

Duplication of Benefits Overview

- After this session, you should be able to:
 - Define duplication of benefits (DOB)
 - Identify sources of DOB Regulations
 - Identify what qualifies as DOB
 - Explain the DOB Process/Framework
- This training is tailored towards CDBG-DR grantees, particularly those covered under Consolidate Notice awards



→ Session Objectives

Sources of DOB Regulations

Within the CDBG-DR program, all grantees are bound by general requirements in providing help to cities, counties, and states in recovering from presidentially declared disasters.

- [Robert T. Stafford Disaster Relief and Emergency Assistance Act](#) (Stafford Act)
- [FRN – June 2019 DOB Notice](#)
- [FRN – June 2019 DOB Implementation Notice](#)
- [Disaster Recovery Tools and Templates Library \(HUD Exchange\) - Duplication of Benefits](#)
- [Office of Management/Business Cost Principles \(OMB\) \(24 CFR part 570 and 2 CFR 200, subpart E\)](#)
- [Disaster Recovery Reform Act of 2018 \(DRRA\)](#)

Overview of DOB

- **Defined by the Stafford Act Section 312 (42 U.S.C. 5155)**
- Prohibits person, business, or entity from receiving financial assistance from multiple sources for the same purpose.
- DOB happens when assistance is received for the **same purpose** but funds were not spent for that purpose.
- Grantees must ensure that there is an unmet need in cases where applicants have received previous assistance (or future assistance) for repairs, replacement, and/or reconstruction.
- Another way of thinking about DOB is: **There is a DOB when total assistance exceeds total need**



DOB Calculation Framework

Prior to committing funds or awarding assistance, the Program must determine if the Applicant has a DOB.

This process consists of 5 main steps:



Reassess Unmet Need When Necessary

Systems for Duplication of Benefits

- Duplication of Benefits Policy
- Data Sources
- Staff Trained on Policy and Calculation
- Audit/QC Component

General Policies and Procedures for DOB

- Requirements that any person or entity receiving assistance (including subrecipients/direct beneficiaries) must agree to repay assistance that is determined to be duplicative.
- This should be something clearly documented in the file and discussed as part of the intake and throughout the lifecycle of the project.
- **TIP:** In a contractor solicitation, ensure the vendor uses the same key terms and definitions HUD uses for calculating Duplication of Benefits

Common Sources of Duplicative Assistance

Federal Emergency
Management Agency
(FEMA)

Small Business
Administration (SBA)

Private Insurance
(Allstate, State Farm,
Lloyds, etc.)

Private/nonprofit
organizations or
donations (Catholic
Charities, Red Cross,
Salvation Army, etc.)

Other state, local, or
federal programs

Particular grant
opportunities through
your state

State CDBG-DR
grantees, for local
CDBG-DR grantees

- **Private funds or personal loans are *not* considered duplicative assistance, but subsidized loans *are* considered duplicative assistance**

Where do we get Data from?

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FEMA Data
Sharing
Agreements

A graphic consisting of a solid green rounded rectangle in the background and a white rounded rectangle with a green border in the foreground. The text is centered within the white rectangle.

SBA Data
Sharing
Agreements

A graphic consisting of a solid green rounded rectangle in the background and a white rounded rectangle with a green border in the foreground. The text is centered within the white rectangle.

Local Data
Sharing
Agreements

Data Collection

- Use the best, most recent available data from FEMA, the Small Business Administration (SBA), insurers, and any other sources of local, State and Federal sources of funding to prevent DOB prior to an award of CDBG-DR assistance.
- Apply the Necessary and Reasonable cost principles and Audit Requirements for Federal Awards in subpart E of 2 CFR 200.

SBA

Loan amounts that were cancelled or revoked **are not considered duplicative**, including both full and partial cancellations or revocations by both the applicant and by SBA.

Declined: Loan amounts that were approved and offered, but were turned down by the Applicant, and the Applicant never signed loan documents to receive the proceeds

Cancelled: Loans (or portions of loans) that were initially accepted, but not disbursed and are no longer available to the Applicant

Identify Total Assistance

- The Program will review and verify assistance received for the same purpose
- The combined totals from each source equals the **Total Assistance**.

Example:

Insurance Received		\$100,000
FEMA Assistance Received		\$ 0
SBA Assistance Received		\$ 20,000
Other Sources of Assistance	+	<u>\$ 0</u>
Total		\$120,000



The Total Assistance is \$120,000.

Excluded Non-Duplicative Amounts

- The program will exclude amounts that are
 - ☐ Excluded for a different purpose
 - ☐ Provided for the same purpose (eligible activity), but for a different allowable use

Funds Provided for the Same Purpose, Different Allowable Use

- Assistance provided **for the same purpose** as the CDBG-DR purpose must be excluded when calculating the amount of the DOB **IF** the Applicant can **document** that actual specific use of the assistance was an allowable use of that assistance and was different than the use of the CDBG-DR assistance.
- **Example:** Funds received for rehabilitation of the home but used to remove a damaged tree that fell on the home.

Assess Applicant Need



- CDBG-DR program can only assist Applicants with remaining unmet repair, replacement and reconstruction needs.
- To ensure that funds are allocated appropriately, the Program must first inspect the property to confirm any remaining repair needs and to determine the extent of the repair/reconstruction/mitigation work needed.

Identify Total Available Assistance



- Applicants must disclose all financial disaster assistance that is received, committed to or anticipated by the applicant.
- The Program, prior to issuing the grant award will use the best, most recent available data from FEMA, the Small Business Administration (SBA), insurers, and any other sources of local, state, and Federal sources of funding to prevent the duplication of benefits.

Verification of Qualified/Eligible Expenses

- Applicants will submit proof of the expenses incurred. (contracts, receipts, invoices, etc.)
- The Program will review these documents for validity and determine if they are eligible expenses to offset the funds received from other sources.
- The repairs will be reviewed by a qualified staff person.

Potential Eligible Expenses

Structural

- Reconstruction / Repair / Rehab (Construction)
- Energy Efficiency
- Site Work - Not including Home

Non-Structural

- Contractor Fraud
- Forced Mortgage Payoff
- Temporary Housing

Forced Mortgage Payoff Offset

- **A forced mortgage payoff occurs** **when** homeowners with an outstanding mortgage balance are required, under the terms of their loan agreement, to repay the balance of their Mortgage loan before using insurance proceeds to rehabilitate or reconstruct their homes.
- **Applicants should provide:**
 - A letter, acceleration clause, or other similar documentation from the lender that specifies the Applicant had no control over the decision for the insurance proceeds to be used for the repayment of the outstanding mortgage balance.

Contractor Fraud Offset


- Applicants who have filed a civil or legal complaint of contract fraud may be considered for a DOB reduction.
- Applicants must provide evidence of:
 - Payment(s) made to the contractor/builder demonstrating the attempt to properly use reconstruction/ rehabilitation/ replacement proceeds
 - Proof that the work was not completed
 - Photos showing the current condition of the home
 - Current estimate of recon/rehab/replacement from a new contractor
 - Evidence the proper authorities have been notified of the accused contractor/builder
 - Filed fraud report with attorney general's office
 - Police report
 - Filed complain with the appropriate county/state departments
 - For in process suits, the Applicant must provide applicable information for the Program to validate

Monitor Compliance and Reassess DOB


- The Program will reassess unmet need when necessary.
- Disaster recovery needs are calculated at points in time and therefore any subsequent change in an Applicant's circumstances may affect the Applicant's remaining unmet need.
- Unmet need may not become apparent until after CDBG-DR assistance has been provided:
 - A Subsequent disaster causes further damage to a partially rehabilitated home.
 - An increase in the cost of construction materials.
 - Vandalism
 - Contractor fraud
 - Forced Mortgage payoffs and/or refunds
 - Settlements from pursuing insurance claims, litigation and class action suits.
 - Theft of materials

Subrogation Agreement

The Stafford Act requires that Applicants must agree to repay all duplicative assistance received later for the same purpose for which CDBG-DR funds were provided.



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.



To address any potential DOB, the Subrogation Agreement, or similar document, must be signed by the Applicant before the Program disburses any CDBG-DR assistance to that Applicant.

Recapture of Funds

- If a potential DOB is discovered after CDBG-DR assistance has been provided, the Program will reassess the Applicant's need at that time.
- If additional need is not demonstrated, the CDBG-DR funds will be recaptured in the amount that exceed the remaining need and duplicate other assistance received by the Applicant for the same purpose.

DOB Policy Requirements

- Grantee must have policies and procedures to prevent DOB
- Ensure CDBG-DR awards are necessary and reasonable and
- Monitor compliance
- Identify when DOB is calculated and reassessed
- Recapture Funds if a DOB occurs

Policy Considerations and Common Errors

- Tiered approach to verification of DOB
- No clear guidance within policy around re-assessing
- Not properly documenting a file around the circumstances of the DOB action
- Lack of MOUs for Data Sharing Agreements outside of the standard agreements

What does HUD Expect to See

- Recapture polices and procedures
- Subrogation agreement
- CDBG-DR Award Calculation
- Verification of SBA, FEMA, Insurance, and other sources of assistance
- Identification of the applicants CDBG-DR need
- Description/definition of DOB (likely in the application)

Example of What in a SF Rehab File on DOB

- Proposed Activity: Rehab for SF home damaged by Hurricane
- Applicant Intake with signed acknowledgement of DOB policy requirements, fraud policy, recapture policy and acknowledgement
- Documentation of verification of DOB
- Calculation
- Signed off by the applicant: showing that they agree and or understand how the DOB was derived
- Memos, Notes and Re-assessments

DOB for Infrastructure

- Similar assessment of that of housing
- Assess Need
- Determine what sources of funding were available for infrastructure projects
- Order of Assistance
- CDBG-DR funds may not be used for activities reimbursable by or for which funds are available through FEMA/Army Corps. (Order of assistance)

Key Takeaways



Under CDBG-DR there are Federal and State regulations that dictate and govern Duplication of Benefits.



A DOB Analysis must be completed for EVERY applicant who is eligible to participate in CDBG-DR program



Primary Sources of DOB are FEMA, SBA, NFIP, Insurance, State Programs, and Non-Profits.

Key Takeaways

- Applicant must disclose ALL funding previously received and/or anticipated funding and expenses incurred when they submit their application to the program.
- The Program will exclude assistance amounts from the Potential DOB Amount that are different purpose or for the same purpose (eligible activity) but for a different allowable use.
- If there are any discrepancies between the Applicant's invoices and receipts and the Program's WIP amount, the lesser of the two is applied to the DOB.



Key Takeaways

- Unmet need will be reassessed whenever necessary.
- Stafford Act requires all applicants to sign an agreement to recapture funds if they are duplicative.
- If a DOB is found to be duplicative after project completion, The Program will reassess unmet need and recapture duplicative funding.

Other Process Considerations

- QC of the DOB at multiple stages

Resources

- [DOB Analysis Worksheet](#)
- [Duplication of Benefits \(DOB\) Analysis Worksheet Overview Webinar](#)
- [CDBG-DR Policy Bulletin: Guidance on the 2019 Duplication of Benefits Notice](#)
- [June 2019 Duplication of Benefits Notice](#)
- [June 2019 Duplication of Benefits Implementation Notice](#)
- [November 2011 Duplication of Benefits Notice](#)

Duplication of Benefits Worksheet

Step 1: Assessing the Applicant's Total Need	Response
<p>What is the applicant's total need? Please list the total need in the space provided to the right.</p> <p><i>Grantees are encouraged to determine the applicant's total need and complete this worksheet at the point in time in which the grantee awards CDBG-DR funds to the applicant as the applicant's total need (e.g., construction cost estimates) can change over time.</i></p> <p>NOTE: If a grantee's approved CDBG-DR Action Plan permits reimbursement to beneficiaries, eligible costs of the CDBG-DR activity paid by the applicant should be calculated and awarded separately before calculating the total need for housing rehabilitation or reconstruction. For example, an applicant has incurred \$5,000 of eligible rehabilitation expenses. In addition, the applicant has \$130,000 of remaining need based on current construction cost estimates to finish rehabilitating the home. In this case, the applicant is eligible to receive a CDBG-DR reimbursement award of \$5,000, and the grantee must follow the DOB framework to calculate the CDBG-DR award for the remaining rehabilitation needs.</p>	\$ _____

Step 2: Identifying Total Assistance Available	Response
<p>1. Is insurance available to the applicant but not awarded (e.g., applicant is insured but has not submitted a claim, or insurer and applicant are in a dispute over the claim)? If the answer to this question is yes, complete the sub-question below. If the applicant received insurance proceeds, select "N/A" and continue to the next question.</p>	<div><input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/></div> <div>Yes No N/A</div>
<p>a. If known, list how much insurance is available to the applicant in the space provided to the right.</p>	\$ _____

- [DOB Analysis Worksheet](#)
- Optional – But Really Good

DOB Calculations

Step 1: Assess Total Need

Step 1: Assessing the Applicant's Total Need	Response
<p>What is the applicant's <u>total need</u>? Please list the total need in the space provided to the right.</p> <p><i>Grantees are encouraged to determine the applicant's total need and complete this worksheet at the point in time in which the grantee awards CDBG-DR funds to the applicant as the applicant's total need (e.g., construction cost estimates) can change over time.</i></p> <p><u>NOTE:</u> If a grantee's approved CDBG-DR Action Plan permits reimbursement to beneficiaries, eligible costs of the CDBG-DR activity paid by the applicant should be calculated and awarded separately before calculating the total need for housing rehabilitation or reconstruction. For example, an applicant has incurred \$5,000 of eligible rehabilitation expenses. In addition, the applicant has \$130,000 of remaining need based on current construction cost estimates to finish rehabilitating the home. In this case, the applicant is eligible to receive a CDBG-DR reimbursement award of \$5,000, and the grantee must follow the DOB framework to calculate the CDBG-DR award for the remaining rehabilitation needs.</p>	<p>\$ <input type="text"/></p>

Step 1: Total Need

- \$20,000 initial estimate of rehab of SF home + additional \$10,000 newly discovered damage
- Total Need: \$30,000

Step 2: Identifying Total Assistance Available

Step 2: Identifying Total Assistance Available	Response
1. Is insurance available to the applicant but not awarded (e.g., applicant is insured but has not submitted a claim, or insurer and applicant are in a dispute over the claim)? If the answer to this question is yes, complete the sub-question below. If the applicant received insurance proceeds, select “N/A” and continue to the next question.	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A
a. If known, list how much insurance is available to the applicant in the space provided to the right.	\$ _____
2. Did the applicant receive insurance proceeds? If yes, answer the sub-questions below. If the applicant did not receive insurance proceeds, select “no” and continue to the next question.	<input type="checkbox"/> <input type="checkbox"/> Yes No
a. How much insurance is provided? List the amount of insurance in the space provided to the right.	\$ _____
b. What was the purpose(s) of the insurance? List the purpose(s) and the amount provided for each purpose below (e.g., structure, contents, temporary housing).	
3. Did the applicant receive FEMA funds or are FEMA funds available? If yes, answer the sub-questions below:	<input type="checkbox"/> <input type="checkbox"/> Yes No
a. How much financial assistance is provided or available? List the amount of financial assistance in the space provided to the right.	\$ _____

Step 2 (continued)

<p>▪ What was the <u>purpose(s)</u> of the loan? List the purpose(s) and the amount provided for each purpose below.</p>	
<p>d. For disasters 2015 or earlier, or 2022 or later, for disbursed portions of a loan that would not be for a <u>DRRA-covered disaster</u>, list the total subsidized loan proceeds provided to the applicant in the space to the right. Continue to question 5 if the loan(s) is for a DRRA-covered disaster.</p> <p><u>NOTE</u>: This amount should normally <u>not</u> include disbursed declined loans and cancelled loans unless the applicant cannot provide sufficient documentation. Without the required documentation (as outlined above), all subsidized loans should be treated as available assistance.</p>	<p>\$ _____</p>
<p>i. What was the <u>purpose(s)</u> of the loan? List the purpose(s) and the amount provided for each purpose below.</p>	
<p>5. Did the applicant receive other cash awards or forms of financial assistance or are any other sources available (e.g., financial assistance from a state program, local program, non-profits)? If yes, answer the sub-questions below:</p>	<p><input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> Yes No N/A</p>
<p>a. How much financial assistance is provided or available? List the financial assistance in the space provided to the right.</p>	<p>\$ _____</p>
<p>b. What was the <u>purpose(s)</u> of the financial assistance? List the purpose(s) and the amount provided or available for each purpose below.</p>	
<p><u>Total Assistance</u>:</p> <p><i>This value is the <u>sum</u> of all reasonably identifiable financial assistance provided or available to the applicant.</i></p>	<p>= \$ _____</p>

Step 3: Excluding Non-Duplicative Assistance	Response
<p>1. For any financial assistance identified in Step 2: Identifying Total Assistance Available, list the applicable amount of assistance that can be excluded by reviewing the sub-questions below. A grantee can exclude financial assistance for any “yes” responses:</p>	<p><input type="checkbox"/> N/A</p>
<p>a. Was the assistance provided or available for a <u>different purpose</u> than the CDBG-DR funds and not used for the same purpose as the CDBG-DR funds?</p> <p><u>NOTE</u>: The grantee must document compliance with DOB requirements. Grantees are encouraged to document compliance by attaching applicant documentation to this worksheet that shows all assistance provided or available to the applicant, the <u>purpose</u> of the assistance, and how/if the assistance was used by the applicant.</p>	<p><input type="checkbox"/> <input type="checkbox"/> Yes No</p>

Step 2: Identify the Total Available Assistance

- \$5,000 FEMA for rehab
 - \$15,000 CDBG-DR Grant
 - \$5,000 CDBG-DR loan
(before October 5, 2023)
 - Since the DR loan was
before Oct 5, 2023, the
loan is not assistance under
the DRRA loan exception
- Total Available Assistance:
\$20,000.00

Step 3: Identify the Total Assistance to Exclude as Non-Duplicative

Step 3: Excluding Non-Duplicative Assistance	Response
1. For any financial assistance identified in Step 2: Identifying Total Assistance Available , list the applicable amount of assistance that can be excluded by reviewing the sub-questions below. A grantee can exclude financial assistance for any “yes” responses:	<input type="checkbox"/> N/A
a. Was the assistance provided or available for a <u>different purpose</u> than the CDBG-DR funds and not used for the same purpose as the CDBG-DR funds? <u>NOTE</u> : The grantee must document compliance with DOB requirements. Grantees are encouraged to document compliance by attaching applicant documentation to this worksheet that shows all assistance provided or available to the applicant, the <u>purpose</u> of the assistance, and how/if the assistance was used by the applicant.	<input type="checkbox"/> <input type="checkbox"/> Yes No

Step 3: Identify the Total Assistance to Exclude as Non-Duplicative

- **\$5,000 FEMA for rehab**
 - \$15,000 Previously Received CDBG-DR Grant
 - \$5,000 CDBG-DR loan (before October 5, 2023)
 - * Since the DR loan was before Oct 5, 2023- the loan is not assistance under the DRRA loan exception
- Total Exclusions:
\$0

Step 4: Identify the Total DOB Amount

- Total Assistance – Non Duplicative Exclusions
- \$20,000.00 minus 0 = \$20,000.00
- Full amount of FEMA and initial CDBG-DR is a DOB

Step 5: Calculate CDBG-DR Award (Total Need Minus Total DOB Amount)

- \$30,000.00 minus \$20,000.00 = \$10,000.00

Step 5: Calculate CDBG-DR Award: Apply Program Cap

- Example: Program Cap is \$200,000.00
- CDBG-DR award is less than program cap- so
- \$10,000 is an additional CDBG-DR grant beyond what was previously awarded as \$15,000 grant and \$5,000 subsidized loan with CDBG-DR funds.
- Final award- \$10,000

Full DOB Calculation Example

Applicant Need	
Estimated Cost of Repair	\$155,000
Estimated Site Work/Additional Costs	\$25,000
Total Recon/Rehab and Site Cost	\$180,000
Assistance Received	
Insurance	\$100,000
FEMA Assistance	\$0
SBA Assistance	\$20,000
Other Assistance	\$0
Total Assistance	\$120,000
DOB Exclusions	
Non-Duplicative Sources	\$15,000
Work in Place Value	\$25,000
Offsets	\$0
Remaining DOB	\$80,000

$$\begin{array}{r} \$180,000 \\ - \$80,000 \\ \hline \$100,000 \end{array}$$

Total Need

Remaining DOB

Maximum Award Amount

The contribution of the applicant to the project is \$80,000, the DOB amount.

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