

# UNITED STATES VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

## NON-FEDERAL MATCH PROGRAM POLICIES & PROCEDURES

**VERSION: 3.0**

**August 10, 2022**


Prepared by:

Virgin Islands Housing Finance Authority

CDBG-DR Program Division



The policies and procedures stated in this manual are current as of August 10, 2022. This document represents the current version of the Virgin Islands Housing Finance Authority's (VIHFA) policies which shall provide general guidance for the operation of the Non-Federal Match Program. All manuals will be reviewed periodically and will be updated. Therefore, you are strongly urged to visit our website <https://cdbgdr.vihfa.gov/library-2/> to ensure that you have the latest version.

<b>SUBJECT: CDBG-DR Non-Federal Match Program</b>	
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**Table 1: Non-Federal Match Program Version Control**

VERSION NUMBER	DATE REVISED	DESCRIPTION
1.0	8/15/2019	Non-Federal Match policies and procedures
2.0	7/18/2022	<ul style="list-style-type: none"> <li>• Added table of contents</li> <li>• Added section 1.0 (Version Policy)</li> <li>• Added section 2.0 (Acronyms and Definitions)</li> <li>• Incorporated acronyms into section 2.1 (Acronyms)</li> <li>• Section 3.0 renamed to Program Overview               <ul style="list-style-type: none"> <li>○ Removed the maps of disaster declared areas in the VI</li> <li>○ Moved regulatory compliance language to section 11.0 (Compliance and Monitoring)</li> </ul> </li> <li>• Added Section 4.0 (Method of Distribution)</li> <li>• New Section 5.0 header (Award Determination)</li> <li>• Removed sections 6.1 (Eligible Applicants) and 6.2 (National Objectives)</li> <li>• Moved language regarding construction projects initiated/not initiated as of September 27, 2018, from Section 7.1 (Project Review: General Priority Process) to Section 4.0 (Method of Distribution) under</li> </ul>

		<p>Prioritization Criteria. Remaining language removed.</p> <ul style="list-style-type: none"> <li>• Section 7.3 (Project Review Process: Eligibility Determination), and 7.3.3 (Area Benefit Data) removed</li> <li>• Moved section 8.2 (Project Review Process: Eligibility Determination) to Section 6.2 (Eligibility Determination)</li> <li>• New Section 10.0 (Program Administration) <ul style="list-style-type: none"> <li>○ Added section 10.1 (VIHFA Role as Grantee)</li> </ul> </li> <li>• Renamed Section 11.0 to Compliance and Monitoring.</li> <li>• Added new section 11.1 (Cross-Cutting Requirements) <ul style="list-style-type: none"> <li>○ Incorporated list of cross-cutting requirements</li> </ul> </li> <li>• Section 10.1 (Citizen Participation) removed.</li> <li>• Removed Source of Document from section 12.0 (Closeout)</li> </ul>
<b>3.0</b>	08/10/2022	<ul style="list-style-type: none"> <li>• Section 6.0 renamed to Eligibility Requirements</li> <li>• Removed Section 6.1.2 (LMI Housing)</li> <li>• 6.2.1 (Qualifying for the Federal Match (90% Cost Share) removed</li> <li>• 6.2.2 (Qualifying for the Non-Federal Match (10% Cost Share) incorporated in Section (Eligibility Requirements)</li> <li>• Section 7.4 (Requesting</li> </ul>

		<p>Payment) removed</p> <ul style="list-style-type: none"> <li>• Section 8.0 (Project Prioritization removed). Application Process now Section 8.0</li> <li>• Added sections 8.1 (Pre-Applications) and 8.2 (Program Applications)</li> <li>• Award Determination now Section 9.0</li> <li>• Added section 9.3.1 (Recapture)</li> <li>• Method of Distribution now Section 10.0</li> <li>• Removed State Agency Collaboration from Section 11.0 (Program Administration) to 3.1</li> <li>• Added section 11.2 (Monthly Status Reports)</li> <li>• Removed section 11.2.1 (Donated Resources)</li> <li>• Removed Section 11.5 (Acquisition)</li> <li>• Moved section 12.5 (Equipment) to section 6.0. Recordkeeping now 12.5.</li> <li>• Updated Appendix Section with current process map</li> </ul>
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## **1.0: VERSION POLICY**

Version history and dates of publication are tracked in the above table above. Substantive changes that reflect a policy change will result in the issuance of a new Version with a new primary version number, future policy changes and publications will result in additional revision Versions.

Non-substantive changes, such as minor wording and editing or clarification of existing policy that does not affect the interpretation or applicability of the policy, will be included in minor Version updates; such changes will result in a sub-Version number, such as 2.1, 2.2, etc.

### **1.1: Policy Change Control Board**

Policy changes for the U.S. Virgin Islands Housing Recovery 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 AND DEFINITIONS**

### **2.1: Acronyms**

**AUGF:** Authorization to Use Grant Funds

**CDBG-DR:** Community Development Block Grant – Disaster Recovery

**DBRA:** Davis-Bacon and Related Acts

**DOB:** Duplication of Benefits

**ERR:** Environmental Review Record

**FEMA:** Federal Emergency Management Agency

**HUD:** Housing and Urban Development

**LMI:** Low- to Moderate-Income

**IA:** Individual Assistance

**PA:** Public Assistance

**PW:** Project Worksheet

**RROF:** Request for Release of Funds

### **2.2: Definitions**

**Authorization to Use Grant Funds (AUGF):** This is an official HUD form granting Authority to Use Grant Funds for entities who have submitted HUD Form 7015.15: Request for Release of Funds and Certification (RROF).

**Community Development Block Grant – Disaster Recovery (CDBG-DR):** Assistance from the U.S. Department of Housing and Urban Development (HUD) to help the state recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

**Cross-cutting regulations:** Regulations outside of CDBG-DR regulations that apply to CDBG-DR programs. These include regulations pertaining to financial management, procurement, environmental, labor, acquisition, relocation, fair housing, and non-discrimination.

**Davis Bacon and Related Acts (DBRA):** Federal law requiring payment of local prevailing wages as determined by the Department of Labor on public works projects. It applies to contractors and subcontractors performing work on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works.



**Duplication of Benefits (DOB):** A duplication of benefit is the receipt of funding from multiple sources for the same purpose. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

**Emergency work:** FEMA's Public Assistance program designation for disaster response tasks including debris removal (Category A) and emergency protective measures (Category B) that occur immediately after a disaster.

**Environmental review record:** the document resulting from required environmental review, which includes a description of activities, evaluation of environmental impact, documentation of compliance with applicable environmental regulations, and an environmental determination.

**FEMA IA Data:** HUD approved alternative method for allowing VIHFA to determine LMI or Urgent Need National Objective for projects. The methodology allows the Program to use St. John Income Limits across all programs (because their income limits are higher) and allowed the program to use FEMA IA Data collected to determine if the beneficiary is LMI or Urgent Need rather than the 2010 Census Data. The FEMA IA Data is more current and reflects the true income representation for the island of St. Croix.

**FEMA Public Assistance:** Provides grants to state, tribal, territorial, and local governments, and certain types of private non-profit organizations so that communities can quickly respond to and recover from major disasters or emergencies. Through the program, FEMA provides supplemental federal disaster grant assistance for debris removal, life-saving emergency protective measures, and the repair, replacement, or restoration of disaster-damaged publicly owned facilities, and the facilities of certain private non-profit organizations.

**Housing and Urban Development Department:** The Department of Housing and Urban Development is responsible for national policy and programs that address America's housing needs, that improve and develop the Nation's communities, and enforce fair housing laws.

**HUD Rider:** A list of terms and conditions that apply to any contract for which any portion of the funding is derived from a grant made by the United States Department of Housing and Urban Development ("HUD"). Related to the HUD cross-cutting regulations.

**Large Project:** FEMA designation for PA projects that exceed the small project threshold (\$123,100.00). For large projects, payment is made based on actual costs determined after the project is completed, although interim payments may be made, as necessary. FEMA will continue to monitor the recovery progress to ensure the timely delivery of eligible assistance and compliance with the law and regulations.

**Low to Moderate Income:** A household is of low or moderate income if the household income (including income derived from assets) is at or below 80 percent of an area's median income. The Virgin Islands LMI is based on the FEMA IA data as noted above.

**Permanent work:** FEMA's Public Assistance program designation for "recovery work" which restores or rebuilds a damaged asset and is comprised of five categories: (Category C), roads and bridges (Category D) water control facilities, (Category E) buildings and equipment, (Category F), utilities, and (Category G), parks, recreation facilities, and other facilities.

**Project worksheet:** FEMA form used to document the scope of work and cost estimate for a FEMA Public Assistance project. This form supplies FEMA with the information necessary to approve the scope of work and itemized cost estimate prior to funding. The PW may include mitigation measures up to 100% of the eligible PW value.

**Request for Release of Funds:** An environmental review term for a process used by Responsible Entities (the state) when requesting the release of funds and the authority to use such funds for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and states. The approval of the RROF is required before environmental clearance may be provided to a recipient of CDBG-DR funds.

**Section 3:** A provision of the Housing and Urban Development (HUD) Act of 1968 that requires that recipients of HUD financial assistance of \$200,000 or more, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low-income residents in connection with projects and activities in their neighborhoods.

**Section 504:** A provision of the Rehabilitation Act of 1973, which provides that no qualified individual with a disability should, only by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

**Small project:** FEMA defined as projects falling below a certain threshold. The threshold is adjusted annually for inflation. For fiscal year 2017, that threshold is less than \$123,100.00. For small projects, payment of the FEMA federal share of is made upon approval of the project and notification is required by VITEMA upon completion of the project.

**Subrecipient:** State Agency or local government, private non-profit organization, or other legal entity, which public assistance funds were awarded via FEMA PA and a participation form was submitted to the Non-Federal Match Program for the use of CDBG-DR funding.

### **3.0: PROGRAM OVERVIEW**

In the aftermath of 2017 Hurricanes, the Federal Emergency Management Agency (FEMA) has provided disaster assistance to the Virgin Islands, which has a non-federal matching requirement. In most cases, federal programs require local government organizations to pay a share of the cost of a project, called the “non-federal match.”

Through FEMA’s Public Assistance (PA) program, grants are provided to states and communities that allow them to address immediate, post-hurricane response needs and long-term rebuilding needs with funds to state-level Subrecipients with a cost share or match requirement. The FEMA federally funded portion is 75%, requiring a 25% match by the receiving entity. In larger disasters and based on FEMA calculations, the federally funded portion can go to 90% or even 100% in some cases.

The Department of Housing and Urban Development (HUD) has allowed state grantees to utilize Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to satisfy matching requirements for other federal assistance programs, including FEMA, when used for an eligible CDBG-DR activity. The Virgin Islands Housing Finance Authority has allocated \$417,750,000 for the CDBG-DR Non-Federal Match Program (herein after referred to as the Match Program).

This Program is designed to assist state agencies, public entities, local non-profit organizations, and other eligible entities by leveraging CDBG-DR funds with Federal Emergency Management Agency (FEMA) resources to maximize and ensure recovery efforts. In this Program, CDBG-DR funds will be used to match the required Non-Federal cost share portion (10%) of FEMA-eligible PA Project Worksheets (PWs). FEMA IA data will be used to extract the corresponding low- and moderate-income population data for a service area that overlaps with a census designated place.

#### **3.1: State Agency Collaboration**

It is imperative that collaboration between the Match Program and local agencies is streamlined to ensure that non-federal match requirements are satisfied. For this Program, ODR, on behalf of VITEMA, will act as the Subrecipient. The Subrecipient will share information wherever possible to minimize collecting duplicative documentation from the territorial government and local FEMA PA recipients. The interchange between ODR/VITEMA and CDBG-DR is captured in the Appendix.

The Match Program will also engage with local FEMA PA recipients throughout their procurement and Match processes, ensuring that compliance with all Program requirements and regulations are met. If requested, local FEMA PA recipients will provide all requisite supporting documentation and application information to the Match Program or the Subrecipient to ensure the files contained within the Match Program’s system of record are complete and accurate.

## 4.0: FEMA PUBLIC ASSISTANCE CATEGORIES

FEMA has a detailed process that categorizes eligible projects by the type of work that needs to be repaired, restored, or removed following a disaster. The PA-eligible disaster recovery work that an applicant has is documented on a “project worksheet.” This is the form that is used to document the project and includes the location, damage description and dimensions, scope of work, and cost estimate for each project.

FEMA PA projects are described as either being for emergency work (response related), or for permanent work (recovery related). PWs clearly document the eligible work approved by FEMA. Emergency work takes place immediately prior to and after an event and is comprised of two categories, Category A and Category B work. Permanent work restores or rebuilds a damaged asset, allowing for mitigation, and is comprised of five (5) categories (Categories C-G). FEMA clearly distinguishes the eligible work through the series of work categories outlined below to prevent a Duplication of Benefits.

PA applicants can have work at the same facility that is both response and recovery related and across multiple categories.

### 4.1: Emergency Work: Response Related (Categories A and B)

Project Category	Description
Category A	Clearance of trees and woody debris; certain building wreckage; damaged/destroyed building contents; sand, mud, silt, and gravel; and other disaster-related material deposited on public and, in very limited cases, private property.
Category B	Measures taken before, during and after a disaster to eliminate/reduce an immediate threat to life, public health, or safety, or to eliminate/reduce an immediate threat of significant damage to improved public and private property through cost-effective measures.

### 4.2: Permanent Work: Recovery Related (Categories C-G)

Project Category	Description
Category C	Repair of roads, bridges, and associated features, such as shoulders, ditches, culverts lighting, and signs.
Category D	Repair of drainage channels, pumping facilities, and some irrigation facilities. Repair of levees, dams and hurricane

	control facilities fall under Category D, but the eligibility of these facilities is restricted.
Category E	Repair or replacement of buildings, including their contents and systems; heavy equipment and vehicles.
Category F	Repair of water treatment, and delivery systems; power generation facilities, and distribution facilities; sewage collection and treatment facilities; and communications.
Category G	Repair and restoration of parks, playgrounds, pools, cemeteries, mass transit facilities, and beaches. This category also is used for any work or facility that cannot be characterized by Categories A-F.

### **4.3: Project Size**

FEMA undertakes this categorization so that it can facilitate review, approval, and funding of repair projects.

#### **4.3.1: Small Projects**

When FEMA receives a request for reimbursement of a Small Project it provides the entire federal share as a single reimbursement. Small projects are those that cost less than \$123,100.00 for disasters that occurred in 2017. For small projects, final funding is based on the estimate at the time of project approval and certification of project completion is required when the project is done.

#### **4.3.2: Large Projects**

For Large Projects, FEMA reimburses only for work completed and “interim or progress payments” can be made while work is ongoing. Large projects are those whose cost is equal to or greater than \$123,100.00 for disasters that occurred in 2017. For large permanent work projects using the standard Section 406 process, funding is provided on the basis of actual costs as determined after the project is completed.

FEMA establishes a limit to the cost of Projects each year. This limit applies to each declared disaster within that year. If the cost of the Project is less than this limit (including insurance deductions and other deductions) the project is ineligible.

## **5.0: NATIONAL OBJECTIVES**

HUD requires that all CDBG-DR funded projects meet at least one HUD national objective. VIHFA, working with HUD Community Planning and Development staff, has currently defined four specific national objectives that correspond to payments being made in the Non-Federal Match Program.

## 5.1: LMI Area Benefit Activities

LMI Area Benefit activities are those that provide benefits to all persons living in a primarily residential area that contains at least 51% low- to moderate-income residents. Projects qualifying under this national objective must meet the requirements outlined in 24 CFR 570.483(b)(1).

The LMI component of this national objective will be determined using FEMA IA data to extract the corresponding low- and moderate-income population data for a service area that overlaps with a census designated place.

The Program will use local and federal data to determine whether a service area is primarily residential, along with the following criteria:

- **The nature of the activity:** In general, the size and the equipment associated with the activity should be taken into consideration. A small park with a limited number of slides and benches would not be expected to serve a large neighborhood. In the same way, a larger park that can accommodate a considerable number of people would not be expected to serve just the immediately adjacent properties. The same applies to improvements or assistance to an alleyway versus a small two-lane street versus an arterial four-lane street within the same neighborhood. The service area for each of these infrastructure projects will be different in size and population.
- **The location of the activity:** In general, the immediate area surrounding a facility or improvement is expected to be included in the service area. Additionally, when a facility is located near the boundary of a particular neighborhood, its service area could likely include portions of the adjacent neighborhood as well as the one in which it is located.
- **Accessibility Issues:** Geographic barriers can separate and preclude persons residing in a nearby area from taking advantage of a facility or improvement. Other limits to accessibility can include access fees, language barriers, time, or duration that an activity is available, access to transportation and parking, etc.
- **The Availability of Comparable Activities:** Comparable activities within the service area should be taken into account so that the service area does not overlap with the service area of another comparable activity.
- **Boundaries for facilities and public services:** The service area for some public facilities and services are determined based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.

A project that serves an area that is not primarily residential in nature shall not qualify under this national objective.

No beneficiary data may be determined using a percentage of a block group.

## 5.2: LMI – Limited Clientele

Limited Clientele activities are those that benefit a limited clientele, at least 51 percent of whom are low-to-moderate income persons. For a project to qualify under this national objective, it must meet one of the following tests:

- Benefit a clientele who are generally presumed to be principally low- and moderate-income persons. Activities that exclusively serve a group of persons in any one or a combination of the following categories may be presumed to benefit persons, 51 percent of whom are low and moderate-income: abused children, battered spouses, elderly persons, adults meeting the Bureau of the Census' Current Population Reports definition of "severely disabled," homeless persons, illiterate adults, persons living with AIDS, and migrant farm workers; or
- Require information on family size and income so that it is evident that at least 51 percent of the clientele are persons whose family income does not exceed the low- and moderate-income limit; or
- Have income eligibility requirements which limit the activity exclusively to low- and moderate-income persons; or
- Be of such nature and be in such location that it may be concluded that the activity's clientele will primarily be low- and moderate-income persons.

The Program requires sufficient supporting documentation demonstrating how a project meets one of these tests.

The following activities do **not** qualify under this objective:

- Activities that benefit all residents in an area
- Activities involving the acquisition, construction or rehabilitation of property for housing
- Activities where the benefit to LMI persons to be considered is the creation or retention of jobs, except as provided in 24 CFR 570.483(b)(2)(v).

## 5.3: Urgent Need

Urgent Need activities are those where the state or local recipient certifies that the activity is designed to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the recipient is unable to finance the activity on its own, and that other sources of funding are not available. While at least 70% of the entire CDBG–DR grant will be used for activities that benefit LMI persons, for certain activities the Program will use the Urgent Need national objective. Activities carried out under the urgent need objective will not count towards the 70% LMI benefit.

## 6.0: ELIGIBILITY REQUIREMENTS

In order to be deemed eligible for the Non-Federal Match Program, the project has to be obligated in the FEMA PA system. Moreover, to receive reimbursement payment the project has to be closed in FEMA PA and certified by VITEMA. VITEMA certification confirms

FEMA rules and regulations, such as procurement, property management and other core policies have been followed. Generally, the VITEMA certification will include costs that can be directly tied to the performance of eligible work. Such costs must be:

- Reasonable and necessary to accomplish the work;
- Compliant with Federal, State, and local requirements for competitive procurement; and
- Reduced by all applicable credits, such as insurance proceeds.

The purchase of equipment that is not an integral structural fixture with CDBG-DR funds is generally ineligible, except in the following circumstances:

- Construction equipment. The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing or depreciation pursuant to [2 CFR part 200](#), subpart E, as applicable for an otherwise eligible activity is an eligible use of [CDBG funds](#). However, the purchase of construction equipment for use as part of a solid waste disposal facility is eligible under § 570.201(c).
- Fire protection equipment. Fire protection equipment is considered for this purpose to be an integral part of a public facility and thus, purchase of such equipment would be eligible under [§ 570.201\(c\)](#).
- Furnishings and personal property. The purchase of equipment, fixtures, motor vehicles, furnishings, or other personal property not an integral structural fixture is generally ineligible. [CDBG funds](#) may be used, however, to purchase or to pay depreciation in accordance with [2 CFR part 200](#), subpart E, for such items when necessary for use by a [recipient](#) or its subrecipients in the administration of activities assisted with [CDBG funds](#), or when eligible as firefighting equipment, or when such items constitute all or part of a public service pursuant to § 570.201(e).

Subrecipients purchasing equipment with CDBG-DR funds must implement property management controls. Subrecipients are encouraged to contact the Program for technical assistance prior to the purchase of equipment.

The Program may also collect and review additional documentation as needed to prove adherence to applicable CDBG-DR requirements. If the information provided by the applicant does not demonstrate full eligibility or how the project will meet a national objective, then the project will not be eligible for the Non-Federal Match Program.

## **7.0: PROJECT PRIORITIZATION**

The Program will review and process applications that have been obligated by FEMA. Exceptions to this process may be made on a case-by-case basis, at the Program's discretion. This may impact the timing in which an applicant receives funds from the Non-Federal Match Program.



## 8.0: APPLICATION SUBMISSION PROCESS

The Match Program will work with the Subrecipient and other local agencies for the Match application processes. The requirements for each are outlined in the following sections.

### 8.1: Pre-Applications

In accordance with HUD requirements, FEMA PA recipients seeking CDBG-DR matching funds must first receive guidance from and be monitored by the Match Program for CDBG-DR regulatory requirements. To this end, agencies must complete and submit a pre-application outlining all potential projects to be funded on PWs by the Match Program. The pre-application can be requested from the Non-Federal Match Senior Program Manager.

**Note: A PW may be deemed ineligible for Match funding at this stage if it is determined to not meet CDBG-DR requirements.**

### 8.2: Program Applications

The Subrecipient must complete a Match Program application for its approved projects. The application submission date triggers the project CDBG-DR eligibility review. Program staff will request any additional information that may be required but is not available in the FEMA PW to complete the application for Match funding. The application can be requested from the Non-Federal Match Senior Program Manager.

## 9.0: AWARD DETERMINATION

### 9.1: Determining the Non-Federal Match Amount

This Program only provides reimbursement for the Non-Federal Match for the portion of a project that meets HUD and CDBG-DR eligibility requirements. The table below shows the current match percentage by disaster and federal program. As such, the match rates below represent the maximum federal share that VIHFA may provide. The Program will review each project on a case-by-case basis. The Program may fund less than the full match amount if any components are deemed ineligible. Additionally, to prevent Duplication of Benefits, matching funds from other sources (i.e., local funds or grants) are considered before Program funding decisions are confirmed.

**TABLE 2: FEDERAL PROGRAMS AND SHARE RATE ELIGIBLE UNDER THE TERRITORY'S MATCH PROGRAM**

Federal Agency	FEMA Section	Category of Work	Program	Type of Work	Federal Cost Share	Local Cost Share
FEMA	Section 407	A	PA: Debris Removal	Emergency	100%	0%

FEMA	Section 403	B	PA: Emergency Protective Measures	Emergency	100%; 90%**	0%; 10%
FEMA	Section 403	B	PA: Sheltering and Temporary Essential Power (STEP)	Emergency	100%; 90%**	0%; 10%
FEMA	Section 406	C-G	PA: Public Assistance & Mitigation	Permanent	90%	10%
FEMA	Section 428	C-G	PA: Public Assistance Alternative Procedures (PAAP)	Permanent	90%	10%
FEMA	N/A	N/A	PA: Direct Administrative Costs (DAC)	N/A	90%	10%
<p><b>*Subject to change per Congress.</b>  <b>**100% federal cost share for 240 days from the start of the incident period for Hurricanes Irma and Maria, ending August 31, 2018, for Hurricane Irma and September 11, 2018, for Hurricane Maria; 90% thereafter.</b>  <b>***100% federal cost share from the first 180 days after the disaster occurs, 90% thereafter.</b></p>						

CDBG-DR funds are limited to the Non-Federal Match for FEMA PA eligible project worksheets (PWs) amount, which may include mitigation measures. CDBG-DR funds may not be used to expand a project beyond what is approved by FEMA in a PW.

## 9.2: Match Award Cost Identification

Total eligible project costs will be computed and the applicable match (10% for DR-4335 and DR-4340) will be calculated. If possible, CDBG-DR match funds will be applied to a single project worksheet.

A project worksheet will be selected for the match based on the following factors:

1. Construction contracts publicly advertised and awarded under VIHFA Public Bid Law that are not subject to Davis-Bacon or Section 3.
2. Construction contracts awarded under Small Purchase Procedures that are not subject to Davis-Bacon or Section 3.
3. If Davis-Bacon and/or Section 3 are triggered for the construction contract, attempt to apply the match to a professional services contract if the match is less than the total professional services contract amount.
4. If Davis-Bacon and/or Section 3 are triggered for the construction contract and the match is greater than the amount of a professional services contract, apply the match to the construction contract. This option triggers DBRA compliance review.
5. Apply the match to Subrecipient Force Account costs.

Note: FEMA Direct Administrative Costs (DAC) are direct, administrative, or other expenses the Subrecipient incurs in administering and managing PA awards that are directly chargeable to a specific project. DAC are eligible for reimbursement in the Non-Federal Match Program.

### **9.3: Duplication of Benefits Review**

VIHFA makes application and funding determinations based on data obtained from multiple sources, including project specific information contained in FEMA's Emmie system of record and Grants Portal. VIHFA will make a final funding determination once the project is complete, and the final FEMA payment has been made on the eligible PW. VIHFA may consider exceptions to this process on a case-by-case basis. If additional funds are received from duplicative resources after the disbursement of CDBG-DR funds, FEMA PA recipients are required to notify VIHFA and may be required to repay a portion or all of the CDBG-DR assistance.

Federal law prohibits any person, business concern, or other entity from receiving federal funds for any part of such loss for which they have already received financial assistance under any other program, private insurance, charitable assistance, or any other source.

#### **9.3.1: Recapture**

An applicant may be required to repay all, or a portion of the funds received. The reasons for recapture include but are not limited to the following:

- A subrecipient is determined to have provided false or misleading information to the Program;
- A subrecipient withdraws from the Program prior to completion of the project;
- A subrecipient does not complete construction;
- A subrecipient fails to meet a national objective of the Program;
- A subrecipient is found to have used program funds for an ineligible activity; and/or,
- A subrecipient does not report the receipt of additional insurance, SBA, FEMA, non-profit assistance and/or any other duplication of benefits received after award.

The Program will develop a detailed recapture policy for the overall CDBG-DR program. The policy, once developed, will be referenced in an update to this manual.

### **9.4: Subrecipient Agreement**

Federal regulations require that the Program executes Subrecipient agreements before any funds are distributed. All Subrecipient agreements must remain in effect for the duration of CDBG-DR project(s).

The Program will issue subrecipient and project agreements that outlines all federal and project-related requirements. The Agreements will also include any special conditions that are identified during the Capacity Assessment process. Appendices will be added to agreements as projects are approved for eligibility.

Agreements may be amended over the period of performance, as needed. All amendments will be made in writing. Changes to the scope of services or budget may be requested by the Program or the Subrecipient and incorporated into the Subrecipient agreement if mutually agreed upon.

## **10.0: METHOD OF DISTRIBUTION**

**Eligible Activities:** Acquisition of Real Property (HCDA Section 105(a)(1)); Public Facilities and Improvements (HCDA Section 105(a)(2)); Clearance, Rehabilitation, Reconstruction, and Construction of Buildings (including Housing) (HCDA Section 105(a)(4)); Public Services (HCDA Section 105(a)(8)); Payment of Non-federal Share (HCDA Section 105(a)(9)); Relocation (HCDA Section 105(a)(11)); Assistance to Institutions of Higher Education (HCDA Section 105(a)(21)).

**National Objective:** Low- and Moderate-Income Area, Low- and Moderate-Income Limited Clientele, and Urgent Need.

**LMI Projection:** 65%.

**Estimated Start and End Dates:** Quarter 4, 2018 through Quarter 3, 2026

**Geographic Areas Served:** Territory-wide.

**Eligible Applicants:** All entities with eligible FEMA PA projects requiring a non-federal match. Eligible applicants for the Non-Federal Match program include, but are not limited to, the following entities:

- Public agencies and authorities
- Public and parochial schools (K-12)
- Institutions of Higher Education
- First responders
- Critical infrastructure facilities as defined by FEMA (e.g., wastewater and potable water facilities)
- Other local program applicants eligible to receive federal recovery funds, including eligible private non-profit organizations.

**Eligibility Criteria:** Eligible projects must:

- Have an active FEMA PW or other federal program documentation
- Meet a HUD national objective and a CDBG-DR eligible activity,
- Meet additional CDBG-DR cross-cutting requirements (see Section 5.1)

**Prioritization Criteria:** Projects will be selected based on a weighted scale with the following criteria:

- **LMI:** Project beneficiaries are evidenced to be at least 51% low- and moderate-income persons or communities

- **Readiness:** Projects demonstrate they are ready to begin rehabilitation or construction. A project is considered “ready” if environmental review and engineering have already been completed, where required OR the project can demonstrate an accelerated timeline. For construction-related projects that were either underway or not yet started as of September 27, 2018, VIHFA will work with applicants to help ensure their projects are designed in a manner that complies with CDBG-DR rules and regulations.
- **Criticality:** Determined based on the extent to which the normal conduct of social, economic, or government processes is impeded without the project. Special consideration will be given to projects that have a strong tie to housing unmet needs or will contribute to long-term recovery and restoration of housing.
- **Resilience:** Project includes measures that prevent vulnerability in the future or provide innovative solutions to existing vulnerabilities.
- **Technical Feasibility:** The degree of specialized equipment or advanced technical capacity required.
- **Sustainability:** Degree to which modern sustainability standards or best practices are taken into consideration for the project.
- **Economic Benefit:** The project is evidenced to resolve an impediment to or create new opportunities for economic activities.

**Maximum Award:** The maximum award will be based on the cost-share requirement per project.

## **11.0: PROGRAM ADMINISTRATION**

### **11.1: VIHFA Role as Grantee**

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

VIHFA will monitor the activities in accordance with HUD, 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, with emphasis on eligible activities achieving the rehabilitation or reconstruction of eligible homeowner properties, primarily benefiting low- and moderate-income persons. The Virgin Islands Housing Finance Authority (VIHFA) has solicited through competitive bidding processes a Case Management provider, a Construction Management Services firm, and a pool of licensed, qualified contractors to assist the Territory in implementing the Program.

### **11.2: Monthly Status Reports**

The Subrecipient is responsible for providing the Match Program with monthly status update of FEMA obligated PWs that have received CDBG-DR Match funds. The Match Program will be responsible for reviewing and approving the status reports and forwarding them to the Program’s Compliance and Monitoring Division.

## **12.0: COMPLIANCE AND MONITORING**

The CDBG-DR Compliance and Monitoring Division is structured to allow for coordination between, and monitoring of, all CDBG-DR programs and internal operations. The primary purpose of CDBG-DR Compliance and Monitoring Division is to ensure that all programs and contractors administering CDBG-DR programs, departments, and Subrecipients comply with applicable State and federal regulations. It also serves as a layer of oversight to mitigate any potential risks, proactively detect, and identify areas to prevent and minimize fraud, waste, and abuse, and effectively fulfill the goals set forth in the Action Plan.

Areas that may require additional oversight or have been identified as problematic areas including duplication of benefits, contracting and procurement, monitoring, and fraud reporting, will be subjected to additional monitoring, impromptu visits, and inspections. Follow up of these areas and the staff involved will be routinely scheduled. A status of these visits will be appropriately reported with recommendations made for corrective action.

The Non-Federal Match Program is guided by the Stafford Act, USC 5121, The Code of Federal Regulations Title 44 Parts 13.36, 13.37 and 13.40, and the FEMA Disaster Assistance Guidance 9500 Series. Additionally, in order for CDBG-DR assistance to be used as the Non-Federal Match, the activity must be eligible and meet a national objective, per CDBG-DR rules and regulations. Similarly, the project must fully comply with all applicable rules and regulations, to include Davis Bacon and Related Acts, Section 3, Section 504, procurement, environmental review and all other CDBG-DR, cross-cutting, state, and local applicable statutes, rules, and regulations.

### **12.1: Cross-Cutting Requirements**

The following is a summary of key cross-cutting requirements and their application to the Non-Federal Match Program:

- Section 3
- Section 504
- Architectural Barriers Act
- International Energy Code
- EPA Energy Star Program
- Minority/Women Owned Enterprises
- HUD Lead Safe Housing Rule
- International Building Code (IBC)
- Green Building Retrofit Checklist
- National Environmental Policies Act (NEPA)
- International Residential Building Code (IRC)
- HUD Community Planning and Development (CPD)
- 24 CFR Part 570 and 2 CFR Part 200 for Necessary and Reasonable Requirements Cost Principals
- Davis-Bacon and Related Acts (DBRA) requirements for properties with eight (8) or more units.

VIHFA will provide technical assistance upon request. Failure to comply fully with the CDBG-DR and federal cross-cutting requirements may result in the project being ineligible and/or trigger a recapture of funds.

#### **12.1.1: Section 504**

Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 754) requires that local Subrecipients shall operate each program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is readily accessible to and usable by individuals with handicaps.

*If construction was completed prior to September 27, 2018 or if the construction contract had been officially accepted by the Subrecipient as substantially complete by September 27, 2018, the Section 504 requirements described below do not apply.*

If Section 504 applies, the Subrecipient shall submit an assurance to the VIHFA that the CDBGDR Program will be operated in compliance with Section 504 requirements (24 CFR 8.50(a)).

In addition, if the Subrecipient employs fifteen or more persons:

1. The Subrecipient must designate a responsible employee to coordinate the Subrecipient's efforts to comply with Section 504;
2. The Subrecipient must adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by this part. Such procedures need not be established with respect to complaints from applicants for employment or from applicants for admission to housing covered by this part.
3. The Subrecipient shall publish or publicly post a statement of compliance to notify participants, beneficiaries, applicants, and employees, including those with impaired vision or hearing, and unions or professional organizations holding collective bargaining or professional agreements with the Subrecipient that it does not discriminate on the basis of handicap in violation of this part. The notification shall state, where appropriate, that the Subrecipient does not discriminate in admission or access to, or treatment or employment in, its federally assisted programs and activities. The notification shall also include an identification of the responsible employee designated above.
4. A Subrecipient shall make the initial notification required by this paragraph within 90 days of receipt of the executed contract with the VIHFA. Methods of initial and continuing notification may include the posting of notices, publication in newspapers and magazines, placement of notices in recipients' publications, and distribution of memoranda or other written communications.

Subrecipients subject to Section 504 requirements under the Non-Federal Match Program are not required to conduct a Section 504 Self-Evaluation, prepare a Section 504 Transition Plan or to complete a Summary of Actions to Achieve Compliance.

### **12.1.2: Section 3**

Compliance requirements of Section 3 of the HUD Act of 1968 are triggered when a Subrecipient receives in excess of \$200,000 of HUD funds for the construction, reconstruction, conversion or rehabilitation of housing, other public construction that includes buildings or improvements assisted with CDBG-DR funds. If Section 3 of the HUD Act of 1968 is triggered for the Subrecipient, then contractors/subcontractors whose contracts are paid in full or in part with CDBG-DR funds and exceed \$100,000 must also comply with Section 3 of the HUD Act of 1968.

*If construction was completed prior to September 27, 2018 or if the construction contract had been officially accepted by the Subrecipient as substantially complete by September 27, 2018, the Section 3 requirements described below do not apply.*

If Section 3 of the HUD Act of 1968 is triggered, the Subrecipient shall ensure that:

1. The “Section 3 Clause” is included in all Section 3 covered contracts;
2. Section 3 covered contractors and subcontractors submit a Section 3 Plan.
3. Section 3 covered contractors and subcontractors submit Certification of Bidder Regarding Section 3.

In addition, the Subrecipient will have to report to VIHFA information on Section 3 new hires and contracts awarded to Section 3 business concerns. This report will be due at the time of close-out.

### **12.1.3: Contracting with Small and Minority Businesses, Women Business Enterprises, and Labor Surplus Area Forms**

As required in 2 CFR Part 200.321, Subrecipients must take affirmative steps to assure that minority business, women’s business enterprises, and labor surplus area firms are used when possible.

Affirmative steps include:

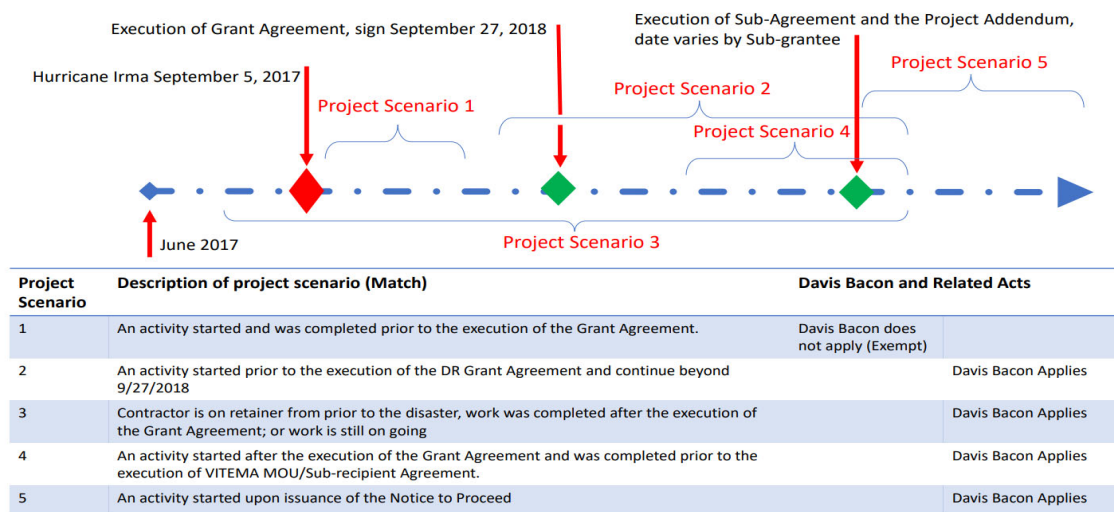
1. Placing qualified small and minority businesses and women’s business enterprises on
2. solicitation lists;
3. Assuring that small and minority businesses and women’s business enterprises are
4. solicited whenever they are potential sources;
5. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
6. Establishing delivery schedules, where the requirement permits, which encourage
7. participation by small and minority businesses, and women’s business enterprises;
8. Using the services and assistance, as appropriate, of such organizations as the Small
9. Business Administration and the Minority Business Development Agency of the Department of Commerce; and Requiring the prime contractor, if subcontracts are to be let, to take the same affirmative steps listed above.



### 12.1.4: Labor Standards

As required by Section 110 of the Housing and Community Development Act, and as outlined in HUD Handbook 1344.1 Rev 2, Federal Labor Standards Requirements in HUD Programs, Subrecipients are responsible for ensuring compliance with Davis-Bacon (DBA) requirements as well as the Copeland Anti-Kickback Act, the Contract Work Hours, and Safety Standards Act (CWHSSA) and the Fair Labor Standards Act (FLSA) collectively referred to as Davis Bacon and Related Acts (DBRA). In general, DBRA requires payment of prevailing wages to laborers and mechanics on contracts, financed in whole or in part with CDBG-DR funds, that involve construction work valued in excess of \$2,000. Refer to Figure 1 below for applicability of Davis-Bacon requirements.

**Figure 1: Davis-Bacon Applicability**



- 1. If construction was completed prior to September 27, 2018 or if the construction contract had been officially accepted by the Subrecipient as substantially complete by September 27, 2018, DBRA does not apply.** Regarding construction projects, VIHFA has defined the completion date as the date the project was officially accepted as substantial complete by VITEMA. The Applicant will need to supply proof of the Substantial Completion Date.
- 2. If construction was ongoing after September 27, 2018 and is completed or is ongoing as of September 27, 2018 and still underway DBRA does apply.** Contract specifications must include the applicable Davis Bacon wage determination in effect as of September 27, 2018. The applicant has the option to include the wage determination in effect as of September 27, 2018, retroactively.

**If construction began after September 27, 2018, compliance with DBRA will apply.** Advertising for bids, bid solicitation and contracts are to incorporate Davis Bacon Labor Standards and wage determinations, “Attention of Bidders” paragraph and CDBG-DR Compliance Provisions for Construction Contracts.

Example: If multiple separate construction projects are covered by one PW, the September 27, 2018, threshold is applied on a separate construction project contract-by-contract basis. (For example, if five (5) separate schools are all included in one PW, but each school is bid out separately and has separate construction contracts, the threshold could be applied to only one of the school construction projects and not all five (5) of the construction contracts.)

## **12.2: Procurement**

All procurement transactions funded in whole or in part with CDBG-DR funds, regardless of dollar amount, must adhere to 2 CFR Part 200.318 – 325 and be conducted to provide “maximum open and free competition”. 2 CFR 200.318(i) requires that Subrecipients maintain records sufficient to detail the significant history of a procurement.

Two critical areas of compliance under 2 CFR Part 200 to which Subrecipients should adhere:

1. Per 2 CFR Part 200.323, the Subrecipient must make independent estimates before receiving bids or proposals.
2. The contract provisions for non-federal entity contracts listed in Appendix II to 2 CFR Part 200 must be incorporated into all CDBG-DR funded contracts.

Subrecipients shall maintain a contract administration system to monitor contractor’s performance against the terms, conditions, and specifications of their contracts or purchase orders.

## **12.3: Debarment and Suspension**

A contract award must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM). SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible. In accordance with 2 CFR Part 200.213, Subrecipients must ensure that all contractors receiving CDBG-DR funds are eligible to participate in the Non-Federal Match Program and have evidence on no debarment check through SAM.

VIHFA will re-verify contractor eligibility prior to payment of match funds. Costs incurred by ineligible parties will not be eligible for reimbursement.

## **12.4: Environmental Review**

Every project undertaken with CDBG-DR funds, and all activities related to that project, is subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as to the HUD environmental review regulations at 24 CFR Part 58. The primary purpose of this Act is to protect and enhance the quality of our natural environment. HUD environmental clearance must be obtained for each project prior to the firm commitment of federal or non-federal funds to any expenses or contracts related to a project. A violation of this requirement may jeopardize federal funding to this project and disallow all costs that were incurred before the completion of the Environmental Review. For additional guidance, please refer to the CDBG-DR Environmental Review Manual.

### **12.4.1: Environmental Review for Non-Federal Match Payments – Special Provisions Concerning Use of FEMA’s process**

HUD Subrecipients are permitted to adopt FEMA’s (or another Federal agency’s) environmental review, subject to approval by HUD, if that Federal agency has previously performed an environmental review for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. In those cases, the work performed by FEMA and by HUD must be the same work. The recipient of HUD funding does not need to supplement FEMA’s environmental review to comply with HUD regulations, and all environmental obligations are considered complete when the recipient adopts the agency’s review.

When adopting another Federal agency’s review, the Subrecipient must obtain a completed copy of that Federal agency’s review and keep a copy in its records. The notification must be stated on the HUD Request for Release of Funds (RROF) Form 7015.15<sup>1</sup>. The RROF must indicate that another Federal agency’s review is being adopted and include the name of the other Federal agency, the name of the project, and the date the project’s review was prepared by the other Federal agency.

Change orders or additional contracts that include work not listed in the approved and obligated project worksheet cannot be executed if CDBG-DR funds are being used to satisfy non-federal match matching requirements.

### **12.5: Record Keeping**

The subrecipient must maintain all program and project-related documentation, such as financial records, supporting documents, and statistical records. These records must be retained for a period of five (5) years after closeout of the Territory’s Disaster recovery grant by HUD.

## **13.0: CLOSEOUT**

Program or activity (“project”) closeout is the process by which the Program determines that all costs paid with CDBG-DR funds have been incurred, the work has been completed, and all responsibilities of the Subrecipient have been completed in accordance with the terms and conditions of the grant agreement and applicable laws and regulations.

Subrecipients are responsible for timely submission of closeout documents. A program/activity cannot be closed out until all funds have been expended, all activities associated with the program/activity have been completed, and the National Objective has been met.

After FEMA closeout of a project, VITEMA staff will prepare and submit to VIHFA a certification for their review of all supporting project documents including procurement, invoices, timesheets, and logs. This certification will be included in the files and with any requests for reimbursement for the CDBG-DR funds. Unless otherwise allowed or waived by HUD, all Small PWs will require review by VIHFA of all documents and no certification will

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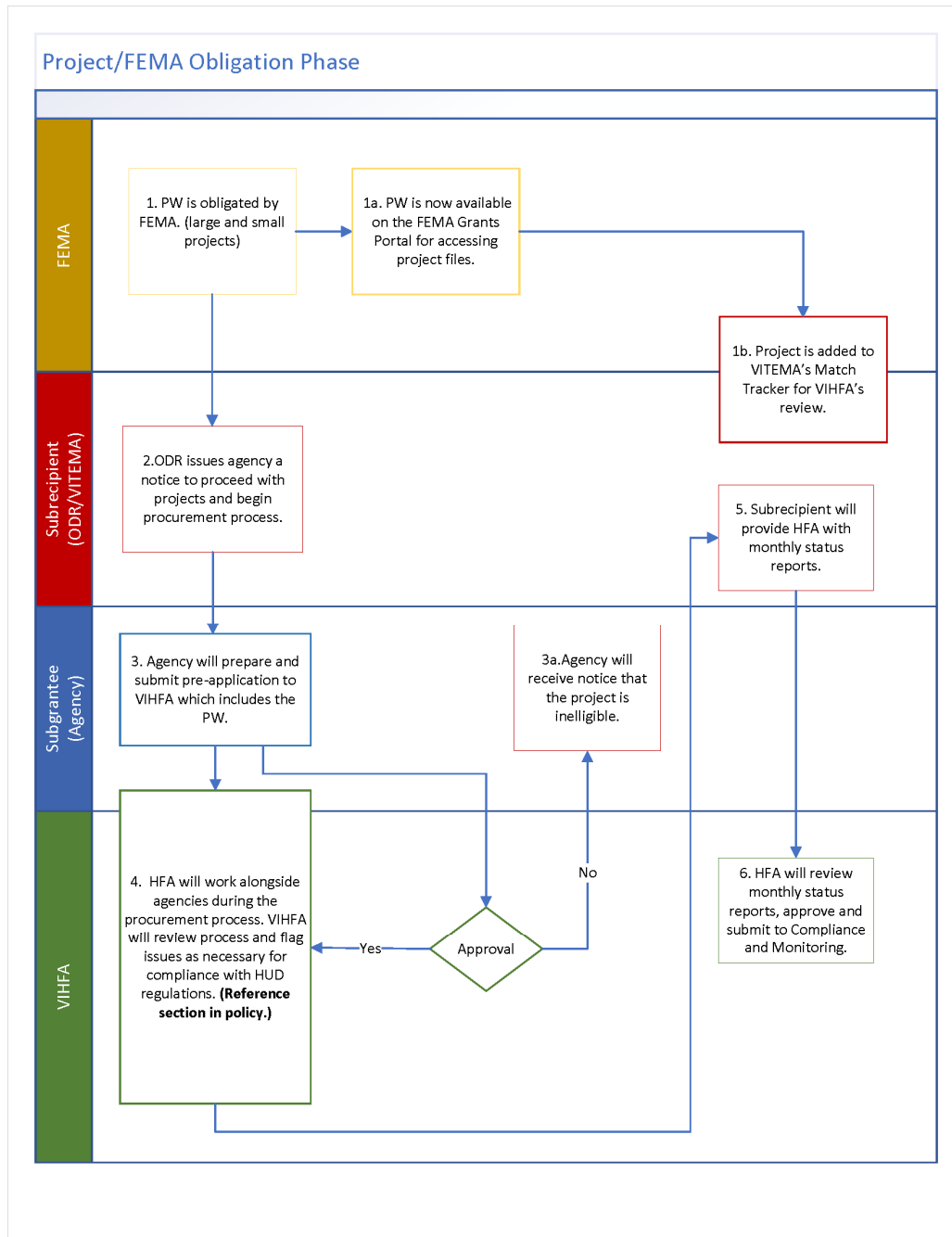
<sup>1</sup> <https://www.hud.gov/sites/dfiles/OCHCO/documents/7015.15.pdf>

be provided by VITEMA. These Small PWs and their relevant review will identify those documents that must be obtained from the Subrecipient if not submitted to VITEMA.

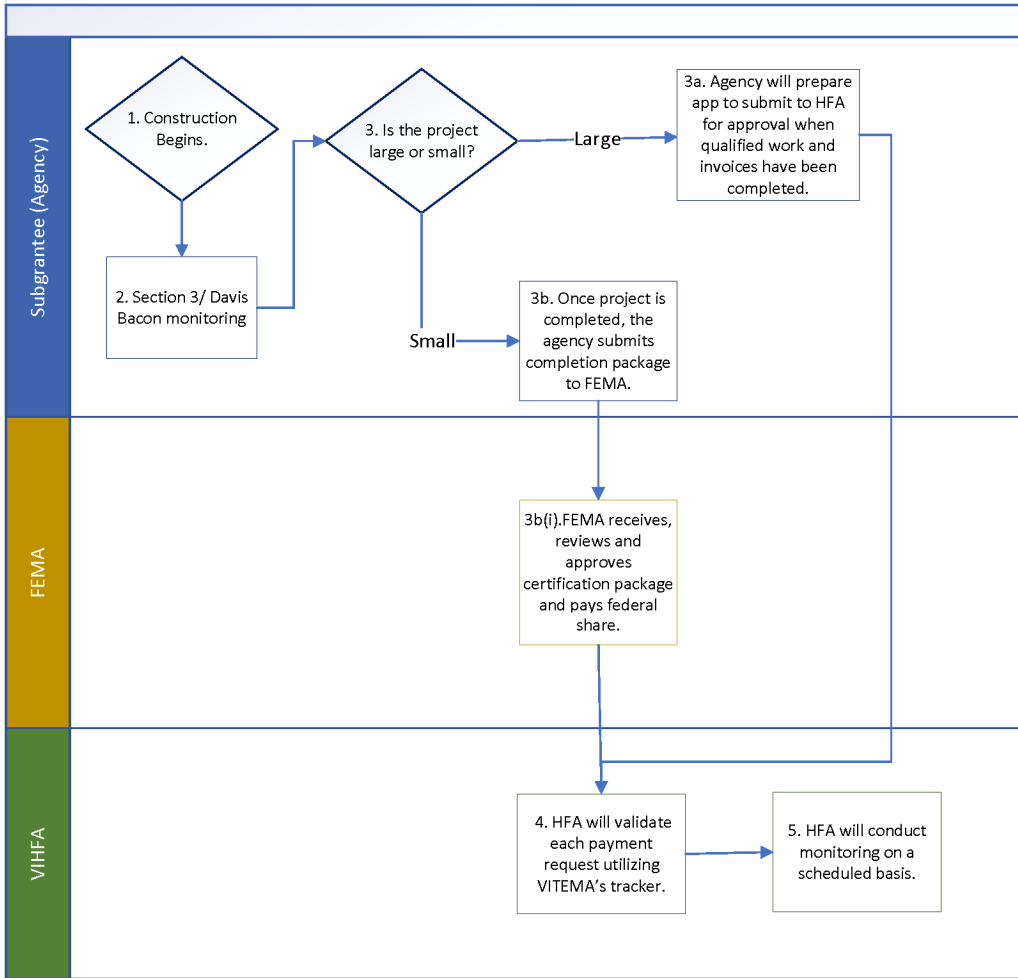
# APPENDIX

Various flow charts have been developed to depict the process by which VIHFA CDBG-DR components will collaborate to provide review, oversight, and technical assistance for the Program.

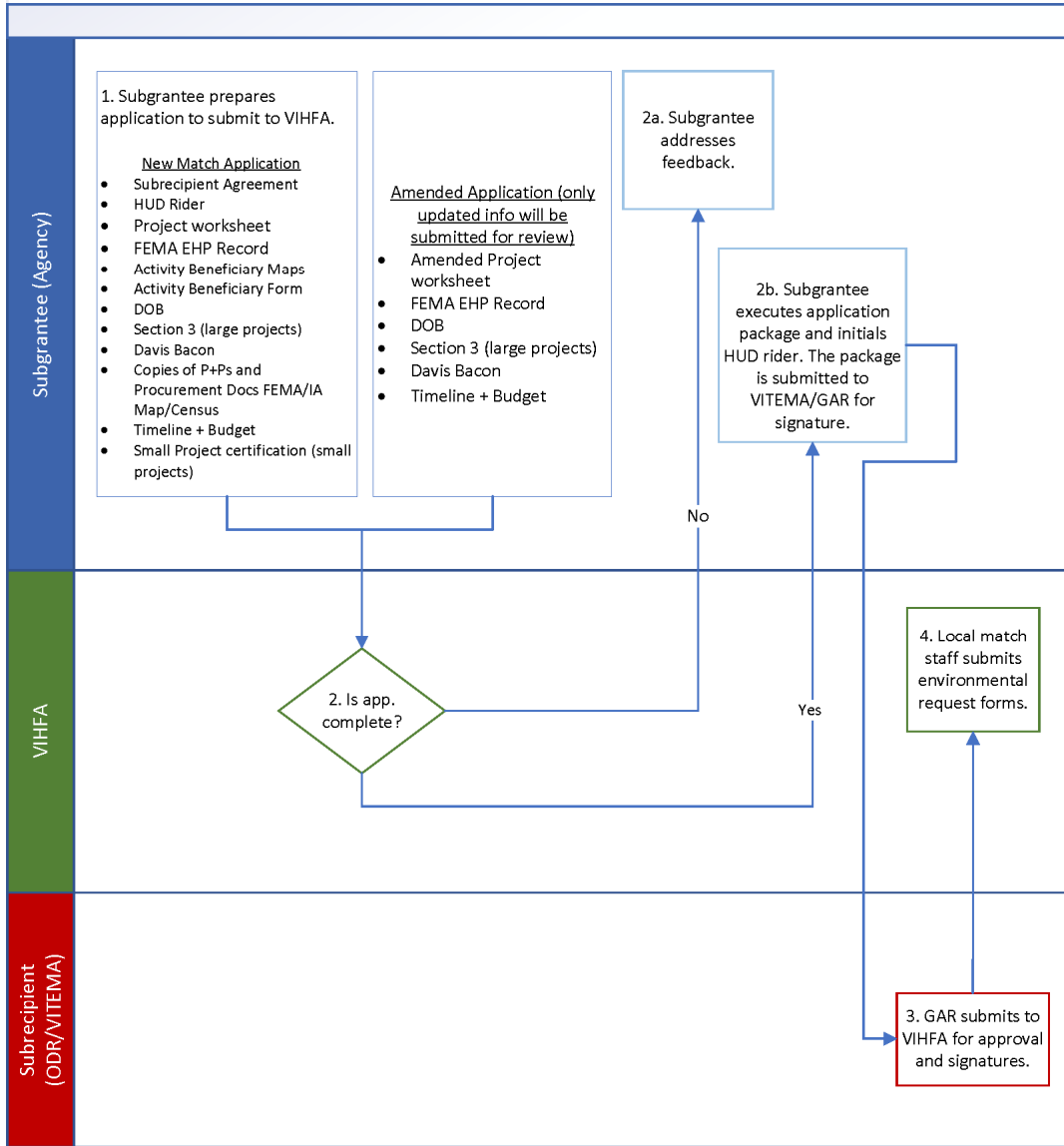
## Appendix A: Non-Federal Match Program Process Flow



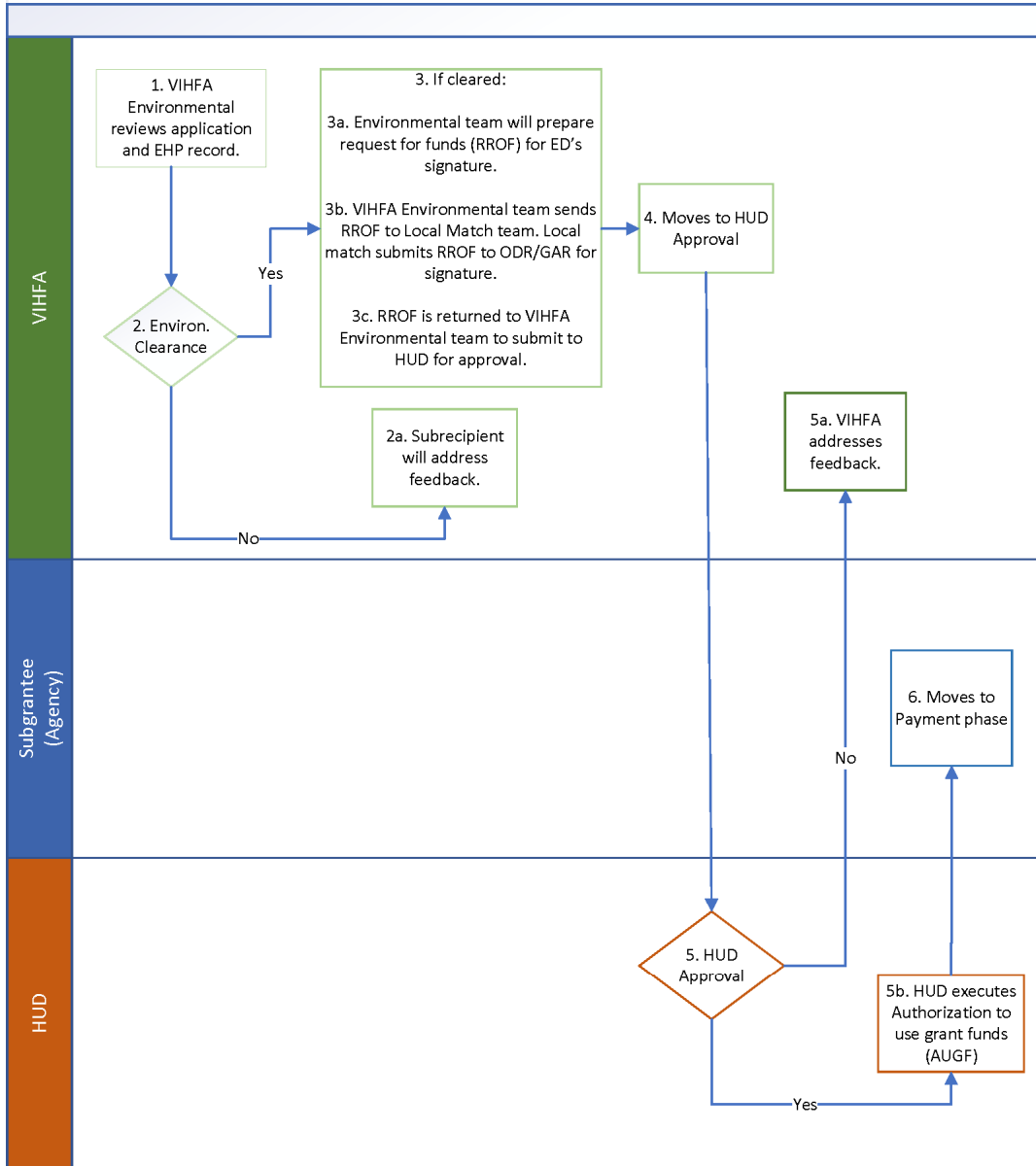
## Construction Phase



## Application/ Program Review Phase

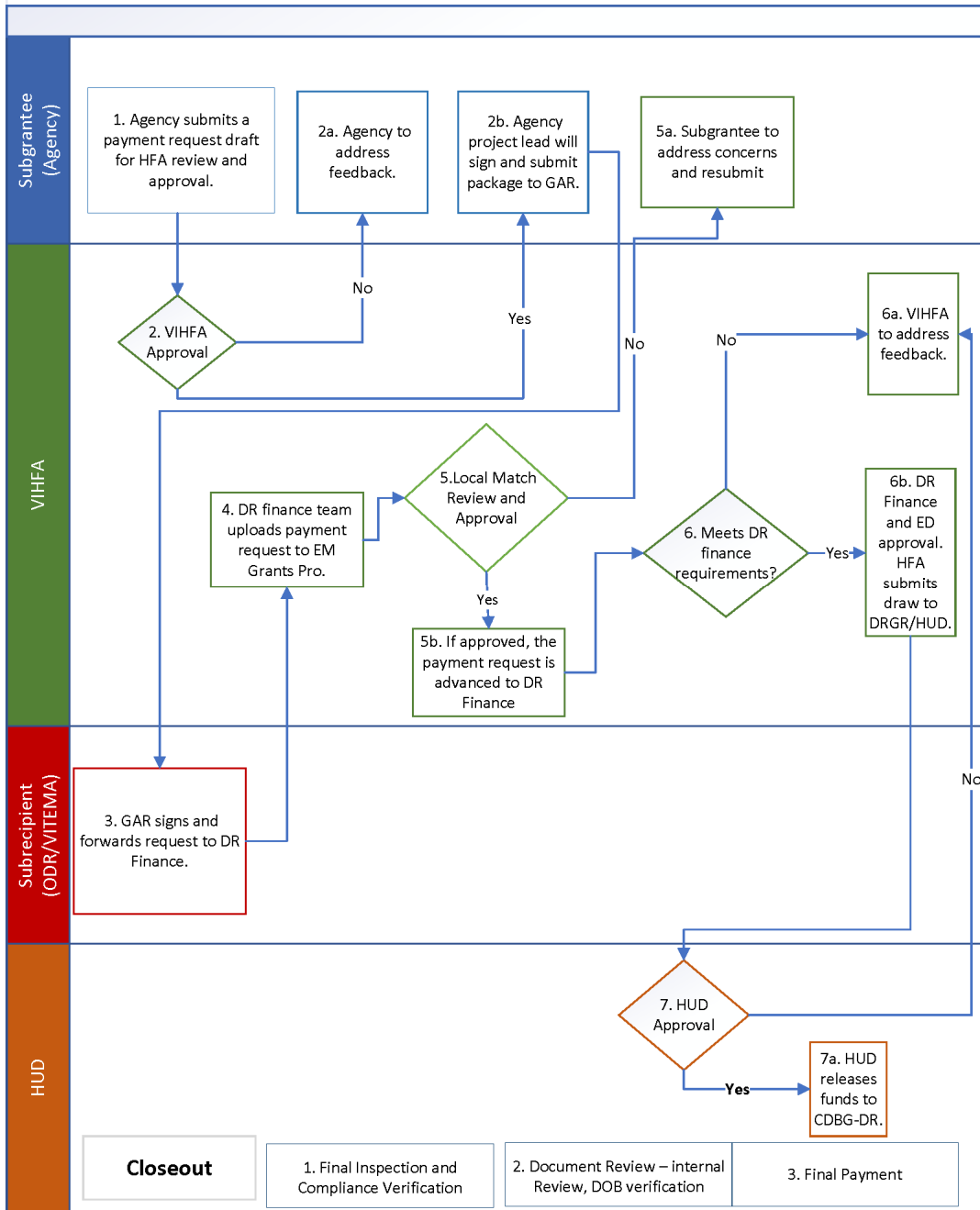


## Environmental Review Phase





## Payment Phase | Closeout



<b>Closeout</b>	1. Final Inspection and Compliance Verification	2. Document Review – internal Review, DOB verification	3. Final Payment
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