



**Department of Energy**  
Washington, DC 20585

**WEATHERIZATION PROGRAM NOTICE 11-09**  
**EFFECTIVE DATE: April 1, 2011**

**SUBJECT:** UPDATED GUIDANCE ON ELIGIBLE MULTIFAMILY PROPERTY LISTINGS FOR USE IN THE WEATHERIZATION ASSISTANCE PROGRAM

**PURPOSE:** To notify interested parties of supplemental listings of properties that have been determined to meet certain eligibility criteria under the Weatherization Assistance Program (WAP). Also to provide guidance for accessing current listings and future supplemental listings at the website for the Department of Energy (DOE), Office of Energy Efficiency and Renewable Energy (EERE).

**SCOPE:** The provisions of this guidance apply to Grantees or other entities named in the Notification of Grant Award as the recipient of financial assistance under the DOE WAP. This guidance applies to all sources of funds in use – American Recovery and Reinvestment Act of 2009 (Recovery Act) and regular appropriated DOE Weatherization funds in 2009, 2010 and beyond.

**LEGAL AUTHORITY:** Title IV, Energy Conservation and Production Act, as amended, authorizes the DOE to administer the WAP. All grant awards made under this Program shall comply with applicable law including regulations contained in 10 CFR Part 440, the Energy Policy Act of 2005, the Energy Independence and Security Act of 2007, and the Recovery Act.

**BACKGROUND:** On March 2, 2010, DOE issued Weatherization Program Notice 10-15, titled “Final Rule on Amending Eligibility Provisions to Multifamily Buildings for the Weatherization Assistance Program” (WPN 10-15), in which DOE posted two lists, supplied by HUD, of properties that have been identified to meet certain income eligibility criteria under WAP. The lists reduce the review and verification necessary to weatherize the identified buildings through WAP. WPN 10-15 may be accessed at website: <http://waptac.org/Program-Guidance/2010002D2006-Program-Guidance-Documents.aspx>.

The two lists posted in WPN 10-15 were:

**List #1** - Properties identified on list #1 have been determined to comply with the requirements that –

- A minimum of 66% of the dwelling units in the building are occupied by a family unit that meets the income requirement (as required under 10 CFR 440.22(b)(2));
- For a reasonable period of time after weatherization work has been completed, the eligible dwelling unit will not be subject to rent increases as a result of the weatherization (as required under 10 CFR 440.22(b)(3)(i)); and
- No undue or excessive enhancement has occurred to the value of the dwelling unit (as required under 10 CFR 440.22(b)(3)(i)).

List 1 consists of properties that are:

- Public Housing for which 100% of buildings in the identified properties meet the necessary qualifications;
- Public Housing for which only specified buildings in the identified properties meet the necessary qualifications qualify; and
- Assisted Multifamily for which properties meet the necessary qualifications, in part, by having 3 or more years remaining on affordability agreements.

**List #2** - Properties identified on list #2 have been determined to comply with the requirements that –

- A minimum of 66% of the dwelling units in the building are occupied by a family unit that meets the income requirement (as required under 10 CFR 440.22(b)(2)); and
- No undue or excessive enhancement has occurred to the value of the dwelling unit (as required under 10 CFR 440.22(b)(3)(i)).

List 2 consists of Qualified Assisted Housing Properties that have less than 3 years remaining under the affordability agreement and that meet the income eligibility threshold.

Additionally, WAP regulations provide for a third list. The third list is for properties that have been determined to comply with the requirement that a minimum of 66% of the dwelling units in the building are occupied by a family unit that meets the income requirement (as required under 10 CFR 440.22(b)(2)). At the time WPN 10-15 was issued, no properties were identified for the third list.

**GUIDANCE:** Since DOE issued WPN 10-15, additional properties have been identified by HUD and USDA. DOE has determined that these additional properties meet the requirements of one of the three lists identified above. As of this notice DOE has posted these additional properties under the appropriate listing. The updated listing can be found at [http://www1.eere.energy.gov/wip/multifamily\\_guidance.html](http://www1.eere.energy.gov/wip/multifamily_guidance.html). Below is a brief description of the properties, as added to each list.

## LIST 1

### **Supplemental List 1A: Eligible Multifamily Buildings** 10-CFR-440.22(b)(4)(i)

Supplemental List 1A was added on November 15, 2010.

Supplemental List 1A consists of two sub-lists:

- Public Housing – Only specified buildings in the identified properties meet the necessary qualifications qualify; and
- Assisted Multifamily – Properties meet the necessary qualifications, in part, by having 3 or more years remaining on affordability agreements.

### **Supplemental List 1B: Eligible Multifamily Buildings** 10-CFR-440.22(b)(4)(i)

Supplemental List 1B was added on March 15, 2011.

Supplemental List 1B consists of Assisted Multifamily – Properties meet the necessary qualifications, in part, by having 3 or more years remaining on affordability agreements.

## LIST 2

### **Supplemental List 2A: Eligible Multifamily Buildings** 10-CFR-440.22(b)(4)(ii)

Supplemental List 2A was added on November 15, 2010.

Supplemental List 2A consists of Qualified Assisted Housing Properties that have less than 3 years remaining under the affordability agreement and that meet the income eligibility threshold.

### **Supplemental List 2B: Eligible Multifamily Buildings** 10-CFR-440.22(b)(4)(ii)

Supplemental List 2B was added on March 15, 2011.

Supplemental List 2B consists of Qualified Assisted Housing Properties that have less than 3 years remaining under the affordability agreement and that meet the income eligibility threshold.

### **LIST 3**

#### **List 3-1: USDA List of Multifamily Housing Units**

List 3-1 was added on March 15, 2011.

The USDA supplied this list of multifamily housing units that meet the income eligibility requirement and that is organized by postal address for use by weatherization service providers.

#### **List 3-2: Low-Income Housing Tax Credit (LIHTC) Buildings**

List 3-2 was added on March 15, 2011.

List 3-2 consists of LIHTC properties provided by HUD that met the income eligibility requirement.

#### **Supplemental List 3-2A: Eligible LIHTC Buildings 10-CFR-440.22(b)(4)(iii)**

Supplemental List 3-2A was added on March 15, 2011.

Supplemental List 3-2A consists of LIHTC properties provided by HUD that met the income eligibility requirement.

Buildings identified on the lists above and on the DOE/EERE website must still meet all other applicable eligibility requirements in order to receive WAP services. Further, the final rule published in the Federal Register on January 25, 2010, amending 10 CFR Part 440.22, Eligible Dwelling Units (75 Fed Reg. 3847) **does not** result in automatic eligibility for the identified buildings. The final rule only addresses a subset of the eligibility requirements. Nor does the rule require grantees or local WAP providers to set aside WAP funds for these properties. Lastly, the final rule also **does not** establish a priority for the weatherization of the identified buildings. States are not required to establish a particular prioritization with regard to the weatherization of multi-family buildings.

**FUTURE POSTINGS:** HUD and USDA may from time to time identify additional eligible properties that meet the income eligibility criteria under WAP. DOE will post additional supplemental lists as they become available on the DOE/EERE website at: [http://www1.eere.energy.gov/wip/multifamily\\_guidance.html](http://www1.eere.energy.gov/wip/multifamily_guidance.html) and issue a Weatherization Program Notice identifying the additional supplemental lists.

**CONCLUSION:** Weatherization of buildings in the public housing market provides greater opportunities for local agencies to serve even more low-income persons in their communities. The final rule published on January 25, 2010, reduces the procedural

obstacles to determining the eligibility of such buildings. If there are additional questions or concerns, Grantees should contact their PMC Project Officer. DOE appreciates your cooperation and patience as we work together to achieve the Administration's goal of creating jobs and increasing the number of people who benefit from Recovery Act funded weatherization projects.



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