

STATE OF NEW JERSEY • DEPARTMENT OF COMMUNITY AFFAIRS

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**SUBJECT:** Duplication of Benefits

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**NUMBER:** 2.10.73

**EFFECTIVE:** March 2013

**REVISED:** June 2013

**REVISED:** January 2014

**REVISED:** June 2014

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**APPROVAL:**



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Timothy J. Cunningham  
Director, Sandy Recovery Division

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**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 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.

The Department of Community Affairs (DCA) 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).

Note: This policy revision also incorporates Policy 2.10.50 “**Accounting for Third Party Benefits Received Post Grant Signing.**” Any additional edits will be incorporated into this policy document ONLY.

**POLICY:**

The Federal Register Notice, dated March 5, 2013 awarding Community Development Block Grant – Disaster Recovery (CDBG-DR) funds to the State of New Jersey establishes the

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requirement that each grantee must have a procedure that identifies processes for each of the following:

*“.....verifying all sources of disaster assistance; determining an applicant’s unmet need(s) before awarding assistance; and ensuring beneficiaries agree to repay the assistance if they later receive other disaster assistance for the same purpose. The procedures should also indicate which personnel or unit are responsible for the task.”*

The notice further states:

*“Duplication of benefits. Section 312 of the Stafford Act, as amended, generally prohibits any person, business concern, or other entity from receiving financial assistance with respect to any part of a loss resulting from a major disaster as to which he has received financial assistance under any other program or from insurance or any other source. To comply with this law and provisions of the Appropriations Act, each grantee must ensure that each activity provides assistance to a person or entity only to the extent that the person or entity has a disaster recovery need that has not been fully met.”*

**CDBG-DR funding is considered to be the *funding of last resort*. Beneficiaries of CDBG-DR funding are expected to have exhausted all other possible resources before resorting to CDBG-DR funding for any project or activity. All subrecipients and programs that receive CDBG-DR funding are required to have in place policy and procedures to prevent duplication of benefits and to comply with the requirements of the Stafford Act.**

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**PROCEDURE:**

*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 public agency or non-profit organization administering the CDBG-DR funded program will conduct an analysis and make a determination regarding the amount (if any) assistance may be available to an eligible applicant. The policy detailed herein complies with the Duplication of Benefits Guidance provided by U. S. Department of Housing and Urban Development (HUD) published in the Federal Register, Volume 76. No 221, dated November 16, 2011.

The table below illustrates the duplication of benefits calculation:

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

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<b>Minus</b> Additional funding from third party sources <b>NOT</b> originally calculated above prior to determination of award
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<b>Equals Revised Grant Award</b>
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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 public agency or non-profit organization administering the CDBG-DR funded program shall complete the analysis of this funding request or application by reviewing the following requirements:

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

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*Subrogation Agreement and Ongoing Monitoring for Receipt of Benefits:*

The public agency or non-profit organization 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 public agency or non-profit organization administering the CDBG-DR funded program should additional benefits be received at any time prior to grant close out.

The public agency or non-profit organization 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.

*For funds not under program applicant's control:*

The Federal Register Notice on Duplication of Benefits Volume 76, No 221, dated November 16, 2011 (FR-5582—01), further stipulates:

“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,

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such as to rehabilitate the house. Under these circumstances, insurance proceeds do not reduce assistance eligibility.”

*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 a public agency or non-profit organization 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 public agency or non-profit organization shall ensure that the Subrogation agreement or provision incorporated into any funding agreement include the following procedures:

1. The appropriate public agency or non-profit organization 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 public agency or non-profit organization 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

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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.

Each public agency or non-profit organization 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 met.