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| **Guide for Review of Program Administration** |
| **Name of Program Participant:**       |
| **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, regulation, NOFA, or grant agreement). If the requirement is not met, HUD must make a **finding of noncompliance**. All other questions (questions that do not contain the citation for the requirement) do not address requirements, but are included to assist the reviewer in understanding the 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 covers the following subject areas:

* *Caps on Administration, Planning, Technical Assistance and Public Service Activity Costs;*
* *Reimbursement of Pre-Agreement Costs;*
* *Federal Grant Payments;*
* *Fiscal Controls, Accounting Procedures, and Cost Principles;*
* *Program Income and Revolving Funds;*
* *Procurement and Conflict of Interest;* and
* *Real Property;*
* For *Audits*,use Section K of Exhibit 34-1.

This Exhibit’s structure resembles 24 CFR 570.489, *Program administrative requirements*. As outlined in regulation, a state has some latitude in establishing its own administrative procedures and standards. A notable distinction is that limited portions of 2 CFR part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, actually apply to the State CDBG program. In many cases, the state will have developed policies and procedures for itself, as well as for its recipient units of general local governments (local governments). The reviewer must assess whether these policies and procedures adequately address the requirements of federal statutes and regulations and, also, whether these policies and procedures are being appropriately followed. *Failure to follow the state’s own established policies and procedures can also constitute a finding of noncompliance.*

Some of the following sections will begin with further instructions to the reviewer regarding whether to refer to the Exhibits in Chapter 34 to address compliance with applicable portions of 2 CFR part 200. If reviewing State CDBG grants subject to 24 CFR part 85 and Circular A-133, and not subject to 2 CFR part 200 [pursuant to CPD Notice 16-04], then use the prior version of Exhibit 4-7, which can be found in REV-6 Chg2 of this Handbook 6509.2. The prior versions of the Handbook are archived as zip files, available for download on the bottom of the monitoring handbook website. This Exhibit is divided into seven sections: Caps on Administrative, Planning, Technical Assistance, and Public Service Activity Costs; Reimbursement of Pre-Agreement Costs; Federal Grant Payments; Fiscal Controls, Accounting Procedures, and Cost Principles; Program Income and Revolving Funds; Procurement and Conflict of Interest; and Real Property.

**Questions:**

A. Caps on Administration, Planning, Technical Assistance, and Public Service Activity Costs. The State Performance and Evaluation Report (PER) includes a *PR28 Financial Summary*, or equivalent report, for each open grant with information necessary to answer most of the questions in this section. Also, Notice CPD 16-10 is useful in interpreting the information in the State PER.

1.

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| Is the state only making grants to local governments?**NOTE:** States cannot directly administer activities other than the administrative and technical assistance activities authorized in section 106(d) of the HCDA. Additionally, pursuant to 24 CFR 570.705(c), CDBG grant funds may be used for certain Section 108 loan payments.**NOTE:** If the state has a revolving fund pursuant to 24 CFR 570.489(f)(2), the state must only provide grants to the local government, which in turn, provides the loan to a beneficiary, with the program income from the repayment ultimately being returned to the state.[24 CFR 570.480(g) and Section 106(d) of the HCDA] |

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

 |
| **Describe Basis for Conclusion:**      |
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2.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Are the amounts of CDBG funds that are expended for state administrative expenses limited to no more than $100,000 plus the sum of 3 percent of the state's annual grant, program income, and funds reallocated by HUD to the state?[24 CFR 570.489(a)(1) and Section 106(d)(3) of the HCDA] |

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

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| **Describe Basis for Conclusion:**      |
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3.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Did the state only use CDBG funds for 50% of the state administrative costs in excess of $100,000, thereby fulfilling the match requirement?**NOTE**: 24 CFR 570.489(a)(1)(v) provides options for demonstrating compliance with this requirement in the form of *year-to-year tracking* or *cumulative accounting*. However, for 2015 and subsequent origin year grants, only the *year-to-year* approach is allowed.[24 CFR 570.489(a)(1) and Section 106(d)(3) of the HCDA] |

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

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| **Describe Basis for Conclusion:**      |
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4.

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| Is the amount of CDBG funds used to pay the sum of administrative costs (in excess of $100,000) and technical assistance costs limited to 3 percent of the state's annual grant, of program income, and of funds reallocated by HUD to the state?[24 CFR 570.489(a)(1)] |

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

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| **Describe Basis for Conclusion:**      |

5.

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| Did the state limit the combined expenditures by the state and its funded units of general local government for planning, management, and administrative costs to no more than 20 percent of the aggregate amount of the origin year grant, any origin year grant funds reallocated by HUD to the state, and the amount of any program income received during the program year?[24 CFR 570.489(a)(3)] |

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

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| **Describe Basis for Conclusion:**      |

6.

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| For origin year 2015 grants and subsequent grants, did the state limit expenditures by the state and its funded units of general local government for planning, management, and administrative costs to no more than 20 percent of any annual grant (excluding program income), and no more than 20 percent of any origin year grant funds reallocated by HUD to the state?[24 CFR 570.489(a)(3)] |

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

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| **Describe Basis for Conclusion:**      |

7.

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| Did the state limit CDBG fund expenditures for public service activities to no more than 15% of each grant and program income?**NOTE**: 24 CFR 570.482(c)(2) clarifies that the restrictions of Section 105(a)(8) do not apply in certain circumstances, such as services to microenterprises and certain services carried out under 105(a)(15). Refer to 24 CFR 570.482(c)(2) for more detail.[Section 105(a)(8) of the HCDA] |

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

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| **Describe Basis for Conclusion:**      |

B. Reimbursement of Pre-Agreement Costs

8.

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| Is the state complying with the prohibition on charging fees of any entity for processing or considering any application for CDBG funds, or for state administration costs?[24 CFR 570.489(a)(2)] |

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

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| **Describe Basis for Conclusion:**      |

9.

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| If units of general local government incurred pre-agreement costs (before entering into a formal grant relationship with the state, and later charging those costs to the state’s grant), are they in accordance with procedures established by the state, eligible under 24 CFR part 570, and undertaken in accordance with 24 CFR part 58?[24 CFR 570.489(b)] |

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

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| **Describe Basis for Conclusion:**      |

10.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| If the state incurred pre-agreement costs (before entering into a grant agreement with HUD, and later charged those costs to the grant), were the activities eligible under 24 CFR part 570, and undertaken in accordance with 24 CFR part 58 and the citizen participation requirements of 24 CFR part 91?[24 CFR 570.489(b)] |

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

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| **Describe Basis for Conclusion:**      |

C. Federal Grant Payments

11.

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| In order to minimize the time elapsing between the drawdown of Federal funds from the Federal government and their disbursement for CDBG program purposes, is the state either following a Treasury-State Agreement, if applicable pursuant to 31 CFR 205, or other appropriate funding technique? [24 CFR 570.489(c)] |

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

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| **Describe Basis for Conclusion:**      |
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12.

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| Do units of general local government follow the state’s procedures to minimize the time elapsing between the transfer of funds by the state and disbursement for CDBG activities?[24 CFR 570.489(c)] |

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

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| **Describe Basis for Conclusion:**      |

D. Fiscal Controls, Accounting Procedures, and Cost Principles.The state may satisfy requirements relating to fiscal controls and accounting procedures by either:

i. Using fiscal and administrative requirements applicable to the use of its own funds;

 ii. Adopting new fiscal and administrative requirements; or

 iii. Applying the provisions in 2 CFR part 200 to the state and to the local governments.

If the state applies 2 CFR part 200, the exhibits in Chapter 34 may be used *in addition to* the following question. If the state applies its own provisions under either of the first two options, then failure to follow the state’s established requirements can also constitute a finding of noncompliance:

13.

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| Do the state’s fiscal and accounting procedures ensure that CDBG funds:* are used in compliance with all applicable statutory and regulatory provisions and the terms and conditions of the award;
* are only spent for reasonable and necessary costs of operating programs under this subpart; AND
* are not used for general expenses required to carry out other responsibilities of state and local governments?

[24 CFR 570.489(d)] |

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

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| **Describe Basis for Conclusion:**      |
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*To monitor cost principles and prior approval of costs, USE EXHIBIT 34-2. Separate questions are not provided in this Exhibit.* Pursuant to 24 CFR 570.489(p), the provisions of 2 CFR part 200, Subpart E apply to the State CDBG grantee and its recipients. However, there are two nuances in the State CDBG program:

1. HUD approval is ONLY required for the following selected items of cost:

(i) Depreciation methods for fixed assets (2 CFR 200.436),

(ii) Fines, penalties, damages, and other settlements (2 CFR 200.441),

(iii) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances, and personal living expenses (goods or services for personal use) regardless of whether reported as taxable income to the employees (2 CFR 200.445), and

(iv) Organization costs (2 CFR 200.455).

 All other selected items of cost items are allowable without prior approval of HUD.

2. Planning and administration costs are not required to be allocated to a particular CDBG grant. Pursuant to 24 CFR 570.489(a)(3)(iv), funds from any State CDBG grant may be used to pay planning and program administrative costs associated with any other State CDBG grant.

E. Program Income and Revolving Funds

14.

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| Has the state adopted a definition of program income that is consistent with the definition in 24 CFR 570.489(e)?**NOTE:** The regulations at 24 CFR 570.489(e) provides a number of exclusions from the definition, including but not limited to:* Pro-rating activity income for non-CDBG investment;
* Amounts less than $35,000 per program year, per UGLG; and less than $35,000 per program year, per state (for income returned to the state). However, this exclusion does not apply to revolving funds;
* Amounts *both* generated by activities eligible under section 105(a)(15) of the HCDA *and* carried out by an entity under the authority of section 105(a)(15) of the HCDA (such as neighborhood-based nonprofit organizations, local development corporations, nonprofit organizations serving the development needs of the communities);
* Proceeds from the sale of real property purchased or improved with CDBG funds, if the proceeds are received more than 5 years after expiration of the grant agreement between the State and the unit of general local government; and
* Amounts incidental to the generation of the income from the use or rental of real property, such as maintenance, thus leaving only gross income defined as “program income”.

[24 CFR 570.489(e)] |

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

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| **Describe Basis for Conclusion:**      |
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15.

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| Do the state’s grant agreements contain provisions specifying whether or not, and under what circumstances, program income must be returned to the state or retained by the local government?  |

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

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| **Describe Basis for Conclusion:**      |
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16.

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| When a local government will be using the program income to continue the activity from which it was derived, and the state has made the determination that the activity is being continued, is the state allowing the local government to retain the program income for that purpose? **NOTE:** The state may choose narrow parameters for the determination of whether or not an activity is being continued and also consider the projected cash needs of the activity for the near future, thus potentially reducing the amount of program income that the state *must* allow the local governments to retain.[24 CFR 570.489(e)(3)] |

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

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| **Describe Basis for Conclusion:**      |
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17.

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| Is the state, to the maximum extent feasible, distributing program income before it makes additional withdrawals from the United States Treasury?**NOTE**: Any program income in state revolving funds must be disbursed for designated activities before additional funds are drawn from the Treasury, but not for non-revolving fund activities. [For general program income: 24 CFR 570.489(e)(3)(i); For State revolving funds: 24 CFR 570.489(f)(2)] |

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

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| **Describe Basis for Conclusion:**      |
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18.

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| Is the state ensuring that local governments are distributing program income, to the maximum extent feasible, before requesting additional grant funds from the state?**NOTE**: Any local revolving loan funds must be disbursed for designated activities before additional grant funds are requested from the state, but not for non-revolving fund activities. [For general program income: 24 CFR 570.489(e)(3)(i); For local revolving loan funds: 24 CFR 570.489(f)(1)] |

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

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| **Describe Basis for Conclusion:**      |
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19.

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| If there are revolving funds, at either the state or local government level, are the funds deposited in those accounts solely from loan repayments or other program income sources?**NOTE**: Revolving funds shall not be directly funded or capitalized with grant funds. This might appear as a drawdown against the CDBG grant that was deposited into the fund.[24 CFR 570.489(e)(3)] |

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

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| **Describe Basis for Conclusion:**      |
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20.

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| Does the state ensure that program income requirements remain applicable to local governments, even after the grant is closed out between the state and the local government?[24 CFR 570.489(e)(3)(ii)(B)] |

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

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| **Describe Basis for Conclusion:**      |
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21.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Is the state reporting accomplishment and funding data in IDIS for all program income (including revolving funds, whether retained by units of general local government or paid to the State) for each program year? [24 CFR 570.490(a)(3)] |

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

 |
| b. Did the state report on the receipt and use of all program income (including revolving funds, whether retained by units of general local government or paid to the State) in its annual performance and evaluation report?[24 CFR 570.489(e)(4)] |

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

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| **Describe Basis for Conclusion:**      |
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If no local governments holding CDBG program income (including revolving funds) gained CDBG Entitlement status, SKIP Question 22.

22.

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| If a local government became an Entitlement grantee and received an approval from the state to transfer its State CDBG-generated program income to its Entitlement program, did the state confirm that the local government:(A) Has officially elected to participate in the Entitlement grant program;(B) Agrees to use such program income in accordance with Entitlement program requirements; AND(C) Has set up Integrated Disbursement Information System (IDIS) access and agrees to enter receipt of program income into IDIS?[24 CFR 570.489(e)(3)(iii)] |

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

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| **Describe Basis for Conclusion:**      |
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If no local governments holding CDBG program income (including revolving funds) lost or relinquished CDBG Entitlement status, SKIP Question 23.

23.

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| If a local government has lost or relinquished its Entitlement status, did the state either:(A) Permit the local government to retain program income generated under Entitlement grants and continue to comply with Entitlement program requirements for that program income; OR(B) Permit the local government to retain the program income and transfer it to the State CDBG program and require compliance with the state's rules on program income and the requirements of 24 CFR 570.489(e)?[24 CFR 570.489(e)(3)(iii)] |

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

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| **Describe Basis for Conclusion:**      |
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F. Procurement and Conflict of Interest

Although 2 CFR part 200 contains provisions governing procurement in Subpart D, most of those provisions do not apply to State CDBG grantees. In accordance with 24 CFR 570.489(g), when procuring property or services to be paid for in whole or in part with CDBG funds, the state must follow its own procurement policies and procedures. The state must also establish requirements for procurement policies and procedures for units of general local government, based on full and open competition.

The state may choose to adopt the policies and procedures in 2 CFR part 200 for procurement actions. If the state has adopted procurement policies and procedures that are consistent with 2 CFR Part 200, then Exhibit 34-3 should be used to review procurement, *in addition to the following questions*.

24.

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| Does the state follow its procurement policies and procedures when procuring property or services as the state?[24 CFR 570.489(g)] |

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

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| **Describe Basis for Conclusion:**      |
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25.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Has the state established requirements for procurement policies and procedures for local governments? |

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

 |
| b. Are they based on full and open competition? |

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

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| c. Is the method(s) of procurement prescribed? |

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

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| d. Are the following methods precluded: *Cost plus a percentage of cost* and *percentage of construction costs*? |

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

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| e. Do they include standards of conduct for employees engaged in the award or administration of contracts (i.e., conflict of interest)? |

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

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| f. Does the state ensure that all purchase order and contracts include any clauses required by Federal statutes, Executive orders, and implementing regulations?[24 CFR 570.489(g)] |

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

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| **Describe Basis for Conclusion:**      |
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26.

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| Is the state, as a pass-through entity, making the appropriate determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor? **NOTE**: 2 CFR 200.330 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.[2 CFR 200.330] |

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

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| **Describe Basis for Conclusion:**      |
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27.

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| Has a conflict of interest occurred for which the state or the local government has not requested and received an exception pursuant to 24 CFR 570.489(h)?**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 State, or of a unit of general local government, or of any designated public agencies, or subrecipients which are receiving CDBG funds.
* Any *persons covered* who:
	+ exercise or have exercised any functions or responsibilities with respect to CDBG 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)] |

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

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| **Describe Basis for Conclusion:**      |
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28.

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| 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 unit of general local government, as appropriate, that the interest for which the exception is sought would not violate state or local law.
* The state must also document is 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 unit of general local government 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** |

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

29.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Did the state and local governments take the required steps to determine if covered contracts and subcontracts were being entered into with excluded or disqualified persons (i.e., debarred or suspended)? [24 CFR 570.489(l) and 2 CFR 2424.300] |

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

 |
| **Describe Basis for Conclusion:**      |
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G. Real Property

30.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| If a local government changed the use of real property, did the local government provide affected citizens with reasonable notice of and opportunity to comment on any proposed change AND, either:(1) 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(2) The CDBG funds are reimbursed based on the current fair market value of the property, which may be prorated for value attributable to expenditures of non-CDBG funds for acquisition of, and improvements to, the property?**NOTE**: Applies:* To change of use or planned use of a real property (including changing the beneficiaries of such use) from that for which the acquisition or improvement was made;
* To real property within the local government’s control, including activities undertaken by subrecipients;
* To real property that was acquired or improved, in whole or in part with CDBG funds in excess of the small purchase procurement threshold found at 2 CFR 200.88 ($150,000);
* From the date CDBG funds are first spent, until five years after closeout of the local government’s grant.

[24 CFR 570.489(j)] |

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

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

31.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Pursuant to 24 CFR 570.489(k), has the state established and implemented requirements, consistent with state law and CDBG regulations, governing the use, management, and disposition of real and personal property acquired with CDBG funds?**NOTE**: If the state has adopted 2 CFR part 200, particularly the Property Standards of Subpart D, then the real property and personal property requirements would include the following. If the state established other requirements, the following list serves as a guide. Failure to follow the state’s established requirements can also constitute a finding of noncompliance:* Property records and inventories,
* Equivalent insurance coverage for real property and equipment acquired or improved with CDBG 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.

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), and consistent with the change of use provisions in 24 CFR 570.489(j).[24 CFR 570.489(k)] |

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

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