



Department of Energy
Washington, DC 20585

WEATHERIZATION PROGRAM NOTICE 10-1
EFFECTIVE DATE: December 18, 2009

SUBJECT: PROGRAM YEAR 2010 WEATHERIZATION GRANT GUIDANCE

PURPOSE: To issue grant guidance and management information for the Low-Income Weatherization Assistance Program (Weatherization) for Program Year (PY) 2010.

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 awards made under this program shall comply with applicable law and regulations including the WAP Regulations contained in 10 CFR Part 440.

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 2010 Funding Opportunity Announcement No. DE-FOA-0000216.

NATIONAL EVALUATION: The Department of Energy has initiated the National Evaluation of the Weatherization Assistance Program. This multi-year project will assess program performance and procedures both retrospectively, for PY 2007 and PY 2008, and for the American Recovery and Reinvestment Act (ARRA) period, PYs 2009-2011. Section 3.3 of this guidance and WPN 10-11 provides additional information including what Grantees should anticipate with regard to participation in the evaluation effort.

PRODUCTION: There remains a strong interest 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.

FINAL APPROPRIATIONS BILL: On October 28, 2009, the President signed into law the Energy and Water Development and Related Agencies Appropriations Act, 2010, Public Law No.111-85, which provided funding to the Weatherization Assistance Program for Fiscal Year 2010 in the amount of \$210,000,000. This \$210,000,000 in funding includes \$180 million for traditional Weatherization, of which \$3.3 million was allocated for Headquarters Training and Technical Assistance, and \$30 million for an innovative leveraging project. The final allocations for FY 2010 are provided in Weatherization Program Notice 10-2. States should develop their final PY 2010 State Plans based on these allocations. **Additional information related to the \$30 million innovative leveraging project will be issued by a separate Program Notice.**

ALLOCATION FORMULA: If the State program allocations in a fiscal year (FY) are at or above the amount allocated to States in FY 1994 under Public Law No. 103-332 (September 30, 1994), (i.e., \$209,724,761) the State program allocations are distributed according to a two-part allocation procedure. Should total funds for State program allocation fall below \$209,724,761, the allocations to States are reduced proportionally. This Program Year the two-part allocation procedure will not be in effect.

5.1 QUALIFIED ALIENS RECEIVING WEATHERIZATION BENEFITS:

Grantees are directed to guidance provided by Health and Human Services (HHS) under LIHEAP. This guidance can be found by going to <http://faq.acf.hhs.gov/cgi-bin/liheap.cfg/php/enduser/home.php> and searching the word “aliens” under the “Find Answers” section.

PREVAILING WAGE: The Weatherization Assistance Program statute contains no Davis-Bacon requirements; therefore, annual appropriations are exempt from any provision of the Davis-Bacon Act. Specifically, **Davis-Bacon requirements do not apply to the 2010 Annual Appropriations outlined in WPN-10-02.**

However, Grantees are reminded that **Davis-Bacon requirements remain in effect for all ARRA-funded projects.** ARRA-funding and PY 2010 funding must not be comingled. ARRA and regular appropriations are to be tracked and reported separately.

HISTORIC PRESERVATION: Prior to the expenditure of Federal funds to alter any structure or site, the Grantee is required to comply with the requirements of Section 106 of 16 U.S.C. 470 the National Historic Preservation Act (NHPA). DOE’s Historic Preservation liaisons are currently reviewing guidance including outlining options for

Grantees on the responsibilities agencies have to ensure compliance. DOE will be issuing a separate Program Notice to address this issue.

WEBSITE INFORMATION: To assist the Weatherization Network in obtaining the most up to date information on programmatic/policy issues, technical issues, and evaluation studies, please reference 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).

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1.0 FUNDING

1.1 GENERAL FUNDING: In PY 2010, funding for the Weatherization Assistance 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 Energy and Water Development and Related Agencies Appropriations Act, 2010 provided \$210 million dollars of funding to Weatherization. Weatherization Program Notice 10-2 issues final 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 final allocations of appropriated funds, plus all petroleum violated escrow (PVE) and any other funds they intend to allocate for use under the Weatherization Program. 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 2010 under 10 CFR 440.18(a) is \$6,500. This adjusted annual average is determined by DOE using the annual Consumer Price Index (CPI) or 3 percent, whichever is less to increase the annual average. The CPI for the previous 12-month period (September 2008 – September 2009) is -1.3 percent. Given that the CPI for the previous 12-month period is a negative value, this Program Year the adjusted average expenditure limit remains \$6,500.

The PY 2010 adjusted average for renewable energy measures is \$3,243, the same as PY2009 allowable average. The average for renewable energy measures is annually increased to adjust for inflation. Given that the CPI for the previous 12-month period is a negative value the adjusted average for renewable energy measures remains \$3,243. 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 and regulatory limit of 10 percent on funds that may be used for administrative purposes. Not more than 5 percent of grant funds (total allocation for a program year, including carry-over funds and 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.

Funds in administrative category accounts may be carried over from the previous budget period. 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.

A State may provide in its annual plan for recipients **of less than \$350,000** to use up to **an additional 5 percent** of such grants for administration if the State has determined that such recipient requires the additional amount to implement effectively the administrative requirements established by DOE. States are to develop criteria to be used for allowing the eligible subgrantees to use **up to an additional 5 percent** of their subgrants for administrative purposes. The criteria must be submitted with the annual file. The criteria must be submitted with the annual file.

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 plan, 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 20 percent of the funds appropriated for such year under the Weatherization Program. This percentage was amended in the statute from the historic “not to exceed 10%” in the 2009 American Recovery and Reinvestment Act (ARRA). 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 division of for PY 2010 for national T&TA is \$3.3 million

(1.8% of \$180 million) and for Grantees is \$32.7 million (18.2% of the \$180 million). T&TA funding allowances was not applied to the \$30 million innovative leveraging project.

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 expressly identified 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-FOA-0000216. For PY 2010 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 2010 application package, refer to Part IV, Paragraph C of Funding Opportunity Announcement No. DE-FOA-0000216.

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 2010 State Plans to determine that all local agency issues are properly addressed by the Grantee prior to approval of the final State Plan. 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, local agencies, and other interested parties 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 2010, **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 award, 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: A separate budget category is permitted 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.

T&TA funds may also be used to train contractors at the local agency level participating in the Program. In making the determination to pay for contractor training, Grantees and subgrantees should secure a retention agreement in exchange for the training. The contract agreement should stipulate that contractors will work in the Program, at a minimum, for a specific amount of time and should align with the cost of the T&TA provided. Examples of contractor/agency agreements can be found at www.waptac.org or can be obtained by request from the Grantee’s contact at the Project Management Center.

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: The Department of Energy has initiated the National Evaluation of the Weatherization Assistance Program. This multi-year project will assess program performance and procedures both retrospective, for PY 2007 and PY 2008, and for the ARRA period, program years 2009-2011. The retrospective evaluation is being conducted by a competitively selected independent contractor team headed by Apprise, Inc. of Princeton N.J. under the supervision of Oak Ridge National Laboratory. (Please see Program Notice 10-11 for further details.) The specific outline of this study can be found in *National Evaluation of the Weatherization Assistance Program, ORNL/CON 498* <http://weatherization.ornl.gov/Publications.htm>.

The evaluation effort is critical to the future design and management of the Weatherization Assistance Program. The research has many components to it and will involve all grantees and subgrantees, as well as many contractors, Department staff, energy vendors and some weatherization households. A Network Committee comprised of representatives of Grantees, subgrantees and others were instrumental in the design of the evaluation and will continue to be involved in its implementation and further development.

While all Grantees and subgrantees will be asked to provide some information for the evaluation, some will be called upon to provide substantial amounts of data from their records in order to facilitate a proper sampling of weatherized households and related performance information. All Grantees and subgrantees are asked to continue the practice of acquiring household energy bill confidentiality waivers from all applicant households.

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. Key components of the policy were affected. DOE will provide updated monitoring guidance through a future WPN with the latest monitoring policy and tools.

A. **ROLE:** The Grantee must conduct 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 are strongly encouraged to inspect additional "in progress" units in order to assess compliance with safe work practices, adherence to lead safe weatherization protocols, and other factors that are relevant to onsite, in progress reviews. 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.

Please Note: Exemplary agency status is suspended through March 2012. DOE will assess the benefits and at that point determine the merit of reinstating exemplary agency status.

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 QUALIFIED ALIENS RECEIVING WEATHERIZATION BENEFITS:

Grantees are directed to guidance provided by Health and Human Services (HHS) under LIHEAP. This guidance can be found by going to <http://faq.acf.hhs.gov/cgi-bin/liheap.cfg/php/enduser/home.php> and searching the word "aliens" under the "Find Answers" section.

5.2 MULTI-FAMILY ELIGIBILITY: Certain buildings containing rental units may comply with the income eligibility requirements by 50 percent of the dwelling units being eligible dwelling units, as opposed to 66 percent. The buildings that are subject to the 50 percent threshold are duplexes, four-unit buildings, and certain eligible types of large multi-family buildings. In the final rule published December 8, 2000, DOE provided guidance on what buildings are "certain eligible types of large multi-family buildings" (65 Federal Register 77210).

DOE indicated that "certain eligible types of large multi-family buildings" are those buildings for which 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. (65 FR at 77215) By providing this flexibility, local agencies are 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 guidance subsequent to the December 8, 2000 final rule, DOE indicated that "certain eligible types of large multi-family buildings" were limited to buildings with 100 units or more. 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." DOE no longer considers "certain eligible types of large multi-family buildings" to be limited to buildings with 100 units or more. However, also based on the

preamble language, DOE does not believe this flexibility includes complexes. Questions on whether a building meets the criteria should be directed to the PMC Project Officer.

Currently, whether a building meets the “significant energy improvement” threshold is being 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.”

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.

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:

The Comprehensive Procurement Guideline (CPG) program is authorized by Congress under Section 6002 of the Resource Conservation and Recovery Act (RCRA) and Executive Order 13423. EPA is required to designate products that are or can be made with recovered materials, and to recommend practices for buying these products. Once a product is designated, procuring agencies are required to purchase it with the highest recovered material content level practicable.

For more information on these products, Grantees should consult the EPA website <http://www.epa.gov/osw/conserva/tools/cpg/products/building.htm>.

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.

Where multi-family dwelling units represent more than 20% of a Grantee's building type, DOE requires approval of the multi-family audit and procedures. For Grantees that do not have DOE approval for multi-family unit audits, Grantees shall describe in their State Plans the approach that will be taken to ensure that the eligible occupants of multi-family dwellings receive appropriate, cost-effective weatherization services.

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.

Mobile Home Audits:

Guidance requires Grantees to have a DOE-approved Mobile Home Energy Audit. **All 2010 State Plans must include a training component to implement their procedures for mobile homes.**

The Manufactured Home Energy Audit (MHEA) is available to the Network as part of the Weatherization Assistant, developed by DOE for use by the network. 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 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 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 a previous version of MHEA should revisit them using the latest revised version.

Grantees may elect to use alternative energy audits.

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.

Unlike single-family and mobile homes, DOE has not developed a multi-family audit but instead relies on commercially available tools to meet the needs of the Weatherization Assistance Program.

DOE-Approved Audit Tools for Use in the WAP:

DOE has previously reviewed and accepted the following software for use in single-family dwellings within the Weatherization Assistance Program: AKWarm, EASY 2.1, EA-4, HomeCheck, NEAT, SMOC-ERS, TIPS, TREAT, WeatherWorks, and WXEOR.

For Mobile Homes, DOE has previously reviewed and accepted the following software for use in the Weatherization Assistance Program: AKWarm, EASY 2.1, EA-4, HomeCheck, Meadow 96, MHEA, REM/Rate, TIPS, TREAT, WeatherWorks, and WXEOR.

For small multi-family buildings, less than 25 units, *where the units are individually heated or cooled*, DOE has previously reviewed and accepted for use in the Weatherization Assistance Program the following software: AKWarm*, EA-4*, EASY 2.1*, HomeCheck*, NEAT, REM/Rate*, and TREAT.

* - separate audit tools are necessary to evaluate mechanical measures

For small multi-family buildings, less than 25 units, *with buildings containing central heating and cooling systems*, DOE has previously reviewed and accepted for use in the Weatherization Assistance Program the following software: EA-Quip and TREAT.

For large multi-family buildings, more than 25 units, DOE has previously reviewed the accepted for use in the Weatherization Assistance Program the following software: EA-QUIP and TREAT.

In accordance with WPN 01-4, DOE reviews not only how the energy audit software or manual methods estimate energy use and potential weatherization savings, but also how a Grantee implements their energy audit procedures. Therefore, Grantees requesting to use previously accepted software still have to list the measures that are typically enabled and provide the input data, assumptions, and audit results (recommended measures) for two sample dwelling units typical of those weatherized by the Grantee's program. All of the information on field procedures and administrative requirements described in Attachment 1 of WPN 01-4 must be provided with any audit approval requests.

5.6 USE OF WEATHERIZATION FUNDS FOR RENEWABLE ENERGY

SYSTEMS: Assistance under the Weatherization Program may be provided for renewable energy systems. The per dwelling cap for such assistance is \$3000, subject to annual adjustments.

Summary of Amendments

Section 440.18 (Allowable Expenditures) incorporates the renewable energy system provisions and specifies a ceiling of \$3000 per dwelling for labor, weatherization materials, and related matters. The current adjusted value is \$3,243 for renewable energy systems.

Because the total average cost per unit exceeds the renewable measures allowance, 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(c)(1) specifies performance and quality standards criteria for renewable energy systems. Paragraph (c)(2) establishes 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 ARRA amended the DOE Weatherization eligibility criterion by striking “150 percent” in both places it appears and inserting “200 percent.” This raises the eligibility criterion for DOE Weatherization from 150 percent of poverty to 200 percent of poverty.

This may also cause the Low-Income Home Energy Assistance Program eligibility no longer to be the upper ceiling on the definition of income in any given state. Beginning with issuance of WPN 09-1B, dated March 12, 2009, the income eligibility level for the DOE Weatherization Program is 200 percent of the Poverty Income Guidelines.

In determining the level of eligibility, the Grantee may use either the DOE criteria of up to 200 percent of poverty or the LIHEAP criteria. This determination, made by the Grantee, must be applied throughout the Grantee's entire service territory. Grantees shall require all subgrantees to maintain records documenting weatherization assistance recipients' eligibility. Grantees shall require subgrantees to reimburse DOE funds provided to pay the cost of weatherizing a unit if it is determined that the family unit occupying the residence was not eligible for weatherization assistance at the time such services were provided.

In 2009, "The Economic Recovery Payment" was made to retirees that met certain criteria, disabled veterans receiving benefits, and railroad retirement beneficiaries. The IRS emphasizes the \$250 payment 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 Recovery Payment will NOT count as income when determining eligibility.

5.10 DETERMINING PRIORITY SERVICE: Grantees and local agencies are provided flexibility to target their services to maximize program effectiveness. In prioritizing weatherization assistance Grantees are to give consideration to "high residential energy users" and "households with a high energy burden." However, the weatherization of such units is not mandatory. Consideration of such units may be used in lieu of, or in any combination with, the other priority categories of elderly, persons with disabilities, or families with children. By considering "high residential energy users" and "households with a high energy burden," Grantees and local agencies should be 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 submitted in Program Reporting.

5.11 FUEL SWITCHING: The DOE Weatherization Assistance Program does not permit the general practice on non-renewable fuel switching when replacing furnaces/appliances. However, 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 that 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 cost of all energy-related health and safety risk mitigating is not part of the per home expenditure average. Grantees are 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 approach 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 encourages 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. The 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 regulations (Sections 440.16, 440.18 and 440.21) and directly affect operation of the program by subgrantees. In PY 2009, Grantees were required to submit a revised Health and Safety Plan which included a strengthened Lead Safe Weatherization (LSW) Plan. Strengthened Health and Safety plans continue to be a priority for DOE. 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 regulations do 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 should 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. Further clarification and guidance was provided in WPN 09-6, providing additional materials. These guidance pieces build 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. **Grantees are reminded, the EPA Final Rule with an effective date of April 10, 2010, requires Certified Renovators to be onboard with subgrantee crews or contractors, and performing all the EPA required functions on all pre-78 housing that has not been determined as exempt by state-approved protocols.**

Grantees should be advised, Certified Renovator courses are generally created for renovation/remodeling contractors and do not include all aspects of Lead Safe Weatherization (LSW) – the methods and techniques that reduce the spread of dust specific to typical Weatherization activities. Because Certified Renovator courses do not cover all LSW practices, DOE requires **ALL** Certified Renovators be trained in LSW prior to working on pre-78 housing. Further, since DOE requires LSW in all pre-78 housing, all crew workers must also be trained in LSW before working in pre-78 housing.

DOE further requires all Grantee Monitors/Inspectors be Certified Renovators in order to effectively monitor against the EPA requirements AND trained in LSW in order to effectively monitor against LSW minimum requirements.

5.14 ENERGY-RELATED MOLD AND MOISTURE IMPACTS: DOE recognizes the increased concern 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.

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. That 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.

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: ARRA amended the DOE Weatherization Reweathering dates and now allows Grantees and local agencies to weatherize homes previously weatherized from September 30, 1994, and earlier. DOE gives Grantees the flexibility to revisit those homes weatherized prior to 1994 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 38 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 Grantee wishes to serve homes located in disaster areas.

5.16 VEHICLE PURCHASES: The regulations and guidance that include the requirement for approval for purchase of equipment greater than \$5,000 and vehicles "in every instance" are as follows. (10 CFR Part 440.18(c)(6) and Weatherization Program Notice 05-1, Program Year 2005 Weatherization Grant Guidance, dated November 12, 2004, explains why this requirement could not be eliminated.)

The regulations 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 Grantee 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.

Availability (i.e. 8-week order or whether it is in stock) of vehicles/equipment should be considered and is best made part of the bid specification.

Grantees, as well as subgrantees, should consider and weigh the options on leasing versus purchasing. DOE would not need to approve a vehicle lease that does not include a "purchase option." But if a lease-purchase option is proposed and even if the purchase price is as small as one dollar, DOE would need to approve the purchase of the vehicle. Disposition of equipment/vehicles needs to be considered.

For approval of Vehicle & Capital Equipment Purchases, the minimum information needed by DOE is:

- Name of requesting Grantee and Local Agency
- Where the vehicle will be used and how it will be used – Specify, full or part time use in Weatherization Program
- A statement of whether this is a replacement or an expansion for ramp-up. If this is a replacement, how is the trade-in being addressed?
- Brief description of how the procurement will be done, and confirmation that Agency, State and Federal procurement guidelines will be met
 - 2 CFR 225 (former OMB Circular A-87) – Cost Principles for State, Local, and Indian Tribal Governments
 - 2 CFR 230 (former OMB Circular A-122) – Cost Principles for Non-Profit Organizations
- What the funding source(s) will be (e.g., DOE Weatherization Program Operations funds). Subgrantee T&TA funds are not an allowable option as noted in bold at the end of Section 2.5 in the annual guidance.
- Copies of bid specifications (vehicle/equipment description with options requested) and a bid analysis indicating at a minimum, each bidder, the bid price, a determination whether the proposal met the bid specification
- Statement that lowest bid will be selected, or a sufficient justification of the “best value selection” if lowest bid not recommended for DOE approval.

This information can be submitted via e-mail, fax, or mailed letter, but the Grantee recommendation for approval must be submitted in writing to the applicable DOE Weatherization PMC Project Officer.

If a Grantee submits the above information via e-mail or fax, the DOE Project Officer should approve the request within three business days; pending all of the minimum information is adequately provided. If extenuating circumstances arise, the Project Officer will follow-up within three days, requesting additional details on the purchase.

5.17 POLICY ADVISORY COUNCIL: The regulations reflect 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 without 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 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 ACT: The Weatherization Assistance Program statute contains no Davis-Bacon requirements; therefore, annual appropriations are exempt from any provision of the Davis-Bacon Act. Specially, **Davis-Bacon requirements do not apply to the 2010 Annual Appropriations outlined in WPN-10-02.**

However, Grantees are reminded that Davis-Bacon requirements remain in effect for all ARRA-funded projects. ARRA-funding and PY 2010 funding must not be comingled. ARRA and regular appropriations are to be tracked and reported separately.

5.20 ADMINISTRATIVE COSTS: The impact of the 10 percent statutory and regulatory limit on administrative costs has long been a difficult issue for local agencies, particularly small local agencies in the management of their Weatherization programs. 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. Additionally, the current regulations include 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. 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. 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 is not mandatory for Grantees. However, 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 Grantees can best assure that the flexibility offered by DOE is understood and applied uniformly.

5.21 HISTORIC PRESERVATION: Prior to the expenditure of Federal funds to alter any structure or site, the Grantee is required to comply with the requirements of Section 106 of 16 U.S.C. 470 the National Historic Preservation Act (NHPA). DOE's Historic Preservation liaisons are currently reviewing guidance including outlining options for Grantees on the responsibilities agencies have to ensure compliance. DOE will be issuing a separate Program Notice to address this issue.

6.0 REPORTING

6.1 REPORTING REQUIREMENTS: The reporting requirements are set forth in Funding Opportunity Announcement.

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. Meeting performance goals is paramount to the Program, and can assist 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 is a key component of the ARRA. The Grantees have done a remarkable job of revising and refining the delivery mechanisms in order to meet the unprecedented challenge put before the network. It is an understatement to say the ARRA funding was met with unanticipated challenges. With many of those challenges behind us, Congress continues to support this Program with annual appropriations that will be expended on a parallel track with the ARRA funding.

This is a testament to the value of this network to the country and the ability the Grantees have demonstrated in meeting this critical need at this point and time and our country's commitment to energy efficiency.

I am confident we will meet and exceed the expectations of this Administration and Congress going forward and these efforts will result in more low-income families being served through quality Weatherization services.



Claire Broido Johnson
Acting Program Manager
Office of Weatherization and Intergovernmental Program
Energy Efficiency and Renewable Energy