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| --- | --- | --- | --- | --- |
| **Guide for Review of Written Agreements** | | | | |
| **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 grantee'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 verify that States have adequate agreements with recipients. It is divided into three sections: Overview; Subrecipient Agreements; and Recipient Agreements. Use this Exhibit to monitor all written agreements executed by a state grantee under the Community Development Block Grant disaster recovery (CDBG-DR) program, in which funds are provided to a subrecipient or recipient.

**Questions:**

A. OVERVIEW

1.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Is the grantee a state? If “yes,” proceed to the next question.  If “no,” do not use this Exhibit. You should complete Exhibit 3-16 to evaluate all agreements between the grantee and its subrecipients. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

2.

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| --- |
| Agreements reviewed (list all): |
|  |

3.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For each reviewed agreement, has the grantee clearly stated the period of performance or the date of completion?  [*Federal Register* notice published March 5, 2013 (78 FR 14329); applicable to grants under Public Law 113-2] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

4.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does each reviewed agreement state which entity is responsible for the environmental review requirements described at 24 CFR Part 58? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

5.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| For each reviewed agreement, has the grantee clearly stated what activities are eligible for organizations that are religious or faith-based?  [24 CFR 570.200(j) or 570.480(e)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

6.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do any reviewed agreements fall under a program directly administered by the state? If “yes,” proceed to Question 7, which deals with subrecipient agreements. If “no,” proceed to Question 8, which concerns state grant recipients.  NOTE: Typically, CDBG-DR state grantees are provided a waiver and alternative requirement that allows them to carry out activities directly (i.e., like a CDBG Entitlement community). In general, when a state carries out activities *directly,* it develops the activity guidelines/rules and acts as the Responsible Entity (RE) for environmental reviews. Like an Entitlement grantee, the state may use a unit of local government, a public or private nonprofit entity, or a for-profit entity as a *subrecipient*. In the alternative, when activities are *not* carried out directly by a state, the state may use a method of distribution (MOD) to award funds to local governments. In this scenario, a local government will be considered a *recipient—*it will act as the RE and have the flexibility to design and implement its activities. Some states may combine the above approaches (e.g., design a program, but awards funds for that program through a MOD). Whatever method(s) are ultimately chosen, each “type” of written agreement must be consistent, and adequately ensure applicable requirements can be enforced. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |

B. SUBRECIPIENT AGREEMENTS

7.

|  |  |
| --- | --- |
| Do written agreements contain the following:  NOTE: The requirements associated with the below questions are further described at 24 CFR 570.503. This citation applies to Entitlement grantees that have received a direct award from the Department and to State grantees, to the extent it is required for States using subrecipients by the waiver permitting the State to use subrecipients. The typical waiver permitting States to use subrecipients imposes the requirements at §570.503, except the requirement that references to part 84 or part 85 be included in subrecipient agreements. Some Notices, but not all, also impose on States the definition of subrecipient at 24 CFR 570.500(c), e.g., the March 5, 2013 Notice requires “Therefore, for States taking advantage of the waiver to carry out activities directly, the requirements at 24 CFR 570.502, 570.503, and 570.500(c) apply, except the requirements that specific references to 24 CFR parts 84 and 85 must be included in subrecipient agreements. Pursuant to 24 CFR 570.489(n) (revised April 23, 2012) and 570.502, State grantees must ensure that its costs and those of its state recipients and subrecipients are in conformance with 2CFR part 225 (OMB Circular A–87), whether carrying out activities directly or through the use of a subrecipient.” | |
| 1. A *statement of work*, including a description of the work to be performed, a schedule for completing the work, and a budget? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. The *records* the subrecipient must maintain and the *reports* the subrecipient must submit? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. *Program income* requirements (as modified by the applicable Federal Register notice)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. The requirement that the subrecipient must comply with *all Federal laws* and regulations described in 24 CFR Part 570, subpart K (e.g., affirmatively furthering fair housing, prohibition on discrimination, labor standards, environmental standards)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| e. Language indicating that *suspension or termination* may occur if the subrecipient materially fails to comply with any term of the award, and that the award may be terminated for convenience? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| f. *Reversion of assets* provisions? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

C. RECIPIENT AGREEMENTS

8.

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| --- | --- |
| There are no State CDBG regulations regarding language required in a recipient agreement. However, per the *Guide to National Objectives and Eligible Activities for State CDBG Programs: Appendix I, Model Record-Keeping Requirements* (which is non-binding, but describes best practices), do the agreements: | |
| 1. State that the recipient will follow Treasury Department drawdown requirements, as stated at 31 CFR Part 205? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Include payment information and conditions? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Include governmental requirements? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Include wage rates to be used? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Include labor standards provisions? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

9.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the agreement with the recipient address the local government requirements at 24 CFR 570.486? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |