



# **TRANSFORM386**

**STRENGTHENING VOLUSIA'S FUTURE**

## **Policies and Procedures**

### **Duplication of Benefits**

**Community Development Block Grant - Disaster Recovery**





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## Version History

Version	Date	Notes
1.0	July 6, 2023	Original version posted on Transform386 webpage for comments

## Section A: Duplication of Benefits Background

Many federal and state agencies are involved in responding to presidentially declared major disasters under the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (the “Stafford Act”). Under Stafford Act requirements, Congress instituted a goal to achieve greater coordination and responsiveness of disaster preparedness and relief programs. The Stafford Act duplication of benefits (“DOB”) requirements apply to all federal agencies, including the United States Department of Housing and Urban Development (“HUD”), administering a disaster recovery program in which financial assistance for emergency response and long-term recovery is provided. Community Development Block Grant – Disaster Recovery (“CDBG-DR”) grants are subject to these requirements.

Section 312(a) of the Stafford Act requires federal agencies to assure that no person receiving federal financial assistance receives funds for any part of a loss already paid by insurance or any other source. Section 312(c) makes any person receiving duplicative assistance liable to the federal government for the duplicative amount and states, “the agency which provided the duplicative assistance shall collect [it] from the recipient when the head of such agency considers it to be in the best interest of the Federal Government” (42 USC 5155(c)). Additionally, Section 312(b) of the Stafford Act permits the payment of assistance to someone who is or may be entitled to future payments from insurance or another source, “if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance” (42 USC 5155(b)).

The Stafford Act requirements are reinforced by other regulations that govern the use of CDBG-DR funding. Acts of Congress, such as Public Law 117-328, appropriate CDBG-DR funding and require the HUD Secretary to certify that grantees have adequate procedures to prevent any DOB in advance of making grant awards. To receive HUD certification, grantees must demonstrate that they have “established adequate procedures to prevent any DOB as defined by section 312 of the Stafford Act.”

In addition to the explicit requirements of the Appropriations Act, Public Law 117-328, CDBG-DR grantees are also subject to the U.S. Code of Federal Regulations (“CFR”) Title 24, concerning HUD, and the Uniform Administrative Requirements of 2 CFR part 200. The latter regulations contain strict cost control guidance in Subpart E, which defines a reasonable cost as one that “in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost” (2 CFR 200.404).

While DOB verification is most often a component of housing-related recovery activities, it can also apply to public infrastructure and business recovery programs as well, depending on the nature of the activity. The fundamental requirement is that the grantee and its subrecipients must prove that they have accounted for any funds received by private insurance, the Small Business Administration (“SBA”), the National Flood Insurance Program (“NFIP”), the Federal Emergency Management Agency (“FEMA”), and/or any other funding an applicant has received for the same purpose as the CDBG-DR grant, prior to the award and expenditure of CDBG-DR funds.

Volusia County and its Transform386 partners will coordinate with FEMA, the NFIP, and the SBA to establish a process whereby beneficiary information can be obtained to determine if



applicants, especially housing rehabilitation applicants seeking disaster recovery funding assistance, have either applied for or received funding from these agencies. Transform386 will leverage HUD's data sharing agreement with FEMA to ensure that applications for assistance incorporate the most recent available data when confirming the receipt of other sources of federal assistance. To ensure that the most recent assistance data is used to confirm other federal assistance, Volusia County is working on securing data sharing agreements with FEMA for 2022 Disaster – Hurricane Ian.

The Stafford Act directs the administrators of federal assistance to ensure that no person, business, or other entity will receive duplicative assistance and imposes liability to the extent that such assistance duplicates existing benefits available to the person for the same purpose from another source. The amount of the duplication is the amount of assistance offered in excess of need. The Stafford Act requires that recipients of federal disaster recovery funding make certain that no "person, business concern or other entity" will receive duplicative assistance. A 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

Eligible applicants may have previously received assistance from other sources. Under the requirements of Stafford Act (42 U.S.C. 5121, et seq.), as interpreted and applied by HUD, the program must account for certain aid received by applicants when determining the amount of assistance which can be granted. In accordance with the Stafford Act, all projects, both directly and subrecipient administered, will give due diligence to the identification and accounting of potentially duplicative sources of funding. This analysis will determine whether the source is duplicative, whether it was received or will be received, and deduct the total DOB amount from the project's need-based award determination.

The following are sources of funding assistance provided for structural damage and loss that are considered a DOB and under federal law must be deducted from the CDBG-DR assistance provided.

- FEMA Individual Assistance for Structure (IA),
- FEMA (National Flood Insurance Program),
- Private Insurance,
- Increased Cost of Compliance (ICC),
- Small Business Administration (SBA),
- Any other funding source available to the homeowner for the same purpose as a CDBG-DR grant that may duplicate the intended assistance of the program such as may be received from a charity or not-for-profit.

Funds received from any source, including flood insurance, FEMA, and hazard insurance that were used to cover repairs to the homeowner's home will reduce the amount of disaster assistance if the evidence of expenditures at least equals the amount of assistance provided from the

source(s). Documentation must be provided demonstrating the cost and type of repair conducted in accordance with 2 CFR 200.

Any additional funds paid to homeowner awardees for the same purpose as the housing assistance award after Volusia County has completed the repair, rehabilitation, or replacement of the homeowner’s housing units must be returned to the county as detailed in the executed grant agreement.

For additional information on duplication of benefits see the following Federal Register Notices 76 FR 71060, 84 FR 28836, and 84 FR 28848 available on the HUD Exchange website.

## Section B: Duplication of Benefits Guidance

<b>Federal Register Notice</b>	<b>Publication Date</b>	<b>Subject</b>
84 FR 28836	June 20, 2019	June 2019 Duplication of Benefits Notice
84 FR 28848	June 20, 2019	June 2019 Duplication of Benefits Implementation Notice
76 FR 71060	November 16, 2011	Duplication of Benefits

On June 20, 2019, HUD issued two Federal Register notices applicable to duplication of benefits, 84 FR 28836 and 84 FR 28848. Federal Register 84 FR 28836 is entitled “Updates to Duplication of Benefits Requirements under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grants”. It outlines the new DOB requirements consistent with the Disaster Recovery Reform Act of 2018 (DRRA) as provided in division D of Public Law 115-254. Federal Register 84 FR 28848 entitled “Applicability of Updates to Duplication of Benefits Requirements under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees” provides implementation considerations for 84 FR 28836. These include the clarification that the new guidance supersedes and makes the November 2011 Federal Register 76 FR 71060 inapplicable to disasters occurring between 2015 and 2023 for any new activities or if the grantee revises policies and procedures and the applicable action plan for activities already being undertaken.

## Section C: Duplication of Benefits Procedures

A duplication of benefits occurs when a beneficiary has received or is expected to receive assistance that serves the same purpose intended by Volusia County’s recovery program. For example, a duplication of benefits will occur if an applicant for a housing repair or rehabilitation program previously received financial or in-kind assistance for the repair or reconstruction of his or her home. To prevent any duplication of benefits from occurring prior to award, Volusia County will determine the remaining unmet need by considering all reasonably identifiable financial assistance made available to the applicant prior to the commitment of funds.

All agreements between applicants for housing repair, rehabilitation, or reconstruction and Volusia County or its subrecipients will require applicants to contribute any duplicative assistance identified (also known as DOB Gap Funds) prior to construction beginning on the project. DOB Gap Funds must be submitted within 90 days of the execution of the agreement, otherwise the

homeowner's application will not be determined eligible. Commitment agreements will also require beneficiaries to repay any DOB assistance that is received after an award is granted if it is for the same purpose of the CDBG-DR funded award.

All beneficiary agreements, whether between Volusia County and applicants or subrecipients and applicants, will make it clear that awardees are expected to be honest and forthright in their disclosure of potential duplication of benefits. These requirements will be stated explicitly along with the following notification, "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, 1011 and 31 U.S.C. 3729. [Section III.A.1.a.(3) (c)]." For additional information regarding fraud, please see Volusia County's CDBG-DR Anti-Fraud, Waste, and Abuse policies and procedures. For additional information on HUD's policies concerning DOB related fraud, see the following Federal Register Notices: 76 FR 71060, 84 FR 28836, and 84 FR 28848 available on the HUD Exchange website.

## Section D: Monitoring for Duplication of Benefits

Volusia County will design each of its recovery programs to account for any potential duplication of benefits that are relevant to the specific recovery activity. As recovery programs become operational, Volusia County will conduct periodic performance monitoring of recovery activities. Although the frequency and duration of these reviews will be based on individual program risk assessment, each monitoring review will incorporate an evaluation of the pre-award duplication of benefits analysis and the procedures for confirming the accuracy of the calculation.