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| **Guide for Review of Management of RHP Subrecipients, Contractors, and Real Property**  |
| **Name of Program Participant:**  |
| **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, *Federal Register* Notice, or grant agreement). If the requirement is not met, HUD must make a **“finding of noncompliance”** with program requirements. All questions that do not contain the citation for the requirement do not address requirements but are included to assist the reviewer in fully understanding the participant's program 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 examine grantees’ (states and the District of Columbia) compliance with subrecipient management, contract procurement, and real property requirements for Recovery Housing Program (“RHP”) funds.

The applicable requirements are found in:

* Section 8071 of the Support for Patients and Communities Act (Public Law 115-271, October 24, 2018), as may be amended (“SUPPORT Act”),
* The *Notice of FY2020 Allocations, Waivers, and Alternative Requirements for the Pilot Recovery Housing Program* (85 FR 75361, published on November 25, 2020) (“FY2020 RHP Notice”),
* The *Notice of Waivers and Alternative Requirements for the Pilot Recovery Housing Program* (86 FR 38496, published on July 21, 2021) (“FY2021 RHP Notice”), and
* Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 *et. seq.*) (“the HCD Act”), and its implementing regulations at 24 CFR part 570, unless otherwise provided in the SUPPORT Act or modified by waivers and alternative requirements in the RHP Notices.

Section 8071(g) of the SUPPORT Act defines the term “state” to include the District of Columbia and any state as defined in section 102 of the HCD Act (42 U.S.C. 5302). This Exhibit will generally refer to a “state”, as defined by the HCD Act, as “state RHP grantee” or “state” and separately refer to the “District of Columbia”. Also, this Exhibit will use the term “grantee” to include both states and the District of Columbia.

A unit of general local government funded by a state is also considered a subrecipient. Therefore, exhibit questions that pertain to “subrecipients” are equally applicable to subawarded units of general local government.

State RHP grantees have some latitude in establishing certain administrative procedures and standards, because only limited portions of 2 CFR part 200 apply to the use of funds by state RHP grantees. For example, the state RHP grantee may establish its own procurement policies and procedures in compliance with 24 CFR 570.489(g) for itself, as well as for its subrecipients and contractors. For states, those policies and procedures may, or may not, impose requirements under 2 CFR part 200 beyond those required in the FY2020 RHP Notice and FY2021 RHP Notice. In contrast, the District of Columbia, as a RHP grantee, is subject to RHP requirements, applicable CDBG Entitlement regulations, and the requirements of 2 CFR part 200.

This Exhibit is divided into five sections of questions: (A) General; (B) Subawards; (C) Monitoring of Local Governments and Subrecipients; (D) Procurement and Conflict of Interest; and (E) Real Property.

The Procurement section below will begin with further instructions to the reviewer regarding whether to refer to the Exhibits in Chapter 34, 2 CFR part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, to address compliance with applicable portions of 2 CFR part 200 for both state RHP grantees and the District of Columbia. Due to the different requirements for states and the District of Columbia, certain questions apply only to either state RHP grantees or the District of Columbia. Likewise, referral to Exhibits in Chapter 34 to address compliance with applicable portions of 2 CFR part 200 differs between state RHP grantees and the District of Columbia.

**Questions:**

A. GENERAL

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| If there is more than one administering agency, did the agencies enter into an interagency agreement or did the grantee otherwise enforce compliance with applicable procurement requirements? |

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| **Yes** | **No** | **N/A** |

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| Are the grantee’s determinations on whether to use a subaward (local government/subrecipient relationship) or a contract (contractor relationship) consistent with 2 CFR 200.331?**NOTE**: 2 CFR 200.331 provides the characteristics of subrecipient and contractor relationships, noting that not all of the characteristics listed may be present in all cases, and the grantee must use judgment in classifying each agreement as a subaward or a procurement contract.**NOTE**: Generally speaking, subrecipients are awarded based on a determination of eligibility, and they carry out the RHP program for a public purpose, i.e., a national objective. A contractor relationship is usually competitive, and the goods or services provided are ancillary to the operation of the CDBG program. It is not the form of the agreement, but the substance of the relationship that is more important in making the proper determination.**NOTE**: A unit of general local government that receives RHP funds from a state is also a subrecipient.[2 CFR 200.331] |

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| **Yes** | **No** | **N/A** |

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| In distributing its funds, did the grantee give priority to: (a) Entities with the greatest need, including how the grantee will consider both the projected demand for the proposed temporary recovery housing solution and the financial need for assistance, AND(b) Entities with the ability to deliver effective assistance in a timely manner, as described in its RHP Action Plan?[Section 8071(c)(2) of the SUPPORT Act, and FY2020 RHP Notice 85 FR 75361 Sections II.C and II.H.8.v.(4)] |

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| **Yes** | **No** | **N/A** |

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| If the grantee elects to carry out activities directly through its own staff, procured for-profit entity(ies), or subrecipients, did the grantee include a statement in its RHP Action Plan with a description of the eligible activities to be carried out directly?**NOTE**: A unit of general local government that receives RHP funds from a state is also a subrecipient.[FY2020 RHP Notice 85 FR 75361 Section II.H.8.v.(2)] |

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| **Yes** | **No** | **N/A** |

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| [State RHP grantees only] If the state is carrying out projects in tribal areas through employees, contractors, or subrecipients, did the state obtain consent of the Indian tribe with jurisdiction over the tribal area?**NOTE**: Pursuant to 85 FR 75361 Section II.D.i., Indian tribes may be a subrecipient of a state RHP grantee. Indian tribes that receive RHP funding from a state RHP grantee must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968, 25 U.S.C. 1301 et seq.). [FY2020 RHP Notice 85 FR 75361 Sections II.D.i. and II.F.] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |

B. SUBAWARDS

6.

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| Does the grantee ensure that every subaward is clearly identified to the local government or subrecipient as a subaward, and at minimum, includes the following information:1. Subrecipient name
2. Subrecipient unique entity identifier;
3. Federal Award Identification Number (FAIN);
4. Date of award to the recipient by the Federal agency;
5. Subaward Period of Performance;
6. Amount of Federal Funds Obligated by this action;
7. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;
8. Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
9. Federal award project description;
10. Name of Federal awarding agency, the pass-through entity, and contact information for awarding official of the pass-through entity;
11. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
12. Identification of whether the award is R&D; and

xiii. Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs)?**NOTE:** 2 CFR 200.332 is applicable to “pass-through entities”. A state or the District of Columbia is considered a pass-through entity when it is not carrying out RHP activities directly but instead provides a subaward to a subrecipient to carry out the RHP activities. **NOTE:** When some information is not available for the required fields listed above, the grantee must provide the best information available to describe the Federal award and subaward. [2 CFR 200.332] |

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| **Yes** | **No** | **N/A** |

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| Do the grantee’s subawards have provisions to ensure that RHP funds are used in accordance with the SUPPORT Act, the HCD Act, the RHP Notices, and grant agreement, and require performance and financial reporting?**NOTE**: Review the agreements for provisions governing program income management (see Exhibit 9-3 to review program income), procurement, timeliness, and remedies for noncompliance.[2 CFR 200.332(a)(2)-(3) (all grantees); 24 CFR 570.493 and FY2020 RHP Notice 85 FR 75361 Section II.D.viii (states)] |

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| **Yes** | **No** | **N/A** |

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| [State RHP grantees only] If awarding funds to a subrecipient that is a unit of general local government, does the state require and confirm that the local governments:* Provide for and encourage citizen participation, particularly by the LMI persons who will benefit from the activities;
* Ensure that residents will have reasonable and timely access to local meetings and information relating to:
* proposed and actual use of RHP funds;
* amount of RHP funds expected to be made available;
* the range of activities that may be undertaken with RHP funds;
* the estimated amount that will go to LMI benefit; and
* the established or adopted the State’s Residential Anti-displacement and Relocation Plan (RARAP);
* Conduct a minimum of two public meetings [typically, one public meeting addresses community development and housing needs, and proposed activities for these funds; and a second meeting often addresses program performance or amendments];
* Provide citizens with reasonable advance notice of, and opportunity to comment on proposed activities in an application to the state and, for subawards already made, activities which are proposed to be added, deleted, or substantially changed from the unit of general local government’s application to the state; AND
* Provide citizens the address, phone number, and times for submitting complaints and grievances, and provide timely written answers to written complaints and grievances, within 15 working days where practicable?

[24 CFR 570.486(a) and FY2020 RHP Notice 85 FR 75361 Section II.H.8.xii.(6)] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |

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| Did the grantee verify that every subrecipient is audited as required by 2 CFR 200 Subpart F when it is expected that the subrecipient’s Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 CFR 200.501? [2 CFR 200.332(f)]  |

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| **Yes** | **No** | **N/A** |

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| [State RHP grantees only] Does the state maintain sufficient records to:* make compliance determinations for activities carried out directly carried out by the state, as applicable;
* enable HUD to make the applicable determinations described at 24 CFR 570.493;
* demonstrate that the activities are consistent with the description of activities in the RHP action plan that apply to use of RHP funds; and
* demonstrate that monitoring standards and procedures ensure program requirements and provide continual quality assurance and adequate program insight?

**NOTE:** For fair housing and equal opportunity (FHEO) purposes, and as applicable, such records shall include data on racial, ethnic, and gender characteristics of persons and household who are applicable for, participants in, or beneficiaries of the program.[FY2020 RHP Notice 85 FR 75361 Section II.D.iii. (states)]**OR**[District of Columbia only] Did the District of Columbia establish and maintain sufficient records to enable the Secretary to determine whether the recipient has met RHP requirements?**NOTE**: The regulation 24 CFR 570.506 contains a full list of the appropriate records to be maintained. Additional reporting elements are also found in 24 CFR 570.507.[24 CFR 570.506-507 (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |
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C. MONITORING OF LOCAL GOVERNMENTS AND SUBRECIPIENTS

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| [State RHP grantees only] Did the state establish remedies for noncompliance by designated public agencies, units of general local government, and subrecipients?[FY2020 RHP Notice 85 FR 75361 Section II.D.vi. (states)]**OR** [District of Columbia only] Did the District of Columbia set forth remedies for noncompliance in the subaward agreement?[24 CFR 570.503(b)(6) (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| Did the grantee evaluate each subrecipient’s risk of noncompliance for the purposes of determining the appropriate subrecipient monitoring?**NOTE**: A grantee’s evaluation may be simple if the grantee only has one subrecipient and focuses on risk by program area. For multiple subrecipients, the grantee may include consideration of such factors as: (1) the subrecipient's prior experience; (2) previous audits; (3) whether the subrecipient has new personnel or new or substantially changed systems; and (4) the results of Federal awarding agency monitoring, if applicable.[2 CFR 200.332(b) (all grantees); Section 104(e)(2) of the HCD Act and FY2020 RHP Notice 85 FR 75361 Section II.D.vi (states)] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |

13.

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| Did the grantee monitor the activities of the subrecipient as necessary to ensure that:* + - 1. the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and
			2. that subaward performance goals are achieved?

**NOTE**: Pass-through entity monitoring of the subrecipient MUST include:(a) Reviewing financial and performance reports required by the pass-through entity. (b) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and written confirmation from the subrecipient, highlighting the status of actions planned or taken to address Single Audit findings related to the particular subaward. (c) Issuing a management decision for applicable audit findings pertaining only to the Federal award provided to the subrecipient from the pass-through entity as required by 2 CFR 200.521. (d) The pass-through entity is responsible for resolving audit findings specifically related to the subaward and not responsible for resolving crosscutting findings. If a subrecipient has a current Single Audit report posted in the Federal Audit Clearinghouse and has not otherwise been excluded from receipt of Federal funding (e.g., has been debarred or suspended), the pass-through entity may rely on the subrecipient’s cognizant audit agency or cognizant oversight agency to perform audit follow-up and make management decisions related to cross-cutting findings in accordance with section § 200.513(a)(3)(vii). Such reliance does not eliminate the responsibility of the pass-through entity to issue subawards that conform to agency and award-specific requirements, to manage risk through ongoing subaward monitoring, and to monitor the status of the findings that are specifically related to the subaward. [2 CFR 200.332(d)] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |

14.

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| [State RHP grantees only] If the state has found a case of noncompliance with a subrecipient or unit of general local government, has the state taken actions, as may be appropriate, to:* prevent continuance of the deficiency;
* mitigate any adverse effects or consequences; and
* prevent a recurrence?

[FY2020 RHP Notice 85 FR 75361 Section II.D.vi.] |

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| **Yes** | **No** | **N/A** |

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| [State RHP grantees only] Has the state established standards for the timely closeout of grants to local governments? [24 CFR 570.489(i) (states)]**OR**[District of Columbia only] Has the District of Columbia established procedures for the closeout of grants, including closeout of grants to subrecipients?[24 CFR 570.503(b)(4) and 2 CFR 200.344 (District of Columbia)]**NOTE**: The reviewer should inquire as to how grantees make the determinations that grants are ready to close out, how the grantee is informed of project/activity completions, if there is a requirement to close out within a certain timeframe after the end of the period of performance, and whether there is any potential for delays.**NOTE**: The reviewer may choose to compare a list of open local government or subrecipient awards to financial reports, particularly the date of the last voucher submitted for certain activities, and to performance reports, particularly the reporting of proposed versus actual accomplishments, to identify activities that may be fully complete for which the local government or subrecipient award has not been closed out. Also, significant numbers of activities reported to HUD as closed, for which the local government or subrecipient award is still open, may be indicative of a systemic failure by the grantee to fulfill its closeout obligations. |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |

D. Procurement and Conflict of Interest

For State RHP grantees, in accordance with 24 CFR 570.489(g), when procuring property or services to be paid for in whole or in part with RHP funds, the state must follow its own procurement policies and procedures. The state must also establish requirements for procurement policies and procedures for UGLGs, based on full and open competition. The state may choose to adopt the policies and procedures in 2 CFR part 200 for procurement actions. While the state has options for its procurement policies and procedures, the District of Columbia must follow 2 CFR part 200.

For the District of Columbia (or a state RHP grantee thathas adopted all or a portion of 2 CFR Part 200), use **Exhibit 34-3a**, *Guide for Review of Procurement*, in addition to the following questions to review compliance.

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| a. Has the grantee established requirements for procurement policies and procedures for itself and its subrecipients, including (for state RHP grantees) local governments?[24 CFR 570.489(g) (states); 2 CFR 200.318(a) (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| b. Are their policies and procedures based on full and open competition?[24 CFR 570.489(g) (states); 2 CFR 200.319 (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| c. Do the policies and procedures prescribe the method(s) of procurement?[24 CFR 570.489(g) and FY2020 RHP Notice 85 FR 75361 Section II.D.viii. (states); 2 CFR 200.320 (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| d. Do the policies and procedures prohibit *Cost plus a percentage of costs* and *percentage of construction costs* contracts?[24 CFR 570.489(g) (states); 2 CFR 200.324(d) (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| e. Do the policies and procedures include standards of conduct for employees engaged in the award or administration of contracts, including conflict of interest?**NOTE:** For the District of Columbia: The standards must cover employees, officers, or agents engaged in the selection, award and administration of contracts supported by RHP grant funds. [24 CFR 570.489(g)-(h) (states); 2 CFR 200.318(c)(1), 24 CFR 570.502(a) and 24 CFR 570.611(a)(1) (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| Does the grantee ensure that all purchase orders and contracts include any clauses required by Federal statutes, Executive orders, and implementing regulations?[24 CFR 570.489(g) (states); 2 CFR 200.327 and Appendix II of Part 200 (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| Did the recipient ensure that no excluded or disqualified persons (i.e., debarred or suspended) were party to covered contracts and subcontracts? [24 CFR 570.489(l) and 2 CFR 2424.300 (states); 24 CFR 570.609 and 24 CFR 5.105(c) (District of Columbia)] |

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| If a conflict of interest occurred, did the grantee or, for state RHP grantees, the local government, request and receive an exception?**NOTE**:* The procurement actions covered here do NOT include: procurement of supplies, equipment, construction, and services by the states, local governments, and subrecipients, (eligible administrative or personnel costs are also excluded).
* The *persons covered* include: any person who is an employee, agent, consultant, officer, or elected official or appointed official of the grantee or (for state RHP grantees) of an UGLG, or of any designated public agencies, or subrecipients which are receiving RHP funds.
* Any *persons covered* who:
	+ exercise or have exercised any functions or responsibilities with respect to RHP activities,
	+ are in a position to participate in a decision-making process, OR
	+ gain inside information with regard to such activities,

May not:* obtain a financial interest or benefit from the activity,
* have an interest or benefit from the activity, OR
* have an interest in any contract, subcontract, or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

[24 CFR 570.489(h)(4) (states); 24 CFR 570.611(d) (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| [State RHP grantees only] If a local government has requested an exception to the conflict of interest provisions, has the state properly documented its determination and made that documentation available for review by the public and by HUD?**NOTE**:* 24 CFR 570.489 requires documentation of:
	+ A disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict and a description of how the public disclosure was made; AND
	+ An opinion of the attorney for the state or the UGLG, as appropriate, that the interest for which the exception is sought would not violate state or local law.
* The state must also document its position with respect to the following:
	+ Whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available;
	+ Whether an opportunity was provided for open competitive bidding or negotiation;
	+ Whether the person affected is a member of a group or class of low- or moderate-income persons intended to be the beneficiaries of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class;
	+ Whether the affected person has withdrawn from his or her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question;
	+ Whether the interest or benefit was present before the affected person was in a position as described in 24 CFR 570.489(h)(3);
	+ Whether undue hardship will result either to the state or the UGLG or the person affected when weighed against the public interest served by avoiding the prohibited conflict; AND

Any other relevant considerations.[24 CFR 570.489(h)] |

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| **Yes** | **No** | **N/A** |

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E. Real Property

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| Did the grantee or subrecipient, including a local government subrecipient (for state RHP grantees), comply with the requirements for real and personal property acquired with RHP funds? **NOTE**: 24 CFR 570.489(k) requires state RHP grantees to establish and implement requirements on the use, management, and disposition of real and personal property acquired with RHP funds.**NOTE:** Property restrictions must also be consistent with the definition of program income for the disposition of equipment and real property in 24 CFR 570.489(e) for states and 24 CFR570.504(b)(5) for the District of Columbia.[2 CFR 200.330 and 24 CFR 570.505 (District of Columbia); 24 CFR 570.489(k) (states)] |

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| **Yes** | **No** | **N/A** |

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| Does the grantee and any subrecipient, including a local government subrecipient (for state RHP grantees), comply with the provisions on the change of use of real property, which are applicable for at least five years after closeout or expiration of the subrecipient agreement?**NOTE:** In accordance with Section II.D.iv. of the FY2020 RHP Notice, for purposes of the RHP program, all references to “unit of general local government” in 24 CFR 570.489(j) shall be read as “state and unit of general local government.”**NOTE:** For States, the change of use provision is limited, in part, to:* Real property within the state and unit of general local government's control (including activities undertaken by subrecipients), AND
* Real property which was acquired or improved in whole or in part using CDBG funds in excess of the simplified acquisition threshold as set in the Federal Acquisition Regulation ($250,000 at the time of publication).

**NOTE:** For the District of Columbia the change of use provision is limited, in part, to:* Real property within the recipient’s control, AND
* Real property which was acquired or improved in whole or in part using CDBG funds in excess of $25,000 (a fixed threshold).

[24 CFR 570.505 and 24 CFR 570.503(b)(7) (District of Columbia); 24 CFR 570.489(j) (states)] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |

23.

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| If a grantee or unit of general local government (for state RHP grantees) changed the use of real property, did the grantee or UGLG: (1) Provide affected citizens with reasonable notice of and opportunity to comment on any proposed change AND, either:(2a) The new use of the property qualifies as meeting one of the national objectives and is not a building for the general conduct of government; OR(2b) The RHP funds are reimbursed based on the current fair market value of the property, which may be prorated for value attributable to expenditures of non-RHP funds for acquisition of, and improvements to, the property?**NOTE**: For States, the requirements at § 570.489(j), as modified, apply to a change of use or planned use of real property (including changing the beneficiaries of such use) from that for which the acquisition or improvement was made.**NOTE**: For the District of Columbia, the requirements at § 570.505 apply to real property within the recipient’s control which was acquired or improved in whole or in part using RHP funds in excess of $25,000, including requirements for a change of use or planned use of such property.[24 CFR 570.489(j) and FY2020 RHP Notice 85 FR 75361 Section II.D.iv. (states); 24 CFR 570.503(b)(7) and 24 CFR 570.505 (District of Columbia)] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |
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24.

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| [State RHP grantees only] Has the grantee established and implemented requirements governing the use, management, and disposition of real and personal property acquired with RHP funds?**NOTE**: The state may adopt requirements at 2 CFR part 200, particularly the Property Standards of Subpart D, to include the following: * Property or single parcel of land records and inventories,
* Equivalent insurance coverage for real property and equipment acquired or improved with RHP funds pursuant to 2 CFR 200.310,
* Real property use and disposition restrictions pursuant to 2 CFR 200.311, and
* Equipment use and disposition restrictions pursuant to 2 CFR 200.313.

The state may also establish its own requirements and use the list above as a guide. Failure to follow the state’s established requirements can also constitute a finding of noncompliance:[24 CFR 570.489(k)] |

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| **Yes** | **No** | **N/A** |

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| **Describe Basis for Conclusion:**      |
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