



Procedures & Tools for
Reviewing and Preventing
Duplication of Benefits



Overview of duplication of benefits (DOB)



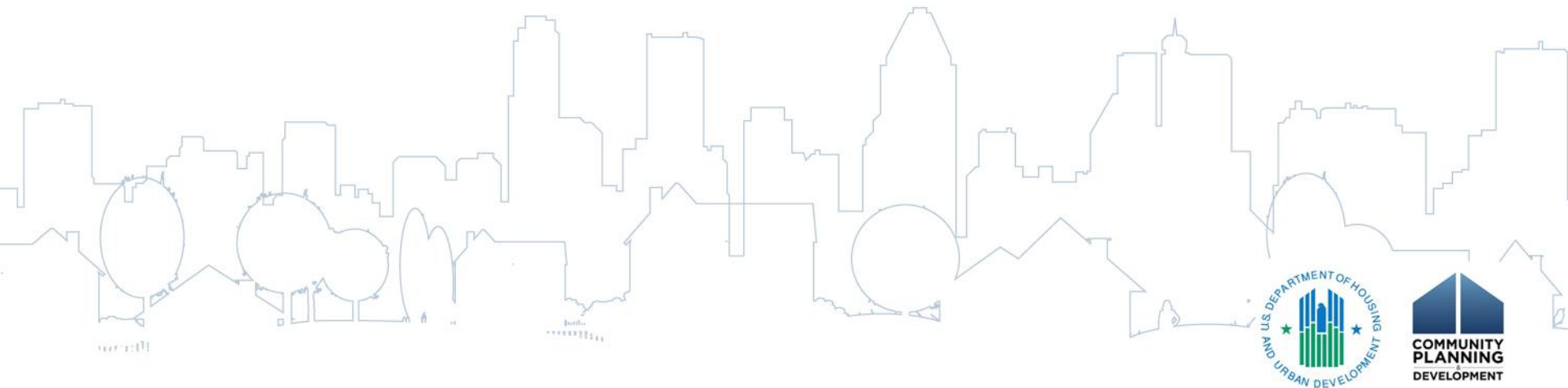
What is a DOB?

- ❖ A duplication occurs when a beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose.
- ❖ The amount of the duplication is the amount of assistance provided in excess of need.
 - Ex. Assume Mr. Brown's home was damaged by a tornado. Estimated cost to repair is 100k. Mr. Brown receives 150k from insurance, FEMA, and HUD.



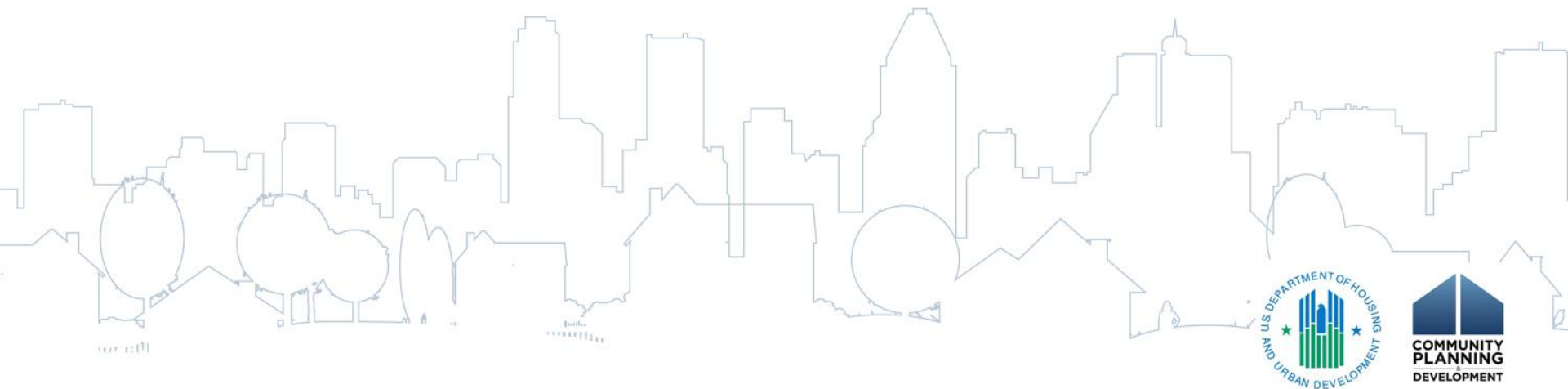
Sources of DOB Guidance

- ❖ **Necessary and reasonable requirements (located in 24 CFR Part 570 and OMB Circulars)**
 - ❑ **OMB Circular A-87: A cost assigned must be “necessary and reasonable for proper and efficient performance and administration of Federal awards.”**



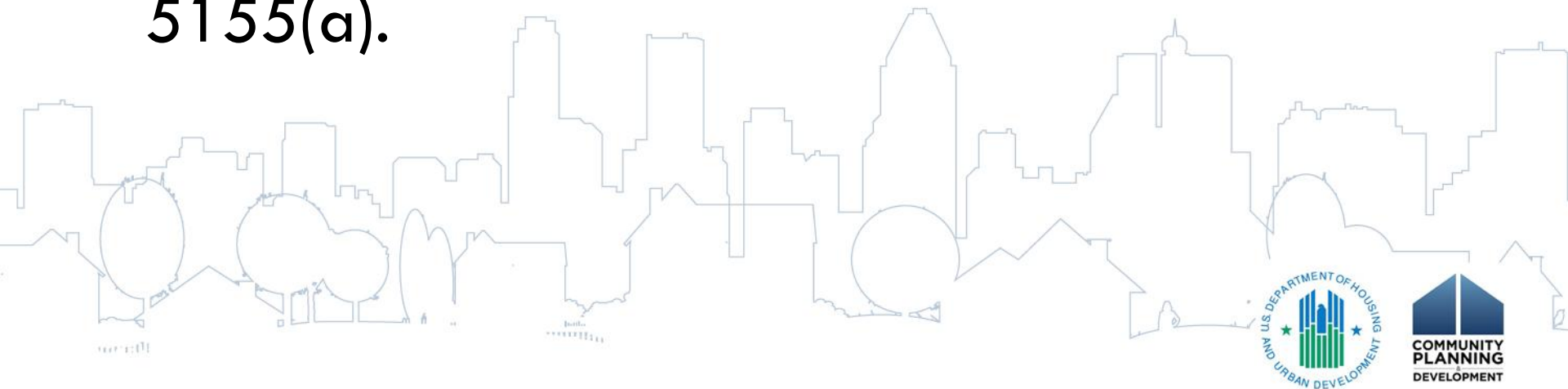
Sources of DOB Guidance

- ❖ **The Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. 5121–5207) (Stafford Act)**
 - ❑ Provides the framework for the Federal government’s role in preparing for, and recovering from, a disaster
 - ❑ Seeks to guard against fraud and ineligible uses of taxpayer dollars



The Stafford Act

- ❖ Section 312 prohibits federal agencies from providing assistance to any person, business concern, or other entity for “any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.” 42 U.S.C. 5155(a).



Federal Register Notice



Highlights

- ❖ Published November 16, 2011
- ❖ Main purpose: provide uniform guidance to all future CDBG-Disaster Recovery (DR) grantees
- ❖ Secondary purpose: provide general guidance to existing grantees

Link: <http://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>



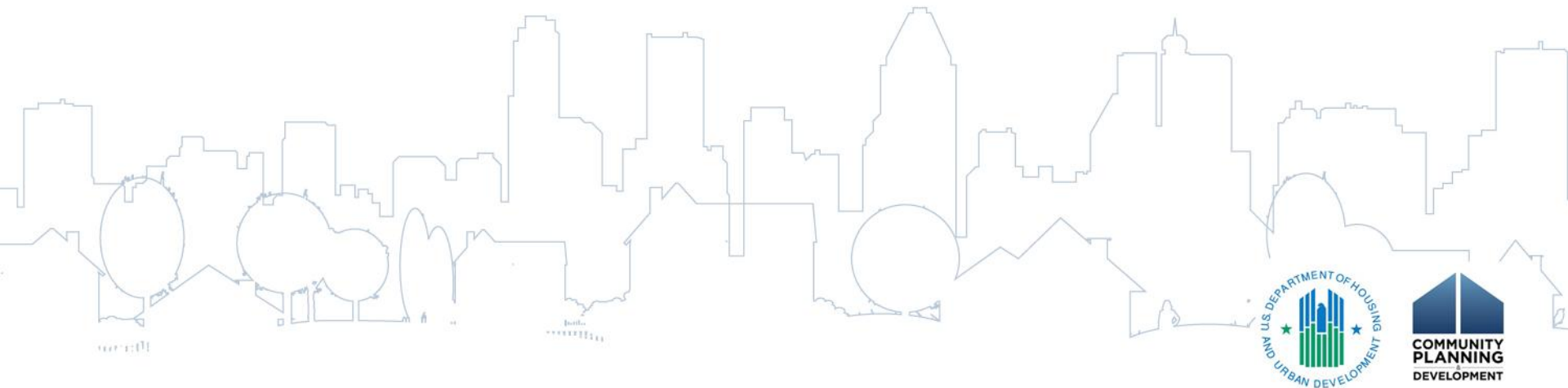
Impact to Pre-existing Programs

- ❖ Pre-existing programs = those in an approved Action Plan on the date of the Notice's publication – 11/16/11
- ❖ In general, no additional action is needed; however, grantees should ensure that funded activities are in compliance with basic tenets of the Notice (as DOB prohibited by all CDBG-DR allocation notices):
 - ❑ Adequate policies and procedures in place to prevent a duplication of benefit
 - ❑ Recapture funds if necessary



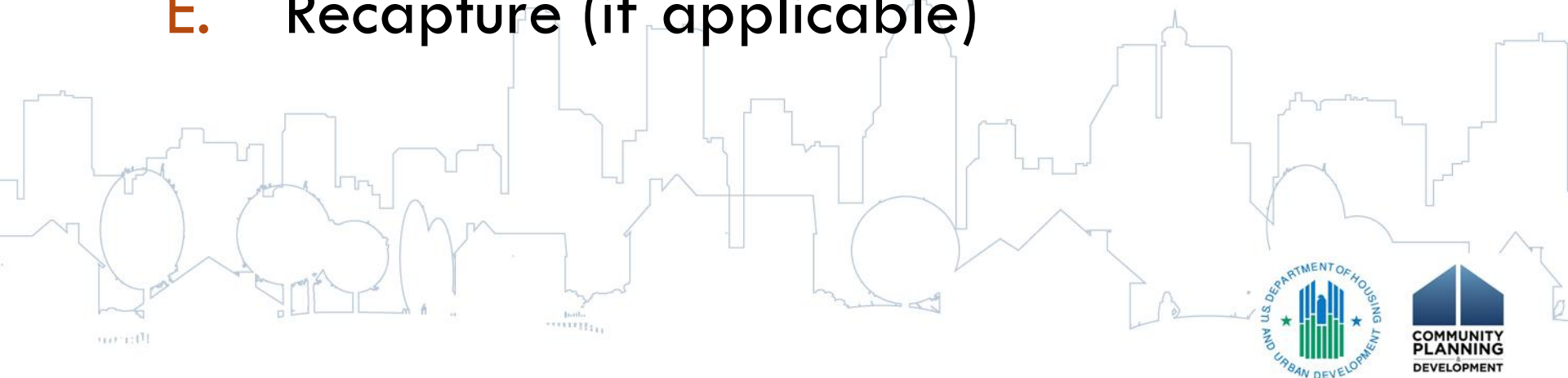
Impact to New Programs

- ❖ **New programs = activities/programs submitted to HUD in an Action Plan Amendment on or after 11/16/11**
- ❖ **Must comply with the Notice**



Structure of 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 funds
 - E. Recapture (if applicable)



A. Determine Need & Duplicative Benefits

1. Assess need (prior to assistance)

- ❖ E.g., the grantee could use a contractor's estimate to establish the cost to repair a damaged home

2. Identify *total* assistance available to the applicant

- ❖ Include assistance received or reasonably anticipated (e.g., insurance claims or SBA loan proceeds); funds are not reasonably anticipated when the source/amount is indefinite, or the applicant is unaware additional funds may become available



A. Determine Need & Duplicative Benefits (cont.)

3. Exclude:

- ❖ Funds for a different purpose or general, non-specific purpose
 - E.g., previous funds provided for interim housing, current need for rehabilitation
- ❖ Funds for same purpose, different (eligible) use
 - E.g., previous funds provided by FEMA for housing assistance (used for interim housing), current need for rehabilitation

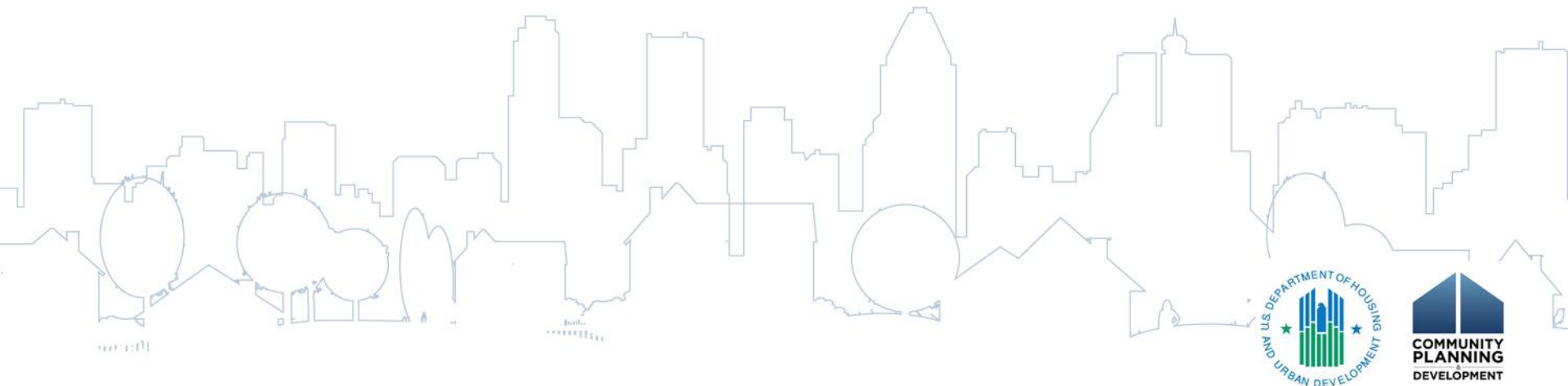


A. Determine Need & Duplicative Benefits (cont.)

3. Exclude:

❖ Funds not *available*

- E.g., forced mortgage payoff
- Ex. Beneficiary receives a lump sum insurance settlement based on estimated cost of repairs; any additional benefits that *may* have been received by requesting reimbursement for each item are not “available”



A. Determine Need & Duplicative Benefits (cont.)

- ❖ Funds are *available* when:
 - An applicant would receive them by acting in a commercially reasonable manner, or
 - An applicant has received them and has legal control (a homeowner need not possess cash to be in legal control)
- ❖ Ex. Applicant has been approved for a loan, but has yet to draw funds; these funds are “available”



A. Determine Need & Duplicative Benefits (cont.)

3. Exclude:

❖ Private loans

- E.g., construction and bridge loans
- Forgivable loans *are* duplicative
- Grantee may consider private loans for underwriting purposes

❖ Other assets or lines of credit

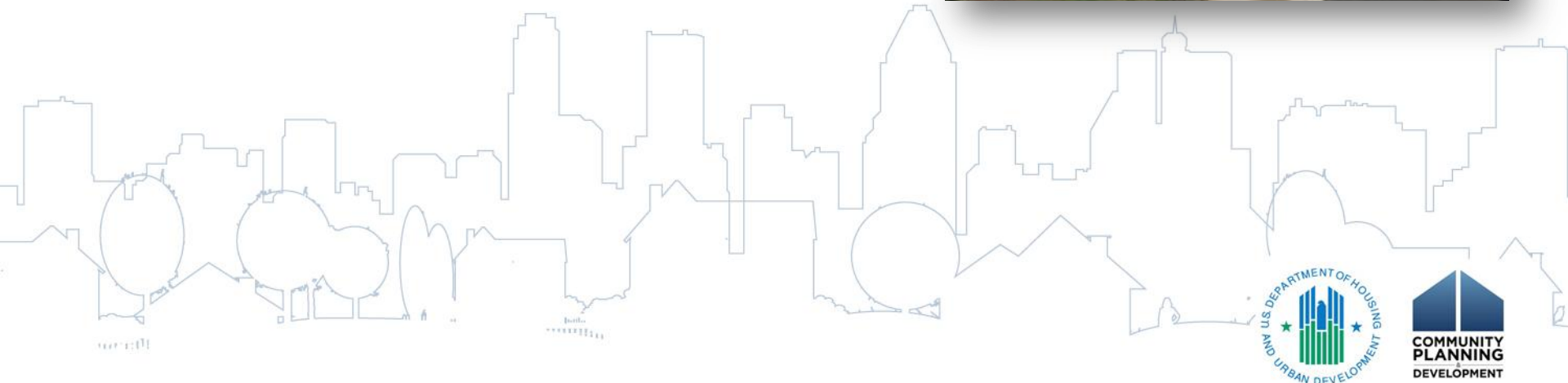
- E.g., checking or savings accounts, stocks, mutual funds, credit cards, lines of credit, etc.



A. Determine Need & Duplicative Benefits— recap

1. Assess need.....

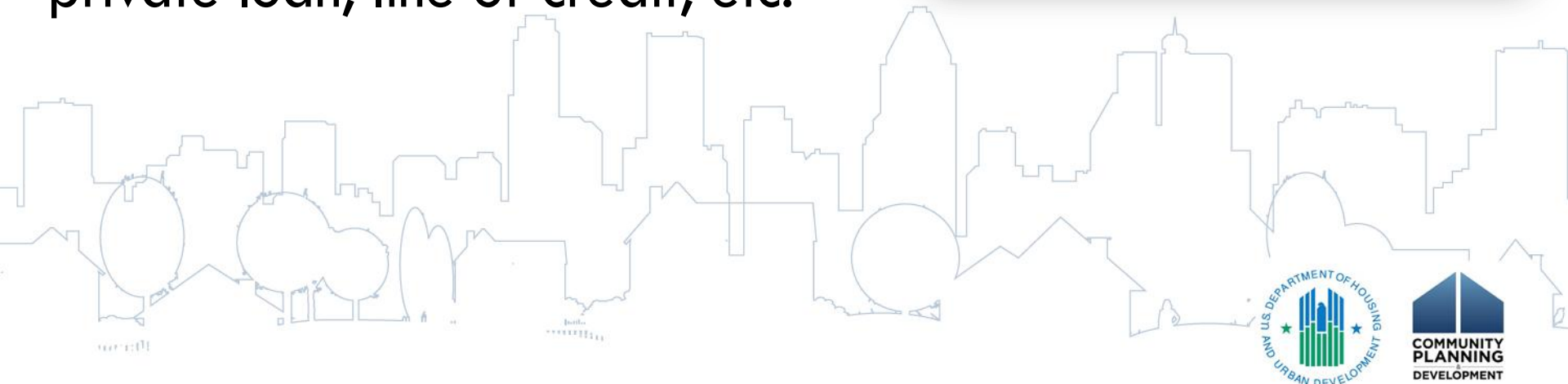
How much will it cost to replace/repair a home damaged by a hurricane?



A. Determine Need & Duplicative Benefits— recap

2. Identify all available assistance.....

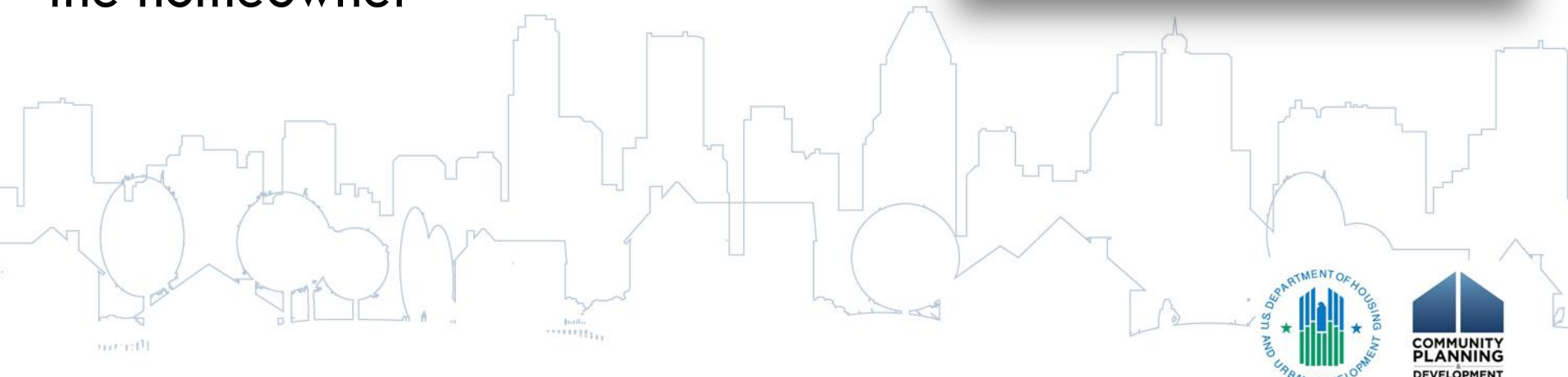
Calculate total assistance available to the homeowner— e.g., insurance proceeds, FEMA award, private loan, line of credit, etc.



A. Determine Need & Duplicative Benefits— recap

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

Exclude the private loan and the line of credit— these will not reduce the CDBG-DR award available to the homeowner



B. Calculate Award

❖ Subtract all assistance found to be duplicative from identified need; reduce award if program cap in place.

❖ Basic framework:

1. Identify Applicant's Total Need	\$ 100,000
2. Identify All Potentially Duplicative Assistance	\$ 35,000
3. Deduct 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 is typically identified after CDBG-DR funds have been provided...but in some cases, may be provided before
- ❖ Discretion to determine ways to identify and verify unmet need; physical inspection/professional appraisals are highly recommended



C. Unmet Needs Sample Calculation

Steps 1 – 3 of basic CDBG-DR framework

4. Initial Award	\$ 10,000
5. Program Cap (if applicable)	\$ 50,000
6. Initial Final Award (lesser of Items 4 and 5)	\$ 10,000
7. Demonstrated Additional Unmet Need (e.g., 1 year later)	\$ 5,000
8. Amount Eligible for Additional Award	\$ 5,000
9. Program Cap (if applicable)	\$ 50,000
10. Additional Award (Item 8 if lesser of Items 6 + 8 and Item 9)	\$ 5,000



D. Use of CDBG-DR Funds

- ❖ Funds must be used for eligible purposes of the program or activity for which they have been provided
 - ❑ E.g., funds provided to repair a home should be used strictly for the repair of that home; funds provided to a business for equipment replacement, or structural repair, should be used only for those purposes
- ❖ In general, CDBG disaster recovery funds should not be used to pay down an SBA loan
 - ❑ Possibly some exceptions; HQ will evaluate on a case-by-case basis



E. Recapture

❖ Generally, the Federal agency that provides duplicative funding is responsible for the recapture

❑ typically this means CDBG-DR grantees

❖ Grantees have discretion to determine the method and timeframe of recapture

❑ Consistent with applicable OMB Circulars (codified - title 2 in CFR)

❑ Consistent with CDBG regulations

❑ Consistent with any relevant guidance or handbook issued by the HUD OIG



E. Recapture

- ❖ Grantees (and if applicable, subgrantees) should have recapture policies and procedures
- ❖ To ensure recapture, a subrogation agreement should be signed by every applicant 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

Tips to Avoid Duplications

❖ Program Design

- ❑ State and private funds can cause a DOB; what other programs are available to assist potential applicants?
- ❑ Plan CDBG-DR assistance to fund eligible activities that won't be fully funded by other programs
- ❑ Communicate with other assistance providers

❖ Planning

- ❑ Stagger timing of application periods
- ❑ Data sharing agreements
- ❑ Subrogation agreement



Monitoring for DOB

- ❖ DOB may be monitored:
 - ❑ in the course of reviewing an activity or program's CDBG eligibility and national objective compliance, or
 - ❑ independently, and across activities or programs
- ❖ Review DOB policies and procedures
- ❖ Revised exhibits for CDBG-DR grants in development; these will include DOB questions
- ❖ For now, utilize:
 - ❑ DOB Review Worksheet
 - ❑ Documentation Checklist



Documentation Checklist

❖ The grantee or subgrantee should:

☐ Identify in the application, all sources of funds received by the applicant:

- From *FEMA*; documented by letter, and/or data provided by FEMA to grantee
- From *insurance*; documented by letter, and/or data (if available; depends on state)
- From *SBA*; documented by letter, and/or data provided by SBA to grantee (if available)
- From any other sources



Documentation Checklist (cont.)

- ❖ The grantee or subgrantee should also:
 - ❑ Analyze and document the total need of each applicant (prior to awarding CDBG-DR funds)
 - ❑ Analyze any unmet needs of an applicant (if applicable)
 - ❑ Ensure each applicant has signed a subrogation agreement
 - ❑ Have DOB policies and procedures (that also address recapture)



Questions?

