

Title 20. Public Health and Welfare

Chapter XXVII. Department of Energy and Environment, Generally

Subchapter A. Generally

Part 861. Weatherization Assistance Program (WAP)

Subpart 1. Generally

20 CAR § 861-101. Purpose and scope.

(a) **Policy.** It is the policy of the Arkansas Energy Office of the Division of Environmental Quality that subgrantees comply with the rules, regulations, or guidelines applicable to the specific Weatherization Assistance Program (WAP) funding sources as described below:

- (1) The United States Department of Energy;
- (2) Petroleum Violation Escrow (PVE) funds; and
- (3) The Low Income Home Energy Assistance Program (LIHEAP).

(b) Subgrantees shall ensure that funds provided through the United States Department of Energy Weatherization Assistance Program, petroleum violation escrow funds, and Low Income Home Energy Assistance Program funds shall be used to:

- (1) Supplement, and not supplant, state or local funds; and
- (2) Increase, to the maximum extent practicable, the amount of funds for weatherization activities that would be available in the absence of United States Department of Energy funds.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-102. Designation of Weatherization Assistance Program subgrantees.

(a) Each subgrantee shall be a community action agency (CAA) or other public or nonprofit entity.

(b) The Arkansas Energy Office of the Division of Environmental Quality contracts with:

- (1) Eighteen (18) CAAs;
- (2) One (1) nonprofit housing development corporation; and
- (3) Three (3) county governments.

(c) Each subgrantee is selected on the basis of public comment received during a public hearing conducted pursuant to 10 C.F.R. § 440.14(a).

(d) In selecting a subgrantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under Title II of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following:

(1) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(2) The quality of work performed by the subgrantee;

(3) The number, qualifications, and experience of the staff members of the subgrantee; and

(4) The ability of the subgrantee to secure volunteers and train participants and public service employment workers pursuant to the Job Training Partnership Act, 29 U.S.C. § 1501 et seq. [repealed].

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

Codification Notes. The Job Training Partnership Act, referenced in (d)(4), was repealed by Pub. L. No. 105-220.

20 CAR § 861-103. Eligibility weatherization.

(a) **Policy.** It is the policy of the Arkansas Energy Office of the Division of Environmental Quality that subgrantees comply with the eligibility requirements applicable to the specific Weatherization Assistance Program funds as described below.

(b) **Procedures.** United States Department of Energy, PVE, and LIHEAP funds eligibility requirements under the United States Department of Energy guidelines, see 10 C.F.R. § 440.22, are:

(1) A dwelling unit is eligible for weatherization assistance if it is occupied by a family unit:

(A) Whose income is at or below one hundred twenty-five percent (125%) of the poverty level; or

(B) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act of 1935 or applicable state or local law during the twelve-month period preceding the determination of eligibility; and

(2) A subgrantee may weatherize a building containing rental dwelling units where:

(A) The subgrantee has obtained the written permission of the owner or his or her agent; and

(B) Not less than sixty-six percent (66%) (fifty percent (50%) for duplexes and four-unit buildings) of the units are eligible units or will become eligible dwelling units within one hundred eighty (180) days under a federal, state, or local government program for rehabilitating the building or making similar improvements to the building.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

Codification Notes. "LIHEAP" means the Low Income Home Energy Assistance Program.

"PVE" means Petroleum Violation Escrow.

The Social Security Act of 1935 was enacted Aug. 14, 1935, as Pub. L. No. 74-271.

20 CAR § 861-104. Fair hearing.

(a) The fair hearing policy in LIHEAP policies applies to the WAP, except for reasons to file for a fair hearing.

(b) The following shall be reasons to file for a fair hearing in the WAP:

(1) Application was denied;

(2) Receive timely approval or disapproval of the application;

(3) Discrimination on the basis of:

(A) Race;

(B) Color;

(C) Sex; or

(D) National origin;

(4) The workmanship of weatherization measures completed was inadequate, either in the proper application of materials or the quality of materials used in terms of effectiveness or safety; or

(5) The weatherization measures selected and completed were inadequate or ineffective.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

Codification Notes. "LIHEAP" means the Low Income Energy Assistance Program.

20 CAR § 861-105. Allowable cost.

(a) **Policy.** In order to ensure that funds provided under the Weatherization Assistance Program subgrants are used for the purpose intended, it is the policy of the Arkansas Energy Office of the Division of Environmental Quality that subgrantees adhere to the following limitations.

(b) **Procedures.**

(1) The Weatherization Assistance Program will be operated consistent with 10 C.F.R. pt. 440, Weatherization Assistance for Low-Income Persons, except for the limitations as described below.

(2)(A) The maximum average cost per dwelling unit shall be that which is contained in the state plan, approved by the United States Department of Energy annually.

(B) The total allowable costs shall be comprised of those costs described in the state plan annually.

(3)(A) An average cost per unit that exceeds the maximum will not be processed unless prior approval has been received from the state weatherization office.

(B) If you encounter a unit or units that will exceed the maximum, please provide the Arkansas Energy Office of the Division of Environmental Quality with the following information:

- (i) A detailed description of the unit, along with pictures, if possible;
- (ii) A description of the repairs and weatherization measures to be completed; and
- (iii) An estimated cost of repairs needed and weatherization measures;

(4)(A) Program support costs shall not exceed sixty percent (60%) of the total expenditure of any one (1) dwelling unit.

Example: If an average of four hundred eighty dollars (\$480) is expended on material costs, a maximum average of seven hundred twenty dollars (\$720) is allowable as a program support cost.

(B) Allowable program support costs may consist of any single cost or combination of costs allowable under program support (transportation, tools and equipment, on-site supervision, labor, and storage).

(C) Program support and labor costs must be in accordance with the appropriate rules or guidelines.

(5)(A) Allowable material costs shall consist of weatherization material items intended primarily to improve the thermal efficiency of an eligible dwelling unit, when applied to the building envelope.

(B) Permissible weatherization materials shall be in accordance with the appropriate rules or program guidelines.

(6)(A) Incidental repair costs consist of those repairs necessary for the effective performance or preservation of other weatherization materials and are limited to those costs included in the state plan and approved by the United States Department

of Energy.

(B) The cost of incidental repairs is included within, and is not in addition to the maximum allowable cost per dwelling unit.

(C) Incidental repairs should be recorded in the Building Check and Job Order Sheet for each dwelling unit.

(D) Following are examples of incidental repairs:

(i) Lumber used to frame or repair windows and doors which could not otherwise be caulked and weather-stripped;

(ii) Roofing materials used as a patch to repair water leaks which could damage ceiling insulation;

(iii) Protective materials such as paint to seal materials installed under this program; and

(iv) The parts required to vent unvented space heaters.

(E) This incidental repair limit per dwelling unit may be exceeded with submission of a written request with justification and with approval of the Director of the Arkansas Energy Office.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-106. Recordkeeping requirements.

(a) **Policy.** In order to comply with state and federal weatherization program requirements, it is the policy of the Arkansas Energy Office of the Division of Environmental Quality that subgrantees maintain records which fully disclose the amount and disposition of funds received.

(b) **Procedures.**

(1) In addition to other required financial and programmatic information, certain costs shall be documented as follows:

(A) Storage— original receipt or a copy of the cancelled check;

(B) Tools — original invoice;

(C) Liability insurance— copy of the policy and the premium schedule or a

copy of the cancelled check;

(D) Inventory— original invoice and inventory control; and

(E) On-site supervision and administrative salaries — administration/on-site payroll summary.

(2) These records shall be available for inspection by Arkansas Energy Office of the Division of Environmental Quality and/or United States Department of Energy monitors.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-107. Reporting requirements.

(a) **Policy.** In order to ensure compliance with state and federal weatherization program requirements, it is the policy of the Arkansas Energy Office of the Division of Environmental Quality that subgrantees provide documentation of weatherization activities on a regular basis.

(b) **Procedures.**

(1) The following reports shall be completed:

(A) Program Report; and

(B) Weatherization Expenditure Report.

(2) The reports shall be submitted to the office on or before the tenth day following the end of the reporting period.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-108. Client files.

(a) **Policy.** In order to comply with federal and state regulations, it is the policy of the Arkansas Energy Office of the Division of Environmental Quality that subgrantees maintain a file for each dwelling weatherized.

(b) **Procedures.** Subgrantees shall maintain the following documents in client files:

- (1) Eligibility documentation;
- (2) Client application for weatherization assistance;
- (3) Building Check and Job Order Sheet (job book);
- (4) Original materials receipts;
- (5) Lessor agreement (if rental property);
- (6) Recommended Weatherization Priority List;
- (7) Final Inspection Sheet; and
- (8) Client Response Sheet.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-109. Limitation/suspension of referrals for WAP.

Refer to LIHEAP policies.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

Codification Notes. “LIHEAP” means the Low Income Home Energy Assistance Program.

20 CAR § 861-110. Carryover.

The carryover policy will be included in the state plan annually.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-111. Vendors attending Arkansas Energy Office of the Division of Environmental Quality weatherization sponsored meetings.

(a) The Arkansas Energy Office of the Division of Environmental Quality forbids Weatherization Assistance Program subgrantees to invite vendors to office conferences, meetings, or training sessions without the office’s written permission.

(b) When vendors attend these meetings, it gives the impression that the office

sanctions or promotes one vendor over another.

(c) If uninvited vendors should attend office meetings, conferences, or training sessions, office weatherization staff will ask them to leave.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-112. [Reserved].

20 CAR § 861-113. Building weatherization report.

(a)(1) For several years, some subgrantees operated under the assumption that the Building Check and Job Order Sheet (BCJOS) serves the same purpose.

(2) According to the Dallas Regional Office, the BWR (EIA-29C) contains detailed information on the dwelling unit and the client.

(3) Whereas the Building Check and Job Order Sheet contains information on weatherization measures and the related costs.

(4) The BWR form or the information is required by the United States Department of Energy to be in the client file.

(b) To ensure that all necessary information is in the client files, the Building Weatherization Report (BWR) and the Building Check Job Order Sheet (BCJOS) will be standard forms in the client files.

(c)(1) The weatherization subgrantee may omit the BWR from the client file by meeting the following conditions:

(A) Submission of sufficient documentation that all the BWR information content is contained in the client file; and

(B) Obtaining written approval from the Director of the Arkansas Energy Office.

(2) Until approval is received to omit the form, the BWR will be required to be included in the client files.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-114. Limitation expending weatherization funds for contract labor.

(a)(1) Any agency contracting with the Arkansas Energy Office of the Division of Environmental Quality for weatherization funds may expend weatherization funds up to a maximum average of forty percent (40%) for contract labor used to upgrade units under the Arkansas Weatherization Assistance Program guidelines.

(2) Such expenditure may be made only in instances where the total program support cost does not exceed that allowable in the state weatherization plan.

(b) The forty percent (40%) maximum average contract labor limit may be exceeded by meeting the following conditions:

- (1) Submission of justification for exceeding the limit; and
- (2) Obtaining written approval from the Director of the Arkansas Energy Office.

(c) The labor limit policy excludes the cost of insulating the attic.

(d) A waiver must be obtained to exceed the maximum average for contract labor.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-115. United States Department of Energy point system guidelines.

(a) **Policy.**

(1) It is the policy of the Arkansas Energy Office of the Division of Environmental Quality that subgrantees will use the United States Department of Energy Point System Guidelines to prioritize eligible applicants.

(2) The point system will be described in the state plan annually.

(b) **Procedures.**

(1) The above point system shall be used to determine the priority listing of each eligible client.

(2) Documentation that the point system was followed shall be contained in the client file.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-116. Replacement of stove pipes.

(a) Questions raised at the national conference in San Antonio, Texas, October 26 – 29, 1986, influenced the United States Department of Energy to consider the possibility of replacing stove pipes.

(b) The United States Department of Energy position is as follows:

“If it is apparent that a stove pipe is in such poor condition that an unsafe situation exists, it should be repaired or replaced before weatherization services are performed. The costs involved would be allowable and should be charged as incidental repairs.”

(c)(1) This policy does not change the maximum or average allowable costs per unit.

(2) The maximum and average allowable costs shall be in accordance with the approved state plan.

(d) If the stove pipe is to be replaced, adequate documentation of need should be placed in the client's file.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

20 CAR § 861-117. Rules and regulations.

(a) The following is a list of rules and regulations which the Weatherization Assistance Program operators must be in compliance with:

- (1) 10 C.F.R. § 440;
- (2) OMB Circular A-102/10 C.F.R. § 600;

(3) A-133;

(4) The state plan; and

(5) The Arkansas Weatherization Minimum Performance Standards.

(b) The rules in effect are the ones most recently published, and the state plan is updated annually.

Authority. Arkansas Code §§ 15-10-205, 20-80-312.

Codification Notes. “OMB” means the United States Office of Management and Budget.