

APPENDIX A: Cross Cutting Requirements and Process Overview

1.0 Crosscutting Requirements

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.

Projects must also assess how planning decisions may affect members of protected classes, racially and ethnically concentrated areas, as well as concentrated areas of poverty; will promote the availability of affordable housing in low-poverty, non-minority areas where appropriate; and will respond to natural hazard-related impacts. The mechanism VIHFA uses to determine compliance with this requirement is through Appendix D: Project Assessment Form. Program staff will use demographic, geographic, and social vulnerability analyses to determine any positive or negative impacts to protected classes. Should a project present negative impacts, project scope or design will be re-assessed to mitigate such impacts.

1.2 Environmental Review

Early environmental coordination must be completed to ensure effective implementation of all CDBG-DR Programs. CDBG-DR 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.

HUD's Environmental Review process allows grantees to serve as the "Responsible Entity" to assume environmental review responsibilities under NEPA. As the grantee, VIHFA serves as the Responsible Entity as it relates to environmental review responsibilities under NEPA. Within VIHFA, Environmental Review Staff will be responsible for performing environmental reviews and compiling the Environmental Review Records (ERR). Reviews are conducted either directly or using qualified environmental service contractors. VIHFA's Executive Director, as the Certifying Officer, is ultimately responsible with certifying that VIHFA's environmental reviews are in compliance with NEPA and HUD environmental regulations.

Federal Register Notice FR-6109-N-01 authorizes recipients of CDBG-DR funds under the Appropriations Act to adopt any environmental review, approval, or permit performed by a Federal agency for the same project to satisfy responsibilities with respect to environmental review, approval, or permit. VIHFA will notify HUD in writing of its decision to adopt another agency's environmental review. VIHFA will also retain a copy of the review in its environmental records. Further information concerning the environmental review process is set forth in the Environmental Policies and Procedures.

1.3 Labor Standards

The Davis-Bacon and Related Acts (DBRA) applies to all federally-funded or assisted construction contracts in excess of \$2,000. This may apply to projects that are fully or partially funded with CDBG-DR, including FEMA or FHWA match programs. In matched projects, only the scope of the CDBG-DR portion of the project are subject to crosscutting requirements DBRA requires all workers employed by contractors or subcontractors on CDBG-DR programs, be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with DBRA, as amended. DBRA also requires that workers on federally-assisted projects are paid not less than weekly.

Wage information for labor under CDBG-DR programs will be tracked in detail by both VIHFA and relevant Implementing Partners and subrecipients throughout the life of the Program. Compliance for this requirement may be tracked in the following ways:

1. Additional VIHFA Program staff hired to track wages and verify contractor and agency compliance
2. External contractor hired by VIHFA to track DBRA compliance
3. Enhanced TA provided to Implementing Partners to track DBRA compliance

Procedures for this process are currently under development and will be incorporated in a future update to this document.

For prime contracts in excess of \$100,000, contractors and subcontractors must also, under the provisions of the Contract Work Hours and Safety Standards Act, as amended, pay laborers and mechanics, including guards and watchmen, at least one and one-half times their regular pay for all hours worked over 40 in a work week. Additionally, VIHFA must follow the reporting requirements per HUD and U.S. Department of Labor (DOL) regulations. This requirement also extends to VIHFA subrecipients, Implementing Partners, and contractors.

The Fair Labor Standards Act of 1938 (FLSA), as amended, 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. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project.

1.4 Limited English Proficiency

Federal Executive Order 131661 requires VIHFA and all satellite offices, programs, subrecipients, contractors, subcontractors, and/or developers funded whole or in part with CDBG-DR financial assistance to ensure fair and meaningful access to programs and services for families and individuals with Limited English Proficiency (LEP) and/or deaf/hard of hearing.

Compliance with this requirement is detailed in VIHFA's Language Action Plan (LAP) and will be coordinated and tracked by the Monitoring and Compliance division at VIHFA. Depending on the program, VIHFA, Implementing Partners, sub-recipients, and subcontractors will share the following expectations to comply with this Executive Order:

1. Document Translation: All documents defined as “vital documents” will be translated into Spanish by VIHFA, Implementing Partners, and sub-recipients. Vital documents will be made available in French/French Creole or other languages upon request. A “vital document” is defined as a document that includes information regarding eligibility requirements, applications and instructions, program eligibility determinations, and appeals procedures. VIHFA may provide assistance to ensure this requirement is met.
2. Where required, seek feedback from the community the project serves (advocacy groups serve vital role).

Language maps provided in the Language Action Plan will be used to determine the project’s location and subsequent language context and if proactive LEP outreach will be required. These maps will be included as part of the Project Assessment Form used by HFA to review the eligibility, priority level, and impacts of a potential project (Appendix D).

1.5 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). Following procurement guidelines under 2 CFR 200.321, VIHFA must make efforts to ensure that all subrecipients, contractors, subcontractors, and/or developers funded in whole or in part with HUD CDBG-DR financial assistance encourage participation in contracts and other economic opportunities by small and minority firms, women-owned business enterprises (WBEs), and labor surplus area firms whenever possible. VIHFA will accept a MWBE certification from another state, local or regional, DPW, SBA HUB Zone, SBA 8-A certification (economically disadvantaged and 51% locally-owned), and other eligible certification processes. Documentation and goals regarding M/WBE percentages and reporting will be determined in the contracting agreements.

1.6 Section 3 Economic Opportunities

Section 3 is triggered when the award of CDBG-DR funds for new construction and rehabilitation projects creates the need for new employment, contracting, or training opportunities.

Section 3 of the Housing and Urban Development Act of 1968 is to “ensure that employment and other economic opportunities generated by certain U.S. Department of Housing and Urban Development (HUD) financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed to low and very low income individuals, especially recipients of government assistance for housing and to businesses which provide economic opportunities to low and very low income individuals.”

The Section 3 program requires that recipients of HUD CDBG-DR funds, to the greatest extent feasible, provide (a) employment and training, and (b) contracting opportunities for low- or very-low income residents in connection with construction projects in their neighborhoods.

It also specifically encourages economic opportunities for households who are recipients of government assistance for housing. VIHFA and all administering entities will follow and require relevant contractors to follow Section 3 requirements in contracting.

Section 3 applies to the U.S. Virgin Islands, as recipient of HUD funding, as well as to

subrecipients or Implementing Partners/Sub-recipients receiving HUD funding exceeding \$200,000. Whenever any portion of HUD funding is invested into projects involving housing construction, demolition or rehabilitation, commercial/private improvements for economic development, or other public construction (e.g., roads, sewers, community centers, and public facilities), the requirements of Section 3 apply.

In conjunction with construction activity, Section 3 applies to projects that are fully or partially funded with CDBG-DR assistance, including projects that are financed in conjunction with territory, local, or private matching or leveraged funds, provided that the Section 3 monetary threshold requirements are met. In particular:

- In conjunction with construction activities, Section 3 applies to contractors or subcontractors that receive contracts more than \$100,000 for Section 3-covered projects/activities. Once it is determined that Section 3 applies to a project, the requirements apply to all contracts for construction work arising in connection with that project exceeding \$100,000, including those not funded with CDBG-DR assistance. Contractors or subcontractors are required to comply with the Section 3 regulations in the same manner as the Territory; and
- “Section 3-covered contract” includes professional service contracts, provided that the work to be performed is generated by the expenditure of funds in furtherance of Section 3 covered work (e.g., housing construction, housing rehabilitation, and other public construction), arising relating to construction projects. Professional service contracts that may constitute Section 3-covered contracts include construction contract oversight, engineering, architectural, environmental and property evaluation, construction progress and draw inspections, and prevailing wage labor compliance.

The regulations pertain to new hires required to complete Section 3-covered projects and activities. If the expenditure of funding for an otherwise covered project and activity does not result in new employment, contracting, or training opportunities, Section 3 reporting will still be required.

When VIHFA awards CDBG-DR funds to other governmental departments, nonprofit organizations, subrecipients or other funded entities, VIHFA will require they document how reasonable attempts were made to reach numerical goals set forth at 24 CFR Part 135.30. VIHFA will inform its Implementing Partners and other funded entities of the requirements of Section 3, including the language required to be inserted into all construction-related contracts, assist them and their contractors with achieving compliance, and monitor their performance with respect to the Section 3 objectives and requirements.

Implementing Partners/Sub-recipients will receive training on this requirement and methods of compliance, technical assistance from Program staff, and continual monitoring from VIHFA. Currently, a Section 3 Plan is under development, the details of which will be included in an update to this manual.

1.7 System for Award Management (SAMs)

SAM is the federal System for Award Management and is a requirement for doing business with the U.S. government. All vendors are required to register in SAM in order to be awarded

contracts under the CDBG-DR program. Vendors are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Vendors must update or renew their registration annually to maintain an active status.

1.8 Uniform Relocation and Real Property Acquisition Act (49 CFR 24)

The Uniform Relocation Assistance and Real Property Acquisition Act (URA), is 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. The URA's protections and assistance apply to the acquisition, rehabilitation, or demolition of real property for federal or federally funded projects. The phrase "program or project" is defined in 49 CFR Part 24 as, "any activity or series of activities undertaken by a federal agency or with federal financial assistance received or anticipated in any phase of an undertaking in accordance with the federal funding agency guidelines."

The objectives of the URA are:

- To provide uniform, fair and equitable treatment of persons whose real property is acquired or who are displaced in connection with federally funded projects;
- To ensure relocation assistance is provided to displaced persons to lessen the emotional and financial impact of displacement;
- To ensure that no individual or family is displaced unless decent, safe, and sanitary (DSS) housing is available within the displaced person's financial means;
- To help improve the housing conditions of displaced persons living in substandard housing; and,
- To encourage and expedite acquisition by agreement and without coercion.

49 CFR 24.101(c)(1) provides that the subpart B requirements also apply to the acquisition of permanent and/or temporary easements necessary for the project. However, 49 CFR 24.101(c)(2) provides an exception for the acquisition of temporary easements which exclusively benefit the property owner.

2.0 Contracting Agreements

2.1 Implementing Partner and Subrecipient Criteria

As a CDBG-DR program Implementing Partner or subrecipient, entities should demonstrate the following qualities:

Prior experience with executing CDBG, CDBG-DR, or other federal funded projects including, but not limited to, knowledge or prior experience with the following:

- 2 CFR 200 requirements;
- Documentation that the project meets a CDBG National Objective; and
- Documentation that the project's expenditures are for CDBG Eligible Activities.

Have internal staff capacity to effectively manage CDBG-DR grants, including but not limited to:

- Capacity to perform financial management and oversight;
- Capacity to perform grant management functions as demonstrated through prior experience with managing grants with in-house staff or with a grants management consultant;
- Internal auditing capability;
- Administrative staffing; and
- Knowledge of both federal and Territorial procurement and contracting requirements.

Knowledge and experience in financial management of Federal grant funds, specifically of CDBG-DR funds; and the ability of financial systems to meet all federal and Territorial requirements including, but not limited to:

- Accounting methods, and budget controls;
- Proof that expenditures are necessary, reasonable, and directly related to the grant;
- Monitoring and controls of timely expenditure of Federal funds;
- Compliance with 2 CFR 200;
- Completion and results of prior audits under 2 CFR 200 Subpart if applicable;
- Completion and results of any other audits as it relates to financial capacity;
- In good standing with the Territory (for entities other than public entities); and,
- Davis-Bacon and all labor standards, Section 3, M/WBE, Civil Rights, Section 504, Uniform Relocation Act, Fair Housing Act, ADA, Age Discrimination Act, and records management.

Based on the Capacity Assessment and Initial Scope and Budget Phase, VIHFA will develop a Subrecipient Agreement between the agencies for the implementation of the CDBG-DR Programs.

2.2 Capacity Assessment and Initial Scope and Budget

Implementing Partners and subrecipients are required to produce a Capacity Assessment and Initial Scope and Budget Package for the Program to develop the Subrecipient Agreement. The Capacity Assessment and Initial Scope and Budget Package is based on a standard form provided by VIHFA to all Implementing Partners and subrecipients.

The Capacity Assessment and Initial Scope and Budget submission is a package of information submitted to VIHFA. A full day Implementing Partner Orientation on October 30, 2018, was attended by most applicable Territorial agencies and detailed training on the requirements of the submission was provided. Additional trainings and TA will be provided as requested and needed to ensure a comprehensive submission.

The purpose of the CDBG-DR Capacity Assessment is to proactively identify the capacity and management practices of the potential Implementing Partners of CDBG-DR 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 also HUD’s guidance on assessing capacity of Implementing Partners. The process includes assessing the Implementing Partner’s history of grant management, program and activity experience, staffing capacity and experience, financial processes, and knowledge of relevant rules and regulations.

2.2.1 Capacity Assessment Process Overview

1. Independent research and information gathering – A review of publicly-available documentation shall be undertaken to provide context for interviews with stakeholders. Documents to review shall include:
 - a. Current Territorial Action Plans and associated regulations
 - b. News/media articles related to the agency
 - c. Agency websites and online materials
 - d. Previous grant applications or public reports on previous grant funded spending
 - e. Prior federal/territorial OIG reports and other audit/inspection reports relevant to agency programs/projects or operations
 - f. or other annual audit reports
2. Analysis: Information will be reviewed, and observations will be compiled to identify areas/items for consideration in conducting site visits, additional stakeholder discussions and in preparing the overall summary.
3. Document request – A document request list will be sent to each agency regarding documentation which is needed from them in order to facilitate the process.
 - a. Accounting policies and procedures including record retention policy, system of internal controls, and source documentation retention policy.
 - b. Procurement policies and procedures
 - c. Grants management policy and procedures for disaster recovery funds (including fraud, waste, and abuse reporting).
 - d. Copy of last Single Audit final report (or applicable annual audit if not publicly available)
4. Analysis: Policies will be reviewed for level of detail present and capacity to manage significant amounts of Federal disaster grant funding. Audit reports will be reviewed for information related to internal controls.
5. Site visit – a site visit meeting shall take place with key individuals involved in managing federal disaster grant funded projects, in particular the managing of CDBG-DR funded projects
 - a. Agency participants: Leadership, finance/accounting, procurement, grant managers, etc.

2.3 Initial Scope and Budget

The purpose of the Initial Scope and Budget is to document:

- How the project is tied to one of the two disasters.
- How all activities of the project are eligible under the Program
- How the project meets one of HUD’s three National Objectives

The Initial Scope and Budget Package consists of:

1. Project eligibility review under 24 CFR 570.482

2. A project description (include general timeline and how the project could include mitigation)
3. Tie to the disaster
4. Assigned National Objective according to 24 CFR 570.483
5. Project cost estimate
6. Statement of justification and recommendation
7. Other relevant information
8. Initial Duplication of Benefits review

VIHFA engages primarily with the entities who have relevant jurisdictional oversight for each project and selects a suitable Implementing Partner for each project by direct, discretionary selection.

2.4 Contract Agreement Details

VIHFA works with Implementing Partners and subrecipients to execute the Subrecipient Agreement which serves as the mechanism for the transfer of funds to the agency and submission of required documents to establish proof of compliance with all federal and Territorial laws as applicable. For projects receiving CDBG-DR funding for multiple project phases, individual amendments may be utilized for each phase. Each amendment will include the scope, budget, and performance metrics of the applicable phase.

2.4.1 Subrecipient Agreements

A subrecipient is considered a public or private nonprofit agency, authority or organization, or community-based development organization receiving CDBG-DR funds from VIHFA (or another subrecipient) to undertake CDBG-DR eligible activities (24 CFR 570.500(c)). For the CDBG-DR Programs, VIHFA enters into “subrecipient agreements” with these partners. These agreements allow VIHFA to ensure that every subrecipient is prepared and understands requirements needed to satisfy applicable CDBG-DR award requirements, as well as Territorial laws. These agreements may include provisions to help determine the subrecipient’s procedures are sufficient to reduce risk of noncompliance and to ensure that VIHFA can meet its own responsibility to HUD for performance and financial reporting.

2.4.2 Memorandums of Understanding (MOUs)

Most projects requiring funding from the CDBG-DR Programs will likely be implemented by partner Territory agencies, referred to hereafter as Implementing Partners. VIHFA selects a suitable Implementing Partner for each project by direct, discretionary selection. Because many of the projects requiring a local cost share are designed to further the recovery of the local governments and repair critical infrastructure impacted by Hurricanes Maria and Irma, VIHFA engages primarily with the entities who have relevant jurisdictional oversight for these projects.

The agreements should include:

- Scope of Work that includes performance measures and completion of pertinent documents
- CDBG-DR Compliance Provisions: Equal Employment Opportunity, Section 504,

Section 3, Access to Records, Duplication of Benefits, etc.

- Statement of Assurances that covers all federal regulations and CDBG-DR requirements
- Budget line-items with general categories such as Salaries & Benefits, Supplies, Travel, Professional Services, & Contracts: maintain detailed budget separately from the contract
- Term of Agreement

VIHFA CDBG-DR Division staff and will work with Implementing Partners throughout implementation of disaster recovery programs' phases to ensure that:

- An approved program is implemented in a manner that is consistent with application and public procurement process;
- Approved activities are carried out and completed in a timely manner;
- Activities and certifications are conducted in accordance with the requirements and the primary objectives of the Subrecipient Agreement, program requirements, and other applicable Territory and federal rules, regulations, policies, and related statutes; and,
- Administrative systems, policies, and procedures provide adequate protection for the prevention and mitigation of fraud, waste, and abuse.

2.4.3 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.

2.4.5 Timely Expenditure of Funds

As per the Supplemental Appropriations for Disaster Relief Requirements, 2017 (P.L. 115-56), funds must be disbursed by September 27, 2024 - six (6) years from the signing of the initial Grant Agreement between HUD and VIHFA.

3.0 Implementation

3.1 Inter-agency Liaisons

Inter-agency coordination will be a critical component of all projects implemented through the CDBG-DR Programs. As such, it is strongly encouraged that all Implementing Partners / Subrecipients increase their staff capacity with a dedicated Interagency Liaison in order to effectively remain compliant with HUD CDBG-DR regulations, follow Territorial planning and procurement

requirements through DPNR and DPP, as well as to coordinate timelines of complimentary projects with other government agencies. VIHFA staff will provide TA to ensure this agency staff is trained to perform the role.

3.2 Technical Assistance (TA)

To assist Implementing Partners in complying with all CDBG-DR regulations and any VIHFA policies, as well as to build capacity, CDBG-DR Program staff and project coordinators will provide Implementing Partners with necessary TA throughout the life cycle of the project. VIHFA's TA is comprised of formal trainings (prepared materials, in-person presentations and webinars) and informal trainings (verbal or written advice, provided as needed, through in-person meetings, emails or telephone calls). The nature and rigor of TA is continuously tailored to meet the Implementing Partner or subrecipient's unique needs.

3.3 Detailed Scope and Budget Phase

Once a project's Initial Scope and Budget Package is approved, the Implementing Partner or subrecipient completes and submits to VIHFA the detailed project scope and budget. CDBG-DR Program staff and project coordinators (if applicable) provide the applicants with support in completing the detailed scope and budget. The full package of information developed at this phase provides:

- Information pertaining to CDBG-DR eligibility
- A detailed description of the project
- Tie to the disaster
- A detailed project cost estimate
- Detailed Duplication of Benefits documentation
- Project maps detailing location of project activities
- Project maps detailing project service area
- Project time schedule with relevant phasing and milestones
- Activity beneficiary form
- Green Infrastructure Components
- Section 3 projection

Duplication of Benefits documentation refers to documents needed for the DOB Calculation. An example is provided below based on HUD's guidance, though additional line items may be added by the VIFHA as necessary for individual projects.

3.3.1 Detailed Scope and Budget Acceptance

Once a project is advanced by VIHFA staff, the Implementing Partner will be notified of the decision via an acceptance letter that is sent electronically. A copy of this letter is placed in the project file. The results of all Duplication of Benefits checks will be available in the project file.

3.5 Project Development Phase

In the project development phase, VIHFA provides substantial TA to subrecipients and Implementing Partners so they remain in compliance with all requirements through the life of

the project including the project development phase. The following steps, if relevant to a project, are taken in the project development phase:

1. Procurement of Architectural and Engineering (A/E) professionals to design project if not previously procured.
2. Environmental review completed (unless already adopted by another federal agency).
3. Development of project design by A/E professionals.
4. Preparation of the environmental review record by VIHFA.
5. Acquisition of real property, rights of way, permits, by subrecipients/Implementing Partners.
6. DPNR agency approvals of plans and permits.
7. Creating and initiating Section 3, MWBE outreach strategies and plans for the project.
8. Obtainment of federal wage decisions and Territorial wage decisions by subrecipients/Implementing Partners.
9. Environmental review record approved and formal “Release of Funds” for construction letter sent.
10. MOU amended for changes in scope or budget (if required).
11. Authorization to proceed to advertise for bids issued.
12. Preparation of the bidding documents for construction by subrecipients/Implementing Partners.
13. Authorization of the subrecipients/Implementing Partner to proceed to bidding/contract award by VIHFA.

All projects may not proceed to procurement and construction until environmental review is complete.

3.6 Construction Services Bidding/Pre-construction Phase

VIHFA provides substantial TA to subrecipients and Implementing Partners so they remain in compliance with all requirements through the life of the project. This is particularly true for the pre-construction bidding phases of the project. CDBG-DR Program staff and the project coordinators will review and work closely with the subrecipients and Implementing Partners in this phase. The contract should be awarded to the lowest-priced responsible bidder that has complied with the specifications. In some cases, the lowest bid received will exceed the amount of funds allocated for the project. When this happens, subrecipients and Implementing Partners must work with CDBG-DR Program staff to determine the best option to proceed.

Agencies may advertise the Invitation For Bid (IFB) after receiving a letter, or e-mail notification from VIHFA authorizing them to do so. This communication, letter or email follows:

- VIHFA review of plans and specifications
- Environmental clearance of all project activities
- Verification that all necessary lands, rights-of-way, and easements have been acquired
- Verification that all other program requirements have been met.

Upon completion of bidding, subrecipients and Implementing Partners enter the pre-construction phase, which focuses on the subrecipients and Implementing Partners’ understanding of CDBG-

DR compliance. During this phase, specific pre-construction and construction phase TA is provided to keep agency projects HUD CDBG-DR eligible.

All Implementing Partners must comply with the detailed information on bidding and procurement, available in the Procurement Policies and Procedures.

During this phase:

1. VIHFA will set up agencies/subrecipients and contractors in the system of record for financial reporting and compliance (Section 3, Davis-Bacon, M/WBE, and other VIHFA requirements). Each project will contain a project file and be set up at the beginning of each project to store evidence of compliance with each crosscutting requirement.
2. Agencies/subrecipients will report to HFA staff on compliance with CDBG-DR and program requirements and VIHFA staff will input the data into the system of record.
3. Change orders will be reviewed and approved/denied.

The exact procedures for this process are under development as the information management systems for these records have not been procured by VIHFA. Upon procurement, a more detailed process flow of information for this phase will be included in an update to this manual.

3.7 Construction Phase

During the construction phase, subrecipients and Implementing Partners will be responsible for:

- Review of weekly Davis Bacon payrolls (or Territory payrolls as applicable)
- Conducting interviews of workers for all contractors and sub-contractors
- Monthly status reports provided to VIHFA
- Review and approval of contractor pay applications
- Review and approval or rejection of change orders
- Submission of claim vouchers to VIHFA
- Contractor payments
- Implementing Partner continues to utilize the system of record to report on Section 3, Davis-Bacon, M/WBE, and other VIHFA requirements

If a change to the project is necessary during construction, contractors must submit the preliminary construction change order to Implementing Partner for review. VIHFA will review and revise the requested change order to ensure that all cost and changes are CDBG-DR eligible and procured according to requirements of 2 CFR 200 for all Program activities; for those who administer procurement through the DPP, an additional review from that office will be required. The review requirements may include but are not limited to:

1. Sufficient grant or local funds are available to meet any increased costs;
2. Documentation that all items listed on the change order were reviewed for price reasonableness;
3. Documentation that all items listed on the change order are included in the scope of the environmental review record; and,

4. Documentation that all items listed on the change order are within the scope of the approved application.

If a change of scope or cost occurs after application approval, but before construction begins, VIHFA will issue an application amendment.

4.0 Procurement

In addition to verifying the accuracy of information provided by program applicants, the Program verifies the accuracy of information provided by its vendors. As part of the Territory procurement process, contractors are required to complete a vendor background questionnaire and to report derogatory information relating to the contractor and/or its key personnel. Prior to contract execution, the Program's procedures include, but are not limited to: reviewing debarment lists, searching known databases for information (such as tax liens and incorporation documents), conducting internet research, and obtaining information available from Territory and federal agencies (such as substantiated investigative findings and audit reports). The Program has established regular channels of communication with other Territory and local government agencies who are contracting with various entities for services relating to storm recovery efforts in order to be on guard for issues relating to contractor fraud, waste, and abuse.

Subrecipients of VIHFA or other Implementing Partners who have a contract agreement with VIHFA and any of their subsequent subrecipients, must follow federal and Territorial procurement rules when purchasing services, supplies, materials, or equipment. The procurement requirements found in 2 CFR 200 establish CDBG-DR standards and guidelines for the procurement of supplies, equipment, construction, engineering, architectural, consulting, and other professional services. Subrecipients and Implementing Partners must also follow applicable conflict of interest provisions in Federal and local regulations. If a real or perceived potential conflict of interest is identified, Implementing Partners must contact VIHFA for further guidance.

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

In addition to the Territory's Procurement Policies and Procedures, all subcontractors are subject to the requirements detailed in the HUD Rider (Appendix 2). These requirements will be reviewed in detail at the onset of every project and compliance will be continually monitored.

4.1 Conflicts of Interest

The CDBG-DR Division requires all program staff to disclose any relationship with an Implementing Partner, subrecipient, or contractor. CDBG-DR 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 in order to financially or otherwise benefit themselves, the agency, or the contractor. For example, a customer representative may not perform work on the application of a 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-DR conflict of interest regulations at 24 CFR 570.489(h).

VIHFA may consider granting an exception to the conflict of interest provisions per 24 CFR 570.489(h)(4) if VIHFA has determined that the subrecipient 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 Housing and Community Development Act of 1974, as amended and the subrecipient has complied with the requirements listed in 24 CFR 570.489(h)(4)(i) and (ii).

VIHFA would consider whether the:

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

4.2 Professional Services

In order to develop a detailed project description and a conceptual cost estimate for a project scope and budget, VIHFA or the Implementing Partner/Sub-recipient may engage the services of professional architects or engineers. If the agency engages the architect or engineer directly, the agency must comply with CDBG-DR procurement guidelines. The scope of the procurement may also include future services for design, surveying, and construction inspection/representation services. The CDBG-DR Programs may allow Implementing Partners to conduct professional services using force account labor with prior approval and with an understanding that additional oversight from VIHFA to ensure cost reasonableness in lieu of competitive bidding.

The procurement of professional services process is as follows:

1. The Implementing Partner/Sub-recipient prepares and publicizes RFP/RFQ, soliciting responses from an adequate number of sources.
2. The Implementing Partner/Sub-recipient conducts a technical evaluation of responses and selects the most advantageous offer.
3. The Implementing Partner/Sub-recipient verifies response eligibility, using system for award management.
4. The Implementing Partner/Sub-recipient conducts contract negotiations.
5. VIHFA gives Implementing Partner consent to enter into a contract with the selected contractor.
6. The Implementing Partner executes contract.

4.3 Construction Services

VIHFA provides substantial TA to Implementing Partners/Sub-recipient so that projects remain in compliance with all requirements through the life of the project. This is particularly true for the pre-construction bidding and construction phases of the project. VIHFA notifies the Implementing Partner to advertise for bids following the completion of:

- VIHFA review of plans and specifications
- Environmental clearance of proposed construction activities
- Permit approval from DPNR and/or federal agency as required

- Verification that all lands, rights-of-way and easements have been acquired
- Verification that all other program requirements have been met.

After notification to advertise for bids has been issued, the Implementing Partner/Sub-recipient may proceed with public advertising for bids in accordance with Federal and local procurement standards. Generally, the Territory will advertise for competitive bids for contracts for the public. The contract should be awarded to the lowest priced responsible bidder that has complied with the specifications. In some cases, the lowest bid received will exceed the amount of funds allocated for the project. When this happens, the Implementing Partner must contact VIHFA to determine the best option to proceed.

5.0 Administrative Records

5.1 Recordkeeping

Partners and subrecipients must establish a system for recordkeeping that assists VIHFA with the review of files for compliance. In other words, records should be kept in a manner that clearly tells the whole story of a Community Development Block Grant Disaster Recovery (CDBG-DR) project from beginning to end. The Implementing Partner is responsible for maintaining all records pertinent to a grant, including supporting documentation, **for three (3) years from the date VIHFA closes the CDBG-DR program with HUD**. Because this required record retention period is not an exact date or time period, VIHFA will notify Implementing Partners 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 the Recordkeeping and Reporting Policy.

5.2 Reporting

Implementing Partners are required to submit a Monthly Performance Report (MPR) to VIHFA. Monthly reports will be used to assess program progress, timeliness, and to justify needs. It is important because it provides VIHFA with information that is required to be provided to the HUD on a quarterly basis. Therefore, reports must be submitted on time and accurately.

Submission of the required Monthly Performance Report begins with the first report deadline after the Implementing Partner receives project approval and continues until the Implementing Partner has submitted the Final Monthly Performance Report and the closeout forms. The report template can be found in the Administrative Manual.

6.0 Official Monitoring Phase

VIHFA will conduct interim official monitoring as needed through the life of the project. The official monitoring process includes the following:



More information on this phase is available in the Monitoring and Compliance Manual.

7. Closeout Phase

7.1 Final Grant Reconciliation Review and Final Closeout Process

The project closeout is the process by which VIHFA determines whether all requirements of the subrecipient agreement or MOU for a specific project have been completed in accordance with the terms and conditions of the agreement.

Project Process:

- Activities have been completed, AND:
- All funds have been disbursed (or final claim submitted)
- Submit close out forms
- Final Official Monitoring
- Resolution of Findings

Finally, after any disbursement or over-disbursement reconciliations and resolution of findings, the file is ready for final closeout and archiving by VIHFA. The applicant is instructed to keep all receipts and documentation for a minimum of three (3) years in the event his/her file gets audited or reviewed. The Compliance and Monitoring Unit will then push the file forward to Senior Program Manager to validate all documents prior to archiving. Once complete, the file will move to the “Scope and Budget Complete” stage for archiving.