

UNITED STATES VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

NEIGHBORHOOD REVITALIZATION POLICIES AND PROCEDURES

VERSION: 1.0
February 17, 2023

Prepared by:

Virgin Islands Housing Finance Authority



The policies and procedures stated in this manual are current as of February 17, 2023. This Manual represents the current version of the Virgin Islands Housing Finance Authority's (VIHFA) policies which shall provide general guidance for the operation of CDBG-DR Programs. All manuals will be reviewed periodically and will be updated. Therefore, you are strongly urged to visit our website <https://cdbgdr.vihfa.gov/> or to ensure that you have the latest version. There may be times, however, when a policy or procedure will change before the manual is revised.

SUBJECT: CDBG-DR Neighborhood Revitalization Policies and Procedures	
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Table 1: Neighborhood Revitalization Program Version Control

VERSION NUMBER	DATE REVISED	DESCRIPTION
Version 1.0	February 17, 2023	Version 1.0 of the Neighborhood Revitalization Policy

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1.0: VERSION POLICY

1.1: Version History

Version history is tracked in Table 1, with notes regarding version changes. The dates of each publication are also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and the issuance of a new primary version number.

Non-substantive changes such as minor wording and editing, or clarification of existing policy, that do not affect the interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

1.2: Policy Change Control Board

Policy changes for the CDBG-DR Program are considered through a change control process, which includes a Policy Change Control Board (PCCB). The PCCB is composed of the CDBG-DR Legal Counsel, the Senior Policy Manager, Senior Program Manager, at least one Subject Matter Expert, and other program staff members representing Program leadership, as needed.

When policy clarifications, additions, or deletions are needed to more precisely define the rules by which the Program will operate, Program staff will submit a Policy Change Request Form or a Request for Decision Form for internal review by the PCCB. Within the PCCB, two members will separately perform a review to verify that all relevant information and any supporting documentation are included in the request. Upon PCCB concurrence by these two members that the request raises a policy issue, rather than a process issue, the Policy Change Request Form or Request for Decision is forwarded to the Policy Change Control Board for consideration. The requests are compiled and brought before the entire PCCB for a final policy change determination.

The PCCB meets as needed to consider all pending requests and critical policy decisions.

2.0: ACRONYMS & DEFINITIONS

2.1: Acronyms

- **AFWA** – Anti-Fraud, Waste, and Abuse
- **CDBG-DR** – Community Development Block Grant – Disaster Recovery
- **CDRO** – Chief Disaster Recovery Officer
- **CFR** – Code of Federal Regulations
- **DOB** – Duplication of Benefits
- **HCDA** – Housing Community Development Act
- **HUD** – Department of Housing and Urban Development
- **FEMA** – Federal Emergency Management Agency
- **M/WBE** – Minority and Women Owned Business Enterprises
- **NFIP** – National Flood Insurance Program
- **NOFA** – Notice of Funding Availability
- **NRP** – Neighborhood Revitalization Program
- **PCCB** – Policy Change Control Board
- **SBA** – Small Business Administration
- **SBETA** – Small Business and Entrepreneurial Technical Assistance
- **SHPO** – State Historic Preservation Office
- **TA** – Technical Assistance
- **VIHFA** – Virgin Islands Housing Finance Authority

2.2: Definitions

Microenterprises: for the purposes of the CDBG-DR program, a micro-enterprise is a company that has five (5) or fewer employees, one or more of whom owns the company (this includes an autonomous individual).

Neighborhood Revitalization: an investment in neighborhoods that have gone through periods of disinvestment or stagnation, often leading to negative socio-economic and real estate market trends.

Small Businesses: defined as a business composed of 75 employees or less.

Training Providers: individuals/firms who can train small businesses and entrepreneurs. Training programs must be designed to build socioeconomic growth and resiliency. Provide training in mitigating strategies that prevent or lower business disruption due to natural or manmade disasters.

3.0: PROGRAM OVERVIEW

In the wake of the storms, the President announced a Major Disaster Declaration for Irma (DR-4335) and another for Maria (DR-4340) to make federal disaster assistance available to the Territory. In response, Congress approved the Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56) on September 8, 2017, which made available \$7.39 billion in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to assist in long-term recovery from 2017 disasters. On February 9, 2018, Congress approved a bill appropriating an additional \$28 billion CDBG-DR funds, of which \$11 billion was set aside to address the remaining unmet needs including those of the U.S. Virgin Islands and Puerto Rico from Hurricane Maria. For economic revitalization, the CDBG-DR Program received \$27,000,000.00, \$14,032,915.00 of which is set aside for neighborhood revitalization projects.

Due to the 2017 hurricanes, there was a significant loss of tourist traffic and other revenue generating sources for the Territory and its businesses. According to the Department of Labor, unemployment rates skyrocketed in 2017 from 10% in August to 17% in September, an all-time high since 2011. During that period, the Territory also experienced record high visitor arrivals (2.3 million) and average hotel occupancy (44.1%), based on Bureau of Economic Research data.

The recovery thus far has yielded mixed results. In 2022, the unemployment rate has fallen to 4.5%, indicating a strong rebound. However, visitor arrivals have only totaled 1.5 million (a 35% decrease), whereas hotel occupancy has climbed to 60%, though this figure is partially impacted by several hotels remaining inoperable.

Many popular attractions and businesses remain in disrepair after the 2017 storms, which continues to negatively impact the aesthetic and investment in commercial districts and local communities. Additionally, due to lack of insurance and additional resources, many businesses are unable to function at their pre-disaster levels, further impacting their ability to provide quality goods and services to the community and visitors.

Small businesses are critical to the Territory's local economy and its competitiveness as a tourism destination in the Caribbean. Cruise passengers have, on average, comprised 70% of visitor arrivals in the U.S. Virgin Islands over the last 15 years, but these visitors, on average, spend only 4 hours on island, mostly engaging in retail shopping and taking local tours. The quality of such brief experiences in the Territory—usually limited to urban areas—is pivotal to visitors' likelihood of return, higher conversion of day-visitors into overnight guests, and overall tourist demand for the U.S. Virgin Islands. Furthermore, urban areas adjacent to the ports and those containing small businesses are uniquely positioned to showcase products and services to visitors and locals alike.

To further address the economic impacts from the 2017 hurricanes, the CDBG-DR Program has developed a Neighborhood Revitalization Program to promote sustainable modes of civic and private sector engagement for the preservation and development of commercial and historic districts with the potential to increase tourism revenue. The Program also seeks to create a more vibrant local economy that can foster small business growth, housing stock improvements, and

new private investments in designated urban areas across the U.S. Virgin Islands, including Charlotte Amalie in St. Thomas; Frederiksted and Christiansted in St. Croix; and Cruz Bay in St. John.

The Program will support activities such as aesthetic and functional enhancements, preservation of historic sites, increased security, better services for tourists and residents alike, and promotion of private investment. Potential projects associated with this program include, but are not limited to:

- Façade and code-related improvement grants for small businesses;
- Grants for reconstruction and renovation of key mixed purpose buildings (residential and commercial) in designated areas;
- Grants for public facility improvements such as streetscapes, lighting, and sidewalks;
- Grants for clearing slum and blight around disinvested properties in designated low- and moderate-income areas; and
- Resources to support local business incubators.

Revitalization and growth can be balanced with policies and investments that address the needs and opportunities of low to moderate-income individuals and other populations that are potentially vulnerable in an appreciating real estate market. Moreover, neighborhood revitalization can create asset-building opportunities for residents. Public policy and effective social sector action can help ensure that long-time residents benefit from community revitalization.

Project selection and implementation will proceed in consultation with private sector and resident community leaders in designated urban areas to target key infrastructure improvements, aesthetic and historical preservation efforts, and on-going services necessary to ensure effective and sustainable revitalization.

This policy document explains the structure of the program, the requirements for applicants, and supporting documentation for program eligibility determination.

4.0: METHOD OF DISTRIBUTION

Program Allocation: \$14,032,915.00

Geographic Areas Served: Territory-wide.

Program Start and End Date: Funding for this program will expire in May 2026.

5.0: NOTICE OF FUNDING AVAILABILITY

Projects under this Program are selected through a competitive Notice of Funding Availability (NOFA), which will advise prospective applicants on how to obtain and complete an application and will establish deadlines and other requirements. The NOFA will specify

application evaluation factors and any limitations, special rules, procedures, and restrictions for a particular application round. After receipt of an application, the Program may request clarifying or technical information on the materials submitted as part of the application.

6.0: APPLICATION PROCESS

Applicants are provided with the CDBG-DR Project Application for completion by the VIHFA CDBG-DR Compliance and Monitoring unit during the Capacity Assessment or by the respective Program or Senior Manager. Subrecipients may also download the application from the CDBG-DR website at <https://cdbgdr.vihfa.gov/>.

Applicants shall be required to provide information to demonstrate that business losses resulted from Hurricane(s) Irma/Maria and were not pre-disaster related. A sworn or certified document attesting to Hurricane Irma/Maria impact under penalty of perjury as part of the application, regardless of whether such business is selected or determined to be eligible for a grant under NRP. Additional proof of damage or impact from Hurricane Irma/Maria to the applicant business is required and may be evidenced by:

- A proof of loss statement from an insurer, the SBA, or FEMA;
- Financial statements for the applicant business, preferably certified by a licensed third party;
- Photographs of damaged inventory or equipment;
- Utility bills indicating power outage from the storm; and
- Documentation from a third-party indicating business was located in a damaged area such as city data on inundation or power outages.

For the Technical Assistance program, the requirements that apply only to trainees can be found in section 7.2.3.1.2.

7.0: PROGRAM OPTIONS

7.1: Building Façade and Streetscape Enhancement Program

The Building Façade and Streetscape Enhancement Program will provide funding to eligible businesses buildings, commercial or residential, to repair visible exterior damage and enhance downtown areas, high traffic areas, historic districts, etc. The goal is to increase investment and improve the aesthetic of local communities.

Use of funds under the Building Façade and Streetscape Enhancement program option must either:

1. Result in the creation of jobs primarily for low-to moderate-income persons in the Territory; or

2. Provide goods or services to residents of an area, such that the number of low- and moderate-income persons residing in the areas served by the assisted businesses amounts to at least one low- and moderate-income person per \$350 of CDBG funds used.

Projects located within historic districts must follow guidelines prescribed by the State Historic Preservation Office (SHPO).

Applicants may use funds for the following activities outlined below:

- Exterior Scraping/Painting
- Roof Spouting
- Brick Repairs (within historic guidelines)
- Repair/replace exterior windows & doors (within historic guidelines)
- Safety improvements (including lighting, security gates, surveillance system)
- Signage on the building
- Improving the curb appeal of back and side entrances
- Physical improvements to prominent courtyards including planters, seating, lighting, landscaping, and signage.
- Installation of directional signage to landmarks/places of interest.

7.1.1: Method of Distribution

National Objectives: Low- and Moderate-Income Area; Low- and Moderate-Income Jobs.

Eligible Activities: Code Enforcement (HCDA Section 105(a)(3)); Clearance, Rehabilitation, Reconstruction, and Construction (HCDA Section 105(a)(4)); Public Services (HCDA Section 105(a)(8)); Special Economic Development Activity ([24 CFR 570.203](#)).

Maximum Award: The maximum awards will be determined based on an independent cost estimate, funding availability, and readiness to proceed. Circumstances where additional costs may be incurred will be reviewed against cost reasonableness guidelines.

7.1.2: Eligibility

Funding under this program is open to the following entities:

- For-profit and non-profit entities
- Public entities
- Homeowners' Associations
- Local community development organizations

Applicants must demonstrate the existence of an unmet need. An unmet need is determined after accounting for all federal, Territorial, local, and/or private sources of disaster-related U.S. Virgin Islands' CDBG-DR Action Plan, assistance available to the applicant, including, but not limited to FEMA, SBA, and flood insurance proceeds.

7.1.3: Evaluation Criteria

The evaluation criteria for applications are as follows:

- **Project Need:** Applicants will be required to complete and submit a questionnaire describing their disaster-related needs. Supporting documentation, including photos, must be attached to this questionnaire for validation of project need. Photos should be of buildings, streetscapes, courtyards, or gateways that will be part of the program as well as photos of the entire area. **All photos must demonstrate damages tied to Hurricane Irma and/or Maria.** Points are awarded based on the photos and the description of need.
- **Project Impact:** How will this project benefit the town, a community, or individual businesses?
- **Project Plan:** Describe the plan and the long-term vision for the community.
- **Project Feasibility:** Evidence that the project can begin quickly and be completed within **eighteen months** of contract approval and that those managing the program are qualified.
- **Community Support:** Evidence in the application that the community is supportive of the project, (3) letters of support (from stakeholders, or downtown businesses in the service area of the business).
- **Cost Estimate:** All proposed projects should be accompanied by a cost estimate provided by the applicant for the Program to conduct a cost-reasonableness analysis.
- **Sustainability:** Provide an outline of how program activities will continue to have positive impact after the end of the program (e.g., how will the property be utilized/maintained after the Program is completed?).

7.1.4: Amortization Period

The Program will provide financial assistance in the form of forgivable loans to targeted projects located in traditional business districts, within a commercial, neighborhood retail or mixed-use zone area, that were affected by the September 2017 Hurricanes Irma and Maria.

To prevent subrecipients from easily selling a property or business and profiting from the CDBG-DR-funded improvements, the property or business owners must agree to repay the program if they sell the mentioned assets within 5 years. However, subrecipient's obligation is forgiven after 5 years. During the five-year period, the subrecipient will supply the lender, CDBG-DR Program, with an annual proof of good standing.

The proposed amortization schedule:

- 0-12 months 100 percent repayment
- After 1 year 80 percent repayment
- After 2 years 60 percent repayment
- After 3 years 40 percent repayment

- After 4 years 20 percent repayment
- Over 5 years 0 percent repayment

7.2: Small Business Entrepreneurship Grant and Technical Assistance Program

The Small Business Entrepreneurship Grant and Technical Assistance Program (SBETA) is comprised of two components: Small Business Grants and Technical Assistance. This program will fund recovery grants and technical assistance to aid small businesses and entrepreneurs to identify ways to rebound from the change in economic circumstances from the 2017 storms.

Small businesses and microenterprises that suffered physical and/or financial losses due to the 2017 Hurricanes will be provided working recovery grants. The program's objectives are to increase economic recovery across the Territory by addressing the urgent need for assistance that many small businesses in the US Virgin Islands have as a result of damage caused by the storms.

The technical assistance component is designed to support entrepreneurs by providing specialized training to eligible businesses to build economic resilience and reduce future losses from disruptions.

7.2.1: Method of Distribution

National Objectives: Low-and Moderate-Income Clientele; Low-and Moderate-Income Jobs

Eligible Activities: Technical Assistance (HCDA Section 105(a)(19)); Assistance to neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations (HCDA Section 105(a)(15)); For profit assistance for economic development (HCDA Section 105(a)(17)); Microenterprise Assistance (HCDA Section 105(a)(22), [Section 570.201](#)); Special Economic Development Activity ([24 CFR 570.203](#)).

Maximum Award: The maximum awards will be determined based on an independent cost estimate, funding availability, and readiness to proceed. Circumstances where additional costs may be incurred will be reviewed against cost reasonableness guidelines.

7.2.2: Small Business Grants

7.2.2.1: Eligibility

Funding under this program is open to the following entities:

- Small businesses
- Microenterprises

Working capital-eligible operating expenses disrupted by Hurricanes Irma/Maria include but are not limited to:

- Advertising
- License Fees (excluding operational business licenses)
- Accounting expenses
- Maintenance and repairs (costs cannot exceed determined grant award)
- Office expenses (e.g., supplies)

Applicants must demonstrate the existence of an unmet need. An unmet need is determined after accounting for all federal, Territorial, local, and/or private sources of disaster-related U.S. Virgin Islands' CDBG-DR Action Plan, assistance available to the applicant, including, but not limited to FEMA, SBA, and flood insurance proceeds.

7.2.3: Small Business Technical Assistance

7.2.3.1: Eligibility

7.2.3.1.1: Technical Assistance (TA) Providers

Funding under this program is open to the following entities:

- Certified technical assistance providers
- Public and Private, including non-profit and for profits.

The following criteria must be met to receive funding under the Small Business Entrepreneurship Grant and Technical Assistance Program:

- Applicant projects must demonstrate a tie to the disaster and an unmet need. An unmet need is determined after accounting for all federal, Territorial, local, and/or private sources of disaster-related U.S. Virgin Islands' CDBG-DR Action Plan, assistance available to the applicant, including, but not limited to FEMA, SBA, and flood insurance proceeds; and
- Business must have been created and licensed no later than September 30, 2017.

Selected TA providers will be responsible for utilizing program funding to provide technical assistance to eligible small businesses. TA providers will receive and manage all applications for businesses seeking technical assistance under the SBETA program.

Funds may be used for the following activities:

- Business plan development
- Financial management
- Marketing
- Inventory
- Skilled workforce development

Subrecipients (TA Providers) will receive and manage all applications for this program. Applications must be submitted in accordance with the individual TA Provider's specifications, information on which will be maintained on both VIHFA's Disaster Recovery website and the subrecipient's office(s).

Applications will be accepted on a rolling basis and accepted candidates will be distributed into the most relevant cohort.

7.2.3.1.2: Trainees

All trainees must meet the following criteria:

- Applicant projects must demonstrate a tie to the disaster and an unmet need. An unmet need is determined after accounting for all federal, Territorial, local, and/or private sources of disaster-related U.S. Virgin Islands' CDBG-DR Action Plan, assistance available to the applicant, including, but not limited to FEMA, SBA, and flood insurance proceeds; and
- Business must be physically located in the Virgin Islands and must have been created and licensed no later than September 30, 2017.
- Must provide documentation demonstrating that their business is operating in good standing.
- Must comply with the training specifications set forth by this policy and the training provider.
- Applicants must complete the training course.

7.2.3.2: Certification

When a business has successfully completed the technical assistance program, the Subrecipient must provide the business with a certificate of completion to demonstrate that training and Program goals were met. The certification should be tailored to the type of approved technical assistance that the business received (e.g., business plan development or financial management).

7.2.4: Evaluation Criteria

The evaluation criteria for each applicant are as follows:

- **Description of Business:** Documentation of type of business, number of employees, pictures of business location.
- **Project Impact:** How will this project benefit the town/community?
- **Project Plan:** Describe the business's long-term vision and if possible.
- **Project Feasibility:** Evidence that the project can begin quickly and be completed within **eighteen months** of contract approval and that those managing the program are qualified.

- **Cost Estimate (if applicable):** All proposed projects should be accompanied by a cost estimate provided by the applicant for the Program to conduct a cost-reasonableness analysis.
- **Sustainability:** Provide an outline of how program activities will continue to have positive impact after the end of the program (e.g., how will the property be utilized/maintained after the Program is completed?).

7.3: Ineligible Activities

The following are **NOT** eligible for CDBG-DR funds if the activity:

- Does not correspond to an identified Hurricane Irma or Maria disaster-related impact.
- Is restricted in the Public Laws appropriating the CDBG-DR funds (Public Laws 115-56 and 115-123) or in the Housing and Urban Development Block Grant Disaster Recovery Federal Register Notices (Docket numbers [FR-6066-N-01](#), [FR-6109-N-01](#), and [FR-6136-N-01](#)).
- Is ineligible according to CDBG-DR requirements and a waiver has not been granted.
- Activities that fail to meet a national objective.

7.4: Award Determination

Awards for both program options will be based on cost estimates, a cost reasonableness analysis, and funding availability.

7.4.1: Duplication of Benefits

Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act ([42 U.S.C. §5155](#)) prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster for which he has received financial assistance under any other program or from insurance or any other source. In accordance with the Stafford Act, Disaster Recovery funds issued through the Department of Housing and Urban Development's CDBG-DR program may not be used for any costs for which another disaster recovery assistance was previously provided for the same purpose. As mandated by law, all projects receiving CDBG-DR funding must undergo an analysis of duplication of benefits to ensure no funds have been or will be received for the same purpose as the intended CDBG-DR grant.

Applicants must disclose all sources of funding for project finance in accordance with the following list of potential sources of funding that may result in a duplication of benefits. Generally, financial assistance received from any other source that is provided for the same purpose as the CDBG-DR funds is considered a Duplication of Benefit (DOB). The Territory's policy is in accordance with HUD's guidance on duplication of benefits; details for preventing Duplication of Benefits can be found in the VIHFA General Administrative Policy.

The Program must consider the total assistance available for the project. This includes all benefits, including cash, insurance proceeds, grants from FEMA, SBA loans, as well as any

other assistance received by the applicant from other local, Territory, or federal programs, or private or nonprofit charities.

CDBG-DR funds cannot supplant other funding; project budget, sources, and uses documents will be reviewed to ensure an appropriate amount of CDBG-DR assistance. All Applicants are required to report all assistance reasonably anticipated. Reasonably anticipated funds include assistance that has been awarded but has not yet been received. If excessive funds are reported or identified, the CDBG-DR funds will be the funding source reduced.

7.5: Underwriting Standards

While developing the program and agreement details, the Program will ensure satisfaction of the criteria of [24 CFR 570.482\(e\)](#).

7.6: Recapture

Recapture of funds is a circumstance where a Subrecipient is required to repay some or all of its CDBG-DR funds back to VIHFA. The VIHFA is the Lead Agency in charge of ensuring that beneficiaries of CDBG-DR funding comply with the requirements of their award. It is also accountable for making a good faith attempt to ensure that all VI CDBG-DR grants are awarded and disbursed in accordance with the United States Virgin Islands (USVI) Action Plan and subsequent amendments, the grant agreement executed between the USVI and the Department of Housing and Urban Development (HUD), and applicable State and federal regulations. However, situations may arise where an applicant needs to return all or part of the awarded funding to the respective program.

The following are the most typical conditions that may result in an award being revised, requiring repayment from the Subrecipient:

- **Duplication of Benefits (DOB):** If a Subrecipient receives additional benefits (FEMA, NFIP, SBA, private insurance, help from a nonprofit or other disaster assistance provider) that are duplicative of CDBG-DR funding, the Applicant's award will be reduced to reflect the duplication in benefits. If the total of the applicant's duplicative benefits and VI CDBG-DR funding received thus far exceeds the applicant's total VI CDBG-DR award, the applicant must repay the difference.
- **Ineligibility:** The eligibility conditions for receiving VI CDBG-DR funding are mandated by federal law, program regulations, and program policies and procedures. If it is discovered that the Applicant does not fulfill the eligibility standards for that program at any point in time, the Applicant will be forced to return any assistance received from that program.
- **Substantial Program Non-Compliance:** Each VI CDBG-DR program includes regulations that are outlined in the program policies as well as in the grant agreements signed by Applicants. If any Applicant fails to substantially comply with these regulations, the funds must be repaid. For example, failing to provide obligatory documents, complete the needed project, conduct mandatory elevation, or allow for mandatory inspections may result in repayment of the full award.

- **Voluntary Withdrawals:** Certain Applicants made the decision to withdraw from the VI CDBG-DR. If any Applicant withdraws after receiving VI CDBG-DR funds, the Applicant is required to repay any funds it received prior to its withdrawal.
- **Fraud:** Applicants who receive awards based upon fraudulent information must repay these funds to the program. These cases will also be referred to the appropriate criminal agencies for investigation.

While carrying out these obligations, the VI CDBG-DR may attempt to recoup money given to residents or sub-grantees (“recipients”) who did not spend the funds in accordance with the Program's regulations, or who were awarded funds in error.

8.0: PROGRAM ADMINISTRATION

VIHFA will administer and oversee all activities and expenditures in connection with the Virgin Islands CDBG-DR funds. VIHFA employees, along with contractors procured to aid VIHFA staff, will ensure that the activities are undertaken to meet all program requirements, including the disaster threshold, eligibility, national objective, compliance, fair housing, labor standards, nondiscrimination, environmental regulations, and procurement regulations.

9.0: COMPLIANCE AND MONITORING

VI CDBG-DR will monitor all activities in accordance with HUD, VI CDBG-DR, and VIHFA monitoring and compliance requirements so that each activity funded will meet the disaster threshold and one of HUD’s national objectives.

Selected applicants and Subrecipients will complete a Capacity Assessment. The intent of the Capacity Assessment is to get a status on staffing capacity, financial stability, grants administration and procurement procedures 2 CFR 200.205(c). The process to become a subrecipient should be completed within 60 days.

9.1: Cross Cutting Requirements

The Program, Subrecipients, and other stakeholders must comply with all applicable cross-cutting requirements, to include but not limited to the requirements below.

9.1.1: Section 3

The Awardee shall comply with [12 U.S.C. 1701u](#) and its regulations (“Section 3”). In compliance with Section 3, the CDBG-DR Program will require Subrecipients to establish training, employment, contracting and other economic opportunities arising from HUD funding. The requirements of Section 3 apply to recipients of HUD funding for Section 3 covered project(s) in which the amount of the assistance is more than \$200,000. Contractors and Subcontractors are also subject to Section 3’s requirements when performing any type of activity on Section 3 covered projects for which the amount of funding is more than \$200,000 and the contract or subcontract exceeds \$100,000.

If these thresholds are met, the Section 3 requirements apply to the entire project or activity that is funded with Section 3 covered assistance, regardless of whether the Section 3 activity is fully or partially funded with Section 3 covered funds. If a Subrecipient receives Section 3 covered housing construction or infrastructure or economic revitalization assistance greater than \$200,000, but no individual contract exceeds \$100,000, Section 3 requirements will only apply to the recipient (e.g., hiring and training goals). When Section 3 is triggered by the thresholds mentioned above, all parties must attempt, to the “greatest extent feasible,” to meet the minimum numerical goals as follows:

- At least thirty percent (30%) of all new hires must be Section 3 Residents; and
- At least ten percent (10%) of the total dollar amount of all Section 3 covered contracts for housing rehabilitation, construction, and other public construction should be awarded to eligible Section 3 Business Concerns; and,
- At least three percent (3%) of the total dollar amount of all Section 3 covered non-construction (e.g., professional services) contracts should be awarded to eligible Section 3 Business Concerns.

Section 3 language must be included in all construction contracts over \$100,000.

9.1.2: Davis-Bacon Labor Standards

The Davis-Bacon Act requires the payment of prevailing wage rates (which are determined by the U.S. Department of Labor) to all laborers and mechanics on Federal government construction projects more than \$2,000. Specifically, for CDBG-DR program projects, Davis-Bacon Related Acts will apply when CDBG-DR pays in whole or in part for any direct costs of construction; **AND** the project meets **one** of the following thresholds:

- Residential (housing): Property has 8 or more units;
- Non-residential: Any construction work valued at more than \$2,000.

Construction includes alteration and/or repair, including painting and decorating, of public buildings or public works.

Each Subrecipient, as well as other Funded Entities shall be required to administer and enforce the labor standards requirements set forth in [Section 570.605](#) of the regulations of the Housing and Community Development Act of 1974. Each Subrecipient or other Funded Entity shall comply with process steps and procedures as detailed in the “Labor Standards Flowchart”. For more information, please reference the General Administrative Manual.

9.1.3: Minority and/or Women-Owned Business Enterprises

The Federal Executive Order 12432 guidelines require selected federal agencies to promote and increase the utilization of Minority-Owned and Women-Owned Business Enterprises (M/WBEs). [2 CFR 200.321](#) requires VIHFA to take all necessary steps to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance allow for contracts and other economic opportunities to be directed to small and minority firms, women-owned business enterprises (WBEs), and labor

surplus area firms whenever possible. Goals regarding M/WBE percentages and reporting will be determined in the MOU.

9.1.4: Limited English Proficiency (LEP)

Federal Executive Order 131661 and Final Guidance ([72 FR 2732](#)) require VIHFA and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP).

Compliance with this requirement is detailed in VIHFA's Language Action Plan (LAP) and must be adhered to. It is VIHFA's policy to provide language access services to LEP individuals needing access to CDBG-DR funded programs; to manage and train VIHFA staff, contractors and subrecipients on procedures for implementing the LAP; to inform LEP individuals that language access services are available; and to continuously monitor and evaluate the implementation of the LAP.

Subrecipients will be responsible for providing reasonable accommodations to ensure equal opportunities are made available in the training programs for both LEP individuals and businesses.

9.2: Environmental Review

An environmental review is the process of reviewing a project and its potential environmental impacts to determine whether it complies with the National Environmental Policy Act (NEPA) and related laws and authorities. All HUD-assisted projects are required to undergo an environmental review to evaluate environmental impacts. An environmental review must be conducted considering federal laws, authorities, and regulations which address noise, air quality, historic properties, floodplains, wetlands, water quality, solid waste disposal, manmade hazards, farmlands protection, wild and scenic rivers, coastal areas, endangered species, and others. The analysis includes both how the project can affect the environment and how the environment can affect the project, site, and end users.

9.2.1: Lead-Based Paint

Construction activities funded under the CDBG-DR Program shall be subject to HUD Lead-Based Paint Regulations at [24 CFR 35](#), Subpart J. Such regulations pertain to all CDBG-DR-funded projects involving properties constructed prior to 1978.

VIHFA will conduct lead-based paint testing on all structures which were constructed prior to 1978. Surfaces testing positive, which are disturbed during rehabilitation activities, will under paint stabilization in accordance with [24 CFR 35.1330](#)(a) and (b). Structures testing positive, which are scheduled to undergo partial or complete demolition, will require a lead-safe certified contractor to complete the demolition, and all hazardous waste disposal will be conducted in accordance with the Resource Conservation and Recovery Act. After completion of all paint stabilization, a clearance examination will be conducted in accordance with [24 CFR 35.1340](#),

to ensure that clearance is achieved prior to the project end users being allowed in the spaces, which paint stabilization was performed.

9.2.2: Flood Disaster Protection

In accordance with the requirements of the Flood Disaster Protection Act of 1973 ([42 USC 4001](#)), the Program shall assure that activities occurring in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

9.2.3: Historic Preservation

The Program will comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended ([16 USC 470](#)) and the procedures set forth in [36 CFR Part 800](#), Advisory Council on Historic Preservation Procedures for Protection of Historic Properties.

In general, this requires concurrence from the State Historic Preservation Office for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

9.3: Conflict of Interest

No employee, officer or agent of the grantee will participate in selection, or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: the employee, officer, or agent; any member of their immediate family; their partner; or an organization which employs, or is about to employ, any of the above, has a financial or other interest in the firm or beneficiary selected for award. The grantee's officers, employees or agents will neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements, or beneficiaries during office tenure or for one year after the closeout of the grant.

This stipulation must be included in all other contracts and subcontracts to this grant. In addition, all employees and contractors working with beneficiaries and/or subrecipients will be required to sign acknowledgment of the Conflict-of-Interest policy.

Upon written request by VIHFA, an exception to the requirements stated above may be granted by HUD on a case-by-case basis. An exception may be granted after it is determined that it will serve to further the purpose of the Housing and Community Development Act and the effective and efficient administration of the program or project of the State or unit of general local government as appropriate. For an exception to be considered, the Grantee (VIHFA) must provide the following:

1. A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; and

2. An opinion of the attorney for the State or the unit of general local government, as appropriate, that the interest for which the exception is sought would not violate State or local law.
3. Verification that the affected person has withdrawn from active involvement in any grant-related issues.

Provided that these conditions have been met, HUD will determine whether to grant an exception. Generally, HUD will consider the following factors:

- Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
- Whether an opportunity was provided for open competitive bidding or negotiation
- Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class
- Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
- Whether the interest or benefit was present before the affected person was in a position as described above;
- Whether undue hardship will result either to the State or the unit of general local government or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and

Given the size of the Territory, all VIHFA staff and all hired contracted Case Management and Construction Management staff will be required to attend Conflict of Interest and Personally Identifiable Information (PII) training, and to complete a certification stating they attended the training and understand the ramification and consequences of not complying with the requirements of the Conflict of Interest and PII policies. These certifications will be maintained in the personnel records.

9.4: Prevention of Fraud, Waste, and Abuse

This Fraud, Waste, and Abuse Prevention Policy is established to facilitate the development of controls that will aid in the detection and prevention of fraud against the Authority in the administration of all VIHFA programs and the Authority's internal procurement. Some actions constituting fraud are as follows:

- Any dishonest or fraudulent act;
- Misappropriation of funds, securities, supplies, or other assets;
- Impropriety in the handling or reporting of money or financial transactions;
- Profiteering because of insider knowledge of the Authority's activities;
- Disclosing confidential and proprietary information to outside parties;
- Accepting or seeking anything of material value from contractors, vendors, or persons providing services/materials to the Authority.
- Destruction, removal, or inappropriate use of records, furniture, fixtures, and

- equipment; and/or
- Any similar or related irregularity.

It is the intent of the Authority to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position/title, or relationship to the Authority.

All applicant forms and agreements should carry the following:

Warning: *Any person who knowingly makes a false claim or statement to HUD or the USVI may be subject to civil or criminal penalties under [18 U.S.C. 287](#), 1001 and [31 U.S.C. 3729](#). Under penalties of perjury, I/we certify that the information presented above is true and accurate to the best of my/our knowledge and belief. I/We further understand that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in my ineligibility to participate in this program or any other programs that will accept this document. Title 18, Section 1001 of the U.S. Code states that a person is guilty of a FELONY if he/she knowingly and willfully makes a false statement to any department of the United States Government.*

10.0: RECORDKEEPING AND REPORTING

In accordance with HUD regulations, VIHFA, as the grantee and prime recipient of CDBG-DR funds follows the records retention requirements cited in [24 CFR 84.53](#), which includes financial records, supporting documents, statistical records, and all other pertinent records. VIHFA established recordkeeping and retention requirements in its subrecipient and contractor agreements in accordance with the guidelines stated in [24 CFR 570.503\(b\)\(2\)](#). CDBG-DR sub-recipients shall retain all financial records, supporting documents, statistical records, and all other records pertinent to the Agreement (i) for three (3) years from the time of closeout of HUD's grant to the Territory. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the retention period, then all such records must be retained until completion of the actions and resolution of all issues, or the retention period, whichever occurs later. Every sub-recipient and contractor is required to establish and maintain at least three major categories of records: Administrative, Financial, and Project/Case Files.

11.0: CLOSEOUT

The project closeout is the process by which VIHFA determines whether all requirements of the subrecipient agreement or MOU for a specific project have been completed in accordance with the terms and conditions of the agreement.

After any disbursement or over-disbursement reconciliations and resolutions of findings, the file is ready for final closeout and archiving by VIHFA.