



# Duplication of Benefits (DOB)



# Welcome & Speakers

- Welcome to HUD's webinar series on CDBG-DR basics
  - Webinars will focus on key rules and requirements for managing DR grants
  - Webinars will also share tips & lessons learned
- Speakers:
  - Steve Higginbotham/Makani Drummond, U.S. Department of Housing and Urban Development (HUD)
  - Bonnie Lester, ICF International



# CDBG-DR Webinar Series

- This is the fifth in a series of webinars about CDBG-DR for CDBG-NDR grantees and CDBG-DR grantees
  - Specific guidance on NDR will not be covered in these webinars
- The next webinar is Environmental Review on April 21, 2016 at 2pm eastern



# Polling and Asking Questions

- Webinar will include some polls & brief opportunities to practice
  - If you are attending as a group, feel free to briefly discuss before answering
- How to ask questions
  - Questions will be taken throughout webinar
  - Written questions: Type questions into the “Questions” box located on your GoToWebinar panel

# Agenda

- Overview
- Primary Framework – FR-5582-N-01
- OMB Cost Principles: Assistance Must be Necessary and Reasonable
- What does HUD look for when monitoring for DOB?
- Practical Considerations
- DOB Sample Calculations
- Questions and Resources

# Overview



# Foundation of Duplication of Benefits

- **Stafford Act**
  - No entity will receive duplicative assistance from another source
- **OMB Cost Principles**
  - All costs will be necessary and reasonable
- **Federal Register Notice FR-5582-N-01**
  - Guidance specific to all CDBG disaster recovery grants

# What is a DOB?

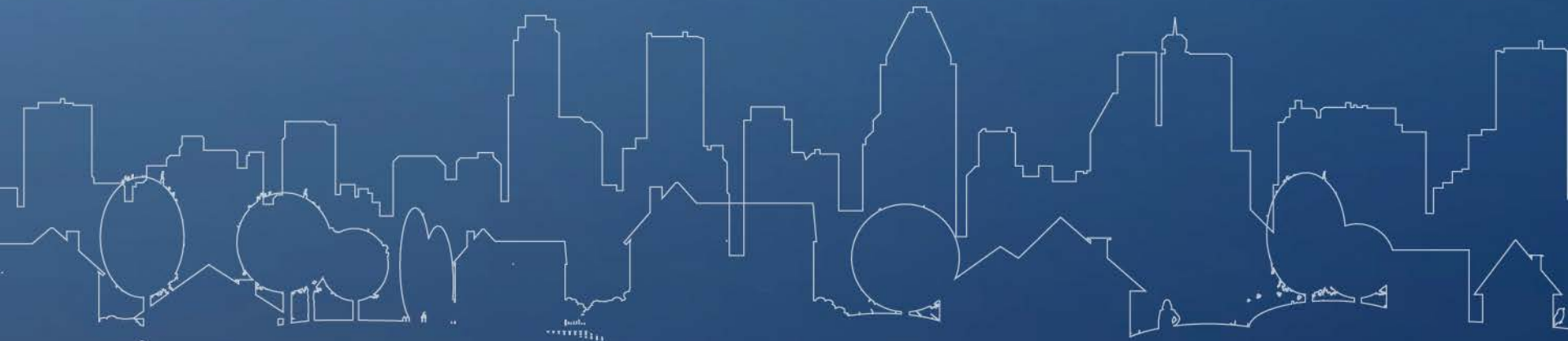
- Recovery assistance may be provided by many sources
- A duplication of benefits (DOB) occurs when:
  - Assistance from multiple sources *and*
  - Total Assistance > Need for that Type Assistance
- Responsible use of taxpayer \$\$
- Courts have said that governments are also subject to DOB requirements



# Poll #1

- How many attendees have reviewed:
  - More than 50 DOB calculations
  - Between 1 and 50 DOB calculations
  - Have never seen this before

# Primary Framework for CDBG- DR DOB analysis – 2011 DOB Federal Register Notice



# DOB Federal Register Notice

- Designed to outline the DOB process:
  - A. Determine need & duplicative benefits
  - B. Calculate award
  - C. Address remaining unmet need (if applicable)
  - D. Use of CDBG-DR funds
  - E. Recapture (if applicable)

# A. Determine Need & Duplicative Benefits

## 1. Assess need.....

Ex. How much will it cost to rehabilitate the damaged home, assist the business that suffered economic damage or repair needed infrastructure?

The CDBG-DR need may differ from an amount identified by another agency.



# A. Determine Need & Duplicative Benefits— recap

## 2. Identify all available assistance.....

Calculate total assistance available to cover the damage e.g., insurance proceeds, FEMA award, SBA loans, other Federal, State or Local sources, private loan, line of credit, etc.

# A. Determine Need & Duplicative Benefits— recap

## 3. Exclude non-duplicative funds.....

The Notice provides a list of exclusions that will not reduce the CDBG-DR award

- Funds for a different purpose or general, non-specific purpose
- Funds for same purpose, different (eligible) use
- Funds not *available*
- Private loans
- Other assets or lines of credit

# B. Calculate Award

- Assistance not excluded is duplicative. Subtract all assistance found to be duplicative from identified need; reduce award if program cap in place
- Basic framework:

1. Identify beneficiary's Total Need	\$ 100,000
2. Total All Assistance Received	\$ 35,000
3. Total Assistance Determined to be Duplicative	\$ 30,000
4. Maximum Eligible Award (Item 1 less Item 3)	\$ 70,000
5. Program Cap (if applicable)	\$ 50,000
6. Final Award (lesser of Items 4 and 5)	\$ 50,000

# C. Unmet Needs

- Disaster recovery needs are calculated at a point in time; a subsequent change may affect need
  - E.g., vandalism, contractor fraud, an increase in the cost of materials and/or labor, subsequent damage, etc.
- May provide additional assistance if initial need not fully met
  - Unmet need can be identified during the CDBG-DR award process or after funds have been provided.
- Discretion to determine ways to identify and verify unmet need; physical inspection/professional appraisals are highly recommended



## D. Use of CDBG-DR Funds

- Funds must be used for eligible purposes of the program or activity for which they have been provided
  - The purpose of the award is the DOB determining factor
- In general, CDBG disaster recovery funds should not be used to pay down an SBA loan
  - Possibly some exceptions; HUD headquarters will evaluate on a case-by-case basis

# E. Recapture

- CDBG-DR grantees that provide duplicative funds are responsible for recapture
- Grantee's DOB policies and procedures need to address recapture
- A subrogation agreement or similar agreement must be signed by every beneficiary prior to the receipt of assistance
- Risk of DOB may inform policy regarding monitoring for DOB after CDBG-DR award
  - Ex. If future assistance is nearly certain but amount is uncertain, higher risk of DOB

# OMB Cost Principles: Assistance Must be Necessary and Reasonable

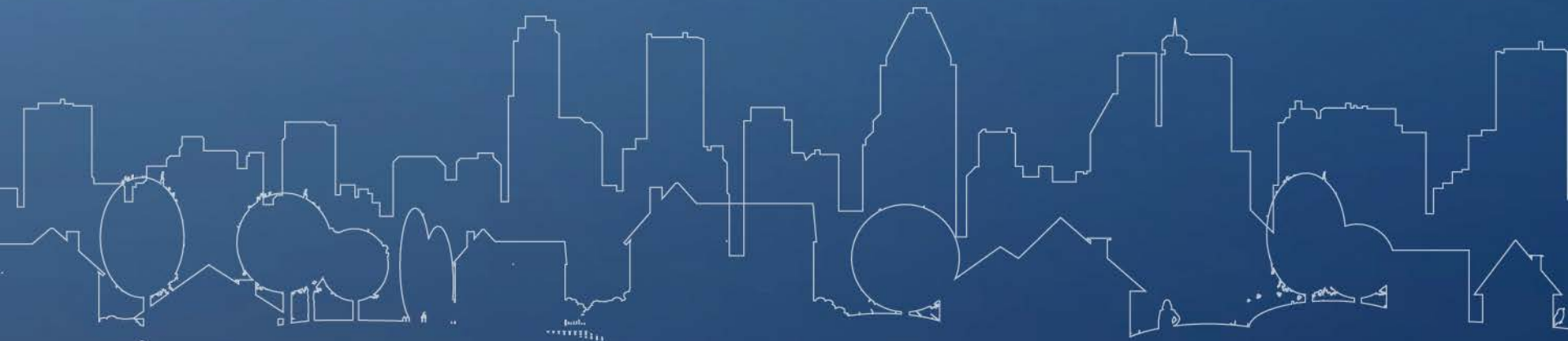
# OMB Cost Principles – Necessary and Reasonable

- OMB Cost Principles
  - Necessary – a cost is necessary if it is for an eligible CDBG-DR activity and meets the standards of the program
    - Funds should not be used to pay down or pay off an SBA home or business loan
  - Reasonable – a cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made
    - Other factors related to the reasonableness of the cost are described in 2 CFR part 200

# Treatment of Declined SBA Loans

- SBA loans are considered one of the Federal Government's primary forms of disaster assistance
- Grantees must have policies and procedures to guide assistance that replaces the amount of beneficiary declined SBA loans:
  - Identify the circumstances under which the beneficiary declined the SBA assistance;
  - Establish why CDBG DR assistance is appropriate for the beneficiary; and
  - Determine, most commonly through underwriting, the amount of CDBG DR assistance that is necessary and reasonable to assist the beneficiary in achieving recovery.

# What does HUD look for when monitoring for DOB?



# Monitoring for DOB

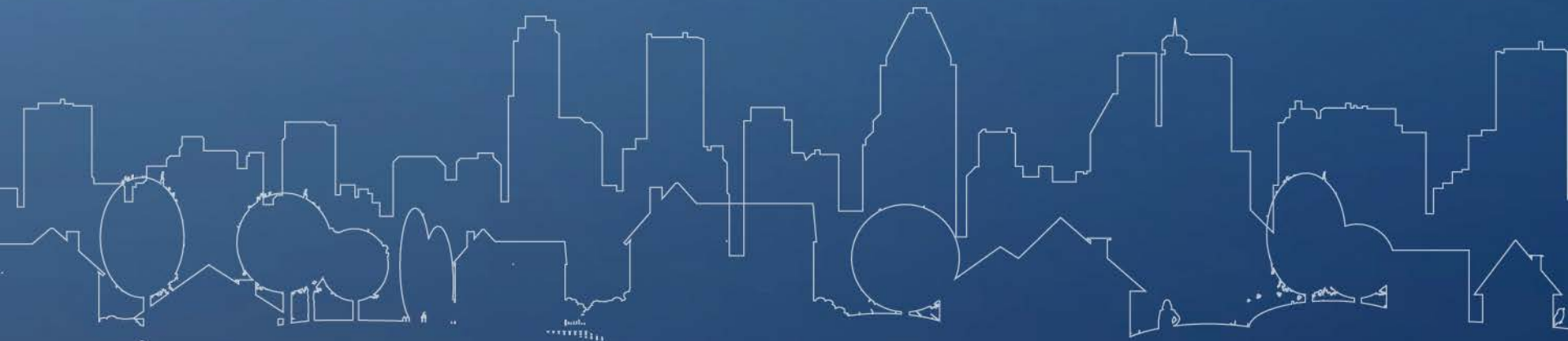
- HUD may ask grantee to walk through its DOB analysis
- Policies and procedures, data sharing with SBA, NFIP and FEMA
- Review individual files for:
  - Identification of CDBG-DR need
  - Identification of sources of assistance
  - Verification of sources of assistance
  - Calculation of CDBG-DR award
  - Subrogation agreement (or similar agreement)
  - Treatment of SBA declined loans

# Monitoring for DOB

- The DOB file should also include:
  - Policy to address recapture;
  - A process to enforce recapture; and
  - A subrogation agreement to be signed by beneficiary prior to receipt of assistance.



# Practical Considerations



# Tips to Avoid Duplications

- **Program Design**
  - Multiple funds may cause a duplication of benefits
  - Isolate funds for activities that may not overlap
  - Communicate with funders
- **Planning**
  - Stagger activities
  - Data sharing agreements
  - Subrogation agreements

# Best Practices Checklist

- Adopt DOB policies and procedures
- Provide Technical Assistance for subrecipients and contractors
- Know which sources to document in the application
- Identify type of documentation required for all sources of funds received

# Reimbursement vs. Non-reimbursement

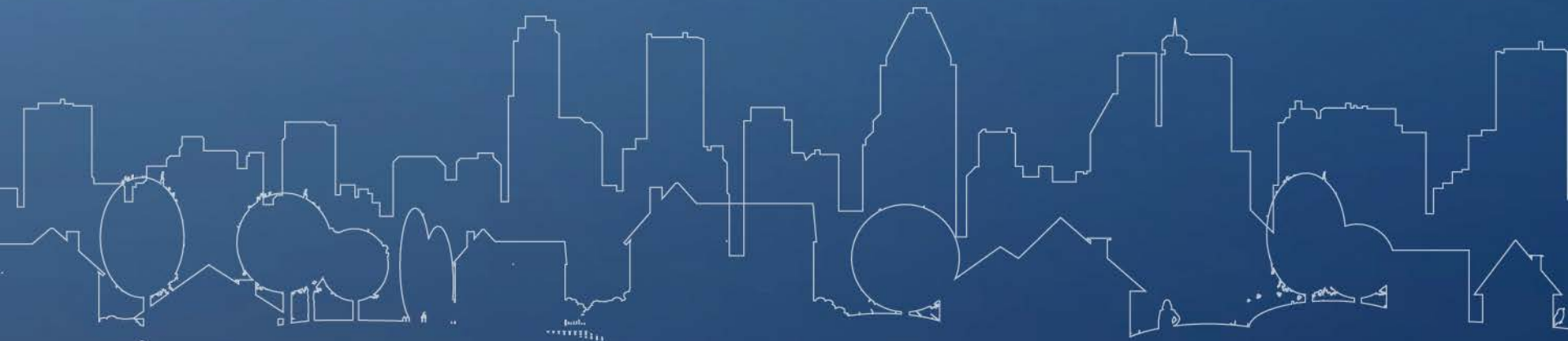
- HUD permitted Public Law 113-2 grantees to reimburse beneficiaries for some pre-application costs
  - Notice CPD-15-07: Guidance for Charging Pre-Application Costs of Homeowners, Businesses, and Other Qualifying Entities to CDBG Disaster Recovery Grants, as may be amended
- If reimbursement is not permitted, grantee assesses need at the time of award

# What happens when DOB is found?

- Steps to take when potential DOB is identified
  - Re-evaluate need and document remaining DOB
  - Check documentation in file (re-evaluation of need, ensure all agreements in place, etc.)
  - Letter to beneficiary requesting reimbursement
  - Debt collection procedures
  - Collected amounts are CDBG-DR funds

# DOB Sample Calculation

## #1



# DOB - Scenario 1

- Mr. and Mrs. Jones have applied to your Homeowner Rehabilitation Program
  - Damage at the time of the storm was estimated to be \$115,000
  - Mr. & Mrs. started repairs immediately and some work has been completed
  - Program inspector estimated the remaining cost to repair is \$85,000
- The Joneses paid for the repairs using:
  - FEMA - \$15,000
  - Personal Savings - \$10,000
  - Bank Loan \$5,000

# DOB – Scenario 1

- The following available sources were identified:
  - Red Cross - \$2,500 for personal items
  - FEMA - \$10,000 for temporary housing
  - FEMA - \$20,00 for repairs
  - Insurance - \$40,000 used to pay off 1<sup>st</sup> mortgage
  - SBA loan \$15,000
  - Bank Loan \$5,000
  - Personal Savings \$30,000
- Calculate the DOB – assume reimbursement allowed



# DOB - Scenario 1

## Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$
2. Identify All Assistance Provided	\$
3. Deduct Assistance Determined to be Duplicative	\$
4. Maximum Eligible Award (Item 1 less Item 3)	\$
5. Program Cap (if applicable)	\$
6. Final Award (lesser of Items 5 and 6)	\$

# DOB – Scenario 1

- Step 1 to calculate the DOB and award amount
  - Assess the need – identified in application:
    - Time of storm - \$115,000
    - Time of application - \$85,000
  - The program assumes it reimburses for eligible costs incurred prior to application
  - The Joneses stopped repair work when they applied for the CDBG-DR funds

# DOB - Scenario 1

## Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$115,000
2. Identify All Assistance Provided	
3. Deduct Assistance Determined to be Duplicative	
4. Maximum Eligible Award (Item 1 less Item 3)	
5. Program Cap (if applicable)	
6. Final Award (lesser of Items 5 and 6)	

# DOB – Scenario 1

- Step 2 to calculate the DOB and award amount, cont.
  - Identify all assistance available
    - Red Cross - \$2,500 for personal items
    - FEMA - \$10,000 for temporary housing
    - FEMA - \$20,00 for repairs
    - Insurance - \$40,000 used to pay off 1<sup>st</sup> mortgage
    - SBA loan \$15,000
    - Bank Loan \$5,000
    - Personal Savings \$30,000
    - TOTAL - \$122,500

# DOB - Scenario 1

## Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$115,000
2. Identify All Assistance Provided	\$122,500
3. Deduct Assistance Determined to be Duplicative	
4. Maximum Eligible Award (Item 1 less Item 3)	
5. Program Cap (if applicable)	
6. Final Award (lesser of Items 5 and 6)	

# DOB – Scenario 1

- Step 3 to calculate the DOB and award amount, cont.
  - Deduct the amount of duplicative assistance – the amount of assistance less:
    - a) Funds for a different purpose or general, non-specific purpose
    - b) Funds for same purpose, different (eligible) use
    - c) Funds not *available*
    - d) Private loans
    - e) Other assets or lines of credit

# DOB – Scenario 1

- Step 3 to calculate the DOB and award amount, cont.
  - The Joneses had excludable amounts of:
    - a) Funds for a different purpose or general, non-specific purpose - \$2,500 from Red Cross
    - b) Funds for same purpose, different(eligible) use - \$10,000 FEMA funds for temporary housing
    - c) Funds not available – \$40,000 insurance used to pay down mortgage
    - d) Private loans - \$5,000 bank loan
    - e) Other assets or lines of credit - \$30,000 Savings
  - Total excludable amounts = \$87,500
  - Duplicative amount is  $\$122,500 - 87,500 = \$35,000$

# DOB - Scenario 1

## Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$115,000
2. Identify All Assistance Provided	\$122,500
3. Deduct Assistance Determined to be Duplicative	\$ 35,000
4. Maximum Eligible Award	
5. Program Cap (if applicable)	
6. Final Award (lesser of Items 5 and 6)	



# DOB – Scenario 1

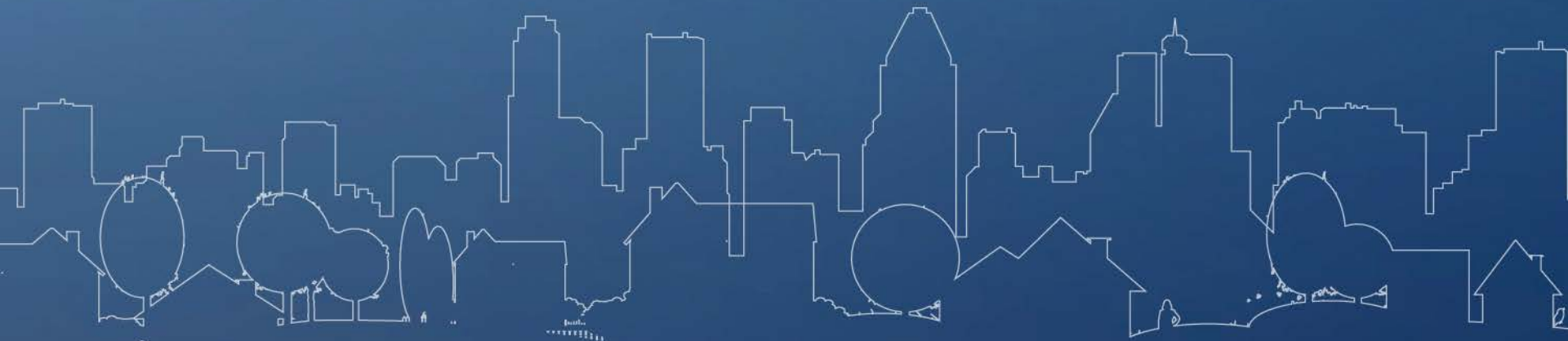
- Remaining steps to calculate the DOB and award amount, cont.
  - Calculate the maximum award (unmet need)
  - Compare maximum award with any cap on the award amount
  - Determine the final CDBG-DR award amount

# DOB - Scenario 1

## Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$115,000
2. Identify All Assistance Provided	\$122,500
3. Deduct Assistance Determined to be Duplicative	\$ 35,000
4. Maximum Eligible Award	\$ 80,000
5. Program Cap (if applicable)	\$ 90,000
6. Final Award (lesser of Items 5 and 6)	\$ 80,000

# DOB Sample Calculation #2



# DOB – Scenario 2

- The City of Ocean View has applied for a CDBG-DR grant to rebuild its water treatment plant damaged in the flood
  - The estimated cost to repair at the time of the flood was \$1,500,000
  - The program inspector determined that the remaining cost to repair the damage is \$1,100,000
- The City used the following to pay for the repairs
  - FEMA \$20,000
  - EPA \$150,000
  - Local Gov't Funds \$5,000
  - Insurance \$125,000
  - Line of Credit \$100,000



# DOB – Scenario 2

- The City identified the following sources:
  - FEMA - \$50,000 repair – (\$30,000 for repairs and \$20,000 for debris removal to remove downed trees)
  - Local Government - \$5,000 FEMA Match
  - EPA - \$300,000 – (\$150,000 for repairs and \$150,000 for water testing)
  - Insurance - \$445,000 – (\$405,000 for repairs and \$40,000 to replace contents)
  - Line of Credit - \$100,000
- Calculate the DOB – assume reimbursement allowed

# DOB - Scenario 2

## Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	
2. Identify All Assistance Provided	
3. Deduct Assistance Determined to be Duplicative	
4. Maximum Eligible Award (Item 1 less Item 3)	
5. Program Cap (if applicable)	
6. Final Award (lesser of Items 5 and 6)	

# DOB – Scenario 2

- Step 1 to calculate the DOB and award amount
  - Assess the need – identified in application:
    - Time of storm - \$1,500,000
    - Time of application - \$1,100,000
  - The program assumes it reimburses for eligible costs incurred prior to application
  - Ocean View stopped repair work when they applied for the CDBG-DR funds

# DOB - Scenario 2

- **Basic Reimbursement framework:**

1. Identify beneficiary's Total Need Prior to Any Assistance	\$1,500,000
2. Identify All Assistance Provided	
3. Deduct Assistance Determined to be Duplicative	
4. Maximum Eligible Award (Item 1 less Item 3)	
5. Program Cap (if applicable)	
6. Final Award (lesser of Items 5 and 6)	





# DOB – Scenario 2

- Step 2 to calculate the DOB and award amount, cont.
  - Identify all assistance available
    - FEMA - \$50,000
    - Local Government - \$5,000
    - EPA - \$300,000
    - Insurance \$445,000
    - Line of Credit - \$100,000
    - TOTAL - \$900,000

# DOB - Scenario 2

- Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$1,500,000
2. Identify All Assistance Provided	\$ 900,000
3. Deduct Assistance Determined to be Duplicative	
4. Maximum Eligible Award (Item 1 less Item 3)	
5. Program Cap (if applicable)	
6. Final Award (lesser of Items 5 and 6)	

# DOB – Scenario 2

- Step 3 to calculate the DOB and award amount, cont.
  - Deduct the amount of duplicative assistance – the total amount of assistance less:
    - a) Funds for a different purpose or general, non-specific purpose
    - b) Funds for same purpose, different (eligible) use
    - c) Funds not *available*
    - d) Private loans
    - e) Other assets or lines of credit

# DOB – Scenario 2

- Step 3 to calculate the DOB and award amount, cont.
  - Ocean View had excludable amounts of:
    - a) Funds for a different purpose or general, non-specific purpose - \$150,000 from EPA for water testing and \$40,000 insurance to cover content
    - b) Funds for same purpose, different (eligible) use - \$20,000 FEMA for removal of trees from the site
    - c) Funds not available – N/A
    - d) Private loans – N/A
    - e) Other assets or lines of credit - \$100,000 Line of Credit
  - Total excludable amounts = \$310,000
  - Duplicative amount is \$900,000 – 310,000 = \$590,000

# DOB - Scenario 2

- Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$1,500,000
2. Identify All Assistance Provided	\$ 900,000
3. Deduct Assistance Determined to be Duplicative	\$ 590,000
4. Maximum Eligible Award (Line 1 – Line 3)	
5. Program Cap (if applicable)	
6. Final Award (lesser of Items 5 and 6)	

# DOB – Scenario 2

- Remaining steps to calculate the DOB and award amount, cont.
  - Calculate the maximum award (unmet need)
  - Compare maximum award with any cap on the award amount
  - Determine the final CDBG-DR award amount

# DOB - Scenario 2

## Basic Reimbursement framework:

1. Identify beneficiary's Total Need Prior to Any Assistance	\$1,500,000
2. Identify All Assistance Provided	\$ 900,000
3. Deduct Assistance Determined to be Duplicative	\$ 590,000
4. Maximum Eligible Award (Line 1 – Line 3)	\$ 910,000
5. Program Cap (if applicable)	\$1,000,000
6. Final Award (lesser of Items 5 and 6)	\$ 910,000

# DOB Example - declined SBA loan

- Assistance to an individual:
  - Mr. Brown's home was damaged by a tornado
  - Estimated cost to repair and elevate is \$150,000.
  - Mr. Brown receives a total of \$120,000 from FEMA and insurance, but declined a \$30,000 SBA loan offer



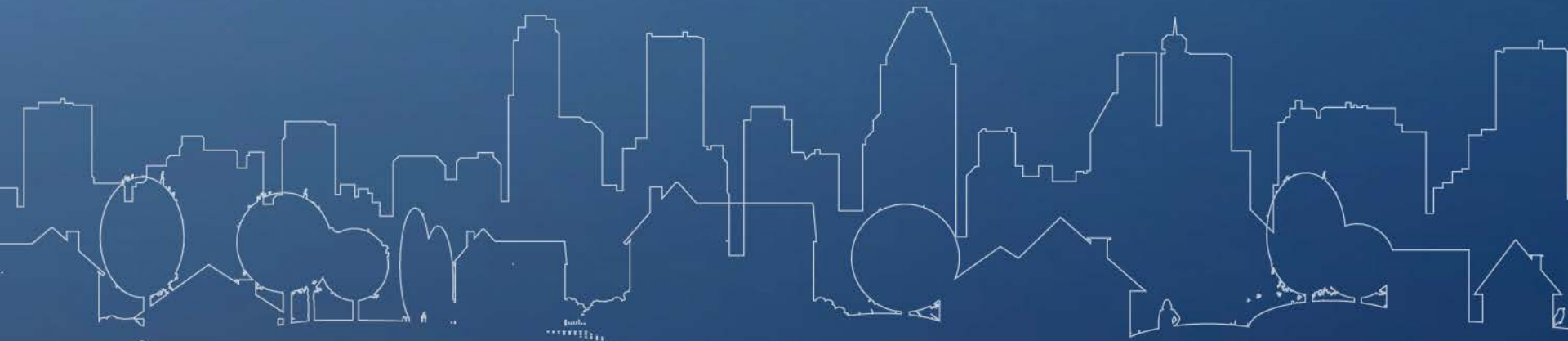
# Poll #2

- Can Mr. Brown receive CDBG-DR?
  - Yes
  - No

# Answer to Poll #2

- It depends
  - Yes, if the reason is one included in your policy i.e. the total of Mr. Brown's 1<sup>st</sup> mortgage payment plus the payment on the SBA loan exceed 40% of his monthly income - eligible to receive \$30,000
  - No, if Mr. Brown decided to decline the SBA loan for a reason not included in your policies such as an underwriting criteria as above. For example Mr. Brown has no mortgage on his home and the SBA loan payment is 20% of his monthly income – eligible for \$0

# Questions and Resources



# Resources

- Upcoming webinars in this series:  
<https://www.hudexchange.info/news/2016-cdbg-dr-webinar-series/>
- CDBG-DR Website at HUD Exchange:  
<https://www.hudexchange.info/programs/cdbg-dr/>
- Relevant public laws  
<https://www.hudexchange.info/cdbg-dr/cdbg-dr-laws-regulations-and-federal-register-notices/>
- Duplication of benefits notice  
<https://www.hudexchange.info/resource/2083/duplication-benefits-requirements-stafford-act-cdbg-dr/>
- Duplication of benefits guidance  
<https://www.hudexchange.info/resource/3137/cdbg-dr-duplication-of-benefit-requirements-and-provision-of-assistance-with-sba-funds/>

# Thank you!

