CDBG-DR

DOB 101 Brief

Identifying all applicable duplication of benefits (DOB) is one of the core components of calculating an eligible CDBG-DR award. In one sense, the DOB requirements ensure CDBG-DR funds are used as intended – as funds of last resort. In another sense, compliance with DOB regulations protects subrecipients from making unnecessary and unreasonable expenditures and providing a person or entity with more than the cost to repair from their damages.

The post-disaster landscape makes it easy to calculate awards hastily and without due diligence. However, subrecipients that do not develop adequate DOB policies and procedures risk audit findings and recapture of funds for DOB including recapturing funds from confused and unhappy beneficiaries. Subrecipients should adopt DOB policies and procedures prior to issuing any awards. The application of DOB requirements is generally consistent across jurisdictions, so materials can be shared and adapted to fit each local context. DOB requirements apply to state, local, and Indian tribal governments, as well as any public funding sources provided by those entities for the same purposes.

Application of Federal Regulations

TX GLO requires subrecipients to apply the principles of 76 FR 71060 (sometimes referred to as "FR 5582") for avoiding DOB:

- Update policies and procedures to reflect federal requirements;
- Follow a consistent documentation and award calculation process for each award determination;
- Perform a duplication of benefit analysis before issuing any award and at award closeout; and
- Document every award calculation, with proof of verified assistance and expenditures.

Subrecipients are required to ensure their disaster recovery programs comply with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, (42 U.S.C. 5121–5207), which has been clarified by HUD through the requirements provided in 76 FR 71060 and should be used as a basis for developing effective policies and procedures.

Award Determination + DOB Calculation

When making an award determination for an eligible activity, subrecipients should factor in the total unmet need and all available assistance before completing a DOB analysis; after completing the activity, subrecipients should follow up with beneficiaries confirm that they did not receive additional assistance for the same activity. Refer to the DOB 101 PowerPoint slides for more details on the process below:

1. Assess Unmet Need
2. Identify Available Assistance
3. Exclude Non-duplicative Funds
4. Calculate Award
5. Use of Funds
6. Recapture & Follow-up

Necessary and Reasonable Cost Requirements

CDBG-DR subrecipients are required to comply with "necessary and reasonable" cost requirements. See below for a few key questions to determine whether costs are "necessary" *and* "reasonable."

Necessary Costs

- Is the cost specifically and demonstrably related to the disaster?
- Is the cost related to:
  - Disaster relief;
  - Long-term recovery; or
  - Restoration of infrastructure, housing and/or economic revitalization?
- Does the cost cover an unmet need?
- Is another program already funding the activity?

Reasonable Costs

- Is the cost ordinary and necessary?
- Does the cost align with sound business practices, and applicable laws and regulations?
- Did beneficiaries deviate from established practices and policies in a way that intentionally or unintentionally increased the amount of assistance needed for recovery?
- Does the cost (in its nature and amount) exceed the cost that a prudent person would incur under the circumstances prevailing at the time the decision was made?

Common Findings or Concerns

- Reimbursement of unnecessary or unreasonable costs, ineligible expenses, or poorly or undocumented expenses;
- Payment for recovered construction materials or unverified costs;
- Miscalculation of other assistance (e.g. FEMA) awarded for a different purpose;
- Failure to adequately document other assistance received, approved and awarded;
- Failure to collect documentation through third-party verification;
- Execution of award documents without subrogation agreements;
- Execution of award documents without detailed award calculations – including summaries of relevant assistance received and duplication of benefits; and
- Payment of project costs before verifying information on a beneficiary's duplicative assistance.