The State of West Virginia Community Development Block Grant Mitigation (CDBG-MIT) Training

Virtual Training Norms

Today's webinar will be recorded and posted for future reference.

- All participants will be muted by default.

- We encourage participation in the following ways:
  - Use the "Questions" function to ask questions. This will allow WV CAD to have a written record of all questions.
  - Use "raise hand" button and WV CAD will unmute one participant at a time.

- Following the meeting, any questions or comments can be emailed to CDBGmitigation@wv.gov

- **Register!** Presentation slides will be emailed to participants who registered for the hearing.
  - Joined the webinar with a group? If you're sharing a computer or logging in with a group, we only have 1 person's contact info. Please provide us with the names and emails of others so they can continue to receive updates.

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Introduction

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Getting Started

- Ground Rules

- Agenda Overview

- Review Audience Objectives / Greatest Concerns

Agenda

I. Applicable DOB Laws, Regulations and Most Recent Guidance

II. Verification of Benefits

III. Sample Budgets and Award Calculations

IV. Subrogation and Recapture

V. Questions

Duplication of Benefits (DOB)

What is a DOB?

"A duplication occurs when a person, household, business, or other entity receives disaster assistance from multiple sources for the same recovery purpose, and the total assistance received for that purpose is more than the total need. The amount of the DOB is the amount received in excess of the total need for the same purpose."

HUD June 2019 Duplication of Benefits Notice 84 FR 28836

Duplication of Benefits (DOB)

Recovery assistance may be provided by different sources

- FEMA
- Other Capital Improvement Budgets
- CDBG-DR
- CDBG-MIT
- And others

A duplication of benefits (DOB) occurs when:

- Assistance for one project includes multiple sources **AND**
- Total Assistance is greater than Total Project Cost

What is **NOT** a Duplication of Benefits?

When the combined amount of the other sources is less than the total project cost (or needs) **and** CDBG-MIT is the amount that fills the gap between sources and uses.

- Example:
- Total Project Cost $750,000
- Total from FEMA $562,500
- Max CDBG-MIT Amount $187,500

What is **Not** a Duplication of Benefits

Declining an approved loan is NOT a duplication of benefits

A declined loan is loan amounts that were approved or offered by a lender in response to a loan application but were turned down by the applicant

To be considered a declined loan, the applicant must have never signed loan documents to receive the loan proceeds.

A Cancelled Loan is **NOT** a duplication of Benefits

A cancelled loan is a loan that:

- Was originally accepted
- Not fully disbursed **AND**
- The undisbursed amount is no longer available to the applicant

Verification that the loan has been cancelled includes

- Written communication from lender confirming loan has been cancelled and undisbursed amounts are not available to the applicant; or
- Legally binding agreement between grantee and applicant that loan term has ended, and applicant will not reinstate loan

When is a Loan a Duplication of Benefits?

The applicant has signed the loan docs and started making draws, AND

There is **no documentation** that the loan has been **cancelled** as per requirements on previous slide

"Supplanting" vs. "DOB"

- HUD expects that grantees will rigorously evaluate proposed projects and activities ensuring that **already committed** public or private resources are not supplanted by CDBG-MIT funds

  - EXAMPLE CDBG-MIT eligible project is on an approved capital improvement plan and a locally approved budget includes funding for it. Switching the source to CDBG-MIT=supplanting and is not eligible.

  - Same project is redesigned to include more resilient features, increasing cost 20% CDBG-MIT can be used for the increased cost

Verification of Benefits (VOB)

What is a VOB?

CDBG–MIT grantees must have procedures in place to prevent DOB when carrying out eligible activities.

- ❑ Verify all sources received for a project prior to MIT award
- ❑ Determine remaining funds needed
- ❑ Require beneficiaries to enter into a signed agreement to repay any duplicative assistance if they later receive additional assistance for the same purpose

Verification of Benefits (VOB)

VOB is conducted by acquiring documentation or confirmation from the third-party source (not the applicant) that provided or processed the benefit.

This procedure is referred to as the Verification of Benefits (VOB)

A policy and procedure is required that will identify how the grantee or subgrantee independently *verifies* the amount of benefits an applicant or project already has access to and that *may* create a duplication of the funds available from the HUD CDBG-DR or MIT program.

Note: Multiple methods may be used to verify sources but must be applied consistently across beneficiaries.

Know the Market

Identify Potential Project Sources

- FEMA
- National Resources Conservation Service (has some funding for watershed projects)
- Local Government Bonds – some projects may have already been financed locally
- Army Corps of Engineers
- Insurance Unlikely for Infrastructure – Likely for buildings
- Other Sources? (Don't forget about active loans with balances)

Sample Project Budget

☐ Pause to Review Sample Project Budget

DOB Examples
Public Facilities and Public Improvements

- ❏ FEMA Hazard Mitigation Grant Program

- ❏ Proposed Mitigation Activities on a Capital Improvement Plan **with funding in an approved budget**

- ❏ Legal Responsibility of Another Federal Agency

- ❏ Insurance – typically only Public Facilities

Verification Policy and Procedure Recommendations

As per MIT Notice, rely on the Federal Register notice published on June 20, 2019 entitled, "Updates to Duplication of Benefits Requirements Under the Stafford Act for Community Development Block Grant (CDBG) Disaster Recovery Grantees"

If any significant period of time (more than 6 mos) has elapsed from when VOB was conducted to when a CDBG-MIT grant is finally made; it is advisable to re-verify prior to award. It is also good practice to re-verify prior to project closeout to ensure additional funds that create a DOB were not received post CDBG-MIT award.

Subrogation Agreements and Recapture

Subrogation requires applicant to repay CDBG-MIT amount if they receive funds not previously disclosed or anticipated that create a DOB after the fact.

Common language: *Upon receiving any Proceeds not listed on the Duplication of Benefits Affidavit, grantee agrees to immediately notify the State of such additional amounts. The State will determine in its sole discretion if such additional amounts constitute a DOB.*

Recapture Policies

HUD Recapture Requirement

- If a duplication is identified after assistance is provided, CDBG–MIT funds shall be recaptured from the applicant

Recapture Policies Describe:

- Notification Process
- Repayment options
- How Recaptured funds will be spent

Logistics for Tracking Recaptured Funds

In 2017 HUD published procedures for depositing recaptured funds into the grantee's Local Account, including funds recaptured due to ineligible expenditures

A grantee must draw these Local Account funds prior to drawing additional CDBG-MIT funds to pay for activity-related costs. "Reprogrammed Funds"

Questions?

Thank You!