|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Guide for Review of New Construction of Housing** | | | | |
| **Name of Grantee:** | | **Appropriation(s):** | | |
| **Staff Consulted:** | | | | |
| **Name(s) of Reviewer(s):** |  | | **Date:** |  |

**NOTE:** Most questions that address requirements contain the citation for the source of the requirement (statute, regulation, *Federal Register* notice, or grant agreement). However, in some instances, a controlling document (i.e., grant agreement or *Federal Register* notice) is provided without a specific citation. This is because rules can vary significantly from appropriation to appropriation, causing the grant agreements and published Notices to vary accordingly. If deficiencies are identified in these instances, HUD should ensure that program violation citations are appropriately noted. In addition, a statute or *Federal Register* Notice may only apply to certain grantees; carefully review the citation to determine its applicability. If a requirement is not met, HUD must make a finding of noncompliance. All other questions may 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)(5) and 24 CFR 570.901 for entitlement and state grantees under Public Law 113-2 (paragraph 26 of March 5, 2013 Notice) and 24 CFR 570.495 for state grantees).

**Instructions:** This Exhibit should be used to monitor new construction of housing activities carried out with CDBG Disaster Recovery (CDBG-DR) funds. This type of activity is generally ineligible in the traditional CDBG program, but CDBG-DR grants usually allow grantees to construct new housing. Review the applicable *Federal Register* notice to determine whether the grantee has received the necessary waiver to undertake the activity. The Exhibit is divided into four sections: Scope of Review; Policies and Procedures; File Review; and Reporting and Oversight.

**Questions:**

A. SCOPE OF REVIEW

1.

|  |
| --- |
| What entity is responsible for the direct administration of the program? |
|  |

2.

|  |  |
| --- | --- |
| The use of CDBG disaster recovery funds for new housing construction is ineligible except under certain circumstances. | |
| Is the new construction of housing an eligible use of CDBG-DR funds? In order for the activity to be eligible, the answer to one of the following must be “yes.” | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Is the entity carrying out the activity an eligible non-profit entity?   [A nonprofit eligible under Section 105(a)(15) of the HCD Act for state grantees or a nonprofit community-based development organization eligible under 24 CFR 570.204 for entitlement grantees.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Has the Department granted a CDBG-DR waiver or alternative requirement allowing new construction of housing?   [If the answer is “yes,” please list applicable Federal Register notice below.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

3.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the program include single family units, multifamily units, or both? Are units rental, owner-occupied, or both? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

4.

|  |
| --- |
| Files reviewed (list all). |
| **List Files:** |
| |  |  |  | | --- | --- | --- | | Activity name or number | Funds Expended  ($) | Date of Expenditure (MM/DD/YYYY) | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |  |  |  | |

B. POLICIES AND PROCEDURES

5.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do written policies and procedures govern the program? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

6.

|  |  |
| --- | --- |
| In regard to ***eligibility***, do the policies and procedures require: | |
| 1. Activities to relate to the impact of the applicable disaster(s)?   NOTE: In general, new construction activities can be “tied” to the disaster if the disaster affected the quality, quantity, and/or affordability of the housing stock, causing that housing stock to be unable to meet post-disaster needs and population demands. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities to be located in a county that was Presidentially-declared as a major disaster? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities with costs reimbursable by, or for which funds are made available by, the Federal Emergency Management Agency or the Army Corps of Engineers **not** be funded with CDBG-DR funds? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. Activities to be CDBG-eligible? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| e. Activities to meet a national objective? If yes, list the acceptable national objective(s): | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

7.

|  |  |
| --- | --- |
| Do the policies and procedures require all other sources of disaster assistance for the same purpose (see *Federal Register* notice published November 16, 2011 (76 FR 71066)) to be identified and considered to ***prevent a duplication of benefit*** (DOB), including:  [Failure to develop and maintain policies and procedures to adequately address duplication of benefits could lead to a violation of the requirement for grants under Public Law 113-2 that the grantee has “established adequate procedures to prevent any duplication of benefits” or otherwise lead to a violation of section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.] | |
| 1. Insurance? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. Federal Emergency Management Agency (FEMA)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. Small Business Administration? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. National Flood Insurance Program (NFIP)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| e. Other federal, state or local funding? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| f. Other nonprofit, private sector, or charitable funding? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

8.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the policies and procedures require all assisted households or entities to enter into a signed agreement (e.g., subrogation agreement) to repay any assistance later received for the same purpose as the CDBG disaster recovery funds?  [See noticepublished November 16, 2011 for applicability.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

9.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the policies and procedures address recapture of CDBG-DR funds (e.g., in case of an overpayment, duplication of benefit)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

10.

|  |  |
| --- | --- |
| In regard to ***new construction activities***,as applicable***,*** do the policies and procedures require: | |
| 1. Activities to comply with green building standards?   [*Federal Register* notice published March 5, 2013(78 FR 14329); applicable to grants under Public Law 113-2] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. Multi-family projects containing five or more units to meet the following accessibility requirements?  [Section 504 of the Rehabilitation Act of 1973 and 24 CFR 8.22, Fair Housing Act] | |
| * + 1. A minimum of five percent of total dwelling units (but not less than one unit) are accessible for individuals with mobility impairments? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| * + 1. An additional two percent of dwelling units (but not less than one) are accessible for persons with hearing or vision impairments? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| * + 1. Are all units made adaptable on the ground level or can be reached by an elevator? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

11.

|  |  |
| --- | --- |
| In regard to ***activities in floodplains,*** do the policies and procedures: | |
| 1. Allow activities to take place in an area delineated as a special flood hazard area (SFHA) according to FEMA’s most current flood advisory maps? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. If the answer to 11.a is “yes,” and if the activity constitutes financial assistance for acquisition or construction purposes, require owners of an assisted building or mobile home within a SFHA to obtain and maintain flood insurance?  [Applicable *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. If the answer to 11.a is “yes,” require activities within a SFHA to be designed or modified to minimize harm to or within floodplains in accordance with Executive Order 11988 and 24 CFR part 55? If the answer is “no,” reviewer should consult with the regional HUD Environment Officer. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. For residential structures financed under Public Law 113-2, if the answer to 11.a is “yes,” require new housing within a SFHA to be elevated one foot higher than the latest FEMA-issued base flood elevation? If the answer is “no,” reviewer should consult with the regional HUD Environment Officer.  [*Federal Register* Notice published April 19, 2013 (78 FR 23578), only applicable to grants under Public Law 113-2] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

12.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the policies and procedures address monitoring funded activities (e.g., priority and/or frequency)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

C. FILE REVIEW

13.

|  |  |
| --- | --- |
| In regard to ***eligiblity***, do reviewed activity files document: | |
| 1. How the activities relate to the impact of the applicable disaster(s)?   [Applicable appropriation law and *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Activities were located in an eligible county?   [Applicable appropriation law and *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. CDBG funds for the activities did **not** supplant funds made available by the Federal Emergency Management Agency or the Army Corps of Engineers?  [Applicable appropriation law (e.g., Public Laws 110-252, 110-329, and 113-2)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. Activities met CDBG eligibility requirements?  [Section 105 of the HCDA for states; activities eligible under 24 CFR part 570, subpart C for local governments; and the *Federal Register* for activities eligible by waiver for both] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| e. Activities were funded in accordance with the policies and procedures for new construction?  [Refer to Section B above.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

14.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| In regard to ***national objective***, do reviewed activity files document that activities met or will meet an acceptable national objective (i.e., one allowed by the policies and procedures)?  [24 CFR 570.483 and 570.490, or 570.208 and 570.506, or applicable *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

15.

|  |  |
| --- | --- |
| In regard to the ***Low- and Moderate-Income Housing* *national objective***, do reviewed activity files document: | |
| 1. For **single-family units**, households have incomes at or below 80 percent of the area median income if the activity is classified under the low- and moderate-income (LMI) national objective?   [24 CFR 570.483(b)(3) or 24 CFR 570.208(a)(3)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. For **multi-family units**, if the structure contains two dwelling units, is at least one unit occupied by a LMI household?  [24 CFR 570.483(b)(3) or 24 CFR 570.208(a)(3)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. For **multi-family units**, if the structure contains more than two dwelling units, are at least 51 percent of the units occupied by LMI households?  NOTE: Some grantees have received an alternative requirement to determine whether an assisted multifamily property can meet the LMI national objective (see applicable *Federal Register* notices). If this alternative requirement applies to the grantee, please check “N/A,” and describe whether the grantee is adequately meeting its alternative requirement and the applicable *Federal Register* notice.  [24 CFR 570.483(b)(3), 24 CFR 570.208(a)(3), or applicable *Federal Register* notice] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. For **rental units**, has a period of affordability been established for assisted properties?  NOTE: Although the State CDBG regulations dictate that the LMI national objective for housing is met at *occupancy*, HUD encourages grantees to adopt and enforce periods of affordability for multifamily new construction projects. Due to the often significant investment of CDBG funds, a period of affordability can ensure housing for LMI households remains available in disaster-affected counties. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

16.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| In regard to the ***Slum/Blight national objective***, do reviewed activity files document that the area meets the definition of a slum, blighted, deteriorated or deteriorating area under state or local law, if using the Slum/Blight national objective on an area basis?  [24 CFR 570.483 and 570.506, or 570.208 and 570.490] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

17.

|  |  |
| --- | --- |
| In regard to the ***Urgent Need national objective***, do reviewed activity files document that: | |
| 1. Urgency of the need was adequately documented to demonstrate compliance if the grantee received a waiver of the certification requirements at 24 CFR 570.208(c) and 24 CFR 470.483(d) in an applicable *Federal Register* notice for the documentation of urgent need for a limited period of time (e.g., in the grantee’s Action Plan)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. The urgency of the need was adequately demonstrated in compliance with requirements at 24 CFR 570.208(c) and 24 CFR 470.483(d), if the waiver had expired prior to the activity or if the grantee did not receive a waiver of the certification requirements? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

18.

|  |  |
| --- | --- |
| In regard to ***duplication of benefits*** (DOB), do reviewed activity files document: | |
| 1. All sources of assistance provided to each applicant for the same purpose, and the determination of DOB?   [Stafford Act, *Federal Register* noticepublished November 16, 2011 (76 FR 71066)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. How the DOB determination impacted the applicant’s CDBG-DR award? If a DOB was found, was there a reduction in the award amount?  [Stafford Act, *Federal Register* noticepublished November 16, 2011 (76 FR 71066)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. That each applicant has entered into a signed agreement (e.g., subrogation agreement) to repay subsequent duplicative assistance?  [See *Federal Register* noticepublished November 16, 2011 (76 FR 71066) as may be amended or incorporated into a *Federal Register* notice for applicability.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. If a DOB occurred after assistance was awarded, were funds recaptured in accordance with the agreement and the grantee’s policies and procedures?  [Refer to Question 7; see *Federal Register* noticepublished November 16, 2011 (76 FR 71066) for applicability.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

19.

|  |  |
| --- | --- |
| In regard to additional requirements, as applicable, do reviewed activity files document: | |
| 1. Compliance with requirements on ***new construction activities*** policies and procedures?   [Refer to Question10.a.-b.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. Compliance with the requirements on ***activities in floodplains*** policies and procedures?  [Refer to Question 11.a-d.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

20.

|  |  |
| --- | --- |
| For applicable P.L. 113-2 grantees (New York, New Jersey, and New York City, NY), as designated in the CDBG-DR improper payments protocol: | |
| a. Do reviewed files document that improper payments of CDBG-DR funds were not made (i.e., any payment that should not have been made or that was made in an incorrect amount, such as a payment to an ineligible recipient, a payment for an ineligible activity, a duplicate payment, or when documentation is not available to support a payment)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. If the answer to “a” above is “no,” is the grantee taking corrective action (e.g., seeking recapture of funds resulting from an overpayment)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **For reviewed activities with an improper payment, please complete the following:**   |  |  |  |  | | --- | --- | --- | --- | | Activity name or number | Improper payment amount ($) | Type of  improper payment | Corrective action | |  |  |  |  | |  |  |  |  | |  |  |  |  |   *Please ensure that the activity names or numbers listed correspond with those listed in Section A, Question 4 of this Exhibit.* | |
| **Describe Basis for Conclusion:** | |

21.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Have reviewed activities been monitored by the grantee in accordance with its policies and procedures?  [Refer to Question 12.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

D. OVERSIGHT AND REPORTING

22.

|  |  |
| --- | --- |
| If the grantee is *not* administering the program, in regard to ***oversight***, is it: | |
| 1. Providing the subrecipient or subgrantee with guidance and technical assistance in a timely and effective manner?   NOTE: According to the *Federal Register* notice published March 5, 2013(78 FR 14329), “grantees are responsible for providing adequate technical assistance to subrecipients or subgrantees to ensure the timely, compliant, and effective use of funds.”  [Applicable *Federal Register* notice, or for states, Section 106(d)(2)(c)(ii) of the HCDA, if this certification is not waived.] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Monitoring activities through an on-site or remote review? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Effectively collecting necessary information (e.g., performance data) from the subrecipient or subgrantee? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

23.

|  |  |
| --- | --- |
| In regard to the ***Disaster Recovery Grant Reporting (DRGR) system***: | |
| 1. Are activities classified correctly in DRGR (e.g., the correct accomplishment type is associated with the applicable activity)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Do quarterly performance reports correctly record the appropriate performance measures (e.g., the number of properties acquired)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Do performance measures and projected end dates match the information in the program files? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

24.

|  |  |
| --- | --- |
| In regard to ***activity completion***: | |
| 1. Are activities completed in a timely fashion (in accordance with contracts and DRGR project completion dates)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to “a” above is “no,” are contracts amended and extended before they lapse? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. If the answer to “a” above is “no,” are activities assessed to determine the reason for the delay, measures that can be enacted to rectify any issues, and a realistic revised project completion deadline? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |