VIHFA
VIRGIN ISLANDS
Housing Finance Authority

COMMUNITY DEVELOPMENT BLOCK GRANT MITIGATION (CDBG-MIT)

Commercial Hardening & Finance Program

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Dayna Clendinen
Interim Executive Director/Chief
Disaster Recovery Officer

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Virgin Islands Housing Finance Authority
CDBG-MIT
Economic Resilience and Revitalization
Policy Revision History

Version Control Table

Version Number	Date of Revisions	Description of Revisions
1.0	1/20/2024	Policy Creation and Approval
2.0	3/25/2024	Updated lifelines, updated dob, included post monitoring, included prioritization

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1.0 Introduction

1.1 Background

In response to the 2017 disasters, Congress appropriated $6.875 billion in Public Law 115-123 via the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018. Subsequently, the United States Department of Housing and Urban Development (HUD) published 84 FR 45838 (FR-6109-N-02) on August 30, 2019 which allocated the $6.875 billion in Community Development Block Grant – Mitigation (CDBG-MIT) funds. Funding for the United States Virgin Islands (USVI) was included in the allocation. HUD published 84 FR 47528 (FR-6109-N-03) which allocated $774,188,000 in CDBG-MIT funds to the United States Virgin Islands.

The purpose of the CDBG-MIT program, and as defined in the FRN, is to fund mitigation activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters. The USVI Supplemental Notice provides specific guidance to the USVI that supplements the requirements outlined in the CDBG-MIT Main Notice. The USVI's CDBG-MIT Action Plan details the Territory's strategy to utilize the $774,188,000 allocated in accordance with USVI Supplemental Notice. The Virgin Islands Housing Finance Authority (VIHFA) is the lead agency and the responsible entity for administering the CDBG-MIT funds allocated to the state.

1.2 Scope

This document sets forth the policy governing the Program. These program guidelines are intended to aid and provide program activity guidance in Program implementation and closeout and should not be construed as exhaustive instructions. All Program activities must comply with the policies hereby stated. In addition, all program staff must adhere to established program procedures and all federal and state laws and regulations in effect, as applicable, in the execution of program activities.

VIHFA reserves the faculty to authorize, in its sole discretion, the granting of Program benefits to any Applicant, only when exceptional circumstances, not contemplated in these, justify it. Such faculty will be exercised on a case-by-case basis in compliance with local, state and federal requirements. VIHFA is in no way obligated to grant the Program benefits in said cases.

2.0 Definitions and Acronyms

2.1 Agencies and Acronyms

ADA – Americans with Disabilities Act
AFWA – Anti-fraud, Waste, and Abuse
CDBG-MIT- Community Development Block Grant Mitigation
CH&F-Commercial Hardening and Financing
DBRA – Davis Bacon and Related Acts
DRGR- Disaster Recovery Grant Reporting System
DOB – Duplication of Benefits

DPP – Virgin Islands Department of Property and Procurement
EFL – Educational Functioning Levels
ESL – English as a Second Language
ETP – Eligible Training Provider
GDP – Gross Domestic Product
GVI – Government of the Virgin Islands
HCDA – Housing and Community Development Act
HUD – Department of Housing and Urban Development
ITA – Individual Training Account
LAP – Language Access Plan
LEP – Limited English Proficiency
LMI – Low- and Moderate-Income
MOU – Memorandum of Understanding
M/WBE – Minority/Women-owned Business Enterprise
OJT – On-the-Job Training
OSHA – Occupational Safety and Health Administration
QSR – Quarterly Status Report
RA – Registered Apprenticeship
SBM-Small Business Mitigation
TA – Technical Assistance
VIHFA – Virgin Islands Housing Finance Authority

2.2 Definitions

Action Plan - A plan to guide the spending of a HUD CDBG-MIT grant award to address unmet housing, economic, and infrastructure needs after a disaster.

Allocation: 1) Amount of a grant award that has been determined for a particular grantee, partner agency or sub-recipient. 2) Amount of funding attributed to a program.

Applicant: An eligible entity that makes a formal application to a federally funded program.

Community Development Block Grant – **Mitigation (CDBG-MIT):** discretionary Financial Assistance from HUD to help to assist the Territory in building resilience for manmade and natural disasters, especially in low-income areas, funding is subject to availability of supplemental appropriations.

Community Lifelines: FEMA defines these lifelines as critical business, government and essential services that provide health, safety, and economic security within a community. Community lifelines in preparedness planning and recovery provide details on the critical functions and stakeholders that facilitate the most effective response and get services and infrastructure back online after a disaster.

Cross-cutting regulations: Regulations outside of CDBG-MIT regulations that apply to CDBG-MIT 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 U.S. Department of Labor on public works projects. It applies to contractors and subcontractors performing work on federally funded or assisted contracts more than $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 mitigation 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.

Eligible Activity: Activities eligible to be assisted under the CDBG program. All CDBG- MIT grantees must: (1) use CDBG funds only for activities that fall under an authorized category of basic eligibility; (2) properly classify the activity; and (3) provide adequate documentation as required by the category it selects for each such activity.

Eligible Applicant: means any city or county governments, non-profit that applies for funds pursuant to applicant eligibility section. (See Also: Subrecipient)

Environmental Review Record (ERR): 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.

Grantee: HUD grantees receive funding from HUD to support HUD's mission to create strong, sustainable, inclusive communities and quality affordable homes for all. HUD grantees include state and local governments, non-profit and for-profit organizations, public housing authorities, and tribal entities.

Housing and Community Development Act of 1973 (HCDA) - The HCDA created the CDBG Program by merging 7 categorical programs into a block of flexible community development funds distributed each year by a formula that considers population and measures of distress including poverty, age of housing, housing overcrowding, and growth lag. Grantees now determine what activities they will fund as long as certain requirements are met, including that each activity is eligible and will meet one of the three broad national objectives of the program.

Low- to Moderate-Income (LMI): 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. All income is based on the Area Median Income limits set annually by HUD for each parish or metropolitan statistical area.

Mitigation: According to HUD, those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship, by lessening the impact of future disasters.

Most Impacted and Distressed (MID): An area that meets the definition of Most Impacted and Distressed set by HUD in the Federal Register Notice. For purposes of the unmet needs allocation, HUD has defined Most Impacted and Distressed as an area (county or zip code) that meets the following criteria:

- Individual Assistance/Individual and Households Program (IHP) designation. HUD has limited allocations to those disasters where FEMA had determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.
- Concentrated damage. HUD has limited its estimate of serious unmet housing need to counties and zip codes with high levels of damage, collectively referred to as ''most impacted areas''. For this allocation, HUD is defining most impacted areas as either most impacted counties—counties exceeding $10 million in serious unmet housing needs—and most impacted zip codes—zip codes with $2 million or more of serious unmet housing needs. The calculation of serious unmet housing needs is described below.
- Disasters meeting the most impacted threshold. Only 2017 disasters within the threshold are funded: a. One or more most impacted county, and/or b. An aggregate of most impacted zip codes of $10 million or greater than was declared by the President to be a major.

The entire USVI is considered MID.

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government give proper consideration to the environment prior to undertaking any major federal action that could significantly affect the environment.

National Objective: The authorizing statute of the CDBG program requires that each activity funded, except for program administration and planning activities, must meet one of three national objectives. The three national objectives are: 1) Benefit to low- and moderate-income (LMI) persons; 2) Aid in the prevention or elimination of slums or blight; and 3) Meet a need having a particular urgency (referred to as urgent need). An activity that does not meet a national objective is subject to recapture.

Request for Release of Funds (RROF): 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.

Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) – Public Law 100-707, signed into law November 23, 1988; amended the Disaster Relief Act of 1974. This Act constitutes the statutory authority for most Federal disaster response activities especially as they pertain to FEMA and FEMA programs.

Section 3: A provision of the Housing and Urban Development Act of 1968 (HCDA) that requires that recipients of certain HUD financial assistance, 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.

Subrecipient: Non-profits and limited for-profits that are provided CDBG-MIT funds by VIHFA for their use in carrying out agreed-upon, eligible activities through a Subrecipient Agreement with VIHFA.

U.S. Department of Housing and Urban Development (HUD): Federal department through which the CDBG-MIT funds are provided to VIHFA.

3.0 Overview

As part of the Action Plan Mitigation Needs Assessment, a need for activities that assist private/commercial business in quick recovery and less downtime after a storm occurs and increase resilience among small businesses was identified. As a result, VIHFA created programs under Economic Resilience and Revitalization (ER&R). These programs are designed to address resilience within various sectors of the U.S. Virgin Islands economy for current and future potential disasters. The Territory's Action Plan (and subsequent amendments) allocated $75,000,000 CDBG-MIT funding towards two such programs:

- Commercial Hardening and Financing (CH&F)
- Small Business Mitigation (SBM)

ER&R programs are designed to enable continuous operation of critical government and business functions and are essential to human health and safety or economic security. Additionally, programs are also designed to reduce property loss, business interruption, and enforce building windstorm requirements.

The Federal Emergency Management Agency (FEMA) created Community Lifelines to support response planning and operations. The lifelines prevent and mitigate potential impacts to a community, allowing the area to build back stronger, quicker, and smarter during a recovery.

The following Community Lifelines are required within ER&R programs:

- **Food, Water, Shelter** - Food, Hydration, Shelter, Agriculture
- **Safety and Security** - Law Enforcement/Security, Fire Service, Search and Rescue, Government Service, Community Safety
- **Hazardous Materials** - Facilities, HAZMAT, Pollutants, Contaminants

- **Communications** - Infrastructure, Responder Communications, Alerts Warnings and Messages, Finance, 911 and Dispatch

The following lifelines are additional options:
- **Transportation** - Highway/Roadway/Motor Vehicle, Mass Transit, Railway, Aviation, Maritime

- **Energy**- Fuel storage, Fuel Distribution

The Commercial Hardening and Financing (CH&F) have incorporated Community Lifelines to measure mitigation activities being done within a community.

3.1 Commercial Hardening & Financing Program Overview

The Commercial Hardening & Financing Program is designed to fund actionable, impactful recovery and resilience projects that have measurable results in reducing previously-identified hazard risks for the Territory to better withstand emergency-related challenges.

The goal is to minimize operational down time and accelerate recovery of commercial areas after a disaster to benefit LMI residents and others. Privately owned commercial or industrial buildings or ports may be rehabilitated or hardened to become more resilient. The hardening of marine industrial and commercial facilities is of necessary importance to the Territory due to geographic location.

For Economic Resilience and Revitalization, the CDBG-MIT Action Plan allocated $75,000,000.00 towards the program, of which $40,000,000.00 is set aside for Commercial Hardening and Financing projects. The project activities under Commercial Hardening and Financing are not tied to 2017 natural disasters of Hurricanes Irma and Maria.

Table 1. CH&F Program Overview

Commercial Hardening & Financing Program Overview	
Governing FRN(s)	84 FR 45838 (FR-6109-N-02) 84 FR 47528 (FR-6109-N-03)
Funding Level	$40,000,000
Percent of Allocation	10%
CDBG Eligible Activity	HCDA Section 105(a)(1) – Acquisition of Real Property HCDA Section 105(a)(2) – Public Facilities and Improvements HCDA Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, and Construction of Buildings HCDA Section 105(a)(5) Architectural Barrier Removal, HCDA Section 105 development HCDA Section 105(a)(11) Relocation HCDA Section 105(a)(12) Planning, HCDA Section 105(a)(14) Activities Carried Out through nonprofit Development Organizations

	HCDA Section 105(a)(15) Eligible nonprofit organizations HCDA Section 105(a)(17) Assistance to For-Profit Entities HCDA Section 105(a)(19) Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out t eligible neighborhood revitalization or economic development HCDA Section 105(a)(22) Assistance to public and private organizations, agencies, and other entities to facilitate economic development
National Objectives Fulfilled	Low- to Moderate-Income (LMI)- (Low and Moderate Income Area; Low and Moderate Income Jobs) Urgent Need Mitigation
Method of Distribution and Eligible Entities	Subrecipient For profit businesses, Non-profit organizations, Units of Government of the USVI including its autonomous and semi-autonomous instrumentalities
Maximum Grant Award	~~$3.5 Million per award~~Dependent on project need, availability, and cost reasonableness
Geographic Eligibility	Territory wide
Hazard Risks Addressed	Hurricane, Riverine, Tsunami, Earthquakes, Coastal Flooding
Lifeline Protected	Food, Water, Sheltering, Safety and Security, Hazardous Materials, and Communications as well as Energy and Transportation

The Program will support activities to minimize business/operational downtime of privately owned commercial or industrial buildings or ports (marinas/boat slips). Potential mitigations measures under commercial hardening include but are not limited to:

- Drainage and stormwater/surge management for commercial areas
- Boat ramps and improved shoreline and roads for evacuation/receiving supplies
- Port and harbor improvements
- Generators for commercial facilities' infrastructure (24 CFR 570.202).
- Generators for continuous power at critical private retailers
- Removal of hazardous materials
- Hardening of Building exteriors and improved facility for community outreach/education efforts

The Commercial Hardening and Financing program hazard mitigation community lifeline categories are Food, Water, Sheltering, Safety and Security, Hazardous Materials, and Communications.

3.1.1 Program Options

3.1.1.1. Commercial Resilience and Façade Fortification

The objective of the Commercial Resilience and Façade Fortification is to provide funding for the exterior weatherization of eligible commercial facilities to increase resilience to disaster and eliminate any long term risk of loss by strengthening the exterior of buildings resulting in times of disaster the lessened the effect of commerce operational downtown due to the impact of disasters such as exterior damage or destruction to commercial facilities. The program will strengthen and provide protection to the exterior of commercial facilities downtown, high traffic, and historic areas by providing activities replacing exterior storm windows and other weatherproofing activities. The facilities should be occupied by small business or microenterprises for one (1) year prior to application submittal. Additionally, community organizations churches/schools may apply if they meet the criteria of owning small business facilities.

Projects located within historic districts must follow guidelines prescribed by the State Historic Preservation Office (SHPO~~). The program is not authorized for historic preservation of buildings being used for general conduct of the Government Services (Public Sector).~~ The program is not permitted to preserve historic buildings that are currently used for general government services (public sector activities).

Applicants may use funds for the following activities outlined below:

- Weatherproofing (Exterior Scraping/Painting, etc.)
- Roof Spouting
- Repair/replace exterior with storm windows & doors (within historic guidelines as applicable)
- Safety improvements (including lighting, security gates, surveillance system)
- Communications (i.e., broadband infrastructure)
- 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.
- Minimal plastering (based on cost reasonable analysis)
- Solar energy and generator installation (as emergency energy back up)

3.1.1.2. Maritime Industrial Harbor Improvements

The Maritime Industrial Harbor Improvements provides funding to alternate port sites that should improve the delivery of life-saving operations and inflow of supplies needed to assist residents on each island; thus, addressing current and future lifesaving risks and supply risk experience during the 2017 hurricanes. Additionally, the improvement of alternate port sites may increase harbor capacity and growth of marine and tourism/charter yacht industry.

Applicants may use funds for the following activities outlined below:

- Boat ramps and improved shoreline and roads for evacuation/receiving supplies
- Port and harbor improvements

Commented [DC1]: What's the thought behind one year, as opposed to more or less?

Commented [DD2R1]: The thought was to ensure the existing commercial facilities were used previously for small businesses or microenterprises

Commented [DC3]: The program is not permitted to preserve historic buildings that are currently used for general government services (public sector activities).

Commented [AL4R3]: Corrected

Commented [DC5]: Will this be specifically addressed in their agreements? In other words what happens in an emergency and they don't cooperate? We seek legal action? Is that written or will it be in the SRA?

Commented [AL6R5]: Put failure to perform or provide emergency services section and mention it also in SRA.

- Stabilize and grow the tourism industry through key infrastructure improvements to ports that will increase the Territory's capacity to receive tourists
- Harden infrastructure to mitigate against future disasters in key commercial areas
- In conjunction with improvements, utilize job placement programs for trainees

3.1.1.3. Communications Resilience

Communications Resilience under CH&F focuses on mitigation project activities that prevent or eliminate the loss of life or property. Potential mitigation projects include, alert or warning systems, Land, Mobile and Radio (LMR) Networks, telecommunications facilities including mobile/radio/wireless towers, satellite dish, emergency dispatch facilities, and the installation and usage of broadband-network infrastructure for critical emergency services. First Responders and Emergency Organizations may apply for funding under this program.

3.1.2. Method of Distribution

National Objectives: Low and Moderate Income Area; Low and Moderate Income Jobs, Urgent Need Mitigation

Administering Model: Subrecipient

Eligible Entities: For profit businesses, Non-profit organizations, Units of Government of the USVI including its autonomous and semi-autonomous instrumentalities.

Eligible Activities: HCDA Section 105(a)(1) Acquisition of Real Property, HCDA Section 105(a)(2) Public Facilities and Improvements, HCDA Section 105(a)(4) Clearance, Rehabilitation, Reconstruction, and Construction of Buildings, HCDA Section 105(a)(5) Architectural Barrier Removal, HCDA Section 105 development, HCDA, HCDA Section 105(a)(11) Relocation, HCDA Section 105(a)(12) Planning, HCDA Section 105(a)(14) Activities Carried Out through Nonprofit Development Organizations, HCDA Section 105(a)(15) Eligible nonprofit organizations, HCDA Section 105(a)(17) Assistance to For-Profit Entities, HCDA Section 105(a)(19) Provision of technical assistance to public or nonprofit entities to increase the capacity of such entities to carry out eligible Neighborhood Revitalization or economic development, HCDA Section 105(a)(22) Assistance to public and private organizations, agencies, and other entities to facilitate economic development

Geographic Area(s) Served: Territory-wide, USVI

Program Allocation: $20,000,000

Maximum Award: The maximum awards for projects are $3.5 million per project per funding round. Project cost will be analyzed against the submitted independent cost estimate, funding availability, and readiness to proceed.

4.0 Program Requirements

4.1 Eligibility

4.1.2. Geographic Eligibility Criteria

Projects must benefit the area designated by HUD as the most impacted and distressed areas, or "the MID," within the disaster declared impacted areas. The entire territory has been deemed as a MID. Projects must be located within the territory.

4.1.3. Applicant Eligibility Criteria

Eligible applicants are:

- For profit businesses
- Non-profit organizations
- Units of Government of the USVI, including its autonomous and semi-autonomous instrumentalities

4.1.4. Project Eligibility Criteria

Proposed projects will be assessed for project eligibility. Applicants must meet the CDBG-MIT criteria for eligible economic development assistance including but not limited to:

- Be in conformance with the USVI Mitigation Action Plan
- Create jobs for predominantly LMI individuals
- Harden commercial infrastructure to mitigate against future disasters in key commercial areas
- In conjunction with improvements, utilize job placement programs for trainees.
- Activities must meet the National Objectives as outlined in 4.2
- Projects must be a quantifiable resilience improvement to a commercial facility. Funds may not be used to supplant existing funding sources or programming.
- Organizations applying for funding through the CDBG-MIT program must submit an application that meets the criteria outlined in these Program Requirements.
- Have a beneficial impact on the territory
- Be cost-effective and substantially reduce the risk of future damage, hardship, loss or suffering resulting from a major disaster. The applicant must demonstrate this by documenting that the project:
    - Addresses a problem that has been repetitive or a problem that poses a significant risk to public health safety if left unsolved;
    - Costs less than the anticipated value of the reduction in both direct damages and subsequent negative impacts to the area if future disasters were to occur; and/or
    - Contributes, to the extent practicable, to a long-term solution to the problem it is intended to address.

4.1.5. Eligible Activity Criteria

All programs must qualify as an eligible activity as defined by HUD. The eligible activities for this program are:

- HCDA Section 105(a)(1) – Acquisition of Real Property
- HCDA Section 105(a)(2) – Public Facilities and Improvements
- HCDA Section 105(a)(4) – Clearance, Rehabilitation, Reconstruction, and Construction of Buildings
- HCDA Section 105(a)(5) Architectural Barrier Removal,
- HCDA Section 105 development
- HCDA Section 105(a)(11) Relocation
- HCDA Section 105(a)(12) Planning,
- HCDA Section 105(a)(14) Activities Carried Out through nonprofit Development Organizations
- HCDA Section 105(a)(15) Eligible nonprofit organizations
- HCDA Section 105(a)(17) Assistance to For-Profit Entities
- HCDA Section 105(a)(19) Provision of technical assistance to public or r nonprofit entities to increase the capacity of such entities to carry out t eligible neighborhood revitalization or economic development
- HCDA Section 105(a)(22) Assistance to public and private organizations, agencies, and other entities to facilitate economic development.

4.2 National Objective

In accordance with 24 CFR 570.208, Section 104(b)(3) of the HCDA, and as further outlined within the waivers and alternative requirements at Federal Register Notice 84 FR 45838, all CDBG-MIT funded activities must satisfy either the Low-to Moderate-Income (LMI) or the new Unmet Need Mitigation (UNM) national objective.

The Urgent Need Mitigation (UNM) national objective was created for CDBG-MIT programs. This National Objective provides a better fit for CDBG-MIT activities that aim to address risks that does not tie back to the disaster events of the 2017 CDBG-DR funding, or subsequent disasters.

Projects using the UNM national objective must provide documentation that demonstrates a measurable and verifiable impact on reducing risks at the completion of the activity. This includes:

- Address the current and future risks as identified in the Mitigation Needs Assessment of the most impacted and distressed areas; and
- Result in a measurable and verifiable reduction in the risk of loss of life and property.

At least 50% of CDBG-MIT funds must benefit low-to-moderate- income persons. VIHFA reserves the right to make funding decisions to achieve this requirement.

National Objective Compliance
Under CDBG-MIT, a tie back to a prior disaster is not required; however, eligible projects must occur within the territory and VIHFA as well as the subrecipient must demonstrate compliance with LMI or UNM national objectives for its CDBG-MIT activities.

4.3 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-MIT program may not be used for funding previously identified for the same purpose. As mandated by law, all projects receiving CDBG-MIT funding must undergo an individualized analysis of duplication of benefits to ensure no funds have been or will be received for the same purpose as the intended CDBG-MIT 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 CBDG-MIT 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 received. Project DOB information must be maintained by Subrecipients and reported to VIHFA throughout the life of the project. Reporting should occur at any point that such information becomes available, including:

- During scoping process development, pre-award, and approval;
- During the grant period of performance;
- During closeout; and
- After grant closeout, if duplicative funds are received at a later date.

Commented [DC7]: Will this be defined in the SRA?

Commented [AL8R7]: Yes. Each project will be different (i.e., scope, period of performance,

4.3.1. Duplication of Benefits Verification

The Programs will include a duplication of benefits (DOB) review as part of the application and award calculation process. Applicants are required to provide support documentation, including award letters, declined letters and other documentation supporting the amount, sources and uses of funding received for planning or public services efforts related to the 2017 disaster events. Program participants and employees will be required during the application process to certify they are not receiving additional funding, such as charitable contributions, scholarships, or other sources of duplicative financial assistance. VIHFA may contact other funders directly to confirm information submitted by applicants. The following will be checked as part of the verification process:

- All forms of insurance benefits received
- Federal Emergency Management Agency (FEMA) assistance received
- Small Business Administration (SBA) assistance received
- National Flood Insurance Program (NFIP) assistance received
- Other federal, state, or local funding received
- Other nonprofit, private sector, or charitable funding received.

4.3.2. Duplication of Benefits Calculations

Subrecipients must complete DOB calculations as part of application process and in the application. The application requests information about all other sources of funding the agency must be aware of that may impact the DOB. A standard calculation method will be used by Program staff to determine if a federal funding duplication is present. The following considerations will be part of the DOB analysis:

- Applicant's total need
- Total assistance available to the applicant
- Exclusion of non-duplicative amounts (amounts for a different purpose or for the same purpose but a different allowable cost as well as undisbursed loan amounts)
- Determined DOB based on subtraction of exclusion from total assistance
- Maximum need determined based on subtraction of DOB amount from the total need

It is the responsibility of VIHFA to ensure that project participants comply with all federal laws and regulations. Subrecipients are responsible for verifying there is no duplication of resources, such as charitable or public grants. Additionally, CDBG-MIT funds may not be used to supplant local resources.

If a DOB exists, the subrecipient will report all DOB and make appropriate deductions. VIHFA maintains records in accordance with Federal grants requirements and assures that the agency has accurately completed DOB reviews and made deductions as appropriate.

4.3.3 Additional Duplication of Benefits Requirements for CDBG-MIT

The additional DOB requirements apply to the treatment of subsidized loans in a DOB analysis. There are exceptions when subsidized loans are not considered a DOB. This includes:

- Short-term subsidized loans for costs later reimbursed with CDBG–DR/MIT
  - If VIHFA or the subrecipient obtained a subsidized short-term loan to pay for eligible costs before CDBG–DR /MITfunds became available (for example, a low-interest loan from a local tax increment financing fund), the reimbursement of the costs paid by the loan does not create a duplication.
- Declined subsidized loans including declined SBA loans, shall not be treated as a DOB.
  - The amount of a subsidized loan that is declined or cancelled is not a DOB
  - To exclude declined or cancelled loan amounts from the DOB calculation, VIHFA must document that all or a portion of the subsidized loan is cancelled or declined unless the loan qualifies under an exclusion.
  - Declined SBA Loans: Declined loan amounts are loan amounts that were approved or offered by a lender in response to a loan application, but were turned down by the applicant, meaning the applicant never signed loan documents to receive the loan proceeds.
- Cancelled Loans
  - Cancelled loans are loans (or portions of loans) that were initially accepted, but for a variety of reasons, all or a portion of the loan amount was not disbursed and is no longer available to the applicant.
  - The following documentation is sufficient to demonstrate that any undisbursed portion of an accepted subsidized loan is cancelled and no longer available:
    - A written communication from the lender confirming that the loan has been cancelled and undisbursed amounts are no longer available to the applicant; or

Commented [DC9]: Should this reference MIT?

Commented [AL10R9]: No

Commented [AL11R9]: But I put it in to be on the safe side. The FRN mentions DR

- a legally binding agreement between VIHFA and the applicant that indicates that the period of availability of the loan has passed and the applicant agrees not to take actions to reinstate the loan or draw any additional undisbursed loan amounts.
- Any approved but undisbursed portion of a subsidized loan must be included in the grantee's calculation of the total assistance amount unless another exception applies.
- For cancelled SBA loans, the VIHFA must notify the SBA that the applicant has agreed to not take any actions to reinstate the cancelled loan or draw any additional undisbursed loan amounts.

- The subsidized loan meets the requirements for a statutory exception under the Disaster Recovery Reform Act of 2018 (DRRA)~~'s~~ amendments to the Stafford Act
  - Subsidized loans made in response to DRRA Qualifying Disasters that were accepted but have undisbursed loan amounts (e.g., accepted but undisbursed SBA loan amounts) are not considered a DOB.

Commented [DC12]: Was this previously defined - DRRA?

Commented [AL13R12]: Spelled it out.

4.4 Eligible and Ineligible Costs

4.4.1. Eligible Costs

The following are eligible costs for commercial hardening and financing. These activities shall not be interpreted as all-encompassing eligible activities, and the list may be subject to further changes.

- Weatherproofing (Exterior Scraping/Painting, etc.)
- Rehabilitation of commercial infrastructure
- Roof Spouting
- Repair/replace exterior with storm windows & doors (within historic guidelines as applicable)
- 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.
- Minimal plastering (based on cost reasonable analysis)
- Energy Resilience; Solar energy and generator installation (as emergency energy back up)
- Training; Materials and supplies related to CFHP training activities
- Dry proofing and Wet proofing;
- Retrofitting building exteriors with hazard-resistant materials in accordance with national safety standards
- Storage (equipment, fuel, etc.)
- Communications: broadband infrastructure, alert or warning systems, Land, Mobile and Radio (LMR) Networks, telecommunications facilities including mobile/radio/wireless towers, satellite dish, emergency services, emergency dispatch facilities, and the installation and usage of broadband-network infrastructure for critical emergency services. First Responders and Emergency Organizations may apply for funding under this program.
- Boat ramps and improved shoreline and roads for evacuation/receiving supplies

- Port and harbor improvements
- Stabilize and grow the tourism industry through key infrastructure improvements to ports that will increase the Territory's capacity to receive tourists
- Harden infrastructure to mitigate against future disasters in key commercial areas
- In conjunction with improvements, utilize job placement programs for trainees
- Support services; Participant outreach;
- Program management and administration.

4.4.2. Ineligible Costs

- Material or supply costs unrelated to CH&F training activities
- Furnishings and personal property, including motor vehicles and fixtures;
- Costs incurred prior to the date of execution of a subrecipient agreement
- Political activities or lobbying
- Payments to a for-profit business while that business or business owner is the subject of unresolved findings for non-compliance with CDBG assistance
- No homeowners, businesses, or entities (other than grantees, local governments, and subrecipients) can be reimbursed from CDBG-MIT funds for mitigation activities completed prior to the applicability date of September 4, 2019 per the August 30, 2019 notice.
- Any costs determined as unallowable or ineligible pursuant to applicable state or federal laws or regulations, or guidance from HUD, VIHFA, or any applicable state or federal agency.
- Does not meet the mitigation definition

Commented [DC14]: Was this previously defined?

Commented [AL15R14]: Yes it is in the acronyms section

Additionally, purchasing equipment is typically considered ineligible. Some equipment may be eligible, including: fire protection equipment considered to be an integral part of a public facility, equipment that constitutes all or part of a public service, or equipment that is attached to a structure and becomes an integral fixture. Buildings used for the general conduct of government cannot be assisted with CDBG-MIT funds. Per HUD, the definition of "buildings for the general conduct of government" encompasses buildings whose predominant use involves activities such as planning and administration. These buildings could be city halls, county administrative buildings, or facilities in which the legislative or general administrative affairs of the government are conducted. Buildings that are used to deliver services to the public would not fall within this category.

4.5 Underwriting Standards

The Program will ensure satisfaction of the criteria of 24 CFR 570.482(e). The grantee will utilize the underwriting guidelines in Appendix A to 24 CFR part 570 if they are using grant funds to provide assistance to a for-profit entity for an economic development project under section 105(a)(17) of the HCDA.

5.0 Project Approval

The project approval process will occur in two key phases: application approval and favorable environmental review. The Commercial Hardening Finance Program will utilize a competitive selection of applicants process. Applications will be evaluated to determine what risk is being mitigated, the risk mitigation value, and benefit to the territory.

5.1 Selection of Applicants: Competitive Selection Application

A competitive selection application and process will be utilized for this program. Projects will be selected based on the rankings from the scores with additional consideration to ensure that funding is applied in an equitable manner. Only completed applications, including all requested supporting documentation, will be considered. Applications will only be accepted during the published time period. This will be completed via a Notice of Funding Availability (NOFA)/Notice of Funding Opportunity (NOFO) through submission on the online VIHFA application web portal for project selection. A completed application and submitted documents shall be considered a completed package for project review. Technical assistance will be available for applicants needing assistance in completing the on-line application.

5.1.2.1. Notice of Funding Availability/Notice of Funding Opportunity

The NOFA/NOFO 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.

5.1.2.1. Notice of Funding Availability/Notice of Funding Opportunity Evaluation Criteria

The threshold eligibility (unscored) requirements include meeting all eligibility criteria. Applicants that do not meet threshold eligibility requirements will not progress to the scoring stage. Each scored element of the application is included in a Criteria Evaluation Rubric and has a value associated with it. If eligible applications exceed available funding, applicants will be funded in rank order based on evaluation scores, with consideration for overall program funding and LMI grant requirements. VIHFA reserves the option to fund all, a portion of, or none of each application submitted by an applicant. Scored criteria is listed below in its order of importance. A total of 150 points are available. The following program criteria will be used to score applications:

Criteria	Description
Project Need (15 Points)	Applicants will be required to complete and submit a questionnaire describing their CDBG-MIT-related needs and what risk the project is mitigating. Supporting documentation, including photos, must be uploaded for validation.
Project Impact (25 Points)	How will this project benefit the town, a community, or individual businesses?
Project Plan (35 Points)	Describe the plan and the long-term vision for the community
Project Viability (35 Points)	Evidence that the project can begin quickly and be completed within 24 months of contract approval and that those managing the program are qualified.
Community Support (15 Points)	Choose a or b: a. Evidence in the application that the community is supportive of the project, three letters of support from stakeholders and area businesses in the impacted community.

	b. Provide a 50-signature petition of community members (adults only) requesting or benefiting project impact. requesting or benefiting project impact.
Cost Estimate (if applicable): (25 Points)	All proposed projects should be accompanied by a cost estimate provided by the applicant. A CBG-MIT program will conduct a cost-reasonableness analysis. Note: CDBG-MIT will conduct a cost-reasonableness analysis to verify cost-estimates
Sustainability : (25 Points)	• Provide an outline of how program activities will continue to have positive impact after the end of the program and meets the identified Community Lifeline. • Provide a maintenance plan that details sustainability for 8 years after project-completion.

Note: A sworn or certified document attesting to information may be included with supporting documentation regardless of whether such business/organization/public entity is selected or determined to be eligible for funding under CH&F.

The program will utilize a two-phase process to review applications:

Phase One: Applications will first be evaluated for Minimum Criteria. This phase is unscored. The program will further review only the applications that pass Phase One.

Phase Two: If the Minimum Criteria is in compliance, the second phase of the review process will be initiated. Applications will be reviewed and scored based on Scoring Criteria Evaluation Rubric.

Remaining Program Funds

Following a NOFA's Application review and approval process, if there are funds remaining, VIHFA may have another funding opportunity until all funds are awarded. In the event of an additional funding opportunity, VIHFA will provide notice of an upcoming NOFA as well as document any program design changes through an updated version of the program policies and procedures.

5.2 Capacity Assessment (Risk Analysis)

The Risk/Capacity Assessment is to assess the subrecipient's risk and proactively identify the capacity and management practices of the potential subrecipients of CDBG-MIT funds being administered by VIHFA. These types of assessments can be a useful tool in identifying ways to improve economy, efficiency, and effectiveness of disaster recovery operations, understand the level of compliance with relevant rules and regulations, and provide guidance and insight for ongoing monitoring of Implementing Partners.

The methodology to be used is based on the 2 CFR 200 requirements and HUD's guidance on assessing capacity of Implementing Partners.

Each applicant will undergo a capacity assessment after the application reaches phase two of the application review process. Applicants are required to provide documents and information as part of the assessment process. The capacity assessment may result in special conditions in the Subrecipient Agreement (SRA) to ensure the capacity to carry out mitigation activities in a timely manner. As such, the completion of the Capacity Assessment is part of the application process and a necessary prerequisite to entering into a SRA. The results of the assessment will also determine the monitoring plan should the applicant become a subrecipient.

5.3 Environmental Review

All CDBG-MIT and related activities are subject to the provisions of the National Environmental Policy Act of 1969 (NEPA), as well as the HUD environmental regulations provided in 24 CFR part 58. The primary purpose of these regulations is to protect and enhance the quality of the natural environment. To meet these requirements, the subrecipient is responsible for ensuring that environmental reviews are completed for all projects. The environmental review must be completed prior to any funds being committed or disbursed toward a project. If an environmental condition identified on a proposed activity site cannot be cleared, the site may not be an eligible location for activities.

The environmental review documents compliance with 24 CFR Part 58, NEPA, and all related laws, authorities, and executive orders. No work may start on a proposed Project, or proposed site acquisition, if applicable, before both the federal and state environmental review processes are completed, even if that work/acquisition is being done using non-federal funds. VIHFA does not reimburse Projects that have been determined to have a Finding of Significant Impact (FOSI).

VIHFA, is permitted to adopt FEMA's environmental review if that federal agency has previously performed an environmental review for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistant Act. In those cases, the work performed by FEMA and HUD must be exactly the same work.

5.3.1. Choice Limiting Actions

Once an Application has been submitted by a Subrecipient for the use of CDBG-MIT funds, there can be no choice-limiting actions on the part of the Subrecipient until environmental clearance is received in the form of an Authority to Use Grant Funds (AUGF) or environmental clearance letter issued by VIHFA.

Choice Limiting actions are put in place to prevent a Subrecipient from investing in a Project before all necessary environmental clearances are obtained. Market studies, environmental studies, plan development, engineering or design costs, inspections and tests are not considered "choice-limiting" actions. **Choice-limiting actions are defined as any activity that commits HUD funds and would have an adverse environmental impact or limit the choice of reasonable alternatives, such as acquisition by the Subrecipient, construction, demolition of buildings or infrastructure, or rehabilitation or reconstruction of buildings or infrastructure.**

Per 24 CFR Part 58.22, failure to comply with the prohibition against committing funds or taking physical action (using either HUD funds or non-HUD funds) before the completion of the environmental review process could result in loss of HUD assistance, cancellation of the Project, reimbursement by Subrecipient to VIHFA for the amount expended, or suspension of the disbursement of funds for the affected activity.

5.3.2. Flood Insurance and Floodplain Elevation Requirements

The Subrecipient shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, that 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).

Activities in an area identified as flood prone for land use or hazard mitigation planning purposes by the State, local, or tribal government or delineated as a Special Flood Hazard Area (or 100-year floodplain) in FEMA's most current flood advisory maps, must minimize harm to or within the floodplain, in accordance with Executive Order 11988 and 24 CFR part 55.

Mixed-use structures with no dwelling units and no residents below two feet above base flood elevation must be elevated or floodproofed, in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above base flood elevation.

All non-residential structures that are not Critical Actions (as defined at 24 CFR 55.2(b)(2)) must be elevated or floodproofed in accordance with FEMA floodproofing standards at 44 CFR 60.3(c)(3)(ii) or successor standard, up to at least two feet above the 100-year (or 1 percent annual chance) floodplain.

Additionally, a structure (i.e. walled or roofed buildings, including mobile homes and gas or liquid storage tanks) or facility in the 500-year (or 0.2 percent annual chance) floodplain under a Critical Action (as defined at 24 CFR 55.2(b)(3)) must be elevated or floodproofed (in accordance with the FEMA standards) to the higher of the 500-year floodplain elevation or three feet above the 1 percent annual floodplain. If the 500 year floodplain or elevation is unavailable, the structure (i.e. walled or roofed buildings, including mobile homes and gas or liquid storage tanks) or facility in the 100-year floodplain under a Critical Action (as defined at 24 CFR 55.2(b)(3)) must be elevated or floodproofed at least three feet above the 100-year floodplain elevation.

Subrecipients must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to public facilities in flood hazard areas. All structures designed for public facilities use within a special flood hazard area (SFHA), or one percent annual chance, floodplain will be elevated with the lowest floor at least two feet above the base flood elevation level and comply with the requirements of 83 FR 5850 and 83 FR 5861.

5.4 Amortization Period

VIHFA will award selected Applicants in accordance with funds made available by HUD and based on any applicable statutory/regulatory requirements at the time of award issuance. **All awards under the NOFA will be provided in the form of a forgivable loan over an 8-year period.**

The proposed amortization schedule:

- 1-5 years 70 percent repayment
- After 6 years 40 percent repayment

- After 7 years 10 percent repayment
- After 8 years 0 percent repayment

Commented [DC16]: Is 8 years standard?

6.0 Ineligible Activities

The following are **NOT** eligible under the Commercial Hardening Finance Program:

- Funding for historic buildings used for the general conduct of government.
- Emergency Response Services (ERS) Funds may be used to enhance the resilience of facilities
- Forced mortgage payoff
- Enlargement of dam or levee beyond original design
- Assistance to private utilities
- Activities that fail to meet a national objective
- Does not meet the mitigation definition
- Fails to meet a national objective

7.0 Operating Procedures

7.1 Application Process

Applicants will follow the Application Process in order for their Application to be processed:

1. Submit the complete NOFA Application in the Application Portal System by the application end date.
    a. The Application Portal will be available to in person Applications by the close of business on the closing date.
    b. The Applicant submitting the Application will be the Subrecipient, should the Project be approved by VIHFA.
2. Each Application will be evaluated by an evaluation committee. VIHFA's review process ensures compliance with regulatory requirements and confirms the Project is consistent with Program Application requirements
3. If the program is undersubscribed, VIHFA may extend the Application period or reallocate to another CDBG-MIT program.
4. Applicants awarded will notified of the award and next steps.

7.2 Application Review

VIHFA will review the following aspects of the application which includes:

- Scope
- Budget
- Eligibility,
- Environmental review
- Legal/policy issues
- Procurement
- Compliance.

Applications are "complete" when all required documentation has been provided by the Applicant by the deadline. Applications received after the deadline are disqualified and not eligible for assistance.

VIHFA will review all Applications once application deadline has occurred. Projects that meet all eligibility requirements are submitted to the evaluation committee for scoring and ranking. Once this has occurred, the evaluation committee will forward to the Deputy Director for concurrence and recommendation for approval. Final application eligibility approval will be given by the Chief Disaster Recovery Officer.

Once an Application has been approved, Applicants are notified of the decision via email and a contingent approval letter stating that project is eligible and contingently approved pending desirable environmental review approval. Desirable environmental approval will trigger an official application approval. Applicants that are recommended for awards will be contacted via email and provided with an opportunity to update program schedules or other data that may have aged during the Applicant review period. Applicants will have 10 business days to respond to requests. Following the Application approval, VIHFA will work with the Applicant to execute a Subrecipient Agreement.

Commented [DC17]: Business or calendar?

Commented [AL18R17]: Business..updated

Applicants that are not recommended for awards will be officially notified via letter from the Department that their Application was not awarded.

7.3 Eligibility Verification

VIHFA will review all supporting documentation for eligibility and perform an analysis of the national objective selected.

7.3.1 Capacity Assessment (Risk Analysis)

At the initial approval of the project application, the Capacity Assessment will be triggered. The Compliance and Monitoring Unit will begin the capacity assessment review. The following procedures will occur:

1. *Document Request*: The Compliance and Monitoring Unit will provide the Document Request Checklist and the Capacity Assessment Process Checklist to the program staff to transmit to the applicant of any missing documentation
2. *Assessment Phase:* Once all documentation is received, the compliance and monitoring unit will begin the assessment.
   - Review of Documents- The staff (including monitoring, fiancé, and procurement staff) will review and analyze all documents for compliance and requirements.
   - Interview- the compliance and monitoring unit will interview applicant/subrecipient staff to ascertain additional information in its assessment.
3. *Assigning Risk Level*- The unit will review scoring in all areas and based on the total will assign a risk level. The Capacity Assessment Summary Worksheet and Scoring will be given to the Compliance and Monitoring Senior Manager for review and approval.
4. *Capacity Assessment Results Letter*- Upon approval by the Compliance and Monitoring Senior Manager, a Capacity Assessment Results Letter will be sent to the Deputy Director of Public Services for inclusion in the award letter. The letter will outline:

   - The risk level

- Factors for the level
- Potential Special Conditions in the SRA.
- Monitoring frequency and type

7.3.2 DOB Calculation and Verification

Funding from other funding sources is verified through applicant provided information. Applicants are required to provide support documentation, including award letters, declined letters and other documentation supporting the amount, sources and uses of funding received for planning or public services efforts related to the 2017 disaster events. VIHFA may contact other funders directly to confirm information submitted by applicants.

Based upon financial information provided and the sources that they were provided for, the VIHFA will calculate the actual amount that results in a duplication of benefit; if any.

7.3.3 Award Calculation

Maximum award per project is capped at $2,000,000. If this program is undersubscribed and/or the proposed project produces a significant impact to the territory, an increased amount may be awarded to the applicant.

7.3.3.1. Budget Analysis

Applicants are required to submit a budget for the proposed project. This includes total sources and uses for each line item as well as the total amount of CDBG-MIT funds being requested for the project. This information will also be reviewed for cost reasonableness.

7.4 Environmental Review

CDBG-MIT funding is contingent upon compliance with both Territorial and federal environmental regulations. This includes compliance with NEPA and related environmental and historic preservation legislation and executive orders. In general, VIHFA serves as the lead agency for purposes of NEPA. In general, environmental review of projects will consist of the following steps:

- Program provides VIHFA with a project description for review. Project descriptions must be detailed enough so that the scope of the project and its potential environmental impacts are clear.
- VIHFA reviews the project description and categorizes the action regarding the appropriate level of environmental review that must be applied.
- With regard to NEPA, VIHFA will determine whether projects are exempt from environmental review, Categorically Excluded Subject To (Cat Ex(a)), Categorically Exempt Not Subject To (Cat Ex(b)) or require an Environmental Assessment.
- VIHFA issues a general exemption for qualified activities associated with project development that are required to generate project information necessary for environmental reviews, project feasibility assessments, and the creation of funding applications.
- VIHFA or contracted environmental services conduct the appropriate environmental analysis and prepare compliance documentation in support each project, except for qualified exempt

activities that fall under the general exemption for project development, in accordance with HUD and NEPA regulations. A Certificate of Exemption, where applicable, will be included in the project file.

- Upon completion of the environmental review of an action that is Categorically Excluded but subject to 24 CFR 58.5 (Cat Ex A) or that requires an Environmental Assessment or Environmental Impact Statement, VIHFA submits a Request for Release of Funds to HUD.
- HUD reviews and approves or denies the Request for Release of Funds. If approved, HUD issues an Authority to Use Grant Funds authorizing the commitment of HUD funds to a particular project.

8.0 Program Operation and Implementation

VIHFA will oversee all activities and expenditures in connection with the CDBG-MIT funds and will ensure that the program meets all requirements, including but not limited to: the disaster threshold, eligibility, national objective, compliance, fair housing, labor standards, Section 3 goals, non-discrimination, and procurement regulations.

8.1 Award Acknowledgement Process

Once the application has been determined to be complete and all documentation has been provided, the applicant has been determined to be eligible for the program, the duplication of benefits analysis has been performed and verified, and the award amount has been calculated, VIHFA issues an award letter and contacts the applicant to discuss next steps.

8.1.2. Pre Award and Final Approval

Prior to approving an application and issuing an award letter, a review is completed to ensure all program requirements have been met and all required processes have been completed, including, but not limited to, eligibility verification, and duplication of benefits calculation.

Upon approval by the CDRO, the application receives a contingent approval letter with final approval letter to be received after successful environmental review.

8.2 Agreements

8.2.1 Subrecipient Agreements

VIHFA will enter into a Subrecipient Agreement (SRA) with the Applicant constituting a conditional commitment of funds. These agreements define financial and development management requirements as well as remedies to correct deficient or non-compliant projects. The agreement also contains CDBG-MIT recapture provisions for non-performance or breach of Applicant responsibility on any requirements, including adherence with CDBG-MIT rules and regulations.

The SRA contains, but not be limited to, the following:

- A description of the Subrecipient’s program implementation responsibilities;
- The amount and terms of the funding;

- The amount of Activity Delivery Costs per project;
- Provisions governing the project work;
- Terms and conditions required by federal or state law;
- The approved schedule of the program;
- The approved program budget;
- Manner, timing, and conditions for disbursement of project funds;
- Reporting and recordkeeping requirements, defining the specific reports and the reporting dates, along with the records and the timeline for maintaining them in order to assist VIHFA in meeting HUD's recordkeeping and reporting requirements.
- Attribution of the project to VIHFA and HUD in materials and publications;
- Terms and conditions for the monitoring of the project in order to verify compliance with the requirements of the program;
- Provisions regarding the recapture of funds; and
- Other provisions necessary to ensure compliance with the requirements of the Community Resilience Wraparound Public Services Program. VIHFA provides these documents to the awardee for signature. The documents are returned to VIHFA to execute the Agreement approval process.

Please note: it can take multiple months to process an Agreement with ~~the state~~VIHFA. This time can be reduced by promptly responding and providing complete requisite documentation.

Commented [DC19]: Should this be personalized to VIHFA?

Commented [AL20R19]: corrected

All agreements must include: "Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 372."

8.2.2 Contractor or Other Parties Agreements

Contractor or other parties agreements should include the clause: "Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729"

8.2.3 Subrogation Agreements

Subrogation is a legal doctrine that allows one person to take on the rights of another. All subrecipients/applicants must enter into a subrogation agreement in which VIHFA obtains the right to collect any additional payouts the participant/subrecipient receives for the same purpose after the participant/subrecipient has entered into an agreement for CDBG-MIT funding benefits. All duplicative funding received must be remitted to or accounted for by the program, regardless of when it is received by the entity. If an entity receives additional funding for the same purpose as the award, including after the award is executed or services are completed, the entity is required to report the additional funding to the program. By accepting the award, subrecipients agree that they will report any duplicative funds to the program whenever received.

Upon receipt of a report that additional benefits have been received, the program will recalculate the entity's award and provide instructions as to whether the award will be reduced by such amount, or whether the entity must remit such amounts to the program as reimbursement (when additional assistance received after program disbursements). Each subrecipient will execute and be bound by a subrogation agreement. Subrecipients must agree to subrogate any future payments they may receive after award from any sources that represent a potential DOB. The subrogation agreement requires the applicant to notify VIHFA if additional funds are received and to assist VIHFA in collecting any amounts owed to it from these sources. All parties shall comply with standard anti-fraud measures. VIHFA will exercise all normal due diligence in collection of amounts owed through contact with awardees and will pursue investigation and collection efforts which may include demand letters, small claims court, filing of judgments, and/or other collection activity. Collection activity following demand letters will be determined in consultation with VIHFA Legal Counsel and/or the US Virgin Islands Attorney General's Office.

8.3 Disbursement of Funds

All payments for activities funded under this Program will follow VIHFA's Financial Policies and Procedures. *See Financial Management Policy and Procedures*

8.3.1 Timely Expenditure of Funds

As per the Appropriations Act (P.L. 115-123), CDBG-MIT funds must be obligated as stated in the MOU or Subrecipient Agreement with VIHFA. In all cases, funds must be disbursed by the year 2035 – twelve (12) years of the signing of the initial Grant Agreement between HUD and VIHFA. See Timely Expenditure of Funds Policy

8.3.2 Activity Delivery Costs

All proposed subrecipient project delivery costs must be determined to be eligible and reasonable during the project detailed scope and budget review process. Costs must be directly related to carrying out the funded activity.

8.3.3 Program Income

Program income is defined as gross revenue received by VIHFA or Subrecipient thereof that was directly generated from the use of CDBG-MIT funds. Program income includes, but is not limited to, the following:

Commented [DC21]: Are we referring to the GVI as a whole or VIHFA?

Commented [AL22R21]: Corrected

- Proceeds from the disposition by sale or long-term lease of real property purchased or improved with CDBG-MIT funds;
- Proceeds from the disposition of equipment purchased with CDBG-MIT funds;
- Gross income from the use or rental of real or personal property acquired, constructed or rehabilitated by the Implementing Partner or a subrecipient of the Implementing Partner with CDBG-MIT funds, less the costs incidental to the generation of the income;
- Payments of principal and interest on loans made using CDBG-MIT funds;
- Interest earned on funds held in a revolving fund account; and
- Funds collected through special assessments made against non-residential properties and properties owned and occupied by households that are not low and moderate income if the

special assessments are used to recover all or part of the CDBG-MIT portion of public improvements.

Program income does not include the following:

- The total amount of funds that is less than $35,000 received in a single year and retained by the by VIHFA or a subrecipient thereof;

- Amounts generated by activities eligible under Section 105(a)(15) of the Act and carried out by an entity under the authority of Section 105(a)(15) of the Act (non-profit organizations and local development organizations, when undertaking community economic development, neighborhood revitalization, or energy conservation projects).

Commented [DC23]: VIHFA or GVI?

Commented [AL24R23]: Corrected to VIHFA

8.4 Reporting Requirements

Subrecipients are required to submit a Monthly Performance Reports and Quarterly Performance Report (QPR) to VIHFA. QR's will be used to assess program progress, timeliness, and to justify needs. It is important because it provides the VIHFA with information that is required to be provided to the U.S. Department of Housing and Urban Development (HUD) on a quarterly basis. Therefore, reports must be submitted on time and contain accurate information.

Submission of the required Quarterly Performance Report begins with the first report deadline after the Subrecipient receives project approval and continues until the Subrecipient has submitted the Final Quarterly Performance Report and the closeout forms.

8.5 Monitoring and Compliance

Compliance monitoring is necessary to ensure that subrecipients are undertaking a federally assisted activity in accordance with the applicable subrecipient agreement and federal rules and regulations.

8.5.1. Monitoring Plan

The Compliance and Monitoring Plan outlines principles of governance, standards, and management supporting the CDBG-MIT programs.

It also sets forth the activities required by the Program and expectations from subrecipients, contractors, and the Grantee (to include the records required to document these activities). In addition, the Plan may require corrections to any issues raised as part of the monitoring process and documentation of activities required to remedy these issues. The Plan aims to do so in a way that balances VIHFA's need to monitor program activities and participants that represent the greatest risk and susceptibility to fraud, waste, and mismanagement while maximizing available resources within VIHFA for this purpose.

As a result, the VIHFA CDBG- MIT monitoring strategy will assess subrecipients and apply a monitoring approach that aligns with the level of risk. Monitoring of the program occurs through a series of activities that are conducted throughout the life of the programs. The frequency of monitoring will be determined, in part, based on the capacity assessment analysis. At a minimum, VIHFA shall assess potential subrecipients by function, risk potential (capacity), and financial integrity. VIHFA shall also confirm that recorded documentation is adequate for the needs of the Programs and is in line with established policies and procedures including the Action Plans.

Annually, the compliance and monitoring unit will create a "Monitoring Schedule and Plan" that prioritizes monitoring activities of subrecipients based on:

- Risk Level
- Unresolved Findings
- Projects with Unclear Progress

The type and frequency of monitoring will vary by subrecipients. There will be instances where a subrecipient is not monitored. That includes projects that have not started, subrecipients with no projects, and/or subrecipients/programs that may have undergone a recent HUD monitoring or HUD OIG audit. Subrecipients and programs that have gone through a HUD monitoring and/or HUD OIG Audit within the past six (6) months (from date of monitoring report) will be waived from onsite or desktop monitoring for at least six (6) months after receipt of report. Instead, the compliance and monitoring unit will provide technical assistance to both subrecipient and program in resolving the findings and/or audit actions. *See Compliance and Monitoring Policy and Procedures.*

8.5.2. Monitoring

Monitoring may be via the use of desktop monitoring reviews and/or onsite monitoring visits as well as other monitoring strategies. Onsite monitoring may include visits to the subrecipient base of operation as well as project sites while desktop reviews will be remote and electronic. VIHFA's monitoring process will include, but is not limited to, the following areas:

- National Objectives
- Environmental Reviews
- Eligible Activities / Cost Allowability
- Procurement
- Flow of Funds (including subrecipient disbursements)
- Financial Management
- Fair Housing and Equal Opportunity
- Public Facility Improvements
- Labor Standards
- Acquisition and Relocation
- Property Management/Lead-Based Paint
- Duplication of Benefits
- Section 3
- New Construction (Housing)
- Public Service
- Davis Bacon

Monitoring will include sample program, project, contractor, or subrecipient documentation to draw conclusions about performance and capacity.

8.5.2.1 Post Monitoring
VIHFA may annually sample applicant projects and agreements to include subrecipient and subrogation agreements for five (5) years after project completion or until end of the grant period.

8.5.3. Technical Assistance

To assist Subrecipients in complying with all CDBG-MIT regulations and any VIHFA policies, as well as to build capacity, CDBG-MIT Division staff will provide subrecipients and training providers with necessary Technical Assistance (TA) throughout the life cycle of the program. The nature and rigor of TA is continuously tailored to meet the agency or provider's unique needs.

8.5.4. Roles and Responsibilities

8.5.4.1. Roles as the Grantee
VIHFA will oversee all activities and expenditures in connection with the Commercial Hardening and Finance Program and its applicable grants as outlined in its approved VIHFA will follow its CDBG-DR/MIT Subrecipient Management Policy and Procedures, as amended.

8.5.4.2. Subrecipient Management Responsibilities

Subrecipients have the following responsibilities and must:

- Demonstrate how the proposed project meets one or more of the national objectives;
- Comply with all terms and conditions of the subrecipient agreement, program guidelines, Mitigation Action Plan and applicable federal, state and local laws;
- Develop policies and procedures to detect and prevent fraud, waste and abuse that describe how the subrecipient will verify the accuracy of information and report instances of suspected fraud, waste or abuse;
- Follow a detailed citizen participation plan that satisfies the requirements of 24 CFR 570.486;
- Develop policies and procedures for complaints and grievances and for appeals. These policies and procedures must be made available to participants and beneficiaries (if applicable);
- Update application or program policies and procedures upon VIHFA request;
- Document all complaints, grievances and appeals received. To comply with HUD requirements, a response to each complaint, grievance or appeal must be made within 15 working days of receipt; Maintain organized files and make them accessible to VIHFA or its representatives upon request;
- Maintain books, records and documents relating to the project in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by VIHFA under this program. All records must be maintained for five years beyond the closeout of the grant;
- Retain sufficient records to document program activities, participants, and services and to demonstrate compliance with the CDBG-MIT Public Services Program Guidelines, subrecipient agreement and applicable federal, state and local laws and regulations. All records must be maintained for five years beyond the closeout of the grant;
- Ensure that any partners, subcontractors, vendors or other entities to whom the subrecipient

intends to disburse Public Services funds are not listed as excluded, debarred, or 16 suspended on the System for Award Management (https://sam.gov/SAM/), including affiliated businesses with the same EIN;

- Comply with the requirement that subrecipients will not carry out any of the activities under their agreement with VIHFA in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974;
- Provide a detailed timeline for implementation consistent with the milestones outlined in these Public Services Program Guidelines and report actual progress against the projected progress on a monthly basis;
- Provide a quarterly report to VIHFA that outlines the activities completed in the previous quarter.
  - The report must include financial metrics that demonstrate the implementation costs date with projected spending.
  - Reporting must include documentation of the number of complaints received, the nature of the complaint, and that complaint was responded to within 15 days of receipt. o Additional quarterly reporting requirements may be required, depending on the specific program design implemented by a subrecipient.
- Provide a monthly report to VIHFA that details program outcomes, activities, and the grant funding approved versus funding disbursed;
- Monitor compliance with the terms and conditions of the subrecipient agreement; and
- Maintain organized files and make them accessible to VIHFA or its representatives upon request.

8.6 Procurement

Federal, state and local/territorial procurement rules apply when purchasing services, supplies, materials or equipment. VIHFA and all subrecipients must abide by the procurement process mandated by federal and state government codes as they are applicable to the CHF. The procurement process includes the decision to purchase as well as the process to complete the purchase. The federal government has established a set of procurement rules in 2 CFR Part 200 that apply to CDBG-DR and CDBG-MIT projects to include the procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services. 24 CFR 570.502 requires compliance with 2 CFR Part 200 for CDBG-DR projects, with certain limited exemptions (see also 24 CFR 85.36 and 24 CFR 84.40-48, as applicable as related to nonprofits). These rules are in place to ensure that federal dollars are spent fairly and encourage open competition for the best level of service and price. If a conflict between federal and local procurement regulations should occur, more stringent regulations will be followed.

In addition to the stated procurement requirements, all subcontractors are subject to the requirements detailed in the HUD Rider. These requirements will be reviewed in detail at the onset of every project and compliance will be continually monitored.

Procurement Policy information on procurement requirements can be found in VIHFA's Procurement Policies and Procedures.

8.7 Record Keeping and Retention

Subrecipients must establish a system for record keeping that assists VIHFA with the review of files for compliance. The Subrecipient is responsible for maintaining all records pertinent to a grant,

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including supporting documentation, for five (5) years from the date VIHFA closes the CDBG-MIT program with HUD. VIHFA will notify Subrecipients when the program has been closed with HUD and include the end date of the record retention period. A list of potential records, by activity, can be found in VIHFA's Recordkeeping and Reporting Policy.

Commented [DC27]: If the project closes in 2026, are we sure we will not need any documentation beyond five years, especially if earlier we indicated that we can monitor until the end of the Grant.

Commented [AL28R27]: It is 5 years after the entire grant ends. So even if it closes in 2026 we still have to maintain those records until 5 years are 2035.

8.8 Project 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 resolution of findings, the file is ready for final closeout and archiving by VIHFA. The applicant is instructed to keep all receipts and documentation for a minimum of five (5) years in the event their file is audited or reviewed.

9.0 General Provisions

9.1 Version History

Changes to this document are tracked in the Version Control Table in this document. The dates of each publication are also tracked in this table. The first version of this document is 1.0.

Additional revisions to this document that are considered substantive changes will result in the issuance of a new version evidenced by an increase in the primary version number. This includes complete program design, criteria, additional sections added, new law and/or regulation being included, and any revision that involves the increase of financials.

Non-substantive changes such as minor wording and editing, or clarification of existing policy and procedures, standard operating procedures, and or the document that do not affect the interpretation or applicability of the document 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 1.1, 1.2, etc.

9.2 Program Guidelines Amendments

VIHFA reserves the right to modify the policies established in these guidelines if the program guidelines, as written, do not reflect the intended policy or cause procedures to be impracticable, among any other circumstances. If an amended version of these guidelines is approved, the amended version fully supersedes all other previous versions and should be used as the basis for the evaluation of all situations encountered in the implementation and/or continuance of the Program from the date of its issuance, that is, the date that appears on the cover of these guidelines. Each version of the program guidelines will contain a detailed version control log that outlines any substantive amendment, inclusions and/or changes.

9.3 Policy and Program Design Change Control Board

Policy reviews and changes for the Economic Resilience and Revitalization Program such as design and standard operating procedures are considered through a change control process. When clarifications, additions, or deletions are needed to define the rules, process, and/or procedures by which the Program will operate, Program staff will submit a Policy and Program Design Change Request 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 or a standard operating procedure issue, rather than a process issue, the Policy and Program Design Change Request Form is forwarded to the entire Policy and Program Design Change Control Board for consideration. The requests are compiled and brought before the entire PCCB for a final policy and standard operating procedure change determination.

The PCCB is composed of representatives from Legal, Finance, Policy, Communications, Deputy Director of Economic Resilience and Revitalization Program, the Executive level, the subject matter expert, and other program staff as needed.

The PCCB meets once a month to consider all pending requests but may meet as frequently as necessary to consider critical policy decisions.

9.4 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 the project;
- 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 funding earmarked for same project after receiving award funding.

All Subrecipients shall comply with the CDBG-DR/MIT Recapture policy.

9.5 Crosscutting Requirements

9.5.1 Citizen Participation

9.5.1.1. Fair Housing

The Fair Housing Act requires all grantees, subrecipients, and/or developers funded in whole or in part with HUD financial assistance to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability, or marital status. The Program complies with and enforces the Civil Rights requirements of Title I of the Housing and Community Development Act (HCDA) and the Fair Housing Law.

9.5.1.2 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-MIT 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-MIT 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.

9.5.2 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-MIT 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.

9.5.3 Section 3 Economic Opportunities

Awardee shall comply with 12 U.S.C. 1701u and its regulations ("Section 3"). In compliance with Section 3, the CDBG-MIT 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.

9.5.4. Section 504

All entities receiving an award from these Programs are required to comply with Section 504 of the Rehabilitation Act of 1973, as amended, the Americans with Disabilities Act (ADA), and Equal Employment Opportunity (EEO) requirements in the execution of job training, creation, or retention activities. All facilities that are constructed or modified using CDBG-MIT funds, the provision of public services, as well as employment practices, must comply with Section 504 and ADA to be accessible to persons with disabilities. Trainers and employers must comply with regards to employment requirements under these statues as well as EEO.

9.5.5 Construction Regulations – Davis Bacon Act

The Davis-Bacon Act (DBA) applies to all construction contracts greater than $2,000 unless the program's authorizing legislation contains exceptions. It requires that all workers or mechanics working on projects covered by the Act be paid minimum hourly wages and fringe benefits according to the wage decision(s) applicable to that contract. If any portion of a contract requires DBA, then all work performed under the contract is subject to DBA. Work done by a local government's employees (force account) is not subject to DBA.

Additionally, contractors must comply with the Contract Work Hours and Safety Standards Act (CWHSSA) and the Copeland Anti-Kickback Act (Copeland Act). CWHSSA requires that, for any project in which the prime contract exceeds $100,000, workers must be paid one-and-one-half their normal hourly rate for any hours worked in excess of 40 hours weekly, based on a workweek of seven consecutive days. The Copeland Act prohibits any person from inducing a worker on a federally-funded project to give up any part of the compensation to which the worker is entitled. No payroll deductions are permitted that are not specifically listed in the Copeland Act unless the contractor has obtained written permission from the employee as specified in 29 CFR 3.5 for otherwise permissible payroll deductions.

9.6 Fraud Waste and Abuse

HUD requires that specific policies are developed to prevent fraud, waste, and abuse. Therefore, the Program has established procedures for verifying the accuracy of information provided by program applicants, vendors, and Implementing Partners. The Program's Anti-Fraud, Waste and Abuse (AFWA) check is designed to identify discrepancies and risk-relevant issues in information provided by third parties that may be indicative of fraud, waste, and abuse. The Program will ensure that accurate information obtained from third party vendors and AFWA checks are conducted systematically, utilizing standardized research methodologies and flag identification processes for consistency and equitable treatment across relevant sources. Flag codes, notations, and relevant supporting documents are checked for errors.

To report suspected instances of fraud, waste, or abuse, the Authority strongly encourages calling the VIHFA's Fraud Hotline at (340) 777-4656 via VIHFA website or the complaint form available online or at the VIHFA office. Matters to be reported to the HUD OIG shall be directed at 1-800-347-3735 or via email at hotline@hudoig.gov.

9.7 Conflicts of Interest

The CDBG-MIT Division requires all program staff to disclose any relationship with a subrecipient or contractor. Program staff, sub-grantees, program administrators, and contractors who disclose such relationships are placed in roles where there is no opportunity for them to display favoritism or collude to benefit themselves financially or otherwise, the agency, or the contractor. For example, a customer representative may not perform work on the application of family member. For purposes of this regulation, "family" is defined to include spouse, parents, mother-in-law, father-in-law, grandparents, siblings, brother-in-law, sister-in-law, and children of an official covered under the CDBG conflict of interest regulations at 24 CFR 570.489(h).

VIHFA may request that HUD grant an exception to the conflict-of-interest provisions per 24 CFR 570.489(h)(4) if VIHFA has determined that the relevant party (employee, agent, consultant, officer, or elected or appointed official) has adequately and publicly addressed all of the concerns generated by the conflict of interest and that an exception would serve to further the purposes of Title I of the HCDA, as amended and the individual has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii). Subrecipients for this program should report all conflict-of- interest situations and requests for exceptions to the VIHFA CDBG-MIT Program Staff.

When granting an exception, HUD will consider whether the:

- exception provides a significant cost benefit or essential degree of expertise;
- opportunity was provided for under open competitive bidding or negotiation;
- person affected is an LMI person,
- affected person has withdrawn from his or her functions or responsibilities;
- interest or benefit was present before the affected person was able to benefit from the conflict of interest; or undue hardship results from failure grant the exception.

9.8 Citizen Complaints

VIHFA will accept written citizen complaints from citizens related to the disaster recovery programs, the Action Plan, substantial amendments, or quarterly performance reports. The formal complaint form is attached in this document as Appendix A.

Written complaints should either be submitted via email to: cdbgdrcomplaints@vihfa.gov or mailed to the address below:

Virgin Islands Housing Finance Authority

Attention: Citizen Complaints
1110 Beltjen Road, Suite 200
St. Thomas, VI 00802-6735

The CDBG-MIT Program will provide a written response to every citizen complaint within 15 working days of the complaint. See the Citizen Complaints Policy for more information.

Appendices

Appendix A: Standard Operating Procedures

Appendix B: Process Flows

Appendix C: Notice of Funding Availability Application