|  |
| --- |
| **Guide for Review of Written Agreements** |
| **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 of 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 verify that States have adequate agreements with recipients. It is divided into three sections: Overview; Subrecipient Agreements; and Recipient Agreements. Use this Exhibit to monitor all written agreements executed by a state grantee under the Community Development Block Grant disaster recovery (CDBG-DR) program, in which funds awarded for major disasters that occurred in 2019 and earlier are provided to a subrecipient or a recipient. A recipient is an entity receiving CDBG-DR funds from the grantee but not acting as a subrecipient (e.g., a local government receiving CDBG-DR funds under a method of distribution and carrying out its own recovery activities, or another state agency receiving CDBG-DR funds from the state agency that administers the CDBG-DR grant).

**Questions:**

A. OVERVIEW

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Is the grantee a state? If “yes,” proceed to the next question. If “no,” do not use this Exhibit and complete Exhibit 3-16 instead, to evaluate all agreements between the grantee and its subrecipients. |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |
|  |  |

|  |  |
| --- | --- |
|  | Agreements reviewed (list all): |
| **Describe Basis for Conclusion:**      |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | For each reviewed agreement, has the grantee clearly stated the period of performance or the date of completion? **NOTE:** Periods of performance and dates for completion have been required since 2011. [See applicable *Federal Register* notice(s); 24 CFR 570.489(m); 2 CFR 200.332; 24 CFR 570.503, to the extent applicable to state grantees through applicable *Federal Register* notice(s)] |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |
|  |  |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Do the grantee’s policies and procedures or the reviewed written agreement(s) state which entity is responsible for the environmental review requirements described at 24 CFR Part 58 for the activities governed by the agreement? |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |
|  |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | For the activities governed by the agreement, do the grantee’s policies and procedures or the reviewed written agreement(s) provide for the participation of religious or faith-based organizations? [24 CFR 570.200(j) or 24 CFR 570.480(e)] |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |
|  |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Do any reviewed agreements fall under a program directly administered by the state? If “yes,” proceed to Question 7, which deals with subrecipient agreements. If “no,” proceed to Question 8, which concerns state grant recipients.**NOTE:** Typically, CDBG-DR state grantees are provided a waiver and alternative requirement that allows them to carry out activities directly (i.e., like a CDBG Entitlement community). In general, when a state carries out activities *directly,* it develops the activity guidelines/rules and acts as the Responsible Entity (RE) for environmental reviews. Like an Entitlement grantee, the state may use a unit of local government, a public or private nonprofit entity, or a for-profit entity as a *subrecipient*. In the alternative, when activities are *not* carried out directly by a state, the state may use a method of distribution (MOD) to award funds to local governments. In this scenario, a local government will be considered a *recipient—*it will act as the RE and have the flexibility to design and implement its activities. Some states may combine the above approaches (e.g., design a program, but awards funds for that program through a MOD). Whatever method(s) are ultimately chosen, each “type” of written agreement must be consistent.  |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |

B. SUBRECIPIENT AGREEMENTS

|  |  |
| --- | --- |
|  | The requirements associated with the below questions are set forth at 24 CFR 570.503. This regulation applies to Entitlement grantees that have received a direct award from the Department and, as required, to State grantees using subrecipients to carry out activities directly as permitted by waiver. 24 CFR 570.502, 24 CFR 570.503, and 24 CFR 570.500(c) apply to states carrying out activities directly. HUD allows State grantees the flexibility to choose one of the three options when developing its procurement policies and procedures, which requires State grantees to establish procurement requirements for local governments and subrecipients, those provisions will continue to apply and will determine those procurement provisions of 2 CFR part 200 that are applicable to a State’s subrecipients. The reviewer is to consult the applicable *Federal Register* notice(s) for the specific requirements associated with this waiver for the grant being reviewed. 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 of noncompliance. |
| 1. Do written agreements contain the following:
 |
| 1. A *statement of work*, including a description of the work to be performed, a schedule for completing the work, and a budget?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. The *records* the subrecipient must maintain and the *reports* the subrecipient must submit?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. Did the grantee provide its record retention policy and identify the information that the subrecipient must report to the grantee and the frequency of reporting that information?

**NOTE:** The grantee must provide the subrecipient information to maintain and retain adequate records, for a period of not less than (3 years), to comply with program requirements.  |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. *Program income* requirements (as modified by the applicable *Federal Register* notice)?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. The applicable *uniform administrative requirements* the subrecipient must follow as described at 24 CFR 570.502?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. The requirement that the subrecipient must comply with *all Federal laws* and regulations described in 24 CFR Part 570, subpart K (e.g., affirmatively furthering fair housing, prohibition on discrimination, labor standards, environmental standards), provided that the subrecipient does not assume responsibility for the grantee’s environmental responsibilities or the initiation of the environmental review process?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. The remedies for noncompliance and provisions for termination in accordance with 2 CFR part 200, subpart D?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. Reversion of assets provisions required by 24 CFR 570.503?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |
|  |

C. RECIPIENT AGREEMENTS

|  |  |
| --- | --- |
|  | There are no State CDBG regulations regarding language required in a recipient agreement. However, the *Guide to National Objectives and Eligible Activities for State CDBG Programs: Appendix I, Model Record-Keeping Requirements* (which is non-binding) does describe best practices: <https://www.hudexchange.info/onecpd/assets/File/Basically-CDBG-State-Chapter-2-Activity.pdf>.  |
| Do the agreements with recipients:  |
| 1. State that the recipient will follow Treasury Department drawdown requirements, as stated at 31 CFR Part 205?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. Include payment information and conditions?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. Include governmental requirements?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. Include wage rates to be used?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| 1. Include labor standards provisions?
 |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |
|  |

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | Does the agreement with the recipient address the local government requirements at 24 CFR 570.486, as applicable? |

|  |  |  |
| --- | --- | --- |
| [ ]  | [ ]  | [ ]  |
| **Yes** | **No** | **N/A** |

 |
| **Describe Basis for Conclusion:**      |
|  |