|  |  |  |  |
| --- | --- | --- | --- |
| **Guide for Review of Procurement** | | | |
| **Name of Recipient:** | | | |
| **Name of Subrecipient (if applicable):** | | | |
| **Name of Program(s) Monitored:** | | | |
| **Staff Consulted:** | | | |
| **Name(s) of Reviewer(s)** |  | **Date** |  |

**NOTE:** All questions that address requirements contain the citation for the source of the requirement (statute, regulation, NOFA, or grant agreement). If the requirement is not met, HUD must make a finding of noncompliance. All other questions (questions that do not contain the citation for the requirement) do not address requirements, but are included to assist the reviewer in understanding the recipient's program more fully and/or to identify issues that, if not properly addressed, could result in deficient performance. Negative conclusions to these questions may result in a "concern" being raised, but not a **"finding.**"

**Instructions:** This Exhibit is designed to monitor compliance with the procurement requirements of 2 CFR part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*. It is designed to assist the HUD reviewer in evaluating a representative sample of procurement transactions undertaken by the non-Federal entity, either a recipient or subrecipient (e.g., based on size of last grant, amount of time allocated for monitoring, results of pre-monitoring preparation). The HUD reviewer should evaluate the documentation related to the selected transactions and use this information to verify non-Federal entity responses to the questions in this Exhibit. If the non-Federal entity’s accounting system includes information on contracts, purchase orders, etc., related to the grant program, it can be a convenient starting point for selecting a sample of procurement transactions to review.

When monitoring a state’s procurement policies and transactions for programs other than the State CDBG, the HUD reviewer should only complete questions 2, 4, 10.b, and 16. However, see the clarification of “state” under “Terminology” below. When monitoring the procurement policies and transactions of non-Federal entities other than states, the monitor should complete all questions except question 4. Regarding monitoring the State CDBG program, see the second bullet below under *Applicability*. The sample used for the review should not include transactions that are solely related to the State CDBG program.

To determine how to this exhibit is to be used with respect to policies or procedures used or obligations or expenditures made November 12, 2020, monitors should refer to the latest CPD guidance on the 2020 changes to 2 CFR part 200.

Applicability: This Exhibit 34-3 applies to the following programs for monitoring in calendar year 2020:

* Community Development Block Grant (CDBG) Entitlement, Small Cities, Non-Entitlement CDBG Grants in Hawaii, and Insular Areas Programs;
* State CDBG Program: This Exhibit **does not apply** to the State CDBG Program **unless** a State CDBG grantee has chosen to apply this portion of 2 CFR part 200 to satisfy the requirement for procurement policies and procedures pursuant to **24 CFR 570.489(g)**.
* Section 108 Loan Guarantee Program (follows the CDBG program regulations);
* HOME Investment Partnerships Program (HOME);
* Housing Opportunities for Persons With AIDS (HOPWA):
* Emergency Solutions Grants (ESG) Program;
* Continuum of Care (CoC) Program (for grants awarded in the FY 2015 competition or later);
* Appalachia Economic Development Initiative (AEDI);
* Border Community Capital Initiative (BCCI);
* Delta Community Capital Initiative (DCCI);
* Self-Help Homeownership Opportunity Program (SHOP);
* Rural Capacity Building for Community Development and Affordable Housing (RCB);
* Capacity Building for Community Development and Affordable Housing (Section 4); and
* Community Compass Technical Assistance and Capacity Building Program (TA Program), including programs linked to its Catalog of Federal Domestic Assistance (CFDA) Number, 14.259.

**For purposes of monitoring CDBG Disaster Recovery Supplemental Grants (CDBG-DR) and post-calendar year 2020 monitoring of the programs listed above, see Exhibit 34-3a.**

Effective Date: To ensure that the requirements are correctly applied, HUD reviewers will need to review Notice CPD-16-04 at (<http://portal.hud.gov/hudportal/documents/huddoc?id=16-04cpdn.pdf>). It is possible that reviewers will need to use both this Exhibit and a program-specific Procurement Exhibit simultaneously if funds being monitored are covered under pre- and post-2 CFR part 200 requirements. Program-specific exceptions to the Uniform Requirements are not included in this Exhibit but are retained in each program Chapter; therefore, HUD reviewers will need to review program-specific Procurement Exhibits to determine if their use is needed to ensure a complete review. Questions in this Exhibit that don’t apply to one of the programs listed above (pursuant to HUD’s conforming rule or NOFA) will have that exception noted above the question.

Program Citations: In addition to the citations for 2 CFR part 200, program-specific citations are included either on a question-by-question basis, or in a single reference, as noted below, depending on how the Uniform Requirements apply.

* HOPWA: All questions apply pursuant to the HOPWA regulation at 24 CFR 574.605.
* Appalachia Economic Development Initiative (AEDI): All questions apply pursuant to the FY 2014 AEDI Notice of Funding Availability (NOFA) and Grant Agreement, Article I.G.
* Border Community Capital Initiative (BCCI): All questions apply pursuant to the FY 2013 NOFA and Grant Agreement, Article I.E.
* Delta Community Capital Initiative (DCCI): All questions apply pursuant to the FY DCCI 2014 NOFA and Grant Agreement, Article I.F.6.
* Self-Help Homeownership Opportunity Program (SHOP): All questions apply pursuant to the FY 2014 SHOP NOFA and SHOP Grant Agreement, Article XVIII, B, C.
* Rural Capacity Building for Community Development and Affordable Housing (RCB): All questions apply pursuant to the NOFA, Section VI.B.4.
* Capacity Building for Community Development and Affordable Housing (Section 4): All questions apply pursuant to the NOFA, Section VI.B.4.
* Community Compass Technical Assistance and Capacity Building Program (TA Program): All questions apply pursuant to the NOFA, and Cooperative Agreement.

Three-Year Grace Period for Implementation of Procurement Requirements: Reviewers need to note that OMB has provided a three-year grace period in implementing the procurement standards in 2 CFR §§200.317 - 200.326 (see Section 5 of Notice 16-04). If the non-Federal entity has chosen to follow the procurement standards in 24 CFR parts 84 or 85 (2013 edition), as applicable, for the three additional fiscal years before implementing the procurement standards in part 200, the non-Federal entity must document this decision in its internal procurement policies. (See question 1.)

A Note on Findings: HUD reviewers need to ensure that, if deficiencies are identified, the monitoring Finding cites to both the relevant provision in 2 CFR part 200 and the program regulation/NOFA/Grant Agreement citation that incorporates the requirements (e.g., 24 CFR 92.505, or 24 CFR 570.502). However, as described in Section 4.b of Notice CPD-16-04, HUD reviewers will not make findings of noncompliance with the Uniform Requirements (i.e., the part 200 requirements) if a grantee used CDBG, CDBG-DR, ESG, or HOME funds in accordance with comparable requirements under parts 84 or 85 (2013 edition) between December 26, 2014 and January 6, 2016.

Additionally, HUD reviewers should limit the scope of their review and findings in light of the clarification the Council on Financial Assistance Reform (COFAR) made concerning the procurement standards (2 CFR §§200.317 - 200.326) in the COFAR’s Frequently Asked Questions (FAQ) on 2 CFR part 200, which was updated July 2017 and retained for reference at <https://cfo.gov/grants/grants-resources/>. Specifically, the FAQ clarified that the Procurement Standards in 2 CFR §§200.317 - 200.326 generally do not apply to procurements made in indirect cost areas. However, this FAQ does not apply where it conflicts with the applicable program requirements or actual provisions in 2 CFR part 200 (for example, section 200.509 provides that audit services required the Single Audit Act must be procured in accordance with the Procurement Standards in §§200.317-200.326 or 48 CFR part 42, as applicable).

Terminology: Note that the terminology used to reference the entities receiving the Federal awards mirrors the language in 2 CFR part 200 and uses “recipient” to mean the entity that directly received the Federal funds, e.g., program participant, Participating Jurisdiction, or grantee, and “subrecipient” to mean the entity that receives funds through a pass-through entity (see §§200.74, 200.86, and 200.93). The definition of “subrecipient” for certain programs, e.g., the CDBG and HOME programs, differs from the part 200 definitions. The reviewer must use the program definition, if it is different. Where the question pertains to both a recipient and a subrecipient, the term “non-Federal entity” is used (see §200.69).

The term “state” in this exhibit refers to “any state of the United States, *the District of Columbia*, the Commonwealth of Puerto Rico, *U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments*,” as defined in 2 CFR 200.90. Even if the program statute or rule uses a different definition of “state” for purposes of other program requirements, reviewers should apply the part 200 definition of “state” to the part 200 requirements in this exhibit, unless the applicable program rule, NOFA, or grant agreement incorporating 2 CFR part 200 says the “state” definition in part 200 does not apply.

Exhibit Structure: This Exhibit is divided into 12sections: Procurement Implementation Exemption; Sample; General Provisions/Procedures; Micro-Purchases; Small Purchases; Sealed Bids; Competitive Proposals; Noncompetitive Proposals; Contracting with Small and Minority Firms, Women’s Business Enterprises and Labor Surplus Area Firms; Bonding Requirements; Contract Cost and Price; and Contract Provisions.

**Questions:**

A. PROCUREMENT IMPLEMENTATION EXEMPTION

1.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Has the non-Federal entity chosen to continue to comply with the procurement standards in previous OMB guidance (superseded as described in §200.104) for one to three additional fiscal years after the effective date of the Uniform Requirements, 12/26/2014? (If the answer is yes, answer only “b” below and stop.) | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |
| b. If yes, has the non-Federal entity documented its decision in its internal procurement policies?  [2 CFR 200.110(a); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

B. SAMPLE

2.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Use the following table to list the selected sample of procurement transactions. Only include procurements for property or services that will be or have been charged as direct costs to the award(s) under review. Do not include transactions that (i) are solely related to the use of State CDBG funds or (ii) are related to the procurement by states of property and services under other HUD awards (see introduction). (Add more rows if needed.) | | | | |
| **Contractor** | **Amount Budgeted** | **Amount Obligated** | **Amount Expended** | **Procurement Method\*** |
| 1. |  |  |  |  |
| 2. |  |  |  |  |
| 3. |  |  |  |  |
| 4. |  |  |  |  |
| 5. |  |  |  |  |
| 6. |  |  |  |  |
| 7. |  |  |  |  |
| 8. |  |  |  |  |
| 9. |  |  |  |  |
| 10. |  |  |  |  |

\* Method of Procurement (2 CFR 200.320): (a) micro-purchases, (b) small purchases, (c) sealed bids, (d) competitive proposals, and (f) noncompetitive proposals.

C. GENERAL PROVISIONS/PROCEDURES

3.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the non-Federal entity have its own documented procurement procedures, which reflect State, local, and tribal laws and regulations (as applicable), and conform to the requirements of 2 CFR part 200?  [2 CFR 200.318(a) and 2 CFR 200.319(c); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.504(a) and 24 CFR 92.505; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(a); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

4.

|  |  |
| --- | --- |
| If the recipient is a State (and the procurement transactions reviewed are related to programs other than the State CDBG program), does it: | |
| 1. Follow the same policies and procedures that it uses for procurements from non-Federal funds?   [2 CFR 200.317; CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Ensure that every purchase order or contract includes any clauses required by §200.326, *Contract provisions*?   [2 CFR 200.326; CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Ensure that its subrecipients follow the requirements of §§200.318 – 200.326?   [2 CFR 200.101(b)(1); 2 CFR 200.317; 2 CFR 200.331(a)(2) and (d); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

5.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Can the non-Federal entity demonstrate that it maintains oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders?  [2 CFR 200.318(b); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.504(a) and 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

6.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Can the non-Federal entity demonstrate that its subrecipients are required to follow applicable procurement policies and procedures in the administration of their contracts and purchase orders?  [2 CFR 200.101(b)(1); 2 CFR 200.317; 2 CFR 200.331(a)(2); CDBG Entitlement: 24 CFR 570.501(b) and 24 CFR 570.502(a); HOME: 24 CFR 92.504(a) and 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

7.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the non-Federal entity have written standards of conduct covering conflicts of interest and governing the actions of its employees, officers, or agents engaged in the selection, award and administration of contracts supported by grant funds?  [2 CFR 200.318(c)(1); CDBG Entitlement: 24 CFR 570.502(a) and 24 CFR 570.611(a)(1); HOME: 24 CFR 92.356(a) and 24 CFR 92.505; ESG: 24 CFR 576.404(b) and 24 CFR 576.407(c); CoC: 24 CFR 578.95(a) and 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

8.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, does the non-Federal entity maintain written standards of conduct covering organizational conflicts of interest?  [2 CFR 200.318(c)(2); CDBG Entitlement: 24 CFR 570.502(a) and 24 CFR 570.611(a)(1); HOME: 24 CFR 92.356(a) and 24 CFR 92.505; ESG: 24 CFR 576.404(a) and 576.407(c); CoC: 24 CFR 578.95(a) and 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

9.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Are the non-Federal entity’s procedures designed to avoid acquisition of unnecessary or duplicative items, e.g., consolidating or breaking out procurements to obtain a more economical purchase, analyzing lease vs. purchase alternatives?  [2 CFR 200.318(d); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

10.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Do the records for each sample transaction show that the non-Federal entity took adequate steps to ensure the award was made to a contractor that was responsible and able to perform successfully under the terms and conditions of the procurement, including considering such matters as the contractor’s integrity, compliance with public policy, record of past performance, and financial and technical resources?  [2 CFR 200.318(h); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 92.508; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. For each contract that is a “covered transaction” and for each subaward, is there documentation showing the non-Federal entity took the required steps to determine that the contractor or subrecipient was not debarred, suspended, or otherwise excluded from, or ineligible for, participation in Federal programs or activities?  **NOTE:** A contract is a “covered transaction” if it   1. is expected to equal or exceed $25,000; 2. requires the consent of an official of a Federal agency; or 3. is for Federally-required audit services.   [2 CFR 200.213; 2 CFR 180.300, 2 CFR 2424.300; CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(u); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(15) (for grants awarded under the FY 2015 NOFA) or 578.103(a)(16) (for grants awarded under the FY 2016 NOFA or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

11.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| If the non-Federal entity uses prequalified lists, are such lists current, do they include an adequate number of qualified sources to ensure maximum open and free competition, AND are the lists used in a way that allows non-listed bidders to compete during the solicitation period?  [2 CFR 200.319(d); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

12.

|  |  |
| --- | --- |
| For the procurement transactions selected for review, is there documentation sufficient to detail the procurement history, including, but not limited to: | |
| a. The rationale for the method of procurement?  [2 CFR 200.318(i); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. The selection of contract type?  [2 CFR 200.318(i); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. Contractor selection or rejection?  [2 CFR 200.318(i); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. The basis for the cost or price of the contract?  [2 CFR 200.318(i); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

13.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For the sample reviewed, did the documentation show that:   * Purchase orders and contracts were signed by an authorized program official? * Items delivered and paid for were consistent with the items contained in the corresponding purchase order and/or contract? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

14.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the non-Federal entity conduct procurement transactions in a manner providing full and open competition?  **NOTE**: In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include, but are not limited to:  (1) Placing unreasonable requirements on firms in order for them to qualify to do business;  (2) Requiring unnecessary experience and excessive bonding;  (3) Noncompetitive pricing practices between firms or between affiliated companies;  (4) Noncompetitive contracts to consultants that are on retainer contracts;  (5) Organizational conflicts of interest;  (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and  (7) Any arbitrary action in the procurement process.  [2 CFR 200.319(a); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

15.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| If a statutorily or administratively imposed state, local or tribal geographical preference was used in the selection process, did one of the following apply?   * State licensing law made the preference necessary; * An applicable Federal statute expressly required or encouraged the geographic preference; or * The procurement was for architectural and engineering professional services and the application of geographic location as a selection factor left an appropriate number of qualified firms (given the nature and size of the project) to compete for the contract.   [2 CFR 200.319(b); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

16.

|  |  |
| --- | --- |
| As provided at 2 CFR 200.322, a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines. | |
| If the non-Federal entity is a state agency or an agency of a political subdivision of a state, do the non-Federal entity’s procurement procedures include a process for ensuring compliance with the requirements of this provision on recovered materials?  [2 CFR 200.322; CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.504(a) and 24 CFR 92.505; ESG: 24 CFR 576.407(c), 24 CFR 576.407(f), and 24 CFR 576.500(a); CoC: 24 CFR 578.99(b), 24 CFR 578.99(e), and 24 CFR 578.103(a)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

D. MICRO-PURCHASES. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. Micro-purchases may be awarded without soliciting quotations if the non-Federal entity considers the price to be reasonable. [See 2 CFR 200.320(a); 2 CFR 200.67, *Micro-purchase*.]

17.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For each sample transaction that followed the micro-purchase procurement method, is the micro-purchase within the applicable threshold established at 48 CFR Subpart 2.1?  [2 CFR 200.67 and 2 CFR 200.320(a); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

E. SMALL PURCHASES. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold (currently, $150,000, but periodically adjusted for inflation). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. [See 2 CFR 200.320(b); and 2 CFR 200.88, *Simplified acquisition threshold*.]

18.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For each sample transaction that followed the small purchase procurement method, can the non-Federal entity document that it obtained price or rate quotations from an adequate number of qualified sources and the purchase did not exceed the Simplified Acquisition Threshold? (Describe types of purchases and price or rate quotes received.)  [2 CFR 200.320(b); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

F. SEALED BIDS. (Sometimes referred to as “formal advertising.”) Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all of the material terms and conditions of the invitation for bids, is the lowest in price. In order for sealed bidding to be feasible, the following conditions should be met: (1) A complete, adequate, and realistic specification or purchase description is available; (2) Two or more responsible bidders are willing and able to compete effectively for the business; (3) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price. [See 2 CFR 200.320(c)(1).]

19.

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| For each sample transaction that followed the sealed bids procurement method: | |
| 1. Were bids solicited from an adequate number of known suppliers, providing them sufficient response time before the date set for opening the bids and, if the non-Federal entity is a local or tribal government, was the Invitation for Bids (IFB) publicly advertised?   [2 CFR 200.320(c)(2)(i); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |
| b. Does the IFB, including specifications and pertinent attachments, clearly define the items or services needed in order for the bidders to properly respond to the IFB?  [2 CFR 200.320(c)(2)(ii); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |
| c. Were all bids opened at the time and place stated in the IFB and, for local and tribal governments, were the bids opened publicly?  [2 CFR 200.320(c)(2)(iii); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |
| d. Was a firm, fixed-price contract awarded to the lowest responsive and responsible bidder, considering factors such as discounts, transportation cost, and life cycle costs?  [2 CFR 200.320(c)(2)(iv); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

G. COMPETITIVE PROPOSALS. This procurement method is generally used when conditions are not appropriate for the use of sealed bids. Under this method, more than one source submits and either a fixed price or cost-reimbursement type contract is awarded. [See 2 CFR 200.320(d).]

20.

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| For each sample transaction that followed the competitive proposals procurement method: | |
| a. Did the non-Federal entity identify all evaluation factors and their relevant importance in the Request for Proposals (RFP), publicize the RFP and, to the maximum extent practicable, consider all responses to the RFP?  [2 CFR 200.320(d)(1); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  |  | | --- | --- | --- | --- | |  |  | |  | | **Yes** | **No** | **N/A** | | |
| b. Were proposals solicited from an adequate number of qualified sources?  [2 CFR 200.320(d)(2); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. Did the non-Federal entity have a written method for conducting technical evaluations of the proposals received and for selecting recipients?  [2 CFR 200.320(d)(3); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Was the contract awarded to the responsible firm whose proposal was most advantageous to the program, with price and other factors considered?   [CFR 200.320(d)(4); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If price was not used as a selection factor, did the procurement: (1) consist of a qualification-based procurement of architectural/engineering professional services, (2) focus on evaluation of competitors’ qualifications and selection of the most qualified competitor, and (3) include negotiation of fair and reasonable compensation?   [2 CFR 200.320(d)(5); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

H. NONCOMPETITIVE PROPOSALS. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source. [See 2 CFR 200.320(f).]

21.

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| For each sample transaction that consisted of solicitation of a proposal from only one source, can the non-Federal entity show that one or more of the following circumstances apply:   * the item was only available from a single source, * a public exigency or emergency for the requirement did not permit a delay resulting from competitive solicitation, * after solicitation of a number of sources, competition was determined inadequate, or * HUD or the pass-through entity expressly authorized noncompetitive proposals in response to a written request from the non-Federal entity?   [2 CFR 200.320(f); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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I. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISES AND LABOR SURPLUS AREA FIRMS. [See 2 CFR 200.321.]

22.

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| Does the non-Federal entity take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible, including: | |
| 1. Placing qualified small and minority businesses and women’s business enterprises on solicitation lists?   [2 CFR 200.321(a); 2 CFR 200.321(b)(1); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. Assuring that such businesses are solicited whenever they are potential sources?  [2 CFR 200.321(a); 2 CFR 200.321(b)(2); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. Dividing procurement requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses?  [2 CFR 200.321(a); 2 CFR 200.321(b)(3); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)]] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises?  [2 CFR 200.321(a); 2 CFR 200.321(b)(4); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce?  [2 CFR 200.321(a); 2 CFR 200.321(b)(5); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| f. Requiring prime contractors, when subcontracts are let, to take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to select small, minority-owned and women-owned businesses in grant-funded contracts?  [2 CFR 200.321(a); 2 CFR 200.321(b)(6); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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J. CONTRACT COST AND PRICE. [See 2 CFR 200.323.]

23.

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| For the sample transactions reviewed, is there documentation showing that: | |
| a. An independent cost or price analysis was performed in connection with each procurement action, including each contract modification, where the cumulative amount of the original contract and contract modifications exceeded the Simplified Acquisition Threshold?  [2 CFR 200.323(a); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. Profit was negotiated as a separate element of price for each contract in which there is no price competition and in all cases where a cost analysis is performed?  [2 CFR 200.323(b); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. The non-Federal entity agreed to pay costs or prices based on estimated costs only to the extent the costs incurred or cost estimates included in negotiated prices would have been allowable for the non-Federal entity under the cost principles in Subpart E of 2 CFR Part 200?  [2 CFR 200.323(c); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. Contract pricing was based on a method other than cost plus a percentage of cost or percentage of construction cost?  [2 CFR 200.323(d); CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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K. BONDING REQUIREMENTS. [See 2 CFR 200.325.]

24.

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| If contracts have been awarded for construction or facility improvements that exceed the Simplified Acquisition Threshold, does the non-Federal entity meet the minimum Federal requirements for bid guarantees, performance bonds and payment bonds in 2 CFR 200.325 (or, alternatively, the bonding requirements of the recipient or subrecipient) if HUD or the pass-through entity has determined the Federal interest is adequately protected?  [2 CFR 200.325; CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505; ESG: 24 CFR 576.407(c); CoC: 24 CFR 578.99(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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L. CONTRACT PROVISIONS. [See 2 CFR 200.326.]

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| For each of its procurement contracts, can the non-Federal entity document that it reviewed the applicability of the provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards (and noted briefly below) and included the applicable provisions in the contract?   1. Remedies for violation or breach of contract terms? 2. Termination for cause and termination for convenience provisions? 3. Equal Employment Opportunity? 4. Davis-Bacon Act and Copeland “Anti-Kickback” Act? 5. Contract Work Hours and Safety Standards Act? 6. Rights to Inventions Made Under a Contract or Agreement? 7. Clean Air Act and Federal Water Pollution Control Act? 8. Debarment and Suspension? 9. Byrd Anti-Lobbying Amendment? 10. Procurement of Recovered Materials?   [2 CFR 200.326; CDBG Entitlement: 24 CFR 570.502(a); HOME: 24 CFR 92.505 and 24 CFR 92.508; ESG: 24 CFR 576.407(c) and 24 CFR 576.500(v)(2); CoC: 24 CFR 578.99(e) and 24 CFR 578.103(a)(16)(iii) (for grants awarded under the FY 2015 CoC Program Competition) or 578.103(a)(17)(iii) (for grants awarded under the FY2016 CoC Program Competition or later)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |