

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES ADMINISTRATION FOR CHILDREN AND FAMILIES
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Low Income Household Water Assistance Program (LIHWAP)
Consolidated Appropriations Act of 2021 and American Rescue Plan
GRANT IMPLEMENTATION PLAN

Grantee Name: **Texas Department of Housing and Community Affairs**

Document Status: **Public Comment Draft**

Section 1 – Program Needs, Goals and Allocations

Community Needs and Program Goals

1.1 Description of Emergency Household Drinking Water and Wastewater Needs

The OCS priorities are restoration of household water services, reducing arrearages, reducing rates charged to households. Briefly describe current needs related to these priorities within your state, territory, or tribal areas.

Describe any areas of concentrated need or special issues within communities served by water utilities within your state, territory, or tribal area.

While the State of Texas annually produces a State Water Plan that thoroughly addresses anticipated water shortages and associated water management strategies and projects, those efforts focus on availability of water and costs of new water systems in communities, not costs to households. The Texas Commission on Environmental Quality (TCEQ) has a robust set of programs that focus on drinking and wastewater services, and there are at least seven different programs to assist communities and water providers with financial assistance in obtaining safe water and wastewater services for their citizens including in rural and economically distressed areas. Most documented water issues in Texas tend not to be focused on water affordability for households, but rather water supply sufficiency into the future and water storage, planning wastewater systems for flooding, water quality, restoring clean water operations after unexpected disasters and storm surges, transmission of water into areas of need, and water reuse and recycling.

According to World Population Review, while an average U.S. family of four paid about \$72 for water every month in 2019, in Texas that average was only \$46 per month. Issues of water cost, quality, late fees, disconnection policies and delivery systems vary significantly across the state and data/reports on the impact of those issues on low-income households was not readily available.

In July 2021, in preparation of the LIHWAP Plan, the Department conducted a survey of the 36 LIHWAP subrecipient organizations. Twenty-four subrecipients indicated the level of need for water assistance as very much needed, four indicated very needed, six indicated moderately needed, and two indicated minimally needed. Subrecipients indicated that the estimated number of households in need of water/waste water assistance ranged between 26,000 – 79,000 households. The survey results indicated that only a very limited amount of funding has been available to provide water and wastewater assistance. Seventeen of the 36 LIHWAP subrecipients reported providing water assistance in 2019 pre-COVID totaling \$345,714 assisting approximately 2,763 households. Thirteen of the subrecipients reported local water and wastewater providers provide assistance or make funds available to provide water assistance, fifteen said no funds were available, and eight did not know. Nineteen subrecipients indicated that local governments or non-profit organizations make some funds available for water assistance, twelve subrecipients did not know, and five stated no funds are available. Seventeen of the subrecipients indicated they have vendor agreements with some of the water providers in their service area. Eighteen subrecipients think that water and wastewater providers will not be willing to reduce rates (actual rate reduction) charged to LIHWAP eligible households, eight indicated a moderate chance, and ten indicated a minimal chance. With regard to moratoriums on water and waste water disconnections, only one subrecipient, the City of San Antonio, indicated they are aware of a moratorium which expires in October 2021. Another subrecipient serving the county of El Paso indicated that El Paso Water has a moratorium that prevents disconnections if temperatures exceed 100 degrees. Several subrecipients stated that because the State had a moratorium preventing disconnections of water and wastewater, many households have a large unpaid balance. Subrecipients expressed gratitude that funding will be made

available for water and wastewater assistance. Many subrecipients stated that they continually receive requests for such assistance and are aware that many households, especially elderly persons on a fixed limited income, often have to forego buying medications or other necessities in order to pay their water and wastewater bills.

The state LIHEAP funds provide a statewide network of utility providers that will be leveraged for LIHWAP.

There is currently no statewide funding available specifically for household water services, reducing arrearages, reducing rates charged to households, although some localities in Texas may provide this service. While Community Services Block Grant funds are used by some community action agencies to assist with water/wastewater utilities, the amount of water assistance is extremely limited and it is not provided consistently statewide. Some local utility providers have assistance programs, however those programs are varied and do not lend themselves to replication at the state level for LIHWAP.

Texas intends to use its existing network of utility assistance providers under its Comprehensive Energy Assistance Program (CEAP) to distribute LIHWAP funds.

LIHWAP funding will enable Texas to begin tracking the data regarding the needs and special issues for low-income Texans.

1.2 Operational Priorities and Emergency Flexibilities

Consistent with goal of the American Rescue Plan to provide immediate relief to the American people, briefly describe the operational priorities within your state, territory or tribal area (e.g. immediate restoration of services to households without current water services, immediate payment of existing arrearages to prevent disconnection of drinking water or wastewater services after a previous moratorium on water services due to Covid-19).

Texas will provide immediate restoration of services to households without current water services and provide assistance for the payment of existing arrearages to prevent disconnection of drinking water or wastewater services. Texas will also provide monthly water/wastewater bill payments for eligible clients, but the Department will not be pursuing rate reduction negotiations with water/wastewater providers, although this is a permissible activity for Subrecipients. The LIHWAP program design will provide assistance based on actual bills. The Department will utilize existing LIHEAP processes, procedures, policies, and systems to provide assistance to low-income households, by using existing programs and program announcements, application and approval processes to provide funds to owners or operators of public water systems or treatment works.

1.3 Expected Date for Initial Water Payments on Behalf of Households

Provide an estimated date by which payments will be initiated based on the operational priorities identified above (e.g. first stage of payments to restore services for currently disconnected households, etc.).

Texas is eager to begin making payments immediately. It will likely take the Department 60-90 days to execute contracts with subrecipient organizations, set up applicable reporting systems, and issue guidance. The 60-90 day estimate is based on the public comment process on the LIHWAP Plan, the TDHCA Board approval process of the plan and awards, execution of contracts between TDHCA and the subrecipients, and establishment of needed systems and reporting structures. A program start date is anticipated to be October 1, 2021.

Once subrecipient organizations receive funding, the Department anticipates that for most organizations it will take another 30-60 days before the first stage of payments will be provided to vendors on behalf of eligible households. The 30-60 days estimate assumes that the drafting, negotiation, and execution of vendor agreements is able to be achieved in a timely manner. It is anticipated that some vendor agreements make take a longer time period to execute.

Estimated Funding Allocations

1.4 Estimate what amount of available LIHWAP funds will be used for each component that you will operate:

The total of all percentages must add up to 100%. The combined total of Administration (State) and Administration (Subrecipients) must not exceed 15% of the total for either the Consolidated Appropriations Act or the American Rescue Plan Award.

	Consolidated Appropriations Act of 2021 Percentage (%)	American Rescue Plan Grant Percentage %
Household Benefits	72%	72%
Outreach/Eligibility Determination	14%	14%
Administration-State	1%	1%
Administration-Subrecipients	13%	13%
Total (each column must equal)	100%	100%

Categorical Eligibility

1.5 As outlined in the Terms and Conditions, current recipients the following programs are categorically-eligible for LIHWAP assistance:

- •Low-Income Home Energy Assistance Program (LIHEAP)
- •Means-tested Veterans Programs
- •Supplemental Security Income (SSI)
- •Supplemental Nutrition Assistance Program (SNAP)
- •Temporary Assistance for Needy Families (TANF)

Briefly describe your operational plans for enrollment of categorically eligible populations based on operational priorities outlined in question 1.2 (e.g. automatic enrollment, acceptance of documentation of enrollment during intake processes). If it will not be possible to include any of these programs in your intake/eligibility processes, provide a brief explanation.

Households eligible for the LIHEAP funded Comprehensive Energy Assistance Program (CEAP) – including those found Categorical Eligible under the CEAP Rule at 10 Texas Administrative Code (TAC), §6.307(b), will be considered categorically eligible for LIHWAP and will be offered the opportunity to enroll in the LIHWAP if their water and wastewater service is in arrears or has been disconnected. Those households already determined eligible for CEAP in the current program year will be contacted and informed about the LIHWAP and the program eligibility requirements. Those households who are interested in receiving LIHWAP assistance will be required to provide a copy of their most recent water/waste water bill.

Determination of Eligibility for Direct Enrollment

Note: The information below is focused on eligibility determination for households that are not categorically eligible based on the enrollment in one of the programs outlined in question 1.5.

1.6 What type of countable income do you use for eligibility determination? (select one)

X Gross Income

Net Income

1.7 List all the applicable forms of countable income used to determine a household's income eligibility for LIHWAP. Note: The forms of countable income used for benefit eligibility are generally left to the discretion of the grantee; however, the following sources are not applicable forms of countable income used to determine a household's income eligibility for LIHWAP:

Temporary Assistance for Needy Families (TANF) benefits
Supplemental Nutrition Assistance Program (SNAP) benefits
Women, Infants, and Children Supplemental Nutrition Program (WIC) benefits
Covid-19 Economic Impact Payments (Stimulus Checks)

Income means cash receipts earned and/or received by all Household members 18 years of age and older before taxes during applicable tax year(s), but not the excluded income listed in subsection (d) of this section. Income is to be based on the Gross Annual Income (defined as the total amount of non-excluded income earned annually before taxes or any deductions) for all Household members 18 years of age and older.

(a) Exceptions to the use of Gross Annual Income are:

- (1) From non-farm or farm self-employment net receipts must be used (i.e., receipts from a person's own business or from an owned or rented farm after deductions for business or farm expenses); and
- (2) From gambling or lottery winnings net income must be used.

(b) If an income source is not excluded in this subsection, it must be included when determining income eligibility. Excluded Income:

- (1) Capital gains;
- (2) Any assets drawn down as withdrawals from a bank;
- (3) Balance of funds in a checking or savings account;
- (4) Any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4));
- (5) Proceeds from the sale of property, a house, or a car;
- (6) One-time payments from a welfare agency to a family or person who is in temporary financial difficulty;
- (7) Tax refunds, Earned Income Tax Credit refunds, the economic impact payments from the Internal Revenue Service under section 103 of the American Taxpayer Act;
- (8) Jury duty compensation;
- (9) Gifts, loans, and lump-sum inheritances;
- (10) One-time insurance payments, or compensation for injury;
- (11) Non-cash benefits, such as the employer-paid or union-paid portion of health insurance or other employee fringe benefits;
- (12) Reimbursements (for mileage, gas, lodging, meals, etc.);
- (13) Employee fringe benefits such as food or housing received in lieu of wages;
- (14) The value of food and fuel produced and consumed on farms;
- (15) The imputed value of rent from owner-occupied non-farm or farm housing;
- (16) Federal non-cash benefit programs as Medicare, Medicaid, SNAP, WIC, and school lunches, and housing assistance (Medicare deduction from Social Security Administration benefits should not be counted as income);
- (17) Combat zone pay to the military;

- (18) College scholarships, Pell and other grant sources, assistantships, fellowships and work study, VA Education Benefits (GI Bill), Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- (19) Child support payments (amount paid by payor may not be deducted from income);
- (20) Income of Household members under 18 years of age including payment to children under the age of 18 made payable to a person over the age of 18;
- (21) Stipends from senior companion programs, such as Retired Senior Volunteer Program and Foster Grandparents Program;
- (22) AmeriCorps Program payments, allowances, earnings, and in-kind aid;
- (23) Depreciation for farm or business assets;
- (24) Reverse mortgages;
- (25) Payments for care of Foster Children;
- (26) Payments or allowances made under the Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));
- (27) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c));
- (28) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (93, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d));
- (29) Allowances, earnings, and payments to individuals participating in programs under the Workforce Innovation and Opportunity Act (29 U.S.C.3101));
- (30) Payments received from programs funded under Title V of the Older Americans Act of 1965 (42 U.S.C. 3056(g));
- (31) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858(q));

- (32) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- (33) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459(e));
- (34) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (94, §6);
- (35) The first \$2,000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407 - 1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;
- (36) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (101) or any other fund established pursuant to the settlement in In Re Agent Orange Liability Litigation, M.D.L. No. 381 (E.D.N.Y.);
- (37) Payments received under the Maine Indian Claims Settlement Act of 1980 (96, 25 U.S.C. 1728);
- (38) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (95);
- (39) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802 - 05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811 - 16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821);
- (40) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));
- (41) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. §1437a(b)(4));
- (42) A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled Elouise Cobell et al. v. Ken Salazar et al., 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111-291);
- (43) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH

Notice 2013-30 "Exclusion from Income of Payments under Recent Tribal Trust Settlements"

(25 U.S.C. 117b(a));

(44) Payments of up to \$100,000 a year from an account established under the Achieving a Better Life Experience Act of 2014 or the ABLE Act of 2014 (P.L. 113-295) to a qualified beneficiary that are expended on qualified disability expenses; and

(45) Any other items which are excluded by virtue of federal or state legislation or by adopted federal regulations that have taken effect. The Department will, from time to time, provide on its website updated links to such federal or state exclusions. Notwithstanding such information, a Subrecipient may rely on any adopted federal or state exclusion on and after the date on which it took effect.

If any of the above questions require further explanation or clarification that could not be made in the fields, provide said explanation here.

- (1) The Subrecipient must calculate projected annual income by annualizing current income. Income that may not last for a full 12 months should be calculated assuming current circumstances will last a full 12 months, unless it can be documented that employment is less than 12 months/year and pay is not prorated over the entire 12 month period. For incomes not able to be annualized over a 12 month period, the income shall be calculated on the total annual earning period (e.g., for a teacher paid only nine months a year, the annual income should be the income earned during those nine months). In limited cases where income is not paid hourly, weekly, bi-weekly, semi-monthly nor monthly, the Subrecipient may contact the Department to determine an alternate calculation method in unique circumstances on a case-by-case basis.
- (2) For all customers including those with categorical eligibility, the Subrecipient must collect verifiable documentation of Household income received in the 30 days prior to the date of application.
- (3) Once all sources of income are known, Subrecipient must convert reported income to an annual figure. Convert periodic wages to annual income by multiplying:
 - (A) Hourly wages by the number of hours worked per year (2,080 hours for full-time employment with a 40-hour week and no overtime);
 - (B) Weekly wages by 52;
 - (C) Bi-weekly wages (paid every other week) by 26;
 - (D) Semi-monthly wages (paid twice each month) by 24; and
 - (E) Monthly wages by 12.
 - (F) One-time employment income should be added to the total after the income has been annualized.

(c) If a federal or state requirement provides an updated definition of income or method for calculating income, the Department will provide written notice to Subrecipients about the implementation date for the new requirements.

(d) If proof of income is unobtainable, the applicant must complete and sign a Declaration of Income Statement (DIS).

(e) A live in aide or attendant is not considered part of the Household for purposes of determining Household income, but is considered for a benefit based on the size of the Household. Example: A Household applies for assistance. There are four people in the Household. One of the four people is a live-in aide. To determine if the Household is qualified, annualize the income of the other three Household members and compare it to the three person income limit. However, if the amount of benefit is based on Household size (such as benefit level based on the number of people in the Household), then this is a four person Household.

Section 2: Benefits

Eligibility

2.1 Designate the income eligibility threshold used for the water benefit.

Eligibility Threshold (select one)	Eligibility Threshold Percent
<input checked="" type="checkbox"/> Federal Poverty Guideline	150%
<input type="checkbox"/> State Median Income	
<input type="checkbox"/> Hybrid Federal and State (Based on Household Size)	

2.2 Do you anticipate additional eligibility requirements beyond the income threshold noted in 2.1 for water assistance?

No

If the answer to question 2.2. is "Yes" please provide an explanation below

2.3. How will you support households whose utility payments are included in their rental payments?

The Department will follow the current rule utilized by the LIHEAP utility assistance program, Texas Administrative Rule §6.309(h)(8), which allows a Subrecipient to make payments to landlords on behalf of eligible renters who pay their utility and/or fuel bills indirectly. Subrecipient shall notify each participating Household of the amount of assistance paid on its behalf. Subrecipient shall document this notification. Subrecipient shall maintain proof of water/wastewater bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer's rent.

2.4 Check the variables you use to determine your benefit levels. (Check all that apply. Check both Household Drinking Water Burden and Household Wastewater Burden if households receive a combined bill for drinking water and wastewater):

- X Income
- Household Size
- Household Drinking Water Burden
- Household Wastewater Burden
- Other (Please describe):

Households with the lowest income will receive the highest level of assistance. Households, defined as vulnerable households, who have an elderly persons (age 60+), disabled, or with children 5 years of age and younger will be given priority.

All payments based on actual bills.

The household size will only be used to determine income eligibility, not benefit levels.

2.5 Describe estimated benefit levels for the project period for which this plan applies

Minimum Benefit \$1 Maximum Benefit \$2400

Benefit amount cannot exceed the sliding scale described in paragraphs (1) - (3) of this subsection unless a *waiver* is provided due to arrearages, reconnection costs, fees and penalties:

- (1) Households with Incomes of 0 to 50% of Federal Poverty Guidelines may receive an amount not to exceed \$2,400 per Component;
- (2) Households with Incomes of 51% to 75% of Federal Poverty Guidelines may receive an amount not to exceed \$2,300 per Component; and
- (3) Households with Incomes of 76% to at or below 150% of Federal Poverty Guidelines may receive an amount not to exceed \$2,200 per Component

2.6 Benefit periods

Is this a one-time benefit? **No**

Households who are eligible for assistance can receive assistance up to the maximum benefit level to negate water/wastewater bill arrearages and to reduce monthly water/wastewater bill payments.

2.7 Do you give priority in eligibility to:

People with Disabilities	Yes
Young Children?	Yes
Older Adult/Seniors (60 and over)?	Yes
Households with high water burdens?	Yes
Other?	

2.8 Describe how you prioritize the provision of water assistance to vulnerable populations (e.g., benefit amounts, early application periods, etc.)

Applications from vulnerable households should be processed prior to non-vulnerable households. Vulnerable households will receive 8 payments and non-vulnerable 6 payments.

2.9 Do you provide applicants, including those who are physically disabled, the means to submit applications for benefits without leaving their homes? **Yes**

2.10 For individual who are homebound or physically disabled, do you provide travel to the sites at which applications for assistance are accepted? **Yes**

An applicant who has a disability may request an accommodation and if the request is a reasonable accommodation, their request must be addressed in a timely manner. See 10 TAC §1.204. LIHWAP providers will make arrangements for assisting homebound and physically disabled persons to submit an application.

2.11 Are any of the utility vendors you work with subject to a moratorium on shut offs? **Not known. If local governments have instituted moratoria for their area, TDHCA may likely not be aware of it.**

2.12 Describe the terms of the moratorium and any special dispensation received by LIHWAP clients during or after the moratorium period. **N/A**

2.13 Do you make payments contingent on vendors taking appropriate measures or maintaining existing supports to alleviate the water burden of eligible households? **Yes**

While the State will have subrecipient organizations negotiate with vendors to reduce arrearages and pay bills charged to LIHWAP households, the State will not negotiate rates or make payments contingent on vendors taking appropriate measures to alleviate the water burden of eligible households other than reducing the amount due once LIHWAP payment is received. If such provisions are in place, subrecipient organizations will request that those supports remain in place. The Department anticipates that most vendors will not voluntarily agree to alleviate the burden on eligible households. The State will require LIHWAP subrecipient organizations to enter into vendor agreements with vendors and Subrecipients may aim to have vendors agree to alleviate the water burden of eligible households and if such are already in place, to maintain such.

Section 3: Outreach

3.1 Select all outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHWAP assistance available:

- X Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.
- X Publish articles or public service announcements in local newspapers or broadcast media announcements.
- X Work directly with water utilities to identify potential recipients.
- X Include inserts in water vendor billings to inform individuals of the availability of all types of LIHWAP assistance.
- Mass mailing(s) to prior-year LIHEAP recipients or recipients of other government benefits:
- X Automated phone campaigns and/or social media outreach
- X Multi-lingual announcements in languages spoken by low income households within utility service area and/or notification in ethnic language news and broadcast media outlets
- X Inform low income applicants of the availability of all types of LIHWAP assistance at application intake for other low-income programs.
- X Execute interagency agreements with other low-income program offices and/or public health pathways created for Covid-19 outreach to perform outreach to target groups.
- X Outreach to faith-based institutions, including those serving low-income people and people of color
- X Other (specify):
Include on Subrecipient and TDHCA's website.
Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc.), and presentations at area events. Social media posts, newspaper articles, press releases, radio, distribution of printed flyers, inform partner organizations, inform clients, website, and inform water and waste water providers.
*Some of our subrecipients do many of those items listed above, while in some areas, the outreach is not as comprehensive.

Section 4: Coordination

4.1 Describe how you will ensure that the LIHWAP program is coordinated with other programs available to low-income households (LIHEAP, TANF, SSI, SNAP, EPA, Emergency Rental Assistance Program, Homeowner Assistance Program, WAP, etc.) etc.).

- X Joint application for multiple programs:
The LIHEAP grant is administered by the same State Agency that will administer the LIHWAP program and the Department will encourage joint intake for both programs. For households who have already been determined income eligible, 150% for LIHEAP funded Comprehensive Energy Assistance Program, those households can request LIHWAP assistance and will only be required to submit their water/wastewater bill and usage as a supplement to their already approved LIHEAP application. However, denial for LIHEAP does not mean the household is ineligible for LIHWAP as the qualification process is slightly different.

- X Intake referrals to/from other programs:
LIHWAP subrecipients will be encouraged to work with local social service providers to request that they refer persons to the LIHWAP program.

- X One - stop intake centers:
LIHWAP subrecipients who have One-stop intake centers in their community will be encouraged to work with them to refer persons to LIHWAP and in some cases, assist in taking LIHWAP applications.

4.2 Describe how you will coordinate with relevant regulatory authorities that govern water suppliers.

The Department reached out to the Texas Commission on Environmental Quality (TCEQ) and was informed that TCEQ has no jurisdiction over water and waste water rates. Also, from the information that the Department has been able to gather to date, it is our understanding that the Texas Public Utility Commission (PUC) only regulates water and sewer rates for Texas water vendors, but not for cities, municipalities, or Municipal Utility Districts who provide water and wastewater. The Department will continue to reach out to the PUC to determine whether there are any areas of possible coordination related to rates charged to low-income persons for water and wastewater. The Department anticipates that there will be limited avenues for impacting rates charged to low-income persons for water and wastewater.

Section 5: Agency Designation

(Required for State grantees and the Commonwealth of Puerto Rico))

5.1 How would you categorize the primary responsibility of your State agency?

- Administration Agency
- Commerce Agency
- Community Services Agency
- Energy / Environment Agency
- X Housing Agency
- Human Service Agency
- Other - Describe:

5.2 LIHWAP Component Administration

5.2a Who determines client eligibility for drinking water service and wastewater service?

LIHWAP Subrecipients: Local governments, CAAs and Other Nonprofits

5.2b Who processes benefit payments to water service providers?

LIHWAP Subrecipients: Local governments, CAAs and Other Nonprofits

If any of your LIHWAP components are not centrally administered by a State agency, you must complete questions 5.3, 5.4 and 5.5.

5.3 What is your process for selecting local administering agencies?

For LIHWAP the Department will use its existing network of LIHEAP Administrators to serve as the local administering agencies. The description below describes how the LIHEAP utility assistance providers are selected.

The Department ensures that to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq. special consideration is given to any local public or private nonprofit agency which was receiving CSBG or LIHEAP funds.

(1) The Department, before giving such special consideration, determines that the agency involved meets program and fiscal requirements established by law and by the Department; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Department gives special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

Currently, the Department administers all aspects of program delivery through subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and Department rules. If subrecipients are successfully administering the program, the Department continues to use them as the LIHEAP network provider each year through renewing their contract.

If the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem in accordance with the Department's Enforcement Rules in 10 TAC Chapter 2.

5.4 How many local administering agencies do you use?

36

5.5 What types of local administering agencies do you use?

- Community Action Agencies**
- Local Governments**
- City Governments**
- County Governments**
- Other non-profits**

Section 6: Water Suppliers

Note: Water suppliers refers to both drinking and/or wastewater suppliers as they may be different entities at the local level

6.1 The following question is specific to Tribes (only). Do you charge households drinking water and wastewater utility services?

6.2 How do you notify the household of the amount of assistance paid, and the timing of the assistance payment?

Households will be sent a notification of the amount of assistance to be paid and which will include an estimated time period by when the vendor will receive the payment.

6.3 How do you assure that no household receiving assistance under this title will be treated adversely because of their receipt of LIHWAP assistance?

The LIHWAP vendor agreement to be executed between the LIHWAP subrecipient and the water provider has a provision providing an assurance that households receiving LIHWAP assistance will not be treated adversely because of their receipt of LIHWAP assistance.

6.4 How do you assure that water suppliers are restoring disconnected service or otherwise maintaining continuity of service due to the benefit payment?

Suppliers will need to provide confirmation, either via a phone call, email, or letter that the service has been re-connected. The vendor agreement has a provision assuring reconnection and continuity of service for those households whose water arrearages are paid.

Section 7: Program, Fiscal Monitoring, and Audit

7.1 How do you ensure good fiscal accounting and tracking of LIHWAP funds?

1. Review annual audits
2. Monitor fiscal records
3. Review current and prior year monthly expenditure and performance reports

Audit Process

7.2 Describe any audit findings rising to the level of material weakness or reportable condition cited in the Single Audits (as required in the Single Audit Act), Grantee monitoring assessments, inspector general reviews, or other government agency reviews of the LIHWAP agency from the most recently audited fiscal year.

Finding

LIHEAP Performance Data Form Discrepancies

Type

Reporting

Brief Summary

Certain line items reported did not agree to the supporting schedules for the amounts reported in Schedule 2.

Resolved?

Yes

Action Taken

Several upgrades to the automated system have been made.

Compliance Monitoring

7.3 Identify the Grantee's strategies for monitoring compliance with the Grantee's and Federal LIHWAP policies and procedures (e.g. certifications, Terms and Conditions, federal guidance, nondiscrimination requirements): *Select all that apply.*

Grantee employees:

- X Internal program review
- X Departmental oversight
- Secondary review of invoices and payments
- Reconciliation of water supplier records
- X Other program review mechanisms are in place. Describe:
Cross division peer review of documents.

Local Administering Agencies / District Offices:

- X On-site evaluation
- Annual program review
- Monitoring through central database
- X Desk reviews
- X Client file testing/sampling
- Reconciliation of water supplier records
- X Other program review mechanisms are in place. Describe:
 Desk review of 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit for Federal Awards (Uniform Guidance) and Uniform Grant Management Standards (UGMS)/TxGMS; A review of the Subrecipient’s resolution of prior monitoring or Single Audit reports.

7.4 Explain or attach a copy of your local agency monitoring schedule and protocol.

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance with program requirements. Subrecipient monitors review necessary program documents and financial records through desk reviews and on-site reviews. Contracts may also be selected for monitoring based on other factors, such as prior monitoring findings, issues noted in the Single Audit, complaints, and/or special requests.

Refer Attachment A for Monitoring Procedures.

	SUBRECIPIENT	REVIEW TYPE	Date of Next Monitoring Review	DATE OF LAST FULL ONSITE REVIEW (IF APPLICABLE)
1	Aspermont Small Business Development Center, Inc.	On-Site	2022	November 2019
2	BakerRipley	On-Site	2021	November 2020
3	Bexar County Community and Development Programs	On-Site	2022	January 2020
4	Big Bend Community Action Committee, Inc.	On-Site	2022	August 2020
5	Brazos Valley Community Action Programs	On-Site	2022	April 2021
6	Cornerstone Community Action Agency / Central Texas Opp	On-Site	2023	September 2020
7	City of Fort Worth Neighborhood Services Department	On-Site	2022	February 2021
8	City of Lubbock Community Development Department	On-Site	2021	February 2019
9	Combined Community Action, Inc.	On-Site	2022	April 2021
10	Community Action Committee of Victoria, Texas	On-Site	2022	September 2019
11	Community Action Corporation of South Texas	On-Site	2021	January 2021
12	Community Action Inc. of Central Texas	On-Site	2022	October 2018
13	Community Council of South Central Texas, Inc.	On-Site	2021	October 2020
14	Community Services Northeast Texas, Inc.	On-Site	2023	December 2020
15	Concho Valley Community Action Agency	On-Site	2022	May 2021
16	County of Hidalgo Community Services Agency	On-Site	2023	May 2021
17	Dallas County Health and Human Services	On-Site	2022	September 2020
18	Economic Action Committee of the Gulf Coast	On-Site	2022	January 2020

	SUBRECIPIENT	REVIEW TYPE	Date of Next Monitoring Review	DATE OF LAST FULL ONSITE REVIEW (IF APPLICABLE)
19	Economic Opportunities Advancement Corporation of Planning Region XI	On-Site	2022	March 2021
20	El Paso Community Action Program-Project BRAVO	On-Site	2022	February 2020
21	Greater East Texas Community Action Program	On-Site	2021	December 2020
22	Hill Country Community Action Association, Inc.	On-Site	2021	December 2020
23	Kleberg County Human Services	On-Site	2022	November 2019
24	Nueces County Community Action Agency	On-Site	2022	February 2019
25	Panhandle Community Services	On-Site	2022	May 2020
26	Pecos County Community Action Agency	On-Site	2023	January 2021
27	Rolling Plains Management Corporation	On-Site	2021	December 2020
28	South Plains Community Action Association, Inc.	On-Site	2022	April 2018
29	South Texas Development Council	On-Site	2022	January 2021
30	Texas Neighborhood Services	On-Site	2022	May 2019
31	Texoma Council Of Governments	On-Site	2022	August 2019
32	Travis County Health and Human Services	On-Site	2022	May 2021
33	Tri-County Community Action, Inc.	On-Site	2021	March 2021
34	Webb County Community Action Agency	On-Site	2022	December 2019
35	West Texas Opportunities, Inc.	On-Site	2022	July 2020
36	Williamson-Burnet County Opportunities, Inc.	On-Site	2022	April 2019

7.5 Describe how you select local agencies for monitoring reviews.

Site visits:

Selection of contracts for monitoring is primarily based on risk assessment and minimum Federal monitoring requirements (once every three years). Contracts may also be selected for monitoring based on other factors, such as prior findings, complaints, or special requests.

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance with program requirements. Subrecipient monitors review necessary program documents and financial records through desk reviews and on-site reviews to ascertain compliance with program requirements.

Desk reviews:

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance with program requirements. Subrecipient monitors review necessary program documents and financial records through desk reviews and on-site reviews to ascertain compliance with program requirements.

7.6 How often will each local agency be monitored? *Note: This answer can be prospective.*

LIHWAP Subrecipients will be monitored at least once every three years. If a subrecipient also manages Community Service Block Grant funds and/or the LIHEAP Comprehensive Energy Assistance Program or the Weatherization Assistance Program, monitoring may be done at the same time. More frequent monitoring visits may be conducted for Subrecipients with identified risk.

7.7. How many local agencies are currently on corrective action plans for eligibility and/or benefit determination issues for LIHEAP or other programs administered by your agency?

0

7.8. How many local agencies are currently on corrective action plans for financial accounting or administrative issues for LIHEAP or other programs administered by your agency?

0

Section 8: Public Participation

8.1 How did you obtain input from the public in the development of your LIHWAP plan?

Select all that apply.

Tribal Council meetings (s)

Public hearings (s)

Enter the dates for Tribal Council meeting(s) or Public hearing(s):

N/A

Draft plan posted to website and available for comment

Hard copy of plan is available for public view and comment

Enter how long draft plan and/or hard copy of plan was available for public view and comment:

7 days

Comments from applicants are recorded

Request for comments on draft Plan is advertised

Stakeholder or consultation meeting (s)

Comments are solicited during outreach activities

Other-Describe

8.2 How many parties commented on your plan? Pending public comment.

8.3 Summarize the comments you received on your plan here: Pending public comment.

8.3 Summarize the comments you received on your plan here: Pending public comment.

8.4 What changes did you make to your LIHWAP plan as a result of the comments received? Pending public comment.

Section 9: Fair Hearings

9.1 Describe your fair, independent hearing procedures for households whose applications are denied or where the applicant disputes the benefit amount.

APPEALS PROCESS

- (a) Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner. Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/customers. At a minimum, the procedures described in paragraphs (1) - (8) of this subsection shall be included:
- (1) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) calendar days of the determination. Such a determination is defined as a denial of assistance, but does not include a level of assistance lower than the possible program limits or a reduction in assistance, as long as such process is in accordance with the Subrecipient's written policy. This notification shall include written notice of the right of a hearing and specific reasons for the denial by program. The applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.
 - (2) A Subrecipient must establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their customer files.
 - (3) Subrecipients shall hold a private appeal hearing (unless otherwise required by law) by phone or in person in an accessible location within fourteen calendar days after the Subrecipient received the appeal request from the applicant and must provide the applicant notice in writing of the time/location of the hearing at least seven (7) calendar days before the appeal hearing.
 - (4) Subrecipient shall record the hearing.
 - (5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.
 - (6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.
 - (7) Subrecipient shall notify applicant of the decision in writing. The Subrecipient shall mail the notification by close of business on the third calendar day following the decision (three day turn-around).
 - (8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing.
- (b) If the applicant is not satisfied, the applicant may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.
- (c) If the applicant/customer appeals to the Department, the funds should remain encumbered until the Department completes its decision.

9.2 When and how are applicants informed of these rights?

Within ten days of the determination, the subrecipient must provide written notification to the applicant.

9.3 Describe your fair hearing procedures for households whose applications are not acted on in a timely manner.

An Applicant requests a hearing with the Subrecipient initially. If not satisfied with the results of the Subrecipient's hearing, the Applicant then appeals to the Texas Department of Housing and Community Affairs.

9.4 When and how are applicants informed of these rights?

Applicants are informed of their rights either by 1) informing them on the application itself, 2) handing them a document with such information at the time of application, 3) displaying posters at intake offices, or 4) providing them the information in the denial of LIHEAP assistance letter that is mailed to the applicant.

Section 10: Training

10.1 Training Strategy - Briefly describe the anticipated training strategy for ensuring that grantee staff, local administering agencies, and participating water utilities understand requirements outlined in the Terms and Conditions as well eligibility requirements and procedures described in this plan. Indicate any technical assistance or resources needed by the State, Territory or Tribe to carry out this training strategy.

TDHCA will rely on the content of its rules, the LIHWAP Plan and its contracts with each individual subrecipient to provide the guidelines for the program.

The Department will provide technical assistance on how subrecipients can conduct outreach to those in need of water assistance.

Grantee Staff:

Formal training on grantee policies and procedures will be given to grantee staff as needed.

Employees will be provided with all the information necessary to administer the LIHWAP. The Department training team provides its new staff with programmatic orientation training and are invited to observe and participate in Subrecipient trainings as well.

Local Agencies:

TDHCA staff will ensure trainings are designed to cover the LIHWAP State Plan, agency contracts, vendor agreements, and outreach.

The Department will hosts meetings and training events on an as needed basis with Subrecipients to conduct necessary training and/or make announcements. The Department will develops data tools and trains agencies as needed on how to analyze their data to improve efficiency and productivity. Email communication is the best and primary means with which the Department trains, assists, and communicates with funded entities.

The Department will provide webinars, virtual recorded trainings and on-site training as needed to individual agencies or through regional trainings on a variety of topics.

Section 11: Performance Management

11.1 Describe any challenges you anticipate with collecting and reporting data to ACF each year regarding how you implemented your LIHWAP. Examples of data may include, but are not limited to, the number of households assisted, the average benefit amount provided, the number of households whose water or wastewater services were restored because of the benefit, demographics of applicants and beneficiaries, and the number of imminent disconnections of water or wastewater services avoided because of the benefit.

Texas expects that the same process used for LIHEAP data collection will be used for LIHWAP data collection with any additional data points required by USHHS. Initial reporting delays will certainly be expected as TDHCA does not have a statewide data collection system. The software upgrades needed to address LIHWAP reporting will have to be negotiated between subrecipients and their respective software providers.

The Department currently requires subrecipients to upload data for the performance measures into our State reporting system. The Department will make this reporting a contractual requirement for all LIHWAP subrecipients. The Department will periodically review uploaded summary reports and offer technical assistance to subrecipients who may not understand what to report or do not upload the data in a timely fashion.

11.2 List any technical assistance resources you request of ACF related to data collection, analysis and reporting on your LIHWAP.

At this time, the Department does not anticipate technical assistance will be needed related to data collection and data analysis. However, the more quickly that HHS is able to provide final and concrete data fields that will be required, the more quickly subrecipients and their software vendors can begin making needed changes.

The Department would like to receive more information and guidance on what ACF anticipates the State will need to report related to administrative information regarding local providers (if applicable), agreements with water utilities, recommendations, accomplishments, unmet needs and lessons learned (as referenced in the LIHWAP Terms and Condition, the section related to Program Reporting and Requirements, item 10. F). The Department believes it would be unnecessarily cumbersome to have to obtain copies of every vendor agreement for a state the size of Texas in which thousands of vendor agreements will be negotiated.

Section 12: Program Integrity

12.1 Fraud Reporting Mechanisms

a. Identify all mechanisms that will be available to the public for reporting cases of suspected LIHWAP waste, fraud, and abuse. Select all that apply.

- Online fraud reporting
- Dedicated fraud reporting hotline
- Report directly to local agency/district office or Grantee office
- Report to State Inspector General or Attorney General
- Forms and procedures in place for local agencies/district offices and vendors to report fraud, waste, and abuse
- Other - Describe:

b. Identify strategies that will be used for advertising the above-referenced resources. Select all that apply

- Printed outreach materials
- Addressed on LIHWAP application
- Website
- Other - Describe:
[LIHWAP Subrecipients](#)

12.2. Identification Documentation Requirements

a. Indicate which of the following forms of identification will be required or requested to be collected from LIHWAP applicants or their household members. Note: The types of documentation required is left to the discretion of the grantee. The types of documentation included in the list below are examples of documentation required by LIHEAP grantees for some or all household members based on policies within the State, Territory or Tribe. Comparable documentation and procedures may be instituted for LIHWAP households or maybe modified or simplified for households that are categorically eligible based on enrollment in programs identified in question 1.5.

- Government-issued identification card (i.e.: driver's license, State ID, Tribal ID, Passport, etc. are required of all household members.
- Other-Clients provide identification to the subrecipients at the time of application.

b. Describe any exceptions to the above policies.

Households may include members who are not seeking assistance and may not be included in the household count. A live in aide or attendant is not considered part of the Household for purposes of determining Household income, but is considered for a benefit based on the size of the Household.

12.3 Identification Verification

- Identify what methods will be used to verify the authenticity of identification documents provided by clients or household members. Select all that apply
- Verify SSNs with Social Security Administration
- Match SSNs with death records from Social Security Administration or State agency
- Match SSNs with State eligibility/case management system (e.g., SNAP, TANF)
- Match with State Department of Labor system
- Match with State and/or federal corrections system
- Match with State child support system
- Verification using private software (e.g., The Work Number)
- In-person certification by staff (for Tribal grantees only)
- Match SSN/Tribal ID number with Tribal database or enrollment records (for Tribal grantees only)
- Other - Describe: See response to 12.4

12.4. Citizenship/Legal Residency Verification

What are your procedures for ensuring that household members are U.S. citizens or permanent residents who are qualified to receive LIHWAP benefits? Select all that apply.

- Clients sign an attestation of citizenship or legal residency
- Client's submission of Social Security cards is accepted as proof of legal residency
- Noncitizens must provide documentation of immigration status
- Citizens must provide a copy of their birth certificate, naturalization papers, or passport
- Noncitizens are verified through the SAVE system
- Tribal members are verified through Tribal enrollment records/Tribal ID card
- Other - Describe: *If HHS makes the determination that these funds are a federal public benefit that does not fall under any PRWORA exception, then the Department will follow 10 TAC §1.410.*

12.5. Income Verification Note: Income verification applies only to households that have not been determined to be categorically eligible based on enrollment in other programs identified in question 1.5 above. Methods of income verification are left to the discretion of grantees and should be consistent with any sources of countable income identified in question 1.7 above.

What methods will your agency utilize to verify household income? Select all that apply.

- Require documentation of income for all adult household members
- Bank statements
- Pay stubs
- Social Security award letters
- Tax statements
- Unemployment insurance letters
- Zero-income statements
- Other - Describe:

12.5. Income Verification Note (continued)

- N/A** Computer data matches
Income information matched against state computer system (e.g., SNAP, TANF)
Proof of unemployment benefits verified with state Department of Labor
Social Security income verified with SSA
Utilize state directory of new hires
Other - Describe:

12.6. Protection of Privacy and Confidentiality

Identify the financial and operating controls that will be in place to protect client information against improper use or disclosure. Select all that apply.

- Policy in place prohibiting release of information without written consent
 Grantee LIHWAP database includes privacy/confidentiality safeguards
 Employee training on confidentiality for:
 Grantee employees Local agencies/district offices
 Employees must sign confidentiality agreement
 _____ Grantee employees _____ Local agencies/district offices
 Physical files are stored in a secure location
 Other - Describe:

Grantees have to adhere to Texas Administrative Code (TAC) 10 TAC, Part 1, Ch 1, Subch A, §1.24 Information Security and Privacy Requirements
[https://texreg.sos.state.tx.us/public/readtac\\$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=1&rl=24](https://texreg.sos.state.tx.us/public/readtac$ext.TacPage?sl=R&app=9&p_dir=&p_rloc=&p_tloc=&p_ploc=&pg=1&p_tac=&ti=10&pt=1&ch=1&rl=24)

Grantee contracts will include the following section:

RECORDKEEPING REQUIREMENTS

Subrecipient acknowledges that all information collected, assembled, or maintained by subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

Texas Administrative Code, Title 10 Chapter 1, Subchapter D §1.409 requires that:

(a) Client Records including Multifamily Development Owners. The Department requires subrecipient organizations to document client services and assistance. Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization policies and procedures. To the extent that it is financially feasible, archived client files should be stored offsite from Subrecipient headquarters, in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.

(b) Records of client eligibility must be retained for five (5) years starting from the date the Household activity is completed, unless otherwise provided in federal regulations governing the program.

(c) Other records must be maintained as described in the Contract or the LURA, and in accordance with federal or state law for the programs described in the Chapters of this Part.

12.7 Verifying the Authenticity

What policies will be in place for verifying vendor authenticity? Select all that apply.

- All vendors must register with the State/Tribe.
- All vendors must supply a valid SSN or TIN/W-9 form
- Vendors are verified through water bills provided by the household
- Grantee and/or local agencies/district offices perform physical monitoring of vendors
- Other - Describe and note any exceptions to policies above:

12.8 Benefits Policy - Water and Wastewater Utilities

What policies will be in place to protect against fraud when making benefit payments to water utilities on behalf of clients? Select all that apply.

- Applicants required to submit proof of physical residency
- Applicants must submit current water or wastewater bill
- Centralized computer system/database tracks payments to all water suppliers
- Centralized computer system automatically generates benefit level
- Computer databases are periodically reviewed to verify accuracy and timeliness of payments made to water suppliers
- Data exchange with utilities that verifies:
 - Account is properly credited with benefit
 - Account ownership
 - Balances
 - Consumption
 - Payment history
 - Other - Describe:
- Payments coordinated among other water and wastewater assistance programs to avoid duplication of payments
- Payments to water suppliers and invoices from water suppliers are reviewed for accuracy
- Procedures are in place to require prompt refunds from utilities in cases of account closure
- Separation of duties between intake and payment approval
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other - Describe: Clients are a primary source of reports of non-delivery or only partial delivery of assistance.

12.9 Investigations and Prosecutions

Identify the Grantee's procedures for investigating and prosecuting reports of fraud, and any sanctions placed on clients/staff/vendors found to have committed fraud. Select all that apply.

- Clients found to have committed fraud are banned from LIHWAP assistance. For how long is a household banned?
- Contracts with local agencies require that employees found to have committed fraud are reprimanded and/or terminated
- Grantee attempts collection of improper payments. If so, describe the recoupment process
- Local agencies/district offices or Grantee conduct investigation of fraud complaints from public
- Refer to local prosecutor or State Attorney General
- Refer to State Inspector General
- Refer to US DHHS Inspector General (including referral to OIG hotline)
- Vendors found to have committed fraud may no longer participate in LIHWAP
- Other - Describe: [A Subrecipient or Vendor may be referred to the Department's Enforcement Committee or proposed for debarment.](#)

Section 13: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Certifications Regarding Debarment, Suspension, and Other Responsibility Matters— Primary Covered Transaction

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certifications Regarding Debarment, Suspension, and Other Responsibility Matters— Primary Covered Transaction

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false Statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.
4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred,

suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

By checking this box, the prospective primary participant is providing the certification set out above.

Section 14: Certification Regarding Drug-Free Workplace Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. For grantees other than individuals, Alternate I applies.
4. For grantees who are individuals, Alternate II applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).
8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements Alternate I. (Grantee Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a Statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
 - (b) Establishing an ongoing drug-free awareness program to inform employees about –
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
 - (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the Statement required by paragraph (a);
 - (d) Notifying the employee in the Statement required by paragraph (a) that, as a condition of employment under the grant, the employee will –
 - (1) Abide by the terms of the Statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph(d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;
 - (f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph(d)(2), with respect to any employee who is so convicted - (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - (g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).
- (B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check if there are workplaces on file that are not identified here. Alternate II. (Grantees Who Are Individuals)

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

By checking this box, the prospective primary participant is providing the certification set out above.

Section 15: Certification Regarding Lobbying

The submitter of this application certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned States, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this Statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required Statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the prospective primary participant is providing the certification set out above.

Signature of Governor's Authorized Official

Name of State/Territory: **Texas**

LIHWAP State/Territory Lead Agency: **Texas Department of Housing and Community Affairs**

Signature: _____

Printed Name

Governor's Authorized Official

Attachment A

Response to Question 7.4 Monitoring Policies

Compliance Division Subrecipient Monitoring Section

Standard Operating Procedures 1.0 Risks and Control Objectives

1.0 Risks and Control Objectives

- 1.1 The risks associated with not having an SOP for Assignments and Risk Assessments and the control objectives to ensure that those risks are minimized, are illustrated in the following table:

Risks

The risks associated with not having an SOP for monitoring procedures are that that monitoring reviews may not be conducted or be conducted in a consistent manner and within the requirements of the Department and/or Federal requirements.

Control Objectives

This SOP will minimize the risks described by providing a comprehensive process for a monitoring risk assessment, monitoring assignment and for the completion of monitoring reports and responses.

2.0 Policy

- 2.1 It is the requirement of the Texas Department of Housing and Community Affairs and its Compliance Division to perform monitoring functions of federal and state funds, in a consistent manner that is compliant with Department and Funding source requirements. The Chief of Compliance oversees three (3) monitoring sections within the Compliance Division, one (1) of which is the Compliance Subrecipient Monitoring section. The Compliance Subrecipient Monitoring director oversees the section of employees that monitor the programs that are administered by the Community Affairs Division, Single Family, and Home and Homelessness Programs Divisions of the Department.

3.0 General

- 3.1 Abbreviations

- A. Texas Department of Housing and Community Affairs – Department
- B. Community Affairs Division – CAD
- C. Compliance Division - Compliance

- D. Compliance Division Subrecipient Monitoring Section - CMSM
- E. Compliance Subrecipient Monitoring Director – CMSM Director
- F. Subrecipient Monitor – Compliance Monitor or Monitor
- G. Community Affairs Division program awardees (Non-profit corporations, Counties, Cities, Council of Government’s) – Subrecipient
- H. Weatherization Assistance Program – WAP
- I. Comprehensive Energy Assistance Program – CEAP
- J. Community Services Block Grant - CSBG
- K. Department of Energy – DOE
- L. Emergency Solutions Grant – ESG
- M. HOME Investments Partnership – HOME
- N. Homeless Housing and Services Program – HHSP
- O. Housing Trust Fund – HTF
- P. Low Income Housing and Energy Assistance Program – LIHEAP
- Q. LIHEAP Weatherization Assistance Program – LI-WAP
- R. National Housing Trust Fund – NHTF
- S. Neighborhood Stabilization Program – NSP
- T. Quality Control Inspector - QCI

3.2 Purpose

- A. This SOP describes the Department’s methodology for monitoring Subrecipients.
- B. To comply with Department rules on the administration on program funds.
- C. To comply with Federal Funding source requirements for administering program funds.
- D. It establishes consistent processes and procedures when monitoring CAD programs.
- E. Monitoring activities are planned to focus on areas of highest risk and to help ensure the most effective use of monitoring resources.
- F. To ensure the CMSM Compliance Monitors completed monitoring reports and responses within a designated time frame to ensure Subrecipients address any corrective actions in a timely manner.
- G. To ensure monitoring responses are reviewed to ensure corrective actions were completed.

4.0 Responsibilities

- 4.1 The CMSM section is responsible for ensuring the CEAP, CSBG, ESG, HOME, HHSP, HTF,

Ending Homelessness, CDBG, Multifamily Direct HOME Loans, NHTF, NSP and WAP programs (DOE and LIHEAP) are administered and funds are expended in accordance with contract provisions and applicable State and Federal rules, regulations, policies, and related statutes.

- 4.2 The CMSM Director will ensure a monitoring schedule is developed that identifies the Subrecipients that are to be monitored.
- 4.3 According to individual program requirements and/or standards, the CMSM section will develop a list of specific compliance requirements to be reviewed. The section will also develop a methodology to review each compliance requirement consistently.
- 4.4 The CMSM section will perform the respective monitoring to determine Subrecipient compliance.
- 4.5 The CMSM monitors will notify the CMSM Director and/or Chief of Compliance if a finding or concern of fraud, waste and/or abuse were noted during a Subrecipient's monitoring.
- 4.6 Within 30 days of the completion of the monitoring, the CMSM section will develop a report or correspondence, for the Subrecipient, reflecting the results of the monitoring.
- 4.7 The CMSM section will address the Subrecipient's response to the report and/or close out the monitoring process.
- 4.8 The CMSM section will notify and work with the CAD Training section to address any findings consistent within the Subrecipient network.

5.0 Subrecipient Monitoring Selection

- 5.1 The CMSM section will complete a Subrecipient monitoring review schedule, at least quarterly each year. The schedule will identify the quarter in which the Subrecipient will be monitored.
- 5.2 The CMSM section utilizes the most efficient use of its travel and monitoring budget, as its methodology in developing the Subrecipient monitoring review schedule. The schedule takes into account the program contract periods and may require Compliance Monitors to review multiple programs during the review.
- 5.3 The Department's schedule is used as a planning tool and is subject to change. The CMSM Section may encounter situations that arise and cause Subrecipients to be monitored in a different month or more frequently than what is identified in the schedule. These situations may include:
 1. Subrecipient who may not or have not met the minimum on-site monitoring threshold.
 2. There is low production in the program(s) selected for monitoring.
 3. Monitor(s) attempt to schedule a monitoring and provides proposed monitoring dates. However, the Subrecipient is unable to accommodate the monitoring during the proposed dates.
 4. The Department receives fraud, waste and/or abuse concerns against a Subrecipient.
 5. The Department receives a credible complaint against a Subrecipient.
- 5.4 As needed, the CMSM will also factor in the results of a Subrecipient's prior monitoring review and/or Single Audit findings when determining the monitoring schedule. Subrecipient's with prior and/or repetitive monitoring and/or Single Audit findings are a priority to be monitored.
- 5.5 At a minimum:
 - A. DOE (July-June) and LIHEAP WAP (Jan. – Dec.) Subrecipients will be monitored at least once each year;
 - B. LIHEAP Subrecipients will be monitored at least once every three (3) years (Triennial).

C. CSBG Subrecipients will be monitored at least once every three (3) years (Triennial).

6.0 Determining Compliance Requirements

- 6.1 The CMSM section will review Subrecipient's compliance with program requirements, contract provisions and Federal, State, local government rules and regulations.
- A. The CMSM section will determine compliance on specific contract provisions, rules, regulations and/or program requirements are most applicable to be reviewed or required to be reviewed by the funding source. The CMSM section will verify if the Subrecipients have complied with the requirements. The CMSM section will utilize a monitoring tool (instrument) that identifies the areas of compliance that will be reviewed. The monitoring tool will have a methodology to reflect the process used to requirement.
 - B. The monitoring tool will be in electronic format and the CMSM section will enter the selected compliance requirements into the document.
 - C. The monitoring tool will be maintained in the Department's monitoring software (Teammate).
- 6.2 The monitoring tool and the list of compliance requirements that are to be reviewed may be revised, updated, or changed from period to period due to program, legislative and/or budget changes.
- A. The listed monitoring tool is reviewed on a continual basis, during the federal fiscal year or Subrecipient program year (as applicable), to account for changes in rules and/or program requirements.

7.0 Monitoring Announcement

- 7.1 After it has been determined which Subrecipients will be monitored, the CMSM Director will assign monitors, to the Subrecipients who will be monitored. The CMSM Director will determine the method of distributing the Subrecipients to the Monitors.
- 7.2 After a review of risk factors utilized in previous risk assessments the following factors have been identified by staff consensus as the set of indicators that most accurately present the highest degree of program and fiscal risk:
- ◇ Program Activity Type
 - ◇ Number of months remaining on the contract;
 - ◇ Time Since Most Recent Monitoring Evaluation of the elapsed length of time since a Subrecipient has received an on-site visit or desk review;
 - ◇ Results of previous on-site visit(s) and/or desk review;
 - ◇ Total Funds Budgeted – Evaluation of the total amount of funds awarded to a Subrecipient;
 - ◇ Total Funds Committed – Evaluation of the percentage of funds committed to the projects of the contract(s);
 - ◇ Total Cumulative Draws – Evaluation of the percentage of contract funds drawn;
 - ◇ Match obligation for contract;
 - ◇ Set-aside Type;
 - ◇ Construction Activities – A review to determine if subrecipient's performing activities with a construction component have incurred Davis-Bacon Labor Standards requirements; and

◇ Details of any reported complaints (internal and external).

Risk Factors may be revised, updated, or changed from period to period due to program, legislative, or budget changes. *The Risk Factors utilized may also be governed or restricted by constraints inherent in the architecture of the central data base system. It may not be 100% accurate or cost-effective to include some risk factors because of this constraint. An example is Single Audit Status.*

Other Risk Factors may include:

- ◇ Multiple funding sources for a contract;
- ◇ Significant gaps between expected and actual results of previous contracts;
- ◇ Multiple contracts for an individual subrecipient; and
- ◇ Instability in the management environment.

- 7.3 The Monitor will contact each of the assigned Subrecipients and schedule future on-site monitoring. The Monitor will make every attempt to provide the Subrecipient with a minimum of 30 days' notice prior to the monitoring review.
- A. On occasions, the monitoring may occur with fewer than 30 days' notice. Situations that may warrant a monitoring occurring with fewer than 30 days' notice include:
1. The Subrecipient notifies the Department that it is not able to be monitored the proposed week and chooses the monitoring date.
 2. The Department receives credible fraud, waste and/or abuse concerns against a Subrecipient requiring little to no notice of the monitoring.
 3. The Department receives a credible complaint against a Subrecipient requiring little to no notice of the monitoring.
- 7.4 After the monitoring date has been confirmed, the Monitor will complete a Monitoring Announcement letter.
- 7.5 When the announcement letter has been completed, the document will be scanned and saved to the Subrecipient's respective Monitoring file within the computerized Monitoring Software.
- 7.6 The scanned version will be emailed to the Subrecipient. If applicable, a copy of the announcement letter will be sent to appropriate individuals.
- 7.7 The Monitoring Announcement letter should be sent to the Subrecipient as soon as the monitoring dates have been set, but no less than two (2) weeks prior to the monitoring.
- 7.8 In some instances a Monitoring Announcement letter may be submitted less than two (2) weeks from the scheduled monitoring. This may occur when 7.2 A (1) is met.
- 7.9 In some instances a Monitoring Announcement letter may not be submitted to the Subrecipient prior to the monitoring. This may occur when 7.2 A (2) and (3) are met.

8.0 Performing the On-site Monitoring

NOTE: Virtual monitoring and desk review of files to occur during the COVID-19 pandemic in place of on-site monitoring.

- 8.1 The CMSM section will utilize electronic monitoring tool to review the selected compliance requirements and to document the Subrecipients compliance with the specific requirement.
- 8.2 If the appropriate Subrecipient staff is available, the Monitor will have an Entrance Conference prior to the start of the monitoring. In the Entrance Conference the Monitor will provide a brief summary of the on-site monitoring process and/or the on-site monitoring plan. The Monitor will also utilize this time to answer Subrecipient questions that are specific to the monitoring and/or the programs.
- 8.4 After the Entrance conference, the Monitor will review the compliance requirements and perform the methodology to determine compliance with the selected requirements. The monitor will complete each question and section of the selected compliance requirements on electronic testing documents. The CMSM section will document the reason for the inability to verify any of the selected compliance requirements.
 - A. Weatherization Assistance Program (“WAP”) Monitorings- may be performed as a Full Monitoring or as a Unit Inspection.
 - a. A Full WAP Monitoring will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements, client eligibility requirements and performing an inspection of weatherized units
 - b. Unit Inspection monitoring consists of the Compliance Monitor(s) reviewing weatherization client files for compliance and eligibility requirements and performing an inspection of the weatherized units.
 - c. Client file reviews and Unit Inspections will vary according to the funding source used to weatherize the unit. When units are weatherized with LIHEAP funding only, the Compliance Monitor(s) will review the weatherized work based on an established Priority Rating sheet. When units are weatherized with DOE funding only, or with DOE and LIHEAP funds, the Compliance Monitor(s) will review the weatherized work based on an approved Energy Audit. Compliance Monitors will be required to have all applicable field tests performed during the Unit Inspection. The Compliance Monitor(s) may supervise a Subrecipient’s performance of the field test. The Compliance Monitor(s) must document the results of the field tests.
 - d. The Compliance Monitor will utilize the following as a guide when determining the number of units to inspect. The actual number of units inspected will vary according to the number of QCI staff employed by the Subrecipient and the process the Subrecipient follows for their Assessments and Final Inspections.
 - a. When a Compliance Monitor is conducting a monitoring visit, in which the Subrecipient has limited QCI staff therefore the same QCI staff will perform more than one function in the unit, the Compliance Monitor(s) will perform a minimum of:
 - i. Ten percent (10%) unit inspections of the total units completed

- b. When a Compliance Monitor is conducting a monitoring visit, in which the Subrecipient has multiple QCI staff therefore the QCI staff performing the final inspection will not perform any other function in the unit, Compliance Monitor(s) will perform a minimum of:
 - i. Five percent (5%) unit inspections of the total units completed
 - e. The CMSM Section will be required to monitor a minimum of 5% of all completed weatherized units (at the time of the monitoring) that are funded by DOE and inspected by a QCI who was not involved in the assessment of the weatherized unit. The CMSM Section will monitor a minimum of 10% of all completed weatherized units (at the time of the monitoring) that were inspected by a QCI that was involved in the assessment of the weatherized unit. The CMSM section will utilize the monitoring tracking database to track the number of units that have been inspected. The Department will also review Monthly Expenditure Reports to track the number of total completed units and will adjust the monitoring schedule to ensure that it meets the minimum number of units inspected.
 - a. A Compliance Monitor may not be able to monitor the minimum number of weatherized units if:
 - i. the Subrecipient does not have enough completed weatherized units;
 - ii. the geographical location of the weatherized homes prohibits the ability to inspect units;
 - iii. inclement weather persists.
- B. Community Services Block Grant
- 1. A CSBG Monitoring review will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements and client eligibility requirements.
 - 2. The monitoring tool's methodology identifies the minimum number of expenditures and client files to review.
- C. Comprehensive Energy Assistance Program
- 1. A CEAP Monitoring review will consist of the Compliance Monitor performing a review to determine compliance with Financial and Expenditure requirements, Administrative requirements and client eligibility requirements.
 - 2. The monitoring tool's methodology identifies the minimum number of expenditures and client files to review.
- 8.5 When the respective methodology is not enough to determine compliance, the Monitor(s) will make every effort to determine if the requirement is compliant. This may require the Monitor(s) to perform additional testing, request additional information or clarification from Subrecipient staff and/or request assistance from peer Monitors, CA Division staff, the CMSM Director or the Chief of Compliance.
- 8.6 The Monitor will obtain and maintain the appropriate documentation to justify any finding, disallowed and/or questioned cost.

- 8.7 The Monitor will notify the CA Trainers of the Subrecipient's need for Training and/or Technical Assistance if necessary.
- 8.8 If the Monitor(s) is unable to complete the monitoring during the specified period, the Monitor(s) must notify the CMSM Director of the circumstance(s) that resulted in the inability to complete the monitoring. The CMSM Director will determine the appropriate course of action to complete the monitoring. The Monitor must notify the Subrecipient that additional time is required to complete the monitoring and of the course of action that was determined by the CMSM Director. The inability to complete the monitoring and the course of action must be documented in the computerized Monitoring Software or the Monitoring Instrument.
- 8.9 Time permitting and if the appropriate Subrecipient staff are available, the Monitor will make every attempt to provide the Subrecipient with an on-site Exit Conference. The Exit Conference is intended to explain, to the Subrecipient, the preliminary results of the monitoring. In some situations the Subrecipient may be provided a few days to submit documentation, if the documentation was not readily available during the onsite visit. In this situation, an Exit conference may not be conducted on-site.
- 8.10 If an on-site exit conference cannot be completed, the Monitor will schedule an Exit conference via conference call. The call will typically occur within 5 business days from the last day of the monitoring.
- 8.11 The Monitor(s) will create electronic copies of all applicable monitoring documents and/or Finding support documentation obtained during the review. The Monitor will save the electronic copies to the monitoring file within the computerized Monitoring Software.

9.0 Monitoring Report

- 9.1 The Monitor(s) will be required to develop a report, detailing the results of the monitoring. Each Monitoring Report will contain general program information and/or a brief description of the monitoring process that was performed. If applicable, the monitoring report will contain:
- A. Finding/Deficiency (CSBG only)
 - 1 A brief and concise description of the lack of compliance of a specific program requirement;
 - 2. A brief description of the program requirement;
 - 3. A description of any disallowed or questioned cost; and
 - 4. The respective reference for program compliance.
 - B. Action Required for a Finding/Deficiency
 - 1. A brief requirement for the Subrecipient to meet;
 - 2. A requirement for the Subrecipient to complete a specific action to resolve the finding;
 - 3. A requirement for the Subrecipient to provide a reimbursement, documents, an assurance and/or a response to the monitoring report.

C. If there were findings or deficiencies of noncompliance, a 30 calendar day corrective action deadline. If there were no Findings or Required Action, the Monitoring Report will reflect that no response is required and that the Monitoring Review is considered closed.

D. A Concern

1. A brief and concise description of the lack of compliance of a specific program requirement;
2. A brief description of the program requirement;
3. The respective reference for program compliance.

E. Action Required for a Concern

1. A brief requirement for the Subrecipient to meet;
2. A requirement for the Subrecipient to complete a specific action to resolve the Concern;

F. Observation

1. A brief and concise description of the policy, practice or procedure observed through the course of monitoring that may lead to a lack of compliance of a specific program requirement.

9.2 Monitors are expected to, on average, complete monitoring letters within 30 calendar days from the last day of the onsite visit. However, DOE-WAP monitoring letters must be completed within 30 calendar days.

9.3 The Monitor(s) will make an electronic copy of the Monitoring Report and save the copy to the Subrecipient's respective monitoring file within the computerized Monitoring Software. The scanned version will be emailed. A hard copy report will be mailed to the Subrecipient if email is not an option.

9.4 At a minimum, the Monitor will e-mail the Monitoring Report to the Subrecipient and a copy of the report to the Subrecipient's Board Chair or the assigned Board representative.

9.5 The date the monitoring report is considered complete and submitted to the Subrecipient, is when the report is emailed to the Subrecipient.

10.0 Response to the Monitoring Report

10.1 The Subrecipient will be provided a 30 day corrective action period which can be extended for good cause by the Chief of Compliance.

10.2 The Monitor(s) is responsible for tracking corrective action due dates. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the "Notes" area of the Monitoring Tracking System.

10.3 If the Subrecipient's response is submitted as a paper document, the Monitor will make an electronic copy of the response. The Monitor will then save the copy to the Subrecipient's respective Monitoring File within the electronic software.

- 10.4 The Monitor(s) will review the Subrecipient's response to the report for compliance with the specific Finding's required action and program rules, regulations and requirements.
- 10.5 Within 45 business days of the receipt of the response, the Monitor(s) will provide correspondence to the Subrecipient addressing each Finding and/or required action. For each Finding, the monitor(s) will:
- A. Briefly state the Finding that occurred;
 - B. The Subrecipient's response and/or documentation;
 - C. Any concern or question posed in the Subrecipient's response;
 - D. The results of the Department's review of the response and/or documentation;
 - E. Necessary information to address the Subrecipient's concern or question;
 - F. If the response and/or documentation is acceptable to resolve the Finding;
 - G. If the Finding is resolved;
 - H. If applicable, the Finding is closed;
 - i. A Finding will not be considered resolved, but closed when the Department believes the Subrecipient's required action is not obtainable. The Subrecipient will no longer be required to complete the required action.
 - ii. The Department should consider the efforts the Subrecipient made to resolve the Finding.
 - iii. A "Closed" Finding will not be used on the Required Action of a Subrecipient to reimburse the Department for disallowed expenditures.
 - I. If applicable, the additional required action to resolve the Finding.
- 10.6 The Monitor(s) will make an electronic copy of the document addressing the Subrecipient's response to the report. The Monitor will save the copy to the Subrecipient's respective monitoring file in the computerized Monitoring Software. The scanned version will be emailed to the Subrecipient. If applicable, a copy of the document will be sent to appropriate individuals.
- 10.7 If the Subrecipient's response did not resolve the Findings and/or required actions of the monitoring report, the Monitor(s) will keep abreast of the Subrecipient's 30 day response period. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the Monitoring Tracking System.
- 10.8 When the Subrecipient submits the response from 10.7, the Monitor(s) will continue at 10.2 of the Monitoring SOP. If the Monitor completes Section 10.5 of the SOP and determines the Subrecipient's response to Finding(s) to remain unresolved, the Monitor will continue with 10.6 and 10.7 of the SOP. However, unless prior approval from the Chief of Compliance, the original Corrective Action deadline is not amended. The Subrecipient must resolve the Finding(s) as soon as possible. If the Department has not received the Subrecipient's response, the Monitor(s) will submit a letter to the Subrecipient, notifying them of the delinquent response. The Monitor will document that a letter was sent to the Subrecipient, in the Monitoring Tracking System.
- 10.9 Similarly, when the Subrecipient submits the response from 10.8, the Monitor(s) will continue at 10.2 of the Monitoring SOP. If the Monitor completes Section 10.5 of the SOP and determines

the Subrecipient's response to Finding(s) to remain unresolved, the CMSM Director will notify the Chief of Compliance. The Chief of Compliance may determine if the matter should be referred to the Department's Enforcement Committee in accordance with Department Rules and SOPs.

10.10 If a Subrecipient has submitted its second response and is still not able to comply with the required action(s), the Monitor(s) will note in its subsequent correspondence that the Subrecipient is able to request a meeting with the Department's Compliance committee. The Subrecipient may request the committee to review the validity of the Finding or to appeal the required action.

A. The Subrecipient must include in its subsequent response that it request a meeting with the Compliance committee.

B. Once the request has been received, the Department will follow the rules and the SOP's pertaining to the Compliance committee.

APPROVAL:

Ernest Hunt *2/12/2019*
Compliance Subrecipient Monitoring Director