



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-7000

PRINCIPAL DEPUTY ASSISTANT SECRETARY
FOR COMMUNITY PLANNING AND DEVELOPMENT

FEB 10 2020

Mr. Daryl Griffith
Executive Director
Virgin Islands Housing Finance Authority
3202 Demarara Plaza, Suite 200
St. Thomas, VI 00802-6447

Dear Mr. Griffith:

The Department is pleased to transmit the enclosed U.S. Virgin Islands (USVI) grant agreement for \$779,217,000. On August 14, 2018, the Department allocated the remaining \$779,217,000 funds to the USVI in response to Hurricanes Irma and Maria. On February 27, 2019, the Department approved the USVI's revised Action Plan Amendment for Community Development Block Grant disaster recovery (CDBG-DR) funds appropriated under the Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Public Law 115-123). This grant award will be administered under grant number B-18-DP-78-0001.

The date that the Department signs the grant agreement is the date on which the funds are obligated. All funds obligated for this grant must be expended within the six years of the initial obligation date. Additionally, the USVI's line of credit for this grant will be accessible through HUD's Disaster Recovery Grant Reporting (DRGR) system. Please be advised that the USVI is required to report on its use of CDBG-DR funds outlined in the Action Plan through the DRGR system. The DRGR reporting requirements are outlined in detail in the *Federal Register* Notices as well as ongoing policy guidance. While the USVI has several users established in the DRGR system, please contact Ms. Jessie K. Huddleston, CPD Specialist, at 614-286-0840 to have other users registered or to resolve any DRGR access issues.

The Department looks forward to working with you and your staff to achieve the USVI's long-term recovery goals. If you have any questions, please contact Ms. Tennille S. Parker, Director, Disaster Recovery and Special Issues Division, at (202) 402-4649.

Sincerely,

A handwritten signature in black ink that reads "David C. Woll, Jr." with a stylized flourish at the end.

David C. Woll, Jr.
Principal Deputy Assistant Secretary
for Community Planning and Development

Enclosure

DISASTER RECOVERY (CDBG-DR) GRANT AGREEMENT

Grantee's Name: U.S. Virgin Islands

Grantee's unique entity identifier [identifier required for registration in SAM]:

Tax ID Number: 6-60412508

DUNS Number: 1-76272615

Unique Federal Award Identification Number (FAIN): B-18-DP-78-0001

Appropriation Account: 86X0162

Program Accounting Code: M2H

Federal Award Date [the date signed by the authorized HUD official]: September 27, 2018

Period of Performance Start Date: September 5, 2017

Period of Performance End Date: September 27, 2024

Amount of Federal Funds Obligated by this action: \$779,217,000 under P.L. 115-123.

Amount of Federal Funds Previously Obligated and date of Obligation: \$242,684,000 on September 27, 2018 (B-17-DM-78-0001) under P.L. 115-56.

Total Amount Awarded under B-17-DM-78-0001/B-18-DP-78-0001: \$1,021,901,000.

Federal awarding agency: Department of Housing and Urban Development

Contact information for HUD: Tennille S. Parker, Director, Disaster Recovery and Special Issues Division, Office of Block Grant Assistance, Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street, S.W., Room 7282, Washington, DC 20410

CFDA Number and Name: 14.228 Community Development Block Grants/State's program

Indirect cost rate for the grant: See specific condition on pages 21 and 22.

I. General Terms and Conditions

Statutory and Regulatory Requirements, Grantee Submissions

This grant agreement between the Department of Housing and Urban Development (HUD) and the above-named grantee is made pursuant to the authority of Public Law 115-123 (Further Additional Supplemental Appropriations for Disaster Relief Requirements Act, 2018 (Division B, Subdivision 1 of the Bipartisan Budget Act of 2018) (February 9, 2018)) (“Appropriations Act”).

The grantee agrees to use the grant funds in accordance with this grant agreement. The requirements of the Appropriations Act and title I of the Housing and Community Development Act of 1974 (HCDA or HCD Act) (42 USC 5301 et seq.) and implementing regulations at 24 CFR part 570, as now in effect and as may be amended from time to time, and as modified by waivers, alternative requirements, and other requirements described in this agreement and published in Federal Register notices, are hereby incorporated into and made a part of this agreement.

The grantee's submissions to HUD to obtain the grant – the grantee's Action Plan for Disaster Recovery, implementation plan, capacity assessment, and certifications (including documentation submitted in support of certifications) – as may be modified from time to time as required or permitted by the grant requirements, are also incorporated into and made a part of this agreement.

The requirements of the Federal Register notices as of the date of this agreement are attached as Appendix A. They include but are not limited to:

1. Combined technical assistance and administrative expenditures cap.

The provisions of 42 U.S.C. 5306(d) and 24 CFR 570.489(a)(1)(i) and (iii) do not apply to the extent that they cap administration and technical assistance expenditures, limit a Grantee's ability to charge a nominal application fee for grant applications for activities the Grantee carries out directly, and require a dollar-for-dollar match of Grantee funds for administrative costs exceeding \$100,000. HUD waived 42 U.S.C. 5306(d)(5) and (6) and imposed the alternative requirement that the aggregate total for administrative and technical assistance expenditures must not exceed 5 percent of the grant plus program income. Under this alternative requirement, a Grantee is limited to spending a maximum of 15 percent of its total grant amount on planning costs. Planning costs subject to the 15 percent cap are those defined in 42 U.S.C. 5305(a)(12).

2. Staffing, key personnel, organizational structure, and internal audit function.

Implementation Plan and Capacity Assessment. HUD evaluated the grantee's capacity to effectively manage the funds through a review of the grantee's implementation plan and capacity assessment. The grantee shall adhere to the description of its implementation plan and capacity assessment documentation until grant closeout, unless amended with HUD's approval. HUD will undertake an annual risk analysis as well as onsite monitoring of grantee management to further guide oversight of these funds.

Procedures to detect and prevent fraud, waste and abuse. A grantee has adequate procedures to detect and prevent fraud, waste, and abuse if it submits procedures that indicate how the grantee will verify the accuracy of information provided by applicants; if it provides a monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring, and which items are monitored; if it demonstrates that it has an internal auditor that provides both programmatic and financial oversight of grantee activities; and includes a document signed by the internal auditor that describes his or her role in detecting fraud, waste, and abuse. Instances of fraud, waste, and abuse should be referred to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov).

3. Payment.

The grantee's requests for payment, and the Federal Government's payments upon such requests, must comply with 31 CFR part 205. The grantee must use procedures to minimize the time elapsing between the transfer of grant funds and disbursement of funds by the grantee to units of general local government. Grantees must also have procedures in place, and units of general local government must use these procedures to minimize the time elapsing between the transfer of funds by the grantee and disbursement for CDBG activities. 24 CFR 570.489(c).

4. Registration.

The grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Duns and Bradstreet Data Universal Numbering System (DUNS), the System for Award Management (SAM.gov), and the Federal Funding Accountability and Transparency Act as provided in 2 CFR part 25, Universal Identifier and Central Contractor Registration, and 2 CFR part 170, Reporting Subaward and Executive Compensation Information.

5. Subrecipients.

Carrying out activities with subrecipients. Eligible activities may be carried out by a grantee, subject to State law and consistent with the requirement of 24 CFR 570.200(f), through assistance provided under agreements with subrecipients. For a grantee taking advantage of the waiver to carry out activities directly through subrecipients, the requirements at 24 CFR 570.502, 570.503, and 570.500(c) apply.

The grantee continues to be responsible for civil rights, labor standards, and environmental protection requirements, for compliance with 24 CFR 570.489(g) and (h) relating to conflicts of interest and for compliance with 24 CFR 570.489(m) relating to monitoring and management of subrecipients.

The grantee may carry out activities in tribal areas. If the grantee carries out projects in tribal areas, through assistance provided under agreements with subrecipients, the grantee must obtain the consent of the Indian tribe with jurisdiction over the tribal area to allow the grantee to carry out or to fund CDBG-DR projects in the area. Indian tribes that receive CDBGDR funding from the grantee must comply with the Title II of the Civil Rights Act of 1968 (25 U.S.C. 1301 et seq.) (Indian Civil Rights Act).

Subrecipient monitoring and management. The provisions of 2 CFR 200.330 through 200.332 apply to the grantee's use of subrecipients. 24 CFR §570.489 (m).

Subrecipient Audit: Subrecipients are subject to 24 CFR 570.502 and therefore are required to comply with the audit requirements in 2 CFR part 200, subpart F. The grantee shall develop and administer an audits management system to ensure that audits of units of general local government are conducted in accordance with 2 CFR part 200, subpart F, pursuant to 24 CFR §570.489 (n).

Responsibility for review and handling of noncompliance-applicable to State grantees only. The grantee shall make reviews and audits, including onsite reviews of any subrecipients, designated public agencies, and local governments, as may be necessary or appropriate to meet the requirements of section 104(e)(2) of the HCD Act, as amended, as modified by applicable Federal Register notices. In the case of noncompliance with these requirements, the grantee shall take such actions as may be appropriate to prevent a continuance of the deficiency, mitigate any adverse effects or consequences, and prevent a recurrence. The grantee shall establish remedies for noncompliance by any designated subrecipients, public agencies, or local governments.

Administrative Cap Includes Subrecipient Admin Costs. Five percent of the grant (plus program income) may be used for administrative costs by the grantee, units of general local government, or by subrecipients. Thus, the total of all costs classified as administrative for any grantee under this notice must be less than or equal to the five percent cap.

Fraud Related Training for Subrecipients. The grantee shall attend and require subrecipients to attend fraud related training provided by HUD OIG to assist in the proper management of CDBG-DR grant funds. Additional information about this training will be posted on the HUD website.

Change of use of real property rule includes subrecipients. The grantee is subject to the waiver and alternative requirement applicable to the change of use of real property rule. All references to “unit of general local government” in 24 CFR 570.489(j) shall be read as “State, unit of general local government (UGLG) or State subrecipient.”

Reimbursement for Subrecipient Costs. The provisions of 24 CFR 570.489(b) are applied to permit the grantee to charge to the grant otherwise allowable costs incurred by its recipients or subrecipients (including public housing authorities (PHAs)) on or after the incident date of the covered disaster. Section 570.200(h)(1)(i) will not apply to the extent that it requires pre-agreement activities to be included in a consolidated plan. The Department expects the grantee to include all pre-agreement activities in its action plans.

Procurement. The grantee shall establish requirements for procurement policies and procedures for local governments and subrecipients based on full and open competition consistent with the requirements of 24 CFR 570.489(g), and shall require an evaluation of the cost or price of the product or service. The procurement requirements the grantee imposes on its subrecipients must include evaluation of the cost or price of the product or service or the grantee must impose 2 CFR 200.318 through 200.326 on its subgrantees and subrecipients.

A summary of all contracts procured by subrecipients must be included in the list of procured contracts made available by the grantee on its public website.

For all contracts procured by subrecipients for contractors used to provide discrete services or deliverables only: a. The subrecipient is required to clearly state the period of performance or date of completion in all contracts; b. The subrecipient must incorporate performance requirements and liquidated damages into each procured contract. Contracts that describe work performed by general management consulting services need not adhere to this requirement; and c. The subrecipient may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the grant, such as oversight, policy development, monitoring, internal auditing, and financial management.

Timely Expenditures. To meet the requirement for adequate procedures to determine timely expenditures, the procedures must describe how the grantee will monitor expenditures of its subrecipients.

Flood Insurance. Subrecipients must implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements.

Implementation Plan and Capacity Assessment. The grantee’s implementation plan and capacity assessment must describe how it will ensure effective communication between its lead agency and subrecipients responsible for implementing the grantee’s action plan.

Subrecipient Program income. Under this agreement, the definition of “program income” includes gross income generated from the use of CDBG-DR funds that are received by a

subrecipient, except as provided in the requirements related to Revolving Funds, but does not include the total amount of funds that is less than \$35,000 received by a subrecipient or amounts generated by activities eligible under section 105(a)(15) of the HCD Act and carried out by an entity under the authority of section 105(a)(15) of the HCD Act (which may include subrecipients).

The grantee may permit a local government or Indian tribe that receives or will receive program income to retain the program income, but are not required to do so. If the grantee permits local governments to retain program income, or the grantee permits subrecipients to retain program income prior to grant closeout, the grantee must establish program income accounts in the DRGR system. In addition to the regulations addressing program income found at 24 CFR 570.489(e) and 570.504, the grantee may transfer program income before close out to any annual CDBG-funded activities carried out by a local government within the State.

Revolving loan funds. Subject to the other requirements on revolving funds that apply to the use of grant funds, the grantee may permit local governments to establish revolving funds to carry out specific, identified activities, and may also establish a revolving fund to distribute funds to local governments to carry out specific, identified activities. However, no revolving fund shall be directly funded or capitalized with CDBG–DR grant funds, pursuant to 24 CFR 570.489(f)(3).

Optional relocation policies of subrecipients. The regulation at 24 CFR 570.606(d) permits the grantee to establish optional relocation policies or permit their subrecipients to establish separate optional relocation policies.

Cost principles applicable to Subrecipients. As required by the regulation at 24 CFR §570.489(p), the grantee must ensure that costs incurred by its recipients are in conformance with 2 CFR part 200, subpart E. All cost items described in 2 CFR part 200, subpart E, that require Federal agency approval are allowable without prior approval of HUD, to the extent that they otherwise comply with the requirements of 2 CFR part 200, subpart E, and are otherwise eligible, except for the following:

- (1) Depreciation methods for fixed assets shall not be changed without the express approval of the cognizant Federal agency (2 CFR 200.436).
- (2) Fines, penalties, damages, and other settlements are unallowable costs to the CDBG program (2 CFR 200.441).
- (3) Costs of housing (*e.g.*, depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445).
- (4) Organization costs (2 CFR 200.455).

Underwriting. Subrecipients are required to comply with the underwriting guidelines in Appendix A to 24 CFR part 570 if they are using grant funds to provide assistance to a for-profit

entity for an economic development project under section 105(a)(17) of the HCDA. The underwriting guidelines are found at Appendix A of Part 570. <https://www.ecfr.gov/cgi-bin/text-idx?SID=7d3cce71b6a1bbdc3f81715006fbae37&mc=true&node=pt24.3.570&rgn=div5#ap24.3.570.0000>

Tracking oversight activities in the DRGR system. The grantee must also enter into the DRGR system summary information on monitoring visits and reports, audits, and technical assistance it conducts as part of its oversight of its disaster recovery programs. The grantee's Quarterly Performance Report (QPR) will include a summary indicating the number of grantee oversight visits and reports. Any instances of fraud, waste, or abuse identified should be referred to the HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email: hotline@hudoig.gov). No personally identifiable information shall be reported in DRGR.

Certifications. In its application, the grantee certified that any subrecipient carrying out an activity with CDBG-DR funds, possess(es) the legal authority to carry out the program for which it is seeking funding. The grantee also certified in its application submissions that any subrecipient or administering entity currently has or will develop and maintain the capacity to carry out disaster recovery activities in a timely manner.

6. Rehabilitation and Reconstruction Cost-Effectiveness.

In General. HUD required the grantee to establish policies and procedures to assess the cost-effectiveness of each proposed project undertaken to assist a household under any residential rehabilitation or reconstruction program.

The policies and procedures must address criteria for determining when the cost of the rehabilitation or reconstruction of the unit will not be cost-effective relative to other means of assisting the property-owner, such as buyout or acquisition of the property, or the construction of area-wide protective infrastructure, rather than individual building mitigation solutions designed to protect individual structures (such as elevating an existing structure). For example, as the grantee in designing its program, it might choose as comparison criteria the rehabilitation costs derived from the RS Means Residential Cost Data and costs to buyout or acquire the property as a means of determining whether to fund a rehabilitation project.

The grantee may also consider offering different housing alternatives, as appropriate, such as manufactured housing options. The grantee may find it necessary to provide exceptions on a case-by-case basis to the maximum amount of assistance or cost effectiveness criteria and must describe the process it will use to make such exceptions in its policies and procedures. The grantee must adopt policies and procedures that communicate how it will analyze the circumstances under which an exception is needed, how it will demonstrate that the amount of assistance is necessary and reasonable, and how the grantee will make reasonable accommodations to provide accessibility features necessary to accommodate an occupant with a disability.

All CDBG–DR expenditures remain subject to the cost principles in 2 CFR part 200, subpart E—Cost Principles, including the requirement that costs be necessary and reasonable for the performance of the grantee’s CDBG–DR grant.

Grantee Controls. The grantee is required to include in its action plan a description of the grantee’s controls for assuring that construction costs are reasonable and consistent with market costs at the time and place of construction. The method and degree of analysis may vary dependent upon the circumstances surrounding a particular project (e.g., project type, risk, costs), but the description must address controls for housing projects involving eight or more units (whether new construction, rehabilitation, or reconstruction), economic revitalization projects (involving, construction, rehabilitation or reconstruction), and infrastructure projects. HUD may issue guidance to grantees and may require the grantee to verify cost reasonableness from an independent and qualified third-party architect, civil engineer, or construction manager.

7. Infrastructure planning and design.

HUD established infrastructure planning and design requirements for grantees. HUD is requiring the grantee to address long-term recovery and hazard mitigation planning in the action plan, as amended. The grantee must include a description of how the grantee plans to:

Promote sound, sustainable long-term recovery planning informed by a post-disaster evaluation of hazard risk, especially land-use decisions that reflect responsible flood plain management and take into account future possible extreme weather events and other natural hazards and long-term risks;

Adhere to the elevation requirements; and

Coordinate with local and regional planning efforts to ensure consistency, including how the grantee will promote community-level and/or regional (e.g., multiple local jurisdictions) post-disaster recovery and mitigation planning.

For infrastructure allocations, the grantee must also describe:

How mitigation measures will be integrated into rebuilding activities and the extent to which infrastructure activities funded through this grant will achieve objectives outlined in regionally or locally established plans and policies that are designed to reduce future risk to the jurisdiction;

How infrastructure activities will be informed by a consideration of the costs and benefits of the project;

How the grantee will seek to ensure that infrastructure activities will avoid disproportionate impact on vulnerable populations and create opportunities to address economic inequities facing local communities;

How the grantee will align investments with other planned state or local capital improvements and infrastructure development efforts, and will work to foster the

potential for additional infrastructure funding from multiple sources, including existing state and local capital improvement projects in planning, and the potential for private investment; and

The extent to which the grantee will employ adaptable and reliable technologies to guard against premature obsolescence of infrastructure. The grantee is encouraged to review the additional guidance on predevelopment principles that are described in the Federal Resource Guide for Infrastructure Planning and Design:

(<http://portal.hud.gov/hudportal/documents/huddoc?id=BAInfraResGuideMay2015.pdf>).

Discipline and Accountability in the Environmental Review and Permitting of Infrastructure Projects. Executive Order 13807, signed by the President on August 15, 2017, establishes a coordinated, predictable, and transparent process for the review and permitting of infrastructure projects. In addition, the Federal Permitting Improvement Steering Council has issued a standard operating procedure to coordinate Federal agency reporting on the environmental review and permitting of covered projects pursuant to the Fixing America's Surface Transportation Act (FAST-41) (Pub. L. 114-94). Under FAST-41, a covered project is defined as any activity in the United States that requires authorization or environmental review by a Federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, ports and waterways, water resource projects, broadband, pipelines, manufacturing, or any other sector as determined by a majority vote of the Council that (1) is subject to National Environmental Policy Act of 1969 (NEPA); is likely to require a total investment of more than \$200,000,000; and does not qualify for abbreviated authorization or environmental review processes under any applicable law; or (2) is subject to NEPA and the size and complexity of which, in the opinion of the Council, make the project likely to benefit from enhanced oversight and coordination, including a project likely to require authorization from or environmental review involving more than two Federal agencies; or the preparation of an environmental impact statement under NEPA. The grantee may choose to participate in reporting on its environmental review and permitting of covered projects under FAST-41.

8. Program Income.

HUD waived applicable program income rules at 42 U.S.C. 5304(j) and 24 CFR 570.489(e), 570.500 and 570.504 only to the extent necessary to provide additional flexibility to the grantee as described below. The alternative requirements provide guidance regarding the use of program income received before and after grant close out and address revolving loan funds.

Definition. "Program income" is defined as gross income generated from the use of CDBG-DR funds, except as provided in the requirements related to Revolving Funds, and received by the grantee or a subrecipient of the grantee. When income is generated by an activity that is only partially assisted with CDBG-DR funds, the income shall be prorated to reflect the percentage of CDBG-DR funds used (*e.g.*, a single loan supported by CDBG-DR funds and

other funds; a single parcel of land purchased with CDBG funds and other 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–DR funds.

Proceeds from the disposition of equipment purchased with CDBG–DR funds.

Gross income from the use or rental of real or personal property acquired by the grantee, local government, or subrecipient thereof with CDBG–DR funds, less costs incidental to generation of the income (*i.e.*, net income).

Net income from the use or rental of real property owned by the grantee, local government, or subrecipient thereof, that was constructed or improved with CDBG–DR funds.

Payments of principal and interest on loans made using CDBG–DR funds.

Proceeds from the sale of loans made with CDBG–DR funds.

Proceeds from the sale of obligations secured by loans made with CDBG–DR funds.

Interest earned on program income pending disposition of the income, including interest earned on funds held in a revolving fund account.

Funds collected through special assessments made against nonresidential properties and properties owned and occupied by households not low- and moderate-income, where the special assessments are used to recover all or part of the CDBG–DR portion of a public improvement.

Gross income paid to the grantee, local government, or a subrecipient thereof, from the ownership interest in a for-profit entity in which the income is in return for the provision of CDBG–DR assistance.

“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 grantee, local government, or a subrecipient thereof; Amounts generated by activities eligible under section 105(a)(15) of the HCD Act and carried out by an entity under the authority of section 105(a)(15) of the HCD Act.

Retention of program income. The grantee may permit a local government or Indian tribe that receives or will receive program income to retain the program income, but are not required to do so.

Program income—use, closeout, and transfer. Program income received (and retained, if applicable) before or after closeout of the grant that generated the program income, and used to continue disaster recovery activities, is treated as additional CDBG–DR funds subject to the grant requirements and must be used in accordance with the grantee’s action plan for disaster recovery. To the maximum extent feasible, program income shall be used or distributed before

additional withdrawals from the U.S. Treasury are made, except as provided in the Revolving Loan Requirements.

In addition to the regulations addressing program income found at 24 CFR 570.489(e) and 570.504, the following rules apply: The grantee may transfer program income to its annual CDBG program before closeout of the grant that generated the program income. In addition, the grantee may transfer program income before closeout to any annual CDBG-funded activities carried out by a local government within the State. Program income received by the grantee after closeout of the grant that generated the program income, may also be transferred to a grantee's annual CDBG award. In all cases, any program income received that is *not* used to continue the disaster recovery activity will not be subject to the waivers and alternative requirements that apply to the CDBG-DR grant. Rather, those funds will be subject to the grantee's regular CDBG program rules.

Revolving loan funds. The grantee and local governments may establish revolving funds to carry out specific, identified activities. A revolving fund, for this purpose, is a separate fund (with a set of accounts that are independent of other program accounts) established to carry out specific activities. These activities generate payments used to support similar activities going forward. These payments to the revolving fund are program income and must be substantially disbursed from the revolving fund before additional grant funds are drawn from the U.S. Treasury for payments that could be funded from the revolving fund. Such program income is not required to be disbursed for nonrevolving fund activities.

The grantee may also establish a revolving fund to distribute funds to local governments to carry out specific, identified activities. The same requirements, outlined above, apply to this type of revolving loan fund. Note that no revolving fund shall be directly funded or capitalized with CDBG-DR grant funds, pursuant to 24 CFR 570.489(f)(3).

Tracking program income in the Disaster Recovery Grant Reporting (DRGR) System. The grantee must use the DRGR system to draw grant funds for each activity. The grantee must also use the DRGR system to track program income receipts, disbursements, revolving loan funds, and leveraged funds (if applicable). If the grantee permits local governments to retain program income, or the grantee permits subrecipients to retain program income prior to grant closeout, the grantee must establish program income accounts in the DRGR system. The DRGR system requires grantees to use program income before drawing additional grant funds, and ensures that program income retained by one organization will not affect grant draw requests for other organizations.

9. Environmental and Flood Insurance.

Assumption of Responsibilities for Environmental Review. The Grantee agrees to assume all of the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to section 104(g) of title I and published in 24 CFR part 58.

Flood insurance. The grantee, recipients, and subrecipients must implement procedures and mechanisms to ensure that assisted property owners comply with all flood insurance requirements, including the purchase and notification requirements, prior to providing assistance.

10. Amendments.

The streamlined citizen participation requirements include substantial amendment criteria. Before the grantee adopts any substantial amendment to the action plan, the grantee will publish the proposed amendment. The manner of publication must include prominent posting on the grantee's official website and must afford citizens, affected local governments, and other interested parties a reasonable opportunity to examine the amendment's contents.

Subsequent to publication of the action plan, the grantee must provide a reasonable time frame (again, no less than 30 days) and method(s) (including electronic submission) for receiving comments on the substantial amendment. In its action plan, the grantee must specify criteria for determining what changes in the grantee's plan constitute a substantial amendment to the plan. At a minimum, the following modifications will constitute a substantial amendment: A change in program benefit or eligibility criteria; the addition or deletion of an activity; or the allocation or reallocation of a monetary threshold specified by the grantee in its action plan. The grantee may substantially amend the action plan if it follows the same procedures required for the preparation and submission of an action plan for disaster recovery.

The grantee must notify HUD, but is not required to seek public comment, when it makes any plan amendment that is not substantial. HUD must be notified at least 5 business days before the amendment becomes effective. However, every amendment to the action plan (substantial and nonsubstantial) must be numbered sequentially and posted on the grantee's website. The Department will acknowledge receipt of the notification of nonsubstantial amendments via email within 5 business days.

The grantee must consider all comments, received orally or in writing, on any substantial amendment. A summary of these comments or views, and the grantee's response to each must be submitted to HUD with the substantial amendment.

The grantee must make any substantial amendments available to the public on its website and on request. In addition, the grantee must make these documents available in a form accessible to persons with disabilities and those with limited English proficiency.

11. Procurement.

The grantee must comply with the procurement requirements at 24 CFR 570.489(g), which require that when procuring property or services to be paid for in whole or in part with CDBG funds, the grantee shall follow its procurement policies and procedures. The grantee shall establish requirements for procurement policies and procedures for units of general local government, based on full and open competition. Methods of procurement (e.g., small purchase, sealed bids/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability shall be specified by the grantee. Cost plus a percentage of cost and percentage of construction costs methods of contracting shall not be used. The policies and procedures shall also include standards of conduct governing employees engaged in the award or administration of contracts. (Other conflicts of interest are covered by §570.489(h).) The grantee shall ensure that all purchase orders and contracts include any clauses required by Federal statutes, Executive orders, and implementing regulations. The grantee shall make subrecipient and contractor determinations in accordance with the standards in 2 CFR 200.330.

The grantee shall evaluate or require an evaluation of the cost or price of the product or service.

If the State agency designated as the grant administering agency chooses to provide funding to another State agency, the administering agency may specify in its procurement policies and procedures whether the agency implementing the program must follow the procurement policies and procedures that the administering agency is subject to, or whether the agency must follow the same policies and procedures to which other local governments and subrecipients are subject.

HUD may request periodic updates from the grantee if it uses contractors. A contractor is a third-party person or organization from which the grantee acquires good or services through a procurement process, consistent with the procurement requirements in the CDBG program regulations. HUD is establishing an additional alternative requirement for *all* contracts with contractors used to provide discrete services or deliverables only, as follows:

The grantee (or procuring entity) is required to clearly state the period of performance or date of completion in all contracts;

The grantee (or procuring entity) must incorporate performance requirements and liquidated damages into each procured contract. Contracts that describe work performed by general management consulting services need not adhere to this requirement; and

The grantee (or procuring entity) may contract for administrative support but may not delegate or contract to any other party any inherently governmental responsibilities related to management of the grant, such as oversight, policy development, monitoring, internal auditing, and financial management. Technical assistance resources for procurement are available to grantees either through HUD staff or through technical assistance providers engaged by HUD or the grantee.

Public website. HUD is requiring the grantee to maintain a public website that provides information accounting for how all grant funds are used and managed/administered. The items the grantee must make available on its website include: procurement policies and procedures; description of services or goods currently being procured by the grantee; a copy of contracts the grantee has procured directly; and a summary of all procured contracts, including those procured by the grantee, recipients, or subrecipients (*e.g.*, a summary list of procurements, the phase of the procurement, requirements for proposals, and any liquidation of damages associated with a contractor's failure or inability to implement the contract, etc.).

The grantee should post only contracts as defined in 2 CFR 200.22. To assist grantees in preparing the procurement summary, HUD has developed a template (the Contract Reporting Template). The template can be accessed at: <https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notice/>. The grantee is required to use this template and attach an updated version to the DRGR system each quarter as part of its QPR submissions. Updated summaries must also be posted monthly on the grantee's website.

12. Audits.

Audits of the grantee and units of general local government shall be conducted in accordance with 2 CFR part 200, subpart F, which implements the Single Audit Act. The grantee shall develop and administer an audits management system to ensure that audits of units of general local government are conducted in accordance with 2 CFR part 200, subpart F. 24 CFR §570.489 (n).

13. Reporting.

Performance review. HUD waived the requirements for submission of a performance report pursuant to 42 U.S.C. 12708(a), 24 CFR 91.520, and 24 CFR 1003.506. Alternatively, HUD is requiring that grantees enter information in the *Disaster Recovery Grant Reporting (DRGR) System* in sufficient detail to permit the Department's review of grantee performance on a quarterly basis through the Quarterly Performance Report (QPR) and to enable remote review of grantee data to allow HUD to assess compliance and risk. HUD-issued general and appropriation-specific guidance for DRGR reporting requirements can be found on the HUD exchange at: <https://www.hudexchange.info/programs/drgr/>.

The grantee must submit a QPR through the DRGR system no later than 30 days following the end of each calendar quarter. Within 3 days of submission to HUD, each QPR must be posted on the grantee's official website. In the event the QPR is rejected by HUD, the grantee must post the revised version, as approved by HUD, within 3 days of HUD approval. The grantee's first QPR is due after the first full calendar year quarter after HUD signs the grant agreement. For example, a grant agreement signed in April requires a QPR to be submitted by October 30. QPRs must be submitted on a quarterly basis until all funds have been expended and all expenditures and accomplishments have been reported. If a satisfactory report is not submitted in a timely manner, HUD may suspend access to CDBG-DR funds until a satisfactory

report is submitted, or may withdraw and reallocate funding if HUD determines, after notice and opportunity for a hearing, that the jurisdiction did not submit a satisfactory report.

Each QPR will include information about the uses of funds in activities identified in the DRGR action plan during the applicable quarter. This includes, but is not limited to, the project name, activity, location, and national objective; funds budgeted, obligated, drawn down, and expended; the funding source and total amount of any non-CDBG-DR funds to be expended on each activity; beginning and actual completion dates of completed activities; achieved performance outcomes, such as number of housing units completed or number of low- and moderate-income persons served; and the race and ethnicity of persons assisted under direct-benefit activities. For all housing and economic development activities, the address of each CDBG-DR assisted property must be recorded in the QPR. The grantee must not include such addresses in its public QPR; when entering addresses in the QPR, the grantee must select "Not Visible on PDF" to exclude them from the report required to be posted on its website. The DRGR system will automatically display the amount of program income received, the amount of program income reported as disbursed, and the amount of grant funds disbursed in the QPR. The grantee must include a description of actions taken in that quarter to affirmatively further fair housing, within the section titled "Overall Progress Narrative" in the DRGR system.

Use of DRGR data for HUD review and dissemination. HUD will use data entered into the DRGR action plan and the QPR, transactional data from the DRGR system, and other information provided by the grantee, to provide reports to Congress and the public, as well as to: (1) Monitor for anomalies or performance problems that suggest fraud, abuse of funds, and duplication of benefits; (2) reconcile budgets, obligations, funding draws, and expenditures; (3) calculate expenditures to determine compliance with administrative and public service caps and the overall percentage of funds that benefit low- and moderate-income persons; and (4) analyze the risk of grantee programs to determine priorities for the Department's monitoring.

14. Recordkeeping.

When the grantee carries out activities directly, 24 CFR 570.490(b) is waived, and the following alternative provision shall apply: The grantee shall establish and maintain such records as may be necessary to facilitate review and audit by HUD of the grantee's administration of CDBG-DR funds, under 24 CFR 570.493. Consistent with applicable statutes, regulations, waivers and alternative requirements, and other Federal requirements, the content of records maintained by the grantee shall be sufficient to: (1) Enable HUD to make the applicable determinations described at 24 CFR 570.493; (2) make compliance determinations for activities carried out directly by the grantee; and (3) show how activities funded are consistent with the descriptions of activities proposed for funding in the action plan and/or DRGR system.

For fair housing and equal opportunity (FHEO) purposes, as applicable, such records shall include data on the racial, ethnic, and gender characteristics of persons who are applicants for, participants in, or beneficiaries of the program. The grantee must report FHEO data in the DRGR system at the activity level.

15. HUD Review and Remedies for Noncompliance.

Review of continuing capacity to carry out CDBG-funded activities in a timely manner. If HUD determines that the grantee has not carried out its CDBG-DR activities and certifications in accordance with the requirements, HUD will undertake a further review to determine whether or not the grantee has the continuing capacity to carry out its activities in a timely manner. In making the determination, the Department will consider the nature and extent of the grantee's performance deficiencies, types of corrective actions the grantee has undertaken, and the success or likely success of such actions, and apply corrective and remedial actions.

Corrective and remedial actions. To ensure compliance with the requirements of the Appropriations Act and to effectively administer the CDBG-DR program in a manner that facilitates recovery, particularly the alternative requirements permitting the grantee to act directly to carry out eligible activities, HUD waived 42 U.S.C. 5304(e) to the extent necessary to establish the following alternative requirement: HUD may undertake corrective and remedial actions for the grantee in accordance with the authorities applicable to entitlement grantees in subpart O (including corrective and remedial actions in 24 CFR 570.910, 570.911, and 570.913) or under subpart I of the CDBG regulations at 24 CFR part 570. In response to a deficiency, HUD may issue a warning letter followed by a corrective action plan that may include a management plan which assigns responsibility for further administration of the grant to specific entities or persons. Failure to comply with a corrective action may result in the termination, reduction or limitation of payments to the grantee.

Reduction, withdrawal, or adjustment of a grant, or other appropriate action. Prior to a reduction, withdrawal, or adjustment of a CDBG-DR grant, or other actions taken pursuant to this section, the grantee shall be notified of the proposed action and be given an opportunity for an informal consultation. Consistent with the procedures described in this agreement, the Department may adjust, reduce, or withdraw the CDBG-DR grant or take other actions as appropriate, except for funds that have been expended for eligible, approved activities.

16. Duration of Funding.

The Appropriations Act requires that funds be expended within two years of the date that HUD obligates funds to a grantee, but also authorizes the Office of Management and Budget (OMB) to provide a waiver of this requirement. OMB has waived this requirement for a combined total of \$35,390,000,000 of CDBG-DR funds appropriated under the Public Law 115-56 and the Appropriations Act.

Notwithstanding the OMB waiver, however, the grantee is subject to the period of performance identified in this grant agreement.

Further, consistent with 31 U.S.C. 1555 and OMB Circular No. A-11, if the Secretary or the President determines that the purposes for which the appropriation has been made have been carried out and no disbursements have been made against the appropriation for two consecutive

fiscal years, any remaining unobligated balance will be made unavailable for obligation or expenditure.

17. Closeout.

HUD will close out the grant in accordance with the grant closeout requirements of 2 CFR 200.343.

II. Specific Conditions

Program Risk. Based on the risk posed by the scale and complexity of the grantee's disaster recovery activities and implementation, the following conditions are imposed:

- The Grantee may not draw down funds for an activity in its Action Plan for Disaster Recovery until the Grantee submits to disaster_recovery@hud.gov final policies and procedures for implementation of the activity.
- The Grantee shall enter into a Memorandum of Agreement with HUD for technical assistance to support compliant program launch within 90 days.
- At the time the Grantee submits a draw request in DRGR that achieves 10, 25, and 50 percent of grant disbursement (each henceforth a "checkpoint"), the Grantee must:
 - Update its DRGR administration module to include a list of all grant-related internal audit issues (i.e. findings or concerns) and recommendations along with the resolution or planned resolution of these issues;
 - Update its DRGR administration module to include a summary of each open Single Audit recommendation for (1) the Grantee or (2) subrecipient along with the resolution or planned resolution of the audit recommendation;
 - Update its DRGR administration module to include a summary of each open HUD OIG recommendation related to this grant together with its resolution or planned resolution;
 - Update DRGR administration module to include a summary of each HUD monitoring recommendation related to this grant together along with the resolution or planned resolution of the OIG recommendation; and,
 - Review its management and capacity plan and inform HUD of all updates, including an explanation for each missed milestone, if any.

HUD will review the information submitted at each checkpoint to determine whether the Grantee demonstrates capacity to make timely and effective corrective actions on identified deficiencies and compliance issues. If HUD determines the Grantee does not demonstrate such capacity, HUD may take additional corrective actions, such as restricting access to grant funds pending resolution of identified issues. If the Grantee fails to comply with the conditions required at each checkpoint, HUD will block access to all grant funds pending on-site review of management controls.

Additional implementation plan Capacity Assessment Conditions- To reduce the risk of noncompliance due to inadequate financial management capacity and program complexity, the Grantee shall submit evidence that it has secured or is in the process of securing staff and contractors necessary to effectively implement CDBG-DR funded programs and projects. Staff and contractors must be identified by the Grantee in a Staff Analysis Worksheet. The Staff Analysis Worksheet must be submitted within 90 days of this grant agreement as a supplement to the Grantee's pre-grant

implementation and capacity assessment submission. The Worksheet must show the staff that are in place and all of their responsibilities, including the staff that have responsibilities for program-related civil rights compliance. The Worksheet must also show staff needed to support the additional funds and programs associated with the obligation, included consultant support. The Grantee also shall identify staff responsible for fraud prevention and their specific responsibilities.

After receiving the Staff Analysis Worksheet, HUD may establish a special condition requiring the Grantee to hire specific staff positions that HUD determines are critical to the Grantee's implementation of CDBG-DR funded programs and projects. Any specific position required by HUD must be advertised within 90 days of HUD's inclusion of a specific position in a grant condition and filled within 90 days following advertisement. To reduce the risk of noncompliance within a particular program or project due to lack of staff capacity, when HUD requires the Grantee to hire a specific position, a portion of CDBG-DR funds the Grantee designated at risk of noncompliance shall remain in a restricted balance in the Disaster Recovery and Grants Reporting (DRGR) system until HUD receives evidence that the Grantee has advertised and filled the required staff positions. The amount of the restricted balance will be identified in the grant condition, and will be based on HUD's determination of the amount that will allow the Grantee to undertake initial work to support the launch of the at-risk activity, but will reduce the risk by adding staff capacity before incurring significant activity implementation costs.

Program Risk: Based on the risk posed by the complexity of activities designed to enhance or improve electrical power systems, the following condition is imposed:

- The grantee is prohibited from using CDBG-DR funds for activities to enhance or improve electric power systems until after HUD properly consults and coordinates with its Federal partners on other Federally-funded investments for this purpose. This limitation includes a prohibition on the use of CDBG-DR funds carried out to meet the matching requirement, share, or contribution for any Federally-funded project that is providing funds for electrical power systems until HUD completes its consultations. HUD will inform the grantee when its consultation has been completed.
- The Appropriations Act requires HUD to allocate \$2 billion of CDBG disaster recovery (CDBG-DR funds) to provide enhanced or improved electrical power systems in response to Hurricane Maria. HUD announced the allocation of these funds to the U.S. Virgin Islands and provided that the electrical power system allocation will be governed by a subsequent notice. To enhance the use of the \$2 billion allocated to enhance or improve electrical power systems, the grantee may wish to use these CDBG-DR funds to enhance or improve electrical power systems damaged by the disaster. However, successful efforts to restore, enhance, and improve electrical power systems, and guard this infrastructure against future disasters, will require coordination across multiple sources of Federal financial assistance provided for this purpose.

Additional requirements for policies and procedures and training. To address the risks caused by the scale and complexity of the Grantee's programs:

1. The Grantee shall develop and maintain policies and procedures and shall describe for each program (or project, as applicable): the eligible activities; the required records management practices; procurement requirements; subrecipient oversight; providing technical assistance; monitoring practices; policies for assigning direct costs to the correct program or project; and timely expenditure of funds.
2. The policies and procedures shall include a plan for training all subrecipients on all federal and state CDBG-DR requirements (e.g. program-related civil rights requirements training), as required by paragraph 4(a) of the grant condition on "Grantee Method of Distribution Risk."
3. The Grantee's policies and procedures shall provide that the Grantee shall comply with federal accessibility requirements to the extent that they apply to activities funded with CDBG-DR funds.

The Grantee shall submit the policies and procedures to HUD within 30 days of HUD's execution of the grant agreement or before the Grantee awards funds to subrecipients, whichever is later.

Community Engagement Risk. Based on the risk posed by the Grantee's lack of experience in administering a CDBG-DR grant, particularly experience in engaging the community after a major disaster, the Grantee must:

- within 90 days of execution of this grant agreement, hire public affairs staff with community engagement expertise; and,
- within 120 days of execution of this grant agreement, update its Citizen Participation Plan to include specific outreach actions designed to mitigate risks arising from public pressure and lack of broad community input in the identification of unmet priority needs.

Submission of internal audit reports and posting of reports. To address risks posed by a lack of financial management staff capacity and risks related to complexity of the Grantee's programs, the Grantee shall submit to HUD and HUD's Office of Inspector General (OIG) a copy of all reports issued by its internal auditor, and if the internal auditor does not issue formal reports then the Grantee will instead submit a regular summary of findings and assessments made by the auditor. Additionally, the Grantee shall also post final audit reports issued by HUD's OIG on the Grantee's website (including any translations of such reports, as available), along with any other relevant reports that HUD requests that the Grantee posts on its website.

Financial Management Capacity Risk. Based on the risk posed by the Grantee's limited financial management staff capacity and to ensure compliant implementation of the Grantee's internal control framework, the Grantee must:

- Submit voucher item supporting documentation in DRGR for HUD testing of internal controls and compliance with cost principles under 2 CFR 200 until completion of HUD's first two on-site monitoring reviews and the grantee's resolution of any significant findings that result from those reviews.
- If the grantee is noncompliant with the request for documentation, or if HUD determines that the documentation or internal controls are not sufficient, HUD may take additional actions, including suspending the grantee's access to grant administration funds pending resolution of identified issues.
- execute the contract for its selected Financial Management System and finish implementation of its internal control framework within 90 days of execution of this Grant Agreement, or submit to HUD a plan with a schedule for otherwise obtaining the necessary capacity; and,
- within 90 days of execution of this grant agreement, finalize financial policies and procedures.

Financial Management Related to Indirect Cost Risk. Based on applicable requirements and risks related to charges to grants for indirect costs:

1. The Grantee must prepare an indirect cost proposal prior to charging indirect costs to the Grant. The indirect cost proposal and related documentation to support the costs must be submitted to its cognizant agency for indirect costs if required pursuant to Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost.
2. The Grantee shall require each subrecipient receiving a subaward under the Grant to prepare an indirect cost proposal prior to charging indirect costs to the subaward. The indirect cost proposal and related documentation to support the costs must be submitted to its cognizant agency for indirect costs if required pursuant to Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations or Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals, or if the subrecipient is an Institution of Higher Education (IHE), pursuant to Appendix III to Part 200 – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for IHEs. If a subrecipient does not have a cognizant agency, the Grantee is responsible for reviewing the indirect cost

proposal if submission to a cognizant agency would otherwise be required.

All costs charged to the Grant or a subaward must comply with the cost principles specified at 2 CFR Part 200, Subpart E – Cost Principles. Neither the Grantee nor any subrecipient may charge a fee to the Grant or a subaward for the purpose of defraying costs of work performed by the Grantee or subrecipient that would otherwise be subject to such cost principles or would include an increment above allowable costs.

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THE UNDERSIGNED, as authorized officials on behalf of the grantee and the Secretary, have executed this **COMMUNITY DEVELOPMENT BLOCK GRANT DISASTER RECOVERY (CDBG-DR) GRANT AGREEMENT**, which shall be effective as of the date of execution by the Secretary.

VI Housing Finance Authority
GRANTEE

BY:

[Signature]
(Signature)

Daryl Griffith
(Name)

Executive Director
(Title)

1/31/2020
(Date)

HOUSING AND URBAN DEVELOPMENT

BY:

[Signature]
(Signature)

David C. Woll, Jr.
(Name)

Principal Deputy
Assistant Secretary
(Title)

2/10/2020
(Date)