

81.042

STATE ENERGY PROGRAM

State Project/Program: WEATHERIZATION ASSISTANCE PROGRAM FOR LOW-INCOME PERSONS

Federal Authorization: **U. S. Department of Energy**
American Recovery and Reinvestment Act of 2009; Title IV, Energy Conservation and Production Act; 10 CFR Part 440; Energy Policy Act of 2005; 10 CFR Part 600; Energy Independence and Security Act of 2007.

NC Department of Environmental Quality
Weatherization Assistance Program

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The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor can consider the supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current.

The grantor agency may elect to review audit working papers to determine that audit tests are adequate.

Auditors may request documentation of monitoring visits by the State Agencies.

This compliance supplement must be used in conjunction with the OMB 2023 Compliance Supplement which will be issued in the summer. This includes “Part 3 - Compliance Requirements,” for the types that apply, “Part 6 - Internal Control,” and “Part 4 - Agency Program” requirements if the Agency issued guidance for a specific program. The OMB Compliance Supplement is Section A of the State Compliance Supplement.

I. PROGRAM OBJECTIVES

The objective of the federal Weatherization Assistance Program (WAP) program is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total expenditures on energy, and improve their health and safety. WAP has a special interest in addressing these needs for low-income persons who are particularly vulnerable, such as the elderly, disabled persons, and families with children, as well as those with high energy usage and high energy burdens.

II. PROGRAM PROCEDURES

Program Administration

The State submits an application and plan by way of the North Carolina Weatherization Assistance Program (NC WAP) to the United States Department of Energy (DOE). The submission describes the proposed weatherization projects and contains a budget, a production schedule of dwelling units to be weatherized with grant funds, a monitoring plan, a training and technical assistance plan, rental procedures, and a health and safety plan. Upon approval, the State receives funds from DOE and may enter into sub-agreements with local administering agencies having approved plans. If the State does not submit an application or if the State plan is rejected, a local applicant may submit a plan to carry out weatherization projects. Section 411(c) of the Energy Independence and Security Act of 2007 added Puerto Rico and the U.S. Territories to the definition of "State." As a result, beginning in Fiscal Year 2009, DOE will make WAP awards to American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. References to "State" in this program supplement include these entities. DOE also provides direct grants to select Native American tribes each year.

In addition to Federal appropriated funds, other sources of funding under this program may include oil overcharge funds, also known as petroleum violation escrow (PVE) funds. PVE-leveraged funds identified in the budget and incorporated into the DOE award (as part of the approved budget) must meet all DOE requirements, including allowability of costs, specified in the award. If such funds are not included in the approved budget, states have greater flexibility in how those funds are used.

Department Activities

WAP funds are obtained by the State after the submission of a State Plan to the U.S. Department of Energy (DOE) which describes the proposed weatherization projects and contains a budget, a production schedule of dwelling units to be weatherized with grant funds, a monitoring plan, training and technical assistance plan, rental procedures and a health and safety plan. Upon approval, the State receives funds from DOE and enters into contractual agreements with local administering agencies that have been approved as local subrecipients.

In accordance with 10 CFR 440.15, the State must ensure that each subrecipient is a Community Action Agency (CAA) or other public or nonprofit entity and each subrecipient is selected on the basis of public comment received during a public hearing conducted pursuant to §440.14(a) and other appropriate findings regarding: the subrecipient's experience and performance in weatherization or housing renovation activities; the subrecipient's experience in assisting low-

income persons in the area to be served; and the subrecipient's capacity to undertake a timely and effective weatherization program. Program subrecipients are identified in the WAP Annual State Plan, which is approved by the DOE.

Funds are allocated to subrecipients on a formula basis. After allocation amounts are determined and distributed to subrecipients, applications are submitted by local subrecipients to the NC WAP, the applications are reviewed and contracts are issued. Each contract identifies the operating terms and conditions which include the purpose of the agreement; period of performance; line item budget; budget amendment provisions; accounting and program records requirements; subcontractor requirements; allowable costs provisions; audit requirements; honesty and fidelity bond requirements; travel requirements; publication and publicity requirements; discrimination prohibitions; property management standards; reporting requirements; expenditure limitations; training and technical assistance requirements; and estimated number of units to be weatherized.

Subrecipients are required to submit monthly financial expenditure reports and program reports during the grant period. Grant funds are disbursed by the State to subrecipients on a monthly basis. On-site assessment visits are made to subrecipients by state staff to examine financial records to determine compliance with Federal, State, and local rules and regulations; to review programmatic documents to determine client eligibility and to evaluate the quality of the work performed on completed dwelling units. Desktop assessment of subrecipient financial files may be conducted in lieu of on-site assessment. Correspondence summarizing the results of monitoring events is shared with subrecipient officials.

Source of Governing Requirements

WAP is authorized under Title IV, Part A, of the Energy Conservation and Production Act (Act), as amended (42 USC 6861 through 6872), **including amendments made by the American Recovery and Reinvestment Act of 2009 (Pub. L. No 111-5)**. Implementing regulations are published at 10 CFR part 440.

Availability of Other Program Information

Program notices are available on the Internet at <http://www.waptac.org>.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this Federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements apply, and then determine which of the applicable requirements is likely to have a direct and material effect on the Federal program at the auditee. For each such requirement, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit.

Weatherization Assistance Program for Low-Income

| A. <i>Activities Allowed or Unallowed</i> | B. <i>Allowable Costs/Cost Principles</i> | C. <i>Cash Management</i> | E. <i>Eligibility</i> | F. <i>Equipment and Real Property Management</i> | G. <i>Matching, Level of Effort, Earmarking</i> | H. <i>Period of Performance</i> | I. <i>Procurement and Suspension and Debarment</i> | J. <i>Program Income</i> | L. <i>Reporting</i> | M. <i>Subrecipient Monitoring</i> | N. <i>Special Tests and Provisions</i> |
|---|---|-------------------------------------|---------------------------------|--|---|---|--|------------------------------------|-------------------------------|---|--|
| Y | Y | Y | Y | N | Y | Y | Y | N | Y | Y | N |

Not all of the above noted requirements are applicable at the subgrantee level but were left in the compliance matrix for informational purposes. Compliance items applicable at the subgrantee are local level are noted below.

A. Activities Allowed or Unallowed

1. *Allowable activities include only:*
 - a. The cost of purchase and delivery of weatherization materials (10 CFR section 440.18(d)(1)). Funds may only be expended on weatherization materials listed in Appendix A of 10 CFR part 440 or as approved by DOE.
 - b. Labor costs in accordance with 10 CFR section 440.19.
 - c. Transportation of weatherization materials, tools, and equipment, and work crews to a storage site and/or to the site of weatherization work (10 CFR section 440.18(d)(3)).
 - d. Maintenance, operation, and insurance of vehicles used to transport weatherization materials (10 CFR section 440.18(d)(4)).
 - e. Maintenance of tools and equipment (10 CFR section 440.18(d)(5)).
 - f. Purchase or annual lease of tools, equipment and/or vehicles, except that any purchase of vehicles shall be referred to DOE in every instance (10 CFR section 440.18(d)(6)).
 - g. Employment of on-site supervisory personnel (10 CFR section 440.18(d)(7)).
 - h. Storage of weatherization materials, tools, and equipment (10 CFR section 440.18(d)(8)).
 - i. The costs of incidental repairs to make the installation of weatherization materials effective (10 CFR section 440.18(d)(9)).
 - j. The cost of liability insurance for weatherization projects for personal injury and property damage (10 CFR section 440.18(d)(10)).
 - k. The cost of carrying out low cost/no cost weatherization assistance (10 CFR section 440.20).

- l. The cost of WAP financial audits in accordance with 10 CFR section 440.23.
 - m. Administrative costs (10 CFR section 440.18(d) (13)).
 - n. The costs of eliminating health hazards, necessary to ensure the safe installation of weatherization materials (10 CFR section 440.18(d) (15)).
 - o. Leveraging activities, as specified in leveraging section of the State Plan and grant agreement (10 CFR section 440.18(d) (14)). Leveraging entails a State obtaining additional program-targeted non-Federal or in-kind contributions as a result of WAP-funded activities. Leveraging should be limited to contributions that can be clearly attributed to a State's weatherization activities, and that are used to augment those activities. As of Program Year (PY) 2007, the maximum percentage of Weatherization funds that can be diverted for leveraging activities is 15 percent of the grantee's total allocation.
 - p. Expenditures for labor, weatherization materials, and related matters for a renewable energy system, as defined in 10 CFR section 440.3, shall not exceed an average of \$3,000 per dwelling unit or adjusted amount as published in WAP program notices (42 USC 6865(c)(4); 10 CFR section 440.18(b)).
2. *Unallowable activities*
- a. Funds shall not be used to weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State or local program within 12 months from the date of the weatherization (10 CFR section 440.18(f)(1)).
 - b. Funds may not be used to install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds, unless:
 - (1) The weatherization activities may be considered "low cost/no cost" as described in 10 CFR section 440.20: inexpensive weatherization materials are used; no labor paid with funds provided is used to install weatherization materials referred to here; and a maximum of 10 percent of the amount allocated to a subgrantee, not to exceed \$50 in materials costs per dwelling unit, is expended (10 CFR section 440.18(f)(2)(i));
 - (2) Such a dwelling has been damaged by fire, flood or other act of God and the repair of the damage is not paid for by insurance (10 CFR section 440.18(f)(2)(ii)); or
 - (3) The dwelling unit was weatherized under the Act or other Federal program during the period September 30, 1975 through September 30, 1985 (10 CFR section 440.18(f)(2)(iii)).

B. Allowable Costs/Cost Principles

Follows Federal Regulations for Weatherization Assistance Program for Low Income Persons - 10 Code of Federal Regulations (CFR) 440 and Financial Assistance Rule - 2 CFR 200.

C. Cash Management

Weatherization establishes policies, procedures, and contracts that comply with Federal cash management regulations and ensures that all entities deposit initial and subsequent advances in interest-bearing accounts.

E. Eligibility

1. Eligibility for Individuals

- a. A dwelling unit is eligible for weatherization assistance if it is occupied by a family unit:

- (1) Whose income is at or below 200 percent of the poverty level determined in accordance with the criteria established by the Director of the Office of Management and Budget;
- (2) That contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance; or
- (3) If the State elects, is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, provided that such basis is at least 200 percent of the poverty level (42 USC 6862(7), as amended by Section 407(a), ARRA, 123 Stat 146).

The poverty guidelines are issued each year in the *Federal Register* and HHS maintains a web page which provides the poverty guidelines (<http://aspe.hhs.gov/poverty/index.shtml>).

- b. In addition, the following requirements apply:

- (1) Written permission has been obtained from the owner of the dwelling or his/her agent (10 CFR section 440.22(b)(1)).
- (2) Not less than 66 percent (50 percent for duplexes and four-unit buildings and certain types of eligible large multifamily buildings) of the dwelling units in the building:
 - (a) Are eligible dwelling units in the manner defined in III.E.1.a, Eligibility for Individuals, above (10 CFR section 440.22(b)(2)(i)); or
 - (b) Will become eligible within 180 days under a Federal, State, or local program for rehabilitating the building or making

similar improvements to the building (10 CFR section 440.22(b)(2)(ii)).

- (3) If the dwelling to be weatherized is rented, a formal agreement between landlord and tenant has been reached addressing issues of eviction from and sale of property receiving weatherization materials (10 CFR section 440.22(c)).

2. **Eligibility for Group of Individuals or Area of Service Delivery – Not Applicable**

3. **Eligibility for Subrecipients - Not Applicable**

G. Matching, Level of Effort, Earmarking

1. **Matching – Not Applicable**

2. **Level of Effort – Not Applicable**

3. **Earmarking**

- a. Subrecipients may spend no more than 10 percent of the grant for administration; however, for subrecipients receiving grants of less than \$350,000, a State may permit that entity to expend up to an additional 5 percent of its subgrant for administrative purposes (10 CFR section 440.18(e)).
- b. Not more than 20 percent of the funds may be used to provide, directly or indirectly, training and/or technical assistance to any grantee or subgrantee (42 USC 6866, as amended by Section 407(d), ARRA, 123 Stat 146; 10 CFR section 440.23(e)).

H. Period of Performance

Grant funds are made available to Grantee for the July 1st to June 30th fiscal year in which they are appropriated.

I. Procurement and Suspension and Debarment

All procurement activities undertaken in connection with this Subaward Contract must conform to the procurement standards set forth in 2 CFR Part 200. It is verified annually that Subgrantees are not on the Suspension of Funding List and Excluded Parties List systems. Federal grant funds cannot be given to Subgrantees that are on either of these lists.

L. Reporting

1. **Financial Reporting**

The subgrantee shall submit on a quarterly basis a Financial Status Form to the Department of Environmental Quality. SF-425, *Federal Financial Report – Applicable*

2. **Performance Reporting – Quarterly Performance Report -- Applicable**

3. **Special Reporting – Not Applicable**

M. Subrecipient Monitoring

Monitoring is conducted annually by the DOE program administrators. No testing at local level.