

THE STATE OF WEST VIRGINIA  
CDBG-CV DUPLICATION OF BENEFIT  
POLICY AND PROCEDURE MANUAL  
EFFECTIVE MARCH 24, 2021



WEST VIRGINIA DEPARTMENT OF  
ECONOMIC DEVELOPMENT

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Change Log

Name	Date	Changes Made
Hannah Carter	March 20, 2021	Created
Hannah Carter and Sherry Risk	March 24, 2021	Reviewed and Edited
Hannah Carter	October 4, 2021	Analyzing DOB & Recapture Process

## **Duplication of Benefits (DOB) Background**

This CDBG DOB Policy and Procedure Manual is intended as a guide, not as a substitute for a thorough knowledge of state and federal laws and regulations referenced in this manual. In the event of any discrepancy, federal regulations will prevail. The Grantee is responsible for compliance with the most current and stringent of any applicable local, state or federal law or regulation(s). The West Virginia Department of Economic Development does not discriminate on the basis of age, race, color, religion, sex, national origin, familial status or disability in the admission, access to, treatment of, or employment in, its federally assisted programs or activities.

The Robert T. Stafford Act establishes the requirements for Duplication of Benefits (DOB) analysis to prevent duplication of benefits. As part of the CARES Act and described in FR-6218-N-01 (CDBG-CV Federal Register Notice), HUD must ensure that there are adequate procedures in place to prevent any duplication of benefits as required by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), as amended by section 1210 of the Disaster Recovery Reform Act (DRRA) of 2018. The Robert T. Stafford Act (Stafford Act) prohibits the use of federal disaster assistance to pay a person, household, or entity twice for the same disaster loss. The Stafford Act also requires CDBG-CV grantees to limit their assistance to unmet needs for eligible activities. An unmet need exists when the total need for eligible activities is more than the total assistance received for the same purpose.

*Note to grantees with experience administering CDBG-DR:* Unlike other disaster funds, CDBG-CV grantees do not need to follow a statutory “Order of Assistance” for delivery of different federal and non-federal programs. This means that grantees do not need to validate whether other funding sources are available or will be available before allocating CDBG-CV assistance (as opposed to CDBG-DR, where the grantee generally must check to see whether FEMA assistance was provided before making an award). The grantee is solely responsible for ensuring that an actual duplication of benefits does not occur.

## **Duplication of Benefits Due to COVID-19**

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) was signed to provide immediate and direct response to the emerging crisis impacting our country as a result of the COVID-19 global pandemic. This allocation was authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136. CDBG-CV funding intends to address the unmet needs of a community. The funds are supplemental to primary forms of assistance, including private insurance, and FEMA funds, and cannot be used simultaneously. To avoid duplicative assistance and potential de-obligation of funding, the State must account for all possible funding sources before applying CDBG-CV dollars to a project. Any person or entity receiving CDBG-CV assistance (including subrecipients and direct beneficiaries) must agree to repay assistance that is determined to be duplicative. This will be documented through a Subrogation Agreement, Attachment E – Form C5.

CDBG Coronavirus Response Grantee Resources Related to Preventing Duplication of Benefits can be found at the following link:

<https://www.hudexchange.info/resource/6097/cdbg-coronavirus-response-grantee-resources-related-to-preventing-duplication-of-benefits/>

Notice of Program Rules, Waivers, and Alternative Requirements Under the CARES Act for Community Development Block Grant Program Coronavirus Response Grants, Fiscal Year 2019 and 2020 Community Development Block Grants, and for Other Formula Programs are at the following link:

<https://www.federalregister.gov/documents/2020/08/20/2020-18242/notice-of-program-rules-waivers-and-alternative-requirements-under-the-cares-act-for-community>

## **Duplicative Assistance Sources**

The CDBG-CV program ensures that a DOB analysis is performed for each applicant to consider all possible disaster recovery funding sources when processing applications for assistance. Duplicative assistance sources include but are not limited to:

- i. Federal Emergency Management Agency (FEMA);
- ii. Small Business Administration (SBA);
- iii. Community Development Block Grant (CDBG), CDBG-Cares Act, Emergency Shelter Grant (ESG), ESG-Cares Act, Housing opportunities Persons with Aids (HOPWA), HOPWA-Cares Act or Continuum of Care (CoC) grants;
- iv. United States Department of Agriculture (USDA)
- v. Other Federal CARES Act Funding;
- vi. City, County, or State General Fund;
- vii. Private Insurance;
- viii. Private funding or fundraising;
- ix. U.S. Treasury administered by the West Virginia Housing Development Fund (e.g., Coronavirus Relief Fund);
- x. HOME, particularly tenant based rental assistance (TBRA);
- xi. State housing agencies and other entities;
- xii. Local organizations (e.g., United Way, Catholic Charities), etc.;
- xiii. West Virginia Public Service Commission Utility Reimbursement Fund;
- xiv. WV Department of Health and Human Resources Housing Programs.

## **Analyzing Duplication of Benefits (DOB)**

### **Analyzing DOB as a Subrecipient**

To analyze duplication of benefits a subrecipient should complete the following steps:

- i. Assess Need
  - a. Determine the amount of need (total cost).
- ii. Determine Assistance
  - a. Determine the amount of assistance that has or will be provided from all sources to pay for the cost.
- iii. Calculate Unmet Need
  - a. Determine the amount of assistance already provided compared to the need to determine the maximum CDBG-CV award (unmet need).

iv. Document analysis

- a. Document calculation and maintain adequate documentation justifying determination of maximum award.

Example: A family that has suffered job loss due to the economic impact of the coronavirus seeks rental assistance under a CDBG-CV Emergency Payment program for 3 months of arrears payments and 2 months of current/ future rent.

Monthly Rent = \$1,000 Potential Total Need: \$1,000 \* 5 months = \$5,000

**Step 1.** Assess Need

**Step 2.** Determine Assistance in the Application. The applicant was asked to report if they are receiving or expecting to receive any additional or similar assistance. The applicant reported that a local faith-based organization provided \$250/ month for the past three months, but that aid is no longer available. The family certified that it has not applied for assistance from any other source.

**Step 3.** Calculate Unmet Need Total Need = \$5,000 Other Assistance = \$750 (\$250/ month for three months) Actual Unmet Need (Maximum Award) = \$4,250 (\$5,000- \$750).

**Step 4.** Document the Analysis Maintain documentation of calculation and justification to confirm amount of unmet need.

The WVDED also has policies and procedures in place to request repayment or recapture of any duplicative assistance received *after the award of CDBG funds* from the WVDED. Repayment or recapture policies and procedures also apply in instances when an applicant must return all or part of the CDBG awarded funding to the respective program (i.e., due to fraudulent activity or non-compliance with grant award terms and conditions). Repayment will be required when assistance is determined to be duplicative. This will be documented through a Subrogation Agreement, Attachment E – Form C5. Refer to Updates to the Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees FR Notice 6169-N-01.

[www.hud.gov/sites/dfiles/Main/documents/6169-N-01\\_Main\\_DOB\\_Notice.pdf](http://www.hud.gov/sites/dfiles/Main/documents/6169-N-01_Main_DOB_Notice.pdf)

**Documenting Duplication of Benefits with Self-Certification of Non- Duplication of Benefits Form**

To be a possible beneficiary, a self-certification of Non-Duplication of Benefits must be performed by completing the Self-Certification of Non-Duplication of Benefits form. All Subrecipients that are awarded CDBG-CV funds from the WVDED are required to use WVDED's version of the self-certification of Non-Duplication of Benefits form for each applicant. Eligible applicants for CDBG-CV funds must have previously provided the following required information to the Subrecipient of WVDED funds:

- i. Income Documentation- listed on pages 13 and 14 in the CDBG-CV Policy and Procedures\*.
- ii. Program specific Applicant Certification Form provided by Subrecipient.
- iii. Required Eligibility Documentation for specific assistance listed on pages 15-25 of CDBG-CV Policy and Procedures\*.

\*The CDBG-CV Policy and Procedures can be found on the WVCAD website:

<https://wvcad.org/resources>.

The applicant is required to list the source, time period, and amount of granted funds that have been used for assistance. After completing the self-certification form, Subrecipients of the WVDED can ensure the information is correct and true, although not mandatory. Please refer to the DOB Cross-Analyzation Contact sheet complete with WVDED Program Contacts for confirmation of the funding source and amount.

### **Analyzing DOB through State Act Direct**

When the State of West Virginia Department of Economic Development acts directly, DOB certification can be verified at the agency level (e.g., food bank Executive Director) instead of the direct Household. The agency must show there is not a duplication of benefits for the same project but also continuously be in communication with the WVDED to ensure that disbursement of funds to local food distributors will not be a duplication.

While direct Households of food bank distribution with State Act Direct projects are not required to complete the Non-Duplication of Benefits form, Households must complete the Applicant Income Self-Certification form in order to determine eligibility and receive food assistance. The form does include a DOB certification reference, requiring the applying Household to certify that they have not and will not receive food assistance from any other source, for the same purpose, during the same month the application is submitted.

## **Prevention of Duplication of Benefits (DOB)**

### **Preventing DOB for Requested Funds as the Subrecipient**

Project administrators must ensure there has not been and will not be a DOB with each application before assistance is provided. The Subrecipient must review each application the project administrator(s) has deemed to be eligible to ensure DOB has not occurred. Personally Identifiable Information (PII) must remain in the project file and should not be shared electronically or to the public. Protecting this information is crucial; therefore, the Subrecipient should review the files in-person to ensure all requirements are being followed.

### **Preventing DOB for Requested Funds as the State**

The following steps are taken by the WVDED to prevent a DOB for applicants requesting CDBG-CV funds prior to the award of any CDBG-CV funds:

- i. Applicant self-reports all potentially duplicative assistance received and may submit documentation accounting for how previously received funds were expended.
- ii. Verify the amount, intended purpose and time period of assistance received to validate the applicant's self-reported information via most recent third-party data sources or direct verification with insurers or private/nonprofit entities.
- iii. Review permissible expenditure documentation to determine if the amount of duplicative assistance received can be reduced for permitted expenses.
- iv. Determine if funding adjustments are required to an applicant's award, specifically when assistance received exceeds permissible expenditures.
- v. Establish an unmet need exists by confirming the applicant's total remaining need for eligible activities is more than the applicant's total assistance received for the same purpose.

- vi. Reference the Cross-Analyzation Contact form provided by WVDED in necessary.
- vii. Completion and signature of a subrogation agreement by the Subrecipient to ensure repayment of any duplication of benefits.

### **Recapture/Repayment Process**

This section articulates the policies that will guide WVDED's CDBG-CV program in its efforts to recapture funds that have been overpaid to or unused by the Subrecipient. CDBG Financial Regulations apply directly to the CDBG-CV program, as stated in this section.

CDBG regulations (24 CFR 570.502)<sup>3</sup> governing grant administration and OMB cost principles (2 CFR 200.403 (a))<sup>4</sup> require that payment of CDBG funds to beneficiaries be necessary and reasonable; and prohibit beneficiaries from retaining excess funds not used for eligible, approved costs. The provision of CDBG-CV funds more than what is needed for immediate use is also prohibited (2 CFR 200.305 (b) (1))<sup>5</sup>. In addition, the Stafford Act and the CDBG Notice indicate that funding may only be provided to the extent that it does not duplicate funding provided to a beneficiary for the same purpose.

Common examples that may result in a revision to a CDBG-CV award, resulting in repayment of grant award funds from an applicant include, but are not limited to:

- i. DOB (as described in this manual)
- ii. Ineligibility;
- iii. Substantial program non-compliance or threat of bodily harm;
- iv. Awards from multiple programs;
- v. Voluntary withdrawals;
- vi. Fraud.

All Subrecipient files will be reviewed and reconciled for accuracy to ensure DOB or overpayment did not occur at a program or activity (applicant) level. Once this process has been completed, if a Subrecipient or beneficiary/program recipient has been identified as receiving a potential overpayment, the Project Manager will document the amount and basis for the repayment in a written letter to the applicant. In addition, the letter will contain the conditions for repaying funds and all appeal rights available to the applicant.

The Subrecipient has 30 days to appeal the determination of recapture or repayment. If an appeal is made, the Project Manager will review the written appeal and issue a final written determination of its decision within 30 days of receipt by WVDED. Appeals may be denied or granted in whole or in part. The Project Manager will only review facts and information already included in an Subrecipient's file unless the Subrecipient submits new documentation.

The project administrator has the discretion to accept or reject new documentation based upon its relevance to the appeal. If the Subrecipient fails to file an appeal with the WVDED within the 30-day period, the inaction will be deemed as an acceptance of the determination and a waiver of any further right to contest or appeal the amount to be repaid. In addition, if the Subrecipient's appeal is denied or there is failure on the part of the Subrecipient to appeal within 30 days the WVDED will proceed with collecting the repayment amount.



If the appeal resulted in a revision to the award amount or eligibility, the Subrecipient will sign a new CDBG-CV Grant Agreement and fulfill any requirements related to such changes and will work to repay any remaining recapture amount.

Once it has been determined that the Subrecipient must return funds to the CDBG-CV grant fund, the Subrecipient must repay their funds in a timely manner. The amount of funds to be repaid in order for the WVDED to recapture should be referenced and submitted in the following documents before the closeout procedure is finalized:

- i. Final Performance Report (FPR)
- ii. Final Budget Amendment
- iii. Final Request for Payment (RFP)
- iv. WVDED Acceptance Letter of FPR
- v. Executed Grant Amendment between WVDED and the Subrecipient

All repayments shall be expected to be repaid in full as one lump sum amount. The Project Manager will review any claims of financial hardship and may make limited accommodations for repayment plans.

All funds recovered as a result of this policy will be tracked in the project file and returned to the state's CDBG-CV account(s) or U.S. Treasury if the CDBG-CV grant has been closed out.