

COSCDA DISASTER RECOVERY SUBCOMMITTEE

DUPLICATION OF BENEFITS (DOB) BASICS

DISCLAIMER

This presentation outlines *current* requirements for CDBG-DR grantees that will likely be applicable to CDBG-CV funding.

HUD could put out subsequent COVID-19 related guidance that significantly modifies these requirements.

Avoidance of DOB is statutorily required for CARES Act funding, so understanding CDBG-DR requirements should assist with the implementation of CDBG-CV programs in the absence of more specific guidance.

AGENDA

- Part I – The Big Picture
- Part II – Implementation Basics
- Part III – Program Specific Considerations
- Resources and Contacts

Part I

The Big Picture

What is Duplication of Benefits (DOB)?

- As a CDBG-DR recipient, grantees must comply with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act):
 - Recipients of federal disaster recovery funding make certain that no “person, business concern or other entity” will receive duplicative assistance¹
- Cannot comply with Stafford Act unless a DOB analysis is done
- CDBG-DR Funds only supplement and DO NOT supplant
- It is incumbent upon grantees and subrecipients to assess that any need has not already been met through other sources.

Intent: responsible use of taxpayer dollars.

¹ Stafford Act, Title III, Sec. 312, (a)

WHEN DOES DOB OCCUR?

DOB occurs when:

- A beneficiary receives assistance,
- The assistance is from one or multiple sources, AND
- The assistance amount exceeds the need for a particular recovery purpose.

Generally applies to OMB cost principle of
“Necessary and Reasonable”.

Sources of Duplicative Assistance

Includes, but is not limited to:

- Private Insurance
- Federal Emergency Management Agency (FEMA) funding
- Small Business Administration (SBA)*
- National Flood Insurance Program (NFIP)
- Local and State Funds
- Other Federal Programs
- Private and nonprofit organizations

See HUD's list of COVID-19 related federal funding sources.

TYPES OF NON-DUPLICATIVE SOURCES

Includes, but is not limited to:

- Private or Bank Loans
- Other Assets or Lines of Credit
- Funds received for a different eligible program purpose
- Any other funding sources specifically identified in the applicable federal register notice (none yet for CDBG-CV)

ROLES AND RESPONSIBILITIES – WHO IS RESPONSIBLE FOR VERIFYING DOB?

All parties involved in the CDBG-DR grant transaction are responsible for reporting availability or receipt of duplicate funding:

- State Grantee
- Subgrantee
- Subrecipients
- Other Grant/Loan recipients
- Contractors
- Beneficiaries

Ultimately, the **State Grantee** is on the hook for compliance.

Part II

Implementation

Key Components to DOB Compliance

- Have a grant level DOB policy that:
 - Requires all subgrantees and subrecipients to have a programmatic DOB policy that includes subrogation and recapture procedures;
 - Requires a DOB calculation on all beneficiaries or individual projects.
- Ensure DOB requirements are written into subrecipient contracts and grant agreements.
- Ensure subrecipients and staff are trained and understand the requirements.
- Establish third party verification where available.

Key Tools

- ✓ Application (ask about DOB at application)
- ✓ Consistent needs assessment / underwriting process
- ✓ DOB Calculation Worksheet
- ✓ DOB Affidavit (if applicable)
- ✓ Subrogation Agreement
- ✓ Recapture policy
- ✓ Data sharing agreements for 3rd party verification

Sample DOB Worksheet

1. Identify Applicants Total Need	\$ 100,000.00
2. Identify Total Assistance Available	
National Flood Insurance Program (NFIP)	
Private Insurance (applicant must submit a claim if covered)	\$ 20,000.00
SBA Grants/Loans (includes PPP and EIDL)	\$ 50,000.00
Other Federal, State or Local Government Assistance	
Other private assistance including charitable contributions	
Subtotal	\$ 70,000.00
3. Identify the Amount of Total Assistance to Exclude as Non-duplicative.	\$ 15,000.00
Explanation of non-duplicative funds:	
\$15,000 was private insurance for inventory replacement. This grant covers operating costs only.	
4. Identify total DOB Amount (Item 2 minus Item 3)	\$ 55,000.00
5. Calculate Maximum Award (Item 1 minus Item 4)	\$ 45,000.00
6. Program cap (if applicable)	\$ 50,000.00
7. Final award (lesser of Items 5 and 6)	\$ 45,000.00

Timing and Tips

Program Development

- Establish DOB policy and recapture procedure
- Establish third party verification sources and agreements

At Application

- Include DOB as part of application
- Require supporting documentation where available

On Award

- DOB worksheet drives Award determination
- Include affidavit and/or subrogation agreement

Timing and Tips

Program Implementation

- Review draw requests or any follow-up amendments for “indicators.”
- Utilize third party verification
- Check DOB prior to final payment

Closeout Submission

- DOB check; remind beneficiary of subrogation requirement

Post-Close

- Establish compliance period
- Activate recapture procedure if necessary

Part III

Program Specific Considerations

Likely CDBG-CV Programs

Based on updates from the various COSCDA regions, it appears the most likely types of programs are:

- Emergency Rental Assistance
- Business Grants or Loans
- Public Services
- Public Facilities / Public Improvements

Key difference: No evaluation of damages for unmet needs; Focus on revenue loss and cost of response

Emergency Rental Assistance Considerations

- Eligibility: documentation of COVID related loss (will this act as a cap on the eligible benefit, will cap be based on FMR, both?).
- Typically benefit is based on income, so UI payments will either be considered income as part of the award determination or a DOB to be subtracted out.
- Guidance needed on how to treat “general assistance” and other benefits (i.e. SNAPs, USDA, etc.). What is considered “income”.
- More than one way to calculate, but State grantees should provide guidance and consistency across subrecipients.

HUD will need to provide specific guidance on how to treat IRS transfer payments (is this income?)

Potential Source of Rental Assistance through the CARES Act (Louisiana Example)

- CSBG – via Labor Department to various local agencies for housing assistance
- ESG – via Louisiana Housing Corporation
- CDBG – Distributed to local governments or direct to entitlements
- TBRA – via Public Housing Authorities
- Emergency Food & Shelter Pgm – via United Way throughout the State
- HOPWA – via the Health Department to local agencies

Six different funding sources through the CARES Act
for a single activity

Economic Development Considerations

- Most grantees will be doing business assistance grants or loans.
- SBA and PPP considerations:
 - Will grantees require applicants to apply for and be rejected by SBA/PPP for eligibility?
 - Will program follow DRRA i.e. allow CDBG funds to repay a subsidized loan?
 - Will program consider access to SBA/DRRA in the underwriting process?
- Typically “general assistance” would be considered for operating costs.
- Business loss versus additional costs (i.e. protective measures).
- Subrogation Agreements and recapture policies most needed.
- **Eligibility requirements and underwriting process are key mechanism for coordinating funding sources.**

Clear and consistent guidance for subrecipients will be critical.

SBA under the DRRRA

(Disaster Recovery Reform Act)

- **Short term subsidized SBA loans can be reimbursed with CDBG-DR funds.**
- **Declined or cancelled subsidized loans are *not* considered duplication of benefit.**
 - **Declined loans:** Loans offered to an applicant but turned down by the applicant. Loan documents are never signed.
 - **Cancelled Loans:** Loans that were accepted by an applicant but all or a portion of the loan was not distributed and is no longer available to the applicant.
 - **The Subsidized Loan Meets the Requirement for a Statutory Exception Under the Disaster Recovery Reform Act Amendments to the Stafford Act.**
 - **Disbursed Loan Amounts-** Not a duplication if before 2023 and all Federal Assistance are used for Federal Disaster Purposes.
 - **Undisbursed Loan Amounts-** Funds are not drawn and will not be drawn.

Grantees have some leeway in how they design eligibility requirements and award determination.

Public Services and Public Facilities Considerations

- Generally, applicants will be UGLGs or non-profits rather than direct beneficiaries. Supplanting is usually the bigger concern.
- CDBG can be used to match other federal funding sources (i.e. local share of FEMA Public Assistance – typically 25%)
- Document new services or expansion of exiting services*
- Consider facility upgrades to accommodate social distancing.
- Document current COVID-19 costs. Pre-agreement costs are allowable.

*Current guidance on supplanting does not adequately address revenue loss.

Proposal: allow % of revenue loss to count the same as an expansion.

DOB RESOURCES

- **HUD CDBG-DR DOB Resources:**

- [Duplication of Benefits Webinar – 2019](#)
- [DOB Affidavit and Subrogation Agreement](#) (CDBG-DR Toolkit)

- **Existing State resources:**

- LA - [Exhibit 2-5 of the Grantee Admin Manual](#) Sample DOB Policy (Required of all subrecipients).
- CO – Statewide DOB Policy
- [Example DOB Calculation Spreadsheet](#)

<https://coscda.org/resources/covid-19-resources/>

QUESTIONS?



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