

CITY OF LEXINGTON

ECONOMIC DEVELOPMENT AND EMERGENT THREAT PROGRAMS:

SUBRECIPIENT DUPLICATION OF BENEFITS (DOB) POLICIES AND PROCEDURES TEMPLATE

COMMUNITY DEVELOPMENT BLOCK GRANT – CORONAVIRUS (CDBG – CV)
VERSION 1.0 | JUNE 2022

APPROVED BY LEXINGTON CITY COUNCIL ON: _____

JOHN FAGOT, MAYOR

PAMELA BARUTH, CITY CLERK

Table of Contents

DEFINITIONS	3
INTRODUCTION	6
CARES ACT	6
ROLES AND RESPONSIBILITIES	6
ECONOMIC DEVELOPMENT PROGRAM	6
EMERGENT THREAT PROGRAM	7
DUPLICATION OF BENEFITS CALCULATION	7
SUBRECIPIENT DOB DOCUMENTATION AND VERIFICATION	8
CDBG-CV ECONOMIC DEVELOPMENT PROGRAM: SUBRECIPIENT DOB DOCUMENTATION AND VERIFICATION PROCEDURES	8
CDBG-CV EMERGENT THREAT PROGRAM: SUBRECIPIENT DOB DOCUMENTATION AND VERIFICATION PROCEDURES	8
DOB POTENTIAL SOURCES	9
CONTRACT PROVISIONS AND REQUIRED FORMS	10
RECAPTURING DUPLICATIVE ASSISTANCE	11
RECAPTURE PROCEDURES	11

DEFINITIONS

- **Beneficiary:** A person or entity that receives a benefit from CDBG-CV program funds administered by the recipient of said funds, the State of Nebraska (grantee), or local government.¹
- **CARES Act:** The Coronavirus Aid, Relief, and Economic Security (CARES) Act (2020) provided fast and direct economic assistance for American workers, families, small businesses, and industries.
- **CDBG-CV:** A \$5 billion allocation of the CARES Act for the Community Development Block Grant (CDBG) program to provide grants to states, insular areas, and local governments to prevent, prepare for, and respond to the spread of COVID-19.
- **DED:** Nebraska Department of Economic Development.
- **DOB: A Duplication of Benefits (DOB)** occurs when a beneficiary receives assistance, and the assistance comes from multiple sources (e.g., private insurance, FEMA, NFIP, non-profits, etc.), and the total assistance amount exceeds the need for a particular recovery purpose.
- **DOB Funds:** Money received for the same purpose that has already been reimbursed or paid for by another source.
- **DOB Gap Funds:** Funding available from CDBG-CV to meet the difference between demonstrated need and previously paid funds.
- **DOB Review:** The process of analyzing all recovery assistance utilized to ensure it does not provide duplicative funds for eligible activities administered by subrecipients and/or subgrantees under the CDBG-CV Economic Development and Emergent Threat Programs.
- **DOB Test:** The process of declaration of benefits by subrecipients and/or subgrantees and households and verification, as applicable, by DED or its local government subrecipients under the CDBG-CV Economic Development and Emergent Threat Programs.
- **Exclusions:** Funding sources received by a Program subrecipient and/or subgrantee under the CDBG-CV Economic Development and Emergent Threat Programs that are excluded from the DOB calculation, including amounts that are (1) provided for a different purpose; or (2) provided for the same purpose (eligible activity), but for a different, allowable use (cost).
- **Grant:** An award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

¹ <https://dictionary.findlaw.com/definition/beneficiary.html>.

- **Grantee:** DED is the recipient of a grant awarded by HUD and is accountable for the use of the funds provided.
- **HUD:** The U.S. Department of Housing and Urban Development (HUD) is responsible for national policy and programs that address America's housing needs, that improve and develop the nation's communities and enforce fair housing laws.
- **Federal Register:** The official journal of the United States Government that contains government agency rules, proposed rules, and public notices issued by federal administrative agencies.
- **FEMA:** The U.S. Federal Emergency Management Agency (FEMA) coordinates federal responses to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.
- **Recipient:** 24 CFR §6.3 defines recipient as any State, political subdivision of any State, or instrumentality of any State or political subdivision; any public or private agency, institution, organization, or other entity; or any individual, in any State, to whom Federal financial assistance is extended, directly or through another Recipient, for any program or activity, or who otherwise participates in carrying out such program or activity, including any successor, assign, or transferee thereof. Recipient does not include any ultimate beneficiary under any program or activity.²
- **SBA:** The U.S. Small Business Administration (SBA) is an independent agency of the federal government to aid, counsel, assist and protect the interests of small business concerns.
- **Subrecipient:** CDBG regulations at [24 CFR §570.500\(c\)](#) define a subrecipient and a **subgrantee** as: a local government entity, public or private nonprofit agency, authority, or organization, or a for-profit entity authorized under [§570.201\(o\)](#), receiving CDBG funds from the recipient or another subrecipient to undertake eligible activities. The term excludes an entity receiving CDBG funds from the recipient under the authority of [§570.204](#), unless the grantee explicitly designates it as a subrecipient.³
- **Subrogation:** The process by which duplicative assistance paid to the subrecipient and/or subgrantee after receiving an award are remitted to the Program to rectify a DOB.
- **Total Assistance:** Total assistance includes resources received by CDBG-CV Economic Development and Emergent Threat Program subrecipients such as cash awards, insurance, proceeds, grants, and loans received by or available to each entity, including awards under local, state, or federal programs, and from private or nonprofit charity organizations. Total assistance does not include personal assets such as money in a checking or savings account, retirement accounts, credit cards and lines of credit, in-kind donations, and private loans.
- **Total Need:** The total need for a recovery purpose includes all needs and parameters of necessary activities current to the CDBG-CV Economic Development and Emergent Threat Program subrecipient and is determined without regard to program-specific grants. For example,

² [24 CFR § 6.3.](#)

³ [24 CFR §570.500\(c\).](#)

rehabilitation, reconstruction, or new construction activities should determine need based on construction cost estimates.

- **Unmet Need:** When total need for eligible activities is more than total assistance for the same purpose, the difference between these amounts is an unmet need.
- **USDA:** The United States Department of Agriculture (USDA) is the federal agency that proposes programs and implements policies and regulations related to American farming, forestry, ranching, food quality, and nutrition.

INTRODUCTION

HUD defines a DOB as occurring when, “Federal financial assistance is provided to a person or entity through a program to address losses resulting from a Federally declared emergency or disaster, and the person or entity has received (or would receive, by acting reasonably to obtain available assistance) financial assistance for the same costs from any other source (including insurance), and the total amount received exceeds the total need for those costs.”⁴ Per the Subrecipient Agreement, Subrecipients are required to document in their files that there is no duplication of benefits for each activity or program and to develop and maintain adequate written policies and procedures, and to prevent a duplication of benefits that address (individually or collectively) each activity or program. These policies and procedures are intended to describe in detail the process for determining Duplication of Benefits and providing documentation at the Subrecipient level.

CARES ACT

The Coronavirus Aid, Relief, and Economic Security Act (CARES Act) (Public Law 116-136) provides that the Secretary of HUD shall ensure there are adequate procedures in place to prevent any DOB as required by section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5155), as amended by section 1210 of the Disaster Recovery Reform Act of 2018. Subrecipients are required to document in their files that there is no duplication of benefits for each activity or program and to develop and maintain adequate written policies and procedures, and to prevent a duplication of benefits that address (individually or collectively) each activity or program. Grant funds may not be used to pay for a particular cost if another source of financial assistance is available to fully pay for that same cost.⁵

ROLES AND RESPONSIBILITIES

Subrecipients, subgrantees, and/or beneficiaries are required to perform a DOB review and verification for the CDBG-CV Programs and use of CDBG-CV funds. The following details the roles and responsibilities for the programs.

ECONOMIC DEVELOPMENT PROGRAM

Implementation of the Economic Development Program is at the subrecipient and subgrantee level, where DOB checks are first reviewed and verified by the subrecipient. The City of Lexington shall work with its beneficiaries by providing a self-certification indicating any funds they have received and for what activities. Both City of Lexington and any beneficiaries are responsible for completing a questionnaire

⁴ U.S. Department of Housing and Urban Development CDBG-CV Notice FAQs, August 27, 2020, page 22, <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV-Notice-FAQs-OBGA-082720-TOC.pdf>

⁵ U.S. Department of Housing and Urban Development CDBG-CV COVID-19 Fact Sheet, Updated: July 10, 2020, page 2-3, <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-CV-FAQs-071020-final.pdf>

listing potentially duplicative assistance that they have already received or anticipate receiving. The City of Lexington will then submit the questionnaire to DED for their review.

EMERGENT THREAT PROGRAM

Implementation of the Emergent Threat Program is at the subrecipient and subgrantee level, where DOB checks are first reviewed and verified by the subrecipient. The City of Lexington shall work with its beneficiaries by providing a self-certification indicating any funds they have received and for what activities. Both City of Lexington and any beneficiaries are responsible for completing a questionnaire listing potentially duplicative assistance that they have already received or anticipate receiving. The City of Lexington will then submit the questionnaire to DED for their review.

DUPLICATION OF BENEFITS CALCULATION

The final award amount is calculated by subtracting the duplicative assistance from the proposed activity. All CDBG-CV programs follow the same DOB calculation approach. The following is an example of a DOB calculation:

TABLE 1: AWARD CALCULATION EXAMPLE

1. Identify Total Need (need based on the type of program)	\$5,000
2. All potentially duplicative assistance (FEMA, State assistance, non-profit grant)	\$100
3. Assistance determined duplicative (e.g., received rent assistance)	\$50
4. Maximum eligible award (1 less 3)	\$4,950
5. <i>Program Cap (if applicable)</i>	\$10,000
6. Lesser of Maximum Eligible Amount or Program Cap = Total Award Amount	\$4,950

CDBG-CV Program assistance needs are calculated at a point in time. As a result, subsequent adjustments may occur that affect the need of program subrecipients, subgrantees, and/or beneficiaries. If, after the assistance has been calculated and/or a CDBG-CV award has been made, and the City of Lexington, subgrantee, or beneficiary under the CDBG-CV Emergent Threat Program demonstrates a change in circumstances, then the award calculation may be subsequently re-evaluated.

If DED and/or City of Lexington later determines that recipients of CDBG-CV funds have received additional assistance or did not disclose all assistance received, the award will be reduced or modified to account for the additional funds received. If the subrecipients and/or beneficiaries knowingly did not disclose all provided assistance, the award can be rescinded, and assistance be deemed ineligible for the CDBG-CV Program.

SUBRECIPIENT DOB DOCUMENTATION AND VERIFICATION

Prior to providing or awarding CDBG-CV funds, DED conducts a DOB verification for each project or program to be funded by CDBG-CV funds, as required by the CARES Act.

Suitable documentation is dependent on the source of the DOB, but may include award letters from federal agencies, funding commitment letters from non-profits, and governmental loan documents (e.g., award letter from SBA). DOB source documentation is added to the program or project file and retained in accordance with the CDBG-CV record retention requirements.

CDBG-CV ECONOMIC DEVELOPMENT PROGRAM: SUBRECIPIENT DOB DOCUMENTATION AND VERIFICATION PROCEDURES

The CDBG-CV Economic Development Program is required to verify DOB for all payments to support new businesses, business expansion to create jobs and manufacture medical supplies necessary to respond to infectious disease, and to avoid short-term job loss related to enable job retention of LMI persons. Subrecipients, subgrantees, and/or beneficiaries of DED are responsible for verifying all potential DOB. DED will then confirm the verification. As a subrecipient of the program, City of Lexington shall complete the following steps:

1. Determine CDBG-CV Economic Development Program activity eligibility and the business's need.
2. Calculate the beneficiary's total need for assistance.
3. Review DOB Affidavit and DOB Certification form for sources of assistance for the same purpose as the CDBG-CV Economic Development Program.
4. Verify potentially duplicative assistance by ensuring documentation is complete and shows total award amounts. If necessary, sources of potential duplicative assistance shall be verified by contacting the source of assistance or accessing data through a data sharing agreement or memorandum of understanding.
5. Calculate the total assistance determined to be duplicative. The maximum eligible award amount is the total need less assistance determined to be duplicative.
6. Total award amount is the lesser of the maximum eligible award amount and the program cap.
7. Submit documentation to DED for review and verification.

CDBG-CV EMERGENT THREAT PROGRAM: SUBRECIPIENT DOB DOCUMENTATION AND VERIFICATION PROCEDURES

The CDBG-CV Emergent Threat Program is required to verify DOB for all payments for public facilities and public services projects that prevent, prepare for, and respond to COVID-19. Subrecipients, subgrantees, and/or beneficiaries of DED are responsible for verifying all potential DOB. DED will then confirm the verification. The City of Lexington shall complete the following steps:

1. Determine CDBG-CV Emergent Threat program activity eligibility and the need.
2. Calculate the beneficiary's total need for assistance.
3. Review DOB Affidavit or DOB Certification form for sources of assistance for the same purpose as the CDBG-CV Emergent Threat Program.
4. Verify potentially duplicative assistance by ensuring documentation is complete and shows total award amounts. If necessary, sources of potential duplicative assistance shall be verified by the source of duplicative assistance by contacting the source of assistance or accessing data through a data sharing agreement or memorandum of understanding.
5. Calculate the total assistance determined to be duplicative. The maximum eligible award amount is the total need less assistance determined to be duplicative.
6. Total award amount is the lesser of the maximum eligible award amount and the program cap.
7. Submit documentation to DED for review and verification.

DOB POTENTIAL SOURCES

To complete the DOB and maximum award calculation, DED is required to collect documentation from program subrecipients, subgrantees, and/or beneficiaries that provides sufficient reasonable evidence of the total need, total assistance, and exclusions. Potential funding sources for the CDBG-CV Programs that may qualify as duplicative assistance may include but are not limited to those outlined in Table 2: Summary of Potential DOB Sources by Program.

TABLE 2: SUMMARY OF POTENTIAL DOB SOURCES BY PROGRAM

	Emergent Threat		Economic Development
	Public Facilities	Public Services	Includes Assistance to Businesses
Program Areas	Includes Acquisition, New Construction, Rehabilitation, and Other Improvements (e.g., testing and treatment facility construction, building rehabilitation to establish an infectious disease treatment clinic, etc.)	Includes Existing Services Expansion and New Space Creation (e.g., increasing capacity and availability of targeted services, meal programs, food banks, Meals on Wheels, etc.)	
Potential Sources for Duplicate Assistance	FEMA (Disaster Relief Funding), NFIP, EDA	FEMA (Public Assistance Program Cat B), USDA (Summer Food Program, Child Nutrition Program, WIC, Emergency Food Assistance Program), EDA	SBA, US Dept of Treasury, IRS, Dept of Labor

CONTRACT PROVISIONS AND REQUIRED FORMS

Program subrecipients, subgrantees, and/or beneficiaries under the Emergent Threat Programs must complete the below forms and submit to DED.

- CDBG-CV Duplication of Benefits Affidavit
- CDBG-CV Duplication of Benefits Certification
- CDBG-CV Subrogation Agreement

Any certification by a subrecipient, subgrantee, or beneficiary must be based on supporting evidence that will be kept available for inspection by DED and HUD. If a subrecipient, subgrantee, or beneficiary certifies that other sources of funds were received and expended for a different purpose than the CDBG-CV funds, the subrecipient, subgrantee, or beneficiary must substantiate this assertion with an additional source of information (e.g., physical inspections, credit card statements, work estimates, contractor invoices, or receipts).

DED, subrecipients, subgrantees and beneficiaries must maintain records for all documentation in compliance with HUD's DOB policies for a period of at least five (5) years from the date of grant closeout. All documents and supporting evidence will be kept available for inspection by DED and HUD.

RECAPTURING DUPLICATIVE ASSISTANCE

If a duplication is discovered after CDBG-CV Program assistance has been provided, the duplicative funds are recaptured to the extent that they are in excess of the need and duplicate other assistance received for the same purpose. If beneficiaries do not willingly contribute their duplicative funds, DED or the subrecipient can collect these funds as debts.

Subrecipients, subgrantees, and/or beneficiaries are required to maintain all corresponding financial transactions related to the refund(s) in their respective files and submit one copy of the completed documents and supporting documentation to DED.

RECAPTURE PROCEDURES

Program subrecipients, subgrantees, and/or beneficiaries may have costs questions that are associated with its CDBG-CV funding where there is:

- Inadequate documentation to support the expenditure, or the amount charged to the grant.
- The expenditure does not appear to be related to the grant project.
- Incurred cost outside the effective period of the Subrecipient Agreement or before environmental review clearance was achieved.
- The expense is unallowable under the program regulations and applicable cost principles (2 CFR 200.410).
- The cost required the prior approval of the grantee, and no prior approval was obtained (2 CFR 200.407).

To resolve a questioned cost (2 CFR 200.1), program subrecipients, subgrantees, and/or beneficiaries must:

- Provide the missing documentation to support the expenditure and amount.
- Offer a detailed explanation of how the cost relates to the grant program.
- Seek retroactive approval for an expense that required prior approval (which the grantee may or may not give).

If program subrecipients, subgrantees, and/or beneficiaries are not able to resolve a questioned cost to the satisfaction of the auditor and/or grantee, the expense will be disallowed. A disallowed expense for which Federal funds were originally used must be reimbursed from non-CDBG/non-Federal funds. On occasion, program subrecipients, subgrantees, and/or beneficiaries may be able to negotiate a repayment schedule with the grantee or the other relevant officials (e.g., HUD/OIG representatives).⁶

⁶ U.S. Department of Housing and Urban Development Office of Community Planning and Development Community Development Block Grant (CDBG) Program, *Playing by the Rules A Handbook for Subrecipients on Administrative Systems*, May 2021, Chapter 7-7, <https://files.hudexchange.info/resources/documents/Playing-By-the-Rules-a-Handbook-for-CDBG-Subrecipients-On-Administrative-Systems.pdf>