



STATE OF FLORIDA Duplication of Benefit Policy

Community Development Block Grant – Disaster Recovery
Hurricanes Hermine and Matthew



Version Policy

Version history is tracked in the Version History Table (page iii), with notes regarding version changes. Dates of each publication are also tracked in this table.

Substantive changes in this document that reflect a policy change will result in the issuance of a new version of the document. For example, a substantive policy change after the issuance of Version 1.0 would result in the issuance of Version 2.0, an increase in the primary version number. Non-substantive changes such as minor wording and editing or clarification of existing policy that do not affect interpretation or applicability of the policy will be included in minor version updates denoted by a sequential number increase behind the primary version number (i.e., Version 2.1, Version 2.2, etc.).

Policy Change Control

Policy review and changes for the State of Florida Hermine and Matthew Community Development Block Grant – Disaster Recovery Program are considered through a change-control process. Policy clarifications, additions, or deletions are needed during the course of the program to more precisely define the rules by which the Program will operate. Program staff will document policy-change requests that will be tracked in the program files. Requests are compiled and brought before supervisory staff in a policy meeting. Subject matter experts working in a particular policy area or task area that will be affected by the policy decision may be invited to assist in policy evaluation, if necessary. Policy meetings will be held as frequently as is necessary to consider policy decisions critical to moving the Program forward in a timely manner. Policy decisions will be documented and will result in the revision of the Department of Economic Opportunity's Policies and Procedures Manual.

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Version History

Change Date	Version Number	Summary of Change
11/04/2018	1.0	

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1.0 Introduction

Regulatory/Statutory Citations: 42 USC 5155; PL 113-2; 44 CFR 206.191; 76 FR 71060; 78 FR 14329, 23578, and 76154

Federal regulations require that benefits provided by Community Development Block Grant – Disaster Recovery (CDBG-DR) funds are not duplicative of benefits provided by other federal, state, local, and private sources. Duplication of benefit occurs when a beneficiary receives assistance from multiple sources such as other U.S. Department of Housing and Urban Development (HUD) programs (e.g., HOME Investment Partnerships Program), Federal Emergency Management Agency (FEMA), the National Flood Insurance Program (NFIP), the Small Business Administration (SBA), private insurance companies, nonprofit organizations, the state or its subrecipient, or any other entity for a cumulative amount that exceeds the total need for a particular disaster recovery purpose. The amount of the duplication is the amount of assistance provided in excess of need. Private-sector or other loans that must be repaid in full are not duplicative. Insurance proceeds taken by a mortgage company to pay down or pay off a mortgage loan—known as forced mortgage payoffs—are not considered duplicative. Forgivable loans and grants provided for the same purpose as the federal grant are duplicative.

This document addresses policies and procedures the state and its subrecipients will follow to ensure compliance.

1.1 Background

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 USC 5121 et seq.) provides the framework for declaring Presidential-disasters and constitutes the statutory authority for most federal disaster-response activities. Under this act, Congress instituted a goal to achieve greater coordination among and responsiveness of disaster preparedness and relief programs. Accordingly, the Stafford Act's duplication of benefits requirements apply to all federal agencies administering a disaster-recovery program providing financial assistance, including HUD and CDBG-DR recovery grants. These requirements are applicable to the State of Florida for the delivery of CDBG-DR assistance to residents affected by Hurricanes Hermine and Matthew.

Section 312(a) of the Stafford Act requires the federal government 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 that “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 act permits 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)).

Stafford Act requirements are reinforced by other requirements on the use of CDBG-DR funds. Public Law 113-2 required the Secretary of HUD to certify in advance of making grant awards that grantees have adequate procedures to prevent any duplication of benefits. To support the Secretary's certification, grantees must certify that they have “established

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adequate procedures to prevent any duplication of benefits as defined by section 312 of the Stafford Act” (78 FR 14329, 14348).

Additionally, the Appropriations Act, regulations, and cost principles within uniform administrative requirements applicable to all CDBG-DR grantees require that costs are necessary and reasonable. “A cost is reasonable if, 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).

2.0 Policy

The Stafford Act prohibits any person, business concern, jurisdiction, or other entity from receiving financial assistance with respect to a loss resulting from a major disaster that duplicates financial assistance under any other program or from insurance or any other source. In accordance with the Stafford Act, HUD's CDBG-DR program funds may not be used for any costs for which other disaster recovery assistance was previously provided for the same purpose.

Duplication of benefit applies to all programs or projects funded with CDBG-DR funds. In conjunction with its actions to prevent fraud, waste, and abuse, the state and its subrecipients will require all applicants to self-certify all information provided in the application. This certification will provide the state and/or subrecipients with recourse in the event that additional information must be gathered from a beneficiary, a beneficiary has provided incorrect or false information, and/or funds need to be recaptured.

In addition, the state and its subrecipients will employ data systems, data sharing, and data-matching techniques to identify duplication of benefits. The state will enter into data-sharing agreements with relevant federal and state agencies and other entities to obtain data sources that will be used to verify other potential sources of benefits.

2.1 Procedure: Requirements and Criteria

Subrecipients will first determine each applicant's total post-disaster need in the absence of any duplicative benefits or program caps. Following the identification of total need, duplicative assistance will be subtracted out, program caps will be applied, and underwriting standards and cost reasonableness principles will be applied to arrive at a final award.

All source documentation—including applicant certifications, applicant-provided benefit statements, agency communication, and calculation example worksheets—will be maintained in each applicant file to support the program or subrecipient's determination relative to duplication of benefits. Subrecipients will submit their analyses to the Florida Department of Economic Opportunity (DEO) for final review and approval.

2.1.1 Assessment of Need Prior to Assistance

For rehabilitation and reconstruction programs (i.e., programs related to housing, commercial, public facilities, and infrastructure), the applicant's total post-disaster need shall be determined by a work write-up and cost estimate completed by the program, the subrecipient, or a third-party contractor designated by the subrecipient.

When providing funds for repair, replacement, rehabilitation, or new construction of housing, public facilities, infrastructure, or improvements, the state or subrecipient will address whether other sources of funds are available for that same purpose and for that specific project. The subrecipient will then submit supporting documentation for the state to review. Funds used directly by the state or its subrecipients or other government entities for public facilities or other purposes are also subject to duplication of benefits prohibitions under the Stafford Act.

2.1.2 Total Assistance Available to the Person or Entity

Total assistance includes all benefits available to the person or entity, including the following:

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- Other HUD programs
- FEMA assistance
- NFIP payments
- SBA loans
- Private insurance proceeds
- Private donations or gifts of cash and/or other resources (at market value)
- State, local, and/or other grants

All applicants shall be required to provide, at the time of application, documentation supporting all benefits received for the specified purpose or activity to be undertaken with CDBG-DR funds. The applicant will also identify reasonably anticipated assistance, such as future insurance claims payments or approved SBA loan proceeds, either directly from the sources or through a required applicant signed certification. Reasonably anticipated funds include assistance that has been awarded but has not yet been received. Funds are not reasonably anticipated when the source and/or amount is indefinite or the applicant is unaware that he or she may be eligible to receive additional funds at a later date.

1. 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 the state'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): _____

2. 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): _____

2.1.3 Non-Duplicative Assistance Excluded from the Final Benefit Calculation

Once the state or its subrecipient has determined the potential award and the total assistance received or to be received, the state or its subrecipient may exclude for duplication of benefits purposes any assistance that:

- Was provided for a different purpose other than the purpose of the program from which the applicant seeks assistance;
- Was used for a different eligible purpose within the same program;
- Is not available to the applicant;
- Consists of a private loan not guaranteed by the SBA; or
- Consists of any other asset or line of credit available to the applicant.

2.1.4 Funds for a Different Purpose

Any funds provided for a different purpose or a general, non-specific purpose (e.g., disaster relief or recovery) may be excluded by the state or its subrecipient from the final award calculation if the funds were not used by the applicant for the proposed purpose. For example, funds provided by FEMA or private insurance for interim housing or commercial space when a household or business is temporarily unable to reside in its permanent residence have a different purpose than funds for the rehabilitation or replacement of a business or housing unit and may be excluded by the state or its subrecipient.

Rehabilitation includes repair, replacement, and reconstruction. If a property owner receives rehabilitation funds from CDBG-DR, all other assistance provided to address rehabilitation, replacement, or reconstruction of the property must be included in determining duplication of benefit. If award amounts are related to a property's value or estimated cost of repair or replacement, then award amounts will be for the purpose of rehabilitation or reconstruction.

2.1.5 Funds for Same Purpose, Different Eligible Use

In some instances, funds provided for the same general purpose as CDBG-DR funds will have been used by the applicant for a different specific eligible purpose. In these circumstances, if the applicant can document that the funds received were used for a different eligible purpose, then the funds are not duplicative. In general, acceptable documentation may include receipts and sworn statements and certifications that can be verified or substantiated. FEMA requires individuals to keep receipts or bills for 3 years to demonstrate how all FEMA-funded assistance was used in meeting an eligible disaster-related need. CDBG-DR programs will require submission of such receipts, bills, paid invoices, etc. as proof of use of funds for a different eligible purpose when an applicant seeks to reduce his or her assessed duplication of benefits.

2.1.6 Funds Not Available to the Applicant

Funds that are not available to an applicant will be excluded from the final award calculation by the state and its subrecipient. For example, 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 the funds are used for a non-duplicative purpose. If a property owner's mortgage requires any insurance proceeds to be applied to reduce the loan balance, then the bank or mortgage

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holder (not the property owner) has legal control over the funds. Thus, the funds are not available to the applicant and may be excluded. If, however, a mortgage requires insurance proceeds to be used for rehabilitation of the property, those proceeds must be considered as duplicative assistance for that purpose.

2.2 Subrogation

All duplicative funding received by an applicant must be remitted to or accounted for by the subrecipient regardless of when the applicant receives it. If applicants receive additional funding for the same purpose as the CDBG-DR-funded grant award (e.g., for permanent repair to storm-damaged home) even after an award is executed, the applicant is required to report the additional funding to the state or subrecipient. By accepting the award, applicants agree that they will report any duplicative funds to the state and the subrecipient whenever received. Upon receipt of a report that additional benefits have been received, the state or subrecipient will recalculate the applicant's award and provide instructions as to whether such funds must be used in construction prior to additional funding by the state and the subrecipient are expended or whether the applicant must remit such amounts to the state and the subrecipient as reimbursement.

2.3 Procedure: Duplication of Benefits Calculation

All of these sources of benefits must be documented within the subrecipient policy and procedures and must show documentations for each.

2.3.1 *Federal Emergency Management Agency*

2.3.1.1 FEMA Individual Assistance

Definition: FEMA Individual Assistance (IA) funds may be provided for home repairs or contents. In cases where applicants have received assistance for home repairs, that amount will be considered a duplication of benefits by the CDBG-DR. A FEMA IA award for contents will be excluded.

Verification: FEMA IA will be determined and verified by the state and the subrecipient through FEMA's National Emergency Management Information System (NEMIS) database. If the state or the subrecipient is unable to verify the FEMA IA amount through the NEMIS database, the state or the subrecipient will use the payment amount provided by the applicant at the time of application. If an applicant can provide documentation demonstrating that the FEMA IA amount provided by the NEMIS database includes amounts not paid to cover structural loss, the state or the subrecipient will use the documentation provided by the applicant to adjust the FEMA IA payout amount. The documentation provided by the applicant must come from FEMA.

2.3.1.2 FEMA National Flood Insurance Program Insurance

Definition: Payments for loss to dwellings under NFIP insurance policies are deducted from the grant the applicant is eligible to receive. Payments for contents or other expenses are not deducted from the applicant's funding assistance award.

Verification: The state or the subrecipient will collect flood insurance information from the applicant through the application process. In addition, the state or the subrecipient will work directly with NFIP to verify the information provided by the applicant.

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Exception: Insurance proceeds taken by a mortgage company as a forced-mortgage payoff will not be counted as duplication of benefit 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 state or the subrecipient must attempt to verify this information with the applicant's mortgage company. Voluntary mortgage payoff using insurance proceeds is a duplication of benefit that will be counted in an applicant's award calculation.

2.3.2 Increased Cost of Compliance under NFIP

Definition: Increased Cost of Compliance (ICC) coverage is one of several resources for flood insurance policy holders who need additional help rebuilding after a flood. It provides up to \$30,000 to help cover the cost of mitigation measures that reduce flood risk. ICC coverage is a part of most standard flood insurance policies available under NFIP.

The state or the subrecipient will determine duplication of benefits regarding ICC funds provided by NFIP. The state or the subrecipient will identify and confirm payments to applicants under ICC policies through the NFIP database or via direct inquiry to the NFIP using an applicant's release of information. If the state or the subrecipient is unable to verify the NFIP ICC amount through the NFIP database or through direct contact with NFIP, the state or the subrecipient will use documentation supplied by the applicant. The documentation must be in sufficient detail to be independently verifiable. If an applicant is able to provide documentation demonstrating that the ICC amount provided by the NFIP database includes items not covered in the home evaluation or not paid to cover structural loss, the state or the subrecipient will use the documentation provided by the applicant to adjust the ICC payout used in its calculations. The documentation provided by the applicant must come from the insurance company that issued the payments. The documentation showing use of ICC proceeds for specific expenses must clearly show services, materials, products, or any other tangible deliverable that is outside the scope of structural loss and the basis for the home evaluation. This documentation must be maintained in the applicant file.

2.3.3 Small Business Administration

Definition: Federal regulations deem SBA loans for repair to be a duplication of benefit for federally funded repair programs. If an applicant has executed a loan from SBA to cover cost of repairs, the total amount of the approved loan is considered a duplication of benefit. The entire SBA-approved loan amount counts as a duplication of benefit even if an applicant has declined the loan or requested a reduction after SBA approval. Furthermore, the entire SBA-approved amount counts as a duplication of benefit even if an applicant has not drawn down any funds from the approved loan.

Verification: The state or the subrecipient will collect SBA information provided by the applicant through the application process. In addition, the state or the subrecipient will obtain a data feed provided by SBA to verify all approved amounts for SBA loans. CDBG-DR will collect specific information from SBA that breaks out the approved SBA loan amounts into different categories of assistance (e.g., real property, personal property, vehicles). Any approved amount from SBA for the purpose of real-property repair, including those amounts declined by the applicant, are considered a duplication of benefit and must be factored into the award calculation unless otherwise allowed and approved under the subrecipient Declined SBA Award Policy.

2.3.4 Private Insurance

Definition: All property and casualty insurance, including flood-insurance settlement amounts for loss to dwellings, are 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.

Verification: Insurance proceeds are initially determined by the subrecipient through applicant-provided information. Program applicants will authorize CDBG-DR to contact third-party private insurance providers to verify information provided by applicants in their applications. Third-party re-verification will only occur if the applicant self-attests a claim has been filed and the applicant is unable to provide a claim summary.

Exception: Insurance proceeds taken by a mortgage company as a forced-mortgage payoff will not be counted as a duplication of benefits as long as the applicant provides adequate documentation. The applicant will need to provide supporting documentation demonstrating the mortgage payment was involuntary and the 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.

2.3.5 Other Funding

Funding received for the same purpose as the subrecipient grant, such as funding provided by a nonprofit entity to assist applicants with rebuilding their home, must be reported by applicants through the application process and must be accounted for and verified by the subrecipient. In addition, support documentation related to other duplicative funding sources will be provided by the applicant and verified and applied as a DOB by the subrecipient.

2.4 Private Loans

Private loans not guaranteed by SBA may be excluded from the final award calculation when such loans must be repaid. Public or private loans with a forgiveness provision will not be excluded.

Private loans are defined as non-federal loans (neither direct or guaranteed) that are made in a commercial lending transaction at fair market rates with a willing borrower and willing lender under standard commercial lending terms in which the borrower must repay the full amount of the loan (plus interest if applicable). These include private loans for construction and bridge financing.

When the state and the subrecipient is making final award determinations, necessary and reasonable cost principles as defined in 2 CFR 200.404 apply. While private loans need not be considered for duplication of benefit purposes, the subrecipient will consider private loans in underwriting and in determining the level of assistance to be awarded.

2.5 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.

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When the state or the subrecipient is making final award determinations, necessary and reasonable cost principles as defined in 2 CFR 200.404 apply. While other assets and lines of credit need not be considered for duplication of benefit purposes, the subrecipient will consider assets and lines of credit in underwriting and in determining the level of assistance to be awarded.

2.6 Re-assessment of Need After Award and Before Project Completion

If, after needs are initially calculated and a CDBG-DR award has been made, an applicant for CDBG-DR assistance or the state or the subrecipient can demonstrate a change in circumstances, such as vandalism, contractor fraud, an increase in the cost of materials and/or labor, a change in local zoning law or building code, or subsequent damage to a home or business that was partially repaired, the state or its subrecipient may reevaluate the calculation of the award by taking into account the increased need. However, any reevaluation must be completed before the initial need for which the assistance was granted has been fully met (e.g., before the damaged property is fully repaired).

2.7 Procedure: Award Calculation

2.7.1 Methodology: Initial Award

All households, business concerns, or other entities shall submit an application to the standard required by the subrecipient. During the intake/application process, persons, business concerns, and other entities receiving financial assistance will be required to disclose all sources of disaster-recovery assistance received. The applicant will be required to submit specific documentation for each type of assistance received. The state or the subrecipient will verify the amounts received.

Prior to an initial award for any CDBG-DR–eligible activity, the subrecipient will complete a Duplication of Benefits process for the activity that encompasses the following:

- Identifies the total need for assistance for the specific activity
- Identifies the total of all assistance available to the applicant for the specific activity
- Identifies the assistance provided to the applicant that has been determined not to be available or excluded by the subrecipient for the activity, including:
 - 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
 - Any other asset or line of credit available to the applicant
- Performs a calculation determining the total funds available from other sources for the specific activity:
 - Calculated by subtracting the assistance not available to the applicant or excluded by the State or its subrecipient from the total assistance received by the applicant

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- Performs a calculation determining 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 program cap (if applicable) and entering the lesser of the program cap or the maximum award as the maximum eligible award

The completed example shall be signed and dated by the person completing the example worksheet and placed in the permanent file of the applicant.

Examples of the Duplication of Benefit Calculation are presented below in table format. Example 1 illustrates a homeowner situation where the unmet need is less than the program cap. Example 2 illustrates a homeowner situation where the unmet need exceeds the program cap.

Example 1

1	Identify Applicant's Total Need Prior to Any Assistance	\$100,000
2	Identify All Potentially Duplicative Assistance	\$35,000
3	Deduct Assistance Determined to be Duplicative	\$30,000
4	Maximum Eligible Award (Item 1 less Item 3)	\$70,000
5	Program Cap	\$150,000
6	Final Award (lesser of Items 4 and 5)	\$70,000

Example 2

1	Identify Applicant's Total Need Prior to Any Assistance	\$185,000
2	Identify All Potentially Duplicative Assistance	\$25,000
3	Deduct Assistance Determined to be Duplicative	\$15,000
4	Maximum Eligible Award (Item 1 less Item 3)	\$170,000
5	Program Cap	\$150,000
6	Final Award (lesser of Items 4 and 5)	\$150,000

2.7.2 Methodology: Post-Award – Prior to Completion

In the event an increase occurs in the costs identified in the Assessment of Need or additional duplication of benefit is identified, the subrecipient will complete a Post-Award Duplication of Benefits Example worksheet as follows:

The Post-Award Duplication of Benefits Example will accomplish the following:

- Identify the original total need for assistance for the specific activity.
- Identify the original total of all assistance available to the applicant for the specific activity.
- Identify any additional assistance made available to the applicant for the specific activity that has been received since the original calculation.
- Identify the assistance provided to the applicant that has been determined not to be available or excluded by the state or its subrecipient for the activity, including the following:

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- 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
- Perform a calculation determining the total funds available from other sources for the specific activity:
 - Calculated by subtracting the assistance not available or excluded by the state or the subrecipient to the applicant from total assistance received by the applicant
- Perform a calculation determining 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 program cap (if applicable) and entering the lesser of the program 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 Example worksheet to the additional unmet need;
 - Comparing the revised total unmet need to the program cap (if applicable); and
 - Entering the lesser of the program cap or the revised total unmet need.

The completed example will be signed and dated by the person completing the example worksheet and placed in the permanent file of the applicant.

2.8 Procedure: Recapture of Duplicative Benefits

To address any potential future duplication of benefit, applicant beneficiaries must, at grant-agreement execution, enter into a signed subrogation agreement to repay any assistance later received for the same purpose as the CDBG-DR funds. If, subsequent to an award, a re-assessment of need occurs and the applicant receives an increased award, then the applicant shall be required to sign a revised subrogation agreement to repay any assistance later received for the same purpose as the CDBG-DR funds.

2.8.1 Methodology: Recapture of Duplicative Benefits

When the state or the subrecipient is notified of or becomes aware of a payment to an applicant from any source that may be duplicative of a CDBG-DR-funded purpose, the state or its subrecipient will require the applicant to provide all pertinent information necessary for the state or its subrecipient to make a determination of whether the payment was duplicative and whether the applicant must repay the state or its subrecipient any portion of the CDBG-DR award.

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The state or its subrecipient will review the payment received by completing the Initial Award Methodology outlined above. The resulting duplication of benefit example worksheet will be signed and dated by the person completing the example worksheet and placed in the permanent file of the applicant. A copy of the example worksheet will be forwarded to the legal department of the state or its subrecipient, who shall take all legal steps permitted and required by the subrogation agreement to recapture any funds deemed duplicative.

2.9 Adjustments and Offset to the Amount of Assistance

The applicant must provide evidence of funds spent for repairs and rehabilitation that would otherwise be subject to duplication of benefit if they were not used for another eligible purpose.

No Receipts Provided: If the applicant is unable to provide receipts as required in this policy to demonstrate other, unrelated uses of funds already received, the full amount of housing repair and/or replacement assistance previously received must be deducted from the amount of funding for which the applicant would otherwise be eligible.

Partial Receipts Provided: If partial receipts are provided by the applicant documenting that only a portion of the housing repair and/or replacement assistance previously received was used as intended, the amount received not supported by receipts must be deducted from the amount of funding for which the applicant would otherwise be eligible.

All Receipts Provided: If receipts are provided by the applicant documenting that the full amount of housing repair and/or replacement assistance previously received was used as intended, and as required in this policy to demonstrate other, unrelated uses of funds already received, no deduction is made from the award amount for which the applicant is eligible.

2.9.1 Allowable Alternative Methodology

In instances where no receipts or only partial receipts were provided by the property owner, the subrecipient may consider self-certifications when calculating the amount of assistance that can be provided. In these instances, the following requirements apply:

- The property owner must provide a signed self-certified statement prepared and provided by the state or subrecipient based on information provided by the applicant that documents in detail all labor and/or repairs made to the damaged property following the disaster; and
- A state or subrecipient inspector must determine with verifiable assurances (i.e., permit dates, utility restart dates, etc.) that the repairs were made after the date of the disaster and that the repairs are consistent with damage resulting from that type of disaster; and
- The state or subrecipient inspector will document, through photographs, the repairs that were made and provide a line-item by line-item estimate of the value of the verifiable repairs. The inspector must assess:
 - Whether repairs were made to the home;
 - Whether the repairs could be reasonably determined as occurring after the applicable disaster; and
 - A reasonable value of the cost of repairs to the home (including labor).

2.10 Allowed Activities

Applicants must provide documentation for allowable activities to offset potential duplication of benefit.

Temporary Rental Assistance: Allowable activities are temporary housing such as rent, hotel stays, and applicable utilities that occurred because of temporary displacement from the primary residence due to the disaster. Eligible temporary displacement is from the time of the event until the date of the verification letter. Evacuation costs are not eligible for duplication of benefits offset.

Although rental assistance is not considered to be a source of duplication of benefit under this program, temporary housing expenses can offset the potential duplication of benefits amount. The offsetting amount would be the amount of documented expenses that exceed the amount received for rental assistance.

Theft, Vandalism, or Contractor Fraud: If an applicant was a victim of theft, vandalism, or contractor fraud, the amount paid for the materials or for work or to the contractor may be excluded from duplication of benefit if properly documented. The applicant would have had to have filed a formal complaint with a government authority (e.g., a consumer protection agency or police department) setting forth in detail the cause and amount of fraud in sufficient form to be verifiable and affirmed through enforcement follow-up.

There are many scenarios where a homeowner may have been affected by dishonest contractors and/or workers and/or unethical acts of strangers that have an impact on the homeowner's ability to complete repairs to his/her storm damaged property. Scenarios include the following:

- The contractor or workers were paid, but no work was performed.
- The contractor or workers were paid, but only partial work was performed, and the work was never completed.
- The contractor or workers were paid and did perform the work, but it is sub-standard or shoddy and must be corrected.
- The homeowner paid the contractor or workers for materials that were never delivered to the home, used in the home, or disappeared from the work site.
- The homeowner procured materials that were onsite, and they were stolen from the property by a contractor, workers, or others engaging in theft.
- Materials on the worksite were vandalized.
- Installed materials (i.e., completed work) were vandalized.
- Installed materials may have been stolen from homes.

This procedure is intended to assist homeowners who have experienced any of the scenarios described above or any similar scenario not listed by providing relief related to lost money that would otherwise be considered a duplication of benefit. The homeowner must prove any contractor fraud, bad workmanship, vandalism, or theft. If proven, the homeowner's duplication of benefit can be reduced, and the subrecipient can provide scope to cover the completion of the applicant's home repairs.

Homeowners will have to prove that they have filed a formal complaint with law enforcement, the Florida Contractor's Licensing Board, or the Attorney General or that they have filed a civil action in a Florida court. The intent of the contractor-fraud policy and procedure is to

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take into account all relevant evidence a homeowner can provide to make a reasonable determination of whether the duplication of benefit amount should be reduced. It is a totality of circumstances that will support this justification.

A homeowner's engagement or indication that he or she will be engaging in litigation related to the fraud, workmanship, vandalism, or theft does not preclude the applicant from obtaining a duplication of benefit reduction. The applicant will sign a subrogation agreement at grant execution that requires the applicant to return any portion of funds that he or she may later receive related to repairs of the home for which the program may provide. Therefore, the existence of a lawsuit is not grounds for denying this DOB reduction analysis.

The first step in this process is for the subrecipient to collect some basic information from the homeowner. This information will be filled into the Contractor Fraud/Theft/Vandalism Example worksheet.

- Name of the contractor(s) or workers to whom funds were paid
- Amount paid to each contractor or worker alleged to have stolen funds, failed to complete work that had been paid for, or completed shoddy work that must be re-done
- If theft or vandalism, the date on which the theft or vandalism of materials/work occurred
- The name of any police department, regulatory agency, or court with which a formal complaint was filed
- The date the formal complaint was filed and the item or case number of the report
- Brief description of the alleged incidents

To demonstrate contractor or builder fraud and/or theft or vandalism for consideration of a duplication of benefit reduction, the applicant must provide the following:

- Contractor Fraud:
 - Either a contract with a contractor to perform repairs to the damaged property or evidence of payment(s) made to contractor or builder demonstrating the attempt to repair damaged property as well as proof that the rebuilding and/or repairs were not completed
 - ◆ Proof of payment can be in the form of canceled checks, paid invoices, or paid receipts. Bank statements that contain copies of canceled checks may also be used.
 - Evidence that a formal complaint was filed against the contractor or builder accused of fraudulent practices with the proper law enforcement officials or a state regulatory agency or court (civil complaints)
 - ◆ Complaint must have been filed within 1 year of the discovery of the fraudulent activity of the contractor/builder. The applicant must provide the case or item number or report number and the name of the law enforcement or regulatory agency with which it was filed. If a civil action was filed, the applicant must provide the name of the court where the action was filed and the docket number of the case.
- Theft or Vandalism:
 - Proof (i.e., paid receipts, photos, filed complaint) that property of the applicant's damaged home was stolen or vandalized

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- ◆ Proof of payment such as a canceled check is also required.
- Evidence that a formal complaint of theft or vandalism was filed with the proper law enforcement officials or a state regulatory agency or court (civil complaints).
 - ◆ The applicant will also be expected to provide the case or item number or report number and the name of the law enforcement or regulatory agency with which it was filed.

Mortgage Force Payment: If an applicant's mortgage company placed a force payment on insurance proceeds, the insurance amount paid to satisfy a force payment is not a duplication of benefit. The applicant would have to provide the document proving that the mortgage company did not release the insurance proceeds. The subrecipient will document attempts to verify the documentation directly with the mortgage company and the results of these attempts.

Legal Fees: Legal fees that were paid in successfully obtaining insurance proceeds will be credited to the applicant and will not be deducted as part of the applicant's duplication of benefits. Applicants will need to provide evidence of payment and self-certify in accordance with state or its subrecipient policy in order to be credited.

Tax Filing: Tax filings related to losses to the home do not affect funding assistance awards and are not considered duplication of benefits. Applicants should consult their personal tax advisor about any tax-related matter.

3.0 Verification of Benefits

3.1.1 Policy

The state requires verification of benefits (VOB) for all subrecipient submittals for CDBG-DR programs. VOB is a procedure that results in a verification of duplication of benefit requirements of the program and is used to combat the potential for waste, fraud, and abuse of CDBG-DR funds.

3.1.2 Procedures

1. The subrecipient will complete and certify the duplication of benefit for each address or project.
2. The duplication of benefit will be uploaded with the Subrecipient Enterprise Resource Application (SERA) system and submitted to DEO.
3. The DEO grant manager will receive the duplication of benefit in SERA.
4. The DEO grant manager will forward the duplication of benefit to the VOB process.
5. The VOB will be completed and:
 - a. Revised and confirmed that all documentation and calculations have been completed; or
 - b. The duplication of benefit will be rejected for additional information.
6. The VOB will be returned to the DEO grant manager for final review.

The processes will be determined and updated once development within the SERA system is created.

1. Open the Verification of Benefits (VOB) Checklist for the Applicant and verify any pre-populated elements in the form.
2. Access the FEMA database and search for the property by street address.
3. Access the state's NFIP database and search for the property by street address.
4. Access the SBA database and search for the property by street address.
5. Access the applicant's file and search for the Award Letter.
6. Upon completion of the VOB Checklist within SERA:

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Subrogation Agreement

This Subrogation and Assignment Agreement (“Agreement”) is made and entered into on this ____ day of _____, 20____, by and between _____ (“Homeowner”) and the [*insert name of administrative entity*] (“Grantor/Lender”).

In consideration of Homeowner’s receipt of funds or the commitment by the Grantor/Lender to evaluate Homeowner’s application for the receipt of funds (collectively, the “Grant/Loan Proceeds”) under the [*insert name of administrative entity*] Homeowner Relocation Assistance Program (the “Program”) administered by Grantor/Lender, Homeowner hereby assigns to Grantor/Lender all of Homeowner’s future rights to reimbursement and all payments received from any grant, subsidized loan, or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency (FEMA) or the Small Business Administration (SBA) (singularly, a “Disaster Program” and collectively, the “Disaster Programs”) that was the basis of the calculation of [*insert name of relevant disaster recovery related program*] to the extent of Grant/Loan Proceeds paid or to be paid to Homeowner under the Program and that are determined in the sole discretion of [*insert name of administrative entity*] to be a duplication of benefits (“DOB”) as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as “Proceeds,” and any Proceeds that are a DOB shall be referred to herein as “DOB Proceeds.” Upon receiving any Proceeds not listed on the Duplication of Benefits Affidavit Homeowner agrees to immediately notify the Grantor/Lender who will notify [*insert name of administrative entity*] of such additional amounts, and [*insert name of administrative entity*] will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to the Grantor/Lender, to be retained and/or disbursed as provided in this Agreement.

Homeowner agrees to assist and cooperate with the Grantor/Lender elect to pursue any of the claims Homeowner has against the insurers for reimbursement of DOB Proceeds under any such policies. Homeowner’s assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Homeowner’s name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by the Grantor/Lender. Homeowner further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that the Homeowner would be entitled to under any applicable Disaster Program.

If requested by the Grantor/Lender, Homeowner agrees to execute such further and additional documents and instruments as may be requested to further and better assign to the Grantor/Lender, to the extent of the Grant/Loan Proceeds paid to Homeowner under the Program, the Policies, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by the Grantor/Lender to consummate and make effective the purposes of this Agreement.

Homeowner explicitly allows the Grantor/Lender to request of any company with which Homeowner held insurance policies, or FEMA or the SBA or any other entity from which Homeowner has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by the Grantor/Lender to monitor/enforce its interest in the rights assigned to it under this Agreement and give Homeowner’s consent to such company to release said information to the Grantor/Lender.

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If Homeowner (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Homeowner agrees to promptly pay such amounts to the Grantor/Lender, if Homeowner received Grant/Loan Proceeds under the Program in an amount greater than the amount Homeowner would have received if such DOB Proceeds had been considered in the calculation of Homeowner's award.

In the event that the Homeowner receives or is scheduled to receive any Proceeds not listed on its Duplication of Benefits Certification ("Subsequent Proceeds"), Homeowner shall pay such Subsequent Proceeds directly to the Grantor/Lender, and IDED will determine the amount, if any, of such Subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to the Homeowner. Subsequent DOB Proceeds shall be disbursed as follows:

- If the Homeowner has received full payment of the Grant/Loan Proceeds, any Subsequent DOB Proceeds shall be retained by the Grantor/Lender and remitted to IDED.
- If the Homeowner has received no payment of the Grant/Loan Proceeds, any Subsequent DOB Proceeds shall be used by the Grantor/Lender to reduce payments of the Grant/Loan Proceeds to the Homeowner, and all Subsequent DOB Proceeds shall be returned to the Homeowner.
- If the Homeowner has received a portion of the Grant/Loan Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant/Loan Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to the Homeowner; and (B) any remaining Subsequent DOB Proceeds shall be retained by the Grantor/Lender and remitted to IDED.
- If the Grantor/Lender makes the determination that the Homeowner does not qualify to participate in the Program or the Homeowner determines not to participate in the Program, the Subsequent DOB Proceeds shall be returned to the Homeowner, and this Agreement shall terminate.

Once the Grantor/Lender has recovered an amount equal to the Grant/Loan Proceeds paid to Homeowner, the Grantor/Lender will reassign to Homeowner any rights assigned to the Grantor/Lender pursuant to this Agreement.

Homeowner represents that all statements and representations made by Homeowner regarding Proceeds received by Homeowner shall be true and correct as of the date of Closing.

NOTICE: Homeowner and the person executing this Agreement on behalf of the Homeowner are hereby notified that intentionally or knowingly making a materially false or misleading written statement to obtain property or credit, including a mortgage loan, is a violation of [*insert applicable law/regulation*] and, depending upon the amount of the Grant/Loan Proceeds, is punishable by [*insert potential terms of violation*].

The person executing this Agreement on behalf of the Homeowner hereby represents that he/she has received, read, and understands this notice of penalties for making a materially false or misleading written statement to obtain the Grant/Loan Proceeds.

In any proceeding to enforce this Agreement, the Grantor/Lender shall be entitled to recover all costs of enforcement, including actual attorney's fees.

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HOMEOWNER

[insert Homeowner name]

By: _____

Name: _____

Title: _____

GRANTOR/LENDER:

[insert name of administrative entity]

By: _____

Name: _____

Title: _____

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Contractor Fraud/Theft Vandalism Example Worksheet

1. Applicant Information

Applicant ID#:
Applicant Name:
Co-applicant Name:
Damaged Address:

Issue Type: Contractor Fraud Theft Vandalism

2. Name of the contractor(s) or workers to whom funds were paid.

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3. Amount paid to each contractor or worker alleged to have stolen funds, failed to complete work that had been paid for, or completed shoddy work that must be re-done.

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4. If theft or vandalism, the date on which the theft or vandalism of materials/work occurred.

Date:

5. The name of any police department, regulatory agency, or court with which a formal complaint was filed.

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6. The date the formal complaint was filed and the item or case number of the report.

Date:

7. Description of the alleged incident(s).

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- b. If any costs were disallowed, attach description of why they were disallowed.
- 5. Attach all other documentation provided by applicant such as contracts with new contractors or estimates for completing the work or re-doing the previous work, pictures, emails, or any other documentation that supports the applicant's claim.

Verification of Benefits: Check the box indicating decision for application file.

- The applicant has provided the required proof to establish that he/she was a victim of contractor fraud, poor workmanship, theft or vandalism. All supporting documentation is sufficient to calculate and apply a duplication of benefit reduction.
- The applicant has not provided the required proof to establish that he/she was a victim of contractor fraud, poor workmanship, theft or vandalism. In order to cure the deficiency, the applicant will need to provide additional support for his/her claim in the form of the following:
 - Additional Receipts or Proof of Payments
 - Copy of formal complaint
- The applicant has not provided the required proof to establish that he/she was a victim of contractor fraud, poor workmanship, theft or vandalism, but was afforded the opportunity to provide additional supporting documentation for the claim. Sixty (60) days has passed since the request for additional documentation and no further proof has been provided. The claim for consideration of DOB reduction based on contractor fraud, poor workmanship, theft or vandalism is therefore closed and no reduction has been granted.

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Appendix A: Acronyms

CDBG-DR	Community Development Block Grant – Disaster Recovery
DEO	Department of Economic Opportunity (Florida)
FEMA	Federal Emergency Management Agency
HUD	U.S. Department of Housing and Urban Development
IA	Individual Assistance
ICC	Increased Cost of Compliance
NEMIS	National Emergency Management Information System
NFIP	National Flood Insurance Program
SBA	Small Business Administration
SERA	Subrecipient Enterprise Resource Application
VOB	Verification of Benefits

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