|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Guide for Review of Buyouts** | | | | |
| **Name of Program Participant:** | | **Appropriation(s):** | | |
| **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.**" [24 CFR 570.900(b)(3)]

**Instructions:** This Exhibit should be used to monitor CDBG Disaster Recovery (CDBG-DR)-funded buyout activities. This Exhibit is divided into five sections: Scope of Review, Policies and Procedures, Eligibility, National Objective, and Program Oversight. Buyouts are typically programs wherein the grantee or subrecipient acquires a property located in a high hazard area (such as a floodplain) and demolishes all of the physical structures located on that property. In the traditional CDBG program, properties are not generally acquired for the sole purpose of clearance in perpetuity. Thus, this Exhibit should be used to assess the unique responsibilities that the disaster grantees and their subrecipients have when undertaking buyouts.

The HUD reviewer has the discretion to cite 24 CFR 570.493(b) or 24 CFR 570.506 where applicable for Findings of Noncompliance related to the lack of documentation and 24 CFR 570.489(d) or 24 CFR 570.610 where applicable for Findings of Noncompliance related to missing or inadequate state administrative controls and procedures.

**Questions:**

A. SCOPE OF REVIEW

1.

|  |
| --- |
| Entity responsible for the direct administration of the program (i.e., the entity that acquires the property)? |
|  |
|  |

2.

|  |
| --- |
| Files reviewed (list all): |
| **List Files:** |
|  |
|  |

B. POLICIES AND PROCEDURES

3.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Are there written policies and procedures that govern the program?  [24 CFR 570.506, 570.490, or applicable *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| b. Do these policies and procedures include management and disposition of  property?  [24 CFR 570.489(k), 570.505 where applicable] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

4.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the program administration process capture the information required by the program and the applicable *Federal Register* notices (e.g., all sources of assistance received by the property owner, location of the project)?  [24 CFR 570.506, 570.490, or applicable *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

5.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Did the program participant or subgrantee(s) uniformly apply its methodology for determining purchase values?  [See applicable *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

6.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Are any CDBG disaster recovery funds matched to FEMA Section 404 Hazard Mitigation Grant Program funds? If “yes,” answer (b) through (d) below.  [See applicable *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| b. If the answer to “a” above is “yes,” are these properties dedicated and maintained in perpetuity for a use that is compatible with open space, recreational, or wetlands management practices? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| c. If the answer to “a” above is “yes,” will a deed restriction or covenant running with the land be executed to ensure the properties comply with “b” above? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| d. If the answer to “a” above is “yes,” has the program participant ensured that no new structure may be erected on a buyout property (with minor exceptions)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

7.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Are *involuntary* buyouts allowed or could buyouts displace a tenant? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| b. If “yes,” is a relocation policy in place consistent with the requirements of 24 CFR 570.606? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| c. If the answer to “a” above is “yes,” were the Uniform Relocation Requirements followed? (If needed, refer to a Regional Relocation Specialist for assistance.)  [49 CFR 24] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

C. ELIGIBILITY

8.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| As required by the appropriation law, are reviewed activities related to the impact of the applicable disaster(s)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

9.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| As required by the appropriation law, are activities located in a county that was Presidentially-declared as a major disaster? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

D. NATIONAL OBJECTIVE

10.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do all activities reviewed meet a national objective?  [24 CFR 570.483 or 570.208] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

11.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Is the national objective adequately documeted in the files?  [24 CFR 570.506, 570.490, or applicable *Federal Register* notice]  Note. The national objective may vary by program participant—and ultimately depends upon how the buyout program has been structured. But in using the Disaster Recovery and Grant Reporting (DRGR) system, program participants may treat the acquisition and demolition as one activity, or as two separate activities.  One Activity  In the regular program, acquisition is typically followed by another activity—e.g., disposition, demolition. The national objective met by the activity depends upon the final use of the property. According to the State CDBG Guide, when property is acquired for the purpose of clearance to remove specific conditions of blight or physical decay, the clearance is considered to be the actual use of the property. In these circumstances, the acquisition and demolition would be structured as one continuous activity in DRGR.  Multiple national objectives may be met by clearance activities. The activities may address an urgent need or blighted conditions. In addition, an area benefit may be provided to low-to-moderate income persons if the end use of the land will be available to a defined residential community (e.g., park or greenspace).  Separate Activities  In disaster recovery, there may be a lag between acquisition and demolition (or whatever else is planned for the property). Thus, some program participants have chosen to create two different activities in DRGR—one for acquisition of a property, and another for demolition of any structures located on that property. While CDBG regulations do not have a time limit between acquisition and a follow-up activity, program participants should clearly explain in their action plans and program guidelines the ultimate use(s) of acquired properties.  In regards to the acquisition activity, a program participant may meet a national objective by identifying the income of the household whose property is acquired. Assistance provided to households at or under 80% of area median income (AMI) meets the national objective of assistance to low- to-moderate income households. Assistance provided to households greater than 80% AMI may meet the national objective of urgent need. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

E. PROGRAM OVERSIGHT

12.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| If the grantee is not administering the program directly, is it addressing questions and providing subrecipients/subgrantees with guidance in a timely and effective manner? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

13.

|  |  |
| --- | --- |
| a. Duplication of benefits: Are there policies and procedures in place to identify and consider all other sources of disaster assistance to prevent a duplication of benefit (DOB)?  [See section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act, as amended, and the applicable *Federal Register* notice(s)]  **NOTE**: Checking “no” in response to any DOB-related question found in 13b-d could result in a finding in violation of Section 312 of the Robert T. Stafford Disaster Assistance and Emergency Relief Act and all applicable *Federal Register* notices, including 76 FR 71066 (Nov. 16, 2011). | |
| i. Insurance? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| ii. Federal Emergency Management Agency (FEMA)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| iii. Small Business Administration? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| iv. National Flood Insurance Program (NFIP)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| v. Other State or local funding? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| vi. Other nonprofit, private sector, or charitable funding? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| b. Has each recipient signed a subrogation agreement requiring that any amount of additional disaster assistance received subsequent to CDBG-DR and in excess of need be returned to the grantee? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| c. If a DOB has occurred, is the grantee (and/or subgrantee) actively seeking recapture of those funds? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| d. Are there written policies and procedures governing recapture? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

14.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Monitoring: Are activities monitored via desk audits and/or on-site visits?  [See applicable *Federal Register* notice(s): monitoring standards] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| b. Has a process been developed to determine priority and frequency of monitoring activities (e.g., a risk analysis)?  [See applicable *Federal Register* notice(s): monitoring standards] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| c. Are monitoring visits being conducted in accordance with the grantee’s monitoring policies and procedures? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

15.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. DRGR Reporting: Are activities classified correctly in DRGR, e.g., the correct accomplishment type is associated with the applicable activity?  [See DRGR manual] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| b. Do DRGR quarterly performance reports correctly record the most appropriate performance measures pertaining to the activity (e.g., number of properties constructed)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| c. Do DRGR quarterly performance reports correctly record the most appropriate performance measures pertaining to the beneficiaries (e.g., number of households)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| d. Are the DRGR performance measures as well as projected end dates reflected in the program files? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

16.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| a. Are activities completed in a timely fashion (in accordance with contracts and DRGR project completion dates)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| b. If the answer to “a” above is “no,” are contracts amended and extended before they lapse? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| c. If the answer to “a” above is ”no” are activities assessed to determine (1) the reason for the delay,  (2) measures that can be enacted to rectify any issues, and  (3) a realistic revised project completion deadline? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |