



CDBG-DR/MIT

DUPLICATION OF BENEFITS POLICY



DEPARTMENT OF

HOUSING

GOVERNMENT OF PUERTO RICO

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PUERTO RICO DEPARTMENT OF HOUSING
CDBG-DR/MIT PROGRAMS
DUPLICATION OF BENEFITS POLICY
VERSION CONTROL

VERSION NUMBER	DATE REVISED	DESCRIPTION OF REVISIONS
1	September 27, 2021	Original
2	August 19, 2022	References to the CDBG-DR Program throughout the document updated to read "CDBG-DR/MIT". Added reference to Federal Register Notice 84 FR 45838, which extended the applicability of the 2019 FR DOB Notice to CDBG-MIT funds.
3	July 3, 2023	Included wording to state DOB Policy applicability to CDBG-DR allocations for 2019–2020 Earthquake Sequence, Tropical Storm Isaiás, and enhanced or improved electrical power systems.
4	November 28, 2023	Included language regarding the sunset of the Disaster Recovery Reform Act amendments to Section 312 of the Stafford Act and its effect on DOB calculation.
5	April 7, 2025	Subsection 7.1 of Section 7 regarding Subrogation and Recapture of Funds was added. Subsection 7.1 adds language on the limited circumstances in which monetary recapture will not be made in DOB cases. General modifications throughout the document. All revisions are highlighted in gray.

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1 Overview

The Puerto Rico Department of Housing (**PRDOH**), as a grantee, is committed to the responsible management of the Community Development Block Grant – Disaster Recovery (**CDBG-DR**)¹ and the Community Development Block Grant – Mitigation (**CDBG-MIT**) funds, together CDBG-DR/MIT funds. The U.S. Department of Housing and Urban Development (**HUD**) allocated CDBG-DR funds to address Puerto Rico’s long-term recovery needs caused by major disasters, including Hurricanes Irma and María in 2017, the Earthquake Sequence of 2019–2020, and Tropical Storm Isaiás, Hurricane Fiona and the 2022 Floods. Additionally, HUD allocated CDBG-MIT funds to increase Puerto Rico’s disaster resilience and reduce or eliminate the long-term risk of loss of life, damage, or loss of property. Accordingly, PRDOH has developed a comprehensive program portfolio consisting of Housing, Economic Recovery, Infrastructure, Planning, and Multisector Programs to help rebuild families and communities. These programs also generate a long-term investment in social capital, fortify the economy, and set the stage for stability and continuity in government modernization and efficiency. In the process of fulfilling those commitments with the citizens of Puerto Rico through the implementation of the programs mentioned above, PRDOH and its Subrecipients must ensure that CDBG-DR/MIT funds are being disbursed to meet an unmet recovery need, mitigate disaster risks, reduce future losses and that funds are not duplicative of benefits provided by other federal, state, local, and private sources.

2 Background

CDBG-DR/MIT funding intends to address the unmet needs of a community by investing in long-term recovery and mitigation in the wake of major disasters. These funds are supplemental to primary forms of assistance, including private insurance and Federal Emergency Management Agency (**FEMA**) funds. When the total need for eligible activities is more than the total assistance for the same purpose, the difference between these amounts is considered an unmet need. CDBG-DR/MIT programs are typically implemented after temporary disaster assistance programs, such as FEMA

¹ CDBG-DR means all CDBG-DR programs, including CDBG-DR, CDBG-DR Earthquakes and Tropical Storm Isaiás, CDBG-DR Electrical Power Systems Enhancements & Improvements and CDBG-DR Fiona and the 2022 Floods.

Individual Assistance (**FEMA IA**), which is not long-term assistance intended to meet all Applicant's needs. To avoid Duplication of Benefits (**DOB**) and potential repayment of funding, PRDOH, and its subrecipients must make appropriate efforts to evaluate all possible funding sources, including coordinating with other federal agencies that provide disaster assistance, before applying CDBG-DR/MIT funds to a project. This means that CDBG-DR/MIT funds are the last resource of recovery funding.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (**Stafford Act**), as amended, 42 U.S.C. §5121 *et seq.*, establishes the requirements for DOB analysis.² The Stafford Act prohibits any person, business concern, or other entity from receiving Federal funds for any part of such loss as to which they have received financial assistance under any other program, from private insurance, charitable assistance, or any other source. DOB verification and analysis ensure that program funds compensate applicants for damages and needs that have not been addressed by an alternate source, either through funding or assistance. As such, PRDOH must consider disaster recovery and mitigation aid received by, or available to, Program applicants from any other federal, state, local, or other source and determine if any assistance is duplicative. Any assistance determined to be duplicative, meaning the amount received in excess of the total need for the same purpose, must be deducted from the Program's calculation of the applicant's total need prior to awarding assistance. The total DOB is calculated by subtracting non-duplicative exclusions from the total assistance. After determination of the total need and assistance, non-duplicative sources are amounts that are either: 1) provided for a different purpose that PRDOH's CDBG-DR/MIT Programs do not assist; or 2) assistance provided for the same purpose, but for a different allowable use. An overview of the DOB process is described below.

² Also, see 42 U.S.C. § 5155.



Figure 1: DOB Process Overview

Therefore, to calculate the total maximum amount of the CDBG-DR/MIT award, PRDOH must:

- Identify total need;
- Identify total assistance received by or available to an applicant;
- Subtract exclusions from total assistance to determine the amount of the DOB; and
- Subtract the amount of the DOB from the amount of the total need to determine the maximum amount of the CDBG-DR/MIT award.

The DOB guidance included in Federal Register Vol. 84, No. 119 (June 20, 2019), 84 FR 28836, updates the DOB guidance issued in Federal Register Vol. 76, No. 221 (November 16, 2011), 76 FR 71060, for CDBG-DR grants received in response to disasters declared between January 1, 2015 and December 31, 2021.³ The 2019 DOB notice applies to any new activities submitted to HUD in the Action Plan or Action Plan amendments on or after the date of this notice, and for existing activities, to the extent that the grantee amends its Action Plan to change its treatment of subsidized loans in accordance with this notice. This DOB guidance was adopted in the Action Plan Amendment 5, effective

³ DOB Guidance applies to all CDBG-DR allocations to Puerto Rico in response to disasters declared between January 1, 2015 and December 31, 2021, including: allocations for Hurricanes Irma and María through Federal Register Vol. 83, No. 28 (February 9, 2018), 83 FR 5844, Federal Register Vol. 83, No. 157 (August 14, 2018), 83 FR 40314, and Federal Register Vol. 85, No. 17 (January 27, 2020), 85 FR 4681; allocations for the electrical power systems enhancements through Federal Register Vol. 86, No. 114 (June 22, 2021), 86 FR 32681; and allocation for 2019-2020 Earthquakes through Federal Register Vol. 86, No. 3 (January 6, 2021), 86 FR 569, for 2019-2020 Earthquakes and Tropical Storm Isaiás through Federal Register Vol. 86, No. 23 (February 3, 2022), 87 FR 6364, and for Federal Register Vol. 88, No. 96 (May 18, 2023), 88 FR 32046.

on February 5, 2021. As such, this DOB Policy follows the updated guidance issued in 84 FR 28836. Furthermore, as per Federal Register Vol. 84, No. 169 (August 30, 2019), 84 FR 45838, the CDBG-DR funds requirements stated in the 2019 DOB Notice apply to CDBG-MIT funds.

3 Duplication of Benefits

3.1 General Policy

To be eligible to receive CDBG-DR/MIT funds, all applicants must confirm and provide assurance that efforts will be made to avoid a duplication of benefits. PRDOH understands and expects that, for some projects funded through these Programs, other Federal forms of funding may be possible and that PRDOH will need to work with funded entities, and applicants yet to be funded, to determine, validate, and address issues surrounding DOB. This includes private insurance for the purpose of recovery from the declared disaster.

PRDOH has formal data-sharing agreements with FEMA, Small Business Administration (**SBA**), and the FEMA National Flood Insurance Program (**NFIP**) for prompt DOB verification. These data sets are exchanged on a scheduled basis and accessed by programmatic staff to electronically perform DOB review as part of applicant eligibility verification. The procedure for DOB verification is included in the Program Guidelines of each program to address the specific types of DOB and related analysis that is performed for each project (e.g., verifying FEMA IA for housing projects, or FEMA Public Assistance (**FEMA PA**) for public infrastructure projects) to consider all possible disaster recovery or mitigation funding sources when processing applications for assistance.

Common disaster assistance sources include, but are not limited to:

- FEMA;
- SBA;
- NFIP;
- HUD;
- Central Office for Recovery, Reconstruction and Resiliency (**COR3**);
- Increased Cost of Compliance (**ICC**);

- United States Army Corps of Engineers (**USACE**);
- Private Insurance;
- Private and nonprofit disaster assistance; and
- Other public or private sources.

Applicants will be required to provide support documentation, including award letters, decline letters, and other documentation demonstrating the amount, sources, and uses of funding received/declined to assist in the completion of the projects related to the recovery from the covered disaster or for mitigation for future disasters.

3.2 Assessment of Need Prior to Assistance

To ensure that funds are not duplicative of benefits provided by other federal, state, local, and private sources, PRDOH and its Subrecipients will first determine each Applicant's total post-disaster need, regardless of suspected duplicative funds or program caps. After the calculation of total need, any duplicative assistance will be subtracted out, and the program cap will be applied, as per applicable cost reasonableness principles that must be considered when calculating the final award amount.

The Applicant's total post-disaster need shall be determined by a cost estimate completed by the PRDOH, the Subrecipient, or its authorized representatives, according to the procedures established in each program's policies.⁴

Supporting documentation for any funding sources the applicant provides to validate the DOB amount, including certifications and benefit statements, agency communications, and calculation forms, will be maintained in each applicant file to support PRDOH's or the subrecipient's DOB calculation. If requested, subrecipients will submit their DOB calculations to PRDOH for final review and approval.

⁴ "A review specific to each applicant is necessary because assistance available to each applicant varies widely based on individual insurance coverage, eligibility for various sources of assistance, and other factors." See 84 FR 28836, 28838.

4 Duplication of Funds Calculation

To calculate DOB, the Programs consider the following: (1) total assistance received by or available to the applicant; (2) assistance considered to be non-duplicative; and (3) the unmet needs of the applicant. Total DOB is calculated by subtracting non-duplicative assistance from the total assistance received. Under Federal law, any DOB must be deducted from the assistance provided by the Programs.

According to 84 FR 28836, assistance is available if an applicant: (1) would have received it by acting in a reasonable manner, or in other words, by taking the same practical steps toward funding recovery as would disaster survivors faced with the same situation but not eligible to receive CDBG-DR/MIT assistance; or (2) has received the assistance and has legal control over it. Available assistance includes reasonably anticipated assistance that has been awarded and accepted but has not yet been received.

Assistance is considered to be available even if it is awarded to the applicant but is administered by another party instead of being directly deposited with the applicant. For example, if an entity administering homeowner rehabilitation assistance pays a contractor directly to complete the rehabilitation, the assistance is still considered available to the applicant. By contrast, funds not available to an applicant must be excluded from the final CDBG-DR/MIT award calculation. For example, insurance or rehabilitation assistance received by a previous owner of a disaster damaged housing unit is not available to a current owner that acquired the unit by sale or transfer (including a current owner who inherited the unit as a result of the death of the previous owner) unless the current owner is a co-recipient of that assistance.

Funds are not available to an applicant if the applicant does not have legal control of the funds when they are received. For example, if a homeowner's mortgage requires insurance proceeds to be applied to reduce the unpaid mortgage principal, then the lender/mortgage holder (not the homeowner) has legal control over those funds. The homeowner is legally obligated to use insurance proceeds for the purpose of reducing the unpaid mortgage principal and does not have a choice in using them for any other purpose, such as to rehabilitate the house. Under these circumstances, insurance

proceeds do not reduce CDBG-DR/MIT rehabilitation assistance eligibility. Alternatively, if a lender requires use of insurance for rehabilitation, or a disaster-affected homeowner chooses to apply insurance proceeds received for damage to the building to reduce an unpaid mortgage principal, these insurance proceeds are treated as a DOB and reduce the amount of CDBG-DR/MIT funds the grantee may provide for rehabilitation.

The following are common sources of total assistance received by applicants.

4.1 Federal Emergency Management Agency

FEMA IA may have been provided to applicants for CDBG-DR/MIT eligible activities who sustained losses as a direct result from a federal disaster declaration. It includes renters with damage to their home, vehicle, personal property, or business; grants to help pay for temporary housing, emergency home repairs, uninsured and underinsured personal property losses; and medical, dental, and funeral expenses caused by the disaster, among others.

In cases where applicants have received FEMA IA for the same purpose as the CDBG-DR/MIT-funded activity, such amount will be considered a DOB. FEMA IA will be determined and verified by CDBG-DR/MIT Programs' personnel, through FEMA provided datasets or through applicant provided information originating at FEMA, such as a FEMA Award letter.

4.2 FEMA Public Assistance Program

FEMA PA Program provides supplemental grants to states, local governments, municipalities, and certain types of private non-profits so that communities can quickly respond to and recover from major disasters or emergencies.

In cases where eligible entities have received FEMA PA assistance for the same purpose as the CDBG-DR/MIT-funded activity, such amount will be considered a duplication of benefits. FEMA PA will be determined and verified by CDBG-DR/MIT Programs' personnel, through FEMA provided datasets or through applicant provided information originating at FEMA, such as a FEMA Award letter.

4.3 Increased Cost of Compliance

ICC coverage is one of several resources for flood insurance policyholders who need additional assistance after a flood and is a part of most standard flood insurance policies available under the NFIP.

ICC insurance coverage provides for a claim payment to pay qualifying homeowners' costs to elevate, demolish, relocate, or flood-proof (non-residential buildings only) after a flood. The maximum amount of ICC available is \$30,000. ICC participants cannot receive federal or state assistance for work also covered by the available ICC benefits.

To determine DOB regarding ICC funds provided by NFIP, the Programs will identify and confirm payments to applicants under ICC policies through the NFIP database, via direct inquiry to the NFIP using an applicant's written consent form, or through verifiable documentation supplied by the applicant. The documentation must be in sufficient detail to be considered a verifiable independent source.

4.4 Small Business Administration

Federal regulations deem the Small Business Administration (SBA) loans for a CDBG-DR/MIT funded activity to be a DOB, unless an exception applies.⁵ The Programs will collect SBA information provided by the applicants through the application process. The Programs will collect specific information from SBA that breaks out the approved SBA loan amounts into the different assistance categories (e.g., real property, personal property, vehicles, etc.).

4.4.1 Disaster Recovery Reform Act

As per the 84 FR 28836, which implements a provision of the Disaster Recovery Reform Act of 2018 (DRRA) (division D of Pub. L. 115-254), if applicants received and accepted a subsidized loan made in response to a disaster before the amendment sunset, the undisbursed loan amounts are not considered a DOB and will not be considered in the unmet need calculation when determining the maximum award. Subsidized loans (including forgivable loans) are loans other than private loans.⁶

⁵ 84 FR 28836.

⁶ 84 FR 28836, 28841.

Said provisions on subsidized loans authorized in the DRRRA amendments to Section 312 of the Stafford Act, which applies to disasters occurring between January 1, 2016, and December 31, 2021, were in effect until the amendment sunset on October 5, 2023.⁷ The determining factor for applying the DRRRA amendment is the date the agreement for the subsidized loan assistance is awarded and signed by all the required parties. As such, even after its sunset, the DRRRA amendment will continue to apply to subsidized loans awarded on or before October 5, 2023. However, subsidized loans awarded and signed after October 5, 2023, shall be considered in the DOB calculation.⁸

Subsidized loans accepted by the applicant and used for a disaster-related loss are not a duplication of benefits⁹. PRDOH shall not treat declined subsidized loans, including declined SBA loans, as DOB. Declined loans are loan amounts that were approved or offered by a lender in response to an application, but were turned down by the applicant, meaning the applicant never signed loan documents to receive the loan proceeds. PRDOH is only required to document declined loans if information available to PRDOH (e.g., the data PRDOH receives from FEMA, SBA, or other sources) indicates that the applicant received an offer for subsidized loan assistance, and PRDOH is unable to determine from that available information that the applicant declined the loan.

If PRDOH is aware that the applicant received an offer of loan assistance and cannot ascertain from available data that the applicant declined the loan, the loan may still be excluded from the DOB calculation. This exclusion occurs if PRDOH obtains a written certification from the applicant stating that the applicant did not accept the subsidized loan by signing loan documents and did not receive the loan.

⁷ Sunset provision refers to a clause in a statute, regulation, or law that expires automatically or is repealed once the specific date is reached, unless further legislative action is taken to extend the term.

⁸ For additional guidance regarding the DRRRA amendment sunset please review HUDs <https://www.hud.gov/sites/dfiles/CPD/documents/FAQs-on-Duplication-of-Benefits.pdf>

⁹ 84 FR 28836 states that grantees are not required to reimburse the costs paid with subsidized loan proceeds. At this time, PRDOH has not authorize the use of CDBG-DR/MIT funds for the reimbursement of eligible costs of meeting housing rehabilitation needs or economic revitalization needs for applicants that applied for, were approved for, and borrowed subsidized loans prior to the implementation date of the notice.

For canceled SBA loans, PRDOH must notify SBA that the applicant has agreed not to take any actions to reinstate the canceled loan or draw any additional undisbursed loan amount. Cancelled loans are loans (or portions of loans) that were initially accepted, but for a variety of reasons,¹⁰ all or a portion of the loan amount was not disbursed and is no longer available to the applicant. Cancelled SBA loans may be excluded from the calculation of DOB, if it can be documented that the undisbursed portion of an accepted loan is canceled and no longer available to the applicant. To document that an SBA loan is canceled, the applicant must provide either: written communication from the lender confirming the loan is canceled and no longer available to the applicant; or a legally binding agreement between PRDOH and the applicant that indicates the period of availability of the loan has passed and the applicant agrees not to take actions to reinstate the loan or draw any additional undisbursed loan amounts.

4.5 Private Insurance

If disbursed for the same purpose of the CDBG-DR/MIT funded activity, all property, flood, or casualty insurance settlement amounts for loss will be deducted from the applicant's funding assistance award. Private insurance payments for contents or other expenses are not deducted from the applicant's funding assistance award. Insurance proceeds are initially determined by the Programs through information provided by the applicant. Program applicants will authorize the Programs to contact third-party private insurance providers to verify information provided by the applicants within their applications. Third-party re-verification will only occur if the applicant self-attests that a claim was filed and cannot provide a claim summary.

Insurance proceeds taken by a mortgage company as a forced mortgage payoff will not be counted as a DOB as long as the applicant provides adequate documentation. The applicant will need to provide supporting documentation demonstrating the mortgage payment was involuntary, and the grantee or subrecipient will attempt to verify this information with the applicant's mortgage company. Voluntary mortgage

¹⁰ The loan cancellation may be due to default of the borrower, agreement by both parties to cancel the undisbursed portion of the loan, or expiration of the term for which the loan was available for disbursement.

payoff using insurance proceeds is a **DOB** that will be counted in an applicant's award calculation.

4.6 FEMA National Flood Insurance Program Insurance (NFIP Insurance)

Payments for loss to dwellings under NFIP insurance policies will be deducted from the grant amount to be awarded. Payments for contents or other expenses are not deducted from the applicant's funding assistance award. The Programs will collect NFIP insurance information from the applicant through the application process. In addition, the Programs may work directly with NFIP to verify the information provided by the applicant. Flood insurance coverage provided by the Puerto Rico Department of Treasury (*Departamento de Hacienda de Puerto Rico*, for its Spanish name), through Executive Order, EO-2017-044 issued September 1, 2017,¹¹ will also be evaluated for duplication of benefits.

Insurance proceeds taken by a mortgage company as a forced-mortgage payoff will not be counted as DOB as long as the applicant provides proper documentation. The applicant will need to provide supporting documentation demonstrating that the mortgage payment was involuntary, and the grantee or the subrecipient must attempt to verify this information with the applicant's mortgage company. Voluntary mortgage payoff using insurance proceeds is a DOB that will be counted in an applicant's award calculation.

4.7 Other Funds

Funding received for the same purpose of a CDBG-DR/MIT Program award, such as funding provided by a non-profit entity or the USACE to assist Applicants with rebuilding their home must be reported by each applicant through the application process and must be accounted for and verified by the Programs. In addition, the support documentation related to other duplicative funding sources will be provided by the applicant, verified by the Programs, and applied as a DOB by the Programs.

4.8 Supplanting of Funds

¹¹ Executive Order to authorize the payment of renewals of flood insurance policies for families affected by the passage of atmospheric phenomena, available at <https://docs.pr.gov/files/Estado/OrdenesEjecutivas/2017/OE-2017-044.pdf>.

PRDOH and its subrecipients will not use CDBG-DR/MIT funds to supplant other funds allocated by the Government of Puerto Rico or local governments, designated for the same eligible activities. At any time during the execution of the CDBG-DR/MIT eligible activities, PRDOH may request subrecipients to submit their internal procedures and documentation to prevent any supplanting funds issue. Subrecipients must ensure maintaining ongoing documentation for PRDOH and HUD monitoring purposes, which clearly demonstrates that no supplanting of funds already available to the subrecipients has occurred with the granted CDBG-DR/MIT funds.

5 Exceptions to DOB

There are types of assistance received by an applicant which will not constitute a DOB. The Programs will allow for reductions of DOB totals if applicants can prove that the use or control of the funds meets certain criteria. In accordance with 84 FR 28836, the Programs may exclude, for the DOB calculation, the assistance that was: (1) provided for a different purpose; (2) provided for the same purpose (eligible activity), but for a different, allowable use (cost); (3) not available to the applicant; (4) a private loan not guaranteed by SBA; or (5) any other asset or line of credit available to the applicant. Each of these categories is further described below.¹²

5.1 Funds provided for a different purpose

Any assistance provided for a different purpose than the CDBG-DR/MIT eligible activity or a general, non-specific purpose and not used for the same purpose must be excluded from total assistance when calculating the amount of the DOB.

5.2 Funds provided for same purpose and a different allowable use

Funds received for the same purpose as funds provided under the CDBG-DR/MIT Programs, but that were used by the applicant for a different allowable use may be excluded from the final award calculation. In some instances, funds provided for the same general purpose as the CDBG-DR/MIT funds, would have been used by the applicant for a different allowable use. In these circumstances, if the applicant can

¹² See Small Business Administration Section of this Policy, for additional exceptions applicable to certain subsidized loans, as per 84 FR 28836, 28841.

document that the funds received were used for a different –but eligible– use, then the funds are not duplicative. In these instances, the applicant may provide documentation, such as receipts or paid invoices, demonstrating that funding was spent on a different eligible use.

5.3 Funds not available to the Applicant

Funds not available to an applicant may also be excluded from the final award calculation. 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, then the bank/mortgage holder (not the homeowner) 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 any other purpose, such as to rehabilitate the house. Under these circumstances, insurance proceeds do not reduce assistance eligibility. Alternatively, if a disaster-affected homeowner chooses to apply insurance proceeds to reduce an existing mortgage, or requests that the lender demand payment, insurance proceeds reduce the amount of disaster assistance eligibility. In addition, if a mortgage requires insurance proceeds to be used for property repairs, those proceeds must be considered assistance for that purpose. A homeowner does not need to possess cash assistance to be considered as being in legal control over receiving benefits for a particular purpose.

5.4 Private loans

Unlike SBA loans (or any other subsidized loan or Federal loan guarantee program that provides assistance after a major disaster or emergency), private loans not guaranteed by SBA need not be considered duplicative assistance. Private loans are loans that are not provided by or guaranteed by a governmental entity, and that require the applicant to repay the full amount of the loan under typical commercial lending terms. Since private loans are not provided under a government program, they do not need to be considered as potentially duplicative assistance.

5.5 Other assets or lines of credit

Other assets or lines of credit available to a property owner or a business owner need not be included in the award calculation. This includes checking or savings accounts, stocks, bonds, mutual funds, pension or retirement benefits, credit cards, mortgages or lines of credit, and life insurance.

6 Award Calculation

To calculate DOB before granting an award, the Programs consider the following: (1) total assistance received and available to the applicant, (2) assistance considered to be non-duplicative; and (3) the unmet needs of the applicant. Total DOB is calculated by subtracting non-duplicative assistance from total assistance received. Under Federal law, any DOB must be deducted from the assistance provided by the Programs.

6.1 Methodology to calculate initial award

All households, business, or other CDBG-DR/MIT eligible entities shall submit an application as required by each individual Program. During the intake and application process, persons, business concerns, and other entities applying for assistance will be required to disclose all sources of disaster-recovery and mitigation assistance received and available to an applicant. The applicants will be required to submit specific documentation for each type of assistance received and the Programs will verify the amounts received.

Prior to an initial award for any CDBG-DR/MIT-eligible activity, the Programs will complete a DOB analysis procedure for the activity that encompasses the following steps:

- Identification of the total need for assistance for the specific activity, according to the process established by each Program (e.g., damage assessments, appraisals, quotes, among others);
- Identification of the total assistance received by and available to the applicant for the specific activity;
- Identification of the assistance provided to the applicant that has been determined not to be available, including the following exception to DOB:
 - Assistance provided for a different purpose;

- Funds used for a different, eligible purpose;
- Funds not available to the applicant;
- Funds from a private loan not guaranteed by SBA unless such a loan is forgivable;
- Applicable exceptions related to subsidized loans;¹³ and
- Any other asset or line of credit available to the applicant.
- Determine which sources must be excluded as non-duplicative as described in the Exceptions of DOB section of this policy, including amounts used for a different purpose, or same purpose, different allowable use.
- A calculation to determine the total funds available from other sources for the specific activity:
 - Calculated by subtracting the assistance not available to the applicant or excluded by PRDOH or its subrecipient from the total assistance received by the applicant.
- Determine the maximum award:
 - Calculated by subtracting available funds from other sources (as defined above) from the total need for assistance and comparing the result to the program cap (if applicable) and entering the lesser of the program cap or the maximum award as the maximum eligible award.

6.1.1 DOB Calculation Examples

Example 1

1	Identify Applicant's Total Need Prior to Any Assistance	\$100,000
2	Identify Total Assistance Available	\$75,000
3	Identify Non-Duplicative Amounts	\$35,000
4	Determine Total DOB Amount (Item 2 minus Item 3)	\$40,000
5	Determine Maximum Eligible Award (Item 1 minus Item 4)	\$60,000
6	Identify Program Cap	\$150,000
7	Final Award (lesser of Items 5 and 6)	\$60,000

Example 2

1	Identify Applicant's Total Need Prior to Any Assistance	\$185,000
2	Identify Total Assistance Available	\$10,000

¹³ 84 FR 28836, 28842.

3	Identify Non-Duplicative Amounts	\$5,000
4	Determine Total DOB Amount (Item 2 minus Item 3)	\$5,000
5	Determine Maximum Eligible Award (Item 1 minus Item 4)	\$180,000
6	Identify Program Cap	\$150,000
7	Final Award (lesser of Items 5 and 6)	\$150,000

6.2 Methodology to Calculate DOB Post Initial Award and Prior to Completion

In the event an increase occurs in the costs identified in the initial assessment of need or additional DOB is identified, the Programs will complete a Post-Award Duplication of Benefits Evaluations as follows:

- Identification of the original total need for assistance for the specific activity.
- Identification of the original total assistance available to the applicant for the specific activity.
- Identification of any additional assistance made available to the applicant for the specific activity that has been received since the original calculation.
- Identification of the assistance provided to the applicant that has been determined not to be available, including the following:
 - Assistance provided for a different purpose;
 - Funds used for a different, eligible purpose;
 - Funds not available to the applicant;
 - Funds from a private loan not guaranteed by the SBA unless such a loan is forgivable;
 - Any other asset or line of credit available to the applicant;
 - Applicable exceptions related to subsidized loans.¹⁴
- Determine the total funds available from other sources for the specific activity:
 - Calculated by subtracting the assistance not available or excluded by PRDOH or the subrecipient to the applicant from total assistance received by the applicant.
- Calculate the maximum award:

¹⁴ 84 FR 28836, 28842.

- Calculated by subtracting available funds from other sources (as defined above) from the total need for assistance; and
 - Comparing the result to the program cap (if applicable) and entering the lesser of the program cap or the maximum award as the maximum eligible award.
- Enter the additional unmet need as defined by a change order or revised work write-up and cost estimate.
- Perform a calculation to determine the maximum revised award
 - Calculate by adding original unmet need as identified in the Duplication of Benefits Example worksheet to the additional unmet need;
 - Comparing the revised total unmet need to the program cap (if applicable); and
 - Entering the lesser of the program cap or the revised total unmet need.

7 Subrogation and Recapture of Funds

All duplicative assistance received by an applicant must be accounted for and remitted to PRDOH or its subrecipient, regardless of when applicant receives it. For example, if an applicant receives additional funding for the same purpose as the CDBG-DR/MIT-funded activity (e.g., for repairs to hurricane-damaged property) even after the award has been executed, the applicant is required to report the additional funding to PRDOH or its subrecipients. By accepting the award, applicants agree that they will report any duplicative funds to PRDOH or its subrecipient whenever received. Upon receipt of a report that additional assistance has been received, PRDOH or its subrecipient will recalculate the applicant's award and provide instructions as to whether such funds must be used for the same purpose as the CDBG-DR/MIT-funded activity, prior to expending additional funding by PRDOH or its subrecipients, or whether the applicant must remit such amounts as a reimbursement. All applicants will be required to sign a Subrogation Agreement as part of their Grant Agreement.

Instances may arise where an applicant must return all or part of the awarded funding to the Programs. The Programs are responsible for recapturing duplicative funds from applicants or from applicants who become non-compliant. All applicant files will be reviewed and reconciled for accuracy to ensure DOB did not occur and that applicants

are in compliance with Program requirements and federal guidelines. If an applicant has been identified as receiving a potential overpayment, the Program will document the DOB amount and its basis in a written notification. Applicants who disagree with the DOB amount determined by the Program may challenge the determination. See the Program-based Reconsideration and/or Administrative Review section of the corresponding Program Guidelines.

If the applicant's request is denied or the applicant fails to contest the determination within the allotted timeframe, the Program will proceed with collecting the repayment amount. If the applicant's request results in a revision of the award amount or eligibility, the applicant will sign a revised grant agreement which will outline the requirements related to such changes and the requirements for repaying the remaining overdue amount, if any. Once it has been determined that the applicant must return funds to the CDBG-DR or CDBG-MIT grant fund, the applicant must repay their funds in a timely manner. All repayments shall be expected to be repaid in full, as one lump sum amount.

The Programs will review any applicant's claims of financial hardship and may make limited accommodations on a case-by-case basis. All funds recovered because of this policy will be tracked in the financial system used by PRDOH to manage the CDBG-DR/MIT grants. These funds will be returned to the CDBG-DR or CDBG-MIT account or U.S. Treasury if the CDBG-DR/MIT grant has been closed out.

Please refer to the Recapture of Funds Policy, available in English and Spanish at <https://recuperacion.pr.gov/download/politica-de-recaptura-de-fondos/> and <https://recuperacion.pr.gov/en/download/recapture-of-funds-policy/> for more guidance.

7.1 DOB Recapture Exemptions

Under Section 312(c) of the Stafford Act, any person receiving duplicative assistance will be liable to the Federal government for the duplicative amount. The agency that provided the duplicative assistance shall collect it when deemed to be in the best

interest of the Federal government. However, HUD has identified limited circumstances in which it will not pursue the recapture of funds for DOB.¹⁵

7.1.1 Death, Foreclosure, or Bankruptcy

Disaster recovery is an ongoing process, and beneficiary's circumstances may change after assistance is provided. Sometimes, changes in a beneficiary's circumstances, such as death, foreclosure, or bankruptcy, can affect the unmet need for assistance, which is often not evident until after receiving CDBG-DR/MIT funds, making repayment unreasonable or impractical. In such circumstances, HUD has determined that DOB collection is not in the government's best interest.

Duplicative assistance received by beneficiaries is exempt under this provision when, after receiving CDBG-DR/MIT assistance, they are later determined to be:

- Deceased;
- Subject to a foreclosure action on a residential or non-residential property, including commercial properties rehabilitated, constructed, or reconstructed with CDBG-DR or CDBG-MIT funds; or
- In a bankruptcy proceeding or who exited bankruptcy proceeding after the DOB was provided (or similar proceeding for insolvent debtors under state law, such as an assignment for the benefit of creditors). To qualify for this exemption, the beneficiary must successfully have their debts discharged.

As established by HUD, this exemption applies to all CDBG-DR/MIT beneficiaries meeting the above conditions.

7.1.2 LMI Exemption for Duplicative Federal Assistance Received After CDBG-DR

Likewise, HUD determined that recapturing duplicative assistance from LMI households when additional federal assistance is received after CDBG-DR/MIT funds, generally due to error or exceptional circumstances related to the disaster, is not in the Federal government's best interest. This exemption aims to avoid unnecessary hardship to these families and promote sustainable recovery.

¹⁵ See [CDBG-DR Policy Bulletin 2025-01: HUD's Duplication of Benefits Collection Policy](#).

Duplicative assistance received by an LMI beneficiary is exempt when it duplicates a subsequent Federal award for the same purpose, which, if received before the CDBG-DR/MIT assistance, would have reduced the amount of the beneficiary's CDBG-DR or CDBG-MIT award.

HUD has established a cap of \$27,000 for this exemption. However, this exemption does not apply to non-Federal financial assistance, meaning that PRDOH, as the grantee, will follow its regular process to collect any other type of DOB.

8 Approval

The Duplication of Benefits Policy will take effect immediately after its approval. This document supersedes any previously approved version.

END OF POLICY.