

DEPARTMENT OF ENERGY

ASSISTANCE LISTING 81.041 STATE ENERGY PROGRAM

I. PROGRAM OBJECTIVES

The objective of the State Energy Program (SEP) is to work with the states, territories, and the District of Columbia (hereinafter “states”) to increase the use of energy efficiency and renewable energy across all sectors of the economy nationwide. States use SEP funds to design and implement state-wide energy plans and programs that best meet their individual energy needs. SEP also provides a wide range of technical assistance and support to the states to increase key skills and enhance their ability to design and carry out effective programs.

II. PROGRAM PROCEDURES

To be eligible for a SEP award, a state must submit a SEP State Plan to the Department of Energy (DOE). The State Plan comprises three elements:

- a. A Master File, which includes information on the state’s overall strategic energy plan, the key elements, goals, and objectives of that plan, and how specific SEP activities fit into that overall plan. It must also include a plan for state subrecipient monitoring.
- b. An Annual File, or application, which includes a description of the energy efficiency and renewable energy programs and activities that the state intends to carry out during its program year (PY), with budget information and milestones for each project/activity, and an overall budget broken out by object class.
- c. A state-wide Energy Emergency Plan, detailing implementation strategies for dealing with energy emergencies.

Upon approval of the annual application, states receive funds from DOE and proceed to implement the programs therein. If states indicate in their annual application the intent to pass-through SEP funds, they are authorized to pass through those funds to a variety of subrecipients including, but not limited to, local governments, nonprofit organizations, other state agencies and businesses.

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. If PVE funds are allocated to a state SEP program, the state is required to follow all program requirements as if those were SEP funds.

Source of Governing Requirements

SEP is authorized under the Energy Policy and Conservation Act, as amended (42 USC 6321 et seq.).

SEP’s implementing program regulations are found at 10 CFR Part 420.

Availability of Other Program Information

Additional details on SEP requirements can be found in the following State Energy Program Funding Opportunity Announcements:

1. DE-FOA-0001644 FY 2017
<https://www.energy.gov/sites/prod/files/2017/10/f37/2017-sep-competitive-awards.pdf> or
<https://www.energy.gov/eere/wipo/state-energy-program-fiscal-year-2017-competitive-funding-opportunity-announcement>
2. State Energy Program 2018 Administrative and Legal Requirements Document (ALRD) issued 2/7/2018
https://www.energy.gov/sites/prod/files/2020/05/f74/FY20_SEP_ALRD_Final.pdf
3. State Energy Program 2018 Administrative and Legal Requirements Document (ALRD) modified 6/26/18 (Modification 0001)
https://www.energy.gov/sites/prod/files/2020/05/f74/FY20_SEP_Application_Instructions_Final.pdf

SEP also issues periodic Program Notices which outline new policies and requirements. Program Notices are available at <https://energy.gov/eere/wipo/state-energy-program-guidance>.

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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.**

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

A. Activities Allowed or Unallowed

1. *Activities Allowed*

a. A broad range of energy efficiency and renewable energy activities are eligible for funding under SEP. The following types of activities are allowable:

- (1) mandatory lighting efficiency standards for public buildings;
- (2) carpool, vanpool, and public transportation initiatives;
- (3) energy efficient procurement procedures;
- (4) mandatory thermal efficiency standards for new and renovated buildings;
- (5) right turn on red, and left turn from one-way streets onto one-way streets;
- (6) coordination among local, state, and federal energy efficiency, renewable energy, and public transportation programs;
- (7) public education to promote energy conservation;
- (8) transportation efficiency such as accelerating use of alternative transportation fuels and hybrid vehicles;
- (9) encouraging use of energy efficiency technologies in industry, buildings, transportation and utilities;
- (10) financing for energy efficiency and renewable energy capital investments and programs, including loans, performance contracting, rebates and grants, which includes establishment of revolving loan funds (RLF) and loan loss reserves (LLR) to the

extent that the activities supported by the loans are eligible activities under the program (see III.A.1.b, below) (10 CFR 420.18(d));

- (11) energy audits for buildings and industrial facilities (including industrial processes) within the state;
 - (12) adoption of integrated energy plans which provide for periodic evaluation of a state's energy needs, available energy resources and energy costs;
 - (13) promoting the use of adequate and reliable energy supplies, including greater energy efficiency that meet applicable safety, environmental, and policy requirements at the lowest cost;
 - (14) energy efficiency in residential housing;
 - (15) identifying and educating consumers about deceptive practices related to implementation of energy efficient and renewable resource energy measures;
 - (16) reducing utility companies' peak demand;
 - (17) promoting energy efficiency as an integral part of economic development and environmental planning conducted by state and local governments or utilities;
 - (18) training and education for building designers and contractors to promote buildings that are energy efficient;
 - (19) building retrofit standards and regulations;
 - (20) feasibility studies of renewable energy and energy efficiency technologies;
 - (21) partnerships with other state agencies to leverage additional funds, such as public benefit funds and state and local investments in Clean Air Act compliance; and
 - (22) collaborative programs for energy efficiency and renewable energy technologies that link a state's energy and environmental objectives (10 CFR sections 420.15 and 420.17).
- b. Loan repayments and interest earned on loans can be used only on activities that are included in the state's annual application (10 CFR section 420.18(d)).

- c. SEP funds may be used for administrative costs associated with the continued operation of an American Recovery and Reinvestment Act (ARRA)-funded RLF or LLR.

2. *Activities Unallowed*

SEP funds may not be used for the following (10 CFR section 420.18):

- a. Construction, such as construction of mass transit systems and exclusive bus lanes, or for construction or repair of buildings or structures.
- b. Purchase of land, a building or structure, or any interest therein.
- c. Subsidizing fares for public transportation.
- d. Subsidizing utility rate demonstrations or state tax credits for energy conservation measures or renewable energy measures.
- e. The conduct of, or purchase equipment to conduct, research, development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.
- f. Rebates in excess of 50 percent of the total cost of purchasing and installing materials and equipment.
- g. Loan guarantees or loan forgiveness.

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**

Not Applicable

4. **Special Reporting for Federal Funding Accountability and Transparency Act**

See Part 3.L for audit guidance.

IV. OTHER INFORMATION

Federal funds used to capitalize a RLF or fund an LLR are not subject to the limitation on the period of availability of federal funds for the ARRA award, but continue to retain their federal character for the entire period of time that the funds are used for such purpose (i.e., at each revolution of funds). To ensure continuation of required reporting and DOE oversight of the federal requirements that apply to the RLF or LLR activity in perpetuity or as long as the grantee continues the activity, the responsibility for the RLF or LLR activities attributable to ARRA funds will fall under the annual SEP formula award. Grantees are required to amend their Annual State Energy Plans to include the market title for continued operation of financing mechanisms prior to the expiration of the ARRA award. Additionally, grantees are required to continue to use the funds in accordance with the applicable federal requirements of the ARRA award. Therefore, if a grantee has established a RLF or LLR, auditors should include in their samples loans made from the fund during the audit period. Such transactions should be reviewed in the same manner as any other expenditure under the program.

Applicable guidance is available at

<https://www.energy.gov/sites/prod/files/2020/05/f74/SEP%20Program%20Notice%2010-008E.pdf>.

DEPARTMENT OF ENERGY

ASSISTANCE LISTING 81.042 WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

I. PROGRAM OBJECTIVES

The objective of the Weatherization Assistance for Low-Income Persons (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

States may submit an application and plan to the 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, and rental procedures. Upon approval, states receive funds from DOE and may enter into sub-agreements with local administering agencies having approved plans. If a 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 US Territories to the definition of “state.” As a result, DOE makes WAP awards to American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the US 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.

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 at [Weatherization Program Notices and Memorandums | Department of Energy](#).

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 have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, 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. **When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.”** See the Safe Harbor Status discussion in Part 1 for additional information.

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

A. Activities Allowed or Unallowed

1. *Activities Allowed*

- 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 to 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 expenses (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 the leveraging section of the State Plan and grant agreement (10 CFR section 440.18(d)(14)). Leveraging entails a state obtaining additional program-targeted nonfederal 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. 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. *Activities Unallowed*

- 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)).

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 that provides the poverty guidelines ([2021 Poverty Guidelines | ASPE \(hhs.gov\)](#)).

- 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 paragraph E.1.a, 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

A subrecipient is eligible to provide weatherization services under WAP provided that:

- a. It is a public or nonprofit entity, or a Community Action Agency (CAA) (e.g., a private corporation or public agency established under the Economic Opportunity Act of 1964, which is authorized to administer funds received from federal, state, or local entities to assess, design, operate, finance, and oversee antipoverty programs) (10 CFR section 440.15(a)(1)); and
- b. It has been selected as a participant in the weatherization program on the basis of public comment received during a public hearing (10 CFR section 440.15(a)(2)).

L. Reporting

1. Financial Reporting

- a. *SF-270, Request for Advance or Reimbursement* – Not Applicable

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

2. Performance Reporting

DOE F 540.3, WAP Quarterly Program Report (OMB Control No. 1910-5127) – This cumulative report is submitted online using the Performance and Accountability for Grants in Energy (PAGE) online tool. It is used in conjunction with the SF-425 (to ensure that information by funding source reconciles the information provided by function) and to determine energy savings (the product of the estimated per-home BTU Energy Savings Estimate in the approved State Plan and the actual production total) (10 CFR section 440.25).

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

- 1. *Grants Outlays – Funds Subject to DOE Program Rules*
 - B. *Outlays by Function – Total Outlays by Function*
- 2. *Grant Production –*
 - A. *Total Annual Energy Savings (final report only) (Note: this is the fourth quarter report)*

3. Special Reporting

Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.