|  |  |  |  |
| --- | --- | --- | --- |
| Guide for Review of ESG Procurement Requirements | | | |
| **Name of Recipient:** | | | |
| **Name of Subrecipient(s):** | | | |
| **Grant Number:** | | | |
| **Staff Consulted:** | | | |
| **Name(s) of Reviewer(s)** |  | **Date** |  |

**NOTE:** All questions that address requirements contain the citation for the source of the requirement (statute or regulation). If the requirement is not met, HUD must select “NO” in response to the question and 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 participant'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 intended to evaluate a recipient’s and/or its subrecipient’s or subrecipients’ procurement transactions. A procurement transaction is when the recipient or subrecipient has entered into an agreement with another entity for the purpose of providing a particular good or service for the recipient or subrecipient, and which is not a subrecipient agreement. This Exhibit is designed only to monitor compliance with the ESG interim rule and the procurement requirements under 24 CFR 85.36 (for governments) and 24 CFR 84.41 through 84.48 (for private nonprofit organizations), as in effect prior to December 26, 2014. To monitor compliance with the comparable requirements at 2 CFR part 200, the HUD reviewer must complete Exhibit 34-3, *Guide for Review of Procurement.* For HUD’s expectations on monitoring for compliance with the uniform administrative requirements (including the procurement requirements) during the transition period to 2 CFR part 200, please see HUD’s April 13, 2016, Notice CPD-16-04 (<http://portal.hud.gov/hudportal/documents/huddoc?id=16-04cpdn.pdf>).

The Exhibit is divided into two sections: questions that pertain to States; and questions that pertain to entities other than States. The HUD reviewer should randomly select a sample of the recipient’s procurement transactions, pull the procurement files related to the selected transactions, and use the files to verify responses to the Exhibit questions.This Exhibit can be used to either monitor the recipient alone, the recipient with a single subrecipient, or the recipient with multiple subrecipients. It is the responsibility of the HUD reviewer to ensure that the responses provide sufficient documentation to support the basis for the conclusions. Keep in mind that, if multiple entities are reviewed and a deficiency is identified for a single entity, a “No” response is required.

**Questions for States:**

1.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| When procuring goods or services with ESG funds, does the State follow the same policies and procedures the State uses for procurements using the State’s funds?  [24 CFR 576.407(c); 24 CFR 85.36(a)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

2.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does a sample of the State’s procurement transactions show that the State ensures each purchase order and contract include any clauses required by Federal statutes and executive orders and their implementing regulations (such as the Federal statutes, executive orders, and implementing regulations mentioned in 24 CFR 85.36(i))?  [24 CFR 576.407(c); 24 CFR 85.36(a)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

**Questions for Entities Other Than States:**

3.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Did the recipient and its subrecipients use established written procurement procedures?  [24 CFR 576.407(c); 24 CFR 84.44(a); 24 CFR 85.36(b)(1)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

4.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the recipient and its subrecipients have a written standard of conduct governing the performance of its employees engaged in the award and administration of contracts?  [24 CFR 576.407(c); 24 CFR 84.42; 24 CFR 85.36(b)(3)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

5.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Are all procurement transactions conducted in a manner to provide, to the maximum extent practical, open and free competition?  [24 CFR 576.407(c); 24 CFR 84.43; 24 CFR 85.36(c)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

6.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Did the recipient and its subrecipients establish and follow written procedures to avoid purchasing unnecessary items?  [24 CFR 576.407(c); 24 CFR 84.44(a)(1); 24 CFR 85.36(b)(4)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

7.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the solicitations for goods and services clearly and accurately state the technical requirements for the goods or services to be procured?  [24 CFR 576.407(c); 24 CFR 84.44(a)(3)(i); 24 CFR 85.36(c)(3)(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

8.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Were contractors that developed or drafted the specifications, requirements, statements of work, invitations for bids and/or request for proposals excluded from competing for such procurements?  [24 CFR 576.407(c); 24 CFR 84.43; 24 CFR 85.36(c)(1)(v)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

9.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Was a cost or price analysis performed and documented in a procurement file in connection with every procurement action including contract modifications?  [24 CFR 576.407(c); 24 CFR 84.45; 24 CFR 85.36(f)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

10.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do contracts contain the provisions required under 24 CFR 84.48 or 24 CFR 85.36(i), as applicable?  [24 CFR 576.407(c); 24 CFR 84.48; 24 CFR 85.36(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

11.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements using the competitive proposals method: Are the proposals solicited from an adequate number of qualified sources, consistent with the nature and requirements of the procurement?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(3)(ii)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

12.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For procurements by competitive proposals: Do the recipient and its subrecipients publicize the Request for Proposals (RFPs) and honor reasonable requests by parties to compete to the maximum extent practicable?  [24 CFR 576.407(c); 24 CFR 84.43; 24 CFR 85.36(d)(3)(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

13.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements using the competitive proposals method: Do the RFPs identify all significant evaluation factors, including prices or costs where required, and their relative importance?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(3)(i)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

14.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements using small purchase procedures: Did the recipient or its subrecipients document receipt of an adequate number of price or rate quotations from qualified sources for procurements of $100,000 or less?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(1)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

15.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements using the noncompetitive proposals method: Do the procurement records document that other methods of procurement (small purchase, sealed bids or competitive proposals) were infeasible AND one of the following applies:   * the items were available only from a single source; OR * a public exigency or emergency was of such urgency to not permit a delay resulting from competitive solicitation; OR, * after solicitation of a number of sources, competition is determined inadequate; OR * approval was granted by HUD?   **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(4)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

16.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements by sealed bids: Were the Invitations for Bids (IFBs) publicly advertised?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(2)(ii)(A)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

17.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements by sealed bids: Were bids solicited from an adequate number of known suppliers and were those suppliers provided sufficient time prior to the date set for opening the bids?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(2)(ii)(A)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

18.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements by sealed bids: Did the Invitation for Bids (IFBs), including specifications and pertinent attachments, clearly define the items or services required in order for the bidders to appropriately respond?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(2)(ii)(B)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

19.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements by sealed bids: Were the bids opened publicly at the times and places stated in the IFBs?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(2)(ii)(C)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

20.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements by sealed bids: Were firm, fixed-price contracts awarded in writing to the lowest responsive and responsible bidders?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(2)(ii)(D)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

21.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For government procurements by sealed bids: If any bids were rejected, was there a sound, documented reason?  **NOTE:** This requirement is not applicable to nonprofits.  [24 CFR 576.407(c); 24 CFR 85.36(d)(2)(ii)(E)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |