

UNITED STATES VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

CDBG-DR DUPLICATION OF BENEFITS ESCROW POLICY AND PROCEDURES

VERSION: 1.1
May 13, 2022

Prepared by:
Virgin Islands Housing Finance Authority



The policies and procedures stated in this manual are current as of May 13, 2022. 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 the CDBG-DR Division. All manuals will be reviewed periodically and will be updated. Therefore, you are strongly urged to visit our website 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 Duplication of Benefits Escrow Policy	
Version Number	1.1
Revised Date	May 13, 2022
Effective Date	May 13, 2022
 VIHFA CDBG-DR Director of Programs	<u>May 13, 2022</u> Date

Table 1: CDBG-DR Duplication of Benefits Escrow Policies and Procedures Manual Version Control

Version Number	Date Revised	Description
VERSION 1.0	05/02/2022	Version 1 of the Escrow Policy
VERSION 1.1	05/13/2022	Version 1.1 of the Escrow Policy <ul style="list-style-type: none">• Modified section 5.0 (Special Circumstances) to remove language allowing applicants to accept funding from duplicative sources. Applicants must now sign an affidavit designating an individual (including themselves) to receive refunded escrowed monies.

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1.0: INTRODUCTION

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207, as amended) and calculated in accordance with the Department of Housing and Urban Development's Federal Register notice FR-6169-N-01 that Homeowners meet all program eligibility requirements and criteria when a Duplication of Benefit has been established. This policy establishes the VIHFA CDBG-DR guidelines for the creation and maintenance of an Escrow account for applicants enrolled in a reconstruction or rehabilitation program. All Escrow Accounts shall be used to secure the balance of the applicant's Duplication of Benefits gap before providing grant assistance from any of the VI CDBG-DR programs.

2.0: POLICIES

2.1: Version Policy

Version history is tracked in the table on the title page, 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.

2.2: Policy Change Control Board

Policy reviews and changes for the VI CDBG-DR Duplication of Benefits Escrow are considered through a change control process. 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 Policy Change Control Board (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 is comprised of the Special Council for Disaster Recovery, the Senior Policy Manager, Senior Housing Managers, at least one Subject Matter Expert, and other program staff members representing Program leadership as needed.

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

3.0: ESCROW DETERMINATION

When a homeowner has requested assistance for physical repairs and they have not maximized the amount of assistance under their specific program category, the program must determine the unduplicated, maximum level of assistance. If a DOB gap is found, they are required to provide the exact amount into an Escrow Account prior to executing a Contract for rehabilitation or reconstruction.

The formula in Table 2 will be used to calculate the maximum available assistance.

Table 2: Duplication of Benefits Formula

DOB Formula
Step 1: Identify the total need for assistance prior to any assistance being provided.
Step 2: Identify all potentially duplicative assistance received or to be received.
Step 3: Deduct assistance determined to be duplicative.
Step 4: Determine the maximum eligible award (Step 1 minus Step 3).
Step 5: Determine the Program cap (if applicable).
Step 6: Determine a final Program award (cannot exceed the program cap).

4.0: DOB GAP NOTIFICATION AND PAYMENT

Applicants will be notified in writing of their DOB gap amount by the VIHFA. The applicant will be allotted a 90-day period to provide a certified check or money order to the Case Management firm with the exact amount of escrow being requested from the date of the DOB Notification letter. NO PERSONAL CHECKS WILL BE ACCEPTED. At that time an Escrow Agreement will be completed, signed, and notarized by the applicant. If an applicant is unable to provide the DOB funds within the 90-day period, the applicant will be deemed inactive.

5.0: ACCOUNT MANAGEMENT

Two separate non-interest-bearing bank accounts will be established by the VIHFA to hold all escrowed funds received from applicants of the Homeowner and Rental rehabilitation programs. The escrowed funds are to be used solely for an applicant's payment of duplication of benefits gap. The Accounting and Collections Division of VIHFA will be responsible for the day-to-day management of the escrow accounts.

6.0: DURATION OF ESCROW ACCOUNT

The Escrow Account will remain open until all the work attributed to the Applicant(s) DOB contribution to the Project is completed, inspected, and approved by the VIHFA CDBG-DR Construction and Management Division. Upon receipt of such approval, in writing, the VIHFA CDBG-DR will release Escrow Funds to the Contractor in accordance with the Grant Agreement and Program Policies and Procedures. Escrowed Funds must be disbursed to the Contractor before any funds from the Grant Award are disbursed.

7.0: REFUNDS

Escrow refunds will be processed and returned within 60 days of the applicant's request for a refund. All applicants must designate the individual(s) that escrowed monies should be remitted to in their Escrow Agreement (Appendix A). The applicant will be required to complete an Escrow Refund/Withdrawal Request Form (Appendix B) and submit it to the Case Management firm. The Case Management Firm will complete an analysis and forward all documents, including the notarized DOB Escrow Acknowledgement Letter, to the VIHFA Accounting Division. Payment receipts will

be mailed to Applicants within 10 working days of payment being received.

7.1: Temporary Withdrawal of Funds

Should an applicant decide to withdraw their funds from the escrow account but remain active in the Program, the applicant will be required to provide a monthly bank account statement to the Program. The bank statement should reflect the amount of funds required by the Program to cover any duplication of benefits established during the DOB calculation. Funds shall remain the applicant's bank account until the execution of a construction contract for the repair of the applicant's home.

7.2: Permanent Withdrawal of Funds

Should an applicant decide to withdraw from the Program entirely, their escrowed funds will be refunded, and their application closed.

7.3: Deceased Applicants

If an applicant passes away while their DOB funds are still in the Escrow Account, the rehabilitation or work on the deceased applicant's home will be halted until a determination is made regarding the return of the funds to the adjudicated heirs of the applicant's Estate or the continuation of the work upon the issuance of the Judgment Order issued by the Court following the Probate of the applicant's Estate.

APPENDIX

Appendix A: DOB Escrow Agreement



Community Development Block Grant – Disaster Recovery
4605 Tutu Park Mall Suite 102A
St. Thomas VI 00802

6081 Castle Coakley Suite 4
Christiansted VI 00820
Telephone – 888-239-3327

Duplication of Benefits Escrow Agreement

This ESCROW AGREEMENT (the “Agreement”), made and entered into this _____ day of _____, 20_____, by and between _____ hereinafter referred to as “Homeowner(s)” or “Applicant(s),” having a mailing address _____ and the Virgin Islands Housing Finance Authority Community Disaster Block Grant Disaster Recovery EnVIsion Tomorrow Program (CDBG-DR).

WHEREAS, the United States Virgin Islands (the “USVI”) has established the Community Disaster Block Grant (VI CDBG-DR) through a United States Department of Housing and Urban Development Community Development Block Grant for Disaster Recovery (“CDBG-DR”). Program funds were allocated to the USVI through grant funding by the Housing and Urban Development through Congressional approved 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 funds to assist in long-term recovery from 2017 disasters and 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;

WHEREAS, the implementation of the CDBG-DR Program in the USVI is the responsibility of the Virgin Islands Housing Finance Authority.

WHEREAS, in accordance with the Stafford Act for CDBG-DR grantees, VI CDBG-DR EnVIsion Tomorrow Program calculates any Duplication of Benefits (“DOB”) received by Program Applicant(s) from the Federal Emergency Management Agency (“FEMA”), the Small Business Administration (“SBA”), insurance companies, nonprofits, or other sources. Any funds already received by the Applicant(s) for disaster-related property damage from these other sources must be deducted from the Grant Award as DOB;

WHEREAS, the Applicant(s) applied for and have been approved for assistance from the Program. In the Program application Applicant(s) provided, among other things, information regarding household income, demographics, and funds received for disaster relief assistance from other sources (e.g., insurance, the Federal Emergency Management Agency (“FEMA”), the Small Business Administration (“SBA”), nonprofits, etc.) that EnVIsion Tomorrow Program has relied on in determining the Applicant’s eligibility for, and the amount of, Program assistance to be awarded;

WHEREAS, to remain eligible for the Program, Applicant(s) are required to place any DOB in a non-interest-bearing escrow account controlled by the State (“Escrow Account”), and escrow funds are released

to the Contractor performing work on the Applicant(s)' property pursuant to Program Policies and Procedures;

WHEREAS, pursuant to the Homeowner Grant Agreement, Program Policies and Procedures, and all other Program documents incorporated herein by reference, EnVIision Tomorrow shall hold Applicant(s)' DOB in the amount of \$ _____, (the "Escrowed Funds") which sum will be held in accordance with the terms of this Agreement and the Grant Agreement.

NOW, THEREFORE, in consideration of the premises and other good and valuable considerations, the parties hereto covenant and agree as follows:

1. Escrow Account.

Applicant(s) shall provide the sum of \$ _____ (the "Escrow Amount") in the form of a cashier's check or money order within 90 days of the signing of the Escrow Agreement, payable to The Virgin Islands Housing Finance Authority. This amount will be held by the VIHFA in a non- interest-bearing Escrow Account, VIHFA being the signatory on the Escrow Account.

2. Duration of Escrow Account.

The Escrow Account will remain open until all the work attributed to the Applicant(s) DOB contribution to the Project is completed and inspected by the Program. Upon the EnVIision Tomorrow review of the project, a written request will be forwarded to the VIHFA for the release of Escrow Funds to the Contractor. Escrow Funds must be disbursed to the Contractor before any funds from the Grant Award are disbursed, pursuant to the Grant Agreement and Program Policies and Procedures.

3. Deposit of Funds.

All cashier's checks, certified checks, or money orders sent to VIHFA by Applicant(s) under this Agreement will be processed for deposit in the normal course of business. VIHFA will ensure that such funds are deposited into a non-interest-bearing account with a federally insured bank. Escrow Funds shall only be disbursed upon EnVIision Tomorrow's review of a written request for release of Escrow Funds from VI CDBG-DR to VIHFA. Escrowed funds will be held for no longer than 45 calendar days. If escrowed funds are held for longer than 45 calendar days, the Program shall request that the applicant submit a refund request form to have the funds placed in a bank account controlled by the applicant.

4. Disbursement of Funds.

Upon VIHFA review of a written authorization for the release of funds by EnVIision Tomorrow, VIHFA will release the Escrow Funds to the Contractor directly. When the funds in the Escrow Account have been fully disbursed, the Grant Amount may then be disbursed as required by the payment schedule for the work being performed. All funds will be paid by VIHFA to the designated prequalified and authorized Contractor during the rehabilitation, elevation, or reconstruction of the damaged property in accordance with the Grant Agreement, Program Policies and Procedures, and any other Program agreements. VIHFA has the right to issue written payment authorizations for a Contractor where it has been determined that work has been completed in accordance with the Scope of Work and any approved Change Order(s) regardless of an assertion by Applicant(s) that the work has not been completed. Payment instructions from EnVIision Tomorrow must be delivered to VIHFA at least 24 hours before requested disbursement or sent by electronic mail. VIHFA shall disburse the Escrow Funds based upon the payment instructions received from VI CDBG-DR, and once the Escrow Account is fully disbursed, VIHFA shall be released and discharged from any further duty or obligation hereunder.

5. Indemnification.

The parties agree to indemnify and hold harmless the VIHFA from all claims, actions, causes, expenses, or

damages incurred or in any way related to this Agreement or the release of all or a portion of the Escrow Funds or termination of the Escrow Account pursuant to the terms and conditions of this Agreement.

6. Refund of Escrow Balance

In the event that a request for a refund/withdrawal is submitted by the applicant, the escrowed funds shall be remitted to _____.

7. Entire Agreement.

This Agreement shall constitute the entire agreement between the parties with respect to the subject matter contained therein. Any prior understandings or contemporaneous agreements of any kind preceding the date of this Agreement shall not be binding upon the parties except to the extent incorporated herein by reference.

8. Modification of Agreement.

Any modification of this Agreement or additional obligations assumed by the parties in connection with this Agreement shall be binding only if evidenced in a writing signed by each party or an authorized representative of each party.

9. Time is of the essence of this Agreement.

It is specifically declared and agreed that time is of the essence in this Agreement.

10. Governing Law.

This Agreement is intended to be a contract under the laws of the United States Virgin Islands and all policies, procedures and program regulations and shall be governed thereby and construed in accordance therewith.

11. Headings.

The titles to the paragraphs of this Agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this Agreement.

12. Binding.

The terms and provisions of this Agreement are for the benefit of the parties contained herein and their respective successors and assigns only. Nothing contained herein shall be deemed or construed to inure to the benefit of any other person or party, it is the express intent of the parties that no such persons shall be entitled to any of the benefits hereof, except as herein expressly provided.

IN WITNESS WHEREOF, the parties hereto have executed this Escrow Agreement as of the day, month, and year first above written.

I certify that all information provided as part of this agreement is true and correct to the best of my knowledge. I certify under penalty of perjury that: (1) the information provided in this CDBG-DR Duplication of Benefits Escrow Agreement is true and correct as of this date and that any intentional or negligent misrepresentation may result in civil liability, including monetary damages, and/or in criminal penalties including, but not limited to, fine or imprisonment or both under the provisions of Title 18, United States Code, Sec. 1001, et seq.; and (2) the property will not be used for any illegal or prohibited purpose or use.

APPLICANT(S):

BY: _____ (signature) _____ (date)

BY: _____ (printed name)

BY: _____ (signature) _____ (date)

BY: _____ (printed name)

On this day of, before me, _____ (name of a notary), a Notary Public in and for said state, personally appeared _____ (name of person acknowledged) known to me to be the person who executed the within instrument and acknowledged to me that he/she/they executed the same for the purpose therein stated.

Notary Signature

SEAL

Type or Print Name of Notary

Public, State of _____

My commission expires: _____

Appendix B: Escrow Refund/Withdrawal Form

VI CDBG-DR DUPLICATION OF BENEFITS (DOB) ESCROW WITHDRAWAL REQUEST

This form must be completed to request a temporary or permanent withdrawal of escrowed funds. ALL CHECKS WILL BE MAILED OR HAND-DELIVERED TO CLAIMANTS.

Claimant's Case Number: _____ Escrow Refund Amount: _____

Claimant's Name: _____

Property Address: _____

Reason for Refund Request: _____

For Permanent Withdrawals

To Whom It May Concern:

I am requesting to permanently withdraw from the EnVIsion Tomorrow Homeowner Rehabilitation/ Rental Rehabilitation Program and I am requesting a refund in the amount of \$ _____ for the Duplication of Benefits paid for the repair of my home located at _____. I understand that accepting an Escrow refund relinquishes the program of all obligations associated with the repair of my home and by accepting this refund, I will no longer be a part of the EnVIsion Tomorrow Program.

Applicant's Name (Printed)

Date

Applicant's Name (Signed)

For Temporary Withdrawals

To Whom It May Concern:

I am requesting a temporary refund in the amount of \$ _____ for the Duplication of Benefits Escrow paid to the EnVIsion Tomorrow Homeowner Rehabilitation/ Rental Rehabilitation Program for the repair of my home located at _____. I understand that to remain in the Program, I am obligated to hold the withdrawn funds in a bank account and provide monthly bank statements to the Program until a construction agreement is executed for the repair of my home.

Applicant's Name (Printed)

Date

Applicant's Name (Signed)