

UNITED STATES VIRGIN ISLANDS HOUSING FINANCE AUTHORITY

CDBG-DR DUPLICATION OF BENEFITS (DOB) GUIDANCE

VERSION: 2.0
February 23, 2021

Prepared by:
Virgin Islands Housing Finance Authority



The policies and procedures stated in this manual are current as of February 23, 2021. This Manual represents the current version of the Virgin Islands Housing Finance Authority's (VIHFA) policies which shall provide general guidance for the operation of the CDBG-DR Division. All manuals will be reviewed periodically and will be updated. Therefore, you are strongly urged to visit our website cdbgdr.vihfa.gov or to ensure that you have the latest version. There may be times, however, when a policy or procedure will change before the manual is revised.

SUBJECT: CDBG-DR Duplication of Benefits (DOB) Guidance	
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 Antoinette Fleming, VIHFA CDBG-DR Director	2/23/2021 Date

1.0 VERSION HISTORY

Duplication of Benefits (DOB) Requirements Version Control

VERSION NUMBER	DATE REVISED	DESCRIPTION
VERSION 1	03/01/19	CDBG-DR Duplication of Benefits Guidance
VERSION 2	02/23/21	Updated DOB Guidance to include CDBG-MIT requirements

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2.0 POLICIES

2.1 Version History

Version history is tracked in the table on the title page, with notes regarding version changes. The dates of each publication are also tracked in this table. The first version of this document is 2.0.

Substantive changes within this document that reflect a policy change will result in the issuance of a new version 3.0, an increase in the primary version number. Future policy changes will result in additional revision and the issuance of a new primary version number.

Non-substantive changes such as minor wording and editing, or clarification of existing policy that do not affect the interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

2.2 Policy Change Control Board

Policy review and changes for a program are considered through a change control process. When policy clarifications, additions, or deletions are needed to more precisely define the rules by which the Program will operate, Program staff will submit a Policy Change Request Form or a Request for Decision Form for internal review by the Policy Change Control Board (PCCB). Within the PCCB, two members will separately perform a review to verify that all relevant information and any supporting documentation are included in the request. Upon PCCB concurrence by these two members that the request raises a policy issue, rather than a process issue, the Policy Change Request Form or Request for Decision is forwarded to the Policy Change Control Board for consideration. The requests are compiled and brought before the entire PCCB for a final policy change determination.

The PCCB is composed of the Special Council for Disaster Recovery, the Senior Policy Manager, Senior Program Manager and at least one Subject Matter Expert, and other program staff members representing Program leadership as needed.

The PCCB meets biweekly, as needed, to consider all pending requests but may meet as frequently as necessary to consider critical policy decisions. The schedule for PCCB meetings is expected to move to a lower frequency as the Program matures.

3.0 PURPOSE

1. To determine the programmatic policy and requirements for ensuring non-duplication of benefits and identifying the amount of eligible assistance for physical improvements in CDBG-DR and CDBG-MIT (referenced herein as CDBG-DR) funding;
2. To clarify how duplication of benefits calculations are to be handled with funds not under the property owner's control; and
3. To outline the policy and procedures for handling funding received by grantees, beneficiaries and businesses post grant signing.

4.0 POLICY

The Virgin Island Housing Finance Authority (VIHFA) and all its subrecipients are required to establish a duplication of benefits policy that explains and describes all methods and procedures to prevent the duplication of benefits in accordance with 42 U.S.C. 5155(a).

The requirements under the "The Robert T. Stafford Disaster Assistance and Emergency Relief Act" (42 U.S.C. 5121, et seq.), as amended by section 1210 of the Disaster Recovery Reform Act of 2018 (DRRA) (division D of Public Law 115-254), and the related provisions of HUD's June 17, 2019 DOB Notice prohibit any person, business concern, or other entity from receiving Federal funds for any part of such loss for which they have already received financial assistance under any other program, private insurance, charitable assistance or any other source. Any such duplicative funding is called Duplication of Benefit (DOB). Any government entity that provides disaster recovery assistance must both prevent and correct any DOB by the establishment and implementation of policies and procedures to identify and adjust for such duplicative assistance payments.

The requirements and process for Duplication of Benefits are defined below. HUD issued new guidance on Duplication of Benefits on June 17, 2019, that describes the requirements to prevent duplication of benefits applicable to Community Development Block Grant disaster recovery (CDBG-DR) grants received in response to a disaster declared between 2015 and 2021. It updates existing duplication of benefits requirements to reflect recent CDBG-DR supplemental appropriations acts and amendments to the Robert T. Stafford Disaster Relief and Emergency Assistance Act impacting certain grantees. The notice also includes minor clarifications regarding the duplication of benefits calculation.

To comply with these requirements, as interpreted and applied by HUD, the VIHFA has designed policies and procedures to ensure that any funds determined to be a DOB are deducted from the final assistance award amount for each applicant across the eligible activities of all programs. Federal regulations require the USVI to conduct a Duplication of Benefits (DOB) analysis to ensure that (1) applicants do not receive more Federal funds than needed, and (2) Program funds are used to meet a need that still exists after considering other funds received. A DOB occurs when all the following occur:

- A beneficiary receives assistance that comes from one or multiple sources (examples: private insurance, FEMA, NFIP, non-profits, etc.).
- The total assistance amount exceeds the need for a specific recovery purpose.

The following are sources of funding assistance provided for structural damage and loss that may be considered a DOB and under federal law must be deducted from the assistance provided:

- FEMA Individual Assistance for permanent Structure Repairs (IA)
- FEMA National Flood Insurance Program (NFIP) and/or Increased Cost of Compliance (ICC)
- Private Insurance
- Small Business Administration (SBA) for structure repairs
- Charity
- Any other funding source that may duplicate assistance

Any sources of funds previously received for the same recovery need will be deducted based on information obtained from private insurance, SBA, FEMA, and / or volunteer organizations (including in kind assistance) used for the same purpose that the CDBG-DR award is intended to assist. The award amount will be determined by inspection of each damaged property to determine the applicant's unmet recovery need. That amount will be reduced by all previously received funding to determine the final award. Any amounts that are determined to be Allowable Activities will not be included in the reduction of the final award. Allowable Activities will include activities that are excludable per Stafford Act and HUD guidance. Forced mortgage payoffs shall not be considered duplicative benefits because those funds were never available to the applicant to be applied to the unmet need. As per the June 2019 HUD guidance, those who declined or cancelled approved SBA loans will no longer have the amount they did not draw down counted as a Duplication of Benefits for their award, regardless of income. The chart below displays the formula for evaluating and calculating DOB.

Data sharing agreements will be executed with FEMA and SBA. This data, along with additional information from insurance companies and charitable organizations will be used to monitor any additional funds paid to the applicant that are made after the initial grant award payment. All applicants to the CDBG-DR programs will be provided with the policies relative to DOB in connection with the applicant's responsibilities in the event additional funds are received after the initial grant award. Recapture may apply to all or part of the grant award funds. All applicants will be required to sign a Subrogation Agreement and a Philanthropic Release of Information at the time of application. This will assist the HFA in the recovery of any future payments that are issued to the applicant after the award determination and initial payment. Any additional funds that are received by an applicant for the same purpose as the assistance award must be returned to the program. This process of recapturing grant payments will be in accordance with the guidelines set forth in 2 CFR Part 200 and the Stafford Act (chapter 37 of title 31) for the recapture of funds.

The HFA will bear responsibility for ensuring compliance with DOB regulatory requirements at the eligibility stage and for monitoring additional funding that the Grant award recipient may receive from any of the sources listed above.

5.0 PROCEDURE

5.1 Duplication of Benefits Calculation

If an entity (homeowner, property owner, eligible entity, business or unit of government) has requested assistance for physical repairs and they have not maximized the amount of assistance under their specific program category, the next step is to determine the unduplicated, maximum level of assistance. The VIHFA or other subrecipient administering the CDBG-DR funded program will conduct an analysis and make a determination on the amount (if any) assistance may be available to an eligible applicant.

The table below illustrates the duplication of benefits calculation:

Formula
Renovation/ New Construction/ Fixtures/ Installed Equipment Capital Expenses (taken from the application and the same number as is used above when determining Renovation/New Construction Expenses)
Minus insurance for Physical Damage, i.e., National Flood Insurance, private insurance
Minus SBA for specific UP codes relevant to Construction/ Fixtures
Minus Other Federal, State other Governmental or nonprofit Recovery Benefits for this purpose
Equals Gap or need for Renovation/New Construction assistance or Initial Grant Award

If the result of this analysis is negative or zero, the entity does not need assistance for the given project or activity because those needs have been served by insurance, governmental sources and/or nonprofit sources. If the result of this analysis is a positive number, the entity requires assistance and the identified need would constitute the maximum CDBG-DR assistance. If, as the result of this analysis, the entity does not need assistance from a CDBG-DR program, the grantee or sub recipient shall issue a written determination that includes contact information to address both questions related to the analysis and a method for pursue an appeal.

Once the needs gap is determined, the VIHFA or subrecipient administering the CDBG-DR funded program shall complete the analysis of this funding request or application by reviewing the following requirements:

1. That all proposed costs are reasonable, using the methodology prescribed in the program's policies and procedures
2. That the project is financially feasible and utilizing CDBG-DR resources will result in a project that meets a national objective

6.0 SUBROGATION AGREEMENT AND ONGOING MONITORING FOR RECEIPT OF BENEFITS

The VIHFA or subrecipient staff shall develop and incorporate a subrogation provision into all written funding agreements with any entity receiving CDBG-DR funds. This written subrogation provision must stress the importance of the beneficiary formally notifying the VIHFA or subrecipient administering the CDBG-DR funded program should additional benefits be received at any time prior to grant close out.

The VIHFA or subrecipient staff shall verify the continuing accuracy of the duplication of benefits provision each time one of the identified events occurs during the time the beneficiary remains active in the program:

1. At initial determination of grant award or assistance;
2. At execution of a grant or loan agreement or amendment thereto;
3. At grant close out.

6.1 For funds not under program applicant's control

Funds are not available to the person or entity if the person does not have legal control of the funds when they are received and are used for a non-duplicative purpose. For example, if a homeowner's mortgage requires any insurance proceeds to be applied to reduce the lien balance, the bank/mortgage holder (not the property owner) has legal control over those funds. Therefore, the homeowner is legally obligated to use insurance proceeds for that purpose and does not have a choice in using them for another purpose, such as to rehabilitate the house. Under these circumstances, insurance proceeds do not reduce assistance eligibility.”

6.2 For funds received post grant or loan agreement signing

This policy acknowledges that some beneficiaries or entities who have been determined eligible for CDBG-DR assistance may receive additional benefits from third party sources (private insurance, National Flood Insurance, FEMA, or non-profit organizations) after their initial Duplication of Benefits calculations have been completed and their written grant or loan agreement is executed.

If the VIHFA or a subrecipient who administers the CDBG-DR program receives notification by a receipt of additional or new benefits, procedures shall be adopted that are no less stringent than those contained herein. Additionally, the VIHFA or subrecipient organization shall ensure that the Subrogation agreement or provision incorporated into any

1. The appropriate VIHFA or subrecipient staff shall conduct an updated Duplication of Benefits analysis to determine if the additional assistance received requires an adjustment of

the CDBG-DR assistance being provided.

2. If the updated Duplication of Benefits analysis results in a material change to the original CDBG-DR assistance awarded (either a reduction in the original assistance or requires a repayment), then the VIHFA or subrecipient shall execute a grant or loan amendment reflecting said determination. When the amendment to the written grant or loan agreement is required, the beneficiary or entity shall be notified in writing of (1) revision in grant award and (2) whether any subrogation is required:

a. If subrogation is required, this means beneficiary or entity's recalculated grant award or loan is **LESS THAN** the funds already disbursed. Written notification shall be sent to the explaining the amount to be repaid and the procedures for submitting the repayment.

b. If subrogation is not required, this means that beneficiary or entity's recalculated grant award or loan is **MORE THAN** the funds already disbursed. Written notification shall be sent to applicant explaining the recalculation and the procedures for executing the necessary grant or loan agreement amendment.

The VIHFA or any subrecipient responsible for administering a CDBG-DR funded programs, project or activity shall adopt a written Duplication of Benefits policy and have written procedures, no less stringent than those detailed herein, that determine how addresses how the Stafford Act requirements will be , given the HUD guidelines.