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| --- | --- | --- | --- | --- |
| **Guide for Review of Flood Zone and Floodway Buyouts**  **and Non-Buyout Acquisitions** | | | | |
| **Name of Grantee:** | | **Appropriation(s):** | | |
| **Staff Consulted:** | | | | |
| **Name(s) of Reviewer(s):** |  | | **Date:** |  |

**NOTE:**  As stated in Chapter 2 of the monitoring handbook, an important and fundamental principle of the monitoring process is that HUD is required to make findings when there is evidence that a statute, regulation, or requirement has been violated, but it retains discretion in identifying appropriate corrective action(s) to resolve deficiencies. An equally fundamental principle is that program participants have due process rights to contest findings (24 CFR part 570 subpart O for local governments and 24 CFR 570.495 for state grantees (in some cases, applicable waivers and alternative requirements may subject states to subpart O)).

As provided in Chapter 2, HUD reviewers are advised that certain questions contain, as a parenthetical below the question, statutory or regulatory citations and/or contract/agreement references. A negative response (“No”) by the HUD reviewer to any such question indicates noncompliance that constitutes a “finding.” Including the basis for the requirement enables the entity being monitored to specifically reference the program requirement at issue. That entity is not precluded from self-assessing during the monitoring to determine if it has information or documentation that would cause the HUD reviewer to form a different conclusion.

In this exhibit, most questions that address requirements contain the specific citation for the source of the requirement (specific citation to a section of a statute, regulation, *Federal Register* notice, or grant agreement). Where a specific citation is contained in the question, it may only apply to certain grants; carefully review the cited requirement to determine its applicability.

In other cases, the question generally references the source of the requirement (e.g., applicable *Federal Register* notices or grant agreement) but does not provide a specific citation. This is because statutory requirements, *Federal Register* notices (including waivers and alternative requirements), and grant agreements can vary significantly from appropriation to appropriation, and waivers and alternative requirements may vary from grantee to grantee. When the question contains a general reference to a source, the reviewer is instructed to review the source to confirm that the relevant requirement that relates to the question is contained in the source and applies to the grantee. The reviewer should answer the question based on the requirement that applies to the grantee. If the reviewer answers the question “no” because the grantee did not comply with the requirements in the source that apply to the grantee, the HUD reviewer must make a note of the applicable citation to document the violation that results in a finding noncompliance.

Questions without a specific citation or a general reference to a controlling document do not address requirements. These questions are included to assist the reviewer in understanding the participant's program more fully and 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 cannot result in a "finding."

A “Note” included with a question is intended to assist the reviewer with answering the question and is not a statutory or regulatory citation and/or contract/agreement reference that signals that a negative response (“No”) by the HUD reviewer to the question indicates noncompliance that constitutes a “finding.”

**Instructions:** This Exhibit is to be used to monitor buyouts and non-buyout acquisitions in a floodplain (e.g., 100-year floodplain) or floodway carried out with CDBG disaster recovery (CDBG-DR) funds awarded for major disasters that occurred in 2019 and earlier, in addition to the applicable Addendum based on the disaster year being monitored. To monitor any CDBG-DR grant, obtain copies of the appropriate *Federal Register* notice(s). See Attachment 6-1, “Document Reference Tool,” to determine which *Federal Register* notices are applicable, and make sure to use the applicable Addendum based on the disaster year being monitored.

Since HUD’s allocation of funds for 2011 disasters, *Federal Register* notices have defined a “buyout” activity as a type of acquisition of real property in which the grantee acquires real property located in a floodway or a floodplain (or other disaster risk reduction area, if permitted by a *Federal Register* notice) in order to reduce risk of future flooding. When grantees acquire properties through a buyout activity, redevelopment of the property must be permanently restricted.

Acquisition of real property for a purpose other than risk reduction (or when risk reduction may be a co-benefit but is not the primary purpose for the acquisition) is not a buyout even when it occurs in a floodway, floodplain, or risk reduction area. Land acquired through a non-buyout acquisition is not subject to restrictions on redevelopment.

Acquisitions (including buyouts) may trigger the real property acquisition and relocation assistance requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA). Regulations at 49 CFR part 24, subpart B, sets forth the real property acquisition requirements for Federal and federally-assisted programs and projects under the URA. Generally, the URA regulations have different requirements for “voluntary” and “involuntary” acquisitions (including buyouts). For URA purposes, “voluntary” acquisitions are transactions that meet the exception criteria set forth in 49 CFR 24.101(b)(1) through (5), as may be modified by waiver and alternative requirements, which primarily excludes acquisitions undertaken with the threat or use of eminent domain. All other real property acquisitions subject to the URA that do not meet the criteria in 49 CFR 24.101(b)(1) through (5) are “involuntary” acquisitions. Under the URA, voluntary acquisitions (those that satisfy the requirements of 49 CFR 24.101(b)(1) through (5)) are not subject to the acquisition requirements of 49 CFR part 24, subpart B. A common misconception is that a “willing seller” or “amicable agreement” means a transaction is “voluntary.” For URA purposes, this is not necessarily true: the applicable requirements of 49 CFR 24.101(b)(1) through (5), as may be modified by waiver and alternative requirements, must be satisfied for a transaction to be considered a “voluntary acquisition.” When a buyout or acquisition is “involuntary” and therefore subject to the acquisition requirements in 49 CFR part 24, subpart B, and/or when the buyout or acquisition will result in tenant relocation or displacement, the reviewer should consult with the HUD Regional Relocation Specialist.

Because the requirements for buyout and other acquisition activities may vary with each supplemental appropriation of CDBG-DR funds, reviewers must consult the applicable *Federal Register* notices to determine applicable requirements. Prior to 2011, CDBG-DR appropriations, for example, had less restrictive requirements for properties acquired as a “buyout,” except when CDBG-DR funds were used as a match for Federal Emergency Management Agency (FEMA) Section 404 Hazard Mitigation grant funds.

For nearly all CDBG-DR grantees that acquire property through a buyout activity, the *Federal Register* notices permit the grantee to acquire the property for the *pre-disaster* fair market value or the post-disaster fair market value, but require the grantee to uniformly apply whichever valuation method it chooses. Grantees may also provide optional relocation assistance to sellers, or when permitted by waiver, combine the acquisition with a housing incentive to induce the buyer to sell.

The buyout requirements, including the requirement to uniformly acquire at pre- or post-disaster fair market value, do not apply to non-buyout acquisitions. All acquisitions must be guided by the cost principles.

This Exhibit should be used to monitor the unique responsibilities attached to buyouts of real property in a flood zone or floodway, or other risk reduction areas, as well as the requirements for non-buyout acquisitions. The Exhibit is divided into five sections: Scope of Review; Policies and Procedures; Non-Buyout Acquisitions Only; File Review; and Reporting and Oversight.

**Questions**:

A. SCOPE OF REVIEW

|  |  |
| --- | --- |
|  | What entity is responsible for the direct administration of the program? |
| **Describe Basis for Conclusion:** |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Does the review include buyouts, non-buyout acquisitions, or both? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |
| --- | --- |
|  | Files reviewed (list all). |
| **List Files:** |
| |  |  |  | | --- | --- | --- | | Activity name or number | Funds Expended  ($) | Date of Expenditure (MM/DD/YYYY) | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |

B. POLICIES AND PROCEDURES

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 1. Does the grantee have written buyout and/or non-buyout acquisition policies and procedures? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Are the policies and procedures consistent with the grantee’s published Action Plan for disaster recovery? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | In regard to ***eligibility*** of activities, do the policies and procedures require: | |
| 1. Activities to relate to the impact of the applicable disaster(s)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities to be located in an area that was Presidentially-declared as a major disaster? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. A determination that the funded CDBG-DR activities are not reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency (FEMA) or the Army Corps of Engineers? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities to be CDBG-eligible? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities to meet a national objective? If the answer is “yes,” please list the acceptable national objective(s) below. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | Prior to answering the duplication of benefits (DOB) questions in this exhibit reviewers MUST complete the DOB section in the applicable Addendum, based on the disaster year being monitored, to ensure proper compliance with DOB and applicable *Federal Register* notice(s).  **NOTE:** Failure to maintain policies and procedures to adequately address DOB could lead to a violation of the requirement for grants under Public Laws appropriating CDBG-DR funds that require the Secretary to certify that the grantee have “established adequate procedures to prevent any duplication of benefits” or otherwise lead to a violation of section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the "Stafford Act”). | |
| After completion of the DOB section in the applicable Addendum, does the grantee illustrate compliance (i.e. “yes” responses for all DOB related questions)?  If so, the grantee’s policies and procedures are in place to ***prevent* *DOB***. | |  |  | | --- | --- | |  |  | | **Yes** | **No** | |
|  | **Describe Basis for Conclusion:** | |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Do the policies and procedures address recapture of CDBG-DR funds?  **NOTE:** Examples of why a grantee may need to address recapture of CDBG-DR funds could be in the case of an overpayment or duplication of benefits. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Do the policies and procedures address monitoring funded activities (e.g., priority and/or frequency)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | For buyout activities, do the policies and procedures include a uniform methodology for determining purchase values? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 1. If the grantee is awarding housing incentives pursuant to a waiver issued in the applicable *Federal Register* notice(s), do the policies and procedures address how (at least at a programmatic level) the grantee determined that the amount of the housing incentive awarded was necessary and reasonable? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Are the housing incentives, as described in the policy and procedures, in accordance with the grantee’s approved action plan and published program design(s)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Do the grantee’s policies for the use of CDBG-DR ensure compliance with federal cross-cutting requirements including but not limited to Davis Bacon, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), and Section 3 (as applicable) as described in the applicable *Federal Register* notice(s)?  **NOTE:** If the answer is no, the reviewer may consult with the relevant HUD regional or local cross-cutting program office. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Does the grantee have a Residential Anti-displacement and Relocation Assistance Plan (RARAP) applicable to CDBG-DR funded activities?  [24 CFR 570.606(c); 24 CFR 42.325; See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
|  | **Describe Basis for Conclusion:** | |

C. NON-BUYOUT ACQUISITIONS ONLY

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 1. Is the reviewer monitoring a ***non-buyout acquisition*** program? If the answer is “no,” skip to Section D.   **NOTE:** A ***non-buyout acquisition*** is an acquisition for some eligible recovery purpose other than reduction of risk resulting from future disasters. Acquisition of real property for a purpose other than risk reduction (or when risk reduction may be a co-benefit but is not the primary purpose for the acquisition) is not a buyout even when it occurs in a floodway, floodplain, or risk reduction area. Land acquired through a non-buyout acquisition is not subject to restrictions on redevelopment. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to 13.a above is “yes,” do the policies and procedures: | |
| 1. Provide for interim management and timely disposition of property or transition to a new use? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If that use changes, does the grantee follow the change in use provisions? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Require a purchase price to be based on post-disaster value in accordance with applicable cost principles? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
|  | 1. Require that acquisition activities comply with the grantee’s long-term redevelopment plans? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** For non-buyout acquisition program funded for disasters after 2011, the reviewer should note the public purpose of the acquisition (if it is not for reducing risk of future disasters.) | |
|  |  | |

D. BUYOUTS ONLY

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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | 1. Is the reviewer monitoring a buyout program in which the applicable *Federal Register* notice(s) restricts redevelopment of the property? If the answer is “no,” ects | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to 14.a is “yes,” do the policies and procedures: | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Ensure that acquired property is located in a floodway, floodplain, or disaster risk reduction area? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Establish criteria to designate the area subject to the buyout, if conducting a buyout in a Disaster Risk Reduction Area, pursuant to the following requirements:   If the answer is “no,” the reviewer should skip sub-questions 1, 2, and 3 below. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. That the hazard must have been caused or exacerbated by the Presidentially declared disaster for which the grantee received its CDBG-DR allocation? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. That the hazard must be a predictable environmental threat to the safety and well-being of program beneficiaries, as evidenced by the best available data and science? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. That the Disaster Risk Reduction Area must be clearly delineated so that HUD and the public may easily determine which properties are located within the designated area? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Ensure acquired property is maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Ensure no new structure, other than those specifically allowed by an applicable *Federal Register* notice(s) (e.g., a public facility open on all sides), will be erected on an acquired property? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

E. FILE REVIEW

|  |  |  |  |  |  |  |  |  |
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|  | Do the grantee’s subrecipient agreements and loan/grant agreements explicitly require compliance with 24 CFR 570.606, the URA, and Section 104(d) requirements, as modified by applicable waivers and alternative requirements ( including reporting and recordkeeping)?  [2 CFR 200.331(a)(2); 24 CFR 570.503; 24 CFR 570.606(a) and 24 CFR 570.606(g)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Does the grantee have a system for tracking and documenting acquisition and displacement activities?  **NOTE:** The grantee is required to maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with the URA. The records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled under the URA, or in accordance with the applicable regulations of the Federal funding Agency, whichever is later. A grantee that does not have a system for tracking and documenting acquisition and displacement activities may not be complying with 49 CFR 24.9 and if the answer is “no,” the Reviewer must indicate this as a concern and notify the Regional Relocation specialist. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | Do the activity files and records document that the grantee is following its RARAP for the assisted activity under review?  [24 CFR 570.606; 24 CFR 42.325; See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | If the grantee and/or its subrecipient provides optional relocation assistance not required by State or local law, did the grantee or subrecipient:   * Provide the relocation assistance based on a written determination that such relocation assistance is appropriate;   **AND,**   * Adopt an Optional Relocation Policy that is available to the public and provides for equal relocation assistance within each class of displaced persons?   **NOTE:** The grantee or subrecipient may provide optional relocation assistance to persons displaced by activities that are not subject to the URA at 49 CFR part 24 or the RARAP. The grantee or subrecipient may also provide optional relocation assistance to persons receiving assistance under the URA or RARAP at levels in excess of what is required by the URA or RARAP. Certain *Federal Register* notices have provided a waiver and alternative requirements to optional relocation assistance provisions to allow them to be conducted by grantees or to permit their  subrecipients to establish separate optional relocation policies.  Briefly describe below the policy governing optional relocation assistance or attach a copy of the policy. If the reviewer has questions, consult the Regional Relocation Specialist for further evaluation.  [24 CFR 570.606(d) (as modified by waiver and alternative requirements)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Was each occupied and vacant occupiable lower-income dwelling unit (as defined at 24 CFR 42.305) that was demolished or converted:   1. Replaced with an acceptable replacement unit;   **OR**   1. Comply with the grantee’s definition of ‘‘not suitable for rehabilitation” as a disaster-damaged unit under the waiver or alternative requirement for section 104(d) one-for-one replacement requirements (see Note below);   **OR**   1. In an area where HUD determined that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a nondiscriminatory basis?   **NOTE:** Certain *Federal Register* notices have provided a waiver and alternative requirements to section 104(d) one-for-one replacement for disaster-damaged units that meet the grantee’s definition of not suitable for rehabilitation (as listed in option ii.), and waived section 104(d) relocation payments to the extent that they differ from URA permanent relocation assistance. Generally, there has been a waiver and alternative requirement since the March 5, 2013 notice. If the reviewer has questions, consult the Regional Relocation Specialist for further evaluation.  [24 CFR 42.305; 24 CFR 42.375(a), (b), and (d) (as modified by waiver and alternative requirements if applicable); See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

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|  | Did the grantee comply with the requirements of Section 414 of the Stafford Act or the waiver and alternative requirements for homeowner occupants and tenants displaced from their homes as a result of an identified disaster, if applicable?  **NOTE:** Under the *Federal Register* notices, homeowner occupants and tenants displaced from their homes as a result of the identified disaster and who would have otherwise been displaced, as a direct result of any acquisition or demolition of real property for a federally funded program or project, may become eligible for a replacement housing payment, notwithstanding their inability to meet occupancy requirements prescribed in the URA. Reviewers must review the applicable *Federal Register* notice to determine if the grantee may use a waiver and alternative requirement.  Please describe below which waiver and alternative requirement the grantee used, if applicable. If the reviewer has questions, consult the Regional Relocation Specialist for further evaluation  [See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

**If the Reviewer determines further relocation review may be required because of a “No” answer on a relocation question listed in this exhibit, please consult with the Regional Relocation Specialist.**

|  |  |  |
| --- | --- | --- |
|  | In regard to ***eligibility***, do reviewed activity files document: | |
| 1. How the activities relate to a recovery need arising from the impact of the applicable disaster(s)?   [Applicable appropriation law and *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities that are located in an area that was designated as “most impacted and distressed” by either HUD or the grantee?   [Applicable appropriation law, See applicable *Federal Register* notice(s), and in the grantee’s approved action plan for grantee-identified most impacted and distressed areas] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. A determination that the funded CDBG-DR activities were not reimbursable by, and the CDBG-DR activities are not activities for which funds were made available by the Federal Emergency Management Agency or the Army Corps of Engineers?   [See applicable appropriation law (e.g., P.L. 110-252, P.L. 110-329, P.L. 113-2)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities met CDBG eligibility requirements or are eligible pursuant to a CDBG-DR waiver or alternative requirement in the applicable *Federal Register* notice(s)?   [Section 105 of the HCDA for states; activities eligible under 24 CFR part 570, or subpart C for local governments; See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities were funded in accordance with the program or activity policies and procedures? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. The purchase prices of acquired properties complied with the established methodology, if a uniform methodology based on pre- or post-disaster value is required for buyouts, and basic cost principles using only post-disaster value as a starting point for non-buyout acquisitions?   [See applicable *Federal Register* notice(s); 2 CFR part 200, subpart E] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. For buyout activity files, is the buyout property located in a floodway or floodplain or disaster risk reduction area?   [See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  |  | |

Reviewers must answer the national objective questions below that correspond to the national objective met by the activity: 22-26 (Low- and moderate-income); or 27 (urgent need). See also question 5.e above.

Compliance with criteria for a national objective depends upon how the buyout or non-buyout acquisition program has been structured. Refer to HUD guidance regarding the use of the Low- and Moderate-Income (LMI) national objective (housing, limited clientele, area benefit, etc.) AND the applicable *Federal Register* notice(s), which contain waivers and alternative requirements that modify LMI national objective criteria for buyouts and housing incentives.

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **LMI Housing (LMH):** Do the activity files document that the activity combines the acquisition of properties with another direct benefit to a qualifying LMI household that results in occupancy of a housing unit by a LMI household (e.g., down payment assistance), and otherwise meets the applicable LMH national objective criteria?  **NOTE:** The program must meet all the criteria for the LMH national objective, including the 51 percent test (e.g. if the structure contains more than two dwelling units, at least 51 percent of the units must be occupied by low and moderate-income households) if applicable.  [24 CFR 570.483(b)(3) and 24 CFR 570.490 (as modified by waiver and alternative requirement) (State); 24 CFR 570.208(a)(3) and 570.506(b)(4) (Entitlement); See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | **LMI Area Benefit (LMA):** Do the reviewed activity files document that the properties acquired will be or were used in a way, based on the end use of the properties, that benefits all of the residents in a particular area and the area defined by the grantee is:   * Primarily residential; and * One where at least 51 percent of the residents in the area are low- and moderate-income persons **or** the percent of low- and moderate-income residents in the area equal or exceed the exception criteria or upper quartile?   [24 CFR 570.483 and 24 CFR 570.490 (as modified by waiver and alternative requirement) (State); 24 CFR 570.208(a)(1) and 570.506 (Entitlement); See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | **LMI Limited Clientele (LMC)**: Do the reviewed activity files document:  For buyout activities meeting the LMC national objectives, reviewers should select “yes” here if the answers to 24.a.; 24.b.; **and** 24.c. are also “yes.” | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. The activity’s benefits are NOT available to all residents of an area and the benefit to low- and moderate-income persons to be considered is NOT the creation or retention of jobs, except as provided in [24 CFR 570.483(b)(2)(v)](https://www.ecfr.gov/current/title-24/section-570.483#p-570.483(b)(2)(v)) or 24 CFR 570.208(a)(2)(iv),   **AND**   1. The program restricts eligibility to exclusively low- and moderate-income persons,   **AND**   1. The buyout provides an actual benefit to the low- and moderate-income sellers?   24 CFR 570.483(b)(2) and 24 CFR 570.490 (as modified by waiver and alternative requirement) (State); 24 CFR 570.208(a)(2) and 24 CFR 570.506(b) (Entitlement); See applicable *Federal Register* notice(s)]  **NOTE**: If a grantee chooses to meet the LMC national objective through other means not listed above, the reviewer should consult Exhibit 3-3 for local governments and question 11 in Exhibit 4-1 for States.  **NOTE**: A program that provides post-disaster FMV to buyout applicants merely provides the actual value of the property; thus, the seller is not considered a beneficiary of CDBG-DR assistance (i.e., the seller does not receive a benefit from the assistance). | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |  |  |  | | **Yes** | **No** | **N/A** | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

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|  | **Low/Mod Buyouts (LMB):** Do the reviewed activity files document:   1. CDBG–DR funds are used for a buyout award to acquire housing owned by a qualifying LMI household;   **AND**   1. The activity benefits LMI households by supporting their move from high risk areas;   **AND**   1. The buyout award amount (including optional relocation assistance) is greater than the post-disaster (current) fair market value of the property?   **NOTE:** Activities that meet the above criteria will be considered to benefit low and moderate-income persons unless there is substantial evidence to the contrary.  [See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | **Low/Mod Housing Incentive (LMHI):** For a buyout program or non-buyout acquisition, do the reviewed activity files document one of the following:  **NOTE:** This requirement is applicable to all disasters after 2011. | |
| 1. The housing incentive award is tied to the voluntary buyout or other voluntary acquisition of housing owned by a qualifying LMI household and is for the purpose of moving the LMI household outside of the affected floodplain or to a lower-risk area?   [See applicable *Federal Register* notice(s)]  **OR** | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. The housing incentive is for the purpose of providing or improving residential structures that, upon completion, will be occupied by an LMI household?   [See applicable *Federal Register* notice(s)] |  |
| **Describe Basis for Conclusion:** | |

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|  | Do reviewed activity files document that the buyout program or non-buyout acquisition program met the criteria of the Urgent Need national objective, including one of the following:   1. *If the grantee received a waiver and is subject to an alternative requirement* of the certification requirements at 24 CFR 570.208(c) and 24 CFR 570.483(d) in a *Federal Register* notice, does the program respond to disaster-related impacts identified in the action plan needs assessment?   **NOTE**: The action plan needs assessment in i. under the alternative requirement must have referenced the type, scale, and location of the disaster-related impacts being addressed over the course of the applicable deadline for the expenditure of obligated grant funds for the program.  **OR**   1. The requirements at 24 CFR 570.208(c) or 24 CFR 470.483(d) if the waiver expired prior to the activity or if the grantee did not receive a waiver of the certification requirements?   [24 CFR 570.483(d) and 24 CFR 570.490 (as modified by waiver and alternative requirement) (State); 24 CFR 570.208(c) and 24 CFR 570.506 (Entitlement); See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | If the grantee did not meet the criteria of a national objective that is described in the questions 22-27, do reviewed activity files document that the activity met or will meet the criteria of another national objective?  **NOTE**: Reviewers may choose to consult Chapter 3 and Chapter 4 Exhibits that include a guide for review of national objective criteria to ensure that the activity met or will meet the criteria of another national objective. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | In regard to the ***type of program***, do reviewed activity files document: | |
| 1. Compliance with the grantee’s *non-buyout* *acquisition* policies and procedures?   [Refer to Question under Section B. Policies and Procedures.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Compliance with the grantee’s *buyout* program policies and procedures?   [Refer to Question under Section B. Policies and Procedures.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | In regard to Improper Payments, do reviewed activity files document:  **NOTE:** See 2 CFR 200.1 for the exact definition, but generally, an improper payment means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper. | | | | |
| 1. That an improper payment of CDBG-DR funds was not made?   [See applicable *Federal Register* notice(s); 2 CFR 200.302(b)(4); and 24 CFR 570.502] | | | | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to 30.a above is “no,” the grantee is taking prompt and appropriate corrective action?   **NOTE:** For example, seeking recapture of funds resulting from an improper payment could be an appropriate corrective action.  [See applicable *Federal Register* notice(s); 2 CFR 200.302(b)(4) and 2 CFR 200.303(d); 24 CFR 570.502] | | | | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **For reviewed activities with an improper payment, please complete the following:** | | | | |
| Activity name or  number | Improper payment amount ($) | Type of improper payment | Corrective action | |
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| Please ensure that the activity names or numbers listed correspond with those listed in Section A, Question 3 of this Exhibit. | | | | |
| **Describe Basis for Conclusion:** | | | | |

F. OVERSIGHT AND REPORTING

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|  | If the grantee is not directly administering the program or activity, in regard to oversight: | |
| 1. Is there evidence that the grantee is providing the subrecipient or subgrantee with technical assistance?   [See applicable *Federal Register* notice(s); Section 106(d)(2)(c)(ii) of the HCDA if this certification is not waived (State); 24 CFR 570.503] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Is the grantee monitoring activities through an on-site or remote review to effectively ensure compliance with its subrecipient or subgrantee agreement?   [See applicable *Federal Register* notice(s); 2 CFR 200.332; 24 CFR 570.501(b); 24 CFR 570.503] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Is the grantee receiving the subrecipient or subgrantee records that must be submitted to the grantee to comply with their subrecipient or subgrantee agreement?   [See applicable *Federal Register* notice(s); 24 CFR 570.503(b)(2)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |  |  |  | |
| 1. Is the grantee complying with its policies and procedures? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | In regard to the ***Disaster Recovery Grant Reporting (DRGR) system:*** | |
| 1. Are activities classified correctly in DRGR (e.g., the correct accomplishment type is associated with the applicable activity)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Do quarterly performance reports correctly record the appropriate performance measures (e.g., the number of properties acquired)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Do performance measures and projected end dates match the information in the program files? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
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|  | In regard to ***activity completion***: | |
| 1. Are activities completed in accordance with:   If the answers to the sub-questions below are “yes,” the reviewer can also select “yes” for this question. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. The completion dates or period of performance in the contract(s)?   [See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. The completion dates in its action plan?   [See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. The completion dates entered into DRGR?   [See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to 33.a above is “no,” was the action plan amended for any subsequent changes, updates, or revisions of the projections?   [See applicable *Federal Register* notice(s)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to 33.a above is “no,” are contracts amended and extended before they lapse?   **NOTE:** The reviewer should look at each applicable *Federal Register* notice(s) for the specific activity completion requirements for its Quarterly Performance Reports and contracts. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to 33.a above is “no,” the reviewer should answer the sub-questions below and describe in its basis for conclusion: | |
| 1. Has the grantee determined the reason for the delay in the activity’s completion? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Has the grantee identified a corrective action to rectify the activity’s delay? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Has the grantee revised the activity’s completion deadline? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |