


# INFRASTRUCTURE and PUBLIC FACILITIES PROGRAM

## POLICIES AND PROCEDURES

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**CDBG-MIT  
INFRASTRUCTURE PROGRAM  
Policy Revision History**

**Version Control Table**

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## 1.0 Introduction

### 1.1 Background

In response to the 2017 disasters, HUD via Congress allocated \$10.03 billion for long-term recovery from disasters that occurred that year. As a supplement to this allocation, 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. Additionally, an additional supplement for the enhancement and improvement of the electrical power systems allocated \$2 billion via 86 FR 32681(FR-6261-N-01) with \$67,653,000 allocated for the US Virgin Islands.

The purpose of the Infrastructure and Public Facilities program, and as defined in the FRN, is to fund activities that enhance or improve the electrical power systems which addresses the critical lifeline of energy. The USVI Supplemental Notice provides specific guidance to the USVI that supplements the requirements outlined in the CDBG-DR Main Notice. The USVI’s Electrical Grid Action Plan details the Territory’s strategy to utilize the \$67,653,000 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 Electrical Grid 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

Acronym	Meaning
CDBG	Community Development Block Grant
CDBG-DR	Community Development Block Grant – Disaster Recovery
CDBG-MIT	Community Development Block Grant- Mitigation



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DBRA	Davis-Bacon and Related Acts
DHS	United States Department of Homeland Security
DRGR	Disaster Recovery Grant Reporting System
DOB	Duplication of Benefits
DOE	U.S. Department of Energy
DPW	Virgin Islands Department of Public Works
EPA	Environmental Protection Agency
EEO	Equal Employment Opportunity
FEMA	Federal Emergency Management Agency
FLSA	Fair Labor Standard Acts of 1938
HCDA	Housing and Community Development Act
HUD	United States Department of Housing and Urban Development
GIS	Geographic Information System
LMA	Low to Moderate Area
LMI	Low and Moderate Income
MBE	Minority Business Enterprise
MWBE	Minority and Women Business Enterprise
MID	Most Impacted Distressed Area
MSR	Monthly Status Report
NEPA	National Environmental Policy Act
NTP	Notice to Proceed
O&M	Operation and Maintenance Plan
OIG	HUD Office of Inspector General
PW	Project Worksheet
QA	Quality Assurance
QC	Quality Control
QPR	Quarterly Performance Report
RFP	Request for Proposals
RFQ	Request for Qualifications
SRA	Subrecipient Agreement
TCT	Technical Coordination Team
UNM	Urgent Need Mitigation
URA	Uniform Relocation Act
USACE	U.S. Army Corps of Engineers
WBE	Women Business Enterprise
VIHFA	Virgin Islands Housing Finance Authority
WAPA	Virgin Islands Water and Power Authority

## 2.2 Definitions

**100-Year Floodplain:** Also referred to as the ‘base flood’. This term, adopted by the National Flood Insurance Program as the basis for mapping, insurance rating, and regulating new construction, is the floodplain that would be inundated in the event of a 100-year flood. The 100- year flood has a 1% chance of being equaled or exceeded during any given year.

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**Applicant:** An agent, entity, business, or other entity who makes formal project information for a CDBG managed program.

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

**Allocation:** The amount of a grant award that has been determined for a particular grantee. Also, the amount of funding attributed to a program.

**Bid or sealed bid:** An offer in response to invitations for bids.

**Bidder (contractor/consultant):** A generic term that refers to a person or entity who submits an offer in response to a solicitation.

**Change Orders:** Modifications to the Scope of Work required due to unforeseen circumstances.

**Community Development Block Grant – Disaster Recovery (CDBG-DR):** Flexible grant assistance from HUD to help the Territory recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

**Contract (Subrecipient Agreement):** A mutually binding legal relationship obligating the seller (contractor; professional A/E) to furnish the supplies or services (including construction) and the buyer (subrecipient) to pay for them. It includes all types of commitments that obligate the subrecipient to an expenditure of appropriated funds and that, except as otherwise authorized, are in writing. All contracts utilizing CDBG-DR funds MUST contain liquidated damages provision.

**Conflict of Interest:** Arises when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. A conflict of interest exists when a situation arises that can undermine a person’s involvement in an activity due to self-interest and public interest.

**Consultant:** A person or company that possesses unique qualifications that allow them to perform specialized advisory services, usually for a fee.

**Contractor:** A third-party firm procured by a subgrantee or subrecipient and paid with CDBG-DR funds in return for a specific service (e.g., construction or professional services).

**Contracting Unit:** Subgrantee or subrecipient (Owner).

**Cost and Price Analysis.** The process of examining and evaluating a prospective price to ensure fair and reasonable pricing of a product or service. A Cost and Price analysis is required as stated in the VIHFA Procurement Policy.

**Cross-cutting regulations:** Regulations outside of CDBG-DR regulations that apply to CDBG-DR programs. These include regulations pertaining to financial management, procurement, environmental, PP-MIT-INF.101

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labor, acquisition, relocation, fair housing, and non-discrimination.

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

**United States Department of Homeland Security (DHS):** A department under the US federal government with the primary responsibility of protecting US territory (including from natural disasters).

**Disaster Recovery Grant Reporting System (DRGR):** The Disaster Recovery Grant Reporting system was developed by HUD's Office of Community Planning and Development for the CDBG Disaster Recovery program and other special appropriations. Data from the system is used by HUD staff to review activities funded under these programs and for required quarterly reports to Congress

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

**Electrical power system** – “an interconnected or autonomous set of transmission lines, distribution lines, substations, central power generation stations, other sources of power, distributed energy resources, or enabling technologies and services, such as industry standard billing, accounting information technology, cybersecurity enhancements, microgrids and fuel transfer delivery systems, that are necessary for the provision of reliable, resilient, stable, and cost-effective electrical service” (86 FR 32692),

**Electrical power system improvement** – “the acquisition, construction, reconstruction, rehabilitation or installation of facilities, improvements, or other components (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned property) that are undertaken to extend, upgrade, and otherwise enhance and improve the cost-effectiveness, reliability, efficiency, sustainability, or long-term financial viability of the [...] electrical power system including activities to increase the resilience of the electrical power system to future disasters and to address the impacts of climate change” (86 FR 32692).

**Equal Employment Opportunity (EEO):** Prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin.

**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.

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**Federal Emergency Management Agency (FEMA):** An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the response to a disaster that has occurred in the United States and that overwhelms the resources of local and State authorities.

**Fair Labor Standard Acts of 1938 (FLSA):** FLSA establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week.

**Flood Zones:** The land areas identified by the Federal Emergency Management Agency (FEMA). Each flood zone describes that land area in terms of its risk of flooding. Everyone lives in a flood zone; it is just a question of whether you live in a low, moderate, or high-risk area.

**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 (HCDA):** HCDA is a US federal law that authorizes funds to be “awarded directly to the State or unite of general local government as a grantee at the discretion of the Secretary of Housing and Urban Development”.

**United States Department of Housing and Urban Development (HUD):** Federal department through which the program funds are distributed to grantees.

**Independent Cost/Price Analysis:** A cost analysis or price analysis in connection with a federal procurement regulation for every procurement action, including contract modifications. The review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal (including cost or pricing data or federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair of public buildings or public works.

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**Electrical Power System Improvement.** HUD defines this as the acquisition, construction,  
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reconstruction, rehabilitation or installation of facilities, improvements, or other components (including interim assistance, and financing public or private acquisition for reconstruction or rehabilitation, and reconstruction or rehabilitation, of privately owned property) that are undertaken to extend, upgrade, and otherwise enhance and improve the cost-effectiveness, reliability, efficiency, sustainability, or long-term financial viability of the grantee’s electrical power system including activities to increase the resilience of the electrical power system to future disasters and to address the impacts of climate change.

**Equal Employment Opportunity (EEO):** Prohibits federal contractors and federally assisted construction contractors and subcontractors, who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin.

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**United States Department of Housing and Urban Development (HUD):** Federal department through which the program funds are distributed to grantees.

**Independent Cost/Price Analysis:** A cost analysis or price analysis in connection with a federal procurement regulation for every procurement action, including contract modifications. The review and evaluation of the separate cost elements and profit in an offeror's or contractor's proposal (including cost or pricing data or information other than cost or pricing data), and the application of judgment to determine how well the proposed costs represent what the cost of the contract should be, assuming reasonable economy and efficiency.

**Liquidated damages:** Construction contracts with liquated damages are to comply with VIHFA  
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Procurement Policy.

**Low- and Moderate-Income (LMI):** A household is considered to have low- and 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. See Federal Register FR-6210-N-01, September 28, 2020, indicating LMI waiver to use St. John income data for all territory.

**LMA** – A low- and moderate-income service area. A CDBG-DR funded activity is LMA if the benefits of the activity are available to all the residents in a particular area, where at least 51 percent of the residents are low- and- moderate income persons.

**Mitigation** – lessening the impact of natural disasters and the impacts of climate change by protecting assets or ensuring redundancy in the system, for example by eliminating single points of failure. With hardening and resilience, related terms, mitigation is in the middle in its expansiveness.

**Minority Business Enterprise (MBE):** A business that is owned and controlled (minimum of 51 % ownership) by a member of a minority group.

**Minority and Women-owned Business Enterprise (M/WBE):** A business that is owned and controlled (minimum of 51 % ownership) by a member of a minority group, or women.

**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 consider 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.

**Offer:** A response to a solicitation that, if accepted, would bind the offeror to perform the resultant contract. Responses to invitations for bids (sealed bidding) are offers called “bids” or “sealed bids”; responses to requests for proposals (negotiation) are offers called “proposals”.

**HUD Office of Inspector General (OIG):** OIG’s mission is independent and objective reporting to the Secretary and the Congress for the purpose of bringing about positive change in the integrity, efficiency, and effectiveness of HUD operations. The Office of the Inspector General became statutory with the signing of the Inspector General Act of 1978 (P.L. 95-452).

**Owner:** Sub grantee or subrecipient (unit of city government) or private entity that receives CDBG-DR funds.

**Price Analysis.** The process of examining and evaluating a prospective price without performing cost analysis; that is, without evaluating the separate cost elements and profit of the offeror included in that PP-MIT-INF.101



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price. The end result of the price analysis is to ensure fair and reasonable pricing of a product or service. Price analysis may include a variety of techniques such as comparing proposed prices with prices of the same or similar items obtained through market research. (Nash, Schooner, O'Brien, 1998).

**Professional Services:** The professional landscape, architectural, engineering, and land surveying services, including planning, environmental, and construction inspection services required for the development and construction of projects, as defined by the laws of the State or those performed by an architect, landscape architect, professional engineer or professional land surveyor in connection with his or her professional employment practice.

**Project:** The project activities described in the executed Intergovernmental or Subrecipient Agreement, which are to be carried out to meet the objectives of the CDBG Program.

**Project Worksheets (PWs):** Each PW contains the entire funded project and only items contained in a PW are eligible for FEMA reimbursement. At a minimum, files for each PW created by FEMA document the project, the location, the damage, the scope of work, the cost estimate, as well as back-up documentation.

**Quality Assurance (QA):** Planned and systematic production processes that provide confidence that the policy and procedures of the program are being executed as planned.

**Quality Control (QC):** Testing to ensure that the policy and procedures of the program are being executed as planned.

**Reconstruction:** The labor, materials, tools, and other costs of rebuilding.

**Reliability** – Reliability is the measure of the likelihood of available power at any given point in time. Metrics used to evaluate reliability look at the frequency and duration of outages, particularly at the feeder level, and include:

System Average Interruption Frequency Index (SAIFI) – how often the average customer experiences an interruption

System Average Interruption Duration Index (SAIDI) – the total number of minutes of interruption experienced by the average customer

Customer Average Interruption Duration Index (CAIDI) – the average time required to restore service

**Renewable energy source** – A source of energy that is not permanently depleted once used. Examples of renewable energy include solar, wind, hydro, geothermal, and biomass.

**Repair:** The labor, materials, tools, and other costs of improving buildings, other than minor or routine repairs.

**Requests for Proposal (RFP):** A document that outlines the bidding process, scope of work, and contract terms, and provides guidance on how the bid should be formatted and presented. An RFP is typically open to a wide range of bidders, creating open competition between vendors.

**Request for Qualifications (RFQs):** A document, which is issued by a procurement entity to obtain statements of the qualifications of potential responders (development teams or consultants) to gauge

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potential competition in the marketplace, prior to issuing the solicitation (Institute for Public Procurement) Sealed Bidding: A method of contracting that employs competitive bids, public opening of bids, and awards.

**Request for Release of Funds (RROF):** An environmental review term for a process used by Responsible Entities (the Territory) 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.

**Resilience** – With hardening and mitigation, the broadest of the related terms, looking at how systems are protected, can recover quickly if disrupted, or minimize the impact of a disruption. Beyond speaking to specific infrastructure measures, resilience can be applied to communities or societies in terms of the ability to adapt to and recovery from stressors and disasters.

**Responsible Entity (RE):** Under 24 CFR Part 58, the term “responsible entity” (RE) means the grantee receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record is complete.

**Small Business Administration (SBA):** SBA’s Office of Disaster Assistance (ODA) provides affordable, timely and accessible financial assistance to applicants, renters, and businesses. The SBA low-interest, long- term loans are the primary form of federal assistance for the repair and rebuilding of non-farm, private sector disaster losses.

**Scope of Work (SOW):** The work to be performed or completed by the applicant. All FEMA PA projects considered for Non-Federal Share Local Match with CDBG-DR funds must have funding and a scope of work that is contained in an eligible and obligated Project Worksheet (PW).

**Slum and Blight:** “Blighted area” and “slum” mean an area in which at least 70% of the parcels are blighted parcels and those blighted parcels substantially impair or arrest the sound growth of the State or a political subdivision of the State, retard the provision of housing accommodations, constitute an economic or social liability, or are a menace to the public health, safety, morals, or welfare in their present condition and use.

**Section 3:** A provision of the Housing and Urban Development (HUD) Act of 1968 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 3 requires tracking labor hours for both Section 3 and Section 3 workers as defined by the new rule.

**Solicitation:** Any request to submit offers or quotations to the sub grantee or subrecipient. Solicitations under sealed bid procedures are called “invitations for bids”. Solicitations under negotiated procedures are called “requests for proposals”.

**Subconsultant:** Any person, firm, partnership, corporation, association or other organization, or a PP-MIT-INF.101



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combination of any of them, that has a direct contract with a design professional or another subconsultant to perform a portion of the work under a design professional service contract. (www.lawinsider.com)

**Subcontract:** Any contract as defined above “Contract” entered by a subcontractor to furnish supplies or services for performance of a prime contract, or a subcontract.

**Subcontractor:** Any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

**Subrecipient: Non-**profits and limited for-profits providing support to microenterprises that are provided CDBG-DR funds by VIHFA for their use in carrying out agreed-upon, eligible activities through a Subrecipient Agreement with VIHFA. A territorial department or agencies may also function as a subrecipient.

**Subrogation:** The process by which duplicative assistance paid to the applicant after receiving an award, is remitted to the program in order to rectify a Duplication of Benefits.

**Substation** – The part of the power system where electricity is converted from high voltage to lower voltage. Substations consist of power transformers and other equipment and can be located closer to a load center – are of power demand – than generating stations.

**Transmission** – Transmission is the part of the electricity delivery system that moves bulk electricity from the generation sites over long distances to substations closer to areas where electricity is consumed.

**Urgent Need:** Under the disaster recovery federal regulations, HUD has determined that an urgent need exists within the Presidentially Declared Emergency. An urgent need exists because existing conditions pose serious and immediate threats to the health/welfare of the community, the existing conditions are recent or recently became urgent, and the subrecipient cannot finance the activities on its own because other funding sources are not available. All applications who cannot meet the LMI National Objective are placed into the Urgent Needs category.

**Uniform Relocation Act (URA):** A federal law that establishes minimum standards for federally-funded programs and projects that require the acquisition of real property (real estate) or displace persons from their homes, businesses, or farms.

**Unmet Need:** Financial resources necessary to recover from a disaster that are not likely to be addressed by other public or private sources of funds, including, but not limited to, FEMA Individual Assistance, FEMA Public Assistance, FHWA Emergency relief Program, SBA Disaster Loans, and private insurance.

**U.S. Army Corps of Engineers (USACE):** A US federal agency for public engineering, design, and construction management.

**Women Business Enterprise (WBE):** A business that is owned and controlled (minimum of 51 % ownership) by a woman.

**Virgins Islands Housing Finance Authority (VIHFA):** is the official CDBG-DR grantee, who has  
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overall responsibility for all activities tied to the CDBG- DR grant funded.

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

### 3.0 Overview of Infrastructure and Public Facilities

As a result of the declared disasters in 2017 (DR-4335) and (DR-4340) the U.S. Virgin Islands received an award of over \$1.075 billion in a Congressional appropriation in 2018. In recognition of the need to mitigate future risks and long-term recovery efforts, the U.S. Virgin Islands was further awarded an amount of \$776,000,000 from the U.S. Department of Housing and Urban Development (“HUD”) for mitigation activities to be funded in accordance with CDBG-MIT funds. In the CDBG-MIT Federal Register Notice [FRN] (85 FR 45838), HUD defines mitigation as “those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to or loss of property, and suffering and hardship, by lessening the impact of future disasters.”

The CDBG-MIT Infrastructure and Public Facilities Program utilizes CDBG funds to develop “stand alone” and shared match infrastructure projects that are necessary to address the future risks of adverse events to the Territory’s critical facilities and lifelines. These are defined in the published FRN section V.A.2.a.(1) as Safety and Security, Communications; Food, Water, and Sheltering; Transportation; Health and Medical; Hazardous Material including Management; and Energy which includes Power and Fuel. These areas have been defined, incorporated, and adopted into the Territorial Hazard Mitigation Plan (the “THMP”).

Table 1. CDBG-MIT Guidance

Grant	FRN	Description
<b>CDBG-MIT</b>	FR-6109-N-01, supplemented by FR-6109-N-02 and FR-6109-N 03	HUD allocated \$776,000,000 in recognition of the need to mitigate future risks and long-term recovery efforts in the territory, for the mitigation activities to be funded in accordance with the CDBG-MIT Action Plan’s Resilient Critical & Natural Infrastructure Program funds.

Pursuant to 84 FR 47528, the appropriate CDBG-MIT funds will be used to:

1. Facilitate in part or in whole infrastructure projects that can demonstrate that they address the unmet needs of the Territory as described in the U.S. Virgin Islands Hazard Mitigation Plan – 2019 (THMP), as amended.
2. Address the future risks of adverse events to the territory’s critical facilities and lifelines as defined in the published federal register notices section V.A.2.a.(1).

The CDBG-MIT Infrastructure and Public Facilities funding has been divided into two programs/allocations as follows.

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1. Community Resilience and Public Facilities Construction
2. Resilient Critical and Natural Infrastructure

Subrecipients are required to address long-term recovery and hazard mitigation planning by describing how projects will:

Meet definition of a Mitigation Activity	Address the Territory’s Mitigation Needs Assessment
<ul style="list-style-type: none"> <li>• Increase resilience to disasters and reduce or</li> <li>• 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.</li> </ul>	<ul style="list-style-type: none"> <li>• Advance long-term resilience.</li> <li>• Align with other planned capital improvements</li> <li>• Promote community-level and regional planning for current and future disaster recovery efforts and additional mitigation investment.</li> </ul>

### 3.1 Objectives of Infrastructure and Public Facilities Programs

HUD defines mitigation as “those activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to or loss of property, and suffering and hardship, by lessening the impact of future disasters.” The Infrastructure and Public Facilities Program will utilize CDBG-MIT funding to engage in projects and activities that makes the territory resilient and prepared for current and future disasters and/or extreme weather conditions. This program will address the unmet needs of the Territory through the activities that include but are not limited to the following.

- Comprehensive planning to identify resilience opportunities.
- Adoption and enforcement of codes to bring critical infrastructure up to industry standards.
- Implementation of innovative technology and other best practices to create a more reliable, sustainable, and cost-effective electric grid; as applicable.
- Mitigating risks to the critical infrastructure community lifelines of the general public.
- Hardening infrastructure against severe weather events.

Table 2. Infrastructure and Public Facilities Program Overview

Infrastructure and Public Facilities Program Overview	
Classification	Description
Governing FRN(s)	FR-6109-N-01, supplemented by FR-6109-N-02 and FR-6109-N 03; FRN-6261-N-01
Funding Allocation	\$408,000,000

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Percent of Funding Allocation Programs 54%

- Community Resilience and Public Facilities
- Resilient Critical and Natural Infrastructure

### 3.3 Resilient Critical & Natural Infrastructure Resilience Program Overview

The Resilient Critical & Natural Infrastructure Program will fund activities and projects that harden public infrastructure and is critical to the Territory’s ability to mitigate risks to public health and safety even before an extreme weather event occurs.

VIHFA is focused on how the Territory is advancing adaptation to climate change through the management of natural infrastructure assets that provide territorial and ecosystem services. Such focus provides effective solutions for minimizing coastal flooding, erosion, and runoff, as do man-made systems that mimic natural processes – known as natural infrastructure. Across the Territory, aging water infrastructure is creating challenges for water management. Combined sewer systems are pumping toxins into estuaries, bays, lakes, and other water bodies and overflowing during extreme precipitation events into urban and residential areas. At the same time, coastal communities are being heavily damaged from extreme storm events and sea level rise.

Natural infrastructure approaches include forest, floodplain and wetland protection, watershed restoration, wetland restoration, permeable pavement, and driveways; green roofs; and natural areas incorporated into city designs, and conservation easements. A natural infrastructure approach represents a successful and cost-efficient way to protect riverine and coastal communities. While there is much to be done in the way of design and restoration in coastal communities, this plan will focus on upstream rather than coastal natural infrastructure.

Table 3. Resilient Critical & Natural Infrastructure Program Overview

Resilient Critical & Natural Infrastructure Program Overview	
Classification	Description
Governing FRN(s)	FR-6109-N-01, supplemented by FR-6109-N-02 and FR-6109-N 03; FRN-6261-N-01
Funding Allocation	\$308,000,000
Percent of Project Funding Allocation	75%
CDBG Eligible Activity:	<ul style="list-style-type: none"> <li>• Acquisition of Real Property (HCDA Section 105(a)(1)).</li> <li>• Public Facilities and Improvements (HCDA Section 105(a)(2)).</li> <li>• Clearance, Rehabilitation, Reconstruction, and Construction of Buildings (HCDA Section 105(a)(4)).</li> </ul>

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	<ul style="list-style-type: none"> <li>• Architectural Barrier Removal 105(a)(5)</li> <li>• Activities carried out by nonprofit development organization (HCDA 105(a)(8))</li> <li>• Relocation (HDCA 105a (11))</li> <li>• Planning (HDCA 105a (12))</li> <li>• Eligible nonprofit organizations (HCDA Section 105(a)(14)).</li> <li>• Relocation (HCDA Section 105(a)(15)).</li> </ul> <p>Assistance to Institutions of Higher Education (HCDA Section 105(a)(21))</p>
Eligible Applicants:	Governmental and quasi-governmental entities
National Objectives Fulfilled	Low- to Moderate-Income (LMI); Unmet Need Mitigation (UNM)
Low- and Moderate-Income Projection:	50%.
Eligible Criteria:	<p>All projects must:</p> <ul style="list-style-type: none"> <li>• Meet the definition of mitigation activities;</li> <li>• Address identified current and future risks; mitigation related to hurricanes, tropical storms and depressions, severe flooding, earthquake, tsunami, drought, landslide, wildfire, and pandemic;</li> <li>• Meet a CDBG national objective;</li> <li>• Include a plan for the long-term funding and management of the operations and maintenance of the project.</li> </ul>
Award Thresholds (maximum and minimum)	None. To be determined based on necessary and reasonable costs.
Geographic Eligibility	Territory wide
Hazard Risks Addressed	Hurricane, Riverine, Tsunami, Earthquakes, Coastal Flooding
Community Lifeline Impact	<ul style="list-style-type: none"> <li>• Food, Water, Sheltering</li> <li>• Transportation</li> <li>• Health and Medical</li> <li>• Hazardous Materials</li> <li>• Energy</li> </ul>

### 3.3.1 Resilient Critical & Natural Infrastructure Resilience Energy Projects Administered by VIHFA Energy Solutions Program

The Propane Infrastructure Acquisition Project is to be funded with CDBG-MIT funding under the Resilient Critical and Natural Infrastructure Program. However, the activity will be managed by the Energy Solutions Programs. Aspects of the Energy Solutions policy and procedures pertaining to Electrical Grids will also be applied to this project as it is along the same lines as Richmond Estate Generation Facility as much as is practical. This project was selected because the stated project benefits include maintaining lower fuel prices and increasing fuel security indicating that it will meet the Urgent Need Mitigation

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(UNM) national objective. It will also facilitate redundancy in power sources, increased reliability with modern propane generators and it specifically addresses the vulnerability of existing diesel storage to harm from disasters while asserting that propane is almost impervious to hurricane damage. The purchase by VIWAPA, deemed to be the only utility-scale propane supply infrastructure on St. Thomas and on St. Croix, will ensure fuel redundancy that will enable generation of energy and thus potable water for USVI residents. Additionally, since propane is a cleaner fuel than diesel, this purchase will support the USVI’s environmental goals as more solar energy generation is phased in across the Territory. VIWAPA will have ultimate responsibility for ownership of the propane infrastructure assets as well as ensuring the O&M of the system for the entirety of its useful life.

Though energy activities will be under CDBG-MIT Infrastructure programs, VIHFAs’ Infrastructure and Public Facilities Program will be focused on hardening critical infrastructure against severe weather events; while the Energy Solutions Program will be focused on hardening, improving, and enhancing critical energy infrastructure against severe weather events.

**3.4 Community Resilience & Public Facilities Construction Program Overview**

This program addresses the urgent need for adequate, permanent emergency shelters in the U.S. Virgin Islands. To this end, the program will support the development of multi-purpose facilities which will be dedicated to disaster preparedness, sheltering needs in disasters and other emergency situations. Additionally, the program may support increasing sheltering capacity by hardening and upgrading existing community, public or private infrastructure to bring them up to sheltering standards. To address this need, this program will cover the eligible costs to rehabilitate, reconstruct or newly construct a facility to meet the needs of this population. In addition, the projects will address mitigation measures by utilizing construction methods that meet FEMA standards.

Table 4. Community Resilience & Public Facilities Construction Program Overview

<b><u>Community Resilience &amp; Public Facilities Construction Program Overview</u></b>	
Classification	Description
Governing FRN(s)	FR-6109-N-01, supplemented by FR-6109-N-02 and FR-6109-N 03; FRN-6261-N-01
Funding Allocation	\$100,000,000
Percent of Project Funding Allocation	25%
CDBG Eligible Activity:	HCDA Section 105(a)
Eligible Applicants:	Governmental and quasi-governmental entities, non-profits, private entities
National Objectives Fulfilled	Low- to Moderate-Income (LMI); Unmet Need Mitigation (UNM)

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Low- and Moderate-Income Projection:	50%.
Eligible Criteria:	All projects must: <ul style="list-style-type: none"> <li>• Meet the definition of mitigation activities;</li> <li>• Address identified current and future risks; mitigation related to hurricanes, tropical storms and depressions, severe flooding, earthquake, tsunami, drought, landslide, wildfire, and pandemic;</li> <li>• Meet a CDBG national objective;</li> <li>• Include a plan for the long-term funding and management of the operations and maintenance of the project.</li> </ul>
Award Thresholds (maximum and minimum)	To be determined based on necessary and reasonable costs.
Geographic Eligibility	Territory wide
Hazard Risks Addressed	Hurricane, Riverine, Tsunami, Earthquakes, Coastal Flooding
Community Lifeline Impact	<ul style="list-style-type: none"> <li>• Food, Water, Sheltering</li> <li>• Transportation</li> <li>• Health and Medical</li> <li>• Hazardous Materials</li> <li>• Energy</li> </ul>

### 3.5 Method of Distribution

All projects in the Infrastructure and Public Facilities programs will be required to provide a narrative summary of the green and natural infrastructure components as applicable to the project during scope and budget development and are encouraged to use the Association of State Floodplain Manager’s (ASFPM) No Adverse Impact (NAI) How-to-Guide for Infrastructure to assist in effective project design.

#### 3.5.1. Resilient Critical and Natural Infrastructure Program Method of Distribution

*Table 4. Method of Distribution*

Classification	Description
Eligible Activities:	<ul style="list-style-type: none"> <li>• Acquisition of Real Property (HCDA Section 105(a)(1)).</li> <li>• Public Facilities and Improvements (HCDA Section 105(a)(2)).</li> <li>• Clearance, Rehabilitation, Reconstruction, and Construction of Buildings (HCDA Section 105(a)(4)).</li> <li>• Architectural Barrier Removal 105(a)(5)</li> <li>• Activities carried out by nonprofit development organization (HCDA 105(a)(8))</li> <li>• Relocation (HDCA 105a (11))</li> <li>• Planning (HDCA 105a (12))</li> <li>• Eligible nonprofit organizations (HCDA Section 105(a)(14)).</li> <li>• Relocation (HCDA Section 105(a)(15)).</li> <li>• Assistance to Institutions of Higher Education (HCDA Section 105(a)(21))</li> </ul>
National Objectives:	<ol style="list-style-type: none"> <li>1. Low- and Moderate-Income</li> <li>2. Unmet Mitigation Need</li> </ol>



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Program Allocation:	\$308,000,000
Low- and Moderate- Income Projection:	50%.
Estimated Start and End Dates:	Q4 2024 – Q4 2035
Geographic Area(s) Served:	Territory-wide.
Administering Entity:	VIHFA, Subrecipient
Eligible Applicants:	Units of Governments of the USVI, including its autonomous and semi-autonomous instrumentalities, such as the Water and Power Authority, the Department of Public Works, the Waste Management Authority, the Bureau of Information Technology and other infrastructure related governmental and quasi-governmental entities, plus private sector entities.
Eligible Project Activities:	All projects must: <ul style="list-style-type: none"> <li>• Meet the definition of mitigation activities.</li> <li>• Address identified current and future risks; mitigation related to hurricanes, tropical storms and depressions, severe flooding, earthquake, tsunami, drought, landslide, wildfire, and pandemic.</li> <li>• Meet a CDBG national objective.</li> <li>• Include a plan for the long-term funding and management of the operations and maintenance of the project.</li> </ul>
Community Lifeline Impact	<ul style="list-style-type: none"> <li>• Food, Water, Sheltering</li> <li>• Transportation</li> <li>• Health and Medical</li> <li>• Hazardous Materials</li> <li>• Energy</li> </ul>
Award Thresholds (maximum and minimum):	To be determined based on necessary and reasonable costs.

### 3.5.2. Community Resilience & Public Facilities Construction Program Method of Distribution

Table 5. Community Resilience & Public Facilities Construction Program

Classification	Description
Eligible Activities:	<ul style="list-style-type: none"> <li>• HCDA Section 105(a)(1) Acquisition of Real Property</li> <li>• HCDA Section 105(a)(2) Public Facilities and Improvements</li> <li>• HCDA Section 105(a)(4) Clearance, Rehabilitation, Reconstruction, and Construction of Buildings</li> <li>• HCDA Section 105(a)(5) Architectural Barrier Removal</li> <li>• HCDA Section 105(a)(14) Activities Carried Out through Nonprofit Development Organizations</li> <li>• HCDA Section 105(a)(15) Eligible nonprofit organizations</li> <li>• HCDA Section 105(a)(21) Higher Education</li> <li>• HCDA Section 105(a)(12) Planning</li> </ul>
National Objectives:	<ol style="list-style-type: none"> <li>1. Low- and Moderate-Income</li> <li>2. Unmet Mitigation Need</li> </ol>
Program Allocation:	\$100,000,000



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Low- and Moderate- Income Projection:	50%. .
Estimated Start and End Dates:	Quarter 4, 2023 through Quarter 3, 2029.
Geographic Area(s) Served:	Territory-wide.
Administering Entity:	VIHFA, Subrecipient
Eligible Applicants:	<ul style="list-style-type: none"> <li>○ Non-governmental organizations (501(c)(3)) or Not for Profit Entities</li> <li>○ Units of Government of the USVI, and its autonomous and semi-autonomous entities</li> <li>○ Public or Private Institutions of Higher Learning (Universities)</li> <li>○ Private developers</li> <li>○</li> </ul>
Eligible Project Activities:	<p>All projects must:</p> <ul style="list-style-type: none"> <li>○ Meet the definition of mitigation activities.</li> <li>○ Include measures to harden infrastructure facilities against severe weather.</li> <li>○ Meet a CDBG national objective.</li> <li>○ Include a plan for the long-term funding and management of the operations and maintenance of the project.</li> <li>○ Meet the definition of a covered project.</li> <li>○ Demonstrate an accelerated timeline.</li> </ul>
Community Lifeline Impact	<ul style="list-style-type: none"> <li>● Food Water Sheltering</li> <li>● Communications</li> <li>● Safety and Security</li> </ul>
Award Thresholds (maximum and minimum:	<ul style="list-style-type: none"> <li>● Maximum: \$25 million</li> <li>● Minimum: \$1 million</li> </ul>

## 4.0 Program Requirements

### 4.1 Eligibility

The purpose of this section is to discuss specific activities that are eligible and those that are ineligible for funding and provide guidance in determining the eligibility of other activities.

#### 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.

#### 4.1.3. Applicant Eligibility Criteria

Eligible applicants for the CDBG-MIT Infrastructure and Public Facilities Program include:

- **Resilient Critical & Natural Infrastructure Program**  
GVI units, departments including autonomous and semi-autonomous instrumentalities and other infrastructure related governmental and quasi-governmental entities, plus Private sector

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entities procured to execute Public-Private Partnership

- **Community Resilience & Public Facilities Construction Program**

- Non-governmental organizations (501(c)(3)) or Not for Profit Entities
- Units of Government of the USVI, and its autonomous and semi-autonomous entities
- Public or Private Institutions of Higher Learning (Universities)
- Private developers

#### 4.1.4. Project Eligibility Criteria

Proposed projects will be assessed for project eligibility. Applicants must meet the CDBG-MIT criteria for eligible infrastructure and public facilities projects including but not limited to:

- Meet the definition of mitigation activities;
- Address identified current and future risks; mitigation related to hurricanes, tropical storms and depressions, severe flooding, earthquake, tsunami, drought, landslide, wildfire, and pandemic;
- Meet a CDBG national objective;
- Be in conformance with the USVI Mitigation Action Plan
- Harden infrastructure to mitigate against future disasters
- Activities must meet the National Objectives as outlined in 4.3
- Include a plan for the long-term funding and management of the operations and maintenance of the project.
- 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 Activities

Eligible activities include projects that can demonstrably increase community resilience. VIHFA has identified the following eligible activities for the Infrastructure and Public Facilities Program as defined in its respective CDBG-MIT Action Plan in accordance with basic eligible activities per HCDA Section 105(a). Eligible Activities include:

- Rehabilitation of critical infrastructure
- To enhance the resilience of facilities used to provide emergency response services, provided that such assistance is not used for buildings for the general conduct of government as defined at 24 CFR 570.3
- Rehabilitation of infrastructure that can serve as an emergency response during extreme weather

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- events (i.e., emergency shelters)
- Rehabilitation or construction of stormwater management systems
- Improving or installing retention basins
- Improvements to public water systems (i.e., replacing/relocating water lines)
- Improvements to pedestrian and vehicular mobility systems
- Culvert improvements
- Improvements to storm drainage systems
- Green infrastructure

## 4.2 Ineligible Activities

As a general rule, any activity that is not authorized under the provisions of 24CFR 570.201 through 570.206 is ineligible to be assisted with CDBG funds unless the activity is authorized under the provisions.

The Program will not use any CDBG-MIT funds for the operation and maintenance costs of an electrical power system, or of a public utility or the costs of fuel or energy purchase contracts in effect prior to the applicability date of this notice.

CDBG-MIT funds will not be used for privately owned utilities nor providing assistance for the rehabilitation of any building used for the general conduct of government.

CDBG-MIT funds cannot be used for programs and projects to provide emergency response services

### 4.2.1 Categorically Ineligible

Except on a limited basis, as referenced, the following activities may not be assisted with CDBG funds under any circumstance:

- General government expenses, §570.207(a)(2), and
- Political activities, §570.207(a)(3)

### 4.2.2. Generally Ineligible

Unless authorized, the following activities may not be assisted with CDBG funds.

- Furnishings and personal property, § 570.201(e). §570.203(b). §570.207(b)(1)
- Operating and maintenance expenses, §570.201(e); §570.201(f), and §570.206; §570.207(b)(2).
- Additionally, activities performed in relation to the proposed project conducted prior to the execution of an agreement with VIHFA shall also be ineligible.

Additional information on eligible and ineligible costs can be found at 2 CFR 200.420-200.475.

All subrecipients must adhere to the cost principles found in 2 CFR, Subpart E – Cost Principles. Costs must be allowable, necessary, reasonable, and allocable. Additional information on eligible and ineligible costs can be found at 2 CFR 200.420-200.475 as amended

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Additionally, activities performed in relation to the proposed project conducted prior to the execution of an agreement with VIHFA shall also be ineligible.

### 4.3 National Objectives

All activities under the Infrastructure and Public Facilities Programs must demonstrate one of the following national objectives of the grant. This section will distinctly list the objectives of the CDBG-MIT/DR criteria provided separately in FR-6109-N-01, supplemented by FR-6109-N-02 and FR-6109-N 03 and FRN-6261-N-01.

*Note: As a standard programmatic process, VIHFA will appropriately ensure that activities that qualify as either LMA or LMI criteria do not benefit moderate income persons to the exclusion of low-income persons.*

VIHFA will ensure that at least 50% of all CDBG-MIT funds are used for activities qualifying under the national objectives of Benefit to Low- and Moderate-Income Persons and comply with federal guidance.

The Infrastructure and Public Facilities Programs activities will be required to meet at least one of the national objectives below. VIHFA will use the LMA benefit approach to meet the LMI national objective for its Infrastructure and Public Facilities projects funded from the CDBG-MIT grant.

#### 4.3.1. Low-and-Moderate Income Area (LMA)

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

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

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

- **The nature of the activity:** In general, the size and the equipment associated with the activity should be taken into consideration. A small park with a limited number of slides and benches would not be expected to serve a large neighborhood. In the same way, a larger park that can accommodate a considerable number of people would not be expected to serve just the immediately adjacent properties. The same applies to improvements or assistance to an alleyway versus a small two-lane street versus an arterial four-lane street within the same neighborhood. The service area for each of these infrastructure projects will be different in size and population.
- **The location of the activity:** In general, the immediate area surrounding a facility or improvement is expected to be included in the service area. Additionally, when a facility is

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located near the boundary of a particular neighborhood, its service area could likely include portions of the adjacent neighborhood as well as the one in which it is located.

- **Accessibility Issues:** Geographic barriers can separate and preclude persons residing in a nearby area from taking advantage of a facility or improvement. Other limits to accessibility can include access fees, language barriers, time, or duration that an activity is available, access to transportation and parking, etc.
- **The Availability of Comparable Activities:** Comparable activities within the service area should be taken into account so that the service area does not overlap with the service area of another comparable activity.
- **Boundaries for facilities and public services:** The service area for some public facilities and services is determined based on specified and established boundaries or districts. Examples of such services and facilities are police precincts, fire stations, and schools.

#### 4.3.2. Urgent Need Mitigation (UNM)

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.

Project activities are eligible if they alleviate existing conditions that pose a serious and immediate threat to the critical community lifelines, are of recent origin or recently became urgent, and the grantee is unable to find other available funds to support the activity.

To meet the UNM national objective, a project must document that the activity:

1. Addresses the current and future risks as identified in the THMP Mitigation Needs Assessment of the most impacted and distressed areas; and
2. Will result in a measurable and verifiable reduction in the risk of loss of life and property.

To meet the UNM national objective criteria, Subrecipients must:

1. Reference the risk identified in the CDBG-MIT action plan, as amended, that is addressed by the activity and
2. Maintain documentation of the measurable and verifiable reduction in risk that will be achieved upon completion of the activity.

#### *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

#### 4.3.3. Additional Criteria for All CDBG–MIT Funded Activities

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Infrastructure and Public Facilities Programs activities under the CDBG-MIT can use an alternative national objective based on the provisions of 24 CFR 570.483(e) and 570.208(d) modified by an alternative requirement in the CDBG-MIT grant. To meet these criteria, project activities must:

1. Demonstrate the ability to operate for the useful life of the project. The projects funded with CDBG–MIT grant must have and submit to VIHFA a plan to fund the long-term operation and maintenance for the useful life of the infrastructure project funded. The plan is to include the project’s funding options including state or local resources, borrowing authority, or retargeting of existing financial resources.
2. Be consistent with other mitigation activities. The project activity must be consistent with the other mitigation activities that the VIHFA will conduct with CDBG–MIT funds and must not increase the risk of loss of life or property in a way that undermines the benefits from other uses of CDBG–MIT funds.

VIHFA shall not rely on the national objective criteria for elimination of slum and blighting conditions without approval from HUD because this national objective is not appropriate in the context of mitigation activities as provided at 24 CFR 570.208(b) and 24 CFR 570.483(c).

Table 6. Required Documentation of National Objective, CDBG-MIT

National Objective	Documentation Required Should
Low-and Moderate Income Area	Demonstrate that activities benefits 50% of LMI persons in the service area and Provide the data used for determining that percentage.
Urgent Need	Demonstrate that activities addresses a condition related to the critical community lifelines for this program and show the nature and degree of seriousness of the threat it posed. Confirming that other financial resources to alleviate the need were not available.
<b>Additional Criteria</b>	
All CDBG	Detail the long-term of the operation and maintenance plan for the funded project throughout its useful life.
	Demonstrate that activities will not increase the risk of loss of life or property in a way that undermines the benefits from other uses of CDBG–MIT funds.
Urgent Need Mitigation	Demonstrate how the activities will addresses the current and future risks as identified in the THMP Mitigation Needs Assessment; CDBG-MIT action plan, as amended and  Demonstrate a measurable and verifiable reduction in the risk of loss of life and property.

#### 4.4 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

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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.

**4.4.1. 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.

**4.4.2. 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

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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.

**4.4.3 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 funds 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
    - a legally binding agreement between VIHFA and the applicant that indicates that



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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 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.

## 5.0 Project Selection

VIHFA will consider applicants and participants into the Program based on the following.

- Applicants’ ability to meet the eligibility and national objective of the Program.
- Applicants’ ability to use grant funds, criteria of the Programs and the availability of funds
- The availability of grant funds, the allocability of the project and the cost reasonableness.
- Capacity to complete the project scope of with within the set grant period.

VIHFA will engage two selection methods during different funding rounds/periods.

1. **Direct Selection-** Selection of projects fitting and identified project need and subrecipient profile established by the Authority.
2. **Competitive Selection** – To select eligible projects that meet the criteria established via the Authority’s NOFA process described. The competitive application process will be open to all eligible applicants and up to three applications may be submitted per entity. Depending on demand, no applicant will be awarded for their subsequent application until all successful eligible applicants have been awarded funding at least once. If a project is a phase of a larger project, the phase of the project submitted must be viable as a stand-alone project.

Applicants are encouraged to incorporate nature-based solutions, including natural or green infrastructure, into their proposed projects.

### 5.1 Direct Selection Subrecipient Method for Distribution

VIHFA may resort to direct selection subrecipient methods of distribution, depending on the type of entity selected to develop an eligible activity and the method of project selection.

#### 5.1.1 Public Entity Participation

Certain projects slated to be developed and implemented by other government agencies or public entities may be eligible to receive funding. These projects may be funded under a strategic selection process of

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the Program. The Program will cover up to 100% of the costs for the selected projects of public ownership, excluding O&M costs.

VIHFA will consider a Subrecipient distribution model for these projects, with the public entity developing the selected project becoming a Subrecipient of VIHFA. In these instances, VIHFA may select a suitable Subrecipient by direct selection. A capacity analysis and risk assessment of a potential Subrecipient will be performed. Consideration will be given to a Subrecipient’s experience with CDBG-funded projects, staff capacity, knowledge, infrastructure projects, and financial management systems and controls.

A Subrecipient Agreement (SRA) between VIHFA and the Subrecipient will be executed. The SRA serves as the mechanism to obligate funds for the Subrecipient and requires compliance with applicable federal and local laws and regulations. The SRA includes items such as a scope of work, project budget, and project schedule, among others. The Subrecipient is responsible for compliance with applicable VIHFA and CDBG-MIT rules and regulations including procurement, contracting, civil rights, environmental review, Section 3, labor standards, and property acquisition. VIHFA will provide technical assistance, oversight, and monitoring of Subrecipient activities, as needed.

**5.1.2 Private Entity Participation**

VIHFA anticipates that some projects funded under the Program will be developed and owned by eligible nonprofit organizations, educational institutions, small businesses and other interested groups that are closest to and best positioned to address local needs. For private entity participation, the Program will cover up to 100% of the costs for the selected projects of local organizations, excluding O&M costs. Consideration will be given to a private entity with CDBG-funded projects, staff capacity, knowledge, infrastructure projects, and financial management systems and controls. A Subrecipient Agreement (SRA) between VIHFA and the organization will be executed. The SRA serves as the mechanism for the transfer of funds to the organization and requires compliance with applicable federal and local laws and regulations. The SRA includes items such as a scope of work, project budget, and project schedule, among others. These entities will assume part of the risk of the endeavor, they must demonstrate an ownership interest in the project and have control over the site on which the project will be developed. Furthermore, these entities are expected to have the capacity, feasibility, and the technical and specialized knowledge to develop the project from inception through completion. This includes, but is not limited to, planning, obtaining permits, and managing all aspects of the project from start to finish.

**5.2 Competitive Selection**

The competitive application process will be open to all eligible applicants and up to three applications may be submitted per entity. Depending on demand, no applicant will be awarded for their subsequent application until all successful eligible applicants have been awarded funding at least once. If a project is a phase of a larger project, the phase of the project submitted must be viable as a stand-alone project. Applicants are encouraged to incorporate nature-based solutions, including natural or green infrastructure, into their proposed project. The priorities include:

- Project beneficiaries are evidenced to be at least 50% low- and moderate-income persons or communities.

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- Projects that meet the definition of mitigation activities.
- Projects that meet a CDBG-MIT national objective.
- Projects that demonstrate an accelerated timeline.
- Projects that use natural infrastructure methods to achieve resilience.
- Projects that include measures to prevent vulnerability in the future or provide innovative solutions to existing vulnerabilities.
- Projects that both improve existing infrastructure and address identified current and future risks; mitigation related to hurricanes, tropical storms and depressions, severe flooding, earthquake, tsunami, drought, landslide, wildfire, and pandemic;
- Projects that employ modern sustainability standards or best practices.
- An operations and maintenance plan must be provided to maintain the infrastructure in the long-term.
- The project is evidenced to resolve an impediment to or create new opportunities for economic activities.

## 6.0 Project Application Screening - Eligibility

Applicants will be screened to ensure compliance with eligibility requirements and Programs prioritization. In that screening process, applicants will be required to provide complete and accurate information regarding their proposed projects and the program’s eligibility criteria. Failure to disclose accurate and complete information may affect eligibility and all such instances will be referred to the Program for further action.

All project applications to include Letters of Interest must meet the following threshold requirements to receive CDBG-MIT funding:

- Be authorized to do business in U.S. Virgin Islands.
- Demonstrate control of the site on which the project will be developed. This could be through demonstration of ownership of property via deed, a property acquisition plan, or, on a case-by-case basis, an executed long-term lease agreement with property owner consent and agreement to participate;
- Demonstrate capacity to carry out the project through:
  - Current financial and organizational structure;
  - Business plan;
  - Past performance of similar projects;
  - Audited financial statements and/or most recent tax returns.
- Demonstrate experience developing and implementing projects with a similar scope to the proposed improvement. This requirement also applies to the eligible entity’s proposed contractors, inspection services, designers, and any other critical service providers. Specific organization and staff experience requirements will be outlined in the Application instructions, as applicable. If applicants do not themselves possess the ability to manage and implement the project, they must secure qualified staff either in house or via contract to facilitate successful project management and implementation.

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- Demonstrate that it has the resources and strategy to ensure ongoing O&M during the project's useful life. Applicants and Subrecipients must provide for the cost of year-round O&M expenses for projects funded through this Program, including daily operations and funding strategies. CDBG-MIT funds cannot be used for O&M costs.
- Utilize the services of a licensed architect and/or engineer licensed design the facilities and/or improvements, if applicable, and improvements must be in accordance with VIHFA, HUD, and FEMA standards, VIEO regulations, electrical utility requirements, and relevant legal and regulatory standards, as amended from time to time, including, IEEE standards and guidance, EPA regulations and standards, and, as appropriate, NERC standards and guidance.

## 6.1 Eligible Project Scopes

The Infrastructure and Public Facilities Programs anticipates a wide range of activities that address the reliability and resiliency of electrical power systems across the territory. To be provided CDBG-MIT funding, all projects must meet the following baseline requirements:

- Meet a HUD national objective, see the National Objective section of these Guidelines;
- Meet the definition of an “electrical power system improvements” CDBG-MIT eligible activity, see the Eligible Use of Funds section of these Guidelines;
- Address an eligible unmet need after accounting for all duplication of benefits (see Duplication of Benefits section of these Guidelines);
- Demonstrate that the project is feasible and sustainable, and all other funding sources are firmly committed, if applicable.

Incorporate Resiliency standards of ASCE 7 and ASCE 24 as applicable.

## 6.2 Program Prioritization Criteria

The Infrastructure and Public Facilities will prioritize eligible projects based on the criteria listed below. This list is not all inclusive and can be altered as the territory needs change.

- **Overall availability of funding:** Project consideration is based on the total available funds and is to focus on investments that lead to complete projects that fulfill a national objective.
- **Low- and moderate-income (LMI) benefits:** Projects that provide benefits to LMI households and communities, whether through rate savings or through reliability improvements in a given Low-/mod- geographic area.
- **Criticality:** Projects must assess the anticipated benefits to customers who are were impacted by Hurricane Maria or Irma and the extent to which customers are likely to lose power in the future or where vulnerabilities to future disasters remain significant.
- **Resilience and sustainability:** Projects must incorporate mitigation into its scope, including hardening, the elevation of equipment, and other protective measures, as well as the degree to which sustainable materials are incorporated into project scope, and the extent to which the project furthers decarbonization goals and promotes the use of sustainable energy sources.

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- **Project execution and timing:** Considerations of shovel-readiness, complexity of environmental review, and the extent to which site selection, permitting, planning and design work have been completed, with an overall focus on the schedule for completion for the project, and the timing for the disbursement of grant funds.
- **Technical feasibility:** the degree of specialized equipment, the use of innovative technologies, and other considerations that inform the way the project may be implemented.
- **Cost reasonableness:** an assessment of the economics of the project, including calculation of benefits, that expenditures are justified, and considerations of maintaining of operating the project once completed.
- **Electrical Service:** The extent to which activities address duration and frequency of outages in the project area.
- **Institutional Capacity** - The applicant's ability to carry out the project, including staff, budget, ROI, leverage, future revenue, and resources to fund maintenance and improvements.

### 6.3 Description of Intended Use of Funds

Applicants and Subrecipients must describe the proposed use of CDBG-MIT funding needed to complete the project. While VIHFA may not require Applicants/Subrecipients to include final costs at the time of their initial competitive submission, they will be required to provide an estimated cost for the proposed project along with an initial draft of the funded project’s long-term operation and maintenance plan.

#### 6.3.1 Leveraging Non CDBG-MIT Funding

Given the anticipated magnitude of projects in this Program, Applicants and Subrecipients will be required to provide a description(s), if applicable, regarding the source and amount of non-CDBG-MIT funds committed to the project and what actions have been taken to assess if additional funding is available to bring to the project.

### 6.4 Covered Projects

An infrastructure project having a total project cost of \$100 million or more, with at least \$50 million of CDBG funds is considered a covered project. When a potential project reaches this threshold, they are considered a covered project and an amendment to the action plan will be required. The application and scope must demonstrate the following:

- **Provide a Project Description and Prove Eligibility:** Include how the project meets the definition of a mitigation activity; describe total project costs (CDBG-MIT and other federal sources of funding) and indicate which CDBG eligible activity the project falls under.
- **Consistency with the Mitigation Needs Assessment (MNA):** Describe how project is consistent with the MNA.
- **Identify National Objective and Long Term Efficacy and Sustainability:** In addition to describing how the Covered Project meets a National Objective, the applicant must indicate how the plan to monitor the project’s long term efficacy and sustainability, including:
  - Paying operation and maintenance costs;
  - Maintaining documentation of the measurable outcomes or reduction in risk,

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- How it will reflect changing environmental conditions with risk management tools, and /or alter funding sources if necessary.
- Undergo a Benefits Cost Analysis (BCA): All Covered Projects must have a BCA greater than 1.0
  - For Covered Projects that benefit LMI individuals or persons that are less able to mitigate risks, and which has a BCA less than 1.0, VIHFA may add in a qualitative description of how the Covered Project will provide benefits to those individuals.

## 6.5 Defining Long-Term Operation and Maintenance (O&M) Plan

All projects for which CDBG-MIT funding is being sought must have a long-term O&M plan that is determined by VIHFA to be viable as CDBG-MIT funds cannot be used for O&M. Applicants and Subrecipients are strongly advised of the prohibition on allocating CDBG-MIT funding for O&M purposes. Applicants and Subrecipients will be required to describe in detail how O&M will be provided for the Project and exactly how O&M will be funded. Consequently, if an Applicant or Subrecipient is unable to demonstrate a viable long-term O&M plan and the ability to finance said plan, the project concept will not be accepted.

Any project or activity funded by CDBG-MIT should have a plan for the useful life of the infrastructure and public facility improvement. As per HUD requirements, Applicants and Subrecipients must:

- Describe and detail its plans for ensuring the long-term O&M of the infrastructure and public facilities improvements funded with CDBG–MIT funds including submitting O&M forecast that details anticipated expenditures over the useful life of the project.
- Clearly identify the source(s) of funding to be used for the O&M of infrastructure and public facility improvements.
- Describe how it will use reserve funds, borrowing authority or retargeting of existing financial resources to support the O&M plan, and how it plans to ensure that public utility resources and other source of funding, as applicable, are committed to the O&M of improvements assisted with CDBG-MIT funds over the useful life of the improvements.
- Describe any proposed changes to existing taxation policies or collection practices, or changes to public utility revenue billing and collection and other financing policies that will be necessary to support the O&M plan. If O&M plans are reliant on any proposed changes to existing taxation policies, tax collection practices, or changes to public utility revenue billing and collection, those changes and relevant milestones should be expressly included in the project implementation plan. Additionally, documentation confirming the implementation of the changes must be provided to the grantee for record keeping.
- Describe any State, local, or other resources that have been identified for the O&M costs of infrastructure and public facility improvements assisted with CDBG–MIT funds.
- Describe how it plans to ensure and monitor funding of long-term O&M for CDBG-MIT projects.

Long-term O&M plans are to be supplied at three (3) separate times during the project activities cycle and will be a requirement for the funding. The schedule is as follows:

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1. At initial application, the applicant is to supply a preliminary draft of its proposed O&M.
2. After the A&E design is completed. The subrecipient will supply a revised draft that is executed by the organizational lead. This draft must be submitted in completion in order to advance to the construction phase of the project activities. If there is no A&E design, then the revised draft must be supplied withing 90 calendar days of the AUGF.
3. At the Project Close Out. The subrecipient must submit its final O&M Plan before receiving the certification of the project.

The subrecipient will be required to submit on an annual basis its O&M plans to VIHFA for the lifecycle of the fund project as defined in the contractual agreements.

## 6.6 Costs and Benefits

Each project will be informed by a consideration of cost and benefits, due the high cost of labor and materials due to the isolated geography and limited workforce in the Territory. Whenever possible, local/regional talent and materials should be utilized to reduce costs.

The Territory’s approach to assessing costs and benefits may be based on two existing frameworks. The first, HMGP’s Guidance on cost effectiveness, relies on a Benefit Cost Analysis, where projects for which benefits exceed costs are generally considered cost effective. The project cost estimate includes a line-item breakdown of all anticipated costs, including, as applicable:

- Costs for anticipated environmental resource impact treatment or historic property treatment measures
- Costs for engineering designs/specifications, including hydrologic and hydraulic studies/analyses required as an integral part of designing the project
- Construction/demolition/relocation costs, such as survey, permitting, site preparation, and material/debris disposal costs
- All other costs required to implement the mitigation project, including any applicable project-type specific costs.

Benefits in this methodology are often calculated using standard loss of function estimates provided by relevant federal agencies, which may also be utilized by the Territory.

Given the Territory’s approach to mitigation and resilience as giving full consideration systemic, inter-related processes that promote resilience, the method produced through the National Disaster Resilience Competition (NDRC) may help to supplement some of these factors.

Under this method, to the greatest extent possible, a narrative description may be produced to identify evidence-based practices as the basis for the project proposal. This method includes the following steps.

- A full proposed cost, including Federal, Territorial, and private funding, as well as expected operations and maintenance costs and functionally related to geographically related work;
- A description of the current situation and the problem to be solved (including anticipated changes over the analysis period);
- A description of the proposed project or program including functionally or geographically related elements and estimated useful life;

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A description of the risks to the community if the proposal and any land use, zoning or building code changes are not implemented, including costs that might be avoided if a disaster similar to the qualifying disaster struck again, including costs avoided if as a result of the project remaining effective in a future disaster.

A list of the benefits and costs of the proposal and the rationale for including each effect using the table provided according to the following categories:

- Lifecycle Costs,
- Resiliency Value
- Environmental Value
- Social Value
- Economic Revitalization
- Risk Benefit
- An assessment of challenges faced with implementing the proposal

Due to the highly technical focus of the activities assigned to the Infrastructure and Public Facilities Programs, VIHFA will require an enhanced cost estimate procedure to review and assess project costs. This includes the submittal of Independent Cost Estimates that are prepared and submitted by qualified agencies and people with credentialed knowledge and experience. See Exhibit - Independent Cost Estimates.

**6.6.1. Completing a Benefits Cost Analysis**

A BCA is conducted on a project to determine if the value of the outcomes outweigh the costs and potential risks of the project. The BCA establishes values for different factors that would influence or impact the project and future benefits. Using the analysis, a Benefit-Cost Ratio is calculated by dividing a project’s total benefits by its total costs to represent the overall benefit of the project. A ratio of 1.0 or greater means the project is a good investment. FEMA has developed a BCA toolkit that considers hazard mitigation elements in the analysis. VIHFA may use the FEMA-approved methodologies and tools to demonstrate the cost effectiveness of their projects. The FEMA BCA toolkit is an Excel-based application and includes a User Guide for support. The most recent versions of the BCA Toolkit and User Guide can be found at <https://www.fema.gov/media-library/assets/documents/179903>. If the FEMA BCA toolkit is not available, a non-FEMA BCA is acceptable when:

- A BCA has already been completed, or is in process by another federal agency, and addresses economic development, community development, and other social community benefits or costs substantially similar to the CDBG-MIT project;
- It addresses a flaw in the FEMA-approved BCA methodology that cannot be corrected; and/or
- It proposes a new approach that is unavailable using the FEMA BCA toolkit.

VIHFA must also indicate if the BCA was previously rejected by another Federal agency and include that version of the BCA when applicable.



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## 6.7 Adaptable and Reliable Technologies

The Territory understands the critical need to strike a balance between advanced technology and reliable results. That is why the projects under the Infrastructure Programs may incorporate sustainability standards that have already been set and tested around the world, such as Leadership in Energy and Environmental Design (LEED) and International Green Construction Code (IGCC). Projects that incorporate such sustainability and technological standards may receive additional priority considerations. All projects are encouraged to follow the predevelopment principles described in the Federal Resource Guide for Infrastructure Planning and Design.<sup>3</sup> Under each project, the prioritization criteria will also consider the technical feasibility of a project as a factor in how it will receive funding to encourage realistic project design from the onset. However, it is also understood that traditional energy systems might not be the most geographically relevant or effective solution for long-term recovery, so resiliency will be heavily weighted as a prioritization criterion as well.

VIHFA expects Subrecipients to enhance current technological capacities. It will be a key priority of the Infrastructure Programs to ensure Subrecipients build the appropriate capacities to process information and funds effectively, some of which is assessed during the Capacity Assessment phase.

## 6.8 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. See Compliance and Monitoring Policy and Procedure.

## 6.9 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

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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.

**6.9.1. 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.

**6.9.2. 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

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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.

## 7.0 Program Implementation Policies and Procedures

Program commencement as well as funds will be disbursed based on the completion/achievement of performance milestones. Specific payment milestones will be determined on a project-by-project basis and further detailed in each project-specific agreement. Once an agreement has been executed, the project will progress to the project implementation stage. The following project implementation phases are applicable to both strategic (direct) and competitive projects.

Unless otherwise stated, Program staff, local government staff who have executed subrecipient agreements or project coordinators, consultants take all actions below. The following paragraphs discuss implementation procedures in detail.

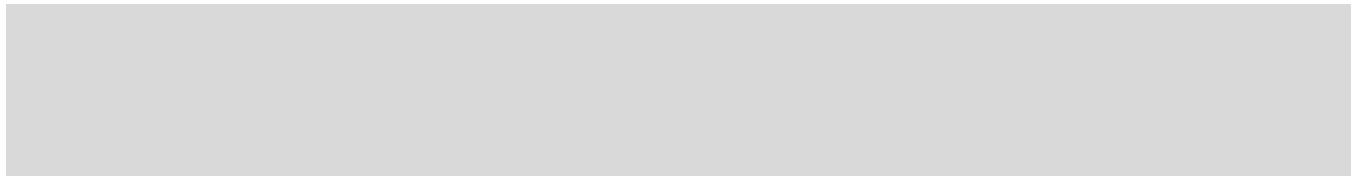
### Phases of Projects Implementation

Phase	Action
<b>Application Phase</b>	<ul style="list-style-type: none"> <li>• Development of scope and preliminary budget for project by subrecipient.</li> <li>• Project Scope and Eligibility Application completed.</li> <li>• Project Scope and Eligibility Application submitted to Infrastructure and Public Facilities for review and approval to move forward or determined as non- eligible.</li> <li>• Initial Draft of the Long-Term Operation &amp; Management Plan submitted for review</li> <li>• Application Approval</li> </ul>

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<b>Environmental Phase</b>	<ul style="list-style-type: none"> <li>• Part 58 Environmental Review requires fully executed project application</li> <li>• Consultations</li> <li>• Completion of Part 58 Environmental Review</li> <li>• Publication (local)</li> <li>• RROF drafted and submitted w/ Environmental Review and Publications</li> <li>• Publication (federal)</li> <li>• AUGF submitted to HUD</li> <li>• Subrecipient agreement updated to include environmental mitigation measures</li> </ul>
<b>Agreement Phase</b>	<ul style="list-style-type: none"> <li>• Development of project milestones</li> <li>• Development of performance measures</li> <li>• Amend agreement as necessary based on project details.</li> <li>• Enter into subrecipient agreement.</li> </ul>
<b>Project Development Phase</b>	<p>Further development of scope and refined budget for project by subrecipient. If necessary, subrecipient procures A/E and other services necessary to define scope</p> <ul style="list-style-type: none"> <li>• A/E procured if not previously procured</li> <li>• Plans and specifications are reviewed for conformity with project information form and accepted.</li> <li>• Property, rights of way, permits, etc. acquired by subrecipients.</li> <li>• Authorization to proceed to advertise for bids issued</li> <li>• Independent Cost Estimate (ICE) is developed</li> </ul>
<b>Solicitation/ Contracting Phase</b>	<ul style="list-style-type: none"> <li>• Review and approval of solicitation package</li> <li>• Bidding process conducted in compliance with the established procurement requirements.</li> <li>• Approval of addendums issued during bidding phase (if required).</li> <li>• Respond to labor compliance issues (if required).</li> <li>• Subrecipient agreement amended for changes in scope or budget (if required).</li> <li>• Contractor selection</li> <li>• Set up subrecipient and contractors in system of record.</li> </ul>
<b>Construction Phase</b>	<ul style="list-style-type: none"> <li>• Subrecipient reporting via system of record.</li> <li>• Construction Scope and Drawings Reviewed</li> <li>• Project acceptance verified.</li> <li>• Project Schedule Review and Adherence</li> <li>• Second Draft of the Long Term and Operational Plan</li> <li>• Change orders reviewed.</li> <li>• Monthly Status Reporting</li> <li>• Review and approval of payment requests</li> <li>• Contractor payments</li> </ul>
<b>Monitoring Process</b>	<ul style="list-style-type: none"> <li>• Subrecipient continues to utilize system to report on Section 3, Davis-Bacon, M/WBE, and other CDBG-DR requirements</li> <li>• Onsite employee interviews are conducted as needed.</li> <li>• Desk reviews of selected subrecipients and projects conducted.</li> <li>• Onsite monitoring of selected subrecipients and projects conducted.</li> <li>• Monitoring letters issued.</li> <li>• Subrecipients respond to monitoring concerns and findings.</li> <li>• Clearance of monitoring findings issued</li> <li>• Payroll review</li> <li>• Training and technical assistance as needed</li> </ul>

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- Closeout Phase**
- Final Long-Term Operation & Management Plan
  - Final Inspections
  - Project File Review
  - Confirmation that all monitoring findings are closed.
  - Program completion report completed.
  - Final payments issued
  - Performance Measurement Confirmation and Reporting
  - Certificate of completion issued.
  - Project closed out

## 7.1 Application Process

Subrecipients will have access to the Infrastructure and Public Facilities Program Application during an open application period which will be announced by publication to the VIHFA media site and website, or via direct selection where VIHFA will invite the particular entity matching the project needs profile to submit a proposal/application.

### 7.1.1 Application Process and Subrecipient

Applicants will be required to complete a project application and meet all requirements for the Infrastructure and Public Facilities Program. Prior to completion, a draft of the application can be reviewed and commented on by program staff if technical assistance is needed. VIHFA will accept electronic submittals and correspond on the application process through electronic means. Therefore, applicants must create a CDBG profile and submit the names, titles and contact details of the following parties. In some cases, an applicant can use the same person.

- Organizational head(s) This person should be able to obligate the entity for total grant award.
- Delegate(s) of Authority with assigned approval privileges.
- Main point of contact along with his/her supervisor's:

Interested Applicant submitting their initial applications must include, but not necessarily be limited to, the following:

- Business Structure Documentation;
- Eligibility Information;
- Duplication of Benefits Information;
- Entity Capacity Information;
- Project Concept Description and Preliminary Project Plan;
- Proposed Financing/Funding Sources;
- Any other items deemed necessary for the initial application submission.

The project concept descriptions will include, but may not be limited to, descriptive details and information on the following:

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- Project location and geographic area being served;
- Compliance with National Objective being pursued;
- Background information;
- Stakeholders;

***Include at a minimum*** a conceptual project design document should include:

- Proposed Project type;
- Proposed project financing including proposed non-CDBG financing sources and uses;
- Initial estimated project costs
- Preliminary Environmental Review considerations;
- Estimated implementation schedule;
- Project beneficiaries;
- Proposed O&M strategy;
- How the project addresses a reliability or resiliency need; and
- Any other factors that may be deemed applicable.

Further detail on what is necessary for a complete application is provided in the sections below.

A project application must be completed in its entirety to be considered valid. Questions that do not pertain to an applicant CANNOT be left blank and should be populated using “Not Applicable” or “N/A”.

All documentation submitted by the Applicant must be complete and valid at the time of submission and the application itself must be completed by the organization’s head or by an agent that can financially bind the organization for the full award amount. Application will be returned to the Subrecipient should VIHFA deem the application ineligible or require additional detail, attachments, etc. VIHFA will not approve any application that does not meet eligibility or requires additional information. *Note: The signature of the organization head will confirm awareness and agreement with the content in the application.*

Applicants must provide support for the dollar amounts entered in the budget section of the application. *Note: A cost/price analysis must be performed to provide a comparison of the bids received to the estimated amount on the ICE to determine cost reasonableness during procurement.*

In reviewing the application, the Infrastructure and Public Facilities Program staff, in coordination with VIHFA supporting departments and its designated representatives, conducts a thorough review of the initial application submitted by each applicant.

Upon completion of the initial application review, the program will develop and submit to the Deputy Director of Infrastructure and Public Facilities a Preliminary Application Review Report containing the results of the reviews and recommendations of Applicants and proposed project concepts. Upon Deputy Director approval, the approved application will be forwarded to the Director of Mitigation for approval with final approval routed to the Chief Disaster Recovery Officer.

It is important to note that an approved application does not indicate and approved project. The applicant will receive final Project approval upon successful completion and approval of the environmental review.

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## 7.3 Eligibility Verification

### 7.3.1. Project Implementation Plan and Feasibility Analysis

The Project Implementation Plan and Feasibility Analysis must provide details on a variety of factors such as budget limitations and independent cost estimates, current conditions of the project site and its buildings, controls and communications, design and permitting requirements, technical modeling, project implementation schedule, required improvements to meet project goals, preliminary environmental review, regulatory framework, O&M, and any other factor that may affect a project’s feasibility for implementation. Project Implementation Plans must include, but may not be limited to, descriptive details and information on the following:

- Project Finance Plan/Structure, including detailed non-CDBGMIT financing sources, if applicable, as well as a project Levelized Cost of Energy and Storage (LCOE/LCOS);
- Project design basis or equivalent document for the power system elements involved in the project **not to exceed 30% actual design**;
- Geographic service area and project location with impacted feeders, boundaries, architecture, and existing and proposed electrical infrastructure, generation, storage, and energy costs, as applicable;
- LMI Benefit and/or UN Benefit Description and Data;
- Historical and present-day reliability, resilience, and/or electric service rate performance metrics for the establishment of baselines;
- Technology Type;
- Total and Critical Loads;
- Total Estimated Project Cost budgeted by Component Category and including interconnection costs;
- Initial draft of O&M Plan and costs for the useful life of the improvement;
- Interconnection Plan;
- Preliminary Environmental Compliance Plan;
- Project Implementation Schedule;
- Projected neat heat rate calculations
- Performance requirements;
- Any other factors that may be deemed applicable as detailed in the application or otherwise communicated by VIHFA at that stage of the process.

Upon receipt of the Project Implementation Plans and Feasibility Analysis, Director of Infrastructure and Public Facilities, in coordination with the Director of Energy Solutions, VIHFA and/or its designated representatives, will conduct an in-depth review which may also involve consultation from the TCT (as applicable) and other federal partners as necessary.

VIHFA reserves the option to fund all, a portion of or none of the project submitted by an applicant.

### 7.3.2 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:

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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, finance, 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. *Monitoring Plan and 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

### 7.3.3 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.

### 7.3.4. 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, Categorical Excluded Subject To (Cat Ex(a)), Categorical 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.

#### 7.4 Application Acceptance/Denial Notices

VIHFA will inform applicants of applications deemed ineligible or require additional detail, attachments, etc. VIHFA will not execute or date any application that does not meet eligibility or requires additional information. Where possible, VIHFA will work with applicants for resubmittal. Otherwise, VIHFA will issue a denial letter.

Projects may require consultation with the TCT prior to making a final determination. Once a project has gone through all necessary levels of review and is selected for funding, the applicable agreement will be sent by VIHFA to the Applicant informing them of the determination. The agreement establishes the applicable CDBG-MIT award requirements, as well as state and local laws that the Subrecipient must meet. It includes provisions to reduce risk of noncompliance and to ensure that VIHFA meets its own responsibility to HUD for performance and financial reporting. Once the agreement is executed, VIHFA and its designated representatives will work with the awarded entity to implement the project.

Final project approval is contingent upon favorable environmental review.

Table 1 Program Application Critical Information

CDBG-MIT	CDBG-MIT
<ul style="list-style-type: none"> <li>• Eligibility Requirements <ul style="list-style-type: none"> <li>▪ National Objective</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Eligibility Requirements <ul style="list-style-type: none"> <li>▪ National Objective including any Alternative national objective if applicable</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Estimated Total Costs including sources of funds</li> </ul>	<ul style="list-style-type: none"> <li>• Estimated Total Costs including sources of funds</li> </ul>
<ul style="list-style-type: none"> <li>• Project Scope and Project Timeline</li> </ul>	<ul style="list-style-type: none"> <li>• Project Scope and Project Timeline</li> </ul>
<ul style="list-style-type: none"> <li>• Beneficiaries and target areas</li> </ul>	<ul style="list-style-type: none"> <li>• Beneficiaries and target areas</li> </ul>

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• Recovery Rationale	• Long-Term Mitigation Rationale
• Feasibility	• Feasibility
• Construction/Acquisition Activities	• Construction/Acquisition Activities
• Conceptual and Actual Site Plans	• Conceptual and Actual Site Plans
• Subrecipient disclosure	• Subrecipient disclosure
• Tie to the disaster	• Cost benefit Analysis
• Eligibility on EPSEI Matrix	• Project Lifecycle Operation/Maintenance Plans
• Current status and prior work done	• Current status and prior work done

*Note: To assist in identifying a project’s beneficiaries, there is a tool that provides information on the income demographics for the block groups affected by a project using the 2020 US Census Data.*

**8.0 Program Operation and Implementation**

VIHFA will oversee all activities and expenditures in connection with the CDBG-MIT/DR 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 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 recapture provisions for non-performance or breach of Applicant responsibility on any requirements, including adherence with CDBG-MIT rules and regulations.

The SR A 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 particular records and the timeline for maintaining them in order to assist VIHFA

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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. This time can be reduced by promptly responding and providing complete requisite documentation.

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 Agreement**

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

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### 8.3 Disbursement of Funds

All payments for activities funded under this Program will follow VIHFA’s Financial Policies 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 for CDBG-MIT and by the year 2029 – six (6) years of signing of the initial Grant Agreement between HUD and VIHFA for CDBG-MIT .

#### 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 a State or Subrecipient thereof that was directly generated from the use of CDBG-MIT funds. Program income includes, but is not limited to, the following:

- 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 a State or a subrecipient thereof;

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- 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).

## 8.4 Reporting Requirements

Subrecipients are required to submit a Monthly Performance Reports and Quarterly Performance Report (QPR) to VIHFA. QPR's will be used to assess program progress, outcomes met, timeliness, and expenditures for the quarter. 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 Agreement has been signed and/or project approval has been received for HFA directly administered projects and continues until the Subrecipient has submitted the Final Quarterly Performance Report and the project closeout forms.

## 8.5 Monitoring and Compliance

### 8.5.1. Monitoring Plan

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

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- 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**

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. The VIHFA’s Compliance and Monitoring Plan includes the use of desktop monitoring reviews and onsite monitoring visits. Onsite monitoring may include visits to the subrecipient base of operation as well as project sites. The monitor should sample program, project, contractor, or subrecipient documentation to draw conclusions about performance and capacity.

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

The overall level of risk identified for the subrecipient should dictate the frequency and depth of monitoring including how to mitigate identified risks, e.g., provide additional training, technical

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assistance, or increase the frequency of onsite reviews.

It is important to note the VIHFA Compliance and Monitoring will align their efforts with regular program and construction management staff to ensure there are no monitoring duplication of efforts but rather comprehensive monitoring that encourages checks and balances throughout the project lifecycle. See Section 10.0 Construction Monitoring and Progress Meetings.

### 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 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 Infrastructure and Public Facilities Program Guidelines as well as the Infrastructure and Public Facilities 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 CDBG-MIT 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;

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- 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 Program Guidelines and subrecipient agreement 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.
  - Report must also include, performance measures met, beneficiary information, Section hours and qualitative efforts, and as well as a qualitative narrative of overall progress.
  - 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. Additional quarterly reporting requirements may be required, depending on the specific program design implemented by a subrecipient.
- Provide a monthly report to VHFA 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-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-MIT 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.

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

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.

## 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, including supporting documentation, for five (5) years from the date VIHFA closes the CDBG-MIT



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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.

## 8.8 Grant Closeout

Project close-out is the process by which VIHFA determines all requirements of the subrecipient agreement between VIHFA and the subrecipient have been completed in accordance with the terms and conditions of the subrecipient agreement. Project closeout begins when:

- All project expenses to be paid with CDBG-MIT funds (except for closeout costs) have been completed and payment requested;
- Approved work has been finished;
- Any other responsibilities detailed in the subrecipient agreement have been fulfilled; and
- All monitoring or audit findings have been cleared.

After all disbursements or over-disbursement reconciliations and resolution of findings have been verified, 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 Construction Process and Oversight

### 9.1 Mandatory Pre-Construction Meeting

The VIHFA pre-construction meeting may be held once the construction contract is executed and prior to commencement of work. The purpose of this meeting is to go through all federal and territorial regulations with the contractor, including Section 3 and the Labor Standards Provisions. In this meeting, VIHFA personnel and the proper subgrantee staff will outline these standards' expectations as well as how they will be implemented and monitored. The subrecipient and/or their representative, as well as the prime contractor, must be present. VIHFA will facilitate this meeting. To ensure that all Subcontractors are aware of their need to abide by federal labor laws and civil rights regulations, the subrecipient and prime contractor should include all Subcontractors in their communication. These guidelines will also involve a review of the following.

*Table 2 Construction Reviews Sample List*

Project Schedules	Technical job requirements
• Change Orders	• Labor Standards
• Project Meetings	• Equal Opportunity
• Payment Process	• Section 3 Implementation
• Construction Close Outs	• Davis Bacon Compliance Monitoring as well as site visits and on-site interviews with laborers
• Site Visits	• Other federal, local requirements

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This meeting may also contain other items as requested by the subrecipient or the project engineer. The topics covered during the pre-construction meeting will be documented in minutes, which will then be added to the file.

**9.2 Notice to Proceed**

Upon receipt of the Authority to Use Grant Funds, VIHFA, can issue a Notice to Proceed as outlined in the Project Agreement. No physical work being paid for with CDBG funds shall commence prior to issuance of the Notice to Proceed.

**9.3 Contractor’s Schedule**

The subrecipient may obtain a construction project schedule outlying proposed activities from the prime contractor at the start of construction. A sample schedule may indicate appropriately the % of work scheduled for completion by any given date during the period. An update may be required, at a minimum, when work falls more than 10% behind schedule.

**9.4 Progress Payments**

The VIHFA will pay and/or reimburse eligible costs of the project up to a maximum as specified in the respective agreements. The grant funds will be disbursed based on satisfactory review of payment requisitions, invoices, bills, receipts, lien releases, and payroll records submitted to the VIHFA for disbursement. Subrecipient shall promptly pay appropriate vendors and provide satisfactory documentation to the authority evidencing payment to said vendors. The authority will not process any future request for disbursement unless the payment confirmation is received by the authority and is satisfactory in its sole discretion.

**9.5 Retainage**

Retainage is money, usually 10% of the total amount due to the contractor, that is held by the subrecipient as additional insurance that the contractor will complete the construction work satisfactorily. The retainage is held pending the final inspection and acceptance of work. The retained amount may vary, depending on the total amount of the contract, progress of construction, and other specific instructions in the contract.

**10.0 Construction Monitoring and Progress Meetings**

Monitoring and Progress Meetings will be scheduled and performed throughout the construction period. This is to ensure that the contractor is performing in accordance with the technical specifications and that compliance is maintained with all federal and local standards and the terms of the contract.

**10.1 Monitoring Frequency**

VIHFA will perform monitoring visits to review construction related items, for review of compliance  
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items. Visits frequency by the VIHFA shall depend on the project size and duration.

The subrecipient's project engineer/manager shall also schedule monitoring visits at appropriate intervals during the various stages of the construction to observe the progress and quality of the work and to generally determine that work is proceeding in accordance with the Contract Documents.

## 10.2 On-Site Monitoring Visit

The five basic steps, outlined below, may occur during monitoring visit. Steps may be adjusted or omitted if deemed appropriate by the Program and Monitoring and Compliance Divisions.

- Notification
- Construction Progress Meeting
- Documentation, Data Acquisition and Analysis
- Exit Conference
- Follow-up Monitoring Letter

## 10.3 Notifications

The Infrastructure and Public Facilities Program and Monitoring and Compliance Divisions will reach out to the subrecipient to explain the purpose of the monitoring and to specify date(s) for the visit(s). A follow-up email/meeting invitation will be sent prior to the scheduled visit for the following:

1. Confirm the date and the scope of the monitoring.
2. Provide a description of the information you want to review during your visit; and
3. Specify the expected duration of the monitoring, which of your staff will be involved, what office space will be required, and what members of the subrecipient's staff will be interviewed.

## 10.4 Construction Progress Meeting

An on-site meeting will be conducted with the sub-contractor and its representative (Project A/E) and relevant General Contractor personnel prior to the commencement of the on-site construction review, corrective actions identified during previous visits and any other concerns of the parties involved.

## 10.5 Documentation, Data Acquisition and Analysis

A written record of the visit will be kept, including documentation of what was reviewed during the visit. A review of the contractor's requisition for payment will be conducted to ensure all work items requiring payment are included. You can include photographic evidence of your work in your submission. Work must match the design documents submitted.

Careful notes on the exit conference will be taken in order to document what the officer told the subrecipient and whether the subrecipient agreed with the tentative conclusions.

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### 10.5.1 Exit Conference

Careful notes on the exit conference will be taken in order to document what the officer told the subrecipient and whether the subrecipient agreed with the tentative conclusions. At the end of the site visit, the monitoring officer will meet again with key representatives of the subrecipient organization to present the tentative findings from the monitoring. This exit meeting has four objectives:

1. Communicate preliminary results of the monitoring visit
2. Clear up any misunderstandings
3. Gather more information from the staff of the subrecipient to better understand their position
4. Ensure that any deficiencies identified by the monitoring officer are corrected.

### 10.5.2 Follow-up Monitoring Letter

The monitoring letter is used to create a permanent written record of the findings during the monitoring review. The project will include meeting documentation and any relevant site documentation. The monitoring letter will list every concern and finding. A notice of noncompliance is issued for a CDBG program rule or regulation. The specific corrective actions that must be taken by the subrecipient will be outlined. Some concerns were raised in the monitoring letter about the subrecipient's operations, which could lead to future problems because of their weaknesses. For each concern, specific recommendations for improvement will be provided. The deadlines for responding to the monitoring letter and correcting any deficiencies will be set in the letter itself.

## 10.6 Change Orders

If necessary for the project activity, VIHFA may authorize minor changes to the work provided they do not involve adjustments to the contract price, contract scope, or performance period of the contract and consistent with the general intent of the contract documents. The subrecipient is required to comply with change orders (written amendments to the contract with the contractor), which cover the following:

- Changes in work ordered by the subrecipient.
- Changes in work required because of acceptance or correction of defective work.
- Changes in work agreed to by the subrecipient and contractor.
- Changes in the contract price or time agreed to by the parties; or
- Those changes in the contract price or schedule that incorporates certain written decisions rendered by the project engineer.
- Any change orders that change the original approved scope of work, change the contract price, or cause changes in the construction schedule must be approved by VIHFA before they are executed.

## 11.0 Construction Management

### 11.1 Final Inspection and Punch List

Before recommending to the Subrecipient and the VIHFA that the project is complete, the Project manager should compile a list of deficiencies or work that remains to be completed and present it to both

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the contractor and the Subrecipient. This list of project deficiencies is referred to as the "punch list".

When the contractor is confident that the project has been satisfactorily completed and complied with any punch list items, the contractor will request the project engineer inform the subrecipient and the VIHFA that the project is ready for final inspection.

The final inspection will include a walkthrough with all parties through the entire project, pointing out the work completed by the contractor. The Subrecipient and VIHFA officials may question some of the contractor's work or clean up and request that these items be taken care of before the subrecipient will take possession of the project. In this case, the project engineer should prepare a final punch list and present it to the contractor. If the number of items on the final punch list is very small, the project engineer may recommend to the subrecipient that a Certificate of Substantial Completion be prepared.

### **11.2 Certificate of Substantial Completion (form to be developed)**

The Project Engineer will provide a "Certificate of Substantial Completion" once the work is essentially finished if project activities are applicable. The certificate's issue date establishes the warranty dates and, more importantly it releases the contractor's surety company's obligation to complete the work in the event the contractor does not or cannot. Consequently, the subrecipient should only sign the Certificate of Considerable Completion after accepting the project and after the project engineer certifies that the work is done to a substantial level.

A section on the Certificate of Substantial Completion shall allow the project engineer and the subrecipient to indicate any minor tasks that are still outstanding that must be done in accordance with the contract's requirements. The project engineer will often advise the subrecipient.

The Certificate of Substantial Completion contains an area for the project engineer and the subrecipient to list minor items that remain to be completed under terms of the contract. The project engineer generally will recommend that the subrecipient retain enough funds from the contractor's payment requisition. This is to ensure that the contractor completes the work. The payment requisition for the work completed and recommended by the project engineer up to the date of the Certificate of Substantial Completion ought to be labeled "SEMIFINAL." In the event the work or punch list items remain to be completed, the conditions stipulated in the Certificate of Substantial Completion should be attached to the payment requisition.

After Substantial Completion is accepted the project engineering shall file a Notice of Termination with the subgrantee, and the VIHFA.

### **11.3 Engineer's Certificate of Completed Work**

Prior to project closeout, a copy of the Certificate for Acceptance and Final Payment, signed by the project engineer or architect, must be submitted to VIHFA. This certificate shall cover all work included in the project (regardless of funding source), including subrecipient cash and in-kind. The certificate must indicate that work has been completed in accordance with drawings and specifications and is functioning properly with the recommendation for final payment.

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## 11.4 Certificate of Approval

Permits, for all approved work, must be properly closed out per local authority requirements.

## 11.5 Warrantees/Guarantees

When the subrecipient and the project engineer have signed the Certificate of Substantial Completion, the clock starts running on the warranty/guarantee period. The warranty/guarantee period must extend for a minimum of one (1) year. The warranty/guarantee period ought to be clearly defined in the contract between the subrecipient and the contractor and should be specific to begin from the date of substantial completion that the contractor will repair or replace any defective equipment or workmanship at no cost to the subrecipient.

## 11.6 Final Payment

The contractor is entitled for final payment when the contractor has completed all of the work required under the contract agreement and all compliance requirements have been met. Final payment releases all of the retainage already withheld from the contractor during the course of the project and represents the final reconciliation between the subrecipient and the contractor for services rendered. The final payment requisition looks the same as other payment requisition that the subrecipient has processed in the course of the project with the exception that it should clearly state that it is the “Final” requisition.

## 11.7 Project Close Out Procedures with VIHFA

The VIHFA initiates the close-out process for a project when the anticipated project has reached completion; all funds to be paid with CDBG funds have been incurred, with the exception of monitoring costs that are tracked separately; the work, wholly or partially financed with any of the CDBG grants is completed; and all other responsibilities of the grantee or subrecipient as outlined in the Memorandum of Agreement between VIHFA and the subgrantee have been met.

The VIHFA will issue a Notification for Close-Out to the subrecipient to initiate the Close-out process for the project. If the project activity incorporates multiple projects, then each project can be closed out separately at the time of completion. All applicable forms will make up the Project Close-out Packet. Forms will be developed.

## 11.8 Reviewing and Executing Close-Out Documentation

Program staff shall review all submitted documentation for completeness and accuracy and work with finance to ensure that the information submitted matches the latest information and reports submitted.

The Infrastructure and Public Facilities Program Manager may make any necessary changes to the project Close-out Packet. When the Program Manager determines that all information in the Close-out Packet is correct, the forms are signed as applicable by the appropriate designated representatives.

The acceptance of the Close-Out Packet set in motion the required VIHFA reviews.

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Table 3 VIHFA Responsibility Closing Activity

VIHFA Responsibility	The Purpose of Review
<b>Finance &amp; Reporting</b>	<ul style="list-style-type: none"> <li>Review of Budget and to ensure all invoices are paid. Confirmation of any remaining funds</li> <li>Confirmation of the shift of funds</li> <li>Confirms closure of all purchase orders that may be associated. The Shift of remaining funds.</li> </ul>
<b>Monitoring &amp; Compliance</b>	<ul style="list-style-type: none"> <li>Review of outstanding Monitoring Report – to ensure all observations, concerns or findings are closed</li> <li>Confirmation that all audits and reports are completed such as contract, and Section 3, etc.</li> </ul>
<b>Legal &amp; Procurement</b>	<ul style="list-style-type: none"> <li>Review contracts and Subrecipient Agreements to ensure they are closed.</li> </ul>

A checklist may be maintained with the list of requirements that describes the review that is done, documentation reviewed and sign-off when review is complete, indicating that the project can move to final Close-out.

VIHFA issues a **Final close-out letter** to the Subrecipient Lead or their designee upon receipt and approval of all from the CDBG-MIT in the Close-out process.

The VIHFA marks the activity(s) associated with the Project as “Closed” in the central system of records. Upon final project close-out VIHFA ensures any de-obligated funds are no longer available from activity(s) in the CBDG-MIT and shifts are made according to the plan approved by the CDBG-MIT Director (Director of Mitigation) (and any Action Plan Amendments as may have been required).

## 12.0 General Provisions

### 12.1 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.

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## 12.2 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.

## 12.3 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.

## 12.4 Recapture

As per the VIHFA Recapture Policies and Procedures, a subrecipient 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 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 is determined to have provided false or misleading information to the Program.
- A subrecipient does not report the receipt of funds that can constitute as a “duplication of benefits” such as additional insurance, SBA, FEMA, non-profit assistance and/or any other duplication of benefits received after award.
- A subrecipient withdraws from the Program prior to completion of the project.
- A subrecipient does not complete construction.
- All Subrecipients shall comply with the CDBG-MIT Recapture policy.



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## 12.5 Crosscutting Requirements

### 12.5.1 Citizen Participation

#### 12.5.1.1. 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.

#### 12.5.1.2 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.

### 12.5.2 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.

### 12.5.3 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.

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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.

**12.5.4. 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 statutes as well as EEO.

**12.5.5 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.

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## 12.6 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](mailto:hotline@hudoig.gov).

## 12.7 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.

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## 12.8 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](mailto: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**