

# UNITED STATES VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

## NEW CONSTRUCTION FOR HOMEOWNERSHIP OPPORTUNITY AND FIRST-TIME HOME BUYER ASSISTANCE PROGRAM POLICIES AND PROCEDURES

**VERSION: 1.0**

**April 4, 2019**

Prepared by:

Virgin Islands Housing Finance Authority



The policies and procedures stated in this manual are current as of April 4, 2019. This Manual represents the current version of the Virgin Islands Housing Finance Authority's (VIHFA) policies which shall provide general guidance for the operation of the New Construction for Homeownership and First-Time Home Buyer Assistance Program. All manuals will be reviewed periodically and will be updated. Therefore, you are strongly urged to visit our website [www.vihfa.gov/disaster-recovery](http://www.vihfa.gov/disaster-recovery) to ensure that you have the latest version.

**Table 1: New Construction for Homeownership and First-Time Home Buyer Assistance Program Version Control**

<b>VERSION NUMBER</b>	<b>DATE REVISED</b>	<b>DESCRIPTION</b>
<b>VERSION 1 (DRAFT)</b>	2/15/19	New Construction for Homeownership and First-Time Home Buyer Assistance Program Policies and Procedures Draft
<b>VERSION 1</b>	4/4/19	Version for VIHFA Posting

DRAFT

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# 1.0 Policies

## 1.1 Version Policy

Version history is tracked in the table on the title page, with notes regarding version changes. The dates of each publication are also tracked in this table. The first version of this document is 1.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 2.0, an increase in the primary version number. Future policy changes will result in additional revision and the issuance of a new primary version number.

Non-substantive changes such as minor wording and editing, or clarification of existing policy that do not affect the interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

## 1.2 Policy Change Control Board

Policy review and changes for the USVI New Construction for Homeownership Opportunity and First-Time Home Buyer Assistance Program policies are considered through a change control process. When policy clarifications, additions, or deletions are needed to more precisely define the rules by which the Program will operate, Program staff will submit a Policy Change Request Form or a Request for Decision Form for internal review by the Policy Change Control Board (PCCB). Within the PCCB, two members will separately perform a review to verify that all relevant information and any supporting documentation are included in the request. Upon PCCB concurrence by these two members that the request raises a policy issue, rather than a process issue, the Policy Change Request Form or Request for Decision is forwarded to the Policy Change Control Board for consideration. The requests are compiled and brought before the entire PCCB for a final policy change determination.

The PCCB is composed of the Special Council for Disaster Recovery, the Senior Housing Program Manager, the Senior Policy Manager, the Housing Program Manager, at least one Subject Matter Expert, and other program staff members representing Program leadership as needed.

The PCCB meets bi-weekly, as needed, to consider all pending requests but may meet as frequently as necessary to consider critical policy decisions. The schedule for PCCB meetings is expected to move to a lower frequency as the Program matures.

## 1.3 Definitions

**Adjusted Gross Income (AGI):** AGI is an individual's total gross income minus specific deductions. VIHFA's AGI methodology may be found in the VIHFA's Administrative Manual.

**Applicant:** A person or persons who have applied to VIHFA for approval of a CDBG-DR home purchase and Homeowner Financial Assistance.

**Area Median Income (AMI):** Calculated annual limits based on HUD-estimated median family income with adjustments based on family size used for demonstrating LMI beneficiaries in the program. May also be referred to as Area Median Family Income (AMFI) in other program documents.

**Builder/Contractor:** (Used interchangeably) A person who contracts to construct or repair houses and or supervised building operations. Builder/Contractor must meet all Virgin Island and HUD requirements.

**Common Area Under Roof:** The total area under the common roof is primarily interior, conditioned spaces, and for single-story homes, equal to the footprint of the house. The term is also synonymous with the eligible area. In addition, exterior spaces such as detached porches and garages are not considered eligible areas.

**Community Development Block Grant – Disaster Recovery (CDBG-DR):** The Department of Housing and Urban Development (HUD)'s Community Development Block Grant Disaster program established by the applicable appropriations statute to assist communities impacted by disasters to recover.

**CDBG-DR Development Agreement:** An agreement entered into by Grantee and Developer for the purpose of funding and carrying out CDBG-DR-eligible activities on one or more CDBG-DR-eligible properties.

**CDBG-DR Buyer:** Applicant eligible to purchase a CDBG-DR constructed home.

**CDBG-DR Property:** A property that is rehabilitated, newly constructed, or reconstructed pursuant to Developer's agreement with Grantee, utilizing CDBG-DR funds.

**CDBG-DR Home:** An CDBG-DR property that is being sold to an owner-occupant.

**CDBG-DR Program Budget:** The budget attached to a CDBG-DR Development Agreement showing projected development costs and funding for Developer's entire CDBG-DR program in the aggregate.

**Construction Cap:** For the New Construction for Homeownership and First-Time Buyer Assistance program the Grant cap is \$300,000 for development of properties owned by HFA; and \$150,000 when building on land owned homeowner

**Damage Assessment:** An Inspection of the housing unit to document damage from the event. The assessment by a certified or licensed inspector is required to specifically and clearly document storm-related property damage via photographic evidence and detailed narratives. Damage assessments must include final cost of repair estimates according to local code, an assessment of cost-effectiveness of each recommended activity (reconstruction or rehabilitation), mold remediation and assistance needed to bring the home up to code at completion.

**Davis-Bacon Act of 1931 (40 USC Part 3141 et seq.) and Related Acts:** All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this chapter shall be paid wages at rates not less than those prevailing on similar construction in the locality of determined by Secretary of

Labor in accordance with the Davis-Bacon Act, as amended. This applies to the rehabilitation and reconstruction of residential property if not less than 8 units.<sup>1</sup>

**Demolition:** The clearance and proper disposal of dilapidated buildings and improvements.

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

**Environmental Review:** All qualified projects must undergo an environmental review process. This process ensures that the activities comply with National Environmental Policy Act (NEPA) and other applicable state, territorial and federal laws.

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

**FEMA-Designated High-Risk Area:** Areas designated by FEMA as vulnerable to significant wind and/or storm surge damage and areas located in the 100-year flood zones. These areas will be identified during the environmental review process for each participating jurisdiction.

**Flood Hazard Area:** Areas designated by FEMA as having risk of flooding.

**Flood Insurance:** The Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a) requires that projects receiving federal assistance and located in an area identified by FEMA as being within a Special Flood Hazard Areas (SFHA) be covered by flood insurance under the National Flood Insurance Program (NFIP). In order to be able to purchase flood insurance, the community must be participating in the NFIP. If the community is not participating in the NFIP, federal assistance cannot be used in those areas.

**Floodplain:** FEMA designates floodplains as geographic zones subject to varying levels of flood risk. Each zone reflects the severity or type of potential flooding in the area.

- “100-year floodplain” – the geographical area defined by FEMA as having one percent chance of being inundated by a flooding event in any given year.
- “500-year floodplain” – the geographical area defined by FEMA as having a 0.2 percent change of being inundated by a flooding event in any given year.

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<sup>1</sup> <https://www.hudexchange.infor/resources/documents/Housing-and-Community-Development-Act-1974.pdf>

**Grantee:** Virgin Islands Housing Finance Authority

**Household:** A households defined as all persons occupying the same housing unit, regardless of their relationship to each other. The occupants could consist of a single family, two or more families living together, or any other group of related or unrelated persons who share living arrangements. For housing activities, the test of meeting the LMI National Objective is based on the LMI of the household.

**Individual Mitigation Measures (IMM):** Activities designed to mitigate and/or reduce risk beyond the pre-disaster condition of a housing unit when the activities are above and beyond federal, state, or local units, and the payment of flood insurance are not IMM activities. Examples of IMM activities include elevation above the base flood elevation level, or the addition of storm shutters, disaster proof windows, roof straps, etc. as long as those improvements are not required to comply with local code requirements and did not exist on the housing unit prior to the disaster damage.

**Low- and Moderate-Income (LMI):** A household is considered to be of low- and moderate-income if the household income (including income derived from assets) is at or below 80 percent of an area's median income. All income is based on the Area Median Income limits set annually by HUD for each county or metropolitan statistical area.

**Low to Moderate Income (LMI) National Objective:** Activities which benefit households whose total annual gross income does not exceed 80% of Area Median Income (AMI), adjusted for family size. Income eligibility will be determined and verified in accordance with 24 CFR Part 5 requirements using procedures as stated in the Technical Guide for Determining Income and Allowances, 3<sup>rd</sup> Edition (HUD-1780-CPD). The most current income limits, published annually by HUD, shall be used to verify the income eligibility of each household applying for assistance at the time assistance is provided.

**Mitigation:** Improvements made to reduce the possibility of property damage, personal and commercial hardship, as well as long lasting monetary burdens. For example, creating a flood mitigation program such as an acquisition of at-risk flood-prone property/housing, and elevation of housing in high-risk floodplains are two visible and effective mitigation projects that can be taken to make residents and communities safe in the face of natural disasters.

**New Construction:** The construction of a new home in a new location.

**Not Suitable for Rehabilitation:** The VIHFA defines “not suitable for rehabilitation” for the Public and Affordable Housing Development Program as;

- Structures that are considered “beyond rehabilitation” and do not meet the Program’s rehabilitation standards, and/or federal, state, local code requirements shall be deemed not suitable for rehabilitation, as determined by the program and consistent with program guidelines.
- Residential properties that have experienced repetitive losses under FEMA’s National Flood Insurance Program (NIFP)>

**Project Funding:** Any and all governmental and private funds, including Developer's cash, used to pay for the costs to carry out the redevelopment of a single CDBG-DR-assisted property.

**Project Budget:** A budget for all acquisition, rehab/construction and soft costs for a potential CDBG-DR project. The Developer must submit the budget to the Grantee and the property must pass Environmental Review and receive Authorization to Use Grant Funds, prior to committing to the purchase of any property for use in the CDBG-DR program.

**Sales Price:** Price established through determination of Fair Market Value of the property.

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

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

**Single-Family Home:** A single-unit family residence detached or attached to other housing structures.

**Subrogation Agreement:** An agreement executed by the beneficiary agreeing to repay any duplicative assistance if the beneficiary later receives other disaster assistance for the same purpose as disaster recovery funds already received.

**Urgent Need National Objective:** An urgent need that exists because conditions pose serious and immediate threat to the health or welfare of the community; the existing conditions are recent or recently became urgent; and the subrecipient cannot finance the activities on its own because other funding sources are not available. Subrecipients or the state must document how each program and/or activity funded under this category responds to a disaster-related impact. See 24 CFR 570.208(c).

## **2.0 Introduction**

### **2.1 Summary**

In the wake of the storms, the President announced a Major Disaster Declaration for Irma (DR-4335) and another for Maria (DR-4340) to make federal disaster assistance available to the Territory. In response, Congress approved the Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56) on September 8, 2017, which made available \$7.39 billion in Community Development Block Grant Disaster Recovery (CDBG-DR) funds to assist in long-term recovery from 2017 disasters. On February 9, 2018, Congress approved a bill appropriating an additional \$28 billion CDBG-DR funds, of which \$11 billion was set aside to address the remaining unmet needs including those of the U.S. Virgin Islands and Puerto Rico from Hurricane Maria.

In the U.S. Virgin Islands Action Plan and Action Plan Amendment 1 (<https://www.vihfa.gov/disaster-recovery/action-plan>), the Government of the Virgin Islands (GVI) allocated \$10,000,000 from Tranche 1 and has proposed to allocate \$40,000,000 from Tranche 2 to the New Construction for First-Time Homebuyers Program. This program seeks to will provide eligible and qualified residents the opportunity to purchase a home through direct development of homes for purchase or through financial incentives. The program will provide an affordable alternative to renting by creating new homeowner stock; thus, it will alleviate some of the pressure on the rental market post-storms.

This policy document explains the structure of this program, requirements for developers, eligibility criteria for first-time homebuyers, and supporting documentation for program eligibility determination.

## **3.0 Program Overview**

Hurricanes Irma and Maria caused significant damage to both owner-occupied and rental housing stock, depleting the already-limited housing stock, and driving prices above affordable levels. The storms caused damage to an already limited supply of owner-occupied housing stock available for sale.

As a part of a wider set of solutions, the U.S. Virgin Islands created the New Construction for First-Time Homebuyers program to provide residents the opportunity to purchase a home through the direct development of new housing for homeownership or through financial assistance to first-time buyers. Further, the program will provide an affordable alternative to renting by creating new homeowner stock; thus, it will alleviate some of the pressure on the rental market post-storms.

The creation of new single-family homes in the Territory faces a unique set of challenges. Limited buildable land due to the steep grade and topography, contributes to the high cost of site preparation and construction. This difficulty is especially pronounced in St. Thomas and St. John,

where buildable land is limited and the cost to build may exceed \$250/square foot, according to the Global Property Guide.<sup>2</sup>

While the cost of building is high in the Territory, the monthly mortgage payment of a new home built to code under this program, in most cases, will be less than rent for a comparably-sized rental unit given the extremely limited and cost-prohibitive rental market.

The New Construction for First-Time Homebuyers Program has two potential options briefly described below:

- **Option 1: Turn Key Home Development:** The first method will enable the creation of new, turn-key homes for first-time homebuyers. Option 1 will provide for the development of new homes on land owned by VIHFA. Potential homebuyers who are mortgage ready and have incomes at or below 80% AMI. This option also may offer second mortgages in the form of forgivable loans for first-time homebuyers at or below 120% AMI.
- **Option 2 Homeowner provided lots Have Lot, Build Home:** The second option enables the creation of new, custom stock on private land for first-time homebuyers who are who are mortgage ready and have incomes at or below 80% AMI. This option allows the new construction to occur on land that already belongs to the household.

### **3.1 Program Solutions**

#### **3.1.1 Option 1: Turn Key Development**

Under this program, VIHFA will utilize CDBG-DR funds to install infrastructure and construct homes in mixed-income communities on St. Thomas, St. Croix and St. John. The development of land will include activities such as infrastructure, grading, installation of utilities, and land preparation.

Under the first option, VIHFA will utilize CDBG-DR funding to install infrastructure and build homes on land owned by VIHFA. In the first phase of this program, all development will be on land currently owned by VIHFA or purchased by VIHFA and VIHFA will act as developer and solicit contractors to install the infrastructure and construct homes.

The first phase of Option 1 will be open to eligible residents that have been pre-qualified for VIHFA's homebuyer program. If additional funding is made available under this option of the program, additional applicants may become eligible.

Due to the high costs of construction in the Virgin Islands, the sale price for homes constructed under this program may still not be in reach with what a borrower can qualify for with a typical mortgage. In such situations, VIHFA may offer homeownership assistance in the form of a second mortgage, down payment assistance and/or closing costs.

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<sup>2</sup> April 2016 Global Property Guide Property Market Report

In keeping with guidelines of the Federal Register Notices 6066-N-01 and 6091-N-01, homeownership assistance can be provided to households earning up to 120% of the area median income. The notices also allow grantees to provide down payment assistance up to 100%.

**Eligible Applicants:** Potential home buyers who are displaced, can show that they are mortgage-ready, with income <120% of AMI will be prioritized. Individuals must have been a resident of the Territory at the date of the storm.

**Maximum Award:** Awards may be up to \$300,000 per home including the infrastructure and construction of homes for first-time home buyers. Circumstances where additional costs may be incurred will be reviewed against cost reasonableness guidelines. VIHFA does not anticipate providing down payment assistance, however if the assistance is provided for future projects, down payment assistance would be capped at \$80,000 and must be classified as a public service activity (against the 15% cap).

### 3.1.2 Option 2 Have a Lot, Build a Home (New construction on homebuyer's land)

The second method enables the creation of new, custom stock for first-time homebuyers on land owned by the household. This component will support the development costs of the land (including but not limited to infrastructure, grading, and land preparation) in the form of grants. Grants will be awarded to (i) qualifying LMI individuals to build on land they own.

**Eligible Applicants:** Potential homebuyers who are displaced can show that they are mortgage ready with incomes of ≤80% of AMI will be prioritized.

**Prioritization Criteria:** Eligible applicants that are mortgage readiness will be prioritized on a first come, first serve basis.

**Maximum Award:** Awards may be up to \$150,000 per home including the infrastructure and construction of homes for first-time home buyers. Program funds are to be used in conjunction with other resources such as a USDA Rural Development loan or bank loan to complete construction and occupy home. Applicants will be expected to obtain additional financing for total project prior to the commitment of the CDBG-DR funds. It is expected that the Program will offer a construction loan in combination with a primary lender such as USDA Rural Development and upon completion of the construction project, the CDBG-DR funding of the construction loan. Construction progress payments will be made *pari passu*, with the primary lender and the Program paying amounts equal to their percentage of the funding. The construction loan will be converted to a second mortgage, fully forgivable over the term of the loan, with any remaining balance due if the property is sold before the end of the term or if the property fails to comply with CDBG-DR requirements. The schedule for forgivability will be outlined in the loan agreement.

Circumstances where additional costs may be incurred will be reviewed against cost reasonableness guidelines.

## 3.2 National Objective

The USVI New Construction for Homeownership and First-Time Buyer Assistance Program will serve the Low- to Moderate-Income Housing (LMI) and Urgent Need National Objectives.

Additional definitions and information about the National Objectives will be documented in the General Administrative Policy Manual.

### **3.3 Eligible Activities**

HUD makes the determination if an activity is eligible or ineligible. The following activities under the Housing and Community Development Act of 1974 (HCDA) are eligible activities for which CDBG-DR grant funds can be used: Clearance, Rehabilitation, Reconstruction and Construction of Buildings (including Housing) (HCDA Section 105(a)(4)); Public Facilities (HCDA Section 105(a)(2)); Public Services (HCDA Section 105(a)(8)).

### **3.4 Ineligible Activities**

Activities are ineligible for CDBG-DR funding if the activity:

- Does not respond to an identified disaster-related impact.
- Is restricted in the appropriation laws.
- Is ineligible according to CDBG-DR regulations (and a waiver has not been granted).
- Fails to meet a national objective.

### **3.5 Geographic Area(s) Served**

The Program will serve the U.S. Virgin Islands. It is anticipated that the new , turn key developments will be in (but not limited to) Bonne Esperance, Mount Pleasant West, Cotton Valley, and Solitude in St. Croix; Whispering Hills, Fortuna, and Nazareth in St. Thomas; and Bethany in St. John. These properties will be built on land owned by VIHFA. The second option to provide homes built on land owned by the Homebuyer will serve the U.S. Virgin Islands.

### **3.6 Program Allocation and Administration**

VIHFA will oversee all activities and expenditures in connection with the CDBG-DR funds. Existing VIHFA employees, additional personnel and contractors will be hired to aid in the administration of, and to carry out, the recovery program. These partners will ensure that the program meets all requirements, including: the disaster threshold, eligibility, national objective, compliance, fair housing, labor standards, nondiscrimination, environmental regulations, and procurement regulations.

VIHFA will monitor the activities in accordance with CDBG-DR requirements so that each activity funded will meet the disaster threshold and one of HUD's three national objectives, with emphasis on eligible activities achieving the primary national objective of benefiting low- and moderate-income persons.

VIHFA will monitor the program through procedures outlined in the Authority's Monitoring and Compliance Plan.

### 3.6.1 Eligible Implementation Entity: VIHFA

### 3.6.2 Total Allocation

\$50,000,000 Total; (\$10,000,000 Initial Allocation); (\$40,000,000 second tranche)

### 3.6.3 Level and Terms of Assistance

#### Option 1: Turn Key Solution \$45,000,000

- The per home cap to construct homes and underlying infrastructure is \$300,000.
- The sales price of the home will be established based on the maximum allowable sales price for each island under the rules of the HOME program. The maximum value under the HOME program for 2018 new construction is \$228,000 on St. Croix, \$314,000 on St. Thomas, and \$228,000 on St. John.

#### Option 2: Have a Lot, Build a Home Solution \$5,000,000

- The per home cap to construct homes and underlying infrastructure is \$150,000
- CDBG-DR funds will be used, along with funds from additional sources as a construction loan. Upon completion of construction the construction loan will be converted to a second mortgage, forgivable on a pro rata basis over the 20-year affordability period.

### 3.6.4 Affordability Period

Properties will remain affordable for a period of twenty years following VIHFA's current affordability period.

### 3.6.5 Resale and Recapture Provisions

VIHFA's resale and recapture provisions outlined in its existing homeownership and single-family construction programs follow provisions outlined in Title 21, Chapter 1 of the U.S. Virgin Islands' code and are further defined in the Joint Rules and Regulations for the U.S. Virgin Islands Affordable Housing Program outlined in Title 29, Chapter 16, Sections 930 of the code.

#### **Resale Provisions**

Resale provisions will apply when CDBG-DR funds are used only to construct the unit and no direct financial assistance via CDBG-DR is given to the homebuyer.

Affordable housing units constructed or offered for sale under this Program shall not be sold during a control period of twenty (20) years from the date of the original sale for a price greater than a sales price which equals the original selling price plus a percentage of the unit's original selling price equal to the increase in the cost of living as determined by the United States Department of Labor's Consumer Price index, plus the fair market value of improvements made to the unit between the date of original sale and the date of resale, plus an allowance for payment of closing

costs. The affordable sale price formula may be amended or modified from time to time by the Agency.

#### Enforcement

The CDBG-DR funds will be secured by the incorporation of the applicable language in the Deed of Conveyance. VIHFA may also require that the homebuyer execute a Promissory Note and a Mortgage which shall be recorded against the property.

#### **Recapture Provisions**

Recapture provisions will apply when CDBG-DR funds are used to provide direct financial assistance to a homebuyer to acquire a unit.

#### Applicability

The recapture provisions herein shall apply where CDBG-DR funds are employed to assist home ownership housing to qualify as affordable housing either by providing financial assistance such as down payment or closing cost assistance, interest subsidies, or mortgage buydowns that enables the homebuyer to make the purchase or by providing monies as a development subsidy which then enables the unit to be sold at a price below fair market value. Note: Recapture provisions shall not apply when CDBG-DR funds are used only to subsidize the development cost of the assisted unit and the unit is sold at fair market value; in that case, resale provisions will be used.

#### Restrictions on Transfer

Under the recapture option, there is no requirement that the HOME-assisted property is sold/transferred to another low-income homebuyer upon either voluntary or involuntary transfer during the affordability period. Instead, the original HOME-assisted homebuyer will be free to sell the property to any willing buyer at whatever price the market will bear. Upon either voluntary or involuntary transfer during the affordability period, the participating jurisdiction shall recapture, from available net proceeds, an amount which is defined below.

#### Enforcement

The CDBG-DR funds will be secured by the incorporation of the applicable language in the Deed of Conveyance. VIHFA may also require that the homebuyer execute a Promissory Note and a Mortgage which shall be recorded against the property.

#### Calculation of Recapture

Upon resale of the property, the homebuyer shall recover from net proceeds their entire investment (which is defined as the homeowner's contribution to down payment and the cost of capital improvements made by the owner since purchase) before the participating jurisdiction recaptures the direct HOME subsidy. The homeowner's investment shall be repaid in full before the

participating jurisdiction recaptures any funds. If the net proceeds are insufficient to repay the homeowner's investment, the homeowner shall receive the available net proceeds and the participating jurisdiction shall not be responsible for any balance remaining. The VIHFA recognizes that, if net proceeds are not sufficient to repay the homeowner's investment and the direct HOME subsidy, the participating jurisdiction may not be able to recapture the full amount of the direct HOME investment.

Affordable housing units sold to eligible persons and families under the Program and subsequently offered for resale shall be subject to the following recapture rule:

### 3.6.6 Estimated Start and End Dates

Quarter 1, 2019 through Quarter 3, 2024.

### 3.6.7 Tie to Disasters

Hurricanes Irma and Maria caused significant damage to both owner-occupied and rental housing stock, depleting the already-limited housing stock, and driving prices above affordable levels. This is especially true for single family homes for sale. Prior to the hurricanes, according to the Housing Demand Study completed in 2015, six percent of overall listings for single family homes for sale were available to households with up to 80 percent of AMI. The majority of homes for sale were higher-priced homes and condominiums.

Duplication of Benefits Assistance under this program will be reviewed for any duplication of benefits as required under the Robert T. Stafford Act (Stafford Act), as amended, which prohibit any person, business concern, or other entity from receiving federal funds for any part of such loss for which they have already received financial assistance under any other program, private insurance, charitable assistance, or any other source.

### 3.6.8 Program Income

The program will generate program income both with the sales of the homes and in the event of resale or recapture. VIHFA will utilize the Program Income to continue to fund the solutions within this program. As stated in the USVI Action Plan, VIHFA will comply with HUD requirements found in 24 CFR 570.489. In the event program activities generate program income, those funds will be allocated to projects which further recovery and to the maximum extent possible will be distributed before the program makes additional withdrawals from the Treasury. Program Income proceeds will continue to be considered CDBG-DR funds and will be subject to all regulations and DR waivers. Expenditures of Program income must meet all CDBG-DR rules such as Eligibility, tie to the storm, national objective, LMI targeted requirements and other federal requirements such as environmental review, Davis Bacon, Fair Housing, etc.

### 3.6.9 Eligible Properties

In the initial phase of Option 1 Turn Key Development, development sites will be on undeveloped land owned by VIHFA. If land is acquired in subsequent phases, an environmental review will be completed prior to acquisition of land.

Properties eligible for acquisition must meet the following criteria:

- Must be located in the Territory.
- Must have no substantial adverse environmental factors as determined by an environmental review.
- Must be suitable locations for marketing and resale of homes to income-qualified homebuyers. Positive factors to be considered are low crime rates, well-rated neighborhood schools, and a substantial percentage of homeowners in the immediate vicinity and recent sales to owner-occupants.
- Must be acquired with a valid deed free and clear of all encumbrances.

For Option 2 Have a Lot, Build a Home, properties owned by the homebuyer and proposed for the program must meet the following eligibility criteria:

- Must be owned by the program applicant, with clear title verified by title search.
- Must have no substantial adverse environmental factors as determined by an environmental review.
- Must be suitable locations for marketing and resale of homes to income-qualified homebuyers. Positive factors to be considered are low crime rates, well-rated neighborhood schools, and a substantial percentage of homeowners in the immediate vicinity and recent sales to owner-occupants.

### 3.6.10 First-Time Homebuyer Applicant Eligibility Criteria and Prioritization

Homebuyer applicants for both Options must meet the following eligibility criteria:

- Must be a first-time home buyer.
- Must meet established income requirements.
- Must be a resident of the Territory for the three years prior to the storms.
- Must have the ability to make a minimum earnest money deposit of \$500. For qualified veterans, no earnest money deposit is required.
- Must be pre-qualified for a mortgage loan based on nationally accepted underwriting standards of FHA/VA/Conventional Mortgages.
- Must attend VIHFA's Homebuyer's Education Program and earn a Certificate of Completion.
- Must occupy the property as their primary residence.

#### Prioritization Criteria

The Program will have an open application period lasting 90 days. Outreach activities will be conducted by VIHFA to ensure that the public is aware of the Program. Special outreach efforts will be made to residents that are currently in the VIHFA's existing HOME program. The Program will prioritize pre-qualified applicants with incomes at or below 80% AMI for new housing construction or at or below 120% AMI for homeownership assistance.

Applicants for Option 2 will be prioritized based on a review of each individual project for project viability.

## **4.0 Procedures**

### **4.1 Development Process**

Development in both Options will be overseen by VIHFA's Senior Manager of CDBG-DR Housing Programs, Manager of New Construction Program and the Director of Planning and Construction Division.

#### **4.1.1 Site Selection**

For Option 1, for the initial phase of the program, VIHFA will build on sites already in the Authority's inventory. If funds are available for additional phases, VIHFA may acquire land if needed.

For Option 2, applications will be reviewed for homeowners proposing to build on land they currently own. Ownership will be verified prior to acceptance of the applicant into the program.

#### **4.1.2 Environmental Review**

VIHFA is responsible for completing the environmental assessment of its development sites and sites for Option 2 owned by the applicant.

#### **4.1.3 Contractor Selection**

For Option 1, some of the selected sites have a certain level of infrastructure in place; others are raw land without any existing improvements. For sites with some in-place infrastructure, VIHFA will release an Invitation for Bid (IFB) for construction of the subdivision using VIHFA prepared plans. VIHFA will also solicit contractors through an RFP for engineering & land planning/design services to create plans for a subdivision for permitting and construction on raw land. Both processes are outlined in the VIHFA Procurement Policies and Procedures.

For Option 2, contractors will be selected by the Program from the pool of building contractors that have been properly vetted and qualified as part of the Homeowner Reconstruction and Rehabilitation program. The construction oversight for the project will be provided by the VIHFA's Construction Manager and the Program will manage the entire construction process.

#### **4.1.4 Contractor Requirements**

For both options, contractors must have evidence that they are licensed to provide services in the U.S. Virgin Islands and demonstration that the company is in "good standing" with the appropriate regulatory agencies in the Territory.

#### **Contractors must also provide the following:**

- Corporate Documents (Articles of Incorporation and By-laws),

- Limited Liability Company (Copy of Articles of Organization and Operating Agreement)
- Copy of Letter of “Good Standing” from Lt. Governor's Office or if LLC, a copy of the “Certificate of Existence”
- Copy of valid license to do business in U.S. Virgin Islands
- Copy of EIN number-approval letter if Corp. or LLC.
- Insurance Binder with type of Insurance/Builder’s Risk Insurance

This information is required to become a VIHFA contractor or vendor with the Virgin Islands Housing Finance Authority. The following forms, to be made available on VIHFA’s website, are used by the Authority to solicit Contractor/Vendors:

- Contract Document Checklist
- Contract Information Form
- Contractor Qualification Statement and
- Contractor Qualification Statement - Professional Service.
- DUNS number

#### 4.1.5 Construction Contract and Administration

VIHFA will enter into a construction contract with contractors based on existing construction contract templets. All contracts will include construction drawings, project budget and definitions of contractor and VIHFA roles. The contract will also define terms for progress inspections and payments, define the change orders process and the process for corrective actions. For Option 2, the construction contract terms and other agreements will be defined by VIHFA and the primary lender for the construction loan.

#### 4.1.6 Construction Process

Contractors, as part of their bid, will provide a project delivery plan to be reviewed and approved VIHFA. The plan will outline the project scope, budget, basic systems to be utilized, manpower, methods and procedures to be followed. This will be the plan against which the contractor’s performance will be evaluated. The project plan delivery plan will include:

- Project description
- Master schedule
- Milestone schedule
- Project staffing plan
- Site mobilization and utilization plan
- Quality assurance program and how it will be implemented
- Listing of meetings with VIHFA (and property owner in Option 2) including frequency and types

- Project budget

Contractors will contact VIHFA's Construction Manager to request progress inspections. VIHFA's Construction Manager will be responsible for monitoring all construction projects, conducting inspections, approving change orders and ensuring all projects are compliant with HUD CDBG-DR, local and Territorial construction requirements.

#### 4.1.7 Construction Standards, including Green Building

For new construction projects, VIHFA has adopted the U.S. Virgin Islands building code based on the International Residential Code; Department of Planning and Natural Resources' Construction Information for a Stronger Home Guide; VIHFA's Affordable Housing Guidelines; and the Model Energy Code.

#### 4.1.8 Construction Closeout Process

Prior to executing contracts and closing on mortgages with buyers purchasing units in VIHFA subdivisions, contractors will follow the following process:

1. Contractor should submit the Certificate of Occupancy to Planning and Construction Division (P&C) after it is issued by the Department of Planning and Natural Resources.
2. An inspection is then performed with Planning and Construction and the Contractor, after a Punch list is generated if there are any items to be rectified.
3. The Planning and Construction Division issues a substantial completion certificate to the Contractor and provides a copy to the Homeownership Division; (45-day time limit begins)
4. The unit is then ready for the buyer to view.
5. The buyer executes a sales contract with the Authority and the mortgage process begins.
6. CDBG-DR New Construction for First-Time Homebuyer staff will provide P&C with contact information to schedule initial walk-thru with client.
  - a. Name
  - b. Unit number
  - c. Contact number
7. The Planning and Construction division will be the point of contact to provide keys and access to the unit. Access is needed by the:
  - a. Appraiser
  - b. Termite Inspector
  - c. Water testing Agent

- d. Any other access that may be required
8. Builder's warranty and walk-through

## **4.2 New Construction, first-time home buyer assistance application and intake**

### **4.3 Application Intake Process**

The Program will have an initial open application period of 90 days. VIHFA staff will conduct initial interviews based on applications received. The Program will work with the existing HOME program to transfer records for applicants who have previously pre-qualified as mortgage ready through the existing HOME program, thus expediting their application process. Program staff will determine if applicable records, such as credit report are current or need to be refreshed.

During the appointment, the applicant completes and signs various forms and supplies information required to ascertain eligibility as follows:

- a. Application for Homeownership
- b. Income & Asset Questionnaires
- c. Third-party verification authorizations, as applicable

Copies of identification documents for all household members, source documents re: household income and assets, tax returns, etc. for all household members will be collected.

Applicants for Option 2 will also be asked to provide information related to the property they are proposing to have the Program build on, including but not limited to location and ownership documentation.

### **4.4 Qualifying Applicant Income and Mortgage Readiness**

VIHFA will verify applicant income and confirm their ability to qualify for a mortgage.

#### **4.4.1 Income Verification**

VIHFA will review applicant's income to determine that applicant's income is at or less than 120% of the area's median income (AMI) These limits are based on HUD's estimates of median family income, with adjustments based on family size. The HUD income limits are found at [www.hudexchange.info/manage-a-program/home-income-limits/](http://www.hudexchange.info/manage-a-program/home-income-limits/).

#### **4.4.2 Eligibility Determination**

Program staff will request all necessary third-party verification of income, assets, and other application requirements. They will also verify land ownership for Option 2 applicants.

### **4.5 Loan Closing**

Homebuyers are able to take a final walk through of the home five (5) days prior to closing. This allows the buyer to review the property and to ensure that any contingencies listed on the punch list has been addressed and that the house is in move in condition.

Loans are closed via a coordinated effort with VIHFA's loan processor, legal division and other lenders. Upon request from the primary lender, VIHFA's loan processor prepares closing instructions and forwards to VIHFA legal counsel and to the primary lender. VIHFA legal division prepares the deed, tax clearance and closing documents in preparation of closing. Closing is scheduled by the primary lender in consultation with the VIHFA Loan Processor, legal counsel and client.

## **4.6 Refinancing**

It is anticipated that from time to time the owners of the Program's projects may wish to refinance either the primary loan only or the primary and secondary loan together. When requesting approval for refinancing loans to which the Program loans are subordinated, underwriting requirements shall apply. In this case, VIHFA Collections & Servicing and Federal Programs staff shall review the terms of the proposed refinancing loan to ensure that terms are reasonable.

Requests for approval of refinancing will be handled in accordance with the guidelines and procedures outlined in the Mortgage Subordination Policy which has been adopted by the Authority.

Pursuant to the Mortgage Subordination Policy, the Virgin Islands Housing Finance Authority will consider a subordination of a mortgage request from a Borrower who has a 1st or 2nd Mortgage with the Authority for the any of the following reasons:

- Refinancing to accomplish/facilitate:
  - Interest Rate Reduction
  - Switching from an Adjustable Rate Mortgage to a fixed rate mortgage
  - Consolidation of mortgage and personal debts
  - Foreclosure avoidance / loss mitigation

With respect to refinancing loans to which Program loans are subordinated, the Grantee shall seek the written consent of the Authority prior to refinancing or obtaining a subsequent mortgage of the property.

## **5.0 Record Keeping and Reporting**

VIHFA Operations and New Construction for Homeownership program staff (including contractors) will comply with 24 C.F.R. Part 5.2, Compliance with the Privacy Act, which requires the safeguarding of personally identifiable information (PII) by:

- Minimizing the use of PII on program documents and records.
- Providing access to PII only to those who require it for official business.
- Securing PII appropriately for paper or electronic forms.
- Training for data security and compliance with the Privacy Act will be provided to all employees and contractors as part of their onboarding process.

In accordance with HUD regulations, as a grantee and recipient of CDBG-DR funds, VIHFA follows the records retention as cited in 2 CFR Part 200.333-337, which includes financial records, supporting documents, statistical records and all other pertinent records are maintained for five years after closeout of the grant between HUD and VIHFA. VIHFA established requirements in its sub-recipient and contractor agreements for compliance with all HUD cross cutting requirements outlined in 2 CFR 200: Appendix II, including record keeping requirements. Records such as mortgages and other legal documents enforcing provisions of long-term affordability shall be maintained for five (5) years after the termination of the compliance period.

Homebuyers are advised that additional information may be required to properly calculate the Grant Amount and that Owner/Occupants should maintain all records, receipts invoices and other documentation related to any repairs, construction, or clean-up of the damaged home for three years from the date VIHFA closes the CDBG-DR program with HUD.

Additional information regarding Records retention, how the program will manage Personally Identifiable Information (PII), and file security, please refer to VIHFA General Administrative Policy Manual.

## **APPENDIX**

- 1. Appendix A: Crosscutting Requirements and Process Overview**
- 2. Appendix B: Capacity Assessment and Initial Scope and Budget Form**
- 3. Appendix C: HUD Rider**

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