

DUPLICATION OF BENEFITS (DOB) SUBROGATION AGREEMENT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121-5207) prohibits entities from receiving financial assistance that duplicates any part of their disaster loss covered by insurance or another source. 42 U.S.C. 5155(a). A duplication of benefits (“DOB”) occurs when a 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. 84 FR 28836, 28837 (June 20, 2019). The State of New Jersey, as a grantee of Community Development Block Grant – Disaster Recovery (“CDBG-DR”) funds, is required to prevent the duplication of benefits.

Therefore, this Subrogation Agreement (“Agreement”) is made and entered into on this ____ day of _____, 20____, by and between The New Jersey Department of Community Affairs, Division of Disaster Recovery and Mitigation and the _____.

Proceeds or payments referred to in this Agreement, regardless of the source, and regardless of 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.”

By receiving CDBG-DR funds identified in the Subrecipient Award (“grant amount” or “Subrecipient Award”), attached hereto as Exhibit A, the subrecipient(s) hereby assign to the New Jersey Department of Community Affairs (“DCA”) all of the Subrecipient(s)’ current and future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit, or insurance policies of any type or coverage, or under any reimbursement or relief program including Federal Emergency Management Agency (“FEMA”), US Army Corps of Engineers (USACE), property damage insurance, or other sources, related to the eligible activities included in the Scope of Work, attached hereto as Exhibit B. or was otherwise the basis of the calculation of the award paid or to be paid to the Subrecipient(s) under the Subrecipient Award, and that are determined at the sole discretion of DCA to be a DOB as provided in this Agreement.

The Subrecipient(s) agree to notify DCA within ten (10) business days of any additional or new Proceeds. The Subrecipient(s) further understand and acknowledge DCA’s right and responsibility to enforce the requirements detailed in this Agreement by recapturing all or a portion of the award detailed in the Subrecipient Award if these Proceeds are determined to be DOB Proceeds. If DCA determines recapture to be required, the Subrecipient(s) will be required to remit the award received under the Subrecipient Award, which was determined to be DOB Proceeds, within thirty (30) days of being notified of the recapture requirement by DCA. DCA may extend this timeline at DCA’s sole discretion.

Under this Agreement, DOB Proceeds shall be remitted to DCA as follows:

- a) If DOB Proceeds are received prior to the first disbursement of the grant amount, the program will recalculate the grant amount by including the proceeds as a DOB in the grant calculation, which may result in the grant amount being reduced.
- b) If the Subrecipient(s) have received a portion of the disbursement, any DOB Proceeds shall be used, retained, and/or remitted in the following order:

1. DOB Proceeds shall first be used to reduce the remaining payments of the agreed-upon amount of the Subrecipient Award, and DOB Proceeds in such amount shall be retained by the Subrecipient(s) for use on the Program activity.
 2. If the Subrecipient Award yet to be distributed has been reduced to zero by the DOB Proceeds received by the Subrecipient(s), and additional DOB Proceeds remain, those DOB Proceeds must be remitted to the State.
- c) If DOB Proceeds are received by the subrecipient(s) after the date of the final disbursement of the grant amount, then the subrecipient(s) must remit to DCA the total amount of the DOB Proceeds up to, but not exceeding, the amount of the Subrecipient Award.
- d) If DOB Proceeds are received while the subrecipient(s) is in default under the program, then the program will recover the amount of DOB Proceeds up to the amount of the Subrecipient Award disbursed.

Subrecipient(s) agree to assist and cooperate with the program should there be a need to pursue any of the claims the subrecipient(s) have or may have with other parties providing related assistance. The Subrecipient(s) assistance and cooperation shall include, but is not limited to, allowing suit to be brought under the Subrecipient(s)' name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing records and other evidence, testifying at trial, and any other form of assistance and cooperation reasonably requested by DCA. The Subrecipient(s) further agree to assist and cooperate in the attainment and collection of any DOB Proceeds that the Subrecipient(s) would be entitled to.

If requested by DCA, the Subrecipient(s) agree to execute and/or file such further and additional documents and instruments as may be requested to further and better assign to DCA any amounts that may represent DOB Proceeds. Subrecipient(s) agree to provide additional documents or share information with the program to further determine what assistance is available to the subrecipient(s) and the implications on the grant amount.

The Subrecipient(s) explicitly allow DCA to request of any company with which the Subrecipient held insurance policies, FEMA, SBA, or any other entity from which the Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by DCA to monitor and enforce its interest in the rights assigned to it under this Agreement and give the Subrecipient's consent to such entities to release all information to DCA.

In the event that DOB Proceeds exceed the grant amount, and DCA has recovered from the Subrecipient(s) an amount equal to the Subrecipient Award paid to the Subrecipient(s), DCA will reassign to the Subrecipient(s) any remaining rights assigned to DCA pursuant to this Agreement.

The subrecipient(s) executing this Agreement hereby represents that the subrecipient has received, read, and understands this notice of penalties for making a materially false or misleading written statement to obtain grant proceeds.

Warning: Any person who knowingly makes a false claim or Statement to HUD may be subject to civil or criminal penalties under [18 U.S.C. 287](#), [1001](#) and [31 U.S.C. 3729](#).

Further, the subrecipient(s) executing this Agreement hereby represents that the subrecipient has read and understands the State of New Jersey, Department of Community Affairs Duplication of Benefits Policy 2.10.73 (Exhibit C) and agrees to abide by the terms and conditions outlined within the policy.

The following Exhibits are attached hereto and incorporated herein.

Exhibit A: Subrecipient Award

Exhibit B: Subrecipient Scope of Work

Exhibit C: State of New Jersey, Department of Community Affairs Duplication of Benefits Policy 2.10.73

Governing Body Entity: _____

Governing Body Representative

Printed Name and Title:

Signature: _____ Date: _____

New Jersey Department of Community Affairs

Printed Name and Title:

Signature: _____ Date: _____