



**Department of Energy**  
Washington, DC 20585

**WEATHERIZATION PROGRAM NOTICE 09-1**  
**EFFECTIVE DATE:** November 17, 2008

**SUBJECT:** PROGRAM YEAR 2009 WEATHERIZATION GRANT GUIDANCE

**PURPOSE:** To issue grant guidance and management information for the Low-Income Weatherization Assistance Program (Weatherization) for Program Year (PY) 2009.

**SCOPE:** The provisions of this guidance apply to States or other entities named in the Notification of Grant Award as the recipient of financial assistance under the Department of Energy (DOE) Weatherization Assistance Program.

**LEGAL AUTHORITY:** Title IV, Energy Conservation and Production Act, as amended, authorizes the Department of Energy to administer the Low-Income Weatherization Assistance Program. All grant rewards made under this program shall comply with applicable law including regulations contained in 10 CFR Part 440 (issued February 1, 2002), the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007 and other procedures applicable to this regulation as DOE may, from time-to-time, prescribe for the administration of financial assistance.

**GRANTS.GOV:** The use of Grants.gov for receipt of applications became mandatory for all programs in Fiscal Year (FY) 2007. Additional discussion and instructions for using this system is provided in PY 2009 Funding Opportunity Announcement No. DE-PS26-09NT01243.

**NATIONAL EVALUATION:** The Weatherization Assistance Program Office has recently contracted with Deloitte Consulting, LLP to perform a strategic assessment of the Program. Deloitte will conduct a fundamental analysis of Weatherization's objectives, impact metrics, market delivery vehicles and finance mechanisms to aid the program in achieving the maximum weatherization impact. It is intended to identify fundamental improvements in program design and delivery as distinct from the more traditional evaluation of the program benefits that has been done in the past.

Such an evaluation will still be performed, in addition to Deloitte's effort. Some Grantees and subgrantees may be contacted by the contractor hired by the EERE to conduct the assessment to gather facts and opinions from members of the network and cooperation in this effort is requested of contacted parties.

Grantees and local agencies will be notified of the implementation schedule and their responsibilities under it by Program Notice when the Department determines to proceed with the evaluation activity.

**WEATHERIZATION PLUS:** Weatherization *Plus*, launched in 1999, is the strategic plan to systematically promote the evolution of the Weatherization Assistance Program from a focus on heating and cooling energy conservation to an expanded focus on whole-house energy usage and whole-community efforts. In June 2005, a Weatherization *Plus* Committee was convened to collectively and collaboratively begin the planning process to take this effort to the year 2010. The Committee, representing the diverse interests of the Network, recommended that the Program focus its efforts on four specific areas: Communication; Expanded Resources: Leveraging/Partnerships; Consistent Delivery of Quality Services; and National Information Exchange Resource. To provide adequate attention to the specific areas the Committee formed three subcommittees: Expanded Resources; Leveraging/Partnerships; Consistent Delivery of Quality Services; and the National Information Exchange Resource subcommittees. The fourth topic, Communication, is an on-going process. A brief summary of the Committee's discussions and the output representing their collective ideas on the Program's next five years was issued for Network review and comment. All three subcommittees have made tremendous progress. Opportunities will continue to be provided for the Network to comment on and assist in shaping the strategic outcomes throughout the process.

**ADDING THE TERRITORIES:** The Energy Independence and Security Act of 2007, Section 411(c), adds Puerto Rico and the territories of the U.S. to the definition of "State" for the purpose of the Weatherization Assistance Program. Beginning with Program Year 2009, the territories of American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico and the U.S. Virgin Islands will be added to the Program.

**PRODUCTION:** There remains a strong interest by both the Administration and the Congress to track the performance of Grantees in the production of weatherized units. DOE will closely monitor Grantee performance through the Quarterly Program Report, the quarterly Financial Status Report, and the annual Training and Technical Assistance, Monitoring and Leveraging Report. It is imperative that Grantees and local agencies submit these reports on time. Grantees are reminded that no area of a State should go more than one year without Weatherization service.

**FINAL APPROPRIATIONS BILL:** On September 30, 2008, the President signed into law H.R. 2638, the Consolidated Security, Disaster Assistance and Continuing Appropriations Act, 2009, Public Law 110-329, which currently goes through March 6, 2009. The Continuing Resolution provided \$250 million dollars in supplemental funding to Weatherization. Weatherization Program Notice 09-1A, Grant Guidance for Program Years 2008 and 2009 To Access the \$250 Million 2009 Supplemental Funding was issued on October 27, 2009. Results of the final appropriations bill for FY 2009 will be transmitted in Weatherization Program Notice 09-2. For planning purposes, until a final budget has been passed by Congress and apportioned by the Office of Management and Budget (OMB), Grantees should proceed with their respective plans using the supplemental funding and the same level as PY 2008. Grantees should make certain to indicate that funding to subgrantees may be adjusted based on the final Grantee allocation. Grantees will be notified of their final allocations as soon as the funds are apportioned.

As of this date, the House Appropriations Committee Mark for Fiscal Year 2009 is \$250 million, \$245 for grants and \$5 million for Headquarters T&TA. The Senate Appropriations Committee Mark for Fiscal Year 2009 is \$201,181,000. The \$1,181,000 is for Headquarters T&TA.

**ALLOCATION FORMULA:** In 1995, the allocation formula was revised to increase the overall equity of the allocation of funds among the States by providing warm-weather States a greater share of the funding, while protecting existing program capacity in cold-weather States. The threshold appropriation level that triggers the full impact of the revised formula stays essentially the same with the addition of the territories. Depending on the amount reserved for HQ T&TA, the threshold appropriation can vary a few dollars up or down because of rounding.

The Energy Independence and Security Act of 2007, Section 411(c) adds Puerto Rico and the territories of the U.S. to the definition of "State" for the purpose of the Weatherization Assistance Program DOE will propose that beginning with Program Year 2009, the territories of American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the U.S. Virgin Islands will be added to the Program. A Notice of Proposed Rulemaking to expand the definition of "State" to include the territories and to amend the financial assistance allocation procedure to reflect the expanded definition has been developed for issuance.

**WEBSITE INFORMATION:** To assist the Weatherization Network in obtaining the most up to date information on programmatic/policy issues, technical issues, and evaluation studies, DOE sponsors the following websites:

Energy Efficiency and Renewable Energy:  
<http://www.eere.energy.gov/weatherization;>

Weatherization Assistance Program Technical Assistance Center:

<http://www.waptac.org>;

Weatherization *Plus*:

<http://weatherizationplus.org>;

Oak Ridge National Laboratory:

<http://weatherization.ornl.gov>; and

Project Management Center:

<https://www.eere.pmc.energy.gov/>.

Grantees are strongly encouraged to visit these websites often to keep abreast of the latest information and new techniques in Weatherization. Grantees should also continue to work with their respective DOE Project Managers at the Project Management Center (PMC).

## **TABLE OF CONTENTS**

<b>1.0</b>	<b>Funding</b>
1.1	General Funding
1.2	Federally Appropriated Funds
1.3	Adjusted Average
1.4	Funds for Administrative Purposes
1.5	Petroleum Violation Escrow (PVE) Funds
1.6	Program Income
1.7	Leveraging and Leveraged Resources
1.8	Training and Technical Assistance Funds
<b>2.0</b>	<b>Grant Application</b>
2.1	General
2.2	Intergovernmental Review
2.3	Application Package
2.4	Public Hearing
2.5	Budget
2.6	Liability Insurance
2.7	Financial Audits
<b>3.0</b>	<b>Training and Technical Assistance (T&amp;TA) Plan</b>
3.1	Basic
3.2	Client Education
3.3	Program Evaluation
<b>4.0</b>	<b>Grantee Program Oversight (Program Monitoring)</b>
<b>5.0</b>	<b>Policy, Program Guidance and Regulatory Changes</b>
5.1	Temporary Disqualification of Certain Newly Legalized Aliens from Receipt of Weatherization Benefits
5.2	Multi-Family Eligibility
5.3	Procurement of Building Insulation Products and Materials Containing Recovered Materials
5.4	Rental Requirements
5.5	Energy Audit Criteria
5.6	Use of Weatherization Funds for Renewable Energy Systems
5.7	Disaster Relief
5.8	Energy Crisis Relief
5.9	Determining Eligibility Levels and Defining Income
5.10	Determining Priority Service
5.11	Fuel Switching
5.12	Energy-Related Health and Safety
5.13	Lead Paint Hazard
5.14	Energy-Related Mold and Moisture Impacts
5.15	Reweathering
5.16	Vehicle Purchases
5.17	Policy Advisory Council
5.18	Electric Base Load
5.19	Davis-Bacon Labor Rates
5.20	Administrative Costs
<b>6.0</b>	<b>Reporting</b>
6.1	Reporting Requirements
6.2	Reporting DOE Completed Units

## **1.0 FUNDING**

**1.1 GENERAL FUNDING:** In PY 2009, funding for the Weatherization Program, requiring DOE approval for expenditure, can come from several sources:

1. Federally appropriated funds.
2. Warner and EXXON oil overcharge funds.
3. Stripper Well and other oil overcharge funds (including Texaco) which are subject to Stripper Well settlement rules.
4. LIHEAP funds designated for expenditure under DOE rules.
5. Utility funds designated for expenditure under DOE rules.
6. Program income.
7. Other

**Note: The expenditure of leveraged funds requires DOE approval only when those funds are acquired using DOE appropriated monies and designated for use in the DOE Weatherization Program. Also, #4, #5, and #7 above only need to be approved by DOE if the Grantee is charging administrative costs to DOE.**

**1.2 FEDERALLY APPROPRIATED FUNDS:** The Continuing Resolution provided \$250 million dollars in supplemental funding to Weatherization. The final appropriation FY 2009 Weatherization Assistance Program appropriation has not been determined. Weatherization Program Notice 09-2 will issue tentative allocations. As in past years, direct grants for Indian Tribes will come out of State allocations. Grantees should hold their public hearings based on their tentative allocations of appropriated funds, plus all petroleum violated escrow (PVE) and any other funds they intend to allocate for use under the Weatherization Program. As a reminder, those grantees who chose to amend their 2008 Program Year State Plan to access their allocation of the \$250 million supplemental funding needed to hold another public hearing to access the final FY 2009 appropriation funding. Grantees are expected to achieve a rate of production and expenditure that will result in all DOE Weatherization funds being spent by the end of the program year.

**1.3 ADJUSTED AVERAGE:** The new adjusted average expenditure limit for PY 2009 is \$3,055. This adjusted annual average is determined by DOE using the annual Consumer Price Index (CPI) or 3 percent, whichever is less. The CPI for the previous 12-month period (September 2007 – September 2008) is 4.8 percent. This amount is then multiplied by the present expenditure limit, thereby setting the new expenditure limit for the upcoming Program Year. The PY 2009 adjusted average for renewable energy measures is \$3,243 and is adjusted similarly for inflation. Further discussion on renewable energy measures can be found in Section 5.6, Use of Weatherization Funds for Renewable Energy Systems.

**1.4 FUNDS FOR ADMINISTRATIVE PURPOSES:** There is a statutory limit of 10 percent on funds that may be used for administrative purposes. Not more than 5 percent of new funds (total allocation for a program year, including other non-DOE funds that are a part of the grant) may be used by a Grantee for administrative purposes, with the remainder to go to subgrantees. An exception to exceed the 10 percent total administrative requirement may apply to subgrantees funded at **less than \$350,000 of new DOE funds**. Grantees are to develop criteria to be used for allowing the eligible subgrantees, those who receive less than \$350,000 of new DOE appropriated funds, authority to use **up to an additional 5 percent** of their subgrants for administrative purposes. The criteria must be submitted with the annual file. Funds in administrative category accounts may be carried over from the previous budget period. A Grantee may provide in its annual Plan for recipients of grants of less than \$350,000 to use up to an additional 5 percent of such grants for administration if the Grantee has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by DOE pursuant to this part. These policies establish an administrative fund cost pool. Grantees can then also choose to include any administrative carryover funding and/or provide a portion of their Grantee administrative funds to the local providers. **The limit for maximum administrative expenditures by a Grantee remains unchanged at 5 percent of the total funds reported in a State Plan.** Grantees can give a portion of their 5 percent administrative funds to their subgrantees if they wish.

Stripper Well funds used for all administrative purposes, i.e., for all programs, may not, in total, exceed 5 percent of the Stripper Well funds budgeted by a Grantee. To avoid the possibility of disallowed costs, Grantees are reminded of this restriction. Within those parameters, Stripper Well funds allocated to Weatherization may be used for administrative expenses. EXXON funds, however, may not be used for this purpose. A Grantee may use federal funds appropriated for the Weatherization Program to administer the EXXON and/or Stripper Well funds applied to the program. The new DOE and/or Stripper Well funding that may be used for administrative expenses may not exceed 10 percent of the total of new DOE, plus new EXXON, plus new Stripper Well funding for the program.

Program income and leveraged resources that are used in the DOE Weatherization Program may be treated as appropriated funds, in which case they could be added to the total appropriated funds to determine overall administrative costs. No change to the percentage limits for administrative funds addressed above will occur. For further information on program income see section 1.6. For leveraged resources, see section 1.7 of the grant guidance.

**Note: Grantees may use up to 15% of their DOE allocation to administer large sums of leveraged non-Federal resources. Section 1.7 of the grant guidance discusses the use of leveraged resources. Section 5.20 provides further discussion of DOE policy on administrative costs.**

**1.5 PETROLEUM VIOLATION ESCROW (PVE) FUNDS:** EXXON and Warner funds are subject to the same rules; Texaco and other subsequent oil overcharge settlement funds are subject to Stripper Well rules. For convenience, in discussing these various funding sources, we will refer to EXXON or Stripper Well as generic categories.

If a Grantee decides to use EXXON funds for its Weatherization Program, these funds are to be treated **in the same way** as appropriated funds. They must be included in the State Weatherization Plan/Annual Application; they are subject to the same State Plan/Application approval, program oversight, and reporting requirements as appropriated funds; and, their use is subject to the **same** statutory and regulatory constraints as are appropriated funds.

A Grantee may elect to use Stripper Well funds for Weatherization projects either separate from, or included within, the DOE Weatherization Program. Where Stripper Well funds have been approved for use in the program, these funds should be treated exactly as appropriated for EXXON funds. Where their use has been approved for Weatherization activities separate from DOE Weatherization, these funds are encouraged to be included, for informational purposes only, in the State Plan, but are not subject to DOE rules, oversight, or reporting requirements.

There are no requirements that EXXON or Stripper Well funds be used during a particular period of time, and a Grantee is also permitted to reallocate these funds from one eligible program to another as long as its Plan has been amended and approved by DOE-HQ. If EXXON and/or Stripper Well funds earmarked for expenditure in the prior program year are not expended, the amount of Federal and/or Stripper Well funding that may be used for administrative expenses in the following program year must be adjusted appropriately.

No more than 5 percent of the combined total of EXXON and Stripper Well funds budgeted in a State Plan/application may be used for Training and Technical Assistance (T&TA) purposes. Up to an additional 5 percent of these funds may be used for evaluation of a Grantee's Weatherization Program and for innovative efforts for leveraging program funds, provided these activities are approved by the PMC.

**1.6 PROGRAM INCOME:** DOE defines program income as any funds earned by grantees and/or subgrantees from non-Federal sources during the course of performing DOE Weatherization work. The income generated must be used to complete additional dwelling units in accordance with DOE rules.

Program income is subject to the specific guidance provided in the DOE Financial Assistance Rule, 10 CFR 600, Subpart B Section 600.124 and Subpart C, Section 600.225, as appropriate, and should be treated as an addition to program funds and are subject to the same rules as appropriated funds. Because of changes to 10 CFR 600, DOE will stipulate, in the grant award, that program income is to be treated as an addition to program funds. Property owner (i.e. landlord) contributions and leveraged resources (i.e.,



utility or Grantee funds) are NOT considered to be “program income” for the purposes of the Weatherization Assistance Program.

**Note: Grantees requiring further clarification on program income, as it applies to their specific program, should contact their respective Project Manager at the PMC.**

**1.7 LEVERAGING AND LEVERAGED RESOURCES:** DOE program regulations permit Grantees to take a percentage of their grant (including PVE funds used under the Weatherization Program, and training and technical assistance funds) to undertake leveraging activities which may supplement the program or be used to run a parallel program (regardless of who initiates the action). Leveraging activities include paying for agency staff or hiring consultant staff to explore and develop partnerships with utility companies and other entities that will generate non-Federal resources for Weatherization. Other allowable activities include: holding leveraging meetings; preparing technical materials/briefs; or facilitating voluntary match funds from a non-Federal source. The leveraged resources should expand energy efficiency services and/or increase the number of DOE-eligible dwelling units weatherized.

The work done with leveraged resources must be consistent with an approved energy audit and utilize cost-effective measures. Leveraging efforts will not always be successful but Grantees should aim to produce more than one dollar leveraged for each DOE dollar expended. As of PY 2007, the maximum percentage of Weatherization funds that can be diverted for leveraging activities is 15 percent of the Grantee’s total allocation.

Grantees utilizing this option must provide a detailed leveraging implementation plan in their annual file, and must indicate in their annual budget, the estimated DOE resources to be used for leveraging activities. The amount of detail in the plan should be commensurate with the amount of funds used for this effort. Reporting of leveraging activities and results must be submitted on the annual Training, Technical Assistance, Monitoring and Leveraging Report (see Section 6.1).

Landlord contributions are not considered leveraged resources because they are generally not voluntary and often come with special stipulations or requirements. Grantees requiring further clarifications or guidance on leveraging resources should contact their respective Project Manager at the PMC.

**1.8 TRAINING AND TECHNICAL ASSISTANCE FUNDS:** The Weatherization Assistance Program statute permits DOE to use an amount not to exceed 10 percent of the fund appropriated, for T&TA activities. This percentage is reviewed annually and set only after considering the amount of funds appropriated to the Program and an Annual Operating Plan is developed for Headquarters and PMC T&TA to address national program support needs. The percentage of funds for PY 2009 reflects the full percentage of T&TA, and the division of funds for national is 1-1/2% and for Grantees is 8-1/2%.

## **2.0 GRANT APPLICATION**

**2.1 GENERAL:** To increase public involvement and obtain timely suggestions in developing their Application, DOE strongly urges Grantees to hold two meetings: one at the beginning of the planning process, as well as the formal and required public hearing on the completed Plan. DOE may request information in addition to what is required by the program rule on a case-by-case basis when warranted by prior program performance.

**2.2 INTERGOVERNMENTAL REVIEW:** In the development, submission, and review of grant applications, the provisions of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the DOE Implementing Order (10 CFR 1005) remain unchanged.

**2.3 APPLICATION PACKAGE:** Applications **must be** submitted through Grants.gov to be considered for award. Grantees cannot submit applications through Grants.gov unless they are registered. See the submission and registration requirements set forth in Funding Opportunity Announcement No. DE-PS26-09NT01243. For PY 2009 a Grantee may prepare its application in WinSAGA, and upload it directly to Grants.gov via WinSAGA.

For information on the content and preparation of the PY 2009 application package, refer to Part IV, Paragraph C of Funding Opportunity Announcement No. DE-PS26-09NT01243.

**APPLICATION FORMAT:** All applicable sections of the Annual File portion of the Application Instructions and Forms Package dated November 2005, attached to WPN 06-3, are to be completed in their entirety and up to date. This includes all information on the Weatherization Annual File Worksheet (pages V-17 and V-18 and the Subgrantee Information Sheet, page V-21). Electronic forms can also be found on the PMC website. Grantees must list any revisions to their On-File Information in Section II.10 of the Annual File in each year's application. Grantees are not required to submit a complete copy of the current On-File Information with their application each year, but may do so. However, the first year of any new five year grant period should include updated On-File information, and, therefore, a complete copy of the updated On-File Information shall be submitted at least every five years. Grantees are required to keep their On-File Information up-to-date at all times on their premises, and to submit a copy of the current On-File Information to DOE upon request.

**2.4 PUBLIC HEARING:** The PMC will carefully review the reports of the public hearings on the 2009 State Plans to determine that all local agency issues are properly addressed by the Grantee prior to approval of the final State Plan. This review will

include making certain that the proper number of public hearings were held based on grantees choice whether to access their share of the \$250 million supplemental funding. Grantees should be aware that if major program changes are made after the initial public hearing, then an additional hearing may be required. Also any change in the distribution of funds not addressed in the initial hearing will necessitate another public hearing. DOE will continue to require all areas of the State to be served. However, DOE will consider approving alternative Plans which may require implementing this provision over more than one program year and may include funds from other sources.

**DOE reminds Grantees that the public hearing should be held before the State Plan is submitted to the DOE for approval, and adequate notice (not less than 10 days) must be given prior to holding a public hearing on the State Plan.** A part of this notice should be a summary or highlights of the proposed changes from the previous year's Plan. Providing this information up front will improve communication between Grantees and local agencies and minimize disputes that may arise at the hearing.

**Note: DOE no longer requires an official transcript of the public hearing. However, DOE considers an official hearing transcript as a best practice, particularly if the hearing is of a contentious nature. Grantees must submit the notes or minutes taken by a Grantee staff person as part of the final State Plan. Where discrepancies exist in the minutes or notes, the Grantee must allow participants to provide supplemental submissions. Whenever possible, DOE would like to be informed, in advance, of major proposed program changes or issues of a contentious nature that will be addressed at the hearing. Also, most Grantees have laws governing the conduct of public hearings, including making a copy of the Plan available upon request.**

**2.5 BUDGET:** Grantees should ensure that subgrantees are allowed to charge legitimate program support costs to the program operations category rather than requiring those costs to be charged to the administrative category. For example, salaries, space, utilities, telephone and similar costs associated with program support personnel should be charged to program operations.

**Grantees are encouraged to fully utilize the DOE funding in the year it is originally awarded to maximize the opportunity of achieving the Weatherization mission. Available carryover funds from previous budget years always need to be included as part of the budget and application for the new year's funding. To the extent possible and allowable within the grantee's organization, each grantee is also encouraged to estimate carryover for the current budget period and include it as part of the application for new funding.**

When the Grantees prepare their budgets for 2009, **it is essential that they include adequate travel expenses for staff to effectively implement the program.** DOE considers attendance by Grantee staff at national and regional conferences, as well as participation on related planning committees, task forces, and other scheduled and related

meetings, as high priorities. DOE is aware that many Grantees have travel restrictions due to budgetary constraints. **It should be noted that funds to pay for Grantee and local agency travel are provided as part of the Weatherization grant, and proper usage of these funds will be closely monitored by DOE to ensure compliance with stated travel indicated in Grantees' Annual Plans.**

**Note: Grantees planning to carryover unused training and technical assistance funds from one program year to another must return these monies to the program operations budget category and use them to weatherize additional homes. This provision can be waived provided that the Grantee can justify to the PMC the necessity to carryover these funds into the new program year and that they be included as a part of the new training and technical assistance budget.**

**T&TA funds may not be used to purchase vehicles or equipment for local agencies to perform Weatherization services. The cost of these vehicles or equipment to support the program must be charged to the vehicle/equipment or program operations categories. Only Grantee purchases of vehicles or equipment, which are directly related to specific training and technical assistance activities, such as monitoring, etc., may be purchased with T&TA funds.**

**2.6 LIABILITY INSURANCE:** Grantees and local agencies are reminded that all work performed must be covered by liability insurance. Grantees should inform local agencies and their contractors that sufficient liability coverage for DOE funded activities must be obtained. Liability insurance can be charged to the liability line item in the budget, which was created to ensure that such costs would never have to be charged to the administrative cost category. (See preamble to Federal Register, Volume 45, Number 40, published February 27, 1980, page 13031).

Most, if not all, regular liability insurance policies do not provide for many health and safety measures such as lead and other pollution occurrence items. Thus, DOE strongly recommends Pollution Occurrence Insurance (POI) as a part of, or an addendum to, general liability insurance and is therefore charged on the liability insurance line item. If Grantees or subgrantees choose **NOT** to obtain POI coverage and damage occurs because of not following all aspects of Lead Safe Weatherization, or there is disturbance to any other environmental pollutants, the cost to do remediation, clean up, relocation, medical expenses or any other resulting costs may not be charged to DOE Weatherization and must be covered by another funding mechanism.

Local agencies that employ private contractor labor to perform Weatherization services must ensure that each private contractor is adequately insured as well. Local agencies shall review their existing policies to ensure that they have adequate coverage, in accordance to their Grantee requirements. POI is discussed further in Weatherization Program Notice 02-6. Additional information about POI coverage can be found on the WAPTAC website.

Sections 5.12 – Energy Related Health and Safety and 5.13 – Lead Paint Hazard provide further information affecting this decision.

**2.7 FINANCIAL AUDITS:** Section 440.23 of the program regulations permits a separate budget category for financial audits. The cost of these audits was previously charged to the already over-burdened administrative cost category and sometimes resulted in less than adequate, quality financial audits. Grantees are encouraged to provide this relief to their subgrantees by allowing these charges to come off the top of the grant, if the subgrantees meet the threshold contained in A-133.

**Note: OMB Circular A-133, revised June 30, 2003, should be consulted for thresholds, etc. Grantees should refer to Section IV.3 of the current Application Instructions and Forms Package attached to WPN 06-3 located on the WAPTAC site and/or contact their contracting officer at the National Energy Technology Laboratory (NETL) for further guidance or clarification.**

### **3.0 TRAINING AND TECHNICAL ASSISTANCE (T&TA) PLAN**

**3.1 BASIC:** T&TA activities are intended to maintain or increase the efficiency, quality and effectiveness of the Weatherization Program at all levels. Such activities should be designed to maximize energy savings, minimize production costs, improve program management and crew/contractor “quality of work,” and/or reduce the potential for waste, fraud and mismanagement. The local service providers should be the primary recipients of T&TA activities.

Section II.6 of the Annual File, which describes specific activities, and Section III.5.4 of the “On-file” Information, which describes the overall approach, in the current Application and Forms Package should be used to describe how Grantees will identify and address the needs of the subgrantees in this area. As a minimum, such a description must include the following:

- A. How a Grantee assesses the training needs of its subgrantees;
- B. What training the Grantee will provide for subgrantee staff and if attendance is required;
- C. Whether the Grantee requires any certification or training of subgrantee staff prior to hire or by date certain of hire;
- D. How the Grantee compares productivity and energy savings between subgrantees and how these comparisons are used in the development of T&TA activities and priorities;

- E. What portion of Grantee T&TA funds will be allocated for Grantee program oversight (monitoring) efforts, how such funds will be apportioned, and if any other funding sources will be used for this purpose; and,
- F. An assessment of Grantee T&TA activities to determine whether these funds are being spent effectively.

**3.2 CLIENT EDUCATION:** Client education is a key component of any effective Weatherization Program. The information sharing among the Grantees in this area has brought about a heightened awareness of the importance of client education. DOE will continue its efforts to identify and network successful Grantee initiatives, and provide training and materials as needed.

**3.3 PROGRAM EVALUATION:** Implementation of the national evaluation has been suspended by the Office of Energy Efficiency and Renewable Energy (EERE). Grantees and local agencies will be notified of the implementation schedule and their responsibilities under it by Program Notice if and when the Department determines to proceed with the evaluation.

EERE has commissioned a strategic evaluation of the program to assess a variety of program structures and options for program development. Some Grantee and subgrantee agencies may be contacted by the contractor hired by EERE to conduct the assessment to gather facts and opinions from members of the network and cooperation in this effort is requested of contacted parties.

DOE continues to encourage Grantees to proceed with individual Grantee evaluations. Grantees undertaking such an evaluation are requested to coordinate their plans with DOE so the information may be shared to gain maximum results from the program. Technical assistance is available to Grantees through DOE to help with the design and analysis plans for Grantee evaluation studies. DOE published the report, "Estimating the National Effects of the U.S. Department of Energy's Weatherization Assistance Program with State-Level Data: A Metaevaluation Using Studies from 1993 to 2005." The individual evaluations conducted by the Grantees were critical to this effort. Also, DOE completed a non-energy benefits study. Both of these documents can be accessed on the ORNL website.

#### **4.0 GRANTEE PROGRAM OVERSIGHT (Program Monitoring)**

DOE issued Weatherization Program Notice 01-6, January 3, 2001, to update the monitoring policy for the Program. The key components of the policy remain unchanged.

A. **ROLE:** The Grantee must conduct a comprehensive monitoring of each subgrantee at least once a year. The comprehensive monitoring must include review of client files and

subgrantees records, as well as actual inspection of at least 5 percent of the completed units. Grantees may make as many program assessment visits as necessary and for which resources are available. By the close of the program year, the Grantee is expected to have completed a comprehensive review of each subgrantee, including review of its latest financial audit. Failure to comply with this requirement is sufficient cause to require special conditions to the grant under 10 CFR 600.212.

**Note: An exception to the annual subgrantee visit requirement can be made for those agencies designated as exemplary agencies by the Grantee. This designation and a justification for each agency's designation must be included in the Grantee Monitoring Plan and approved by the PMC. The designated exemplary agencies' assessment visit should occur no less often than every other year. Grantees are required to continue to provide oversight by reviewing all relevant reports for these designated agencies and to act accordingly should a problem arise. Grantees are required to ensure that agencies designated as exemplary are satisfying all program requirements, including a final inspection of all homes weatherized.**

B. VISIT: The subgrantee should be briefed on the observations and findings generated by the monitoring visit, usually through an exit interview. Within 30 days after each visit, the Grantee will prepare a written report on its findings and send it to the subgrantee for corrective action, if applicable. Noncompliance findings unresolved within forty-five days should be reported to the PMC. Sensitive or significant noncompliance findings should be reported to the PMC immediately.

C. TRACKING: Major findings from subgrantee monitoring visits and financial audits should be tracked by the Grantee to final resolution. DOE recommends that the tracking record developed by the Grantee include, but not be limited to: findings, including success stories, recommended corrective actions, deliverables, due dates, responsible parties, actions taken, and final resolutions.

D. ANALYSIS: Annually the Grantee will summarize and review each subgrantee's audit, program monitoring reports and findings for internal monitoring of Grantee and subgrantee needs, strengths, and weaknesses. The results of this annual monitoring should be considered during annual planning and should be available in the Grantee Office for the PMC staff to review during their Grantee program monitoring visits.

## **5.0 POLICY, PROGRAM GUIDANCE, AND REGULATORY CHANGES**

**5.1 TEMPORARY DISQUALIFICATION OF CERTAIN NEWLY LEGALIZED ALIENS FROM RECEIPT OF WEATHERIZATION BENEFITS:** Sections 245A and 210A of the Immigration and Nationality Act (INA), as amended, made certain aliens, legalized under the Immigration and Control Act (ICA) of 1986, temporarily ineligible for Weatherization assistance. The provisions of this law have expired. The only potential implications affecting Weatherization services are those individual cases that were open while this law was in effect.

The Welfare Reform Act officially referred to as the Personal Responsibility and Work Opportunity Act of 1996, H.R. 3734, placed specific restrictions on the eligibility of aliens for “Federal means-tested public benefits” for a period of five years. As defined in a Federal Register notice dated August 26, 1997 (62 FR 45256) the Department of Health and Human Services (HHS) is interpreting “Federal means-tested public benefits” to include only those benefits provided under Federal means-tested, mandatory spending programs.

HHS Information Memorandum LIHEAP-IM-25 date August 28, 1997, states that all qualified aliens, regardless of when they entered the United States, continue to be eligible to receive assistance and services under the Low-Income Home Energy Assistance Program (LIHEAP) if they meet other program requirements. To eliminate any possible contradiction of eligibility for Weatherization services at the Grantee and local level for qualified aliens, the definition adopted by HHS will also apply to the DOE Weatherization Assistance Program.

HHS issued Information Memorandum LIHEAP-IM-98-25 dated August 6, 1998, outlining procedures for LIHEAP and Weatherization grantees serving non-qualified aliens to implement new status verification requirements. This memorandum is based on a proposed rule issued by the Department of Justice (DOJ) on August 4, 1998. The Welfare Reform Act is a complex issue and there is some confusion on the specific application of this part of the Act. To insure Program continuity between LIHEAP and Weatherization for the many subgrantees operating both programs, the DOE Weatherization Assistance Program will follow the interpretation as adopted by HHS. The primary area of confusion resides in the types of local agencies that are exempt/non-exempt from “status verification requirements.” Local agencies that are both charitable and non-profit, which comprise about three-quarters of the local agency network, would be exempt. **However, those agencies which are designated as local government agencies operating the Weatherization Program would not be exempt and, therefore, must conduct “status verification.” Under the DOJ ruling, Grantees subject to this ruling have two years to fully implement this procedure after the publication date of the final rule. As of this date, the final rule has not been issued.**

Also addressed in the LIHEAP-IM-98-25 is the issue of unqualified aliens residing in multi-family buildings. Since many LIHEAP grantees also use the DOE rules to implement their programs, HHS has adopted the 66 percent provision of the DOE regulations to address this issue. Under DOE rules, a multi-family building may be weatherized if 2/3 of the units are eligible for assistance (2 in the case of a 2 or 4-unit building). HHS has modified the provision concerning verifying citizenship in multi-family buildings. LIHEAP-IM-99-10 issued June 15, 1999, retracts any requirement that Weatherization providers must do any type of certification of citizenship in multi-family buildings.



**5.2 MULTI-FAMILY ELIGIBILITY:** In the Final Rule, published in the Friday, December 8, 2000, Federal Register/Vol. 65, No. 237, DOE offered flexibility by adding certain eligible types of large multi-family buildings to the list of dwellings that are exempt from the requirement that at least 66 percent of the units must be occupied by income eligible persons. In these large multi-family buildings, as few as 50 percent of the unit, would have to be certified as eligible before Weatherization can be offered. This exception would apply only to those large multi-family buildings where an investment of DOE funds would result in a significant energy-efficiency improvement because of the upgrades to equipment, energy systems, common space, or the building shell. By providing this flexibility, local agencies will be better able to select the most cost-effective investments and enhance their partnership efforts in attracting leveraged funds and/or landlord contributions. This flexibility does not apply to any other type of multi-family unit.

In the Preamble to the Final Rule, December 8, 2000, at the top of page 77216, it states: “In the proposed rule, DOE made it clear that this flexibility will be targeted to only these certain types of buildings because of the large investment involved and the greater potential for greater energy savings.”

During the Grant Guidance session at the 2008 State Managers’ Meeting, it was requested that DOE rethink the premise that large multi-family buildings are “100 units or more.” Based on this input and the strength of the preamble language in the Final Rule, DOE has removed the “100 units or more” reference from the guidance. However, also based on the preamble language, DOE does not believe this flexibility includes complexes.

As a reminder, when addressing multi-family units with DOE funds, please multiply the total number of income-eligible units in the multi-family building by the current statewide average cost per unit to determine the amount of DOE funding available for weatherizing the building. Further, all units in the building can be served and all units should be reported to DOE.

Currently, approval of buildings that meet the “significant energy improvement” threshold has been handled on a case-by-case basis through the PMC. Uniform guidance is being discussed by DOE to provide grantees clarity on what constitutes “significant energy improvement.”

**Note: Grantee and subgrantee agencies should exercise caution when utilizing flexibility in this area. The key is the investment of DOE funds coupled with leveraged resources which result in significant energy savings. Absent this investment, lowering the eligibility to 50% may lead to disallowed costs. Subgrantee agencies who are uncertain on a given multi-family project should seek approval by the PMC through their Grantee Weatherization Program Manager.**

**5.3 PROCUREMENT OF BUILDING INSULATION PRODUCTS AND MATERIALS CONTAINING RECOVERED MATERIALS:** Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), states that if a procuring agency using Federal funds purchases certain designated items, such items must be composed of the highest percentage of recovered materials practical. On February 17, 1989, the Environmental Protection Agency promulgated the Final Rule containing the guidelines for the procurement of building insulation products. Policy guidance was issued by the DOE on February 16, 1990, providing further clarification on this issue.

**5.4 RENTAL REQUIREMENTS:** All Grantees were required to develop rental procedures prior to the submission of their application to address the provisions of Section 440.22, Eligible Dwelling Units, of the program regulations. In developing these procedures, Grantees were encouraged to open a dialogue with their local agencies to ensure that the procedures adopted are both understood and attainable. As with health and safety protocols, these procedures are not a part of the application; however, they do impact directly on the operation of the program by the subgrantees. DOE strongly encourages Grantees to address their rental procedures, including any changes from the previous year in a public hearing forum. The hearing on the State Plan offers an excellent opportunity to air these procedures and how they would impact other components of the Plan, and to accept and consider comments from the public.

**5.5 ENERGY AUDIT CRITERIA:** Weatherization Program Notice 01-4 explains the criteria DOE will use to approve energy audit procedures and revalidate priority lists every five years as required by the Program regulations. All Grantees whose audit procedures or priority lists were approved more than five years ago must request DOE re-approval. DOE requires energy audit procedures be approved specifically for use on single-family dwellings and mobile homes. Additionally, DOE requires energy audit procedures be approved specifically for use on multi-family buildings if they represent 20 percent or more of the total units weatherized by the Grantee each year.

#### **Single Family Audits:**

The National Energy Audit Tool (NEAT) has been developed by DOE for use by the network. NEAT is part of the Weatherization Assistant and is maintained by Oak Ridge National Laboratory (ORNL). The Weatherization Assistant is posted to the WAPTAC and ORNL websites (<http://www.waptac.org/sp.asp?id=8452> and <http://weatherization.ornl.gov>, respectively). Grantees may elect to use alternative energy audits that are approved by DOE.

#### **Mobile Home Audits:**

Beginning in PY 2009, Grantees are required to have a DOE-approved Mobile Home Energy Audit. The Manufactured Home Energy Audit (MHEA) is now available to the

Network as part of the Weatherization Assistant. Weatherization Program Notice 03-6, dated September 26, 2003, marked the Network release of the new and improved MHEA and outlined its availability and use. The package is available at no cost to regional, grantee, and subgrantee Weatherization agencies. The National Energy Audit Tool (NEAT) and MHEA audits are a part of the Weatherization Assistant and are maintained by Oak Ridge National Laboratory (ORNL). The Weatherization Assistant is posted to the WAPTAC and ORNL websites (<http://www.waptac.org/sp.asp?mc=techaids-audits> and <http://weatherization.ornl.gov>, respectively). The results of the MHEA validation are complete. Grantees will be encouraged to adopt this latest version of the Weatherization Assistant to insure that cost-effective measures are selected and installed in eligible mobile homes. Grantees that use priority lists on mobile homes that were developed with previous version of MHEA should revisit them using the latest revised version.

Grantees must submit mobile home energy audit procedures to DOE for review in PY 2009. All 2009 State Plans must include a training component to implement their procedures for mobile homes. Full implementation of a mobile home-specific component is required in PY 2009.

### **Multi-Family Audits:**

For energy audit purposes, DOE considers multi-family buildings to be those containing five dwelling units or more. Approved single-family energy audits can be used in buildings with one to four dwelling units. As approved by DOE on a case-by-case basis, certain single-family energy audits may be used in multi-family buildings containing up to 25 individually heated and cooled dwelling units. For large multi-family buildings, DOE will continue to rely on EA-QUIP and TREAT.

While TREAT was originally developed for use by home performance contractors, it is approved for use in the Weatherization Program on single-family houses, multi-family buildings, and mobile homes. TREAT was developed by TAITEM Engineering and Performance Systems Development (PSD), Inc. There is a fee associated with the use of TREAT. For information on TREAT, contact PSD's Ethan MacCormick at 124 Brindley Street, Suite 4, Ithaca, NY 14850, 607-277-6240 x 209, [emaccormick@psdconsulting.com](mailto:emaccormick@psdconsulting.com).

EA-QUIP, which stands for Energy Audit using the Queens Information Package, is available from the Association for Energy Affordability, Inc. (AEA) for a nominal fee to Weatherization agencies. A web-based version of EA-QUIP is currently in development. The AEA Training Center is located at 105 Bruckner Blvd., Bronx, NY 10454. For more information on AEA's EA-QUIP, call Taina Palombo-Price at (718) 292-6733 x 210.

While it has been modified over the years to handle a variety of multi-family building types, EA-QUIP's focus has traditionally been the larger multi-family buildings found in New York City and other urban centers. Smaller, garden-style apartment buildings are more typical of many States' multi-family Weatherization efforts. In addition to TREAT, several other energy audit software packages address these smaller multi-family

buildings. DOE will inform the Network when these new audit tools receive DOE approval for use in the Weatherization Assistance Program.

## **5.6 USE OF WEATHERIZATION FUNDS FOR RENEWABLE ENERGY**

**SYSTEMS:** Section 206 of the Energy Policy Act of 2005 (EPACT 2005) amended the Energy Conservation and Production Act (42 U.S.C. 6861 et seq.) to clarify that assistance under the Weatherization Assistance Program for low-income persons may be provided for renewable energy systems and to provide definitions and criteria to be used in assessing eligibility. EPACT 2005 set a ceiling for \$3,000 per dwelling for such assistance, subject to annual adjustments as provided in the statute. EPACT 2005 also requires DOE to establish a procedure under which a manufacturer of a technology or system may request the Secretary of Energy to certify the technology or system as an eligible renewable energy system.

### *Summary of Amendments*

DOE amended 10 CFR Part 440 to codify these EPACT provisions. The Direct Final Rule was published on June 22, 2006, and it became final on August 21, 2006. Section 440.18 (Allowable Expenditures) was amended to incorporate the new statutory provisions addressing renewable energy systems and specifying a ceiling of \$3000 per dwelling for labor, weatherization materials, and related matters.

The language of the Statute authorizes only the incremental difference between the amount now allowed for the statewide average of “labor, weatherization materials, and related matters” (currently \$3,055 per unit) and the new ceiling of \$3,243 for renewable energy systems, or a total addition of \$188. In other words, the calculation by a Grantee of its compliance with the average cost ceiling with and without renewable energy installations should differ by no more than the additional value of \$188 times the number of renewable energy installations. As the ceiling is adjustable over time, according to Section 440.18, the increment will also grow, albeit slowly.

Even though this increment is small, the effect in terms of program implementation is not determined by the size of the increment since using a whole house approach in conjunction with the cost-effectiveness test would limit the use of renewable energy systems in any case. Thus, the major effects of the regulation are to provide criteria and a procedure for integrating renewables into the Weatherization Program, and to establish a process for evaluating petitions to use new or innovative renewable energy systems in the Weatherization Assistance Program.

Section 440.21 was amended to add a new paragraph (c)(1) that specifies performance and quality standards criteria for renewable energy systems. New paragraph (c)(2) was also added to establish a procedure for submission and action on petitions by manufacturers requesting the Secretary of Energy to certify a new technology or system as an eligible renewable energy system.

Approved renewable energy systems will be listed in Appendix A of Part 440, Standards for Weatherization Materials.

**5.7 DISASTER RELIEF:** DOE issued Weatherization Program Notice 08-5, Disaster Planning and Relief, on September, 22, 2008, which supersedes WPN 93-12. This guidance details the process and procedures Grantees should follow to use Weatherization resources to assist in areas that are affected by disasters.

**5.8 ENERGY CRISIS RELIEF:** DOE issued Weatherization Program Notice 01-7 on January 18, 2001, which permits States, if they choose, to use a portion of their DOE grant for energy crisis relief. Procedures for implementation are discussed in the program notice.

**5.9 DETERMINING ELIGIBILITY LEVELS AND DEFINING INCOME:** The Energy Policy Act of 2005, Section 122(b) states “Eligibility” – Section 412(7) of the Energy Conservation and Production Act (42 U.S.C. 6862(7)) is amended by striking “125 percent” both places it appears and inserting “150 percent.” The Department of Energy’s Office of General Counsel determined that it is permissible to make this change through this Grant Guidance. Beginning with PY 2006, the income eligibility level for the DOE Weatherization Program is 150 percent of the Poverty Income Guidelines. In determining the level of eligibility, the State may use either the DOE criteria of 150 percent of poverty or the LIHEAP criteria. This determination, made by the Grantee, must be applied throughout its entire service territory.

The program regulations define low income as income in relation to family size. Annually, DOE issues poverty income guidelines for use in the Program along with a definition of what constitutes income. If the State elects to use the DOE level of 150 percent of poverty then the DOE definition of income provided annually must also be used. However, should a State elect to use the LIHEAP criteria, then the Grantee may either use the DOE definition of income or, as permitted under the LIHEAP regulations, the Grantee may define what constitutes income.

**The Economic Stimulus Act of 2008 provided rebate checks to qualifying individuals and families. With respect to those payments the IRS emphasizes the stimulus payments will not count toward or negatively impact any other income-based government benefits such as Social Security benefits, food stamps, and other programs. Therefore, for the purpose of WAP, the Economic Stimulus Payment will NOT count as income when determining eligibility.**

Eligibility issues are discussed further in Weatherization Program Notice 99-7 issued August 27, 1999.

**5.10 DETERMINING PRIORITY SERVICE:** The final rule provides Grantee and local agencies with additional flexibility to target their services to maximize program effectiveness. In adding the terms high residential energy user and household with a high energy burden, DOE intended to provide Grantee and local agencies with two additional categories of priorities for their discretionary use. These are in no way mandatory and may be used in lieu of, or in any combination with, the existing priority categories of elderly, persons with disabilities, or families with children. By adding these categories, Grantee and local agencies are better able to partner with utilities and other programs to leverage additional resources into their programs. If a Grantee elects to use either of these categories, these should be reported on the Quarterly Program Report.

**5.11 FUEL SWITCHING:** The DOE Weatherization Assistance Program does not permit the general practice on non-renewable fuel switching when replacing furnaces/appliances. DOE does allow the changing or converting of a furnace/appliance using one fuel source to another on a limited, case-by-case basis only.

**5.12 ENERGY-RELATED HEALTH AND SAFETY: The Program's flexibility to improve the health and safety of the low-income persons served is intended to mean "energy-related" health and safety.** Grantees are reminded, the primary goal of the Weatherization Assistance Program is energy efficiency. Achievement of this goal endures even with the program changes which allow the DOE funds to be used for health and safety risk mitigation. The final rule has eliminated the requirement that the cost of all energy-related health and safety risk mitigating be within the per home expenditure average. Grantees are still required to identify health and safety procedures and the percentage of costs involved as a part of their overall Health and Safety Plan to be approved by DOE. This change gives States and local agencies greater flexibility and incentive to incorporate new technologies and their costs into their programs by removing health and safety costs from the per-house limitation; if they are budgeted separately. In providing this flexibility, DOE will continue to encourage States to be prudent in their oversight of the percentage of funds approved for health and safety mitigation on homes weatherized by their local agencies. These revised health and safety mitigation issues are discussed in Weatherization Program Notice 02-5 issued July 12, 2002. Some of the more noteworthy changes from the previous guidance include: a requirement for a five-part State Health and Safety Plan; identification of ten broad areas of potential hazard consideration that must be addressed; and new deferral standards.

Health and safety appears in three sections of the final rule (Sections 440.16, 440.18 and 440.21) and directly affects operation of the program by subgrantees. For PY 2009, this guidance has been revised and Grantees are required to submit a revised Health and Safety Plan which includes a strengthened Lead Safe Weatherization (LSW) Plan. The hearing on the State Plan offers an excellent opportunity to air these procedures and their potential impact on other components on the Plan, and to accept and consider comments from the public.

The final rule does not mandate a separate health and safety budget cost category, but rather encourages Grantees to budget health and safety costs as a separate category and, thereby, exclude such costs from the average per-unit cost calculation. This separate category also allows these costs to be isolated from energy efficiency costs in program evaluations. Grantees are reminded that, if health and safety costs are budgeted and reported under the program operations category, the related health and safety costs would be included in the calculation of the average cost per home and cost-justified through the audit.

Grantees should carefully consider the approach to be taken when they draft their health and safety procedures. While ease of accounting is an important consideration, Grantees should keep in mind that activities assigned to the health and safety budget category do not have to be cost-justified by the energy audit. The same items assigned to incidental repair, weatherization material, or installation cost categories must be cost-justified.

**5.13 LEAD PAINT HAZARD:** To provide additional guidance to Grantees, DOE issued Weatherization Program Notice (WPN) 08-6 on September 22, 2008, as Interim Lead-Safe Weatherization Guidance, for a LSW component of the Health and Safety Plan. This guidance builds on the foundation provided in Weatherization Program Notice (WPN) 02-6, Weatherization Activities and Federal Lead Based Paint Regulations, issued on July 12, 2002, that contain the DOE requirements for Grantees to follow when working in homes with lead-based paint. Please refer to it in developing your individual State Health and Safety Plans to ensure that proper protection is afforded to our Weatherization clients and workers.

In April 2008, EPA published the “Lead; Renovation, Repair, and Painting Program” (LRRPP) Final Rule. This rule specifically cites Weatherization activities (in the context of “renovation”) in several places and has a direct impact on how the Weatherization Program proceeds in implementing Lead Safe Weatherization. Full implementation of the rule will be required for the Weatherization Program. DOE will continue to issue guidance in Program Notices with the information necessary for Grantees to strengthen LSW and prepare to meet the new EPA requirements that are slated to go into effect in PY 2010.

**5.14 ENERGY-RELATED MOLD AND MOISTURE IMPACTS:** DOE is concerned with the escalating attention and related costs for addressing all of the energy-related health and safety issues in weatherized homes. The costs associated with LSW and pollution occurrence insurance coverage have had a profound impact on reducing the number of clients that can be served in a given year. Mold can have an even more costly impact on this Program if local agencies incur liabilities associated with mold resulting from weatherization work they perform. As local agencies strive to coordinate energy efficiency concerns with health and safety needs in the homes they serve, it is imperative for them to understand that the goals of other Federal programs may not be attainable in weatherized homes if non-DOE funds are not available. Grantees and local agencies should ensure that regular weatherization work is performed in a manner that doesn't contribute to mold problems.

This guidance serves to clarify the DOE policy on mold, as well as to provide resources to assist in educating the Weatherization Network and clients about mold. DOE updated its Health and Safety Guidance in Weatherization Program Notice 02-5, issued July 12, 2002. All aspects of that guidance remain in full effect.

### ***Remediation***

**The Weatherization Assistance Program is not a mold remediation program.** The use of DOE funds for the removal of mold and other related biological substances is not an allowable Weatherization expense. Generally, DOE funds should not be used to test, abate, remediate, purchase insurance, or alleviate existing mold conditions identified during the audit, the work performance period, or the quality control inspection. Also, in homes where multiple sources of funds are used, **any mold insurance or mold abatement costs must be charged to another funding source—not DOE.** If necessary, Weatherization services may need to be delayed until the existing mold problem can be referred to another agency for funding of remedial action. DOE funds may be used to correct energy-related conditions to allow for effective weatherization work and/or to ensure the immediate health of workers and clients.

### ***Mold-Related Weatherization Procedures***

Grantee Health and Safety Plans are required to include a protocol for dealing with mold found in client homes. The protocol should include a method of identifying the presence of mold during the initial audit or assessment, notification to the client, and crew training on how to alleviate mold and moisture conditions in homes.

The initial home assessment must include an item to identify if mold is present. If the energy auditor determines that mold is present and cannot be adequately addressed by the weatherization crew, the unit should be referred to the appropriate public or non-profit agency for remedial action.

Local agencies need some form of notification and/or disclaimer to inform the client of the discovery of a mold in the home. The notification will include specific work done on the home that should alleviate the mold problem. The notification needs to be discussed with and signed by the client and/or landlord. The notification can be part of an existing notification/disclaimer form being used for general weatherization work. Local agencies can also augment their client education practices to include mold prevention.

Grantees are required to provide crew training on identification and assessment of moisture and mold hazards, methods to alleviate conditions which promote mold growth, and protocols for client notification. DOE developed a recommended mold training curriculum and provided it to the Network as Weatherization Program Notice 06-4, which can be used for training purposes.



To assist Grantees and local agencies with the most current information about mold and moisture, please check the WAPTAC website or the resource documents listed below.

U.S. Environmental Protection Agency (EPA), Indoor Environments Division (IED), “A Brief Guide to Mold, Moisture and Your Home.”

<http://www.epa.gov/iaq/molds/moldguide.html>

**5.15 REWEATHERIZATION:** The final rule permits Grantees and local agencies to weatherize homes previously weatherized from September 30, 1993, and earlier. DOE gives Grantees the flexibility to revisit those homes weatherized prior to 1993 that may not have received the full complement of Weatherization services, including the use of an advanced energy audit or addressing health and safety concerns. DOE reminds Grantees and local agencies that in selecting previously weatherized homes to revisit, there still remain more than 28 million federally eligible households that have received no Weatherization services to date. Section 5.7 of this guidance addresses Disaster Planning and Relief and references DOE-issued Weatherization Program Notice 08-5, which allows additional work to be done on homes due to natural disasters. Please refer to these sections and follow appropriate procedures if the State wishes to serve homes located in disaster areas.

**5.16 VEHICLE PURCHASES:** In the final rule, DOE amended the regulations to allow agencies to spread the cost of purchasing vehicles and/or certain other equipment, having an acquisition cost of \$5,000 or more over the entire life of the vehicle and the number of homes served during that period. DOE currently retains the cost of purchasing such vehicles and equipment as a part of the amount of funds used to determine the average cost per home per 440.18(c)(6) of the program regulations.

For some local agencies, purchasing vehicles under the existing rule often forced them to seek low-cost Weatherization candidate homes in order to keep their average cost per home within the allowed maximum for the year, while ignoring potentially higher energy saving candidate homes. To address the concerns expressed by the State and local agencies that the cost of these vehicles and certain types of equipment included in the average cost per home calculation placed an undue burden on them, DOE amended 440.18(b) by adding paragraph (3) which allows Grantees and local agencies to determine the average cost per unit by including only that fraction of the cost of a new vehicle or equipment purchase which was actually “used” during the current year.

For example, if a local agency purchases a new vehicle for \$24,000 with an expected useful life for the vehicle of 8 years (96 months), then the cost of that vehicle would be amortized at the rate of \$3,000 per year or at \$250 per month. This approach also affects certain types of equipment purchases having a useful life of more than one year and a cost of \$5,000 or more as defined by 10 CFR 600. It permits local agencies to spread these costs out over the useful life of the vehicle or equipment purchase, for the purpose

of calculating the average cost per home, even though the full purchase price is reported in the year in which it occurs.

Grantees are encouraged to anticipate the need for vehicle purchases and include these in the annual application which, upon approval by DOE, satisfies the requirement for prior approval without the need for subsequent approvals.

**5.17 POLICY ADVISOR COUNCIL:** The final rule reflects DOE's intentions in offering Grantees some flexibility in the area of the Policy Advisory Council (PAC). In order to change the PAC to a council or commission, the Grantee must show cause to DOE that the current PAC is either non-existent or is not functioning as outlined in 440.17 of the Program regulations. DOE does not intend, nor does it mean to imply, that the Grantee has the discretionary authority to replace the PAC with due cause or process.

Any Grantee who desires to substitute a Grantee council or commission for a PAC, must address this issue as a part of the public hearing held on the annual State Plan. The DOE PMC will make the final determination on this request as a part of the review of the application and Plan.

Also, the requirement remains that any person(s) employed in any Grantee Weatherization Program or local agency can be a member of an existing commission or council, but has to abstain in reviewing and approving the activities associated with the DOE Weatherization Assistance Program.

**5.18 ELECTRIC BASE LOAD:** Weatherization Program Notice 00-5 issued October 6, 2000, added the use of replacement refrigerators and replacement electric water heaters to the approved list of measures using DOE funds. Typically, addressing just the heating and/or cooling costs of a dwelling unit accounts for only about half of that unit's energy expenditures. The addition of cost-effective electric base-load measures gives Weatherization agencies greater flexibility to help low-income households reduce their energy costs and to partner with sources of leveraged funds.

**5.19 DAVIS-BACON LABOR RATES:** The Davis-Bacon Act, and related Acts in General, require that contractors and subcontractors pay certain wage rates to laborers and mechanics that are employed on construction projects which receive Federal assistance under those Acts. The Weatherization Assistance Program statute contains no Davis-Bacon wage rate requirements and is, therefore, exempt from any provision of the Davis-Bacon Act.

**5.20 ADMINISTRATIVE COSTS:** The impact of the 10 percent statutory limit on administrative costs has long been a difficult issue for local agencies, particularly small local agencies in the management of their Weatherization programs. As a result, both

Grantees and local agencies have appealed to Congress for many years to provide relief. In 1985, the Congress, while not increasing the ceiling on these costs, did direct DOE to offer guidance to the Grantees in this area. Beginning with the 1985 Annual Grant Guidance to the Grantees, DOE specifically identified instances where certain administrative functions could be charged to the program operations category and encouraged Grantees to permit their local agencies to incorporate these changes. This flexibility has not been uniformly adopted by the Grantees. The only statutory relief provided by Congress came in 1993 when DOE published regulations which included a provision to allow local agencies with grants of less than \$350,000 to be permitted to use up to an additional 5 percent for administrative costs. Even with this flexibility, the administrative costs category, in many ways, is still inadequate. It is clear that Congress is not likely to provide any additional relief on administrative costs for the Weatherization Assistance Program. Therefore, DOE will continue to rely on the program guidance documents still in effect since their issuance in their early 1980's.

The Weatherization authorizing legislation and the Weatherization Program regulations, 10 CFR Part 440, do not specifically define allowable administrative costs. As staff changes throughout the Program occurred, guidance on administrative costs may not have been implemented as it was originally intended or, in some cases, may not have been offered by the Grantee. It is not uncommon to see inconsistent implementation from one Grantee to another and even from one local agency to another within the same State. DOE expects to see consistency in the implementation of program costs, particularly in how the Grantee defines these costs and how they will be charged to either administration or to program operations.

While DOE chose not to change the Program regulations, certain flexibility was afforded Grantees and local agencies through Program guidance. The four separate memoranda provide the only flexibility on charging administrative costs as issued by DOE. Copies of these guidance documents can be found on the WAPTAC website. Included in these memoranda is House Report 98-886 which accompanied the 1985 Appropriations Bill and provided DOE with the original authority to provide relief for local agencies on the issue of administrative costs.

Program guidance in this area generally lacks specificity and it was not mandatory that every single State use the guidance uniformly. The fact that the flexibility offered in these memoranda would not be picked up by an A-133 audit does cause concern when an independent financial audit of the Program is conducted. An auditor would note discrepancies in program operations costs that would normally be charged as traditional administrative costs. DOE will attempt to address through future training venues how States can best assure that the flexibility offered by DOE is understood and applied uniformly.

## **6.0 REPORTING**

**6.1 REPORTING REQUIREMENTS:** The reporting requirements are set forth in Attachment 2 of Funding Opportunity Announcement No. DE-PS26-09NT01243.

**6.2 REPORTING DOE COMPLETED UNITS:** It is important both to DOE and the Weatherization Network that the most accurate information on how many units were completed with DOE funds are reported. This information will not only help DOE to meet its performance goals, but also help portray the Program in the best light to the Congress and other interested parties. Meeting performance goals is paramount to the Program, attracting higher appropriations in the future and also assisting Grantees and local agencies with their leveraging efforts. Grantees should ensure that their local agencies report all units in which DOE funds are used as DOE completions.

DOE is aware that this may be difficult where multiple sources of funds are used to weatherize a unit or a complicated leveraging agreement has been reached with non-Federal partners. To assist Grantees and local agencies in determining what a DOE weatherized unit is, DOE offers the following definition. **A DOE Weatherized unit is: A dwelling on which a DOE-approved energy audit or priority list has been applied and weatherization work has been completed. As funds allow, the DOE measures installed on this unit have a Savings-to-Investment Ratio (SIR) of 1.0 or greater, but also may include any necessary energy-related health and safety measures. The use of DOE funds on this unit may include, but are not limited to auditing, testing, measure installation, inspection, or use of DOE equipment and/or vehicles, or if DOE provides the training and/or administrative funds. Therefore, a dwelling unit that meets both the definition of a DOE weatherized unit and has DOE funds used directly on it must be counted as a DOE completed unit.**

**CONCLUSION:** The Weatherization Assistance Program in PY 2009 will continue to address the challenge of achieving increases in production and expenditures, while continuing to maintain and enhance program quality and effectiveness. We remain committed to working together with all the members of the Network to continue laying the groundwork for implementation of Weatherization *Plus* strategies, with the goal of providing more energy savings to more low-income households in the communities we serve throughout the country.

Once again, both the Administration and Congress have expressed a keen interest in seeing that the Program meets its performance while at the same time minimizing the amount of carryover funds.

The effort put forth in recent years by the Weatherization Network was instrumental in exceeding the Weatherization Assistance Program performance goal. I am confident that we can, and will, continue this level of effort in PY 2009 to again meet our expectations while delivering quality Weatherization services to our low-income clients.



Gilbert P. Sperling  
Program Manager  
Office of Weatherization and Intergovernmental Program  
Energy Efficiency and Renewable Energy