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| --- | --- | --- | --- | --- |
| **Guide for Review of Procurement** | | | | |
| **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 (78 FR 78589) and 24 CFR 570.495 for state grantees).

**Instructions:** Use this Exhibit to monitor a grantee’s procurement of goods or services through its Community Development Block Grant disaster recovery (CDBG-DR) award. This Exhibit is divided into two sections: All Grantees; and State Grantees. For a grantee that is a unit of general local government, or if the grantee is a state government that has adopted 24 CFR Part 85 in full, please use Exhibit 3-20, *Guide for Review of Procurement,* supplemented by section A of this Exhibit.

**Questions:**

A. ALL GRANTEES

1.

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| --- |
| Procured contracts reviewed (list all): |
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2.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| In each reviewed contract or agreement, has the grantee incorporated performance requirements and penalties (liquidated damages)?  [Public Law 113-2, *Federal Register* notice published March 5, 2013 (78 FR 14329)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

3.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| In each reviewed contract, has the grantee clearly stated the period of performance or the date of completion?  [*Federal Register* Notice published March 5, 2013] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

4.

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| --- | --- |
| For grants under Public Law 113-2, has the grantee posted the following to its website:    [*Federal Register* Notice published March 5, 2013, as clarified in July 11, 2014 *Federal Register* Notice; applicable to grants under Public Law 113-2] | |
| 1. Procurement policies and procedures? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| b. All contracts procured with CDBG–DR funds? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| c. The status of services or goods currently being procured by the grantee (e.g., phase of the procurement, requirements for proposals)? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| d. A summary of all procured contracts, including those procured by the grantee, recipients, or subrecipients [July 11, 2014 *Federal Register*]? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

B. STATE GRANTEES. If the grantee is a ***state*** that has not adopted 24 CFR Part 85 in full, proceed to the next question. If the grantee is a ***unit of general local government***, or a state that has adopted 24 CFR Part 85 in full, disregard the remaining questions and complete Exhibit 3-20.

5.

|  |  |  |  |  |  |  |  |
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| Has the state established or adopted procurement policies and procedures?  (State grantees are not required to formally establish or adopt policies particular to disaster recovery. Rather, they may use pre-existing rules established by the state and applicable to the administering agency as a whole. The reviewer should obtain a copy or citation of the state’s procurement policies and procedures.)  [24 CFR 570.489(g)] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

6.

|  |  |
| --- | --- |
| For grants under Public Law 113-2: | |
| 1. Has the state submitted documentation that it has “proficient procurement processes” by providing its procurement standards, and has it indicated the sections of its procurement standards that align with each procurement provision of 24 CFR 85.36.? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Has the grantee indicated which personnel or unit are responsible for each item listed? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Have the processes changed since the Secretary certified that the state has proficient procurement processes in place? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| 1. Do the policies and procedures specify the acceptable methods of procurement (e.g., small purchase, sealed bid/formal advertising, competitive proposals, and noncompetitive proposals) and their applicability? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

7.

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| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the policies include standards of conduct governing employees engaged in the award or administration of contracts? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

8.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Does the state review contracts to ensure that they are in compliance with the applicable policies and procedures? | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

9.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do the reviewed contracts use either of the following cost methods—cost plus a percentage of cost, or percentage of construction cost?  NOTE: Per §570.489(g), the cost methods of “cost plus a percentage of cost” and “percentage of construction costs” are not allowed. Although not defined, generally cost plus a percentage of cost contracts are those in which the amount of profit paid is calculated as a percentage of actual performance cost, so that profit increases commensurate with increases in performance cost, and the amount of the contract is unknown at the time of contracting such that the contractor has an incentive to increase costs to increase profit. In other words, the fee rises as the contractor's costs rise. Although not defined, generally, cost plus a percentage of construction costs contracts are those in which the amount of profit paid is calculated as a percentage of actual construction costs, so that profit increases commensurate with increases in performance cost, and the amount of the contract is unknown at the time of contracting such that the contractor has an incentive to increase costs to increase profit. Both types are disallowed because they provide little incentive for the contractor to control costs, and there is uncertainty as to the final contract amount. | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |

10.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| Do reviewed contracts include clauses required by federal statutes, executive orders and implementing regulations (e.g., those found in 24 CFR 570.487)?  [24 CFR 570.489] | |  |  |  | | --- | --- | --- | |  |  |  | | **Yes** | **No** | **N/A** | |
| **Describe Basis for Conclusion:** | |
|  | |