

CDBG-DR

Duplication of Benefits Procedure

Lee County, Florida

Version History

Version	Date	Summary Description
1		Creation of Duplication of Benefits Procedure

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Background

Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C. 5155) requires that recipients of federal disaster recovery funding make certain that no "person, business concern, jurisdiction, or other entity" will receive duplicative assistance. Because disaster assistance to each person/entity varies widely based on their insurance coverage and eligibility for federal funding, grantees cannot comply with the Stafford Act without first completing a duplication of benefits (DOB) analysis specific to each applicant.

Overview

The Board of County Commissioners in Lee County, Florida (The County) is the recipient of a Community Development Block Grant-Disaster Recovery (CDBG-DR) to support long-term recovery efforts.

This assistance is intended to supplement, not replace, other public, private, and nonprofit sector resources that have already been provided for the same need or loss. For example, if a family's damaged home costs \$250,000 to repair and the homeowner received insurance proceeds in that amount, the homeowner could not also receive federal disaster recovery funds to repair the home. In order to ensure that CDBG-DR funding is spent on eligible activities, the County is responsible to verify that each project 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 by funds that have already been, or will be paid, from another source.

A Duplication of Benefit occurs when:

- A beneficiary receives assistance, and
- The assistance is from multiple sources, and
- The assistance amount exceeds the need for a particular recovery purpose.

The purpose of this document is to outline the process by which the County will verify that all applications for assistance from the projects funded by the County (both housing and non- housing), as well as all projects implemented by contractors and subrecipients, will be reviewed for possible duplication of benefits. The procedures described below are also applicable to all grantees and subrecipients and must be incorporated in the design and administration of projects undertaken by them.

The federal regulation pertaining to the County's procedures for identifying Duplication of Benefits is found in 84 FR 28836, which will be reviewed by program management and project staff as part of determining Duplication of Benefits. All applications for assistance will be reviewed for possible DOB.

General Policy

It shall be the policy of Lee County to take affirmative steps to ensure that a duplication of benefit does not occur in the administration of its federal funding. Subrecipients, contractors, subcontractors, and partners responsible for implementing projects and activities funded under Lee County's CDBG-DR grants shall be required to adhere to the policy and procedures outlined in this document and must ensure that DOB prevention is specifically addressed in their policies and procedures.

The Office of Strategic Resources and Government Affairs is responsible for the Duplication of Benefits Compliance, contact information:

Office of Strategic Resources and Government Affairs
Email: recovery@leegov.com
Phone: 239-533-2315

A duplication of benefits occurs when a person, household, business, government, or other entity receives financial assistance from multiple sources for the same purpose, and the total assistance received for that purpose is more than the total need for assistance.

To be eligible to receive CDBG-DR funds, all applicants must confirm and provide assurance that efforts will be made to avoid a duplication of benefits. Lee County understands and expects that, for some projects funded through these Programs, other Federal forms of funding may be possible, and that Lee County 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.

Lee County, Florida 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 must be included in the Project Guidelines to address the specific types of DOB and related analysis that is performed for each project (e.g., verifying FEMA Individual Assistance for housing projects, or FEMA Public Assistance for public infrastructure projects) to consider all possible disaster recovery and/or mitigation funding sources when processing applications for assistance.

CDBG-DR funds are intended to be the payer of last resort for eligible recovery activities. Lee County will verify that CDBG-DR funds are not used for activities reimbursable by or for which funds are made available by Insurance, FEMA or the Army Corps. If FEMA or the Army Corps are accepting applications for a project that is being considered for CDBG-DR funding, the County will seek assistance from those sources before using CDBG-DR. If FEMA or Army Corps funding is received after the use of CDBG-DR to pay for the same costs, CDBG-DR funds will be recaptured in the amount that duplicates assistance received from FEMA or the Army Corps. If insurance claim has not been made, the applicant must file a claim with their insurance carrier.

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 source.

Applicants will be required to provide support documentation, including award letters, denial letters and other documentation supporting the amount, sources and uses of funding received/declined to assist in the completion of the project that was provided in the recovery and/or mitigation from the covered disaster.

All agreements with subrecipients, contractors or beneficiaries will include the following statement:

"Warning: Any person who knowingly makes a false claim or statement to HUD or causes another to do so may be subject to civil or criminal penalties under 18 U.S.C. 2, 287, 1001 and 31 U.S.C. 3729."

AND

All applicants shall be required to sign, at the time of application, an affidavit as follows:

I/We agree to notify the [subrecipient] within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, the Small Business Administration, the state, or any other entity I/we have not specifically disclosed in this application. Further, I/we understand and acknowledge Lee County's or its subrecipient's right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR award if the funds I/we receive are determined to be a duplication of the CDBG-DR benefit I/we are applying for with this application.

I/We have read and understand the foregoing statement.

Date: *Applicant(s):*

All applicants shall be required to sign, at the time of application, an affidavit as follows:

PENALTY FOR FALSE OR FRAUDULENT STATEMENT: *U.S.C. Title 18, Sec. 1001, provides: "Whoever, in any matter, within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies . . . or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than five years, or both."*

I/We have read and understand the foregoing statement.

Date: *Applicant(s):*

Assessment of Needs Prior to Assistance

To ensure that funds are not duplicative of benefits provided by other sources, Lee County, implementation contractors, subrecipients or authorized representatives, will first determine each Applicant's total post-disaster need, regardless of suspected duplicative funds or caps. After the calculation of total need, any duplicative assistance will be subtracted out and the cap will be applied, as per applicable cost reasonableness principles that must be considered when calculating the amount of the final award.

The Applicant's total post-disaster need shall be determined by a cost estimate completed by Lee County, an implementation contractor, a subrecipient, or its authorized representatives, according to the procedures established in each project's policies.

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

Duplication of Funds Calculation

To calculate DOB, the projects 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 duplication of benefit must be deducted from the assistance provided by the projects.

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 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 that are not available to an applicant must be excluded from the final CDBG-DR 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 that 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 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 funds the grantee may provide for rehabilitation.

Methodology to Calculate Initial Award

All households, business, or other CDBG-DR eligible entities shall submit an application as required by each individual project. 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 assistance received and available to an applicant. The applicants will be required to submit specific documentation for each type of assistance received and the project activities will verify the amounts received.

Prior to an initial award for any CDBG-DR–eligible activity, project staff will complete a DOB analysis for the activity that encompasses the following steps:

- 1) Identification of the total need for assistance for the specific activity, according to the process established by each project (e.g., damage assessments, appraisals, quotes, among others);
- 2) Identification of the total assistance received by and available to the applicant for the specific activity;
- 3) 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; and
 - Any other asset or line of credit available to the applicant.
- 4) 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.
- 5) 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 Lee County or its subrecipient from the total assistance received by the applicant.

6) An award cap to be used as a check for the max award.

7) 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 project cap (if applicable) and entering the lesser of the award cap or the maximum award as the maximum eligible award.

EXAMPLES:

1	Identify Applicant's Total Need Prior to Any Assistance	\$200,000
2	Identify Total Assistance Available	\$175,000
3	Identify Non-Duplicative Amounts	\$135,000
4	Determine Total DOB Amount (Item 2 minus Item 3)	\$40,000
5	Determine Maximum Eligible Award (Item 1 minus Item 4)	\$160,000
6	Identify Award Cap	\$250,000
7	Final Award (lesser of Items 5 and 6)	\$160,000

1	Identify Applicant's Total Need Prior to Any Assistance	\$285,000
2	Identify Total Assistance Available	\$25,000
3	Identify Non-Duplicative Amounts	\$10,000
4	Determine Total DOB Amount (Item 2 minus Item 3)	\$15,000
5	Determine Maximum Eligible Award (Item 1 minus Item 4)	\$270,000
6	Identify Award Cap	\$250,000
7	Final Award (lesser of Items 5 and 6)	\$250,000

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 projects will complete a Post-Award Duplication of Benefits Evaluations 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.
- Determine the total funds available from other sources for the specific activity:
 - Calculated by subtracting the assistance not available or excluded by Lee County or the subrecipient to the applicant from total assistance received by the applicant.
- Calculate 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 award cap (if applicable) and entering the lesser of the award 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
 - Comparing the revised total unmet need to the award cap (if applicable); and
 - Entering the lesser of the award cap or the revised total unmet need.

Types of Duplicative Funds

Federal Emergency Management Agency

FEMA Individual Assistance (FEMA IA) may have been provided to applicants for CDBG-DR 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.

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

FEMA Public Assistance Program

FEMA's Public Assistance (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.

Cases where eligible entities have received FEMA PA assistance for the same purpose as the CDBG-DR-funded activity, such amount will be considered a duplication of benefits. FEMA PA will

be determined and verified by CDBG-DR projects' personnel, though FEMA provided datasets or through applicant provided information originating at FEMA, such as a FEMA Award letter.

Increased Cost of Compliance

Increased Cost of Compliance (**ICC**) coverage is one of several resources for flood insurance policy holders 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' cost 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 projects 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.

Small Business Administration

Federal regulations deem SBA loans for a CDBG-DR funded activity to be a duplication of benefits unless an exception applies. The projects will collect SBA information provided by the applicants through the application process. In addition, the project may obtain a data feed from SBA to verify all approved amounts for SBA loans. The projects 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.). SBA Loan amounts and assistance categories will be determined and verified by CDBG-DR projects' personnel, though SBA provided datasets or through applicant provided information originating at SBA, such as a SBA Award letter or loan agreement.

Per 84 FR 28836 Lee County will not consider declined subsidized loans, including declined SBA loans as a DOB. Lee County may collect documentation regarding declined loans only if the SBA, FEMA, or other data sources indicate that an applicant received an offer for subsidized loan assistance, and the County cannot determine from that data if the applicant declined the loan. If documentation regarding the declined loan is not available to the applicant, the County may accept a written certification from the applicant indicating that the applicant did not accept the subsidized loan by signing the loan documents and did not receive the loan.

Private Insurance

If disbursed for the same purpose of the CDBG-DR 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 projects through information provided by the applicant. Project applicants will authorize the projects 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 a claim was

filed and cannot provide a claim summary. Applicants who had insurance coverage at the time of the disaster, but did not make an insurance claim, must make a claim and receive a settlement determination from their insurance company prior to being eligible for assistance through CDBG-DR funded programs.

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 payoff using insurance proceeds is a duplication of benefits that will be counted in an applicant's award calculation.

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 projects will collect NFIP insurance information from the applicant through the application process. In addition, the projects may work directly with NFIP to verify the information provided by the applicant.

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.

Other Funds

Funding received for the same purpose of a CDBG-DR project 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 projects. In addition, the support documentation related to other duplicative funding sources will be provided by the applicant, verified by the projects, and applied as a DOB by the projects.

Supplanting of Funds

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

Exceptions to DOB

There are types of assistance received by an applicant which will not constitute a duplication of benefits. The projects will allow for reductions of DOB totals if applicants can prove that the use or control of the funds meet certain criteria. In accordance with 84 FR 28836, the projects 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.

Funds provided for a different purpose

Any assistance provided for a different purpose than the CDBG-DR 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.

Funds provided for same purpose and a different allowable use

Funds received for the same purpose as funds provided under the CDBG-DR projects, 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 funds, would have been used by the applicant for a different allowable use. In these circumstances, if the applicant can 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.

Funds not available to the Applicant

Funds that are 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.

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.

Cancelled loans

Cancelled loans are loans (or portions of loans) that were initially accepted, but for a variety of reasons, all or a portion of the loan amount was not disbursed and is no longer available to the applicant. The cancelled loan amount is the amount that is no longer available. 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.

A written communication from the lender confirming that the loan has been cancelled, and undisbursed amounts are no longer available to the applicant, must be provided by the applicant to demonstrate that any undisbursed portion of an accepted subsidized loan is cancelled and no longer available.

The documentation described above must be maintained by the County or its subrecipient. Without this documentation, any approved but undisbursed portion of a subsidized loan must be included in the grantee's calculation of the total assistance amount unless another exception applies. For cancelled SBA loans, the grantee must notify the SBA that the applicant has agreed to not take any actions to reinstate the cancelled loan or draw any additional undisbursed loan amounts.

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.

Determining Subrecipient Compliance

Lee County will be responsible for ensuring compliance by subcontractors and subrecipients. In addition to the procedures below, all grant agreements must contain language indicating that any duplication of benefit received post-award will require repayment.

All proposals/applications that are being considered for funds provided by federal pass through shall be assessed by how they address a community need and to what extent the prevent, prepare for and/or respond to the disaster. Additionally, documentation must be submitted with the proposal/application to be demonstrated what other funds were received for the project.

All applicants are required to identify all sources of funding received and reasonably anticipated and provide supporting documentation of such sources (for example, bank statements showing the receipt and expenditure of Payroll Protection Program funds, FEMA Award Letters, SBA Loan Documents, Insurance Checks). The applicant must certify that all assistance is reported. Whenever possible, Lee County shall attempt to obtain third party verification/documentation for all sources of assistance.

To assist in determining the unmet need, all expenses for which the applicant requests reimbursement shall be entered into a DOB Worksheet. All payments received or anticipated for the

expenses shall also be entered. The difference between the total expenses and total payments received or anticipated shall be the maximum amount of federal financial assistance.

For example: *If an affordable housing developer is applying for funds to repair a roof that was damaged during a Hurricane. The developer must provide documentation of the FEMA assistance, Insurance settlement, SBA loan, or other financial assistance received to assist with the roof repairs. If the cost of the repairs is \$3,000,000, and the developer received \$1,500,000 from FEMA to make roof repairs, but no other funding, there would be no duplication of benefits if \$1,500,000 in CDBG-DR funding were awarded to assist with roof repairs.*

Documentation submitted with the proposal/application will be reviewed by Lee County staff or contractors as part of the threshold requirements of the funding process. If it is determined that a duplication of benefits exists the proposal/application will not be submitted to the ranking committee for consideration. If there is no duplication at the time of application, the proposal/application may be scored for potential funding.

A second duplication of benefits check will occur prior to the execution of a subrecipient agreement. Conditionally selected subrecipients will be required to submit new duplication of benefits form during the agreement drafting process. Staff will review the forms and ensure that there is a continued unmet need and duplication has occurred. No agreement shall be executed if since the date of application, a subrecipient has received funds from other source for the same need as requested during the application process. If the funds received from another source are insufficient to fulfill the unmet need, the award amount may be reduced to ensure no duplication of benefits.

For example: *The developer from the example above applied for CDBG-DR funds to assist with roof repair. At the time of application, the developer had not received any settlement from their insurance company. Since receiving notification that the application was conditionally selected for funding, the developer received a \$1,500,000 check from their insurance company. The funding award amount must be withdrawn as there is no longer a gap in funding to pay for the required roof repairs.*

Ongoing Subrecipient Compliance

If the County determines that the federal funding award will not be a duplication of benefit, a subrecipient agreement will be executed. The agreement for assistance must contain the following provisions:

- I/We agree to notify the Lee County within five (5) business days of any additional or new payments, loans, grants, or awards by HUD, FEMA, the Small Business Administration, the state, or any other entity I/we have not specifically disclosed in this application. Further, I/we understand and acknowledge Lee County's or its subrecipient's right and responsibility to enforce this requirement by recapturing all or a portion of the CDBG-DR award if the funds I/we receive are determined to be a duplication of the CDBG-DR benefit I/we are applying for with this application.

- If a duplication of benefits is found, the subrecipient organization will be required to pay back the CDBG-DR Assistance received within 30 days of receipt of the identified duplicative payment.
- “Warning: Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.”

With each drawdown, subrecipients shall submit an updated copy of the DOB Calculation Worksheet to ensure continued prevention of DOB.

During subrecipient monitoring, the County shall require all subrecipients to report and certify whether additional funds were received for project related expenses, the amount, and when funds were received. If additional funds were received that are determined to be duplicative, repayment shall be required in accordance with the subrecipient agreement.

Subrogation and Recapture of Funds

All duplicative assistance received by an applicant or subrecipient must be accounted for and remitted to Lee County 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-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 Lee County or its subrecipients. By accepting the award, applicants or subrecipients agree that they will report any duplicative funds to Lee County whenever received. Upon receipt of a report that additional assistance has been received, Lee County will recalculate the applicant or subrecipient's award and provide instructions as to whether such funds must be used for the same purpose as the CDBG-DR-funded activity prior to expending additional funding by Lee County or whether the applicant must remit such amounts as a reimbursement. All applicants and subrecipients will be required to sign a Subrogation Agreement as part of their written agreement.

Instances may arise where an applicant must return all or part of the awarded funding to the project. The projects 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 project requirements and federal guidelines. If an applicant has been identified as receiving a potential overpayment, the project will document the amount and basis for the repayment in a written notification. Applicants who disagree with a repayment amount determined by the project may challenge the determination. See the Project-based Reconsideration and/or Administrative Review section of corresponding Project Guidelines.

If the applicant's request is denied or the applicant fails to contest the determination within the allotted timeframe, the project 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 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 projects will review any applicant 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 Disaster Recovery Grant Reporting system (DRGR) and returned to the CDBG-DR account or U.S. Treasury if the CDBG-DR grant has been closed out.

DRAFT