grant, dated June 2015. According to these policies and procedures, the grantee adopted the general procurement standards outlined at 2 CFR 200.318-326¹⁴ for the purchase of goods and services. However, we determined that the policies and procedures were not adequate or in compliance with HUD's requirements. The policies and procedures were about two pages long, did not establish responsibilities, and did not contain detailed information outlining the steps to follow when procuring goods and services. As a result, HUD lacked assurance that the PRDOH had in place proficient procurement controls for its 2008 CDBG-DR grant.

The PRDOH Needs To Improve Staffing Levels To Address Weaknesses

The PRDOH needs to increase its staffing levels and allow its internal audit division to properly fulfill its responsibilities.

- Staffing level - The PRDOH was increasing the number of employees in accordance with its staffing plan to ensure that it had adequate resources to administer the 2017 CDBG-DR program. According to its organizational chart, dated March 4, 2019, the PRDOH had 36 disaster recovery staff members onboard and 171 vacancies. The June 20, 2019, organizational chart showed that the PRDOH had 63 disaster recovery staff members onboard and 146 vacancies. Although the PRDOH had reduced the number of vacancies, key divisions still lacked staff members to adequately administer its program. For example, the procurement, internal audit, and monitoring divisions were significantly understaffed according to the June 20, 2019, organizational chart. (See table 1 below.)

Table 1: Examples of divisions that required additional staff

	Number of disaster recovery staff members on board		Total number of expected positions
	As of March 2019 ¹⁵	As of June 2019 ¹⁶	
Procurement division	2	2	12
Internal audit division	1	3	17
Monitoring division	0	4	17

On March 27, 2019, the procurement director informed us that he expected to hire half of his personnel by June 1, 2019. However, this did not happen, and the division was significantly understaffed. The PRDOH must continue its efforts to increase staffing levels to adequately administer its disaster programs and prepare for additional funding allocated for the 2017 CDBG-DR grant.

¹⁴ Regulations at 2 CFR 200.318-326 establish procurement standards to be followed by non-Federal entities, including methods of procurement, contract cost and price, and competition requirements.

¹⁵ According to the March 4, 2019, organization chart

¹⁶ According to the June 20, 2019, organization chart

- Internal audit division - The chief audit executive must report to a level within the PRDOH that allows the internal audit activity to fulfill its responsibilities. The PRDOH had an internal audit division that reported to the head of the grantee, the Puerto Rico Housing Secretary. The internal audit division should instead report to a board of directors or audit committee to ensure organizational independence and accountability. The responsibilities of a board or committee would typically include¹⁷
 - approving the internal risk assessment and audit plan,
 - receiving the results of internal audit engagements,
 - approving decisions regarding the appointment and removal of the internal auditor,
 - approving the annual compensation of the internal auditor, and
 - inquiring to management about scope or budgetary limitations to the internal audit activity.

The chief audit executive informed us that the PRDOH did not have a board or audit committee, the matter had been discussed with the PRDOH secretary, and the secretary favored the establishment of an audit committee to provide more independence to the internal audit function.

The PRDOH Lacked Experience in Administering CDBG-DR Funds

Before being designated as the grantee for the 2017 and 2018 disaster grants, the PRDOH was responsible only for the administration of HUD’s Housing Choice Voucher Program (\$55.4 million for 2018) and Continuum of Care Program (\$1.4 million for 2018). The PRDOH did not have prior experience in administering disaster funds and will be responsible for administering HUD funding that is more than 350 times¹⁸ as much as it has previously administered. As a new grantee of the disaster funds and of three other community planning and development programs,¹⁹ the PRDOH was still in the planning stages of implementing its disaster activities (more than 1 year after the Puerto Rico legislature approved its reassignment).

Conclusion

The PRDOH should strengthen its capacity to manage CDBG-DR funds. These challenges existed because the PRDOH was a newly appointed grantee without experience in administering CDBG-DR funds and was still in the planning stages of implementing its programs for the 2017 and 2008 disasters. Strengthening its capacity to administer disaster funds would help ensure that the PRDOH properly administers more than \$19 billion in CDBG-DR funds in accordance with applicable requirements.

¹⁷ Institute of Internal Auditor’s Practice Advisory 1110-1: Organizational Independence

¹⁸ \$19.9 billion (CDBG-DR funds) divided by \$56.8 million (\$55.4 Housing Choice Voucher Program and \$1.4 Continuum of Care Program)

¹⁹ On July 27, 2018, the Puerto Rico legislature approved the designation of the PRDOH as the grantee of the disaster funds and of the State CDBG, Neighborhood Stabilization Program, and the Section 108 Loan Guarantee Assistance programs.

Recommendations

We recommend that the Acting Deputy Assistant Secretary require the PRDOH to

- 1A. Develop adequate procedures outlining steps for tracking monthly grant expenditures, reprogramming funds for stalled activities, managing program income, and allocating costs as required by Federal Register Notice 83 FR 5844 and the grant agreement with HUD.
- 1B. Ensure that the financial management system for the 2017 CDBG-DR grant is capable of providing information by activity type and grant number.
- 1C. Develop and implement a financial management system for its 2008 CDBG-DR grant and ensure that it tracks program funds to a level that supports compliance with HUD requirements. At a minimum, the accounting system must reflect disbursements by grant, activity, and activity type and properly account for assets, liabilities, and program income.
- 1D. Review and update its 2017 CDBG-DR policies and procedures to prevent duplication of benefits and ensure that these are comprehensive and all applicable activities are included, including but not limited to the Small Business Financing Program and the Construction and Commercial Revolving Loan program.
- 1E. Negotiate with the SBA, within 30 days of the issuance of this audit report, to extend its data-sharing agreements for the term of the expenditure requirements set forth in public laws or the Federal Register in relation to the 2017 and 2008 disasters.
- 1F. Negotiate with Puerto Rico's Insurance Commissioner and with other CDBG-DR grantees, within 30 days of the issuance of this audit report, to establish data-sharing agreements for the 2017 CDBG-DR grant disaster, any open disaster recovery grants, and future disasters.
- 1G. Complete, within 30 days of the issuance of this audit report, the review for preventing duplication of benefits associated with its 2008 CDBG-DR grant and pursue appropriate remedies for any instances of noncompliance found.
- 1H. Review and update its procurement policy for the 2017 CDBG-DR grant to address weaknesses identified, including but not limited to required contract clauses, processes for soliciting and accepting noncompetitive proposals, and performing cost or price analyses before receiving bids or quotations, among other issues.
- 1I. Ensure that the 2017 CDBG-DR procurement policy addresses the establishment of a contract register that, at a minimum, contains the procurement information

specified in section 3.8 of HUD's Buying Right Guide regarding the PRDOH's acquisitions of goods and services, as well as of its subrecipients and partners.

- 1J. Establish procurement policies and procedures for the 2008 CDBG-DR grant to ensure compliance with 2 CFR 200.318-326, including but not limited to procedures to ensure full and open competition, supporting independent cost estimates, properly documenting the procurement history, and including required clauses in contracts, among other issues.
- 1K. Continue to fill its vacancies with qualified and trained staff, thus ensuring that staffing levels remain adequate to administer the 2017 and 2008 CDBG-DR grant funds.
- 1L. Structure the internal audit division within a framework that can ensure its organizational independence and allow the internal audit activity to fulfill its responsibilities.

We also recommend that the Acting Deputy Assistant Secretary

- 1M. Provide additional training and technical assistance to the PRDOH on the development of policies and procedures to ensure that procedures comply with applicable Federal and grant requirements.

Finding 2: The PRDOH Did Not Comply With Procurement Requirements

The PRDOH did not follow Federal and its own procurement requirements when it acquired goods and services associated with the 2017 CDBG-DR grant. Specifically, it did not (1) engage in full and open competition, (2) properly support independent cost estimates, (3) fully document the procurement history, and (4) ensure that contracts contained required clauses. These conditions occurred because the PRDOH did not have procurement procedures in place to ensure compliance with Federal and its own requirements. As a result, HUD had no assurance that purchases totaling \$416,511 were reasonable, necessary, and allowable.

The PRDOH Did Not Ensure That Full and Open Competition Took Place

The PRDOH procurement policy, article I, section 5.A.7, provided that any arbitrary action in the procurement process was considered to be restrictive of competition. The PRDOH did not ensure that full and open competition was engaged in for four of five procurement files reviewed.²⁰ Examples of actions limiting competition are as follows:

- In one procurement, the PRDOH restricted competition by disqualifying the losing bidder for not providing quotes for all of the required services on its quote sheet, while not disqualifying the winning bidder for the same reason.
- In two procurements, the PRDOH disclosed and advertised the maximum possible award amount to proponents, which was the independent cost estimate amount, thereby disclosing confidential information and not promoting full and open competition to obtain a fair price.
- In one procurement, the PRDOH restricted competition by requiring proponents to have previous working experience with the PRDOH. Article I, section 5.A.1, of the PRDOH's procurement policy considered placing unreasonable requirements on firms to qualify to do business to be restrictive of competition.
- In one procurement, the PRDOH established an unreasonable deadline (next day before 9:30 a.m.) for potential suppliers to provide quotes. In addition, the winning quote was received after the deadline.

The PRDOH Did Not Properly Support Its Price Analyses or Independent Cost Estimates

The PRDOH did not support and document price analyses or independent cost estimates in four of five procurement files reviewed. Specifically, the PRDOH indicated in its independent cost estimates that it used market prices and past experience to estimate the cost of the services. However, the files reviewed did not contain evidence of market price research or past experience. As a result, the basis for determining the reasonableness of the contracted price was not supported.

²⁰ One procurement file contained two full and open competition deficiencies. See appendix C.

The PRDOH deputy secretary informed us that the supporting documents associated with the independent cost estimate were not part of the procurement file and that HUD had not required the PRDOH to keep such documentation. He also stated that most of the work behind the cost estimates was done by his staff and that the supporting documentation and data behind the estimates could be recreated. This response denoted a lack of proper guidance on what is necessary to ensure that the grantee maintains records sufficient to detail the full history of a procurement.

The PRDOH procurement policy, article IX, section 1, provided for the submission of sufficient commercial pricing and sales information by procuring entities to enable the proper verification of the reasonableness of the proposed costs and prices. Regulations at 2 CFR 200.318(i) provide that non-Federal entities must maintain records sufficient to detail the history of procurement. These records include but are not necessarily limited to the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and basis for the contract price. Therefore, the PRDOH did not follow its own procurement policy and Federal requirements.

The PRDOH Did Not Properly Follow or Document Procurement Processes

PRDOH officials did not follow the procurement requirements and policy in all five procurement files reviewed. It failed to document all purchasing decisions and activities in accordance with requirements in article XI of the PRDOH procurement policy²¹ and 2 CFR 200.318(i).

- In a procurement, vendors were required to quote all services included in the quote sheet. However, the winning vendor did not quote all of the required services and included other items or services not requested by the PRDOH. The file did not contain any information on why the new items were accepted and what the PRDOH did to determine the reasonableness of the charges. In addition, the file did not contain supporting documentation showing that the PRDOH verified whether the winning bidder was an eligible contractor (that is, not suspended, excluded, or debarred) as required by the PRDOH's procurement policy, article XIV, sections 1 and 2.
- Another procurement included information stating that the PRDOH received quotations from six vendors, including the winning quote. However, the procurement file did not include the quotes from the other five vendors that were not selected. As a result, there was no assurance that the lowest price was selected and that an adequate number of quotes were obtained.
- Award notifications were not present in four of the five procurement files reviewed.

²¹ Regulations at 24 CFR 570.489(g) provide that States (including Puerto Rico) must follow its procurement policies and procedures when procuring property or services to be paid for in whole or in part with CDBG funds. The PRDOH's procurement policy stated that it would follow requirements at 2 CFR 200.318(i).

- Segregation of duties was not observed in two procurement transactions as required by 2 CFR 200.303(a). In both cases, the procurement director signed the procurement checklist as both procurement director and procurement supervisor. A lack of segregation of duties could increase the risk of error, misuse, or fraud.
- In one file, PRDOH officials did not sign the non-conflict of interest certification as required by Public Law 2 of 2018, known as the Anti-Corruption Code for the New Puerto Rico.

Contracts Did Not Contain Required Clauses or Correct References

The PRDOH did not ensure that contracts contained required clauses or correct references in three of five procurement files reviewed. According to article XII, section 2, of the procurement policy, contracts must include clauses regarding award protests and contract claims and clauses regarding minority business enterprises and women’s business enterprises. However, the PRDOH did not include those required clauses in two contracts. In addition, the PRDOH contracts cited the incorrect CFR references on three contracts reviewed. For example, contracts cited 2 CFR part 3000, which applies to the U.S. Department of Homeland Security, not to HUD.

The PRDOH Did Not Have Procurement Procedures

The conditions identified above were the result of the PRDOH’s not having written procedures in place for procurement of goods and services, contrary to regulations at 24 CFR 570.489(g). The procurement policy was approved by HUD on September 20, 2018, at the time it signed the grant agreement with the PRDOH. However, its procurement procedures were not part of the certifications package submitted to HUD. Although the PRDOH had since developed written procedures for procurement, they were still in draft and had not yet been approved.²²

The lack of adequate procurement procedures²³ increased the PRDOH’s risk of acquiring goods and services that were not reasonable and necessary. Our review of the PRDOH’s files found deficiencies in all five procurement files reviewed. (See table 2 below and refer to appendix C for details of deficiencies.)

²² On May 13, 2019, the PRDOH’s procurement director informed us that the procedures were still in draft form and had not been approved by the compliance officer.

²³ A policy is a guiding principle used to set direction in an organization. A procedure is a series of steps to be followed as a consistent and repetitive approach to accomplish an end result.

Table 2: Chart of procurement deficiencies

Reference number	Contracted amount	Full and open competition not promoted	Independent cost estimate not properly supported	Procurement process not properly followed or documented	Missing contract clauses or incorrect references
PO 2018-00001	\$2,375			X	
PO 2019-00003	9,450	X	X	X	
2019-000046	147,746	X	X	X	X
2019-000059	149,000	X	X	X	X
2019-000067	107,940	X	X	X	X
Total	416,511²⁴	4	4	5	3

Conclusion

The PRDOH did not follow Federal and its own procurement requirements in awarding contracts and purchase orders. These deficiencies occurred because the PRDOH did not have procurement procedures in place that would guide the procurement process. As a result, HUD had no assurance that purchases totaling \$416,511 were reasonable, necessary, and allowable.

Recommendations

We recommend that the Acting Deputy Assistant Secretary, instruct the PRDOH to

- 2A. Submit supporting documentation showing that contracts and purchase orders complied with Federal and its own procurement requirements and that these were reasonable and necessary costs or reimburse the CDBG-DR program \$55,010 from non-Federal funds.
- 2B. Submit supporting documentation showing that contracts and purchase orders complied with Federal and its own procurement requirements and that these were reasonable and necessary costs or cancel the \$361,501 in unpaid obligations related to CDBG-DR funds.
- 2C. Revise and finalize the procurement procedures to ensure compliance with applicable Federal requirements, including but not limited to procedures to ensure full and open competition, supporting independent cost estimates, properly documenting the procurement history, and including required clauses in contracts, among other issues.

²⁴ Of these funds, a total of \$55,010 had been disbursed from CDBG-DR funds as of July 26, 2019. An obligation to pay the remaining \$361,501 existed as of the same date.

Scope and Methodology

We performed our audit work between March and September 2019 at the PRDOH located at 606 Barbosa Avenue, San Juan, PR, and in our office in San Juan, PR. Our audit period was from August 7, 2014, through August 30, 2019.

To accomplish our audit objective, we

- Reviewed relevant criteria, including public laws and Federal Register notices.
- Interviewed program staff at HUD and the PRDOH to determine the PRDOH's capacity and plans to administer its program.
- Reviewed Public Law 115-56, Financial Management and Grant Compliance Certification, submitted to HUD.
- Reviewed the PRDOH implementation and action plans submitted to HUD, its policies and procedures with focus on financial management and procurement, its organizational chart, and its disaster recovery staffing plans.
- Reviewed the 2017 and 2008 CDBG-DR grant agreements between HUD and the PRDOH.²⁵
- Reviewed the two most recent independent auditor reports for the periods ending June 30, 2016, and June 30, 2017.
- Reviewed data-sharing agreements among the PRDOH, FEMA, and the SBA.
- Reviewed HUD's monitoring report, dated April 24, 2015, and risk analysis, dated November 14, 2018.
- Reviewed the PRDOH quarterly performance reports.
- Reviewed financial reports from HUD's Disaster Recovery Grant Reporting (DRGR)²⁶ system to obtain grant drawdown information for the audit period.

As of February 28, 2019, HUD's DRGR system showed that the PRDOH had drawn down \$41,846 of its 2017 CDBG-DR grant for payroll expenses. We selected and reviewed this drawdown to ensure that transactions were properly supported and verified the accuracy and completeness of the accounting records.

We did not test 2008 CDBG-DR financial transactions as during our review of internal controls, it was determined that the PRDOH system was not capable of providing the required information because the PRDOH did not have a general ledger for the 2008 CDBG-DR funds.

²⁵ The 2008 disaster funds were part of our review because the PRDOH was the newly designated grantee of all disaster funds and the 2008 grant was still open.

²⁶ The DRGR system is primarily used by grantees to access disaster funds and report performance accomplishments for grant-funded activities.

As of February 28, 2019, PRDOH records showed that it had completed 10 procurement transactions totaling \$561,047 associated with its 2017 CDBG-DR grant. We selected a nonstatistical sample of five transactions: two purchase orders larger than \$2,000 totaling \$11,825 and three contracts larger than \$100,000 totaling \$404,686. This selection totaling \$416,511, or 74 percent of the transaction total, should provide sufficient support to draw conclusions regarding the procurement process at the PRDOH. The results of procedures apply only to the selected items and must not be projected to the portion of the population that was not tested. We did not test procurement transactions for the 2008 CDBG-DR grant as the PRDOH did not perform any procurement actions with these funds during the audit period.²⁷

We relied in part on computer-processed data contained in the PRDOH system and HUD's DRGR system to achieve our audit objectives. Although we did not perform a detailed assessment of the reliability of the data, we performed a minimal level of testing and found the data to be adequately reliable for our purposes. The tests for reliability included but were not limited to comparing computer-processed data to drawdown support documents, expenditure support documents, and bank statements.

We conducted the audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²⁷ According to HUD's DRGR system, a majority of the 2008 CDBG-DR funds were used for the reconstruction of streets (\$7.8 million), buyout of residential properties (\$6.8 million), reconstruction of residential structures (\$3.6 million), and affordable rental housing (\$1.9 million).

Internal Controls

Internal control is a process adopted by those charged with governance and management, designed to provide reasonable assurance about the achievement of the organization's mission, goals, and objectives with regard to

- effectiveness and efficiency of operations,
- reliability of financial reporting, and
- compliance with applicable laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet the organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance.

Relevant Internal Controls

We determined that the following internal controls were relevant to our audit objectives:

- Program operations - Policies and procedures that management has implemented to reasonably ensure that a program meets its objectives.
- Validity and reliability of data - Policies and procedures that management has implemented to reasonably ensure that valid and reliable data are obtained, maintained, and fairly disclosed in reports.
- Compliance with laws and regulations - Policies and procedures that management has implemented to reasonably ensure that resource use is consistent with laws and regulations.

We assessed the relevant controls identified above.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, the reasonable opportunity to prevent, detect, or correct (1) impairments to effectiveness or efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations on a timely basis.

Significant Deficiencies

Based on our review, we believe that the following items are significant deficiencies:

- The PRDOH's financial and procurement capacity of its CDBG-DR grants need improvement (finding 1).
- The PRDOH did not follow Federal and its own procurement requirements (finding 2).

Appendixes

Appendix A

Schedule of Questioned Costs and Funds To Be Put to Better Use

Recommendation number	Unsupported 1/	Funds to be put to better use 2/
2A	\$55,010	
2B		\$361,501
Totals	55,010	361,501

- 1/ Unsupported costs are those costs charged to a HUD-financed or HUD-insured program or activity when we cannot determine eligibility at the time of the audit. Unsupported costs require a decision by HUD program officials. This decision, in addition to obtaining supporting documentation, might involve a legal interpretation or clarification of departmental policies and procedures.
- 2/ Recommendations that funds be put to better use are estimates of amounts that could be used more efficiently if an Office of Inspector General (OIG) recommendation is implemented. These amounts include reductions in outlays, deobligation of funds, withdrawal of interest, costs not incurred by implementing recommended improvements, avoidance of unnecessary expenditures noted in preaward reviews, and any other savings that are specifically identified. In this instance, if the PRDOH implements recommendation 2B, costs will not be incurred, and funds will be available for other eligible activities consistent with CDBG-DR requirements.

Appendix B

Auditee and HUD Comments with OIG's Evaluation

Ref to OIG Evaluation

Auditee Comments



GOVERNMENT OF PUERTO RICO
Department of Housing

October 21, 2019

Nikita N. Irons
Regional Inspector General for Audit
Office of the Audit Region 4
75 Ted Turner Drive, Room 330
Atlanta, GA 30303

Dear Ms. Irons:

The Puerto Rico Department of Housing (PRDOH) is in receipt of the draft Office of Inspector General (OIG) audit report dated October 1, 2019 and received on October 2, 2019. PRDOH is the agency appointed by the Government of Puerto Rico as the grantee for administration of the Community Development Block Grant – Disaster Recovery (CDBG-DR) funds. We are responsible for the grant management, implementation and compliance of the CDBG-DR grant.

In September of 2017, the devastating landfall of Hurricanes Irma and Maria caused unprecedented damage to Puerto Rico's housing stock, the economy, and our infrastructure, destroying the landscape of the Island for decades to come. Through the Supplemental Appropriations for Disaster Relief Requirements Act, 2017, signed into law September 8, 2017 (Pub. L. 115-56), Congress made available \$1.5 billion in CDBG-DR funds for necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, and economic revitalization, followed by the second tranche of \$8.2 billion announced through Federal Register 83 FR 40314. The U.S. Department of Housing and Urban Development (HUD) is the federal oversight agency for these funds, which are administered through the CDBG-DR framework overseen by HUD. These funds are intended to provide financial assistance to address unmet needs that arise and are not covered by other sources of financial aid.

In addition to, and made worse by the disaster impact, Puerto Rico is going through trying times. We have a government in bankruptcy, difficulty in recruiting and retaining public servants, a lack of credibility in public institutions (local and federal), and immense unmet need in the economy, housing, health, and infrastructure sectors; among many others critical issues.

Nonetheless, the PRDOH proudly accepted the challenge to stand up the recovery program in the name of our 3.2 million of citizens. As of this date the PRDOH has:

- I. Created a division with the sole purpose of managing the CDBG-DR grant, with ninety-two (92) employees on board and more under hire;

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- II. Completed an Implementation Plan and Action Plan, and an amendment approved by HUD;
- III. Adopted detailed procurement procedures and processes after HUD approval of the Procurement Manual;
- IV. Established an accounting system in place (Yardi) with internal control mechanisms, the same that is used by many other jurisdictions' Public Housing Authorities, as well as HUD;
- V. Launched several programs, including: The Home Repair, Reconstruction, or Relocation Program (R3), Title Clearance Program, Housing Counseling Program, Low-Income Housing Tax Credit Program (LIHTC), Municipal Recovery Planning Program (MRP), and the Whole Community Resilience Program (WCR);
- VI. Begun disbursement, obligation, and procurement activities accounting for over one billion dollars;
- VII. Invested in substantial capacity and development opportunities for our employees and subrecipients, including Project Management Professional (PMP) certification for our leadership team;
- VIII. Conducted numerous outreach and consultation meetings with all sectors, which include federal and local agencies, municipalities, non-governmental organizations (NGOs), and the general public;
- IX. Contracted consultants to assist in the development of the CDBG-DR approved programs;
- X. Been reviewed by two (2) HUD monitoring engagements, in addition to numerous capacity assessments and reviews by the Government Accountability Office (GAO), the HUD Chief Financial Officer's office; the Office of Management and Budget (OMB); and the Chair and Vice Chair of the House Appropriations Committee.

The PRDOH dedicates itself to delivering unparalleled service to our communities, and our employees have been working hard to meet the goal set, respond to our fellow citizens, provide them with the assistance they need, and be the government agency they deserve.

1. BACKGROUND

PRDOH appreciates the time provided by the OIG local reviewers, as well as senior leadership, during the Exit Conference conducted at the HUD Puerto Rico field office on October 10, 2019. As this was PRDOH's initial review for the 2017 CDBG-DR grant, we appreciate the guidance provided by your team, as well as the opportunity to provide feedback on the process overall and to clarify items indicated in your draft assessment.

Auditee Comments

Comment 1

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HUD OIG is one of the original Offices of Inspector General established by the Inspector General Act of 1978 (Act) and provides independent oversight of HUD's programs and operations. The OIG Audit Plan as of February 28, 2019, states, "[t]he Office of Audit's activities are designed to promote economy, efficiency, and effectiveness in the administration of HUD programs; detect and deter fraud, waste, and abuse in HUD programs and operations; and ensure compliance with applicable laws and regulations." The Article 2 of the Act specifies that it is the duty of OIG to examine these issues for each establishment, in this case HUD, and to "recommend policies for, and to conduct, supervise, or coordinate relationships between such establishment and other Federal agencies [...]"

The review of PRDOH, in this sense, establishes PRDOH as a model by which OIG may assess HUD's performance, and as a case study for OIG's formulation of policy direction to HUD. The Act stipulates that OIG policy recommendations are for the specific purpose of either " (A) to promote economy, efficiency, and effectiveness in the administration of, and (B) to prevent and detect fraud and abuse in, such programs and operations [...]"¹

We appreciate the invitation to provide feedback and provide the comments below for your consideration.

2. THE PRDOH ASSESSMENT

OIG informed PRDOH in its entrance letter that, "[t]he objective of the review is to determine whether the Department of Housing has the capacity to administer its CDBG-DR grants in accordance with **applicable regulations and requirements.**"² The time period being assessed, as per OIG in its Notification Letter, was from September 20, 2018 through February 28, 2019; or roughly the first five months of the 2017 CDBG-DR Program.

Upon our review of other jurisdictions' assessments, we have found that many of the CDBG-DR grantee capacity assessments performed by the OIG are similar in nature. The framework generally includes components such as interviews with HUD and agency officials, a review of the agency disaster recovery delivery framework, review of HUD monitoring risk assessments and monitoring reports, applicable laws, regulations, relevant HUD program requirements, and agreements, and background information on

¹ Ibid.

² Letter from Nikita N. Irons, Regional Inspector General for Audit, Office of Inspector General, U.S. Department of Housing and Urban Development, to Fernando A. Gil Enseñat, Secretary, Puerto Rico Department of Housing (Feb. 28, 2019) (on capacity review).

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governmental entities to which the agency would delegate performance of the grant activities.³

The PRDOH capacity assessment deviates significantly from the framework utilized by OIG in Puerto Rico just a couple of years ago for another agency for the same disaster event. The review conducted here seemingly bypasses the capacity review process and delves straight into a comprehensive audit.

Comment 3

The OIG reviewers were on site for six (6) months, with full access to files and employees and were provided with documents as they were requested. Nevertheless, the draft report fails to consider all documentation provided, and the OIG failed to interview employees from key sectors, such as those from the Contract Administration area, even though they were provided with the PRDOH organizational chart clearly showing the structure of the Department. A more complete review would have revealed important components that the OIG failed to consider in its assessment, such as the contract register which provides information related to vendor names, etc.

Comment 4

When the OIG did conduct interviews, statements from our executives were misrepresented, and the resulting draft report distorts the conversation which took place with the Deputy Secretary, utilizing the representation of the conversation as the basis to conclude a "lack of proper guidance"⁴ regarding procurement policies. The conversation was witnessed by at least two other PRDOH representatives who can attest to the discrepancy in how the statements are represented in the report. In other instances, documents which the OIG cites as lacking (and therefore non-compliant), were simply not requested by the OIG and would have been readily available upon request.

Comment 5

This creates an opportunity to be more diligent in the interview process, and we look forward to collaborating on how to ensure future interviews access the correct individuals, are properly documented, and we verify correct mutual understanding of the information requested, provided and discussed to avoid future discrepancies. We also find that the auditor's assessment frequently deviated from a review within the terms of applicable regulations and instead, delved into public policy views held by the OIG, or best practice recommendations geared towards HUD or federal policy makers, as we will outline below.

³ Memorandum No. 2018-AT-1801 from Nikita N. Irons, Regional Inspector General for Audit, Office of Inspector General, U.S. Department of Housing and Urban Development, to Stanley Gimont, Deputy Assistant Secretary for Grant Programs, DG (November 17, 2017).

⁴ Draft Audit Report provided to PRDOH on October 2, 2019.

Comment 5

Comment 5

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3. OPPORTUNITIES FOR IMPROVEMENT IN THE ASSESSMENT PROCESS

PRDOH appreciates OIG's dedication to ensuring a fair and objective review process. Based on our evaluation of federal implementing regulations, OIG Audit Plans and strategy reports, and our analysis of the PRDOH assessment process, we have identified the following opportunities for improvement in the evaluation process.

1. **We find that the OIG seeks to set public policy through its review process.** For example, OIG, in its February 2019 Audit Plan, states, "OIG has concerns regarding the capacity of grantees and subgrantees receiving funding from HUD programs, including \$35 billion in CDBG-DR funds to address the long-term recovery in the wake of a wide range of devastation during the hurricane season of 2017 and \$15 million granted to the Commonwealth of Puerto Rico to promote tourism and attract new businesses. **OIG believes the money would be better spent to address Puerto Rico's housing crisis. Therefore, audits of grantees and their subgrantee activities will continue to be given emphasis this fiscal year.**"⁵

OIG's statement that the "money would be better spent to address Puerto Rico's housing crisis" interferes with the Government of Puerto Rico's discretion to set public policy in accordance with federal requirements. The \$15 million in tourism and business marketing was part of the Action Plan developed in accordance with HUD requirements, and approved by waiver⁶ of the HUD Secretary, validating that the request was not inconsistent with the Housing and Community Development Act of 1974 (HCDA) (42 U.S.C. 5302). The OIG's questioning of these funds is especially egregious considering that many other states, including New Jersey, Colorado, and Louisiana were previously granted permission to do the same. It also indicates a lack of familiarity with an island economy that is heavily dependent on tourism, and for which economic stagnation is the number one destabilizing factor in the housing sector, leading to vacant properties, etc.

The needs assessment in the current Action Plan outlines at length the relationship between the economy, infrastructure, and housing as demonstrated by the demographic data provided, particularly as it relates to outmigration. This is also supported by multiple key recovery planning documents. For example, the HUD Housing Damage Assessment and Recovery Strategies Report⁷, cited as a source

⁵ Audit Plan, supra.

⁶ Federal Register Vol. 83, No. 28 (August 14, 2018), 83 FR 40314, and Federal Register Vol. 84, No. 33 (February 19, 2019), 84 FR 4836

⁷ U.S. Department of Housing and Urban Development, Housing Damage Assessment and Recovery Strategies Report. (<https://bit.ly/2mRYUrX>)

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in the Unmet Needs Assessment and submitted as part of the supporting document package, states: “[b]ecause of continuing population decline and economic contraction, the housing sales market is soft, which has contributed to increased vacancy, delinquency and foreclosure rates as well as underwater mortgages.”⁸ As stated in the unmet needs assessment, as of 2016, an estimated 43.5% of Puerto Rican residents were identified as living in poverty, compared to 12.7% in the U.S. The median household income in Puerto Rico is \$19,606 and as low as \$15,800 in nine (9) municipalities. Research on disaster impact has shown that pre-disaster trends of economic growth or decline are frequently accelerated or intensified in recovery.⁹ Failure to address household economic sustainability is highly likely to lead to a continued cycle of informal settlement and property abandonment uniquely prevalent in Puerto Rico as compared to other U.S. grantees.

OIG is tasked with promoting economy and efficiency but discounts the dis-economy of focusing on the housing market at the sake of economic recovery, which would likely continue to bleed the housing market and federally-insured mortgage portfolios if left unaddressed.

While the Tourism & Business Marketing Program is not identified in the draft audit report, its mention in the OIG Audit Plan indicates to PRDOH that the framework and purpose by which OIG designed its operations was with a larger pre-determined policy perspective in mind, surpassing the bounds of its originating Act. The policy component of the audit plan provides perspective on the OIG methodology and observations and infringes on the Maximum Feasible Deference granted to states and the authority of the HUD Secretary as granted by Congress.

- II. **The OIG sets unattainable mandates that are not required in state or federal law.** For example, the OIG seeks to require PRDOH to initiate and maintain a multi-state cross-jurisdiction data-sharing agreement, when (a) state data-sharing benefit-verification is not required by the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 — 5207) (Stafford Act), nor HUD policy; only the duplication of benefit (DOB) verification itself is, and (b) FEMA, SBA and other federal agencies likely to produce duplicative benefit do not allow such data-sharing outside of the direct parties to their agreements. The 84 FR 28836 states that the Stafford Act and CDBG-DR appropriations acts require HUD and its grantees to coordinate with other Federal agencies that provide disaster assistance to prevent the DOB. A duplication occurs when a person, household,

⁸ U.S. Department of Housing and Urban Development, Housing Damage Assessment and Recovery Strategies Report, at 17.

⁹ Chang & Rose: Economic Recovery (2012).

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business, or other entity receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. (84 FR 28836). It is important to note that funds given by FEMA, SBA, other Grantees, or any other or entity in a different state are not funds given for "the same recovery purpose" in Puerto Rico. For example, if the PR CDBG-DR Program awards funds to an Applicant for reconstruction of a primary residence in Puerto Rico, it is not feasible for other Grantees to award funds for the "same recovery purpose" in another state.

Comment 6

The multi-state data-sharing concept is representative of an OIG policy recommendation that is better directed to Congress as a recommendation for a stand-alone CDBG-DR program, which PRDOH supports and for which I testified in Congress, but should not be part of the PRDOH assessment to which PRDOH is required to respond.

Comment 7

III. **The OIG incorrectly applied local laws.** OIG asserts "In one file, PRDH [sic] officials did not sign the non-conflict of interest certification as required by Public Law 2 of 2018, known as the Anti-Corruption Code for the New Puerto Rico." Public Law 2 of 2018 Title III applies to persons that wish to establish a contractual, commercial or financial relationship with agencies of Puerto Rico or that have entered into an agreement with the State to render goods or services. PRDOH officials are not required to sign the non-conflict of interest certification under this law. However, the Non-Conflict of Interest required by vendors is evidenced in the file. This and other instances are outlined in our detailed response to the draft report, as attached.

Comment 8

IV. **The OIG assessed PRDOH on non-regulatory standards.** The OIG repeatedly references the "Buying Right CDBG-DR and Procurement: A Guide to Recovery" document as a source against which the PRDOH was evaluated. However, the guide is a HUD toolkit and, while informative, does not carry weight of statute or regulation.

More seriously, the OIG draft finding references a requirement to follow "*Federal* and its own procurement requirements" (emphasis added); however, the regulation at 24 CFR 570.489(g) clearly states: "When procuring property or services to be paid for in whole or in part with CDBG funds, the State shall follow its procurement policies and procedures." The Federal Register notice published on February 9, 2018 (83 FR 5844) governing the use of these funds further clarifies procurement requirements for states. Specifically, 83 FR 5844 states:

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"A State Grantee (including the Commonwealth of Puerto Rico and the U.S. Virgin Islands) has proficient procurement policies and processes if HUD determines that its procurement processes uphold the principles of Full and Open Competition and include an evaluation of the Cost and Price of the product or service, and if its procurement processes reflects that it: (a) adopted 2 CFR 200.318 through 200.326; or (b) follows its own procurement policies and procedures and establishes requirements for procurement policies and procedures for local governments and subrecipients based on full and open competition pursuant to 24 CFR 570.489(g), and the requirements applicable to state, its local governments, and subrecipients include evaluation of the cost or price of the product or service; or (c) adopted 2 CFR 200.317, meaning that it will follow its own state procurement policies and procedures and evaluate the cost or price of the product or service, but impose 2 CFR 200.318 through 200.326 on its subgrantees and subrecipients."

As a requirement for receiving grant funds, the Federal Register Notice required grantees to submit a certification of financial controls and procurement processes to HUD for review and approval. Part B of the *P.L. 115-123 Financial Management and Grant Compliance Certification for States and Grantees Subject to State CDBG Requirements* (Financial Certifications) reiterates these options and requires the grantee to select one of the three aforementioned options with respect to procurement.

On April 13, 2018, the PRDOH submitted its certification package to HUD, wherein it answered "Yes" to question B.2., opting to follow its own procurement policies. Among the documentation presented as part of the Implementation Plan, the PRDOH submitted the Procurement Manual and Contractual Requirements (Procurement Manual) and the 3.1 CDBG-DR Procurement Crosswalk, supporting the certification that PRDOH has proficient procurement policies and procedures in place to "uphold the principles of full and open competition and include an evaluation of cost or price of the product or service." HUD approved PRDOH's Financial Certifications, allowing for the execution of the grant agreement for the initial allocation \$1.5 billion allocation in September 2018. **Therefore, the finding should not refer to "Federal" procurement requirements, nor should PRDOH be evaluated against Federal procurement requirements.**

In its Audit Plan, OIG states: "On January 10, 2017, HUD's former Deputy Secretary issued a memorandum stating that a State grantee that followed its procurement

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policy was not required to follow the Federal requirements. OIG disagrees with this decision and will continue to perform audits in this area."¹⁰ **The OIG's disagreement with HUD is beyond the purview of measuring PRDOH performance as a grantee and is unrelated to the assessment of our capacity.** The PRDOH is complying with HUD's guidance and should be evaluated in line with that guidance; nothing less, and nothing more.

- V. **The OIG review is, in many places, factually incorrect.** The file review conducted by the OIG as part of the draft Finding 2 related to procurement, for example, states that the "Procurement Process [was] Not Properly Followed or Documented" for a micro purchase because "[n]o other quotes found." Yet, in accordance with the PRDOH Procurement Manual and with 2 C.F.R. § 200.320, micro purchases only require one quote. In another instance, the OIG states that the "Independent Cost Estimate [was] Not Properly Supported" in a micro purchase because PRDOH "[d]id not document price analysis", when Article 9 of the PRDOH Procurement Manual, the HUD Buying Right Guide, and 2 C.F.R. § 200.323(a), all provide the directive that price analysis is required when procuring goods or services with federal funds in excess of the simplified acquisition threshold, which is \$250,000.

The listing above is representative of the discrepancies PRDOH found in its file-by-file evaluation of the OIG notations of deficiency in the draft report, and as outlined in our response in Section 4 below, for which we appreciate your review and evaluation.

4. DETAILED RESPONSE TABLE

See specific responses for which we appreciate your review and evaluation.

Item: F1_1

OIG Statement: (2008 Grant) Accounting System: The PRDOH did not maintain a general ledger for the 2008 CDBG-DR funds, which would have allowed us to determine whether program funds were used in accordance with HUD requirements.

PRDOH Response:

(2008 Grant) The accounting information of the CDBG program has been maintained historically in the PRIFAS accounting system, which is the official accounting system of the Commonwealth of Puerto Rico (the Commonwealth). PRDOH is an Executive Agency of the Commonwealth. The Commonwealth disbursed the CDBG funds and provided accounting information to PRDOH that we use to reconcile our internal accounting records. See attached disbursement report [ADM_FM_Report_2008_ASIG All

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¹⁰ Audit Plan, supra.

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Trans_B08DI720001-B08DI72001-B08DI7201] for CDBG-DR 2008 grant since inception until June 30, 2019.

Our internal accounting records are maintained in the Elite software. PRDOH received the CDBG program in August 2018. To maintain the CDBG accounting by activity type, as requested by HUD, we are in the process of installing a Grant Management software as a fully integrated module that works with Elite's existing Property Management and Administrative Suite systems (see attached module description (ADM_FM_Manual_2008_GrantManagement_EmphasysOverview)). This system will allow us to maintain complete accounting records of the CDBG program from August 2018 and thereafter. Our accounting cycle closing date is the 30th of June. PRDOH seeks to complete the accounting activities of the CDBG program from August 2018 to June 30, 2019, of the Disaster Recovery (2008) grant, by December 2019. Such accounting activity will be reconciled with the IDIS system of HUD and PRIFAS. Additionally, PRDOH plans to complete the activities accounting for all subrecipient projects by June 30, 2020. See attached documents.

Attachments: ADM_FM_Manual_2008_GrantManagement_EmphasysOverview
ADM_FM_Report_2008_ASIG All Trans_B08DI720001-B08DI72001-B08DI7201

Item: F1_2

OIG Statement: (2008 Grant) Accounting Policies and Procedures - The PRDOH provided its Accounting Policies and Procedures that were dated June 2015 and created by the former grantee, OCMA. Contrary to regulations at 2 CFR part 200, the Policies and Procedures did not address the implementation of an accounting system that would provide adequate control over funds, property, and other assets; did not address the receipt and disposition of program income; and did not provide detailed procedures to minimize the time elapsing between the transfer of funds from the United States Treasury and the disbursement of funds by non-Federal entities. As a result, HUD lacked assurance that the PRDOH had proficient financial controls in place for its 2008 CDBG-DR grant.

PRDOH Response:

(2008 Grant) PRDOH is in the process of updating the accounting manual for the 2008 grant in accordance with 2 CFR part 200. The updated manual will address the required areas mentioned in the monitoring report. Nonetheless, procedures are in place for proper accounting of transactions including property, and other assets; receipt and disposition of program income; cash management and the disbursement of funds. Please note our single audit reports do not include financial or compliance findings in any of these areas. These controls will be included in writing in the updated manual. PRDOH expects to complete the 2008 manual update by June 30, 2020.

Item: F1_3

OIG Statement: (2008 Grant) Reviews for Preventing Duplication of Benefits - On September 24, 2013, and May 1, 2014, the former grantee of the 2008 CDBG-DR funds requested data from its subgrantees to perform duplication of benefits analyses. A PRDOH official informed us that the data were still under review and the analysis for preventing duplication of benefits was not completed. More than 5 years had elapsed since the data were requested from its subgrantees, and the review for preventing duplication of benefits had not been completed. This issue was also identified as a concern in the April 24, 2015, HUD

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Comment 13

Monitoring Report, but the condition remained. The lack of reviews increased the risk of not detecting instances of possible duplication of benefits in a timely manner.

PRDOH Response:

(2008 Grant) Related to this concern, the PRDOH is recruiting personnel to attend DOB analyses exclusively concerning the CDBG-DR-2008 Program that was initiated by the predecessor agency(s). In addition, the PRDOH undertakes to submit a quarterly progress report to HUD as of the first quarter of 2020.

Item: F1_4

OIG Statement: (2008 Grant) Data-sharing Agreements - On August 7, 2014, the Government of Puerto Rico established a Data-sharing Agreement with the SBA for its 2008 disaster. However, the terms of the agreement were effective for only 36 months, meaning that it expired on August 6, 2017. As of August 30, 2019, the PRDOH still had more than \$6.4 million of its 2008 disaster funds to spend, but the SBA agreement had expired.

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PRDOH Response:

(2008 Grant) Related to this concern, the PRDOH sent the request for extension of time and update of grantee information to amend the MOU with the Small Business Administration (SBA). See attached document.

Attachments: ADM_POLI_Correspondence_SBA_2008_ISSA_ExtensionRequest_CDBG

Item F1_5

OIG Statement: (2008 Grant) Policies and Procedures - The PRDOH provided us with the procurement policies and procedures associated with its 2008 CDBG-DR Grant, dated June 2015. According to these policies and procedures, the grantee adopted the general procurement standards outlined at 2 CFR 200.318-32614 for the purchase of goods and services. However, we determined that the policies and procedures were not adequate or in compliance with HUD's requirements. The policies and procedures were about two pages long, did not establish responsibilities, and did not contain detailed information outlining the steps to follow when procuring goods and services. As a result, HUD lacked assurance that the PRDOH had in place proficient procurement controls for its 2008 CDBG-DR grant.

Comment 15

PRDOH Response:

(2008 Grant) The PRDOH will review and update the procurement policies and procedures associated with its CDBG-DR-2008 Grant. The PRDOH undertakes to submit a quarterly report to the Federal Department of Housing (HUD) as of the first quarter of 2020, with the revised procurement policies and procedures associated with its 2008 CDBG-DR Grant including established responsibilities, and containing detailed information outlining the steps to follow when procuring goods and services. However, PRDOH, as a whole, has in place proficient procurement controls for its 2008 CDBG-DR grant and for all federal programs currently administered.

Item F1_6

OIG Statement: Staffing level - The PRDOH was increasing the number of employees in accordance with its staff plan to ensure that it had adequate resources to administer the 2017 CDBG-DR program. According to its organizational chart, dated March 4, 2019, the PRDOH had 36 disaster recovery staff members on board and 171 vacancies. The June 20, 2019, organizational chart showed that the PRDOH had 63 disaster recovery staff members onboard and 146 vacancies. Although the PRDOH had reduced the number of vacancies,

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key divisions still lacked staff members to adequately administer its program. For example, the Procurement, Internal Audit, and Monitoring Divisions were significantly understaffed according to the June 20, 2019, organizational chart. On March 21, 2019, the Procurement Director informed us that he expected to hire half of his personnel by June 1, 2019. However, this did not happen, and the division was significantly understaffed.

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PRDOH Response:

(2017 Grant) PRDOH has continued to increase the number of employees as shown in the attached organizational chart. According to the most recent organizational chart, there are 92 positions filled. This demonstrates that PRDOH is in the process of acquiring personnel capable of adequately administering the CDBG-DR programs. Of particular note is the substantial increase in capacity in the Monitoring Division.

Attachments: PRDOH CDBG-DR Organizational Chart – HUD_20191021

Item F1_7

OIG Statement: Internal Audit Division - The Chief Audit Executive must report to a level within the PRDOH that allows the internal audit activity to fulfill its responsibilities. The PRDOH had an internal audit division that reported to the head of the grantee, the Puerto Rico Housing Secretary. The Internal Audit Division should instead report to a Board of Directors or Audit Committee to ensure organizational independence and accountability. The Chief Audit Executive informed us that the PRDOH did not have a board or audit committee, the matter had been discussed with the PRDOH secretary, and the secretary favored the establishment of an audit committee to provide more independence to the internal audit function.

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PRDOH Response:

(Not Grant Specific) PRDOH does not have a Board of Directors like the Puerto Rico Public Housing Authority, but the Secretary constitutes the Board as defined by the International Standards for the Professional Practice of Internal Auditing (attached ADM_AUDIT_Guide_IPPF-Standards-2017).

Board: The highest-level governing body (e.g., a board of directors, a supervisory board, or a board of governors or trustees) charged with the responsibility to direct and/or oversee the organization's activities and hold senior management accountable. Although governance arrangements vary among jurisdictions and sectors, typically the board includes members who are not part of management. If a board does not exist, the word "board" in the Standards refers to a group or person charged with governance of the organization. Furthermore, "board" in the Standards may refer to a committee or another body to which the governing body has delegated certain functions (e.g., an audit committee).

The Secretary of the DOH person charged with governance of the organization and the CDBG-DR Internal Audit Activity Charter in Title IV Authority establishes that "The Director of the DOH-IAO will report functionally to the Secretary of the PRDOH or designated Audit Committee and administratively to the Secretary."

Comment 17

However, the Secretary favored the establishment of an audit committee to provide more independence to the internal audit function and he has the authority to designate it according to the Charter. So PRDOH is evaluating the creation of an Audit Committee and developing procedures to create its Charter using The Institute of Internal Auditors Model Audit Committee Charter (attached ADM_AUDIT_Template_Model-Audit-Committee-Charter). PRDOH is also evaluating the Audit Committee composition. To guarantee the Audit Committee can fulfill all Standards and requirements its members must collectively possess technical accounting, auditing, and financial management

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expertise, have representation from outside the government and must be provided with the adequate education and training relating to the CDBG-DR Program. Likewise, Audit Committee member terms should be longer than one year and staggered to provide continuity and should meet on a regular and frequent (more than once a year) basis.

Attachments: ADM_AUDIT_Guide_IPPF-Standards-2017
ADM_AUDIT_Template_Model-Audit-Committee-Charter

Item F1_8

OIG Statement: Timely Expenditure of Funds - The PRDOH did not develop adequate procedures outlining the steps to follow for tracking monthly grant expenditures as required by 83 FR 5844 (February 9, 2018). The PRDOH's policy indicated that it would use HUD's CDBG-DR grantee projection of expenditures and outcomes template to forecast expenditures and outcomes of each funded activity. However, there were no procedures outlining the expenditures as required by section VI, paragraph A.I.a.(4), of 83 FR 5844 (February 9, 2018)

PRDOH Response:

(2017 Grant) 83 FR 5844 does not specifically require that PRDOH (grantee) prepare step by step procedures to address tracking monthly expenditures. PRDOH has an established policy to determine timely expenditures as reflected in the financial policy manual, updated August 2019, and addressed in the invoice payment SOP. Furthermore, the Budget Bureau performs weekly reconciliations between Financial and DRGR systems (see ADM_FM_Report_WeeklyBudgetReport_PR_10_16_2019).

There is no requirement in the federal register that explicitly details that HUD's template must be used to track monthly expenditures. PRDOH has adequate procedures to determine timely expenditures; additionally, an updated financial policy manual and corresponding SOPs were submitted to HUD in August 2019.

Attachments: ADM_FM_Report_WeeklyBudgetReport_PR_10_16_2019

Item F1_9

OIG Statement: Reprogramming of Funds - Contrary to section VI, paragraph A.I.a.(4), of 83 FR 5844 (February 9, 2018), the PRDOH did not develop adequate procedures to reprogram program funds of stalled activities. The procedures required that the finance director review profit and loss statements, costs be compared with budgets and prior periods at an appropriate level of detail, and budgets and forecasts be updated during the year. The PRDOH's procedures to determine timely expenditures were vague and lacked detailed information pertaining to timing and frequency of reviews or the steps to be followed during the review.

PRDOH Response:

2017 Grant) PRDOH does not have specific language to address reprogramming of funds since the prioritization was on program launch and effective flow of funds through invoicing. The goal of PRDOH finance is to update its procedures by the end of the calendar year 2019 by addressing reprogramming of funds. With invoicing underway in July 2019, there are minimal funds that could potentially be reprogrammed. Furthermore, the amendments to the action plan and reprogramming of funds were requested by PRDOH Finance Division and approved by HUD.

Item F1_10

OIG Statement: Program Income - The PRDOH did not develop adequate policies and procedures for program income as required by section VI, paragraph A.19, of 83 FR 5844

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Comment 20

(February 9, 2018). The PRDOH's policies and procedures omitted two examples of program income that were included in the Federal Register alternative requirements. In addition, the policy made reference to program income from the CDBG program when it should properly refer to program income from the CDBG-DR funds.

PRDOH Response:

(2017 Grant) 83 FR 5844 A.19 does not specify that a procedure must be developed to address each type of program income as defined. PRDOH has a developed policy which addresses program income and is reflected in the financial policy manual, updated August 2019. Program income is not anticipated until 24 months post the launch of the LIHTC and economic development loan programs.

Item F1_11

OIG Statement: Cost Allocation Plan - In its grant agreement with the PRDOH, HUD imposed a special condition requiring that the PRDOH's policies and procedures outline a cost allocation methodology. The PRDOH's financial policy outlined a methodology for allocating payroll costs. However, the policy did not establish the methodology and steps to follow regarding other possible shared items of cost that could warrant a cost allocation, such as rents, equipment, utilities, etc.

PRDOH Response:

(2017 Grant) PRDOH is required to submit a cost allocation plan methodology within 6 months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs per Appendix VII to Part 200 on section D.1(d). PRDOH's fiscal year closed on June 30, 2019; therefore, the cost allocation plan methodology submission deadline is December 31, 2019.

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Item F1_12

OIG Statement: Accounting System - Regulations in 2 CFR (Code of Federal Regulations) 200.302 require maintaining records that contain financial information pertaining to Federal awards. The PRDOH's Accounting System did not list disbursements by grant and activity type. As a best practice, this information is essential to ensure that the 2017 CDBG-DR drawdowns were adequately accounted for and used for eligible purposes. In addition, this information is crucial for the completion of accurate progress reports. A PRDOH official informed us that the accounting system did not differentiate between grants because only one grant agreement had been signed with HUD, and that the PRDOH was waiting for HUD's instructions on how to account for the additional disaster allocations. The official also stated that the PRDOH could determine the amount disbursed by activity type by manually selecting the activity that pertained to a particular type. Although the grantee could provide the amount disbursed for a specific type of activity, it was a manual process, which made it susceptible to human error and inaccurate data. In addition, this could become a cumbersome task because the number of funded activities will significantly increase in the future. The PRDOH needs to enhance its accounting system capabilities to provide accurate and reliable information.

Comment 22

PRDOH Response:

(2017 Grant) The PRDOH uses the Yardi Voyager system to register its financial transactions. Disbursements are identified by grant and activity which is identified by a code that details the grant, project type, project title, national objective, and activity name. The Yardi general ledger details the grant and activity by using a code like r01a01adm-doh-na-Administration or r01e15sbf-edc-lm-Small Business Financing LMI (see

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ADM_FM_Report_DRGRVoucherCoverSheet). Financial management systems require manual entry of invoices with costs allocated by use of the general ledger's chart of accounts. The Yard system provides several levels of authorization and approval through automated workflows associated with the pre-intervention of invoices.

Attachments: ADM_FM_Report_DRGRVoucherCoverSheet

Item F1_13

OIG Statement: Lack of Adequate Procedures - The PRDOH did not have in place the procedural or implementing aspects of its duplication of benefits policies for the Small Business Financing Program and the Construction and Commercial Revolving Loan Program. According to PRDOH officials, the procedures were still condition is the result of the grantee's being in the planning stages of its 2017 CDBG-DR grants. As a result, HUD lacked assurance that the PRDOH had proficient controls to prevent the risk of duplication of benefits.

PRDOH Response:

(2017 Grant) The PRDOH CDBG-DR Cross Cutting Guidelines have an entire section dedicated to DOB. Section 11 of said guidelines establish that the CDBG-DR Program will ensure that a DOB analysis is performed for each applicant to consider all possible disaster recovery funding sources when processing applications for assistance. PRDOH disagrees with the broad interpretation of this finding, as there are comprehensive standard operating procedures regarding DOB review for the programs currently underway (see the R3 User Guide described in response to F1_14). The Small Business Financing Program and the Construction and Commercial Revolving Loan Program are scheduled for later roll-out and as such, will also have comprehensive standard operating procedures regarding DOB specific to the application of those programs in place before services are provided. Therefore, PRDOH finds this finding to be premature.

Attachments: HSN_R3_User Guide_v1

Comment 23

Item F1_14

OIG Statement: Data-sharing Agreements - In March 20, 2018, the PRDOH established a Data-sharing Agreement with the SBA for its 2017 disaster. However, the terms of the agreement were effective for only 18 months, meaning that it should expire on September 20, 2019. As of August 30, 2019, the PRDOH still had the majority of its 2017 disaster funds to spend. The sharing agreement would expire before it could be used to provide useful information to detect and prevent duplication of benefits. A PRDOH official informed us that the PRDOH did not establish a Data-sharing Agreement with the Office of the Insurance Commissioner of Puerto Rico regarding private insurance payments to potential grant recipients. In addition, the PRDOH official stated that the PRDOH had not established a Data-sharing Agreement with other CDBG-DR grantees regarding payments to grant recipients not residing in Puerto Rico. The lack of data sharing increases the risk of duplication of benefits because the PRDOH must rely on applicant self-certifications.

PRDOH Response:

(2017 Grant) Data Sharing Agreement with SBA: On March 20, 2018, the PRDOH and the Small Business Administration (SBA) executed an Information Sharing Access Agreement (ISAA) applicable to FEMA- 4336-DR-PR (Hurricane Irma) and FEMA-4339-DR-PR (Hurricane Maria). The data under the ISAA is used as part of unmet needs assessment for the Puerto Rico CDBG-DR Action Plan and for Duplication of Benefit (DOB) Analysis. Title VI of the ISAA (Term, Termination and Amendment) reads: "This Agreement will take effect

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when signed by both parties and continue for 18 months unless sooner terminated. This Agreement may only be amended upon written mutual consent of both parties ... " By combining the date of execution and term of eighteen (18) months, the ISAA was set to expire on September 20, 2019. Therefore, an amendment to the ISAA to extend its term for an additional year was requested. The SBA accepted said extension and on September 30, 2019, the Amendment was executed. This set a revised expiration date for September 20, 2020. (See ADM_POLI_Correspondence_SBA_ISSA_4339-DR-PR-Amendment)

Comment 6

Office of the Insurance Commissioner of Puerto Rico and Data-sharing Agreement with other CDBG-DR grantees: The Federal Register Notice entitled "Updates to Duplication of Benefits Requirements under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees" was published 6/20/2019, (84 FR 28836 and 28848) and it further clarified requirements for disasters declared between 2015 and 2021. The 84 FR 28836 states that the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 — 5207) (Stafford Act) and CDBG-DR appropriations acts require HUD and its grantees to coordinate with other Federal agencies that provide disaster assistance to prevent the duplication of benefits (DOB). A duplication occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. (84 FR 28836) it is important to notice that funds given by FEMA, SBA , other Grantees, or any other or entity in a different state are not funds given for "the same recovery purpose" in Puerto Rico. For example, if the PR CDBG-DR Program awards funds to an Applicant for reconstruction of a primary residence in Puerto Rico, it is not feasible for other Grantees to award funds for the "same recovery purpose" in another state.

Comment 24

To calculate DOB grantees are required to identify "total assistance." Total assistance includes all reasonably identifiable financial assistance available to an applicant. At a minimum, the grantee's efforts to identify total assistance must include a review to determine whether the applicant received FEMA, SBA, insurance, and any other major forms of assistance (e.g., State disaster assistance programs) generally available to applicants. (84 FR 28836). The Cross Cutting Guidelines have an entire section dedicated to DOB. Section 11 of said guidelines establish that the CDBG-DR Program will ensure that a DOB analysis is performed for each applicant to consider all possible disaster recovery funding sources when processing applications for assistance.

Regarding insurance payments, the R3 Program Guidelines, in Section 7.1.4, establish the following: "All property, flood or casualty insurance settlement amounts for loss to dwellings are deducted from the applicant's funding assistance award. [...] Insurance proceeds are initially determined by the Program through applicant provided information. Program applicants will authorize the Program to contact third-party private insurance providers to verify information provided by the applicants within their applications. [...]" Actually, the R3 Program and the Title Clearance Program have established documents that, by an authorization of the Applicant, allow the CDBG-DR Program to request from any company which held insurance policies for the Applicant, any other company or entity - public or private - from which the Applicant has applied for or is receiving assistance (such as FEMA, the SBA or others) or any non-public or confidential information, determined to be reasonably necessary by the Program, to release said information to the Program (See HSN_R3_User Guide_V1).

Finally, the Office of the Insurance Commissioner of PR has notified the Disaster recovery Deputy Secretary that they do not have access to individual claims information from the Insurance companies in PR. PRDOH goes directly to the primary source of insurance payments, the insurance companies, in order to get the exact information needed of an Applicant.

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Attachments: ADM_POLI_Correspondence_SBA_ISSA_4339-DR-PR-Amendment
HSN_R3_User Guide_v1

Item F1_15

OIG Statement: Article VIII, section 5, of the policy was vague regarding the applicability of performing cost or price analyses before sealed bids are opened. Section 3.4 of HUD's Buying Right Guide recommends that a cost or price analysis be performed before receiving bids or proposals. Regulations at 2 CFR 200.323(a) also require non-Federal entities to make independent estimates before receiving bids.

PRDOH Response:

(2017 Grant) This finding references the HUD Buying Right Guide, which is not a regulation. However, Article IX, sections 2 and 3, of the Procurement Manual details the cost and price analysis requirements for all competitive procurement methods. Per 2 CFR 200.323(a), "the non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications," The Procurement files reviewed by the OIG office were all under the Simplified Acquisition Threshold. Per the HUD.gov website, subsection "Contracting by HUD Grantees- Technical assistance", a price analysis is defined as "Price analysis is essentially price comparison. It is the evaluation of a proposed price (i.e., lump sum) without analyzing any of the separate cost elements that it is composed of." This resource also defines a cost analysis as "Cost analysis is the evaluation of the separate elements (e.g., labor, materials, etc.) that make up a contractor's total cost proposal or price (for both new contracts and modifications) to determine if they are allowable, directed related to the requirement and ultimately, reasonable." Both evaluation methods cannot be completed until after proposals are submitted for review.

Although an Independent Cost Estimate is completed for all procurement methods, including those reviewed by the OIG office, per Article IX, section 2, of the policy states "The Disaster Recovery Division, the Finance Division, the Environmental Division, or a consultant of PRDOH or its subgrantee (as applicable in the procurement) shall obtain an independent cost estimate (Independent Cost Estimate; ICE) for all procurement actions in excess of the Small Purchase Threshold or the amount of \$250,000.00." No requirement is referenced in the policy for the establishment of an Independent Cost Estimate for solicitations under the \$250,000 amount. The purpose of an Independent Cost Estimate for Micro-Purchase and Small Purchases is to obtain a certification of funds.

Item F1_16

OIG Statement: Article VIII, section 7, of the Procurement Policy did not include a process for soliciting and accepting noncompetitive proposals as required by 24 CFR 570.489(g). Section 10.3 of HUD's Buying Right Guide establishes that grantees must have written procedures for all procurement transactions, including noncompetitive procurement.

PRDOH Response:

(2017 Grant) This finding once again references the HUD Buying right guide, which is not a regulation. However, Article VIII, Section 7 of the Procurement Manual details the Noncompetitive Proposal method and Emergency Purchases. The referenced 24 CFR 570.489(g) does not state the process for soliciting and accepting noncompetitive proposals. However, the regulation does state "When procuring property or services to be paid for in whole or in part with CDBG funds, the State shall follow its procurement policies and procedures." The Procurement Manual and Contractual requirements for CDBG-DR,

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which was approved by HUD on September 20, 2018, clearly defines the Noncompetitive Proposals method and Emergency Purchases process.

Item F1_17

OIG Statement: Article VIII, section 8, of the Policy stated that the process for General Services Administration proposals would be evaluated by an "Evaluation Committee," with its members designated by the "Administrator." Although there is a committee, there is no "Administrator" position in the PRDOH organizational chart for the 2017 CDBG-DR grant.

PRDOH Response:

(2017 Grant) Throughout the manual, the designation of the evaluation committee for all Competitive Procurement Methods is appointed by the Secretary of the PRDOH. The term "Administrator" under the General Services Administration Proposal section was an oversight and should be aligned with the language stated in the other sections of the manual which reference the evaluation procedures. The Secretary of the PRDOH appoints all committee members for competitive procurement methods.

Item F1_18

OIG Statement: Article XI of the Policy did not reference the establishment of a contract register and the kind of information it should collect. Section 3.8 of HUD's Buying Right Guide provides that grantees should maintain a contract register with vendor names, contractor or subcontractor, type of procurement, funding source, brief descriptions, a summary of change orders, etc.

PRDOH Response:

(2017 Grant) The regulations at 2 C.F.R. part 200, specifically section 200.218(i), establishes the following: (i) The Non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price." As per Regulations applicable to CDBG-DR do not require to have a contract register. The HUD's Buying Right Guide is not a regulatory provision. Nevertheless, the Article XI fully complies with 2 C.F.R. § 200.218(i) as it states that Official records need to include the following: (a) A document explaining the rationale for the method of procurement used, (b) a document explaining on the rationale for the selection or rejection of the Contractor (c) the basis for the Contract price; (d) all determinations, interlocutory or final, taken by the PRDOH, any Program subgrantee, the Procurement Director, the Procurement Staff, the Evaluation Committee, the Secretary, the Bid Board, and/or the Bid Revision Board; and (e) all documents or information requested, received or considered by the PRDOH, its agents and/or the Department; among others. As well, the Contracts Administration area under the Legal Division does have a contract tracker. However, even though the Auditors had access to the organizational Chart and knew that the Legal Division has a Contract Administration Area, they did not interview any of its staff to inquire about said tracker. Finally, the PRDOH CDBG-DR website includes a tab where every single agreement is published in compliance with HUD regulations.

Comment 28

Item F1_19

OIG Statement: Article XII, section 2, of the Policy did not require contracts to include language related to paragraph A of Appendix II in 2 CFR part 200, which required contracts to address administrative, contractual, or legal remedies and provide sanctions and penalties as appropriate.

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Comment 29

PRDOH Response:

(2017 Grant) The statement is incorrect. The Procurement Manual, Article XI, Section 2 clearly states: "All Contracts shall contain, among others, a clause identifying the type of Contract, and all required provisions set forth at 2 CFR 200.326, Appendix II, the mandatory clauses contained on the latest released HUD forms, as applicable to the Contract type. Each [...] Contract shall also include all other clauses required by federal and state laws, the 83 Fed. Reg. 28 (February 9, 2018), Executive Orders, rules and regulations, in accordance with 24 CFR 570.489(g), including, without limitation: (a) All contracts, except for general management consulting services, will include performance requirements and liquidated damages. (b) Termination for cause and convenience in all Contracts in excess of \$10,000.00 including manner by which the agency will be affected and the basis for settlement [...]" As well, a brief revision of the Contracts would have shown that, each and every one executed during the scope of the Audit includes clauses regarding remedies, sanctions and penalties. For example, see clause regarding Penalties and Liquidated Damages included in every agreement signed by the PRDOH.

Item F1_20

OIG Statement: Article XIII, section 1, of the PRDOH Policy did not identify the internal PRDOH norms for approving change orders resulting from unilateral modifications to contracts or purchase orders.

Comment 30

PRDOH Response:

(2017 Grant) The referenced article defines the contract modification and change order procedures. The "Internal norms" of the change order process is not a requirement to be included in the Procurement Manual.

Item F1_21

OIG Statement: Article XV, section 1, of the Policy required the PRDOH and its contractors to maintain contract records for a minimum of 3 years after final payment. However, 24 CFR 570.490(d) requires States to retain records for the greater of 3 years from closeout of the grant or the period required by other applicable laws and regulations. As a result, the PRDOH used a less stringent regulation, which did not comply with 24 CFR 570.490(d).

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PRDOH Response:

(2017 Grant) 24 CFR 570.490(d) states: "Records of the State and units of general local government, including supporting documentation, shall be retained for the greater of three years from closeout of the grant to the state, or the period required by other applicable laws and regulations as described in § 570.487 and § 570.488." Please note that the duty to retain the records is to the State (PRDOH) and not the contractors. As stated in every contract, when closeout of the Contract occurs, the contractor needs to deliver to PRDOH all documents related to the services performed or equipment supplied.

Also, the Contract Administration Area of the Legal Division, after a compliance review of the model contract, performed on March 2019, included the following clause on all contracts: DOCUMENTATION AND RECORDKEEPING - A. Records to be Maintained: The CONTRACTOR shall maintain records of the state and units of general local government, including supporting documentation, which shall be retained for the greater of five (5) years from closeout of the grant to the state, or the period required by other local applicable laws and regulations. Note that, this clause is more stringent than 25 CFR 570.490.

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Item F1_22

OIG Statement: Article XVII, section 1, of the Policy regarding "Conflict of Interest and Ethics in Public Contracting" did not reference 24 CFR 570.489(g) and (h). These two references should have been included as they explicitly require the State's policies and procedures to include standards of conduct governing employees engaged in the award or administration of contracts, as well as provisions to avoid conflicts of interest. The policy did not outline standards of conduct and possible conflicts of interest by PRDOH officials, employees, subrecipients, or contractors. As a result, the PRDOH did not comply with requirements in 24 CFR 570.489(g) and (h).

PRDOH Response:

(2017 Grant) The rules of conduct of PRDOH's employees are included in the Manual of Disciplinary Measures for PRDOH Employees (see ADM_POLI_Policy_DV-10.5-1). The previously mentioned Manual contains specific provisions, numbers 18 and 26, that prohibit employees from having economic benefit of relations with people who have business with the PRDOH. In addition to the above, the Policy includes that all the prohibitions included in the Anti-Corruption Code and the Government Ethics Law, are applicable to PRDOH employees. Both above-mentioned laws are more stringent than the requirements in 24 CFR 570.489(g) and (h).

The Puerto Rico Government Ethics Act is administered by the Office of Governmental Ethics. The Office is the one that is required by law to establish the policies regarding ethics. All the provisions of the Government Ethics Act apply to all PRDOH's employees. As part of the Government Ethics Act, it is included the Code of Conduct for Employees of the Executive Branch. There, it is established in Article 4.1, that said Code regulates the conduct of the current and former public servants of the Executive Branch, all applicable to PRDOH's employees. Finally, see Article I, Section 5, [of the Code of Conduct] that establishes that all procurement transactions must be conducted in accordance with 24 CFR 570.489(g).

Attachments: ADM_POLI_Policy_DV-10.5-1

Item F1_23

OIG Statement: Article XVII, section 2, of the Policy did not specify which provisions of the Puerto Rico Government Ethics Act of 2011 applied to PRDOH agents, subrecipients, and contractors. The PRDOH should specify which provisions apply to avoid confusion and misinterpretation.

PRDOH Response:

(2017 Grant) The finding is not correct. The Puerto Rico Government Ethics Act is administered by the Office of Governmental Ethics (Office). The Office, not PRDOH, is the entity that is required by law to establish the policies regarding ethics. As stated in the Government Ethics Act, its provisions apply to all the Executive Branch employees. The Act does not apply to private entities. Nevertheless, Article I, Section 4 of the Policy establishes that: "The procurement policies and procedures contained herein are applicable to every procurement action under PRDOH CDBG-DR programs and activities whether funded in whole or in part CDBG-DR funds [...]. These Regulations shall apply to the procurement by Non-Federal Entities of goods, products and/or services funded, in whole or in part, with the CDBG-DR appropriated by the Disaster Relief Appropriations Act 2018 (Pub. L 115-56). [...]"

Accordingly, when procuring property and services under the CDBG-DR grants, the PRDOH and all subrecipients (public and private) shall follow these Procurement and

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Acquisition Regulations (the "Regulations")." In case a Subrecipient is a governmental entity from the Executive Branch, the Governmental Ethics Act clearly establishes its applicability to it. However, if the Subrecipient is not an entity from the Executive Branch, the applicable law would be the Policy and the Anti-Corruption Code. All of these applicability issues are clearly stated in both, the Government Ethics Act and the Anti-Corruption Code.

Item F1_24

OIG Statement: Article XVII, section 2, of the PRDOH Policy had not established policies and procedures to implement Puerto Rico Law 2 of 2018 (Anticorruption Code) as required by section 10.3 of PR Law 2-2018.

Comment 34

PRDOH Response: (2017 Grant) The PRDOH is finalizing the policy to implement the Anticorruption Code.

Item F1_25

OIG Statement: The PRDOH had procurement procedures for the acquisition of goods and services; however, these procedures were not dated or signed by an approving official. According to the PRDOH's Procurement Director, the procedures were still in draft form and had not been approved by the compliance officer.

Comment 35

PRDOH Response:

(2017 Grant) The specific procedures mentioned in this finding are in reference to the Standard Operating Procedures which serve as a guideline based on the Procurement manual but are not a program requirement based on a federal regulation. Additionally, the time period for the OIG review has been unclear. This Finding is based on the time period declared by the OIG during its on-site reviews and during its Finding Outline and Message Meeting on September 26, 2019, at which the reviewer stated that only the "procedures" in place between September 20, 2018 and February 28, 2019 could be evaluated. At the formal Exit Conference on October 10, 2019 however, and in its draft report, the OIG stated that the audit period extended to August 30, 2019. If the August 30, 2019 date is the accurate end period for the review, the procurement standard operating procedures (SOPs) should be reflected as signed and dated as they were signed by the approving official on July 3, 2019 in accordance with the SOP process implemented by PRDOH on April 1, 2019; therefore making this finding inaccurate if the OIG is referring to a desire to review Standard Operating Procedures. (See ADM_PROC_SOP_IFP_Internal_v1; ADM_PROC_SOP_Micro and Small Purchases; ADM_PROC_SOP_RFQ-RFP_Internal_v1)

Attachments: ADM_PROC_SOP_IFP_Internal_v1;
ADM_PROC_SOP_Micro and Small Purchases;
ADM_PROC_SOP_RFQ-RFP_Internal_v1

Item R1_1

OIG Recommendation: 1A - Develop adequate procedures outlining steps for tracking monthly grant expenditures, reprogramming funds for stalled activities, managing program income, and allocating costs as required by Federal Register Notice 83 FR 5844 and the grant agreement with HUD.

Comment 36

PRDOH Response:

(2017 Grant) See enclosed: Weekly Budget Report and Approved reprogrammed funds.

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Attachment: ADM_FM_Report_WeeklyBudgetReport_PR_10_16_2019
ADM_FM_Plan_2017_ActionPlan_Non-substantial_1_Reviewed_and_Approved 10-8-2019

Item R1_2

OIG Recommendation: 1B - Ensure that the Financial Management System for the 2017 CDBG-DR Grant can provide information by activity type and grant number.

PRDOH Response:

(2017 Grant) This is already in place. See enclosed: DRGR Voucher Cover Sheet from Yardi System

Attachment: ADM_FM_Report_DRGRVoucherCoverSheet

Item R1_4

OIG Recommendation: 1D - Review and update its 2017 CDBG-DR policies and procedures to prevent duplication of benefits and ensure that these are comprehensive, and all applicable activities are included, including but not limited to the Small Business Financing Program and the Construction and Commercial Revolving Loan program.

PRDOH Response:

(2017 Grant) The PRDOH CDBG-DR Cross Cutting Guidelines have an entire section dedicated to DOB. Section 11 of said guidelines establish that the CDBG-DR Program will ensure that a DOB analysis is performed for each applicant to consider all possible disaster recovery funding sources when processing applications for assistance. The Small Business Financing Program and the Construction and Commercial Revolving Loan Program are scheduled for later roll-out and as such, will also have comprehensive standard operating procedures regarding DOB specific to the application of those programs in place before services are provided.

Comment 38

Item R1_5

OIG Recommendation: 1E - Negotiate with the SBA, within 30 days of the issuance of this audit report, to extend its data-sharing agreements for the term of the expenditure requirements set forth in public laws or the Federal Register in relation to the 2017 and 2008 disasters.

PRDOH Response:

(2008 & 2017 Grants) On September 23, 2019 the PRDOH submitted a request for Extension of the Memorandum of Understanding between the SBA and PRDOH to add one additional year as stated in the attached amendment document. The earlier date of expiration was September 20, 2019 whereas it is now due to expire on September 20, 2020 for the 2017 grant.

Attachment: ADM_POLI_Correspondence_SBA_ISSA_4339-DR-PR-Amendment
ADM_POLI_Correspondence_SBA_2008_ISSA_ExtensionRequest_CDBG

Comment 14

Item R1_6

OIG Recommendation: 1F - Negotiate with Puerto Rico's Insurance Commissioner and with other CDBG-DR grantees, within 30 days of the issuance of this audit report, to establish data sharing agreements for the 2017 CDBG-DR grant disaster, any open disaster recovery grants, and future disasters.

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Comment 39

PRDOH Response:

(2017 Grant) PRDOH has contacted the insurance commissioner who confirmed that the Department of Insurance does not have access and is unable to provide individual policy holder information covered under private insurance. Multi-state data-sharing benefit- verification is not required by the Stafford Act nor HUD policy; only the DOB verification itself is. FEMA, SBA and other federal agencies likely to produce duplicative benefit do not allow such data-sharing outside of the direct parties to their agreements.

Item R1_7

OIG Recommendation: 1G - Complete, within 30 days of the issuance of this audit report, the review for preventing duplication of benefits associated with its 2008 CDBG-DR grant and pursue appropriate remedies for any instances of noncompliance found.

Comment 40

PRDOH Response:

(2008 Grant) The 30-day timeframe is not a reasonable amount of time to conduct the recommended activities.

Item R1_8

OIG Recommendation: 1H - Review and update its Procurement Policy for the 2017 CDBG-DR grant to address weaknesses identified, including, but not limited to, required contract clauses, processes for soliciting and accepting noncompetitive proposals, and performing cost or price analyses before receiving bids or quotations, among other issues.

Comment 41

PRDOH Response:

(2017 Grant) PRDOH believes the items to already be addressed in the Procurement Manual, however the Department will consider the addition of clarifying language.

Item R1_9

OIG Recommendation: 1I - Ensure that the 2017 CDBG-DR Procurement Policy addresses the establishment of a contract register that, at a minimum, contains the procurement information specified in section 3.8 of HUD's Buying Right Guide regarding the PRDOH's acquisitions of goods and services, as well as of its subrecipients and partners.

Comment 28

PRDOH Response:

(2017 Grant) The regulations at 2 C.F.R. part 200, specifically section 200.218(i), establishes the following: (i) The Non-Federal entity must maintain records enough to detail the history of procurement. These records will include but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price." As per Regulations applicable to CDBG-DR do not require to have a contract register. The HUD's Buying Right Guide is not a regulatory provision.

Nevertheless, Article XI fully complies with 2 C.F.R. § 200.218(i) as it states that Official records need to include the following: (a) A document explaining the rationale for the method of procurement used, (b) a document explaining on the rationale for the selection or rejection of the Contractor (c) the basis for the Contract price; (d) all determinations, interlocutory or final, taken by the PRDOH, any Program subgrantee, the Procurement Director, the Procurement Staff, the Evaluation Committee, the Secretary, the Bid Board, and/or the Bid Revision Board; and (e) all documents or information requested, received or considered by the PRDOH, its agents and/or the Department; among others.

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As well, the Contracts Administration area under the Legal Division does have a contract tracker. However, even though the Auditors had access to the organizational Chart and knew that the Legal Division has a Contract Administration Area, they did not interview any of its staff to inquire about said tracker. Finally, the PRDOH CDBG-DR website includes a tab where every single agreement is published in compliance with HUD regulations.

Item R1_11

OIG Recommendation: 1K - Continue to fill its vacancies with qualified and trained staff, thus ensuring that staffing levels remain adequate to administer the 2017 and 2008 CDBG-DR grant funds.

PRDOH Response:

(2017 Grant) PRDOH has continued to increase the number of employees as shown in the attached Staff Roster document. According to the latest organizational chart, there are 92 filled positions. This demonstrates that PRDOH is in the process of acquiring personnel capable of adequately administering the CDBG-DR programs. Of particular note is the substantial increase in capacity in the Monitoring Division. The 2008 grant, which is managed by a separate team due to HUD funding requirements, is in the closeout phase. Therefore, vacancies will be judiciously evaluated to refrain from over-staffing a grant in the closeout phase.

Attachment: PRDOH Organizational Chart

Item R1_12

OIG Recommendation: IL - Structure the Internal Audit Division within a framework that can ensure its organizational independence and allow the internal audit activity to fulfill its responsibilities.

PRDOH Response:

(Not Grant Specific) PRDOH actually does not have a Board of Directors like the Puerto Rico Public Housing Authority, but the Secretary constitutes the Board as defined by the International Standards for the Professional Practice of Internal Auditing (attached ADM_AUDIT_Guide_IPPF-Standards-2017).

Board: The highest-level governing body (e.g., a board of directors, a supervisory board, or a board of governors or trustees) charged with the responsibility to direct and/or oversee the organization's activities and hold senior management accountable. Although governance arrangements vary among jurisdictions and sectors, typically the board includes members who are not part of management. If a board does not exist, the word "board" in the Standards refers to a group or person charged with governance of the organization. Furthermore, "board" in the Standards may refer to a committee or another body to which the governing body has delegated certain functions (e.g., an audit committee).

The Secretary of the DOH person charged with governance of the organization and the CDBG-DR Internal Audit Activity Charter in Title IV Authority establishes that "The Director of the DOH-IAO will report functionally to the Secretary of the PRDOH or designated Audit Committee and administratively to the Secretary."

However, the Secretary favored the establishment of an audit committee to provide more independence to the internal audit function and he has the authority to designate it according to the Charter. So PRDOH is evaluating the creation of an Audit Committee and developing procedures to create its Charter using The Institute of Internal Auditors Model Audit Committee Charter (attached ADM_AUDIT_Template_Model-Audit-

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Committee-Charter). PRDOH is also evaluating the Audit Committee composition. To guarantee the Audit Committee can fulfill all Standards and requirements its members must collectively possess technical accounting, auditing, and financial management expertise, have representation from outside the government and must be provided with the adequate education and training relating to the CDBG-DR Program. Likewise, Audit Committee member terms should be longer than one year and staggered to provide continuity and should meet on a regular and frequent (more than once a year) basis.

Attachment: ADM_AUDIT_Guide_IPPF-Standards-2017
ADM_AUDIT_Template_Model-Audit-Committee-Charter

Item R1_13

OIG Recommendation: 1M - Provide additional training and technical assistance to the PRDOH on the development of policies and procedures to ensure that procedures comply with applicable Federal and grant requirements.

PRDOH Response: This comment is directed to HUD

Item F2_1

OIG Statement: In one procurement, the PRDOH restricted competition by disqualifying the losing bidder for not providing quotes for all the required services or a quote sheet, while not disqualifying the winning bidder for the same reason.

PRDOH Response:

The PRDOH disagrees with the OIG's statement that PRDOH "disqualified the losing bidder for not quoting all of the required services, while not disqualifying the winning bidder for the same reason." The selected vendor quoted all the required services pursuant to the Scope of Services.

Item F2_2

OIG Statement: In two procurements, the PRDOH disclosed and advertised the maximum possible award amount to proponents, which was the independent cost estimate amount, thereby disclosing confidential information and not promoting full and open competition to obtain a fair price.

PRDOH Response:

PRDOH established a not-to-exceed amount for these services and did not distribute the independent cost estimate document. Additionally, the establishment of a not-to-exceed amount does not restrict full and open competition because all proposers had access to the same information. OIG asserts that the not-to-exceed amount impacts PRDOH's ability to obtain a fair price. PRDOH disagrees with this assertion, as proponents provided quotes by tasks, which allowed PRDOH to evaluate the proposals submitted based on the rates or unit prices provided.

Item F2_3

OIG Statement: In one procurement, the PRDOH restricted competition by requiring proponents to have previous working experience with the PRDOH. Article I, section 5.A.I, of the PRDOH's procurement policy considered placing unreasonable requirements on funds to qualify to do business to be restrictive of competition.

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Comment 44

PRDOH Response:

The PRDOH Procurement Manual requires PRDOH to select at least three quotes for the small purchase process. PRDOH requested three quotes, complying with the minimum requirement in the procurement manual.

Item F2_4

OIG Statement: In one procurement, the PRDOH established an unreasonable deadline (next day before 9:00 a.m.) for potential suppliers to provide quotes. In addition, the winning quote was received after the deadline.

Comment 45

PRDOH Response:

There is no statutory or regulatory requirement as to a minimum required advertisement period related to a micro-purchase.

Item F2_5

OIG Statement: The PRDOH did not perform and document price analyses or independent cost estimates in four of five procurement files reviewed. Specifically, the PRDOH indicated in its independent cost estimates that it used market prices and past experience to estimate the cost of the services. However, the files reviewed did not contain evidence of market price research or past experience. As a result, the basis for determining the reasonableness of the contracted price was not supported.

Comment 46

PRDOH Response:

An Independent Cost Estimate is not required for small purchases per Section 2 of the PRDOH Procurement Manual, which requires "An independent cost estimate (Independent Cost Estimate; ICE) for all procurement actions in excess of the Small Purchase Threshold or the amount of \$250,000.00." Additionally, evidence of market price research and past experience is not required to establish the ICE. Therefore, assertions of lack of evidence of market price research are irrelevant. Nonetheless, an ICE was prepared for this procurement to establish the certification of funds and to determine the method of acquisition.

Item F2_6

OIG Statement: In a procurement, vendors were required to quote all services included in the quote sheet. However, the winning vendor did not quote all the required services and included other items or services not requested by the PRDOH. However, the file did not contain any information on why the new items were accepted and what the PRDOH did to determine the reasonableness of the charges. In addition, the file did not contain supporting documentation showing that the PRDOH verified whether the winning bidder was an eligible contractor (that is, not suspended, excluded, or debarred) as required by the PRDOH's Procurement Policy, Article XIV, Sections 1 and 2.

Comment 42

PRDOH Response:

This statement is incorrect. The selected vendor quoted all of the required services pursuant to the Scope of Services. The required backup documentation for this procurement is available in the file located in the procurement office.

Item F2_7

OIG Statement: Another procurement included information stating that the PRDOH received quotations from six vendors, including the winning quote. However, the procurement file did not include the quotes from the other five vendors that were not

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selected. As a result, there was no assurance that the lowest price was selected and that an adequate number of quotes was obtained.

Comment 47

PRDOH Response:

These quotes are in the procurement office and available upon request. Information on the quotes received are in the procurement file, along with the selected quote. Due to the volume of documents, quotes not selected are not archived in the procurement file.

Item F2_8

OIG Statement: Award notifications were not present in four of the five procurement files reviewed.

Comment 48

PRDOH Response: In the Micro-purchase Process, the Purchase Order serves as the award notification.

Item F2_9

OIG Statement: Segregation of duties was not observed in two procurement transactions as required by 2 CFR 200.303(a). In both cases, the Procurement Director signed the procurement checklist as both Procurement Director and Procurement Supervisor. A lack of segregation of duties could increase the risk of error, misuse, or fraud.

Comment 49

PRDOH Response: Internal procurement checklists are utilized by the procurement department as a tool to verify the completeness of the file. By no means does the signature of the procurement director indicate a lack of segregation of duties, as the checklist has no bearing on the request for services or selection of providers. The segregation of duties is demonstrated throughout the entire procurement process, which includes user requests from external departments to initiate procurements, certification of funds from separate departments, user concurrence, etc.

Item F2_10

OIG Statement: According to section 6.5 of HUD's Buying Right Guide, vendor acceptance of a purchase order is documented through signature of the purchase order or by evidence of work performed. However, in two procurement files, the purchase order was not signed by the vendor, and the files did not contain evidence of work performed.

Comment 50

PRDOH Response:

Supplier signature is not required on the purchase order. Completion of work is certified by the vendor via signed statement upon submission of invoice, which is then certified by the PRDOH employee, as can be verified on page 4 of the invoice package.

Item F2_11

OIG Statement: In one file, PRDOH officials did not sign the non-conflict of interest certification as required by Public Law 2 of 2018, known as the Anti-Corruption Code for the New Puerto Rico.

Comment 51

PRDOH Response:

OIG asserts that "In one file, PRDOH officials did not sign the non-conflict of interest certification as required by Public Law 2 of 2018, known as the Anti-Corruption Code for the New Puerto Rico." Public Law 2 of 2018 Title III applies to persons that wish to establish a contractual, commercial or financial relationship with agencies of Puerto Rico or that have entered into an agreement with the State to render goods or services. PRDOH

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officials are not required to sign the non-conflict of interest certification under this law. However, the Non-Conflict of Interest required by vendors is evidenced in the file.

Item F2_12

OIG Statement: The PRDOH did not ensure that contracts contained required clauses or correct references in three of five procurement files reviewed. According to Article XII, Section 2, of the Procurement Policy contracts must include clauses regarding award protests and contract claims and clauses regarding minority business enterprises and women's business enterprises. However, the PRDOH did not include those required clauses in two contracts. In addition, the PRDOH contracts cited the incorrect CFR references on three contracts reviewed. For example, contracts cited 2 CFR part 3000, which applies to the U.S. Department of Homeland Security, not to HUD.

PRDOH Response:

As of February 2019, only 2 contracts had been executed by the PRDOH related to CDBG-DR issues. In March 2019, the Legal Division made a compliance review of the Model Contract. The outcome of said review was that from that date on, all contracts include clauses regarding award protests and contract claims and clauses regarding minority business enterprises and women's business enterprises. Regarding, the 2 CFR part 3000 reference, the Contract Administration Area has made the necessary arrangements to change the Model Contract to include 2 CFR Part 2424, instead of 2 CFR part 3000. Nevertheless, both regulations speak of the same issue, Suspension and Debarment, so contractually there is not a problem.

Item F2_13

OIG Statement: The conditions identified above were the result of the PRDOH's not having written procedures in place for procurement of goods and services, contrary to regulations at 24 CFR 570.489(g). The Procurement Policy was approved by HUD on September 20, 2018, at the time it signed the grant agreement with the PRDOH. However, its procurement procedures were not part of the certifications package submitted to HUD. Although the PRDOH had since developed written procedures for procurement, they were still in draft and had not yet been approved. The lack of adequate procurement procedures increased the PRDOH's risk of acquiring goods and services that were not reasonable and necessary. Our review of the PRDOH's files found deficiencies in all five procurement files reviewed. (See table 2 below and refer to appendix C for Details of Deficiencies.)

PRDOH Response:

PRDOH disagrees with this finding. The specific procedures mentioned in this finding are in reference to the Standard Operating Procedures which serve as a guideline based on the Procurement manual but are not a program requirement based on a federal regulation. Additionally, the time period for the OIG review has been unclear. This Finding is based on the time period declared by the OIG during its on-site reviews during its Finding Outline and Message Meeting on September 26, 2019, at which the reviewer stated that only the "procedures" in place between September 20, 2018 and February 28, 2019 could be evaluated. At the formal Exit Conference on October 10, 2019 however, and in its draft report, the OIG stated that the audit period extended to August 30, 2019. If the August 30, 2019 date is the accurate end period for the review, the procurement standard operating procedures (SOPs) should be reflected as signed and dated as they were signed by the approving official on July 3, 2019 in accordance with the SOP process implemented by PRDOH on April 1, 2019; therefore making this finding inaccurate if the OIG is referring to a desire to review Standard Operating Procedures.

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Additionally, PRDOH finds most of the listed deficiencies to be unfounded and/or erroneous. See response outlined in section on Response to Appendix C.

Attachment: Responses to Appendix C

Item F2_14

OIG Statement: The PRDOH did not follow Federal and its own Procurement Requirements in awarding contracts and purchase orders. These deficiencies occurred because the PRDOH did not have procurement procedures in place that would guide the procurement process. As a result, HUD had no assurance that purchases totaling \$416,511 were reasonable, necessary, and allowable.

PRDOH Response:

PRDOH disagrees with this finding. The PRDOH Procurement Manual was approved by HUD on September 20, 2018. The specific procedures mentioned in this finding are in reference to the Standard Operating Procedures which serve as a guideline based on the Procurement manual but are not a program requirement based on a federal regulation. Additionally, the time period for the OIG review has been unclear. This Finding is based on the time period declared by the OIG during its on-site reviews during its Finding Outline and Message Meeting on September 26, 2019, at which the reviewer stated that only the "procedures" in place between September 20, 2018 and February 28, 2019 could be evaluated. At the formal Exit Conference on October 10, 2019 however, and in its draft report, the OIG stated that the audit period extended to August 30, 2019. If the August 30, 2019 date is the accurate end period for the review, the procurement standard operating procedures (SOPs) should be reflected as signed and dated as they were signed by the approving official on July 3, 2019 in accordance with the SOP process implemented by PRDOH on April 1, 2019; therefore making this finding inaccurate if the OIG is referring to a desire to review Standard Operating Procedures.

Additionally, PRDOH finds most of the listed deficiencies to be unfounded and/or erroneous. See response outlined response to Appendix C.

Attachment: Responses to Appendix C

Item R2_1

OIG Statement: Submit supporting documentation showing that contracts and purchase orders complied with Federal and its own procurement requirements and that these were reasonable and necessary costs or reimburse the CDBG-DR program \$55,010 from non-Federal funds.

PRDOH Response:

PRDOH disagrees with this finding. The PRDOH Procurement Manual was approved by HUD on September 20, 2018. The specific procedures mentioned in this finding are in reference to the Standard Operating Procedures which serve as a guideline based on the Procurement manual but are not a program requirement based on a federal regulation. Additionally, the time period for the OIG review has been unclear. This Finding is based on the time period declared by the OIG during its on-site reviews during its Finding Outline and Message Meeting on September 26, 2019, at which the reviewer stated that only the "procedures" in place between September 20, 2018 and February 28, 2019 could be evaluated. At the formal Exit Conference on October 10, 2019 however, and in its draft report, the OIG stated that the audit period extended to August 30, 2019. If the August 30, 2019 date is the accurate end period for the review, the procurement standard operating procedures (SOPs) should be reflected as signed and dated as they were signed by the approving official on July 3, 2019 in accordance with the SOP process implemented by

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PRDOH on April 1, 2019; therefore making this finding inaccurate if the OIG is referring to a desire to review Standard Operating Procedures.

Additionally, PRDOH finds most of the listed deficiencies to be unfounded and/or erroneous. See response outlined in Responses to Appendix C

Item R2_2

OIG Statement: Submit supporting documentation showing that contracts and purchase orders complied with Federal and its own procurement requirements and that these were reasonable and necessary costs or cancel the \$361,501 in unpaid obligations related to CDBG-DR funds.

PRDOH Response:

PRDOH disagrees with this finding. The PRDOH Procurement Manual was approved by HUD on September 20, 2018. The specific procedures mentioned in this finding are in reference to the Standard Operating Procedures which serve as a guideline based on the Procurement manual but are not a program requirement based on a federal regulation. Additionally, the time period for the OIG review has been unclear. This Finding is based on the time period declared by the OIG during its on-site reviews during its Finding Outline and Message Meeting on September 26, 2019, at which the reviewer stated that only the "procedures" in place between September 20, 2018 and February 28, 2019 could be evaluated. At the formal Exit Conference on October 10, 2019 however, and in its draft report, the OIG stated that the audit period extended to August 30, 2019. If the August 30, 2019 date is the accurate end period for the review, the procurement standard operating procedures (SOPs) should be reflected as signed and dated as they were signed by the approving official on July 3, 2019 in accordance with the SOP process implemented by PRDOH on April 1, 2019; therefore making this finding inaccurate if the OIG is referring to a desire to review Standard Operating Procedures.

Additionally, PRDOH finds most of the listed deficiencies to be unfounded and/or erroneous. Responses to Appendix C

Item R2_3

OIG Statement: Revise and finalize the procurement procedures to ensure compliance with applicable Federal requirements, including but not limited to procedures to ensure full and open competition, supporting independent cost estimates, properly documenting the procurement history, and including required clauses in contracts, among other issues.

PRDOH Response:

PRDOH believes the items to already be addressed in the Procurement Manual, however the Department will consider the addition of clarifying language.

RESPONSES TO APPENDIX C

Purchase Order: PO 2018-00001

OIG Statement: "No award notification found."

PRDOH Response: In the Micro-purchase Process, the Purchase Order serves as the award notification.

Purchase Order: PO 2018-00001

OIG Statement: "Supplier signature on purchase order or completion of work not found."

Comment 35

Comment 41

Comment 48

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Comment 50

PRDOH Response: Supplier signature is not required on the purchase order. Completion of work is certified by the vendor via signed statement upon submission of invoice, which is then certified by the PRDOH employee, as can be verified on page 4 of the invoice package.

Comment 45

Purchase Order: PO 2019-00003

OIG Statement: "Unreasonable deadline established."

PRDOH Response: There is no statutory or regulatory requirement as to a minimum required advertisement period related to a micro-purchase. "The micro-purchase process is designed to minimize the administrative components and paperwork of a solicitation."

Comment 53

Purchase Order: PO 2019-0003

OIG Statement: "Winning quote received after deadline."

PRDOH Response: The micro-purchase process is designed to minimize the administrative components and paperwork of a solicitation. Micro-Purchases may be awarded without soliciting competitive quotes when price is reasonable. A Micro-Purchase can be completed with only one quote that is responsive from a reasonable supplier and for a reasonable price. For this type of acquisition, the date and time set by which to provide a quotation serves as a timeframe to incentivize the vendor to provide a response. The time and date are not a deadline for this method of acquisition. Therefore, PRDOH disagrees with OIG's assertion that a deadline impacts full and open competition for a single-source micro purchase.

Comment 46

Purchase Order: PO 2019-0003

OIG Statement: "Did not contain evidence of market price research and past experience."

PRDOH Response: An Independent Cost Estimate is not required for micro-purchases per Section 2 of the PRDOH Procurement Manual, which requires "An independent cost estimate (Independent Cost Estimate; ICE) for all procurement actions in excess of the Small Purchase Threshold or the amount of \$250,000.00." Additionally, evidence of market price research and past experience is not required to establish the ICE. Therefore, assertions of lack of evidence of market price research are irrelevant. Nonetheless, an ICE was prepared for this procurement to establish the certification of funds and to determine the method of acquisition.

Comment 54

Purchase Order: PO 2019-0003

OIG Statement: "Did not document price analysis."

PRDOH Response: Although PRDOH elected to follow its own procurement guidelines, the "HUD Buying Right CDBG-DR and Procurement Guideline" states that a price analysis is required when procuring goods or services with federal funds in excess of the simplified acquisition threshold." The simplified acquisition threshold is \$250,000. Article 9 of the PRDOH Procurement Manual also reflects the same requirements (page 27). 2 CFR 200.323 (a) also provides the same directive on price analysis requirements.

Comment 48

Purchase Order: PO 2019-00003

OIG Statement: "No award notification found."

PRDOH Response: In the Micro-purchase Process, the Purchase Order serves as the award notification.

Purchase Order: PO 2019-00003

OIG Statement: "Lacked segregation of duties."

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Comment 49

PRDOH Response: Internal procurement checklists are utilized by the procurement department as a tool to verify the completeness of the file. By no means does the signature of the procurement director indicate a lack of segregation of duties, as the checklist has no bearing on the request for services or selection of providers. The segregation of duties is demonstrated throughout the entire procurement process, which includes user requests from external departments to initiate procurements, certification of funds from separate departments, user concurrence, etc. Segregation of duties are evidenced and were duly exercised by the corresponding officials who signed the different documents required for this procurement process.

Comment 51

Purchase Order: PO 2019-00003

OIG Statement: "Non-conflict of interest certification not signed."

PRDOH Response: OIG asserts that "In one file, PRDH[sic] officials did not sign the non-conflict of interest certification as required by Public Law 2 of 2018, known as the Anti-Corruption Code for the New Puerto Rico." Public Law 2 of 2018 Title III applies to persons that wish to establish a contractual, commercial or financial relationship with agencies of Puerto Rico or that have entered into an agreement with the State to render goods or services. PRDOH officials are not required to sign the non-conflict of interest certification under this law. However, the Non-Conflict of Interest required by vendors is evidenced in the file.

Comment 50

Purchase Order: PO 2019-00003

OIG Statement: "Supplier signature on purchase order or completion of work not found."

PRDOH Response: Supplier signature is not required on the purchase order. Completion of work is certified by the vendor via signed statement upon submission of invoice, which is then certified by the PRDOH employee, as can be verified on page 4 of the invoice package.

Comment 10

Purchase Order: PO 2019-00003

OIG Statement: "No other quotes found."

PRDOH Response: In accordance with the PRDOH Procurement Manual and with 2 CFR 200.320, micro-purchases only require one quote.

Comment 42

Purchase Order: 2019-000046

OIG Statement: "Disqualified the losing bidder for not quoting all of the required services, while not disqualifying the winning bidder for the same reason."

PRDOH Response: PRDOH disagrees with the OIG's statement that PRDOH "Disqualified the losing bidder for not quoting all of the required services, while not disqualifying the winning bidder for the same reason." The selected vendor quoted all of the required services pursuant to the Scope of Services.

Comment 43

Purchase Order: 2019-000047

OIG Statement: "Disclosed the maximum possible award amount to proponents, which was the independent cost estimate."

PRDOH Response: PRDOH established a not-to-exceed amount for these services, and did not distribute the independent cost estimate document. Additionally, the establishment of a not-to-exceed amount does not restrict full and open competition because all proposers had access to the same information. OIG asserts that the not-to-exceed amount impacts PRDOH's ability to obtain a fair price. PRDOH disagrees with this assertion, as proponents provided quotes by tasks, which allowed PRDOH to evaluate the proposals submitted based on the rates or unit prices provided.

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Comment 46

Purchase Order: 2019-000048

OIG Statement: "Did not contain evidence of market price research and past experience."

PRDOH Response: An Independent Cost Estimate is not required for small purchases per Section 2 of the PRDOH Procurement Manual, which requires "An independent cost estimate (Independent Cost Estimate; ICE) for all procurement actions in excess of the Small Purchase Threshold or the amount of \$250,000.00." Additionally, evidence of market price research and past experience is not required to establish the ICE. Therefore, assertions of lack of evidence of market price research are irrelevant. Nonetheless, an ICE was prepared for this procurement to establish the certification of funds and to determine the method of acquisition.

Comment 55

Purchase Order: 2019-000049

OIG Statement: "The consultant wrote that it did not assess the cost reasonableness because it did not have the criteria to evaluate it."

PRDOH Response: The award recommendation letter establishes the cost reasonableness for award based on previous solicitations for similar services. PRDOH assessed cost reasonableness, not a consultant.

Comment 56

Purchase Order: 2019-000050

OIG Statement: "Signed the price evaluation document after selecting the winning bidder."

PRDOH Response: The price evaluation template serves to affirm that the process and recommendations included in the procurement file have been checked, and all the information is complete. The price evaluation template refers to the award recommendation letter dated prior to the award.

Comment 42

Purchase Order: 2019-000051

OIG Statement: "Winning bidder did not quote all required services and included other items not requested. No support on why the PRDH accepted new items and no support on its cost reasonableness."

PRDOH Response: This statement is incorrect. The selected vendor quoted all of the required services pursuant to the Scope of Services.

Comment 57

Purchase Order: 2019-000052

OIG Statement: "Did not contain supporting documentation showing the bidder was not suspended or debarred."

PRDOH Response: This provider has a DUNS number, which PRDOH can provide to OIG, and the provider has no active exclusion in the SAM system, nor a limited denial of participation.

Comment 58

Purchase Order: 2019-000053

OIG Statement: "No award notification found."

PRDOH Response: The executed contract serves as the award notification. The PRDOH Procurement Manual does not contain an award notification requirement.

Comment 52

Purchase Order: 2019-000054

OIG Statement: "Incorrect reference to Code of Federal Regulations."

PRDOH Response: OIG's observation is noted; see response to Finding F2_12.

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Comment 43

Purchase Order: 2019-000059

OIG Statement: "Disclosed the maximum possible award amount to proponents, which was the independent cost estimate."

PRDOH Response: PRDOH established a not-to-exceed amount for these services, and did not distribute the independent cost estimate document. Additionally, the establishment of a not-to-exceed amount does not restrict full and open competition because all proposers had access to the same information. OIG asserts that the not-to-exceed amount impacts PRDOH's ability to obtain a fair price. PRDOH disagrees with this assertion, as proponents provided quotes by tasks, which allowed PRDOH to evaluate the proposals submitted based on the rates or unit prices provided.

Comment 46

Purchase Order: 2019-000059

OIG Statement: "Did not contain evidence of market price research and past experience."

PRDOH Response: An Independent Cost Estimate is not required for micro-purchases per Section 2 of the PRDOH Procurement Manual, which requires "An independent cost estimate (Independent Cost Estimate; ICE) for all procurement actions in excess of the Small Purchase Threshold or the amount of \$250,000.00." Additionally, evidence of market price research and past experience is not required to establish the ICE. Therefore, assertions of lack of evidence of market price research are irrelevant. Nonetheless, an ICE was prepared for this procurement to establish the certification of funds and to determine the method of acquisition. Competition among proponents was not for the not to exceed amount, instead proponents competition was based on the rates or unit prices quoted.

Comment 47

Purchase Order: 2019-000059

OIG Statement: "Did not contain the other five quotes received, only the winning quote found."

PRDOH Response: These quotes are in the procurement office and available upon request. Information on the quotes received are in the procurement file, along with the selected quote. Due to the volume of documents, quotes not selected are not archived in the procurement file.

Comment 58

Purchase Order: 2019-000059

OIG Statement: "No award notification found."

PRDOH Response: The executed contract serves as the award notification. The PRDOH Procurement Manual does not contain an award notification requirement.

Comment 59

Purchase Order: 2019-000059

OIG Statement: "Scope of services form dated after the request date."

PRDOH Response: As quotes are requested, the Scope of Services document is included in the request package. There is not a standalone Scope of Services form which requires signature, so PRDOH is unclear on this statement.

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Comment 60

Purchase Order: 2019-000059

OIG Statement: "Did not contain clauses regarding award protests and contract claims and clauses regarding minority business enterprises and women's business enterprises."

PRDOH Response: The award protest clause is included in attachment 4 of the provider's offer. The contract claims clause is included in attachment 3 of the provider's offer. The minority business enterprise and the women's business enterprise clauses were included in the Certifications and Representations of Offerors (attachment 5) included by the provider with the submission of the offer.

Comment 61

Purchase Order: 2019-000059

OIG Statement: "Incorrect reference to Code of Federal Regulations."

PRDOH Response: The observation is noted, however, without proper reference and specific citations, this observation is difficult to evaluate.

Comment 44

Purchase Order: 2019-000067

OIG Statement: "Restricted competition by requiring proponents to have previous working experience with the PRDH [sic]."

PRDOH Response: The PRDOH Procurement Manual requires PRDOH to select at least three quotes for the small purchase process. PRDOH requested three quotes, complying with the minimum requirement in the procurement manual.

Comment 46

Purchase Order: 2019-000067

OIG Statement: "Did not contain evidence of market price research and past experience."

PRDOH Response: An Independent Cost Estimate is not required for small purchases per Section 2 of the PRDOH Procurement Manual, which requires "An independent cost estimate (Independent Cost Estimate; ICE) for all procurement actions in excess of the Small Purchase Threshold or the amount of \$250,000.00." Additionally, evidence of market price research and past experience is not required to establish the ICE. Therefore, assertions of lack of evidence of market price research are irrelevant. Nonetheless, an ICE was prepared for this procurement to establish the certification of funds and to determine the method of acquisition.

Comment 49

Purchase Order: 2019-000067

OIG Statement: "Lacked segregation of duties."

PRDOH Response: Internal procurement checklists are utilized by the procurement department as a tool to verify the completeness of the file. By no means does the signature of the procurement director indicate a lack of segregation of duties, as the checklist has no bearing on the request for services or selection of providers. The segregation of duties is demonstrated throughout the entire procurement process, which includes user requests from external departments to initiate procurements, certification of funds from separate departments, user concurrence, etc.

Comment 61

Purchase Order: 2019-000067

OIG Statement: "Incorrect reference to Code of Federal Regulations."

PRDOH Response: The observation is noted, however, without proper reference and specific citations, this observation is difficult to evaluate.

Comment 62

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5. SUMMARY

The OIG states that "[t]he PRDOH Lacked Experience in Administering CDBG-DR Funds" and "the PRDH [sic] was still in the planning stages of implementing its disaster activities (more than 1 year after the Puerto Rico legislature approved its reassignment."¹¹ Yet the OIG fails to consider or recognize that the period reviewed began the same day the initial grant agreement was signed, which was three (3) months **before** PRDOH even had access to funds in DRGR (federal line of credit).¹² Essentially, the OIG only **reviewed the first twenty-eight (28) days of PRDOH's access to funds** of the 2017 grant upon which to base its capacity assessment. Additionally, disasters by their very nature are unpredictable, difficult to plan for, and as in the case of Hurricanes Irma and Maria, unprecedented in scale and impact.

The OIG draft report provided to the PRDOH on October 2, 2019 states:

"The PRDH (sic) did not follow Federal and its own procurement requirements when it acquired goods and services. As a result, HUD had no assurance that purchases totaling \$416,511 were reasonable, necessary, and allowable."

PRDOH strongly disagrees with the draft finding. The draft review indicates a disconnect between the assertions made by OIG, the facts of the files, and the standards applicable to different types of procurement methods, such as micro and small purchases as outlined in the Procurement Manual. The reviewer's comments are, for the most part, not based on the requirements or standards applicable to the micro and small purchase procurement methods as outlined in both PRDOH procurement requirements and federal guidance. This leads to a series of interpretations that collectively result in the OIG making an unfounded determination that "[t]he PRDH (sic) did not follow Federal and its own procurement requirements when it acquired goods and services."

The portrayal of this finding in the draft assessment, writ large, has the power to unfairly discredit the CDBG-DR recovery effort at a point in history where the future of Puerto Rico is at stake. Unsuspecting readers, who trust in their ability to take OIG statements at face value, run the risk of misinterpreting the observations. The generalized assertion in the report, while a frequent observation of the OIG in the capacity assessment process of

¹¹ Draft Audit Report provided to PRDOH on October 2, 2019.

¹² Access to the first portion of the line of credit in DRGR for the \$1.5 billion CDBG-DR Action Plan was granted by HUD on January 30, 2019, with 80% of the housing funds held in restricted balance until released by HUD on February 4, 2019.

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new CDBG-DR grantees across the country, has the power to interfere with the release of congressionally mandated appropriations, which impedes recovery and has a direct impact on the people who are still suffering the consequences every day. Because of this, PRDOH appreciates the opportunity provided by the OIG to clarify the items in the draft report, as done so in the attachments submitted with this letter.

We agree that addressing a disaster of the magnitude of Hurricane Maria will require strong, continued capacity, and we are committed to maintaining it as such. We ask that the OIG follow the letter and intent of its implementing statutes and regulations in an objective fashion and evaluate PRDOH based on applicable regulations and requirements. We also respectfully request that the OIG consider directing its policy recommendations to federal policy makers as opposed to placing them as mandatory recommendations to PRDOH, especially when they are for processes outside of the purview of PRDOH's control. This extra-official policy-making conflicts with the duties of OIG as a regulatory entity, which was not created for the purpose of setting general public policy; especially when that policy conflicts with rights granted to Congress and to the HUD Secretary.

We appreciate the OIG's time and efforts during the six months the reviewers were on site and look forward to learning from recommendations that may be beneficial to strengthening our program.

Sincerely,



Fernando A. Gil-Enseñat, Esq.
Secretary

HUD Comments




OFFICE OF COMMUNITY PLANNING
AND DEVELOPMENT

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

NOV 24 2019

MEMORANDUM FOR: Nikita Irons, Regional Inspector General for audit, 4AGA

FROM: 
Virginia Sardone, Deputy Assistant Secretary
for Grant Programs (Acting), DG

SUBJECT: Discussion Draft Audit Report – Puerto Rico Department of
Housing’s Community Development Block Grant
Disaster Recovery Grants

The Office of Community Planning and Development (CPD) has reviewed the draft audit report of the Puerto Rico Department of Housing (PRDOH) and its administration of Community Development Block Grant Disaster Recovery (CDBG-DR) funds. CPD offers the following comments on the draft audit report for consideration and appreciates the additional time to respond to this draft.

The Office of Inspector General (OIG) conducted a capacity assessment whether the PRDOH has the capacity to (1) administer its CDBG-DR grants (for 2008 and 2017) in accordance with applicable regulations and requirements and (2) whether it has in place financial and procurement policies and procedures that promote the expenditure of funds and the acquisition of goods and services in accordance with Federal requirements. The OIG draft report indicated that the PRDOH’s financial and procurement capacity need improvement and that PRDOH did not comply with procurement requirements.

Generally, CPD agrees with the OIG regarding targeted Recommendations concerning the 2008 CDBG-DR grant. The report covers both the 2008 and 2017 CDBG-DR grants. However, the 2017 grant was recently launched and the 2008 grant is targeted for closeout. As CPD works with the grantee, it would be helpful to separate recommendations that include both grants. For clarity, CPD would also recommend identifying the time period as either the audit period included in the draft report (August 2014 up to August 2019) or the time period identified in the audit notification letter (September 2018-February 2019). The discussion below includes CPD’s comments on specific OIG Recommendations.

OIG Finding #1: The PRDH’ s Financial and Procurement Capacity Need Improvement.

OIG Recommendation #1D: Review and update its 2017 CDBG-DR policies and procedures to prevent duplication of benefits (DOB) and ensure that these are comprehensive, and all applicable activities are included, including but not limited to the Small Business Administration (SBA) Financing Program and the Construction and Commercial Revolving Loan program.

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Comment 65

Comment 66

HUD Comment: These programs have a Memorandum of Understanding with the Puerto Rico Department of Economic Development and Commerce but the programs have not been launched. Program Guidelines, therefore, are still in draft stage.

OIG Recommendation #IE: Negotiate with the SBA, within 30 days of the issues of this audit report, to extend its data-sharing agreements for the term of the expenditure requirements set forth in public laws or the *Federal Register* in relation to the 2017 and 2008 disaster.

HUD Comment: PRDOH has an agreement with SBA and can revise the SBA agreement. The timeline recommended by the OIG for the extension of the data-sharing agreement for the 2008 grant is not implementable. CPD recommends extending the timeframe to at least 90 days to complete the agreement and 180 days to complete the verification of benefits.

OIG Recommendation #IE: Negotiate with Puerto Rico's Insurance Commissioner and with other CDBG-DR grantees, within 30 days of the issuance of this audit report, to establish data-sharing agreements for the 2017 CDBG-DR grant disaster, any open disaster recovery grants, and future disasters.

Comment 67

HUD Comment: From previous experience from other disaster grantees, establishing data-sharing agreements with State Insurance Commissions is not possible because these institutions do not gather client level policy information from private insurance companies.

OIG Recommendation #IG: Complete within 30 days of the issuance of this audit report, the review for preventing DOB associated with its 2008 CDBG-DR grant.

Comment 68

HUD Comment: The timeline recommended by the OIG to complete the DOB is not implementable within 30 days and CPD would extend the timeframe to at least 90 days for the grantee to provide a strategy for compiling the nearly 10 years old information and 180 days to implement the strategy.

OIG Recommendation #II: Ensure that the 2017 CDBG-DR procurement policy addresses the establishment of a contract register that, a minimum, contains the procurement information specified in section 3.8 of HUD's Buying Right Guide regarding the PRDOH's acquisitions of goods and services, as well as of its subrecipients and partners.

Comment 69

HUD Comment: HUD's Buying Right Guide is a toolkit that provides *guidance* to CDBG-DR grantees and subrecipients on how to comply with procurement requirements while also moving as quickly as possible to recover from a disaster, not regulation. However, 2 CFR 200.317 (and the *Federal Register* Notice from February 18, 2018) requires the grantee to follow its own procurement policies and procedures.

OIG Recommendation #IK: Continue to fill vacancies with qualified and trained staff, thus ensuring that staffing levels remain adequate to administer the 2017 and 2008 CDBG-DR grant.

Comment 70

HUD Comment: CPD recommends distinguishing this Recommendation discussion among both grants as the grants are at very different stages in terms of staffing. The 2017 CDBG-DR grant has recently launched and will require more staff as more programs are launched. The 2008 CDBG-DR grant is targeted for closeout and has a smaller number of projects left to complete. The 2008 CDBG-DR grant also does not have administrative funds left to finance these staffing efforts.

OIG Recommendation #1M: Provide additional training and technical assistance to PRDOH on the development of policies and procedures to ensure that procedures comply with applicable Federal and grant requirements.

HUD Comment: HUD is now commencing Phase ID of a Technical Assistance engagement with PRDOH. However, it is important to note that technical assistance providers do not make compliance determinations.

If you have questions regarding this response, please contact Tennille S. Parker, Director, Disaster Recovery and Special Issues Division, at (202) 402-4649.

OIG Evaluation of Auditee and HUD Comments

Comment 1 The PRDOH stated that the capacity review, in this sense, established the PRDOH as a model by which we could assess HUD's performance and as a case study for our formulation of policy direction to HUD.

We disagree with the PRDOH because the capacity review was not directed to assess HUD's performance. We audited the PRDOH in accordance with our goal to review disaster funding and based on a congressional request for us to conduct capacity reviews for Hurricanes Harvey, Irma, and Maria grantees. In addition, the review was in accordance with the requirement of the Inspector General Act of 1978 to conduct audits and investigations relating to HUD programs and recipients. Our audit objectives were to determine (1) whether the PRDOH had the capacity to administer disaster funding and (2) whether it had in place financial and procurement policies and procedures that promoted the expenditure of funds and the acquisition of goods and services in accordance with Federal requirements. The evidence obtained provided a reasonable basis for our findings and recommendations, which the PRDOH must address.

Comment 2 The PRDOH stated that the capacity review deviated from the framework we used in the November 2017 review of another Puerto Rico agency and referenced Audit Memorandum 2018-AT-1801. In addition, it claimed that our review of the PRDOH bypassed the capacity review process and went straight into a comprehensive audit.

We disagree with the PRDOH's statements. The 2017 review of ODSEC was not a capacity review. The objective of the 2017 review was to identify the plan Puerto Rico had developed as of mid-October 2017 for administering disaster funds and obtain an understanding of established or proposed mechanisms to ensure compliance with HUD requirements.

The audit objectives of this review were to determine (1) whether the PRDOH had the capacity to administer its CDBG-DR grants in accordance with applicable regulations and requirements and (2) whether it had in place financial and procurement policies and procedures that promoted the expenditure of funds and the acquisition of goods and services in accordance with Federal requirements. The capacity review was in accordance with our goal to review disaster funding and based on a congressional request for us to conduct capacity reviews for Hurricanes Harvey, Irma, and Maria grantees. In addition, the audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective(s). The evidence obtained provided a reasonable basis for our findings and conclusions based on our audit objectives.

Comment 3 The PRDOH stated that the draft report failed to consider all of the documentation it provided and that we failed to interview key employees. In addition, it stated that a more complete review would have revealed important items that we failed to consider in our assessment of the PRDOH's contract register.

Contrary to the PRDOH's statement, we reviewed all of the documentation that was provided to us during the audit. The PRDOH granted us access to its shared drive where the documents were placed for us to review. This documentation included grantee policies and procedures, contracts, purchase orders, invoices, financial records, and other documents and files. We also conducted more than 20 interviews and followup meetings with PRDOH officials. The interviews and meetings were coordinated through the CDBG-DR program director. Among the officials we interviewed were the deputy secretary, CDBG-DR program director, CDBG-DR procurement director, deputy secretary for strategic planning, CDBG-DR finance director, and other officials.

The PRDOH did not provide additional documents, specifically a contract register, during or after our onsite review or information detailing the items it claimed we failed to consider during the audit.

Comment 4 The PRDOH indicated that statements from the deputy secretary were misrepresented and that the draft report distorted the conversation, concluding a lack of proper guidance regarding the procurement policies. In addition, it stated that documents, which we cited as missing, were not requested from the PRDOH and are readily available upon request.

Although the draft report references statements the deputy secretary made to the auditors, the PRDOH did not provide specifics on the alleged misrepresentations or the missing documents. During the exit conference, the deputy secretary informed us that his statements were misinterpreted. At that time, we requested that PRDOH officials provide specifics on the alleged misrepresentations for OIG to correct. However, after the exit conference, the PRDOH did not provide specifics on the alleged misrepresentations. As a result, we did not modify the findings or recommendations. We encourage the PRDOH to provide HUD with any additional documentation to review during the audit resolution process.

Comment 5 The PRDOH stated that the OIG's assessment deviated from a review of applicable regulations and, instead, probed into presenting OIG public policy views or best practice recommendations geared toward HUD or Federal policymakers.

We disagree with the PRDOH because the audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The evidence obtained provides a reasonable basis for our findings, conclusions, and recommendations.

Contrary to the PRDOH's claim, the capacity review considered all applicable regulations, as well as best practices, as they related to the PRDOH and the administration of its disaster funds. In addition, the best practice recommendations were not geared toward HUD or Federal policymakers. We conducted a capacity review of the designated grantee for the CDBG-DR funds in Puerto Rico, the PRDOH, and identified areas for improvement, which the PRDOH needs to address.

The PRDOH also stated that OIG's February 2019 audit plan questioned the use of \$15 million of disaster funds granted to the Commonwealth of Puerto Rico to promote tourism and attract new businesses. The PRDOH further stated that our questioning of the tourism funds was egregious considering that other States were previously granted permission to do the same, and also showed a lack of familiarity with Puerto Rico's economy. The PRDOH added that the audit plan infringed on the maximum feasible deference granted to States and the authority of the HUD Secretary as granted by Congress.

However, the PRDOH did not provide specifics on how our audit plan interfered with Puerto Rico's discretion to set public policy. The referenced audit plan reflected our opinion that the \$15 million would be better spent to address Puerto Rico's housing crisis. According to the Housing Damage Assessment and Recovery Strategies Report (June 29, 2018),²⁸ the FEMA inspections following Hurricanes Irma and Maria identified more than 307,000 homes as having moderate damage, major damage, or as destroyed.

Further, although OIG is part of HUD, we provide independent oversight of HUD's programs and operations. Contrary to the PRDOH's assertion, our audit plan statement about using HUD funds toward housing recovery rather than tourism was in line with our responsibility of recommending actions that promote economy, efficiency, and effectiveness of HUD programs and operations.

Comment 6 The PRDOH indicated that initiating and maintaining multi-State data-sharing agreements was not feasible and not required by State or Federal law and that Federal agencies do not allow such data sharing outside the parties to their agreements. The PRDOH added that if CDBG-DR funds were awarded to an applicant for reconstruction of his or her primary residence in Puerto Rico, it would not be feasible for another grantee to award funds for the same recovery

²⁸ Following the devastation caused by Hurricanes Irma and Maria, FEMA activated the Housing Recovery Support Function under the National Disaster Recovery Framework to support response and recovery efforts in Puerto Rico. HUD is the coordinating agency, and in this role collaborates with FEMA and other Federal partners to support the housing recovery priorities established by the Commonwealth of Puerto Rico. As part of these efforts, HUD and Housing Recovery Support Function partners collaborated on the Puerto Rico Damage Assessment and Recoveries Strategies Report (<http://spp-pr.org/wp-content/uploads/downloads/2018/07/HUD-Housing-Damage-Assessment-Recovery-Strategies-6-29-18.pdf>).

purpose in another State. In addition, it stated that such a recommendation would be better directed to Congress and not the PRDOH.

We agree with the PRDOH that data-sharing agreements with other jurisdictions is not a State or Federal requirement. However, this is a best practice recommendation targeted to reduce the risk of duplication of benefits and is focused on ensuring that program participants receive the appropriate assistance. The lack of data sharing increases the risk of duplication of benefits because the PRDOH must rely on applicant self-certifications.

We also agree with the PRDOH that an applicant receiving disaster funds for reconstruction of his or her primary residence in Puerto Rico cannot receive disaster assistance from another grantee for the same recovery purpose (reconstruction of the applicant's primary residence) in another State. This could be a fraudulent activity. We consider that data-sharing agreements with other grantees are feasible. Such agreements would help identify participants improperly receiving assistance from multiple jurisdictions.

We do not agree that the recommendation of establishing data-sharing agreements with other jurisdictions should be directed to Congress. We conducted a capacity review of the designated grantee for the CDBG-DR funds in Puerto Rico, the PRDOH, and identified areas for improvement, which the PRDOH needs to address.

Comment 7 The PRDOH indicated that we incorrectly applied Public Law 2 of 2018 and that the law applies to persons who wish to establish a contractual, financial, or commercial relationship with agencies of the government of Puerto Rico. The PRDOH further stated that PRDOH officials are not required to sign the non-conflict-of-interest certification under this law.

We disagree with the PRDOH. Grantee officials are required to sign the non-conflict-of-interest certification. Puerto Rico Law 2 of 2018, section 3.2(n), provides that every person must certify that he or she does not represent private interests in cases or matters that involve conflicts of interest or of public policy between the executive agency and the private interests he or she represents. The certifications provided a location for the signature of the grantee official, but these areas were blank.

Comment 8 The PRDOH stated that we referenced HUD's Buying Right Guide and used it to evaluate the PRDOH's performance. In addition, it stated that the guide is a toolkit that does not carry the weight of a statute or regulation.

We agree with the PRDOH that HUD's Buying Right Guide is a toolkit. However, it was established to provide guidance to CDBG-DR grantees and subrecipients on how to comply with procurement requirements, while also moving as quickly as possible to recover from a disaster. CDBG-DR grantees and subrecipients procuring goods and services with their grant funds must ensure that

they follow all program procurement statutory and regulatory requirements. These requirements include ensuring that the procurement process involves fair and open competition. Grantees and subrecipients that do not follow all CDBG program requirements may be forced to repay Federal funds.

Comment 9 The PRDOH indicated that the finding should not refer to Federal procurement requirements and it should not be evaluated against these requirements because it follows its own procurement policies and procedures in accordance with 24 CFR 570.489(g).

We disagree with the PRDOH because it certified to HUD that it had in place proficient procurement processes that were in agreement with applicable Federal requirements. Regulations at 24 CFR 570.489(g) provide that State policies and procedures must comply with Federal statutes, Executive orders, and implementing regulations. As a result, references to the PRDOH's noncompliance with Federal requirements remain in the report.

Comment 10 The PRDOH stated that our draft finding 2 was factually incorrect. It stated that for a micropurchase procurement, we incorrectly stated that no other quotes were found, although the PRDOH's procurement manual and 2 CFR 200.320 require only one quote for micropurchases. In addition, it stated that in another micropurchase reviewed, we incorrectly stated that the independent cost estimate was not properly supported because the PRDOH did not document the price analysis. The PRDOH maintained that its procurement manual, HUD's Buying Right Guide, and 2 CFR 200.323(a) require price analysis when procuring goods and services in excess of \$250,000 and do not apply to micropurchases.

We examined the procurement file document and confirmed that it contained at least one quote for this acquisition process in accordance with the PRDOH procurement manual. As a result, we eliminated this observation from the audit finding and eliminated "no other quotes found" from appendix C.

We agree that a price analysis is required when procuring goods or services that exceed \$250,000. However, the procurement checklist, the document the PRDOH used to verify that the acquisition was done in compliance with all procurement requirements, indicated that a price analysis was performed for this purchase, but we did not find a price analysis in the procurement file reviewed. As a result, the basis for determining the reasonableness of the purchase price was not supported. Therefore, we did not revise our finding or recommendation.

Comment 11 The PRDOH indicated that the accounting information for the CDBG program had been maintained in the Puerto Rico Integrated Financial Accounting System (PRIFAS) and that it assumed the administration of the CDBG program in August 2018. To maintain the accounting by activity type, the PRDOH stated that it would install a new grant management software. Its goal was to complete the posting of the 2008 CDBG-DR accounting transactions (August 2018 through

June 30, 2019) by December 2019. Additionally, the PRDOH planned to complete the activities accounting for all subrecipient projects by June 30, 2020.

We acknowledge the PRDOH's efforts to establish a financial management system. However, the PRDOH must ensure that the accounting system complies with HUD requirements and that all 2008 CDBG-DR fund transactions have been properly recorded since the inception of the funded activities. The PRDOH should work with HUD during audit resolution to ensure that the recommendation is fully implemented.

- Comment 12 The PRDOH indicated that it was updating the 2008 CDBG-DR accounting manual in accordance with 2 CFR part 200. It expected to complete the update to the manual by June 30, 2020.

We acknowledge the PRDOH's efforts to update the accounting manual. The PRDOH must coordinate with HUD during the audit resolution process to ensure that the new financial policies and procedures comply with Federal requirements.

- Comment 13 The PRDOH indicated that it was recruiting additional personnel to perform duplication of benefits analyses related to the 2008 CDBG-DR grant. In addition, it stated that it planned to submit quarterly progress reports to HUD in the first quarter of 2020.

We acknowledge the PRDOH's efforts to complete the review for preventing duplication of benefits relating to its 2008 CDBG-DR grant. However, the PRDOH must ensure that the review is completed within 30 days of the issuance of the audit report and that it pursues appropriate remedies for any instance of noncompliance found. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 14 The PRDOH stated that it had sent a time extension and a grantee update requests to the SBA to amend the data-sharing agreements. The PRDOH provided copy of the requests sent to the SBA.

We acknowledge the PRDOH's efforts to extend its data-sharing agreements with the SBA. However, the PRDOH did not extend its data-sharing agreements for the term of expenditure requirements set forth in public laws or the Federal Register in relation to the 2017 and 2008 disasters. The PRDOH must ensure that agreements are maintained up to date and continue for the term of the CDBG-DR expenditure requirements. As a result, we have not modified our recommendation. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 15 The PRDOH stated that it would review and update the procurement policies and procedures for its 2008 CDBG-DR grant and submit them to HUD in the first quarter of 2020. In addition, the PRDOH asserted that as a whole, it had in place proficient procurement controls for the 2008 CDBG-DR grant.

We acknowledge the PRDOH's efforts to update the 2008 CDBG-DR procurement policies and procedures. However, the PRDOH did not provide us with additional documentation demonstrating that it had in place proficient procurement controls for its 2008 CDBG-DR grant. Therefore, as stated, the PRDOH should submit its procurement policies and procedures to HUD for review.

- Comment 16 The PRDOH stated that it continued to increase its 2017 disaster recovery staff, that it had 92 positions filled, and that there had been a substantial increase in the monitoring division. The PRDOH provided a copy of its organizational chart, dated October 21, 2019. In addition, that the 2008 CDBG-DR grant was in a closeout phase and would be closely monitored to avoid overstaffing.

We acknowledge the PRDOH's efforts to hire additional staff for its disaster recovery efforts. According to its organizational chart, dated October 21, 2019, the PRDOH had 92 disaster recovery staff members on board and 116 vacancies. The monitoring division had hired five new staff members and had eight vacancies. The PRDOH needs to ensure that it continues to fill its vacancies with qualified and trained staff. The PRDOH also needs to maintain appropriate staffing levels for its 2008 CDBG-DR grant.

- Comment 17 The PRDOH indicated that it did not have a board of directors but it was evaluating the creation of an audit committee to provide more independence to the internal audit function.

We acknowledge the PRDOH's efforts to create the audit committee. The PRDOH must ensure that the internal audit division is within a framework that promotes organizational independence. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 18 The PRDOH stated that 83 FR 5844 did not require step-by-step procedures to track monthly expenditures. In addition, it stated that it had an established policy to determine timely expenditures reflected in its financial policy manual, which was updated in August 2019, and that there was no requirement to use HUD's template to determine timely expenditures.

The PRDOH certified to HUD on April 13, 2018, that it had in place adequate procedures to ensure the timely expenditure of funds. Section VI, paragraph A.1.a.(4), of 83 FR 5844 (February 9, 2018) provides that a grantee has adequate procedures to determine timely expenditures if it submits procedures that indicate to HUD how the grantee will track expenditures each month. Contrary to the PRDOH's statement, its policy did not outline procedures for performing monthly reviews. The PRDOH manual does reference the use of HUD's template to forecast expenditures and outcomes of funded activities. The PRDOH did not provide a copy of the updated financial policy manual. As a result, we did not

modify the finding or recommendation. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 19 The PRDOH indicated that it did not have procedures for addressing the reprogramming of funds because prioritization was on the program launch and effective flow of funds through invoicing. The PRDOH's goal was to update its procedures by the end of calendar year 2019.

We acknowledge the PRDOH's willingness to update its procedures, but the PRDOH needs to promptly update its procedures to ensure that it complies with HUD requirements. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 20 The PRDOH stated that 83 FR 5844 did not require that procedures be developed for each type of program income. However, the PRDOH developed policy in the updated financial manual (August 2019) that addressed program income.

Although, the PRDOH stated that the updated policy of August 2019 addressed the program income issue, the updated policy was not provided for review. Therefore, we could not confirm its claim that the policy complied with HUD requirements. The PRDOH should provide the updated policy to HUD during the audit resolution process to ensure that it complies with all applicable requirements.

- Comment 21 The PRDOH indicated that according to appendix VII to 24 CFR 200.D.1(d), it was required to submit the cost allocation plan within 6 months after the close of the agency's fiscal year, in this case, by December 31, 2019.

Contrary to the PRDOH's statement, the special conditions of CDBG-DR grant agreement require the submission of the cost allocation methodology within 30 days of the date of the grant agreement or before awarding funds to subrecipients, whichever is later. The grant agreement was signed September 20, 2018, and the PRDOH had already awarded CDBG-DR funds to various subrecipients. As a result, the PRDOH did not comply with its grant agreement requirement, and it should promptly develop its cost allocation procedures.

- Comment 22 The PRDOH stated that it used the Yardi Voyager system to register the financial transactions of its 2017 CDBG-DR grant and that disbursements were identified by grant and activity. It indicated that the general ledger detailed the grant and activity by using a code. The PRDOH provided a cover sheet for DRGR vouchers as support.

The PRDOH's response did not specify how the grant award and activity types were disclosed in the accounting system. For example, it did not specify which part of the code identified the grant or the activity type. The cover sheet, while it showed codes, did not properly identify the activity type and grant. The PRDOH

should provide HUD with the appropriate support, showing that disbursements are identified by grant and activity type in its accounting system. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 23 The PRDOH stated that the finding was premature because the Small Business Financing (SBF) program and the Construction and Commercial Revolving Loan (CCRL) program had not yet started. In addition, it stated that it had comprehensive duplication of benefits operating procedures for the programs that were underway. The PRDOH also stated that it would develop comprehensive standard operating procedures before services were provided to participants.

On April 13, 2018, the PRDOH certified to HUD that it had in place adequate procedures to prevent any duplication of benefits; however, the procedures were still under development. The PRDOH should work with HUD during the audit resolution process to ensure that the duplication of benefits procedures are comprehensive and all applicable CDBG-DR activities are included to address our finding and recommendation.

- Comment 24 The PRDOH stated that the rehabilitation and reconstruction program guidelines that establish insurance proceeds for program participants would be determined based on information provided by the applicant. The PRDOH would then contact third-party private insurance providers to verify the information received from the applicant. The PRDOH also stated that Puerto Rico's insurance commissioner did not have access to individual claims information from the insurance companies in Puerto Rico.

The process described by the PRDOH is not efficient because it is time consuming and susceptible to human error. The PRDOH relied on participant self-certification and had to individually contact all of the insurance companies in Puerto Rico to verify information on insurance payments of its program participants. In addition, this could become a cumbersome task because the number of funded activities will significantly increase in the future.

Although the PRDOH stated that it contacted Puerto Rico's insurance commissioner, no detailed information was provided to us on the issues discussed or whether there were alternatives. The PRDOH needs to enhance and improve its insurance payment verification process to make it more reliable and efficient. As a result of the issue described above, we did not modify the finding or recommendation. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 25 The PRDOH stated that HUD's Buying Right Guide is not a regulation. It further stated that article IX, sections 2 and 3, of the PRDOH procurement policy details the cost and price analysis requirements for all competitive procurement methods and included a partial citation of 2 CFR 200.323(a). In addition, it stated that both evaluation methods could not be completed until after proposals were submitted

for review. The PRDOH also indicated that article IX, section 2, of the policy provides that the preparation of an independent cost estimate applies to procurement actions that exceed \$250,000. Further, it stated that an independent cost estimate for micropurchases and small purchases was for fund certification purposes only.

We still consider article VIII, section 5, of the PRDOH procurement policy to be vague. We examined article IX of the policy based on the PRDOH's comments and concluded that it provided adequate guidance on performing cost and price analysis. As a result, we removed this condition from the report.

We do not agree with the PRDOH's claim that the cost estimates were created for the sole purpose of establishing a fund availability certification and determining the procurement method to be used. The independent cost estimate document, signed by a PRDOH official, attested that the estimated amount was based on market prices and past experience and that it served as an objective basis for determining the price reasonableness. Therefore, the PRDOH made conflicting statements.

Comment 26 The PRDOH stated that HUD's Buying Right Guide is not a regulation. In addition, it stated that its CDBG-DR procurement manual, approved by HUD on September 20, 2018, clearly defines the noncompetitive proposal method and the emergency purchase process.

We agree with the PRDOH that HUD's Buying Right Guide is not a regulation. However, this buying guide was established to provide guidance to CDBG-DR grantees and subrecipients on how to comply with procurement requirements. It provides suggestions for grantees to better execute their CDBG-DR grants and ensure that all program procurement statutory and regulatory requirements are followed. Grantees and subrecipients that do not follow all CDBG program requirements may be forced to repay Federal funds.

We disagree with the PRDOH's statement because the procurement manual does not include a process for soliciting and accepting noncompetitive proposals. The PRDOH did not provide additional documentation for our review. As a result, we did not modify the finding or recommendation.

Comment 27 The PRDOH stated that the use of the term administrator was an oversight and that the policy should refer to the PRDOH secretary instead.

Although the PRDOH stated that it was an oversight, it did not indicate whether it would update this reference. During the audit resolution process, the PRDOH needs to coordinate with HUD to seek guidance on appropriate amendments to its procurement policy.

Comment 28 The PRDOH stated that regulations applicable to CDBG-DR do not require a contract register and that HUD's Buying Right Guide is not a regulatory

provision. However, it stated that its contract administration division had a contract tracker and its CDBG-DR website included a tab where every agreement was published.

We agree with the PRDOH's statement that CDBG regulations do not require the establishment of a contract register and we acknowledge that the PRDOH's contract administration division maintains a contract tracker. However, the buying guide was established to provide guidance to CDBG-DR grantees and subrecipients on how to comply with procurement requirements. It specifically provides guidance on the contents of the contract register that a grantee should maintain. Grantees and subrecipients that do not follow all CDBG program requirements may be forced to repay Federal funds.

We maintain our position that the PRDOH's procurement policy should reference the establishment of a contract register and the kind of information it should collect. It is a best practice for grantees to develop policies and procedures that clearly define the steps that an employee needs to follow. Vague or incomplete policies and procedures make operations susceptible to human error, misinterpretation, or instances of noncompliance with program requirements. In addition, establishing a contract register that includes the information suggested in HUD's Buying Right Guide is a best practice tool to effectively track executed contracts and purchase orders.

The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

Comment 29 The PRDOH stated that article XI, section 2, of its procurement manual contains the required language, which requires contracts to address administrative, contractual, or legal remedies and provide sanctions and penalties.

Articles XI, section 2, and XII, section 2, of the procurement policy do not require contracts to include language related to paragraph A of appendix II in 2 CFR part 200. The PRDOH did not provide additional documentation to support its claims. As a result, the PRDOH's procurement policy did not require contracts to address administrative, contractual, or legal remedies and provide sanctions and penalties as appropriate. We did not modify the finding or recommendation. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

Comment 30 The PRDOH stated that the internal norms of the change order process are not required to be included as part of the procurement policy.

The PRDOH did not address the issue of the finding that the policy did not contain the procedures to be followed for approving change orders resulting from unilateral modifications. It is a best practice for grantees to develop policies and procedures that clearly define the steps that their employees need to follow. Vague or incomplete policies and procedures make operations susceptible to

human error, misinterpretation, or instances of noncompliance with program requirements. As a result of the PRDOH's failure to address the issue described above, we did not modify the finding or recommendation. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

Comment 31 The PRDOH stated that the duty to retain records is the responsibility of the State and not the contractors. In addition, it stated that when a closeout of a contract occurred, the contractors were required to return to the PRDOH all documents related to the services performed. The PRDOH further stated that it added a clause to its model contract requiring contractors to retain records for the greater of 5 years from grant closeout or the period required by local laws and regulations.

The PRDOH claimed that it amended its model contract to ensure that an appropriate record retention period is required. However, the PRDOH did not provide a copy of the model contract in its response. The PRDOH needs to ensure that the amended contract complies with all applicable requirements and amend its procurement policy as appropriate. Therefore, we did not modify the finding or recommendation.

Comment 32 The PRDOH stated that the rules of conduct of the PRDOH's employees are included in the manual of disciplinary measures. The PRDOH stated that its policy provided that all of the prohibitions included in the anticorruption code applied to PRDOH employees. In addition, it stated that the manual and the anticorruption code were more stringent than the requirements in 24 CFR 570.489(g) and (h).

We acknowledge that the PRDOH has a manual, including standards of conduct for its employees. However, article XVII, section 1, of the PRDOH procurement policy did not reference the manual of disciplinary measures or 24 CFR 570.489(g) and (h). The PRDOH must ensure that its policy includes the appropriate reference. In addition, during the audit resolution process, the PRDOH should coordinate with HUD to ensure that the manual of disciplinary measures complies with HUD requirements.

Comment 33 The PRDOH stated that our finding was incorrect because it is the Office of Governmental Ethics that is required to establish the policies regarding ethics and not the PRDOH. In addition, it stated that the provisions of the Government Ethics Act apply to executive branch employees, not to private entities. However, if the subrecipient is not an entity from the executive branch, the applicable law would be the policy and the anticorruption code.

We disagree with the PRDOH because article XVII, section 2, of the PRDOH's procurement policy states that most of the prohibitions that apply to officials and employees must be interpreted to also apply to the PRDOH's agents, subrecipients, subgrantees, and contractors due to their fiduciary duty to the

PRDOH. The finding relates to the lack of clarity in the PRDOH's policy. Therefore, the PRDOH should amend its policy to clarify which laws apply to PRDOH employees, officials, subrecipients, subgrantees, agents, and contractors.

Comment 34 The PRDOH indicated that it was finalizing its policy to implement the anticorruption code.

We acknowledge the PRDOH's efforts to update its policy to implement the anticorruption code, and it should be submitted for HUD's review once it is completed.

Comment 35 The PRDOH indicated that standard operating procedures serve as a guideline for employees to follow but are not a Federal regulation requirement. Additionally, it stated that it was not clear which standard operating procedures we reviewed because these procedures were signed by the approving official on July 3, 2019.

We disagree with the PRDOH because Federal regulations outlined in paragraph VI.A.1.a(1) of 83 FR 5844 do require grantees to have in place proficient financial controls and procurement processes, among other requirements. In addition, the PRDOH certified to HUD that it had in place proficient procurement processes.

We modified the finding to better reflect the timeframe of the review. On March 6, 2019, the PRDOH provided to us the standard operating procedures that were examined as part of the audit. On May 13, 2019, the PRDOH's procurement director informed us that the procedures were still in draft form and had not been approved.

The PRDOH's assertion that the approving official signed the procedures on July 3, 2019, validates our finding that the procedures were in draft at the time of our review. The PRDOH should provide these procedures to HUD for review during the audit resolution process.

Comment 36 In response to recommendation 1A, the PRDOH provided a copy of a weekly budget report and an action plan related to its 2017 CDBG-DR grant.

However, the additional documentation did not address our recommendation to develop adequate procedures for tracking monthly grant expenditures, reprogramming funds for stalled activities, managing program income, and allocating costs. During the audit resolution process, the PRDOH should provide to HUD the developed procedures for review.

Comment 37 In response to recommendation 1B, the PRDOH indicated that it had in place an accounting system that could provide information by activity type and grant number, and it provided a copy of a cover sheet for the accounting system manual as evidence.

The PRDOH's response did not address our recommendation and did not provide additional documentation that could demonstrate compliance. During the audit resolution process, the PRDOH must demonstrate to HUD that the accounting system is capable of providing information by grant and activity type.

- Comment 38 In response to recommendation 1D, the PRDOH indicated that its cross cutting guidelines already contained a section on duplication of benefits. The PRDOH also stated that the SBF and CCRL programs were scheduled for a later rollout and would have procedures in place before services were provided.

The PRDOH should work with HUD during the audit resolution process to ensure that the procedures are comprehensive and all applicable CDBG-DR activities are included.

- Comment 39 In response to recommendation 1F, the PRDOH indicated that Puerto Rico's insurance commissioner did not have access to and was unable to provide individual policy holder information covered under private insurance. In addition, it stated that data-sharing agreements with other jurisdictions are not required by the Stafford Act or HUD and that the SBA and FEMA do not allow data sharing outside the direct parties of their agreements.

Although the PRDOH stated that it contacted Puerto Rico's insurance commissioner, no detailed information was provided to us on the issues discussed or whether there were alternatives. The PRDOH needs to enhance and improve its insurance payment verification process to make it more reliable and efficient.

We disagree with the PRDOH and consider data-sharing agreements with other grantees to be consistent with the requirements of the Stafford Act for preventing duplication of benefits. The Act directs administrators of Federal assistance to ensure that no person, business concern, or other entity will receive duplicative assistance. The data-sharing agreement with other grantees would be a feasible and beneficial tool for identifying participants that improperly receive assistance from multiple jurisdictions. The lack of data sharing increases the risk of duplication of benefits because the PRDOH must rely on applicant self-certifications.

The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 40 Regarding recommendation 1G, the PRDOH stated that the 30-day timeframe to complete the duplication of benefits review for the 2008 CDBG-DR grant was not reasonable.

More than 5 years had elapsed since the data were requested from its subgrantees, and the review for preventing duplication of benefits had not been completed. This issue was also identified as a concern in the April 24, 2015, HUD monitoring report, but the condition remained. The lack of reviews increased the risk of not

detecting instances of possible duplication of benefits in a timely manner. The PRDOH did not explain why a 30-day timeframe was not reasonable and did not provide alternatives. The recommendation was not revised; therefore, the PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 41 Regarding recommendations 1H and 2C, the PRDOH believes the items mentioned in the report have been addressed in its procurement policy, but it will consider adding clarifying language.

We acknowledge that the PRDOH will consider adding clarifying language to address the weaknesses described in the report. The PRDOH must coordinate with HUD during the audit resolution process to ensure that procurement procedures comply with all applicable Federal requirements and our recommendations are fully implemented.

- Comment 42 The PRDOH did not agree with our finding and stated that the selected vendor provided quotes for all of the required services under the scope of services. In addition, it stated that it had the supporting documents available for review at its procurement office.

We disagree with the PRDOH. The selected vendor did not provide quotes for 5 of the 16 service line items included in the quotation sheet that the PRDOH provided to the suppliers. The PRDOH did not provide us with additional documentation to support its claim that the selected vendor provided all of the required quotations. As a result, we did not modify the finding, recommendation, or appendix C. During the audit resolution process, the PRDOH must provide HUD with the procurement documents for its review.

- Comment 43 The PRDOH stated that it disagreed with our position that disclosing the independent cost estimate amount to proponents affects the ability to obtain a fair price. It also stated that it did not distribute the independent cost estimate document to potential vendors. The PRDOH claimed that establishing a not-to-exceed amount did not restrict full and open competition because all proposers had the same information.

We disagree with the PRDOH. The PRDOH disclosed and advertised the maximum possible award amount to proponents, which was the independent cost estimate amount, thereby disclosing confidential information and not promoting full and open competition to obtain a fair price. Potential vendors could refrain from providing a lower price and quote a higher price as close as possible to the maximum allowable amount. In addition, this practice was contrary to its own procurement policy. Article I, section 3, of the PRDOH procurement policy provides that the procurement process must be conducted in a manner to assure that goods, services, and construction work are procured efficiently, without unjustified delay, and at the lowest cost available. The PRDOH did not provide additional documentation showing that it obtained the lowest possible cost. As a

result, we did not modify the finding, recommendation, or appendix C. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 44 The PRDOH stated that the PRDOH procurement policy required the PRDOH to select at least three quotes for small purchases and it requested three quotes, complying with the minimum requirement.

The PRDOH's response did not address our finding that competition was restricted because proponents were required to have previous working experience with the PRDOH. As a result, we did not modify the finding, recommendation, or appendix C. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 45 The PRDOH indicated that there was no statutory or regulatory requirement regarding a minimum required advertisement period related to a micropurchase.

We disagree with the PRDOH, and this action is contrary to its own procurement policy. Article I, section 5.A.7, provides that any arbitrary action in the procurement process is considered to be restrictive of competition. The PRDOH established the next day (before 9:30 a.m.) as to when suppliers must provide quotations. The PRDOH did not provide additional information that could justify the limited timeframe for proponents to submit quotes. As a result, the PRDOH established an unreasonable deadline and, therefore, engaged in an arbitrary action in the procurement process. We did not modify the finding, recommendations, or appendix C. The PRDOH should work with HUD during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 46 The PRDOH indicated that an independent cost estimate was not required for small purchases and that its procurement policy required an independent cost estimate for all procurement actions in excess of \$250,000. In addition, it claimed that the independent cost estimates in the file were created for the sole purpose of establishing a certification of funds and the procurement method to be used. The PRDOH also stated that market price research and past experience were not required for independent cost estimates.

The finding pertains to independent cost estimates, included in the procurement files provided to us for examination, that were not properly supported. The cost estimates indicated they were based on market prices and past experience and that they served as an objective basis for determining the price reasonableness. The files, however, did not contain the supporting market prices or past experience. Hence, the independent cost estimates were not supported. We did not modify the finding, recommendation, or appendix C.

- Comment 47 The PRDOH indicated that it had the missing quotes and they were available for review at its procurement office. In addition, it stated that due to the volume of

documents, the quotes not selected were not included in the procurement file that was given to us.

The fact that the PRDOH arbitrarily decided what documents would be included in a procurement file denoted a lack of proper understanding of what is necessary to ensure that the grantee maintains records sufficient to detail the full history of a procurement. In addition, the PRDOH's actions were contrary to its procurement policy. Article XI provides that each procurement file must include, without limitation, all documents or information requested, received, or considered by the PRDOH. During the audit resolution process, the PRDOH must provide HUD with the procurement documents for its review.

Comment 48 The PRDOH stated that in the micropurchase acquisitions, the purchase order served as the award notification to the vendor.

We disagree with the PRDOH because the purchase order should not be used as a notification letter. It is not common business practice to send a purchase order to a supplier to serve as an award notification letter as the PRDOH claims. Purchase orders are normally signed by all parties after suppliers have been formally selected and all parties have been properly notified. In addition, the PRDOH checklist included in the procurement file indicated that award notifications had been completed. However, the file did not contain evidence of award notifications to winning vendors. Award notifications are necessary and should be part of the procurement file to support that vendors were properly notified of the award. In addition, the notification should include point of contact, effective date, and any other information needed to execute the purchase order. As a result of the issue described above, we did not modify the finding, recommendation, or appendix C.

Comment 49 The PRDOH indicated that the internal procurement checklists used by the procurement department were tools used to verify the completeness of the file and the signature of the procurement director on the checklist did not signify a lack of segregation of duties because the checklist had no bearing on the request for services or selection of providers. The PRDOH further stated that segregation of duties was demonstrated throughout the procurement process with users from different departments, etc.

We disagree with the PRDOH. The procurement checklist is an internal control tool used as part of the procurement process, which requires the signature of both the procurement director and procurement supervisor. The PRDOH should ensure that procurement files are independently reviewed and approved by two separate officials to reduce the risk of error and ensure compliance with procurement requirements. Therefore, the finding, recommendation, and appendix C were not modified.

Comment 50 The PRDOH stated that the supplier signature was not required on the purchase order and completion of work was certified by the vendor via a signed statement

upon submission of the invoice, which was then certified by a PRDOH employee and could be verified on page 4 of the invoice package.

The PRDOH provided additional documentation showing vendor certifications of work completion. The vendor certifications provided complied with HUD's Buying Right Guide. As a result, this condition was eliminated from the finding and appendix C. We encourage the PRDOH to maintain all relevant documents within the procurement file for future reference.

Comment 51 The PRDOH stated that Puerto Rico's anticorruption code applies to individuals who wish to establish a contractual, financial, or commercial relationship with Puerto Rico's government agencies. The PRDOH further stated that its officials were not required to sign the non-conflict-of-interest certification.

The PRDOH made conflicting statements pertaining to the applicability of the anticorruption code. Above, it stated that the anticorruption code did not apply to its employees. In a previous statement (auditee comment F1_22), the PRDOH stated that all of the prohibitions included in the anticorruption code applied to PRDOH employees. Therefore, the prohibitions detailed in the certification also apply to PRDOH officials and should be signed.

We disagree with the PRDOH because grantee officials are required to sign the non-conflict-of-interest certification. Puerto Rico Law 2 of 2018, section 3.2(n), provides that every person must certify that he or she does not represent private interests in cases or matters that involve conflicts of interest or of public policy between the executive agency and the private interests he or she represents. The certification provided a location for the signature of the grantee official, but it was blank. As a result, the finding, recommendation, and appendix C were not modified.

Comment 52 The PRDOH indicated that in March 2019, its legal division reviewed the model contract and from that date forward, all contracts would include clauses regarding award protests, contract claims, clauses regarding minority business enterprises and women's business enterprises, and references to 2 CFR part 2424 instead of 2 CFR part 3000.

We acknowledge the PRDOH's efforts in reviewing and modifying contracts to include the required clauses and correct references. During the audit resolution process, the PRDOH must coordinate with HUD to ensure that its new contracts comply with applicable requirements.

Comment 53 The PRDOH disagreed with our position that a deadline impacts full and open competition for a single-source micropurchase. It stated that the micropurchase acquisition process was designed to minimize the administrative components and paperwork of a solicitation. The PRDOH added that micropurchases could be awarded without soliciting competitive quotes when the price was reasonable. It further stated that a micropurchase could be completed with only one quote that

was responsive from a reasonable supplier and for a reasonable price. The PRDOH also stated that for this type of acquisition, setting a date and time by which to provide a quotation served as a timeframe to incentivize the vendor to provide a response and added that the time and date were not a deadline for this method of acquisition.

We disagree with the PRDOH's statements. Establishing arbitrary and unreasonable deadlines can affect any procurement action. In addition, these statements are contrary to article I, section 5.A.7, of the PRDOH's own procurement policy. As a result, we did not modify the finding, recommendation, or appendix C.

- Comment 54 The PRDOH stated, in relation to purchase order 2019-0003, that HUD's Buying Right Guide states that a price analysis is required when procuring goods or services with Federal funds in excess of the simplified acquisition threshold amount of \$250,000. In addition, it stated that article 9 of the PRDOH's procurement policy and 2 CFR 200.323(a) provide the same directive on price analysis requirements.

We agree that a price analysis is required when procuring goods or services that exceed \$250,000. However, the procurement checklist, the document the PRDOH used to verify that the acquisition was done in compliance with all procurement requirements, indicated that a price analysis was performed for this purchase, but we did not find a price analysis in the procurement file reviewed. As a result, the basis for determining the reasonableness of the purchase price was not supported. Therefore, we did not revise the finding, recommendation, or appendix C.

- Comment 55 The PRDOH stated that the award recommendation letter established the cost reasonableness, based on previous solicitations for similar services. In addition, the PRDOH stated that it assessed cost reasonableness and not its consultant.

The PRDOH did not address the issue in the finding that the independent cost estimate for determining price reasonableness was not properly supported. The consultant's statement that he did not have the criteria to assess the cost reasonableness sustains our position that the PRDOH's price reasonableness determination was not supported. We did not modify the finding, recommendation, or appendix C.

- Comment 56 The PRDOH indicated that the price evaluation template served to affirm that the process and recommendations included in the procurement file had been checked and all of the information was complete. The price evaluation template referred to the award recommendation letter, dated before the award.

We disagree with the PRDOH's position. The price evaluation template should be signed before the selection of the winning bidder. The PRDOH did not provide additional documentation explaining how the award recommendation

letter was related to the signature issue. As a result, we did not modify the finding, recommendation, or appendix C.

- Comment 57 The PRDOH indicated that the vendor had a Data Universal Numbering System (DUNS) number and that it had no active exclusions in the System for Award Management (SAM) and no limited denial of participation.

The PRDOH did not provide documentation supporting its statements. As a result, we did not modify the finding, recommendation, or appendix C.

- Comment 58 The PRDOH stated that its procurement manual does not require the issuance of award notification letters and that the executed contract served as the award notification.

We disagree with the PRDOH because contracts should not be used as notification letters. The contracts are normally signed by all parties after suppliers have been formally selected and all parties have been properly notified. It is not common business practice to send an executed contract to a supplier to serve as an award notification letter as the PRDOH claimed. Award notifications are necessary and should be part of the procurement process to demonstrate that vendors were properly notified of an award. Notification letters would normally include point of contact, effective date, and other information needed to execute the contract. In addition, the PRDOH should coordinate with HUD when it updates its procurement policy to ensure that it complies with all requirements and contains procedures for award notifications. We did not modify the finding, recommendation, or appendix C.

- Comment 59 The PRDOH stated that it did not understand our observation that the scope of service form was dated after the request date. It added that as quotes were requested, the scope of services document was included in the request package. The PRDOH further stated that there was no stand-alone scope of services form that required signature.

We agree with the PRDOH that the scope of services document should be included in the request package. However, the response did not address the issues of the finding. The purchase request form was signed on September 11, 2018, and the scope of services form was dated September 21, 2018. The PRDOH did not provide comments that could justify why the scope of services form was completed 10 days after the request form. The scope of services form should have been completed as part of the small purchase request. As a result, we did not modify the finding, recommendation, or appendix C.

- Comment 60 The PRDOH indicated that the award protest clause was included in attachment 4 of the provider's offer, the contract claims clause was included in attachment 3 of the provider's offer, and the minority business enterprise and women's business enterprise clauses were included in attachment 5.

We examined the procurement file documents and determined that the award protest clauses, contract claims clauses, and minority business enterprise and women's business enterprise clauses were incorporated into the contract in the referenced attachments. As result, the deficiencies were eliminated from the finding and appendix C.

Comment 61 The PRDOH stated that without proper references and specific citations, it was difficult to evaluate our observation of incorrect CFR references in the contracts.

During the exit conference, we provided PRDOH officials with examples of the incorrect references. In a previous statement (see auditee comment F2_12), the PRDOH stated that in March 2019, it revised the model contract to ensure that contracts contained all required clauses and referenced the correct regulations.

The PRDOH contract incorrectly cited 2 CFR part 180, subpart C, instead of 2 CFR 180.220, subpart B. In addition, the PRDOH incorrectly cited 2 CFR part 3000, which applied to the U.S. Department of Homeland Security, not to HUD. The correct reference should be to 2 CFR part 2424. The PRDOH also incorrectly cited 24 CFR part 58, which relates to environmental review procedures, not to the procurement of accounting services. The correct reference should be to 2 CFR part 200. We did not modify the finding, recommendation, or appendix C. During the audit resolution process, the PRDOH must coordinate with HUD to ensure that its new contracts comply with applicable requirements.

Comment 62 The PRDOH stated that we did not recognize that the period reviewed began the day on which the initial grant agreement was signed. Essentially, it stated that we reviewed the first 28 days of PRDOH's access to the 2017 funds upon which it based the capacity assessment. In addition, it disagreed with the draft findings and claimed that there was a disconnect between our assertions and the facts in the PRDOH files. As a result, it stated that we made the unfounded determination that the PRDOH did not follow Federal and its own procurement requirements.

We audited the PRDOH in accordance with our goal to review disaster funding and based on a congressional request for us to conduct capacity reviews for Hurricanes Harvey, Irma, and Maria grantees. We commenced our audit work in March 2019, about 6 months after HUD signed the grant agreement with the PRDOH. Therefore, our review was consistent with the congressional request of engaging on immediate oversight of the PRDOH. Our audit objectives were to determine (1) whether the PRDOH had the capacity to administer disaster funding and (2) whether it had in place financial and procurement policies and procedures that promoted the expenditure of funds and the acquisition of goods and services in accordance with Federal requirements.

Contrary to the PRDOH's statement, we reviewed all of the documentation and facts in the files that were provided to us during the audit. The evidence obtained

provided a reasonable basis for our findings and recommendations, which the PRDOH must address.

- Comment 63 The PRDOH requested that we follow the letter and intent of its implementing statutes and regulations in an objective fashion and evaluate the PRDOH based on applicable regulations and requirements. In addition, it requested that we direct its policy recommendations to Federal policymakers as opposed to the PRDOH.

The audit was conducted in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. The evidence obtained provided a reasonable basis for our findings and conclusions. The audit report identifies weaknesses that the PRDOH needs to address, and the recommendations are addressed to HUD and not Congress.

- Comment 64 HUD indicated that it would be helpful to separate recommendations that included both grants.

Recommendations that included both grants were recommendations 1E, 1F, and 1K. These recommendations included both the 2017 and 2008 grants because the recommended actions were the same for both grants. As a result, there was no need to present separate recommendations.

- Comment 65 HUD recommended that we clarify the period of the review.

The Scope and Methodology section of the report includes the period of the review. Our audit period was from August 7, 2014, through August 30, 2019.

- Comment 66 HUD stated that the timeline we recommended for extending the data-sharing agreement for the 2008 grant was not feasible. It recommended extending the timeframe to at least 90 days to complete the agreement and 180 days to complete the verification of benefits, a total of 9 months.

The PRDOH had initiated the process to request an extension to the data-sharing agreement. It stated that it had sent a time extension and a grantee update request to the SBA to amend the data-sharing agreement for the 2008 CDBG-DR grant (auditee comment F1_4). The PRDOH provided a copy of the request sent to the SBA, dated October 16, 2019. Therefore, we do not believe that providing an additional 90 days to update the agreement is necessary. In addition, HUD did not explain why the 30-day deadline to extend the PRDOH data-sharing agreement (2008 grant) was not feasible.

A PRDOH official informed us that in 2013 and 2014, the former grantee had requested data from its subgrantees to perform duplication of benefits analyses. However, the data were still under review and the analysis was not completed. In addition, HUD did not explain why 6 months was needed to complete the duplication of benefits review when the PRDOH had the data available since

2013. Therefore, we do not believe that providing an additional 180 days to complete the analyses is necessary. HUD should work with the PRDOH during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 67 HUD stated that establishing data-sharing agreements with State insurance commissions was not possible because those institutions did not gather client-level policy information from private insurance companies.

Although the PRDOH stated that it contacted Puerto Rico's insurance commissioner, no detailed information was provided to us on the issues discussed or whether there were alternatives. The process described by the PRDOH was not efficient because it was time consuming and susceptible to human error. The PRDOH relied on participant self-certification and had to individually contact all of the insurance companies in Puerto Rico to verify information on insurance payments of its program participants. In addition, this could become a cumbersome task because the number of funded activities will significantly increase in the future. The PRDOH needs to enhance and improve its insurance payment verification process to make it more reliable and efficient. As a result of the issue described above, we did not modify the finding or recommendation. HUD should work with the PRDOH during the audit resolution process to ensure that the recommendation is fully implemented.

- Comment 68 HUD indicated that our recommended timeline of 30 days to complete analysis of duplication of benefits in relation to the 2008 CDBG-DR grant was not feasible. It recommended a timeframe of at least 90 days to establish a strategy for compiling the information and 180 days to implement the strategy, for a total of 9 months.

HUD's recommendation did not explain why the 30-day timeframe was not feasible. This issue was also identified as a concern in the April 24, 2015, HUD monitoring report, but the condition remained after 4 years. The lack of reviews increased the risk of not detecting instances of possible duplication of benefits in a timely manner. HUD should work with the PRDOH during the audit resolution process to ensure that the recommendation is fully implemented in a timely manner.

- Comment 69 HUD stated that HUD's Buying Right Guide is a toolkit that provides guidance to CDBG-DR grantees and subrecipients on how to comply with procurement requirements and that it is not a regulation. HUD further stated that 2 CFR 200.317 and the February 18, 2018, Federal Register notice require the grantee to follow its own procurement policies and procedures.

We agree with HUD's statement that HUD's Buying Right Guide is not a regulation. However, the guide was established to provide guidance to CDBG-DR grantees and subrecipients on how to comply with procurement requirements.

It specifically provides guidance on the contents of the contract register that a grantee should maintain. Grantees and subrecipients that do not follow all CDBG program requirements may be forced to repay Federal funds.

We maintain our position that the PRDOH's procurement policy should reference the establishment of a contract register and the type of information it should collect. Also, it is a best practice for grantees to develop policies and procedures that clearly define the steps that an employee needs to follow. Vague or incomplete policies and procedures make operations susceptible to human error, misinterpretation, or instances of noncompliance with program requirements.

HUD should work with the PRDOH during the audit resolution process to ensure that the recommendation is fully implemented.

Comment 70 HUD recommended distinguishing recommendation 1K for the 2017 and 2008 grants because the grants are at different stages in terms of staffing. HUD further stated that the 2017 grant was recently launched and it would require more staff as programs are launched and the 2008 grant is in the closeout stages and does not have administrative funds left to finance these efforts.

We acknowledged that the 2017 and 2008 disaster grants are at different operational stages. It is the PRDOH's responsibility to ensure that it has sufficient and qualified staff to properly administer its 2017 and 2008 disaster grants. As a result, we did not change the recommendation. HUD should work with the PRDOH during the audit resolution process to ensure that the staffing levels remain adequate for both grants and that the recommendation is fully implemented.

Appendix C

Deficiencies by Contract or Purchase Order

Reference number	Full and open competition not promoted	Price analysis or independent cost estimate not properly supported	Procurement process not properly followed or documented	Missing contract clauses or incorrect references
PO 2018-00001			No award notification found.	
PO 2019-00003	<ul style="list-style-type: none"> • Unreasonable deadline established. • Winning quote received after deadline. 	<ul style="list-style-type: none"> • Did not contain evidence of market price research and past experience. • Did not document price analysis. 	<ul style="list-style-type: none"> • No award notification found. • Lacked segregation of duties. • Non-conflict of interest certification not signed. 	
2019-000046	<ul style="list-style-type: none"> • Disqualified the losing bidder for not quoting all of the required services, while not disqualifying the winning bidder for the same reason. • Disclosed the maximum possible award amount to proponents, which was the independent cost estimate. 	<ul style="list-style-type: none"> • Did not contain evidence of market price research and past experience. • The consultant wrote that it did not assess the cost reasonableness because it did not have the criteria to evaluate it. • Signed the price evaluation document after selecting the winning bidder. 	<ul style="list-style-type: none"> • Winning bidder did not quote all required services and included other items not requested. No support on why the PRDOH accepted new items and no support on its cost reasonableness. • Did not contain supporting documentation showing the bidder was not suspended or debarred. • No award notification found. 	Incorrect references to Code of Federal Regulations.

Deficiencies by Contract or Purchase Order (Continued)

Reference number	Full and open competition not promoted	Price analysis or independent cost estimate not properly supported	Procurement process not properly followed or documented	Missing contract clauses or incorrect references
2019-000059	Disclosed the maximum possible award amount to proponents, which was the independent cost estimate.	Did not contain evidence of market price research and past experience.	<ul style="list-style-type: none"> • Did not contain the other five quotes received, only the winning quote found. • No award notification found. • Scope of services form dated after the request date. 	Incorrect references to Code of Federal Regulations.
2019-000067	Restricted competition by requiring proponents to have previous working experience with the PRDOH.	Did not contain evidence of market price research and past experience.	Lacked segregation of duties.	<ul style="list-style-type: none"> • Did not contain clauses regarding award protests and contract claims and clauses regarding minority business enterprises and women's business enterprises. • Incorrect references to Code of Federal Regulations.
Total	4	4	5	3