

93.568

**State Project/Program: WEATHERIZATION ASSISTANCE PROGRAM AND
HEATING AND AIR REPAIR AND REPLACEMENT
PROGRAM**

U. S. Department of Health and Human Services

Federal Authorization: Low Income Home Energy Assistance Act of 1981, as amended;
The Omnibus Budget Reconciliation Act of 1981; Energy Policy
Act of 2005, Public Law 109-58.

**NC Department of Environmental Quality
Weatherization Assistance Program**

Agency Contact

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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 2024 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 Low-Income Home Energy Assistance Program (LIHEAP) is a block grant program in which States (including territories and Indian tribes) design their own programs, within very broad Federal guidelines. There are four components of LIHEAP: (1) block grants, (2) energy emergency contingency funds, (3) leveraging incentive awards, and (4) the Residential Energy Assistance Challenge Option Program (REACH). The objectives of LIHEAP are to help low-income people meet the costs of home energy (defined as heating and cooling of residences) increase their energy self-sufficiency and reduce their vulnerability resulting from energy needs. A primary purpose is meeting immediate home energy needs. The target population is low-income households, especially those with the lowest incomes and the highest home energy costs or needs in relation to income, taking into account family size. Additional targets are low-income households with members who are especially vulnerable, including the elderly, persons with disabilities, and young children.

Department Activities

The North Carolina Weatherization Assistance Program (NC WAP) receives funds through LIHEAP to operate the LIHEAP Weatherization Assistance Program (LIHEAP WAP) and the Heating and Air Repair and Replacement Program (HARRP). The objectives of LIHEAP WAP and HARRP are to increase energy efficiency of dwellings owned or occupied by low-income persons, reduce their total expenditures on energy, and improve their health and safety as well as to reduce energy costs by cleaning, tuning, repairing and/or replacing inefficient heating and air conditioning systems in the dwelling units of low-income families.

II. PROGRAM PROCEDURES

LIHEAP Block Grants

The Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Community Services, administers the LIHEAP program at the Federal level. LIHEAP block grant funds are distributed by formula to the States, the District of Columbia, and the territories. In addition, federally or State-recognized Indian tribes (including tribal consortia) have the option of requesting direct funding from ACF, rather than being served by the State in which they are located. Tribes that are directly funded by HHS statutorily receive a share of the funds that would otherwise be allotted to the States in which they are located, based on the number of income-eligible households in the tribal service area as a percentage of the eligible households in the State, or a larger amount agreed upon in a State/tribe agreement. Over half the States agree to give the tribes located within their State a larger amount than required by the statute.

Each grantee is required to submit a plan/application annually in order to receive block grant funding. The plan contains an application to describe how the grantee's LIHEAP program will be administered, including a set of program integrity questions in which the grantee must describe the systems in place to detect and deter fraud and abuse in its LIHEAP program.

Note: Prior to FY 2015, grantees submitted a Plan and a separate Program Integrity Assessment Supplement. Starting in FY 2015, these documents have been merged.

State grantees are required to hold a public hearing each year on the proposed plan for the upcoming year. All grantees must allow for public participation in the development of their annual plans. A separate application is required for those LIHEAP grantees that wish to apply for a leveraging incentive award or a REACH grant.

Department Activities

In NC, LIHEAP WAP funds are made available to sub-recipients for weatherization services and HARRP through Low Income Home Energy Assistance Program (LIHEAP) funds. LIHEAP funds utilized for weatherization activities and for HAARP are received from the North Carolina LIHEAP Block Grant Program. The funding amounts are allocated to each program (i.e., LIHEAP and/or HARRP) in an Interagency Memorandum of Agreement based on annual negotiations with annual negotiations with DHHS and programmatic needs. Funds are allocated to sub-recipients in LIHEAP WAP and HARRP on a formula basis. After allocation amounts are determined and distributed to subgrantees, applications are submitted by local sub-recipients to the Weatherization Assistance Program, 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 number of units to be weatherized. Sub-recipients are required to submit monthly financial expenditure reports and program reports during the grant period. Grant funds are disbursed by the state to sub-recipients on a monthly basis. On-site assessment visits are made to sub-recipients 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. Correspondence summarizing the results of on-site monitoring visits is shared with sub-recipient officials.

Energy Emergency Contingency Funds

In addition to appropriations for the LIHEAP block grant program, funds may be awarded to meet the additional home energy assistance needs of States for a natural disaster or other emergency. Contingency funds that are awarded generally must be used under the normal statutory and regulatory requirements that apply to the LIHEAP block grants, unless special conditions are placed upon their use at the time of the award.

Leveraging Incentive Awards

Of the funds appropriated for LIHEAP each year, HHS is required to earmark a portion to reward those LIHEAP grantees that have acquired non-Federal resources to help low-income persons meet their home heating and cooling needs, as an incentive to augment the Federal dollars. This could involve the grantee or private organizations putting some of their own funds into LIHEAP or similar State or private programs, buying fuel at reduced or discount prices through bulk purchases or negotiated agreements, obtaining donations of weatherization materials or fuels, waiving utility fees, or any number of other activities with non-Federal resources. Awards in the current Federal fiscal year are based on leveraging activities carried out during the previous Federal fiscal year. Leveraging grants are subject to special terms and conditions, which are specified in the grant awards. In order to receive the leveraging grant, current LIHEAP grantees must submit a Leveraging Report detailing leveraged resources. Grantees must keep sufficient documentation, or have access to it, to support the calculations in the report.

Residential Energy Assistance Challenge Option Program

Of the funds appropriated for leveraging incentive awards each year, HHS may set aside a portion for the REACH program to make competitive grants to LIHEAP grantees to help LIHEAP-eligible households reduce their energy vulnerability.

Source of Governing Requirements

The LIHEAP program is authorized under Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended (Pub. L. 97-35, as amended, also known as OBRA 1981), which is codified at 42 USC 8621-8629. Implementing regulations for this and other HHS block grant programs authorized by OBRA 1981 are published at 45 CFR part 96. Those regulations include general administrative requirements for the covered block grant programs in lieu of 45 CFR part 92 (the HHS implementation of the A-102 Common Rule)/ 45 CFR part 75 (the HHS implementation of 2 CFR part 200). According to 45 CFR section 75.101(d), except for section 75.202 and sections 75.351 through 75.353 of subpart D, the requirements in subpart C, subpart D, and subpart E do not apply to LIHEAP. Requirements specific to LIHEAP are in 45 CFR sections 96.80 through 96.89. In addition, grantees are to administer their LIHEAP programs according to the plans that they have submitted to HHS.

Under the block grant philosophy, each State is responsible for designing and implementing its own LIHEAP program, within very broad Federal guidelines. States must administer their LIHEAP programs according to their approved plan and any amendments and in conformance with their own implementing rules and policies. States must establish appropriate systems and procedures to prevent, detect and correct waste, fraud and abuse, by clients, vendors, and administering agencies.

As discussed in Appendix I to the Supplement, “Federal Programs Excluded from the A-102 Common Rule and Portions of 2 CFR Part 200,” grantees are to use the fiscal policies (including obligation and expenditure of funds) that apply to their own funds in administering LIHEAP. Procedures must be adequate to ensure the proper disbursement of and accounting for Federal funds paid to the grantee, including procedures for monitoring the assistance provided (42 USC 8624(b)(10); 45 CFR section 96.30).

Availability of Other Program Information

The ACF LIHEAP web page (<http://www.acf.hhs.gov/programs/liheap>) provides general information about this program.

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.

LIHEAP Weatherization Assistance Program and Heating and Air Repair and Replacement Program

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

A. Activities Allowed or Unallowed

The following guidelines apply to LIHEAP block grants and leveraging incentive award funds, unless noted otherwise. Energy emergency contingency funds generally are subject to the LIHEAP block grant requirements, but the contingency grant award letter should be reviewed to see if different requirements apply. REACH grants are subject to special rules described in the award.

1. LIHEAP funds may be used to assist eligible households to meet the costs of home energy, i.e., heating or cooling their residences (42 USC 8621(a) and 8624(b)(1)).
2. LIHEAP funds may be used to intervene in energy-related crisis situations, as defined by the grantee (42 USC 8623(c) and 8624(b)(1)).
3. LIHEAP funds may be used to conduct outreach activities (42 USC 8624(b)(1)).
4. Leveraging incentive awards must be used to increase or maintain heating, cooling, energy crisis, and weatherization benefits for low-income persons (45 CFR section 96.87(j)).
5. Leveraging incentive award funds may not be used for planning, developing, or administering the LIHEAP program (45 CFR section 96.87(j)).
6. LIHEAP funds may be used to provide low-cost residential weatherization and other cost-effective energy-related home repair (42 USC 8624(b)(1)).
7. LIHEAP grantees may use some or all of the rules applicable to the Department of Energy's Weatherization Assistance for Low-Income Persons program (CFDA 81.042) for their LIHEAP funds spent on weatherization (42 USC 8624(c)(1)(D)).
8. LIHEAP funds may be used to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors (42 USC 8624 (b)(16)).
9. LIHEAP funds (other than leveraging incentive award funds) may be used to identify, develop, and demonstrate leveraging programs (45 CFR section 96.87(c)).
10. No LIHEAP funds may be used for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than low-cost residential weatherization or other energy-related home repairs) of any building or other facility (42 USC 8628).

B. Allowable Costs/Cost Principles

As discussed in Appendix I to the Supplement, “Federal Programs Excluded from the A-102 Common Rule/Portions of 2 CFR Part 200,” LIHEAP is exempt from the provisions of the OMB cost principles. State cost principles requirements apply to LIHEAP.

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

Grantees may provide assistance to: (a) households in which one or more individuals are receiving Temporary Assistance for Needy Families (TANF), Supplemental Security Income (SSI), Supplemental Nutrition Assistance Program (SNAP) benefits, or certain needs-tested veterans benefits; or (b) households with incomes which do not exceed the greater of 150 percent of the State’s established poverty level, or 60 percent of the State median income. Grantees may establish lower income eligibility criteria, but no household may be excluded solely on the basis of income if the household income is less than 110 percent of the State’s poverty level. Grantees may give priority to those households with the highest home energy costs or needs in relation to income (42 USC 8624(b)(2)).

For NC WAP, A single-family dwelling unit is eligible for LIHEAP WAP & HARRP if it is occupied by a family unit whose combined income does not exceed 200 percent of the Office of Management and Budget (OMB) defined poverty level.

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

3. Eligibility for Sub-recipients

To the extent it is necessary to designate local administrative agencies, the grantee is to give special consideration to local public or private non-profit agencies (or their successor agencies) which were receiving energy assistance or weatherization funds under the Economic Opportunity Act of 1964 or other laws, provided that the grantee finds that they meet program and fiscal requirements set by the grantee (42 USC 8624(b)(6)).

G. Matching, Level of Effort, Earmarking

1. Matching – Not Applicable

2. Level of Effort – Not Applicable

3. Earmarking

The following limitations apply to LIHEAP block grants and leveraging incentive award funds, as noted. Energy emergency contingency funds generally are subject to the requirements applicable to LIHEAP block grant funds, but the contingency grant award letter should be reviewed to see if different requirements were applied. REACH grants are subject to special rules described in the award.

a. *Planning and Administrative Costs*

- (1) No more than 10 percent of the LIHEAP funds payable to the State for a Federal fiscal year may be used for planning and administrative costs, including both direct and indirect costs. This limitation applies, in the aggregate, to planning and administrative costs at both the State and sub-recipient levels (42 USC 8624(b)(9)(A); 45 CFR section 96.88(a)). This cap may not be exceeded by supplementing with other Federal funds. (42 USC 8624(b)(9)(A); 45 CFR section 96.88(a)).
- (2) A tribal or territorial grantee may spend up to 20 percent of the first \$20,000 and 10 percent of the amount above \$20,000 for administration and planning (45 CFR section 96.88(b)).
- (3) Leveraging incentive award funds may not be used for planning and administrative costs. However, either in the award year or the following fiscal year, they may be added to the base on which the maximum amount allowed for planning and administration is calculated (45 CFR section 96.87(j)).

b. *Weatherization*

- (1) No more than 15 percent of the greater of the funds allotted or the funds available to the grantee for a Federal fiscal year may be used for low-cost residential weatherization or other energy-related home repairs. The Secretary may grant a waiver, and the grantee may then spend up to 25 percent for residential weatherization or energy-related home repairs (42 USC 8624(k)).
- (2) Leveraging incentive award funds may be used for weatherization without regard to the weatherization maximum in the statute. However, they cannot be added to the base on which the weatherization maximum is calculated (45 CFR section 96.87(j)).

c. *Energy Need Reduction Services* – No more than five percent of the LIHEAP funds payable to the grantee may be used to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance. Such services may include needs assessments, counseling, and assistance with energy vendors (42 USC 8624(b)(16)).

d. *Identifying and Developing Leveraging Programs*

- (1) The greater of 0.08 percent of a State's LIHEAP funds (other than leveraging incentive award funds) or \$35,000 may be spent to identify, develop, and demonstrate leveraging programs, without regard to the limit on planning and administering LIHEAP (42 USC 8626a(c)(2); 45 CFR section 96.87(c)(2)).
- (2) Indian tribes/tribal organizations and territories may spend up to the greater of two percent or \$100 on such activities (45 CFR section 96.87(c)(1)).

H. Period of Performance

At least 90 percent of the LIHEAP block grant funds payable to the grantee must be obligated in the fiscal year in which they are appropriated. Up to 10 percent of the funds payable may be held available (or “carried over”) for obligation no later than the end of the following fiscal year. Funds not obligated by the end of the following fiscal year must be returned to ACF. There are no limits on the time period for expenditure of funds (42 USC 8626).

Leveraging incentive award funds and REACH funds must be obligated in the Federal fiscal year in which they are awarded or the following Federal fiscal year, without regard to the carryover limit. However, they may not be added to the base on which the carryover limit is calculated (45 CFR sections 96.87(j)(1) and (k)). Funds not obligated within these time periods must be returned to ACF (45 CFR section 96.87(k)).

LIHEAP emergency contingency funds are generally subject to the same obligation and expenditure requirements applicable to the LIHEAP block grant funds, but the contingency award letter should be reviewed to see if different requirements were imposed.

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

- a. SF-270, *Request for Advance or Reimbursement* – Not Applicable
- b. SF-271, *Outlay Report and Request for Reimbursement for Construction Programs* – Not Applicable
- c. SF-425, *Federal Financial Report* – Applicable

2. Performance Reporting – Not Applicable

3. Special Reporting

- a. *LIHEAP Carryover and Reallotment Report (OMB No. 0970-0106)* – Grantees must submit a report no later than August 1 indicating the amount expected to be carried forward for obligation in the following fiscal year and the planned use of those funds. Funds in excess of the maximum carryover limit are subject to reallotment to other LIHEAP grantees in the following fiscal year and must also be reported (42 USC 8626).

Key Line Items (not numbered):

- (1) “*Carryover amount*”
- (2) “*Reallotment amount*”

- b. *Annual Report on Households Assisted by LIHEAP (OMB No. 0970-0060)*
As part of the application for block grant funds each year, a report is required for the preceding fiscal year of (1) the number and income levels of the households assisted for each component and any type of LIHEAP assistance (heating, cooling, crisis, and weatherization); and (2) the number of households served that contained young children, elderly, or persons with disabilities, or any vulnerable household for each component. Territories with annual allotments of less than \$200,000 and Indian tribes are required to report only on the number of households served for each component (42 USC 8629; 45 CFR section 96.82).

Key Line Items - The following line items contain critical information:

- (1) Section 1 – LIHEAP Assisted Households.
- (2) Section 2 – LIHEAP Applicant Households.

M. Subrecipient Monitoring

Monitoring is conducted annually by the North Carolina Department of Health & Human Services that administers LIHEAP funding.

IV. OTHER INFORMATION

As described in Part 4, Social Services Block Grant (SSBG) program (CFDA 93.667), III.A, “Activities Allowed or Unallowed,” a State may transfer up to 10 percent of its annual allotment under SSBG to this and six other specified block grant programs.

Amounts transferred into this program are subject to the requirements of this program when expended and should be included in the audit universe and total expenditures of this program when determining Type A programs. On the Schedule of Expenditures of Federal Awards, the amounts transferred in should be shown as expenditures of this program when such amounts are expended.