

Contribute

The Total Amount of your SBA Loan will be used against you as DOB even if you only take \$1.00.



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FOIA: Memo's, associated documents, law references, legal, department emails, exchanges related to this internal document from the Louisiana Office of Community Development - Disaster Recovery Unit that supports this document.

The Wording of the DOB (Duplication of Benefits) screening process relating to SBA Loans by the State of Louisiana OCD-DRU seems to be made up of rules not listed by any group but in Louisiana.

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Duplication of Benefits

Louisiana homeowners, renters, businesses and communities have experienced extensive damages as a result of severe storms and flooding in 2016. Recovery assistance for these damages is available from the Federal Emergency Management Agency (FEMA), the Small Business Administration (SBA), the U.S. Department of Housing and Urban Development (HUD), private and NFIP flood insurance, state and local governments, charitable institutions, and other sources. However, according to the Governor's Office of Community Development, it is critically important to understand that federal law prohibits any individual, business, or entity from receiving federal funds for any part of such loss, if that individual, business or entity has received financial assistance from any other program, insurance claim, or other source. This is termed as a Duplication of Benefits, or DOB. In other words, you may not be eligible for certain federally funded programs if you have already received assistance from other federal or private sources in the amount that covers your damages.

DOB Frequently Asked Questions

What is a duplication of benefits?

A duplication of benefits (DOB) occurs when a homeowner or business:

- Receives assistance from multiple sources for the same purpose, and
- Total assistance is greater than the need for that type assistance.

What are some of the funding sources that may be included when calculating the potential for duplication of benefits?

- FEMA
- SBA Loans (possibly including loan amounts approved by SBA, but declined or not drawn by applicant)
- HUD grants (including grants from Disaster Recovery Community Development Block Grant (CDBG-DR) programs)
- Insurance proceeds
- Private/Non-profit relief donations and grants
- State or local government grants

What funding sources are NOT included when calculating the potential for duplication of benefits?

- Personal cash or savings
- Private or bank loans
- Other assets or lines of credit
- Funds received for a different eligible program purpose

Do I have to apply for a SBA loan in order to be eligible for other Federal assistance?

- Yes, for certain types of FEMA assistance.
- No, for CDBG-DR assistance.

If another Federal disaster recovery program becomes available, can those funds be used to repay and/or pay down a SBA loan?

- No, according to current federal agency guidance federal grants/loans cannot be used to repay other federal grant/loans.

Whose responsibility is it to calculate DOB?

- It is the responsibility of the administrator of federal funding to ensure that duplicate benefits are not awarded to recipients of federal assistance. Therefore, FEMA and SBA will conduct the initial DOB review to ensure they do not duplicate the assistance an applicant has received or will receive from private insurance, charitable donations, etc.
- Subsequently, if there are any HUD programs (including CDBG-DR) that provide assistance months after FEMA and SBA, the state or local government will review an applicant's total awarded funding to determine how much the applicant is eligible to receive from CDBG-DR. In determining the amount the applicant may be eligible to receive from CDBG-DR, the state or local government will calculate the applicant's unmet need by deducting any assistance that creates a duplication of benefits from the cost of total damages. The unmet need is the maximum amount an applicant will be eligible to receive, subject to other program caps.

How is the unmet need calculated and how does this impact the amount I'm eligible to receive in Federal funds?

1. Identify Total Recovery Need/Damages
2. Subtract all Assistance Received to Date to Pay for Identified Recovery Needs/Damages
3. Equals Unmet Need/Maximum Amount Eligible to Receive in Federal funds (subject to other program caps)

DOB Examples

Assistance to an individual

Example A

Mr. Brown's home was damaged by flooding. The estimated cost to resiliently repair his home is \$100,000.

Mr. Brown receives the following assistance:

- Flood Insurance: \$50,000
- FEMA (housing repair): \$20,000
- SBA loan (housing repair): \$30,000

- TOTAL: \$100,000

Mr. Brown has subsequently applied to the CDBG-DR program for a \$50,000 grant.

Q: Is Mr. Brown eligible to receive funding from the CDBG-DR program?

A: No, Mr. Brown would not be eligible for any additional federal funding, as his damages totaled \$100,000 and he has received \$100,000 in assistance that would be considered to be duplicative with CDBG-DR assistance. In this scenario, Mr. Brown is not experiencing an unmet need, and providing additional federal assistance to Mr. Brown would be considered a duplication of benefits.

Example B

Mr. Brown's home was damaged by flooding. The estimated cost to resiliently repair his home is \$100,000.

Mr. Brown receives the following assistance:

- Flood Insurance: \$50,000
- FEMA (housing repair): \$20,000
- Private Loan and Personal Savings: \$10,000
- TOTAL: \$80,000

Mr. Brown has subsequently applied to the CDBG-DR program for a \$30,000 grant.

Q: Is Mr. Brown eligible to receive funding from the CDBG-DR program?

A: Yes, Mr. Brown would be eligible for funding from the CDBG-DR program, as his damages totaled \$100,000 and he has received \$70,000 in duplicative assistance, leaving \$30,000 in unmet need. The \$10,000 private loan and personal savings is NOT considered to be duplicative of the federal funding. In addition, there is a \$20,000 gap in the amount of proceeds he has received and the total damages (\$100,000 less \$80,000). Therefore, Mr. Brown would be eligible to receive up to \$30,000 in nonduplicative CDBG-DR funds for unmet recovery needs, subject to program award caps.

Example C

Mr. Brown's home was damaged by flooding. The estimated cost to resiliently repair his home is \$100,000.

Mr. Brown receives the following assistance:

Structural Repair Assistance:

- Flood Insurance: \$50,000
- FEMA (housing repair): \$30,000
- TOTAL: \$80,000

Other Housing Needs Assistance:

- FEMA (rental assistance): \$20,000
- TOTAL: \$20,000

Mr. Brown has subsequently applied to the CDBG-DR program for a \$20,000 grant.

Q: Is Mr. Brown eligible to receive funding from the CDBG-DR program?

A: Yes, Mr. Brown would be eligible for funding from the CDBG-DR program, as his damages totaled \$100,000 and he has received \$80,000 in duplicative assistance, leaving \$20,000 in unmet need for repairs to his home. The \$20,000 FEMA assistance for rental assistance is for eligible FEMA expenses related to temporary housing costs, and therefore would not count against the assistance Mr. Brown received for repairs to his home.

Assistance to a business

Example A

Ms. Washington's business was damaged by flooding. The estimated cost to resiliently repair her business is \$250,000. However, Ms. Washington receives the following assistance:

- Flood Insurance: \$100,000
- SBA loan (structural repairs): \$150,000
- TOTAL: \$250,000

Ms. Washington has subsequently applied to the CDBG-DR program for \$50,000 to pay for

structural repairs.

Q: Is Ms. Washington eligible to receive funding from the CDBG-DR program?

A: No, Ms. Washington would not be eligible for any additional federal funding, as her damages totaled \$250,000 and she has received \$250,000 in assistance that is considered to be duplicative with CDBG-DR assistance. In this scenario, Ms. Washington is not experiencing an unmet need and providing additional federal assistance to Ms. Washington would be considered a duplication of benefits.

Example B

Ms. Washington's retail business was damaged by flooding. The estimated cost to resiliently repair her business is \$250,000. In addition, Ms. Washington lost all her inventory and equipment, totaling \$50,000 in documented losses. However, Ms. Washington receives the following assistance:

Structural Repair Assistance:

- Flood Insurance (structural repairs): \$100,000
- Private loan (structural repairs): \$150,000
- TOTAL STRUCTURAL REPAIRS: \$250,000

Damaged Contents Assistance:

- Flood Insurance (contents): \$30,000
- SBA loan (contents): \$20,000
- TOTAL CONTENTS: \$50,000

Ms. Washington has subsequently applied to the CDBG-DR program for assistance.

Q: Is Ms. Washington eligible to receive funding from the CDBG-DR program and if so, how much is she eligible to receive?

A: Yes, Ms. Washington is eligible to receive \$150,000 for structural repairs, as her structural damages totaled \$250,000 and she received \$100,000 in duplicative assistance, leaving \$150,000 in unmet need. The \$150,000 private loan is not considered to be a duplication of benefits. However, Ms. Washington would not be eligible for any contents assistance, as she experienced \$50,000 in documented damages to contents and received \$50,000 in assistance considered to be duplicative with CDBG-DR funds.

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PUBLIC / PRIVATE COMMENTS BELOW:

Murray: If you can also find the federal law that suggests anything that can support the following line.

"SBA Loans (possibly including loan amounts approved by SBA, but declined or not drawn by applicant)"

What do you mean "possibly"?

Is this one of the states "I guess" training sessions this time with the OCD-DRU people effecting thousands of people?

OCD-DRU, this was published September 1, 2016, have you found the "possibly" in the Public Law (PL) section yet?

#ShowMePL

11/2016: (Keyword: partial)

Furthermore, the Stafford Act provides that receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

42 U.S.C. 5155(b). Thus, to comply with the Stafford Act, grantees should ensure that each program 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.

Resource: <https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

11/2016: (Keyword: subtracted)

A. Assessment of need prior to assistance. A grantee should first determine the applicant's total post disaster need in the absence of any duplicative benefits or program caps. Following the identification of total need, duplicative assistance can later be subtracted and program caps applied to arrive at a final award. A rebuilding project's cost estimate is often able to serve as the best demonstration of need.

<https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

11/2016: (Keywords: anticipated assistance)

Grantees should also identify reasonably anticipated assistance, such as future insurance claims or approved SBA loan proceeds. Reasonably anticipated funds include assistance that has been awarded, but has not yet been received. For example, assume a business was approved to receive an SBA loan for \$30,000, but had only received \$20,000 when it applied for CDBG disaster recovery assistance for the same purpose. The grantee should identify the full amount of assistance for which the applicant was approved (\$30,000).

<https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

(Note: This supports the DOB of full SBA Loan if any part of the loan was taken. One out of three relating to our DOB and SBA issues is correct.)

PUBLIC COMMENT:

There's such a huge discrepancy between what each federal agency determines as ECR/unmet need. FEMA's ECR/unmet need = economy grade just to get a roof over your head. SBA's ECR/unmet need = replace the quality of what you had. All federal agencies should be across the board with whatever tool they use to determine the dollar amount of unmet need if they want us to view them all as the same for DOB purposes, in my opinion.

It is kind of logical if you look at people based on their tax brackets. I'll put together the supporting documents related to the differences each federal agency has when working with OCD-DRU state level groups.

According to FEMA and Restore I had no unmet need - still unsure if they are taking into account the forced elevation or not - but SBA is quick to say "oh, yes, you have a HUGE unmet need to repair/replace your home, we can loan you \$X"

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Let's assign different names to each federal department realm we have to address.

FEMA = *Communism*, because they offer everyone \$33,000.00 and if you didn't get it a communist leader is smoking it.

SBA = *Capitalism*, you are only worth the amount of money you earn, paid in, and can borrow. This group allows you to select everything you would like to use for your rebuild and gives you no real limits because

it's your credit or creditworthiness that earned you this money.

CDBG = *Socialism*, you are given what the government says you deserve based on your economic status when compared to the capitalists.

Within all these posts is one addressing elevation and unmet needs. A small part is in this post, we were not told back in August of 2016 or March of 2016 that if we have to elevate you have to wait 2 or more years and live as cheaply as possible. Not everyone had a driveway and a RV to live in. When I found we had to wait for HMGP before we could ask CDBG to elevate it made it clear our house is now a big shed for a long time.

Even the \$78/sf rebuild cost that includes elevation up to 3ft and the complete reconstruction of your home because HUD does not elevate by lifting your slab. You have to build a platform and build a new home all for \$78/sf.

From my research this was in the 1996 estimates which had home elevation costs at \$31/sf and home building under \$65/sf.

Our quotes to elevate are from \$55 to \$75 /sf and I know yours was even more based on sf.

It's a bad commercial, "don't be a victim thrice"

FYI: Keep all your receipts for at least 3 years according to FEMA DOB rules of 2011.

11/2016 (Keywords: may not be familiar)

Because grantees may not be familiar with other Federal programs and allowable uses of funds, should this issue arise, grantees are encouraged to immediately contact their assigned HUD Community Planning and Development (CPD) Representative for further guidance.

<https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

11/2016 (Keyword: Subtract)

D. Calculate CDBG disaster recovery award. The calculation may look as follows: (1) Identify total post-disaster need prior to any assistance; (2) Identify potentially duplicative assistance; (3) Subtract all assistance found to be duplicative, resulting in the maximum potential award amount, or unmet need.

<https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

11/2016 (Keywords: fully repaired)

In effect, once the house is fully repaired, the need resulting from the disaster impact will have been fully met; but actual costs to the point of completion are eligible.

<https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

11/2016 (Keyword: deduct)

TABLE 2—BASIC FRAMEWORK FOR CALCULATING DISASTER RECOVERY AWARDS

3. Deduct Assistance Determined to be Duplicative

TABLE 3—BASIC FRAMEWORK—HOMEOWNER REHABILITATION

3. Deduct Assistance Determined to be Duplicative:

TABLE 4—BASIC FRAMEWORK—INFRASTRUCTURE

3. Deduct Assistance Determined to be Duplicative

TABLE 5—POST-AWARD IDENTIFICATION OF ADDITIONAL UNMET NEED HOMEOWNER REHABILITATION

3. Deduct Assistance Determined to be Duplicative:

<https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

11/2016 (Keywords: pay down an SBA loan)

B. Treatment of SBA Loans. CDBG disaster recovery funds should not be used to pay down an SBA home or business loan. In cases where initial SBA loan amounts approved based on estimated costs are later determined to be inadequate relative to the actual costs to complete home repairs or reconstruction, the SBA will consider re-evaluating an applicant's maximum eligibility to explore if additional assistance may be provided. This also applies to recipients of SBA business loans (including loans for working capital). If need remains after all SBA eligibility has been exhausted, supplemental disaster recovery CDBG funds may be used to address that need.

SBA loans are among the Federal government's primary and standard forms of disaster assistance. As disaster recovery CDBG funds are provided by Congress through supplemental appropriations only in extraordinary circumstances, these funds are intended to supplement rather than supplant SBA assistance. Grantees may, on rare occasion and in extraordinary circumstances, contend that the payment of SBA loans with disaster recovery CDBG for a beneficiary is justified in keeping with all associate laws and regulations. In such an instance, the grantee should contact its CPD representative for guidance.

<https://www.gpo.gov/fdsys/pkg/FR-2011-11-16/pdf/2011-29634.pdf>

I listed just about every issue and duplication of benefits rule that seems to come up often.

In my opinion the two major issues with the process OCD-DRU, MEI, Inc. (Restore LA) use are.

1. Calculation of duplication of benefits when a person declines the SBA Loan.

2. Deductions of DOB are processed as collections before additional grant money can be awarded. This directly impacts people that are in a financial hardship or simply do not have the money. The processes should be to deduct the DOB from the grant amount and award the difference. That is logical when dealing with HUD CDBG-DR funds that are focusing on LMI to the tune of 70% of all victims that apply.

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