U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE DEPUTY SECRETARY
ALEXANDRIA, VA 22314

July 20, 2026

Via Email and FedEx
Dayna Clendinen
Virgin Islands Housing Finance Authority
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St. Thomas, VI 00802
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SUBJECT: Notice of Immediate Suspension Pending Investigation

Dear Ms. Clendinen,

The U.S. Department of Housing and Urban Development (HUD) has sent the Virgin Islands Housing Finance Authority (VIHFA) $1.9 billion in taxpayer funds to help rebuild from the devastation of Hurricanes Irma and Maria in 2017. That's more than $20,000 per U.S. Virgin Island (USVI) resident. Nine years later, because of VIHFA's blatant mismanagement of these critical disaster funds, USVI citizens still do not have the housing and electrical power they were promised nearly a decade ago.

It gets worse. VIHFA's former Chief Operating Officer Darin Richardson, who oversaw much of VIHFA's supposed disaster recovery work, is in federal prison for fraud, false statements, money laundering, and criminal conflict of interest. Richardson solicited a $107,000 bribe from a contractor hired to manage lumber intended to assist in recovery efforts in the aftermath of the 2017 Hurricanes. He then inflated the value of the contract by 50% from $3 million to $4.5 million.[1] To add incompetence to the corruption, VIFHA's neglect then allowed that lumber to rot in the tropical sun, rendering the lumber unusable and a complete waste of taxpayer funds. Under these circumstances, it would be irresponsible for the federal government to continue to conduct business with VIHFA. VIHFA has violated its obligations to distribute and manage taxpayer funds lawfully, has failed to adhere to HUD procurement standards, and has repeatedly made false statements regarding its financial management controls and safeguards against conflicts of interest.

HUD will not accept this record of empty promises and abject failures. HUD's Office of Inspector General (OIG) is investigating potential offenses committed by VIHFA, its officers, directors, and/or employees.[2] VIHFA is suspended from future participation in procurement and

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[1] See *Former Virgin Islands Housing Finance Authority Executive Sentenced to 36 Months in Prison for Fraud, Conflict of Interest, False Statements, and Money Laundering*, March 27, 2026, https://www.justice.gov/usao-vi/pr/former-virgin-islands-housing-finance-authority-executive-sentenced-36-months-prison; *see also Virgin Islands Government Officials Charged In $4 Million Dollar HUD Fraud Scheme*, June 13, 2024, https://www.justice.gov/usao-vi/pr/virgin-islands-government-officials-charged-4-million-dollar-hud-fraud-scheme.
[2] The scope of an OIG investigation is subject to privilege.

nonprocurement transactions, effective immediately, pending the outcome of that investigation. This action applies to any transaction involving VIHFA as a participant or principal, with HUD and throughout the Executive Branch of the Federal Government. HUD has substantial evidence of VIHFA's failure to comply with its award obligations, lack of internal controls over financial matters, fraud risks, and conflicts of interest, as well as its false certifications to HUD that represented otherwise. Moreover, the criminal conduct of Richardson, its former Chief Operating Officer, is imputed to VIHFA because his criminal conduct occurred during the execution of his duties while employed at VIHFA. These actions are in accordance with the procedures set forth in Title 2, Code of Federal Regulations (C.F.R.), Parts 180 and 2424. Copies of the regulatory provisions cited herein can be found on the U.S. Government Publishing Office's website at www.govinfo.gov.

HUD has a duty to ensure that taxpayer funds are being used to fund activities that will enable the USVI to recover from disasters. This immediate suspension furthers that duty and protects HUD and the public, especially those residing in the USVI. HUD has determined that continuing to allow VIHFA to participate in federal programs while OIG investigates whether it has committed violations of federal law is not in the public interest. HUD remains dedicated to the mission of assisting grantee states, territories and localities in recovering from disasters. This immediate suspension of VIHFA from participation in federal government programs is a necessary step in accomplishing that important mission.

A. Basis for Suspension

HUD may suspend any person, including an entity such as VIHFA,[3] who has been, is, or may reasonably be expected to be a participant or principal in a covered transaction. 2 C.F.R. § 180.150. A suspension is warranted when the agency finds adequate evidence[4] to suspect a cause for debarment listed under 2 C.F.R. § 180.800 and "[i]mmediate action is necessary to protect the public interest." § 180.700(a)-(c). Causes for debarment include a "conviction or civil judgment for fraud" or related offenses," § 180.800(a), a "[v]iolation of the terms of a public agreement or transaction so serious as to affect the integrity of a Federal agency program," § 180.800(b), and "[a]ny . . . cause that is so serious or compelling in nature that it affects [the person's] present responsibility." § 180.800(d). "To protect the public interest, the Federal Government ensures the integrity of Federal programs by conducting business only with responsible persons," and it uses suspension to avoid doing business with those who are not presently responsible. 2 C.F.R. § 180.125.

Here, there is more than adequate evidence to suspect that VIHFA violated the terms of public agreements or transactions with HUD affecting the integrity of HUD programs under § 180.800(b) and that VIHFA is not presently responsible under § 180.800(d). VIHFA's record demonstrates that it is an abysmal steward of taxpayer funds. It has failed to implement effective fraud controls despite the indictment and conviction of its former COO in a federal contracting fraud scheme. It has repeatedly made false certifications to HUD that it has proficient financial controls, has safeguards to prohibit conflicts of interest, has not obtained duplicate federal benefits, and complies with applicable laws and regulations. VIHFA's failures put at risk up to $2 billion in funding from HUD. The serious

[3] *See* 2 C.F.R. § 180.985 (defining "Person" as "any individual, corporation, partnership, association, unit of government, or legal entity, regardless of how organized").
[4] "Adequate evidence" means "information sufficient to support the reasonable belief that a particular act or omission has occurred." 2 C.F.R. § 180.900.

nature of these deficiencies and the amount of money at stake necessitate HUD taking immediate action to protect the public interest.

1. Background

VIHFA was established in 1981 to stimulate the development of affordable housing throughout the USVI. VIHFA receives and manages significant HUD funding in that role and so it is, and is expected to be, a participant in covered transactions. *See* 2 C.F.R. §§ 180.200, 180.970, 180.980. Among other HUD programs, VIHFA receives Community Development Block Grant Disaster Recovery (CDBG-DR) and Mitigation (CDBG-MIT) funds.

Hurricanes Irma and Maria struck the USVI in 2017. That fall, Congress passed the Supplemental Appropriations for Disaster Relief Requirements[5] authorizing HUD to make CDBG-DR funds available to assist in the hurricane recovery efforts. From February 2018 to June 2021, HUD allocated nearly $2 billion in CDBG-DR and CDBG-MIT funds to USVI to assist those efforts.[6] VIHFA was the grantee responsible for administering these disaster recovery and mitigation program funds in the USVI. OIG's ongoing investigation as well as allegations surrounding VIHFA's rampant mismanagement and misuse of those CDBG-DR funds are, in part, the bases for this suspension.[7]

2. VIHFA's Delayed and Misdirected Spending

HUD and OIG have raised significant concerns regarding the pace of recovery and the efficacy of the implementation of HUD-funded activities. These include:

- OIG Audit 2016-AT-1001[8]
  - Evidenced long-running concerns.
  - Questioned approximately $6.2 million in costs.
- OIG Audit 2023-FW-1002[9]
  - VIHFA had (1) insufficient financial controls, (2) insufficient oversight of its Match

[5] *See* Public Law 115-56 (Sept. 8, 2017). Subsequent congressional appropriations followed: P.L. 115-123 (Feb. 9, 2018), P.L. 116-20 (June 6, 2019); *see also* 83 Fed. Reg. 5844 (Feb. 9, 2018).
[6] *See* 83 Fed. Reg. 5844; HUD Exchange, *Hurricanes Harvey, Irma, and Maria, 2017 Events (PL 115-56, PL 115-72, PC 115-123)*, https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-grantee-contact-information/#hurricanes-harvey-irma-and-maria-2017-events-pl-115-56-pl-115-72-pl-115-123; HUD Exchange, *CDBG-MIT Allocations (2015-2017 Disasters)*, https://www.hudexchange.info/programs/cdbg-dr/cdbg-dr-grantee-contact-information/#cdbg-mit-allocations-2015-2017-disasters.
[7] This Notice refers to numerous public reports. The OIG's investigation will allow the government to independently verify those reports.
[8] See *Virgin Islands Housing Authority, St. Thomas, VI, Housing Choice Voucher Program Housing Quality Standards*, 2016-AT-1001, December 8, 2015, https://www.oversight.gov/sites/default/files/documents/reports/2017-07/2016-AT-0001_0.pdf.
[9] See *The Virgin Islands Housing Finance Authority's Administration of Its Non-Federal Match Program Had Weaknesses*, 2023-FW-1002, June 12, 2023 (2023 OIG Audit I), https://www.hudoig.gov/sites/default/files/2024-02/2023_FW_1002_508%20%281%29.pdf.

Program-funded projects, (3) inaccurate performance measures reported in its quarterly performance reports, and (4) insufficient documentation to support its national objectives.

  - VIHFA did not have adequate policies and procedures or did not implement its existing policies to ensure effective administration of its Match Program.

  - VIHFA was at risk of not managing its Match Program in compliance with HUD requirements and achieving program goals.

  - These conditions could result in VIHFA providing program benefits to the intended beneficiaries late and increasing the risk of VIHFA issuing improper payments.

- OIG Audit 2023-FW-1003[10]

  - Directly addresses competency and oversight.

  - HUD OIG concluded the authority did not effectively monitor CDBG-DR funded activities.

  - Auditors found weaknesses in oversight of federally funded disaster recovery projects.

  - Report questioned whether performance measures and federal objectives were being met.

- OIG Audit 2026-FW-1002[11]

  - HUD's Inspector General found VIHFA's fraud risk management processes were "at or below the lowest desired goal state."

  - Auditors concluded that anti-fraud activities were disorganized, reactive, or absent.

  - VIHFA had not implemented a structured fraud risk management framework despite administering nearly $2 billion in disaster recovery funding.

- VIHFA has a significant number of open monitoring findings. These findings include noncompliance with various financial management requirements, ineligible costs, lack of sufficient documentation of procurement actions, recordkeeping deficiencies, and the incompleteness of environmental review records.

Furthermore, the pace of actual recovery in USVI is glacial to practically non-existent. To date, and over a period of nine years, VIHFA has reported the following from its direct recovery work using CDBG-DR funds:

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[10] See *Virgin Islands Housing Finance Authority Ineffectively Monitored CDBG-DR Activities*, 2023-FW-1003, June 12, 2023 (2023 OIG Audit II), https://www.oversight.gov/sites/default/files/documents/reports/2023-06/2023-FW-1003.pdf.
[11] See *The U.S. Virgin Islands Housing Finance Authority's Fraud Risk Management Practices Are At or Below The Lowest Desired Level*, 2026-FW-1002, March 24, 2026 (2026 OIG Audit), https://www.oversight.gov/sites/default/files/documents/reports/2026-03/2026-FW-1002.pdf.

Program Area	Projected Units / Facilities	Actual Completed	Percentage Completed
Single Family Rental Rehabilitation	95	2	2%
Single Family Homeowner Rehabilitation	440	72	16%
Multifamily Rental (Rehab and New Construction)	1643	319	19%
Public Facilities	572	477	83%
Economic Development (properties assisted)	18	0	0%

To date, VIHFA has reported the following from its mitigation work using CDBG-DR-MIT funds:

Program Area	Projected Units / Facilities	Actual Completed	Percentage Completed
Housing (Single and Multifamily)	329	0	0%
Public Facilities	2	1	50%
Economic Revitalization	18	0	0%

Progress on disaster recovery efforts to restore the electrical grid in USVI and make it more resilient is likewise practically nonexistent. As reported by VIHFA, it has spent a mere 2% of its electrical grid recovery funding through May of 2026:

Grant Fund Disbursement	Budget	Funds Expended	Percentage Completed
Administration	$3,382,650.00	$626,941.10	19%
PR1 Grid Resiliency	$35,788,437.00	$177,975.68	<1%
PR 2 Community Innovative	$19,010,493.00	$320,943.41	2%
P2 Solarized Hubs	$2,706,120.00	$0.00	0%
Planning	$6,765,300.00	$177,975.68	3%
Total	**$67,653,000.00**	**$1,125,860.19**	**2%**

To date, of the $1,917,330,884 appropriated to the USVI for the disaster, VIHFA has only spent $571,239,436 or less than a third (29%) of the CDBG-DR grant funds allocated to assist the recovery efforts from the hurricanes nearly nine years ago. Yet in that same time, VIHFA has spent $52,657,309 or over half (55%) of the grant funds set aside for its administrative costs. The yawning gap between VIHFA's high expenditures on its own administrative costs and low expenditures on the residents of the USVI, who it is supposed to serve, suggests, at minimum, poor management of CDBG-DR funds and is evidence that VIHFA is not presently a responsible program participant. But whether through poor management or something worse, the consequences are unacceptable—the residents of the USVI who were devastated by disaster are not getting what they need from VIHFA.

3. Examples of VIHFA Delays and Failures

Evidence suggests that the delays were a result of VIFHA's own actions or inaction. For example, in a recent controversy, contractors working on the EnVIsion Tomorrow housing program claimed that payment delays had accumulated for years. Contractors also reported that unpaid invoices caused work stoppages leaving homeowners waiting while damaged homes remained unfinished.[12]

VIHFA's failures to properly handle funding extend beyond CDBG-DR. More recently, in a USVI Senate hearing, lawmakers learned that millions of housing dollars remained unspent and that funds faced deadlines that could result in de-obligation (loss of funds).[13] VIHFA officials could not fully explain spending plans. The pace of deployment was openly criticized, with roughly $8 million sitting idle, additional funds facing federal deadlines, and no clear plan for certain local homebuyer funds.[14]

4. Evidence suggests that VIHFA Lacks Adequate Fraud Control.

HUD requires those who receive and manage grant funds under HUD programs to ensure the integrity of those programs by (1) using adequate financial management and internal controls; and (2) safeguarding against possible conflicts of interest or improper personal gain.[15] These requirements are part of VIHFA's agreements with HUD, and VIHFA has repeatedly certified that it will follow them. There is adequate evidence to suspect that VIHFA has failed to comply with those requirements, made repeated false statements to HUD, had a high-level officer convicted of several felonies dealing with the misuse of HUD funds, and, lastly, has "committed irregularities that seriously reflect on the propriety of further Federal Government dealings" with it, 2 C.F.R. § 180.715(b)(5).

Due to the existence of adequate evidence to suspect numerous serious and ongoing violations of HUD program requirements by VIHFA, as detailed below, HUD has determined it cannot reasonably rely on VIHFA's ability to operationally and effectively coordinate, manage, distribute, and monitor taxpayer dollars in a responsible manner.

VIHFA's persistent and ongoing lack of adequate fraud risk management is evidence of a lack

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[12] See *Contractors Say EnVIsion Tomorrow Payment Delays Are Stalling Repairs and Forcing Work Stoppages*, Virgin Islands Consortium, January 23, 2026, https://viconsortium.com/vi-disaster_recovery/virgin-islands-millions-owed--homes-on-hold--contractors-raise-alarm-over-envision-tomorrow-payment-delays.

[13] See *$8 Million Sits Idle, $4.2 Million Faces Sept. 2026 Deadline While Homebuyers Await Relief: VIHFA Rebuked in Senate*, Virgin Islands Consortium, February 12, 2026, https://viconsortium.com/vi-government/virgin-islands-vihfa-rebuked-in-senate-as--8-million-sits-idle---4-2-million-faces-september-2026-deadline-while-homebuyers-await-relief.

[14] See *VIHFA Director Announces Resignation; Lawmakers Press on Unspent Housing Funds*, St. Thomas Source, February 11, 2026, https://stthomassource.com/content/2026/02/11/vihfa-director-announces-resignation-lawmakers-press-on-unspent-housing-funds/.

[15] *See* 2 C.F.R. §§ 200.302 (financial management), 200.303 (internal controls), 200.112 (conflicts of interest), 200.113 (mandatory disclosures). These requirements are incorporated into the program-specific regulations governing HUD grant programs. *See* 24 C.F.R. § 570.502 (CDBG). HUD's program regulations also contain separate conflict-of-interest prohibitions. *See* 24 C.F.R. § 570.611 (CDBG).

of present responsibility. OIG conducted a three-month audit in 2025 during which it interviewed at least nine senior VIHFA officials and reviewed VIHFA's policies and procedures. HUD OIG concluded that VIHFA's overall fraud risk management practices were disorganized, uncontrolled, reactive, or simply absent.[16] Among other observations, HUD OIG noted the following:

- VIHFA officials have not implemented an effective fraud risk management program or designated a component or individual to design and oversee its fraud risk management activities.

- VIHFA's divisions operate in silos, hindering communication and the effective management of fraud risks.

- VIHFA did not adequately implement or follow its own "Anti-fraud, Waste, Abuse, and Mismanagement" policy (Antifraud Policy), nor had it adequately communicated that policy to employees.

VIHFA's failure to manage fraud risk is not a recent problem. For example, OIG noted that, in 2023, VIHFA's Internal Audit Division conducted a Fraud Risk Questionnaire exclusively for VIHFA's Procurement Division and its Disaster Recovery Finance Unit. The results of the questionnaire revealed that VIHFA employees had personal knowledge of fraud or suspected fraud.[17] Instead of conducting a further investigation or sharing the results with VIHFA's senior management team, the Internal Audit Division informed only the then-directors of the involved divisions, who sat on the findings and took no further action to address the matter.[18] OIG noted that VIHFA's then-Executive Director apparently was not told of the survey findings and complained of being "excluded from day-to-day agency operations," raising further doubt as to whether anyone at VIHFA had actual responsibility for preventing and responding to incidents of potential and actual fraud, or the authority and ability to do so.

Evidence suggests that VIHFA's lack of adequate fraud control has directly contributed to misuse of HUD funds. VIHFA's former COO, Mr. Richardson, was indicted and convicted for crimes arising from a contracting fraud scheme in which he, on behalf of VIHFA, awarded a contract to Island Service Group (ISG) to store and maintain piles of lumber for post-hurricane rehabilitation projects.[19] VIHFA used CDBG-DR to fund the ISG contract at the core of Mr. Richardson's conviction. As part of the scheme, ISG subcontracted essentially all work required under the contract with D&S Trucking. D&S Trucking and its owners were significantly overcompensated for the services provided to VIHFA by D&S Trucking, due to fraudulent acts committed by D&S Trucking's owner. Mr. Richardson, acting in his capacity as VIHFA's COO and as the leader of its Bid Evaluation Committee, corrupted the contract review process at VIHFA, and, among other acts, awarded ISG the contract, later increased the contract's value by over $1 million, paid ISG when it had done no work, and accepted a payment of $107,000 as a kickback from a co-owner of ISG. Mr. Richardson's scheme

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[16] 2026 OIG Audit at 5-12.

[17] A VIHFA whistleblower echoed the Internal Audit Division's observations. A former VIHFA COO, Stephanie Berry, filed an action for wrongful termination against VIHFA and two of its officers. Ms. Berry's Verified Complaint alleges a parade of fraud and mismanagement at VIHFA at the same time that VIHFA's internal audit revealed the same. Ex. 1. *Berry v. Virgin Islands Housing Finance Authority, Dayna Clendenin, and Eugene Jones Jr.*, SC-2024-CV-00400 (filed Dec. 1, 2024.).

[18] 2026 OIG Audit at 7-8.

[19] *See United States v. Charlemagne, et al.*, Case No. 24-CR-8 (D.V.I. June 11, 2024).

is precisely the sort of fraud that a well-designed and managed anti-fraud program would have identified and prevented.

5. Mr. Richardson's conviction reveals serious flaws in VIHFA's procurement processes, which have not been addressed.

As a grant recipient, VIHFA "is responsible for ensuring that CDBG funds are used in accordance with all program requirements." § 570.501(b). VIHFA's failure to implement a procurement policy consistent with regulations establishes its lack of present responsibility. Mr. Richardson's indictment and conviction further provide evidence that VIHFA violated HUD procurement requirements. *See* 24 C.F.R. §§ 570.502, 570.610 and 611 (incorporating 2 C.F.R. §§ 318 and 319). HUD's program regulations require participants to engage in responsible procurement practices to preserve the integrity of HUD programs and otherwise protect against actual or perceived improprieties, including fraud, waste, and abuse. *See, e.g.*, 2 C.F.R. § 200.112 (conflicts of interest); 24 C.F.R. § 570.611 (CDBG). Those prohibitions are also incorporated into the terms of the agreements and transactions between VIHFA and HUD.[20] HUD relies on recipients of federal funds to comply with these provisions.

Mr. Richardson's indictment and conviction for the ISG contract show that VIHFA did not have adequate processes in place, including those related to conflicts of interest. Mr. Richardson, in his capacity as an officer of VIHFA, corruptly participated in the selection and award of a contract to a firm that subsequently paid Mr. Richardson a $107,000 kickback, and there is no indication that VIHFA had any effective policies or procedures in place to prevent that outcome. An officer corruptly awarding disaster clean up contracts violates, at minimum, HUD rules on oversight of contractors (§ 200.318(b)), conflicts of interest (2 C.F.R. § 200.318(c), use of responsible contractors (h), and competition (§ 200.319). Further, the OIG Audit made clear that, even after Mr. Richardson's indictment and conviction, VIHFA had not taken any significant measures to reduce the risk of future violations. Mr. Richardson's indictment and conviction, and VIHFA's lack of an adequate corrective response, show that HUD cannot rely on VIHFA to be a responsible recipient of taxpayer funds.

6. Mr. Richardson's criminal conduct is imputed to VIHFA.

HUD may impute an individual's fraudulent, criminal, or other improper conduct to an organization when the improper conduct occurred in connection with the individual's work for that organization. *See* 2 C.F.R. 180.630. Mr. Richardson used his position as VIHFA's COO to carry out his fraud scheme, and his fraudulent and criminal conduct is thus imputed to VIHFA.

7. Evidence suggests that VIHFA's lack of internal controls and oversight led to improper duplication of benefits in the CDBG-DR Match Program and FEMA Public Assistance Program.

VIHFA improperly billed for, and received, $6,215,654.87 of CDBG-DR funds for disaster recovery costs that the Federal Emergency Management Agency (FEMA) had already paid, further evidencing that VIHFA is not presently a responsible participant in federal programs.

[20] *See, e.g.*, Ex. 2 at HUD_VIHFA_0000051, 56.

In addition to HUD, FEMA provided significant grant funds to aid the USVI's hurricane recovery through its Public Assistance Program. Typically, under FEMA's rules and regulations, FEMA would reimburse 90% of eligible disaster recovery costs while the grant recipient would be required to pay the remaining 10% from non-federal sources. By statute, however, CDBG-DR grants may be used to pay the 10% non-federal match requirement on FEMA-approved disaster recovery costs, subject to certain restrictions.[21] One of those restrictions concerns "duplication of benefits." Statute and program requirements explicitly prohibit the use of CDBG-DR funds to pay for any activity reimbursable by FEMA.[22]

But VIHFA did exactly that. In late 2021 and early 2022, according to a 2023 HUD OIG audit report, VIHFA submitted vouchers for CDBG-DR funds to pay 100% of several invoices for which FEMA had already reimbursed 90% of the cost.[23] HUD overpaid $6,215,654.72 as a result. VIHFA has conceded that CDBG-DR funds were used to cover expenses previously invoiced to, and paid by, FEMA:

> [VIHFA's subrecipient] used FEMA funds to fully pay some eligible disaster invoices, including the portion that should have been covered by the non-federal match, while awaiting HUD CDBG-DR funds. In these instances, some of [the subrecipient's] invoices were left 100% unpaid. Once the HUD CDBG-DR funds were received for the invoices previously submitted to FEMA, they were used to fully pay the remaining unpaid invoices. . . . VIHFA and [the subrecipient] recognize that this approach led to a mismatch between how funds were reimbursed and initially applied [24]

VIHFA appears to maintain that this "mismatch" constituted an accounting issue rather than an actual overpayment of HUD funds. HUD OIG determined that certain invoices were overpaid, but because of VIHFA's lack of controls and procedures, OIG could not definitively conclude the extent to which this resulted in overpayments if calculated at the project level. Importantly, however, OIG also cautioned that these practices "raise[] the risk of potential improper payments" that might not be detected until much later, and, in some instances, led to CDBG-DR funds paying more than 10% of the overall project cost.[25]

HUD, moreover, had warned VIHFA as early as 2019 that using CDBG-DR grant funds to pay for the portion of projects reimbursable by FEMA was an impermissible duplication of benefits.[26] The fact that VIHFA was already on notice that this practice was contrary to statute and regulation

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[21] *See* 42 U.S.C. § 5305(a)(9).

[22] CDBG-DR "funds may not be used for activities reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers." Public Law 115-56 (Sept. 8, 2017); Public Law 115-123 (Feb. 9, 2018); *see also* P.L. 116-20 (June 6, 2019); 83 Fed. Reg. 5844, 5865-66 ("As provided by the [Housing and Community Development Act of 1974], funds may be used as a matching requirement, share, or contribution for any other Federal program when used to carry out an eligible CDBG-DR activity. This includes programs or activities administered by the FEMA or USACE. . . . Note that the Appropriations Act prohibits the use of CDBG-DR funds for any activity reimbursable by, or for which funds are also made available by FEMA or USACE.").

[23] *See* Ex. 3 at HUD_VIHFA_0000058, 133-35; Ex. 4 at HUD_VIHFA_0000251, 62; Ex. 5 at HUD_VIHFA_0000413, 19; *See also* 2023 OIG Audit I at 13; Ex. 6 at HUD_VIHFA_0000558-59; Ex. 7 at HUD_VIHFA_0000561-62.

[24] Ex. 8 at HUD_VIHFA_0000570.

[25] 2023 OIG Audit I at 3.

[26] Ex. 9 at HUD_VIHFA_0000575.

yet moved forward with it anyway amplifies concerns regarding its responsibility to participate in federal programs.

8. Evidence suggests that VIHFA failed to timely spend funds, leading to unacceptable delays in providing benefits.

VIHFA has also failed to ensure that the assistance provided by grant funds reached the ultimate intended beneficiaries in a timely manner. Both the appropriations statutes and HUD emphasize the importance of timely expending federal disaster-recovery and mitigation funds to ensure these billions of dollars help those in need, when they most need it. As HUD's 2018 Federal Register Notice explained, the relevant supplemental appropriations act "require[d] that funds provided under the Act be expended within two years of the date that HUD obligates funds to a grantee," unless waived by the Office of Management and Budget; HUD further provided that "each grantee must also expend 100 percent of its allocation of CDBG-DR funds on eligible activities within 6 years of HUD's execution of the initial grant agreement."[27] Additionally, under the supplemental appropriations acts, and as implemented in HUD's Federal Register Notice, HUD may not sign a grant agreement for CDBG-DR or CDBG-MIT funds until the grantee has established to HUD's satisfaction that, among other things, the grantee "has established adequate procedures . . . to ensure timely expenditure of funds."[28] HUD has promulgated a "Financial Management and Grant Compliance Certification" for grantees to submit as part of the process of seeking a grant. VIHFA has accordingly submitted this certification on at least two occasions, assuring HUD that it met the requirements.[29]

To the extent VIHFA actually had these procedures, they were plainly inadequate. As outlined above, after nine years, VIHFA has spent less than a third of the funds intended for disaster-recovery activities under the CDBG-DR program. This failure has, to date, deprived Virgin Islanders of roughly $1.3 billion worth of assistance that Congress intended them to have.

Federal regulations permit suspension based on a "[v]iolation of the terms of a public agreement or transaction so serious as to affect the integrity of a Federal agency program," including the "willful failure to perform in accordance with the terms of one or more public agreements or transactions," a "history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions," or a "willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction." 2 C.F.R. § 180.800. Evidence of VIHFA's mismanagement of these critical disaster-recovery funds by failing to expend them in accordance with its obligations under grant agreements, statutes, and regulations is a basis for suspension under each of these provisions.

[27] 83 Fed. Reg. 5844, 5860, ¶ 28.
[28] 83 Fed. Reg. 5844, 5847, ¶ 1.a.
[29] Ex. 2 at HUD_VIHFA_0000056; Ex. 10 at HUD_VIHFA_0000620.

9. Evidence suggests that VIHFA has made many false certifications claiming a compliance program it does not have, and it may make more false certifications to obtain further grants.

False certifications regarding conflicts of interest

VIHFA certified to HUD at least four times each year that it will "establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain."[30] This certification appears on the Standard Form SF-424 that must be submitted by the recipient of any federal grant. HUD's conflict-of-interest requirements apply to, among others, any "employee, agent, consultant, officer, or elected or appointed official" of VIHFA. 24 C.F.R. § 570.611(c). Yet, as described above, VIHFA has not in fact established these safeguards. These certifications were false, and VIHFA knew they were false when VIHFA submitted them to HUD each time it applied for a federal grant. Further, unless HUD takes action now, VIHFA is likely to submit these same false statements again in the future.

False certifications as to financial controls

Under Public Law 115-56 and subsequent supplemental appropriations acts, and as implemented in HUD's Federal Register Notice, HUD may not sign a grant agreement for CDBG-DR or CDBG-MIT funds until the grantee has established to HUD's satisfaction that, among other things, the grantee "has in place proficient financial controls and procurement processes and has established adequate procedures to prevent any duplication of benefits . . . and to detect and prevent waste, fraud, and abuse of funds."[31] HUD has promulgated a "Financial Management and Grant Compliance Certification" for grantees to submit as part of the process of seeking a grant. VIHFA has accordingly submitted this certification on at least two occasions.[32]

In that certification, VIHFA answered numerous questions about its financial management and oversight policies in the affirmative, representing to HUD that it complied with the statute and HUD's program requirements. Yet, as described above, VIHFA did not in fact have in place effective financial controls or procedures that would prevent duplication of benefits, waste, fraud, and abuse. Instead, as OIG found, VIHFA persistently failed to develop or implement policies and practices to protect its federally funded grant programs from fraud and similar risks. These certifications were false, and VIHFA knew they were false when VIHFA submitted them to HUD. Further, unless HUD takes action now, VIHFA is likely to submit false statements again in the future.

False certifications regarding duplication of benefits

VIHFA submitted, and caused to be submitted, false certifications regarding three vouchers requesting, and receiving, payment from CDBG-DR grant funds. Each voucher included a statement

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[30] Ex. 11, at HUD_VIHFA_0000626, 31, 36, 41; Ex. 12 at HUD_VIHFA_0000647, 52, 57, 62; Ex. 13 at HUD_VIHFA_0000668, 73, 78, 83; Ex. 14 at HUD_VIHFA_0000690, 95, 700, 705; Ex. 15 at HUD_VIHFA_0000710, 15, 20, 25; Ex. 16 at HUD_VIHFA_0000730, 35, 40.
[31] 83 Fed. Reg. 5844, 5847.
[32] Ex. 2 at HUD_VIHFA_0000056; Ex. 10 at HUD_VIHFA_0000620.

from the subrecipient, the Virgin Islands Water and Power Authority (WAPA), certifying, among other representations, that the funds requested do not duplicate reimbursement of costs and services from any other source, the amount requested was for allowable costs, and the amount requested is now due and has not been previously paid.[33] These certifications were false, and VIHFA knew they were false when VIHFA submitted them to HUD. In light of the numerous other failures of accountability described in this Notice and the documents cited above, these false statements further indicate VIHFA's lack of present responsibility.[34]

B. <u>Conclusion</u>

The issues described above and identified over several years of audits, assessments, court cases, reports, and statements and submissions from VIHFA and its former officers and employees demonstrate that VIHFA lacks the required financial management, internal controls, and safeguards against conflicts of interest to responsibly administer HUD grant funds, in violation of applicable regulations and of the terms of its many public agreements with HUD. VIHFA's repeated false statements, actions, and inaction, in the face of blatant fraud and serious red flags, are disqualifying violations of multiple HUD regulations and programmatic requirements and are highly irresponsible.

Immediate action is needed to protect the public interest. Suspension is necessary to protect the integrity of HUD programs while OIG investigates whether VIHFA has committed offenses that are actionable under federal law. The recent OIG Audit revealed that the issues previously identified persist, and VIHFA's years-long failure to responsibly spend the CDBG-DR grant funds it has already been allocated suggests that no improvement is likely. It is not in the public interest to perpetuate the status quo, *i.e.*, to permit VIHFA to continue to receive additional millions of dollars of federal funds when the evidence suggests that VIHFA is not in compliance with HUD requirements and not presently responsible to participate in government programs.

C. <u>Procedures to Contest Suspension</u>

If VIHFA decides to contest this Notice of Suspension (Notice), it may do so by requesting a hearing. Pursuant to 2 C.F.R. § 180.730, the request for a hearing should identify: (1) specific facts that contradict the statements contained in this Notice (a general denial is insufficient to raise a genuine dispute over facts material to the suspension); (2) all existing, proposed, or prior exclusions against VIHFA under regulations implementing Executive Order 12549 and all similar actions taken by federal, state, or local agencies, including administrative agreements that affect only those agencies; (3) all criminal and civil proceedings against VIHFA not included in this Notice that grew out of the facts relevant to the cause(s) stated in this Notice; and 4) all of VIHFA's affiliates as defined in the enclosed regulations at 2 C.F.R. § 180.905. If VIHFA provides false information, HUD may seek further criminal, civil, or administrative action as appropriate.

VIHFA's written hearing request must be submitted within 30 days of receipt of this Notice.

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[33] Ex. 3 at HUD_VIHFA_0000065, 67; Ex. 4 at HUD_VIHFA_0000255, 58; Ex. 5 at HUD_VIHFA_0000421, 23.

[34] To HUD's knowledge, neither VIHFA nor its senior staff (apart from Mr. Richardson) have been charged or convicted of a criminal offense, nor held civilly liable, for these or other false statements. HUD notes, however, that any conviction or civil judgment for fraud, making false statements, or making false claims would constitute an independent basis for debarment under 2 C.F.R. § 180.800(a) and, thus, adequate evidence warranting suspension.

See 2 C.F.R. § 180.725. VIHFA's response **MUST** be in the form of an e-mail directed to the Departmental Enforcement Center, U.S. Department of Housing and Urban Development at the following email address: DEC-Docket@HUD.gov.

If contested, the final decision regarding this immediate suspension will be based upon evidence/information or argument that both VIHFA and the Government may submit in this matter. If VIHFA fails to respond to this Notice within the 30-day period, this suspension will become final agency action.

Sincerely,

Andrew D. Hughes
Deputy Secretary

cc (via e-mail only):
Vanessa Hewitt-Quinland
vquinland@vihfa.gov
Counsel for VIHFA

Enclosures (via electronic transfer only) – Exhibits 1-16