

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
October 17, 2022

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
**TDHCA Governing Board Approved Draft of
Proposed Amendments to 10 TAC Chapter 6 Community Affairs Programs
Notice for Public Comment**

Disclaimer

Attached is a draft of proposed amendments to **10 TAC Chapter 6, Community Affairs Programs**, which was approved by the TDHCA Governing Board on October 13, 2022. This document reflects all changes proposed in tracked changes to facilitate review. This document, including its preamble, is expected to be published in the October 28, 2022, edition of the *Texas Register* and that published version will constitute the official version for purposes of public comment and can be found at the following link: <https://www.sos.texas.gov/texreg/index.shtml>. The version herein is informational only and should not be relied upon as the basis for public comment.

Public Comment

Public Comment Period: Starts: 8 AM Austin local time on October 28, 2022 Ends: 5 PM Austin local time on November 18, 2022

Comments received after 5 PM Austin local time on November 18, 2022 will not be accepted.

Written comments may be submitted, in hard copy or electronic format within the designated public comment period to:

Texas Department of Housing and Community Affairs
Attn: Gavin Reid
P.O. Box 13941
Austin, Texas 78711-3941
Email: gavin.reid@tdhca.state.tx.us

Those making public comment are encouraged to reference the specific draft rule, policy, or plan related to their comment as well as a specific reference or cite associated with each comment.

Please be aware that all comments submitted to TDHCA will be considered public information.

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Street Address: 221 East 11th Street, Austin, TX 78701
Mailing Address: PO Box 13941, Austin, TX 78711-3941
Main Number: 512-475-3800 Toll Free: 1-800-525-0657
Email: info@tdhca.state.tx.us Web: www.tdhca.state.tx.us

The Texas Department of Housing and Community Affairs (the Department) proposes amendments to Chapter 6, Community Affairs Programs, Subchapter B Community Services Block Grant, §6.201 Background and Definitions; §6.206 Strategic Plan, Community Assessment, and Community Action Plan; §6.207 Subrecipient Requirements; Subchapter C Comprehensive Energy Assistance Program, §6.304 Deobligation and Reobligation of CEAP Funds; §6.307 Subrecipient Requirements for Customer Eligibility Criteria, Provision of Services, and Establishing Priority for Eligible Households; §6.308 Allowable Subrecipient Administrative and Program Services Costs; §6.309 Types of Assistance and Benefit Levels; §6.310 Crisis Assistance Component; §6.311 Utility Assistance Component; §6.312 Payments to Subcontractors and Vendors; Subchapter D Weatherization Assistance Program, §6.402 Purpose and Goals; §6.403 Definitions; §6.406 Subrecipient Requirements for Establishing Household Eligibility and Priority Criteria; §6.407 Program Requirements; §6.408 Department of Energy Weatherization Requirements; §6.414 Eligibility for Multifamily Dwelling Units and Shelters; §6.416 Whole House Assessment; and §6.417 Blower Door Standards. The purpose of the proposed amended sections is to make SNAP and TANF categorically eligible for LIHEAP, align CSBG and WAP with current requirements, improve clarity, and correct identified areas of concern.

Tex. Gov't Code §2001.0045(b) does not apply to the rules proposed for action because it is exempt under §2001.0045(c)(4), which exempts rule changes necessary to receive a source of federal funds or to comply with federal law.

The Department has analyzed this proposed rulemaking and the analysis is described below for each category of analysis performed.

a. GOVERNMENT GROWTH IMPACT STATEMENT REQUIRED BY TEX. GOV'T CODE §2001.0221.

Mr. Bobby Wilkinson, Executive Director, has determined that, for the first five years the proposed amended sections would be in effect:

1. The amended sections do not create or eliminate a government program, but relates to the changes to existing regulations regarding the administration of Community Affairs programs.
2. The amended sections do not require a change in work that would require the creation of new employee positions, nor are the changes significant enough to reduce workload to a degree that any existing employee positions are eliminated.
3. The amended sections do not require additional future legislative appropriations.
4. The amended sections will not result in an increase in fees paid to the Department, nor in a decrease in fees paid to the Department.
5. The amended sections will not create a new regulation.
6. The amended sections will not expand, limit, or repeal an existing regulation.

7. The amended sections will not increase or decrease the number of individuals subject to the rule's applicability.

8. The amended sections will not negatively or positively affect the state's economy.

b. ADVERSE ECONOMIC IMPACT ON SMALL OR MICRO-BUSINESSES OR RURAL COMMUNITIES AND REGULATORY FLEXIBILITY REQUIRED BY TEX. GOV'T CODE §2006.002. The Department has evaluated the proposed amended sections and determined that the proposed action will not create an economic effect on small or micro-businesses or rural communities.

1. The Department has evaluated the rules and determined that none of the adverse effect strategies outlined in Tex. Gov't Code §2006.002(b) are applicable.

2. The Department has determined that because the rules apply only to existing Subrecipients, there will be no economic effect on small or micro-businesses or rural communities.

c. TAKINGS IMPACT ASSESSMENT REQUIRED BY TEX. GOV'T CODE §2007.043. The proposed amended sections do not contemplate or authorize a taking by the Department; therefore, no Takings Impact Assessment is required.

d. LOCAL EMPLOYMENT IMPACT STATEMENTS REQUIRED BY TEX. GOV'T CODE §2001.024(a)(6). The Department has evaluated the amended sections as to their possible effects on local economies and has determined that for the first five years the proposed amended sections will be in effect there would be no economic effect on local employment because the rules relate only to regulations which have already been in effect for existing Subrecipients; therefore, no local employment impact statement is required to be prepared for the rules.

Tex. Gov't Code §2001.022(a) states that this "impact statement must describe in detail the probable effect of the rule on employment in each geographic region affected by this rule..." Considering that the rules pertain to all Subrecipients throughout the state, regardless of location, there are no "probable" effects of the amended rules on particular geographic regions.

e. PUBLIC BENEFIT/COST NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(5). Mr. Wilkinson has also determined that, for each year of the first five years the proposed amended sections are in effect, the public benefit anticipated as a result of the amended sections would be an updated, more streamlined, and clearer version of the rules governing Community Affairs programs. There will not be economic costs to individuals required to comply with the amended sections.

f. FISCAL NOTE REQUIRED BY TEX. GOV'T CODE §2001.024(a)(4). Mr. Wilkinson also has determined that for each year of the first five years the amended sections are in effect, enforcing or administering the amendments do not have any foreseeable implications related to costs or revenues of the state or local governments.

g. REQUEST FOR PUBLIC COMMENT. The public comment period will be held October 28, 2022, to November 18, 2022, to receive input on the proposed amended sections. Written comments may be mailed to the Texas Department of Housing and Community Affairs, Gavin Reid, P.O. Box 13941, Austin, Texas 78711-3941, or by email to gavin.reid@tdhca.state.tx.us. ALL COMMENTS MUST BE RECEIVED BY 5:00 p.m., Austin local time, November 18, 2022.

STATUTORY AUTHORITY. The proposed amended sections are made pursuant to Tex. Gov't Code, §2306.053, which authorizes the Department to adopt rules. Except as described herein the proposed amended sections affect no other code, article, or statute.

Amended Sections:

10 TAC Chapter 6 Community Affairs Programs.

Subchapter B., Community Services Block Grant.

§6.201. Background and Definitions.

§6.206. Strategic Plan, Community Assessment, and Community Action Plan.

§6.207. Subrecipient Requirements.

Subchapter C. Comprehensive Energy Assistance Program.

§6.304. Deobligation and Reobligation of CEAP Funds.

§6.307. Subrecipient Requirements for Customer Eligibility Criteria, Provision of Services, and Establishing Priority for Eligible Households.

§6.308. Allowable Subrecipient Administrative and Program Services Costs.

§6.309. Types of Assistance and Benefit Levels.

§6.310. Crisis Assistance Component.

§6.311. Utility Assistance Component.

§6.312. Payments to Subcontractors and Vendors.

Subchapter D. Weatherization Assistance Program.

§6.402. Purpose and Goals.

§6.403. Definitions.

§6.406. Subrecipient Requirements for Establishing Household Eligibility and Priority Criteria.

§6.407. Program Requirements.

§6.408. Department of Energy Weatherization Requirements.

§6.414. Eligibility for Multifamily Dwelling Units and Shelters.

§6.416. Whole House Assessment.

§6.417. Blower Door Standards.

10 TAC Chapter 6 Community Affairs Programs.

TITLE 10 COMMUNITY DEVELOPMENT PART 1 TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS CHAPTER 6 COMMUNITY AFFAIRS PROGRAMS

SUBCHAPTER B COMMUNITY SERVICES BLOCK GRANT

§6.201 Background and Definitions

(a) In addition to this subchapter, except where noted, the rules established in Subchapter A of this chapter (relating to General Provisions) and Chapters 1 and 2 (relating to Administration and Enforcement, respectively) of this title apply to the CSBG Program. The CSBG Act was amended by the "Community Services Block Grant Amendments of 1994" and the Coats Human Services Reauthorization Act of 1998. The Secretary is authorized to establish a community services block grant program and make grants available through the program to states to ameliorate the causes of poverty in communities within the states. Although Eligible Entities receive an allocation of CSBG funds, the CSBG program is not an entitlement program for eligible customers.

(b) The Texas Legislature designates the Department as the lead agency for the administration of the CSBG program pursuant to Tex. Gov't Code, §2306.092. CSBG funds are made available to Eligible Entities to carry out the purposes of the CSBG program.

(c) Except as otherwise noted herein all references in this subchapter to an Eligible Entity's board means both the governing board of the Private Nonprofit or the advisory board of the Public Organization.

(d) Definitions.

(1) Community Action Plan (CAP)--A plan required by the CSBG Act which describes the local Eligible Entity service delivery system, how coordination will be developed to fill identified gaps in services, how funds will be coordinated with other public and private resources, and how the local entity will use the funds to support innovative community and neighborhood based initiatives related to the grant.

~~(2) Community Assessment--An assessment of community needs performed by the Eligible Entity for the areas to be served with CSBG funds.~~

~~(3) CSBG Act--The CSBG Act is a law passed by Congress authorizing the Community Services Block Grant. The CSBG Act was amended by the Community Services Block Grant Amendments of 1994 and the Coats Human Services Reauthorization Act of 1998 under 42 U.S.C. §§9901, et seq. The CSBG Act authorized establishing a community services block grant program to make grants available through the program to states to ameliorate the causes of poverty in communities within the states.~~

~~(4) Direct Customer Support--includes salaries and fringe benefits of case management staff as well as direct benefits provided to customers.~~

~~(5) National Performance Indicator (NPI)--A federally defined measure of performance within the Department's Contract System for measuring performance and results of Subrecipients of funds and Eligible Entities.~~

~~(6) Needs Assessment--An assessment of community needs in the areas to be served with CSBG funds.~~

(6) Quality Improvement Plan (QIP)--A plan developed by a CSBG Eligible Entity to correct

Deficiencies identified by the Department as further described in §2.203 and §2.204 of this title (Termination and Reduction of Funding for CSBG Eligible Entities and Contents of a Quality Improvement Plan, respectively).

(7) Results Oriented Management and Accountability (ROMA)--ROMA provides a framework for continuous growth and improvement among Eligible Entities. ROMA implementation is a federal requirement for receiving federal CSBG funds, outlined in HHS IM 152.

(8) Strategic Plan--A planning document which takes into consideration the needs of the targeted community and identifies an organization's vision and mission; its strengths, weaknesses, opportunities, and threats; external and internal factors impacting the organization; and utilizes this information to set goals, objectives, strategies, and measure to meet over an identified period of time.

(9) Transitioned Out of Poverty (TOP)--A Household who was CSBG eligible and as a result of the delivery of CSBG-supported case management services attains an annual income in excess of 125% of the poverty guidelines for 90 calendar days.

(e) Use of certain terminology. In these rules and in the Department's administration of its programs, including the CSBG program, certain terminology is used that may not always align completely with the terminology employed in the CSBG Act. The term "monitoring" is used interchangeably with the CSBG Act term "review" as used in 42 U.S.C. §9915 of the CSBG Act. Similarly, the terms "findings," "concerns," and "violations" are used interchangeably with the term "deficiencies as used in 42 U.S.C. §9915 of the CSBG Act although, in a given context, they may be assigned more specific, different, or more nuanced meanings, as appropriate.

§6.206 Strategic Plan, Community Assessment, and Community Action Plan

(a) In accordance with CSBG Organizational Standards, every five years each Eligible Entity shall complete a Strategic Plan using the full Results Oriented Management and Accountability (ROMA) cycle or a comparable system. The Strategic Plan shall, at a minimum, meet the requirements of CSBG Organizational Standards (specifically [Organizational Standards 4.3, 6.1 - 6.5, and 9.3](#)) and any other requirements established by the Department as a result of federal law, regulation or guidance, or state law. The Strategic Plan must comply with Department requirements and be submitted on or before a date specified by the Department.

(b) In accordance with CSBG Organizational Standards, every three years each Eligible Entity shall complete a Community Assessment (may also be called "Community Needs Assessment" or CNA), [using the full ROMA cycle or a comparable system.](#) ~~upon which the~~ The annual Community Action Plan (CAP) will be based [on the most recent approved Community Assessment.](#) The Community Assessment [shall, at minimum, meet the requirements of CSBG Organizational Standards \(specifically Organizational Standards 1.2, 2.2, 3.1-3.5, and 4.3\).](#) The Community Assessment must comply with Department requirements and be submitted on or before a date specified by the Department. The Community Assessment will require, among other [items specified in the Department's Community Assessment Guidelines](#), that the top five needs of the Service Area [that can be addressed,](#) are identified.

(c) In accordance with CSBG Organizational Standards, each Eligible Entity must submit a CAP on an annual basis [using the full ROMA cycle or a comparable system.](#) The CAP [shall, at minimum, meet the requirements of CSBG Organizational Standards \(specifically Organizational Standards 4.2, 4.3, 4.4, and 9.3\).](#) The CAP must comply with Department requirements and be submitted on or before a date specified by the Department, for approval prior to execution of a Contract.

(d) If circumstances warrant amendments to the Community Assessment or the CAP, ~~each Subrecipient Eligible Entity~~ must provide a written request to the Department identifying the specific requested change(s) to the document with a justification for each change. The Department will approve or deny amendment requests in writing.

(e) Hearing. In conjunction with the submission of the CAP, the Eligible Entity must annually submit to the Department a certification from its board that a public hearing was posted, and conducted on the proposed ~~needs or uses of block grant funds~~~~use of for the~~ ~~at~~ upcoming year's funds.

(f) The Strategic Plan ~~and~~ Community Assessment require Department review for whether Organizational Standards are met and whether the Eligible Entity provided a notification of acceptance, ~~and~~ The CAP and annual Budget require Department approval; those that do not meet the Department's requirements as articulated in these rules, in federal guidance, in each Eligible Entity's~~Subrecipient's~~ Contract, and in Department guidance will be required to be revised until they meet the Department's satisfaction.

(g) Consistent with CSBG Organizational Standards relating to Data Analysis and Performance, the Eligible Entity must present to its governing board for review or action, at least every 12 months, an analysis of the agency's outcomes and any operational or strategic program adjustments and improvements identified as necessary; and the organization must submit its annual CSBG Information Survey data report which reflects customer demographics and organization-wide outcomes.

(h) Services to Poverty Population. An Eligible Entity administering services to customers in one or more counties in its CSBG Service Area shall ensure that such services are rendered reasonably and in an equitable manner to ensure fairness among all potential applicants eligible for services. Services rendered, either directly or through partnerships, must reflect the poverty population ratios in the Service Area and services should be distributed based on the proportionate representation of the poverty population within a county. A variance of greater than plus or minus 20% may constitute a Deficiency. An Eligible Entity administering services to customers in one or more counties shall demonstrate marketing and outreach efforts to make available direct services to a reasonable percentage of the county's eligible population based on the most recent census or American Community Survey data, as directed by the Department. Services should also be distributed based on the proportionate representation of the poverty population within a county. Other CSBG-funded organizations shall ensure that services are rendered in accordance with requirements of the CSBG Contract.

~~(i) Each CSBG Subrecipient must develop a Performance Statement which identifies the services, programs, and activities to be administered by that organization.~~

§6.207 Subrecipient Eligible Entity Requirements

(a) An Eligible Entity shall submit information regarding the planned use of funds as part of the CAP as described in §6.206 of this subchapter (relating to Strategic Plan, Community Assessment, and Community Action Plan).

(b) HHS issues terms and conditions for receipt of funds under the CSBG. Subrecipient Eligible Entities ~~will~~ must comply with the requirements of the terms and conditions of the CSBG award.

(c) CSBG Eligible Entities, and other CSBG organizations where applicable, are required to coordinate CSBG funds and form partnerships and other linkages with other public and private resources and coordinate and establish linkages between governmental and other social service programs to assure the effective delivery of services and avoid duplication of services.

(d) CSBG Eligible Entities will provide, on an emergency basis, the provision of supplies and services, nutritious foods, and related services as may be necessary to counteract the conditions of starvation and malnutrition among low-income individuals. The nutritional needs may be met through a referral source that has [immediate](#) resources available to meet the ~~immediate~~ needs.

(e) CSBG Eligible Entities and other CSBG organizations are required to coordinate for the provision of employment and training activities through local workforce investment systems under the Workforce Innovation and Opportunity Act, as applicable.

(f) CSBG Eligible Entities are required to inform custodial parents in single-parent families that participate in programs, activities, or services about the resources available through the Texas Attorney General's Office with respect to the collection of child support payments and refer eligible parents to the Texas Attorney General's Office of Child Support Services Division.

(g) Documentation of Services. [Subrecipient-Eligible Entities](#) must maintain a record of referrals and services provided.

(h) Intake Form. To fulfill the requirements of 42 U.S.C. §9917, [CSBG-Subrecipient-Eligible Entities](#) must complete and maintain an intake form that screens for income, assesses customer needs, and captures the demographic and household characteristic data required for the Monthly Performance and Expenditure Report, referenced in Subchapter A of this chapter (relating to General Provisions), for all Households receiving a community action service. [CSBG-Subrecipients-Eligible Entities](#) must complete and maintain a manual or electronic intake form for all customers at least every twelve months.

(i) Case Management.

(1) An Eligible Entity is required to provide integrated case management services. [Subrecipient-Eligible Entities](#) ~~are~~ required to identify and set goals for Households they serve through the case management process. [Subrecipient-Eligible Entities](#) ~~are~~ required to evaluate and assess the effect its case management system has on the short-term (less than three months) and long-term (greater than three months) impact on customers, such as enabling the customer to move from poverty to self-sufficiency, to maintain stability. CSBG funds may be used for short term case management to meet immediate needs. In addition, CSBG funds may be used to provide long-term case management to persons working to transition out of poverty and achieve self-sufficiency.

(2) An Eligible Entity must have and maintain documentation of case management services provided.

(3) An Eligible Entity is assigned a minimum TOP goal by the Department. Eligible Entities must provide ongoing case management services for these TOP Households. The case management services must include the components described in subparagraphs (A) - (L) of this paragraph. [Eligible Entities-Subrecipients](#) must also provide case management clients with a Customer Satisfaction Survey, described in subparagraph (M) of this paragraph, for the client to complete anonymously. At least annually, [Subrecipients-Eligible Entities](#) must evaluate the effectiveness of their case management services, as described in subparagraph (N) of this paragraph. The forms or systems utilized for each component may be manual or electronic forms provided by the

Department or manual or electronic forms created by the Eligible Entity that at minimum contain the same information as the Department-issued form:

- (A) Self-Sufficiency Customer Questionnaire to assess a customer's status in the areas of employment, job skills, education, income, housing, food, utilities, Child care, Child and family development, transportation, healthcare, and health insurance;
- (B) Self-Sufficiency Outcomes Matrix to assess the customer's status in the self-sufficiency domains ~~noted in subparagraph (A) of this paragraph~~;
- (C) Case Management Screening Questions to assess the customer's willingness to participate in case management services on an ongoing basis;
- (D) For customers who are willing to engage in long term case management services, a Case Management Agreement between ~~the Subrecipient-Eligible Entity~~ and customer;
- (E) Release of Information Form;
- (F) Case Management Service Plan to document planned goals agreed upon by the case manager and customer along with steps and timeline to achieve goals;
- (G) Case management follow-up, which provides a system to document customer progress at completing steps and achieving goals. Case management follow-up should occur, at a minimum, every 30 days, either through a meeting, phone call or email. In person meetings should occur, at a minimum, once a quarter;
- (H) A record of referral resources and documentation of the results;
- (I) A system to document services received and to collect and report NPI data;
- (J) ~~A system to document Cease Management Closures~~ ~~form~~ ~~to document~~ persons that have exited case management;
- (K) ~~TOP Income Tracker form~~ ~~A system~~ to document income for persons that have maintained an income level above 125% of the Federal Poverty Income Guidelines for 90 days;
- (L) A system to document and notify customers of termination of case management services;
- (M) Customer Satisfaction Survey; and
- (N) On an annual basis, an Eligible Entity should determine the effectiveness of its case management services and identify strategies for improvement, including identification of reasons for customer terminations and strategies to limit their occurrence.

(j) Effective January 1, 2016, Eligible Entities shall meet the CSBG Organizational Standards as issued by HHS IM 138 (as revised), except that where the word bylaws is used the Department has modified the standards to read Certificate of Formation/Articles of Incorporation and bylaws; also, Eligible Entities must follow the requirements in ~~UGMS or~~ TxGMS (as applicable) including the State of Texas Single Audit Circular. Failure to meet the CSBG Organizational Standards as described in this subsection may result in HHS IM 116 proceedings as described in Chapter 2 of this title (relating to Enforcement).

SUBCHAPTER C COMPREHENSIVE ENERGY ASSISTANCE PROGRAM

§6.304 Deobligation and Reobligation of CEAP Funds

(a) A written "Notification of Possible Deobligation" will be sent to the Executive Director and the Board of Directors or other governing body of the Subrecipient by the Department in a timely manner when the Department identifies that a criterion listed in subsection (b) or (c) of this section is at risk of not being met.

(b) The Department may Deobligate funds from all budget categories from Subrecipients whose combined Direct Services Expenditures and Customer Obligations are less than 30% as of the April 15 Monthly Performance and Expenditure Report. Subrecipient may avoid Deobligation at this

point if one of the following has occurred:

- (1) On or before the first business day in April, the Subrecipient has submitted a written request for an exception due to extenuating circumstances with a plan to improve Direct Services Expenditures and Customer Obligations. The request and plan must be approved by the Department in writing; or
- (2) On or before the first business day in April, the Subrecipient has submitted a written request for training and/or technical assistance. Once such assistance has been delivered, as determined by the Department, the Subrecipient must submit a clear specific plan, as outlined by the Department, for improving Direct Services Expenditures and Customer Obligations, and that plan must be approved by the Department in writing.

(c) The Department may Deobligate funds from all budget categories from Subrecipients whose combined Direct Services Expenditures and Customer Obligations are less than 50% as of the ~~May~~ June 15 Monthly Performance and Expenditure Report, unless on or before the first business day in June the Subrecipient submits a written request for an exception due to extenuating circumstances with a plan to improve Direct Services Expenditures and Customer Obligations. The request and plan must be approved by the Department in writing.

(d) Funds Deobligated under this section, or additional funds should they become available, will be Reobligated proportionally by the formula described in §6.303 of this subchapter (relating to Distribution of CEAP Funds), or if six months or less remain for the Department to expend the funds another method approved by the Department's Board amongst all Subrecipients that did not have any funds Deobligated to ensure full utilization of funds.

(e) A Subrecipient which has had funds Deobligated under subsection (b) or (c) of this section that fully Expend the reduced amount of its Contract by January 31 of the following year as reported in the Monthly Performance and Expenditure Report due February 15, will have access to the full amount of the following Program Year CEAP allocation. A Subrecipient which has had funds Deobligated under subsection (b) or (c) of this section that fails to fully expend the reduced amount of its Contract will automatically have the following Program Year CEAP allocation Deobligated by the lesser of 24.99%, or the proportional amount that had been Deobligated from the prior year Contract.

(f) The cumulative balance of the funds made available through subsection (e) of this section will be allocated proportionally by the formula described in §6.303 of this subchapter to the Subrecipients not having funds reduced under that subsection.

(g) In no event will involuntary Deobligations that occur through subsection (b) or (c) of this section exceed 24.99% of the Subrecipient's Program Year CEAP Contracted Funds, without an opportunity for a hearing as required by Tex. Gov't Code, Chapter 2105.

(h) Failure by the Subrecipient to Expend 98% of a prior year Contract by the Monthly Performance and Expenditure Report due April 15th of the subsequent year for two consecutive original Contract Terms is good cause for nonrenewal of a Contract.

§6.307 Subrecipient Requirements for Customer Eligibility Criteria, Provision of Services, and Establishing Priority for Eligible Households

(a) The customer income eligibility level is at or below 150% of the federal poverty level in effect at the time the customer makes an application for services.

(b) Categorical Eligibility for CEAP benefits exists when at least one person in the Household receives assistance from:

- (1) SSI payments from the Social Security Administration; ~~or~~
- (2) Means Tested Veterans Program payments. See paragraph (38) of §6.2 of this chapter (relating to Definitions);
- (3) [Supplemental Nutrition Assistance Program \(SNAP\)](#); or
- (4) [Temporary Assistance for Needy Families \(TANF\)](#).

(c) A complete application is required for all Households. Subrecipient shall determine customer income using the definition of income and process described in §6.4 of this chapter (relating to Income Determination). Household income documentation must be collected by the Subrecipient for the purposes of determining the Household's benefit level.

(d) Social security numbers are not required for applicants.

(e) Subrecipient must establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden shall be the highest rated item in sliding scale priority determinations. The Subrecipient must maintain documentation of the use of the criteria.

(f) A Dwelling Unit cannot be served if the meter is utilized by another Household that is not a part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if:

- (1) The members of the separate structures that share a meter meet the definition of a Household per §6.2 of this chapter;
- (2) The members of the separate structures that share a meter submit one application as one Household; and
- (3) All persons and applicable income from each structure are counted when determining eligibility.

(g) United States Citizen, United States National, or Qualified Alien. Except for items described in 10 TAC §6.310(c)(4) and §6.310(d) (relating to Crisis Assistance Component), Unqualified Aliens are not eligible to receive CEAP benefits. Mixed Status Households shall not be denied CEAP assistance based solely on the presence of a non-qualified member, except if the member is the sole member of the Household. ~~In accordance with §1.410(f) of this Title, relating to Exemptions under PRWORA, Subrecipients Public Organization must document~~ ~~verify~~ U.S. Citizen, U.S. National, ~~or~~ ~~and~~ Qualified Alien status [using the Department approved form. Qualified Alien status must also be verified and documented of all household members](#) using SAVE.

(h) Subrecipient must begin providing utility assistance services to customers upon receipt of Contract and throughout the Contract Term unless Subrecipient has expended its entire Contract.

(i) Subrecipient must develop and publicly display a written procedure addressing the timeframe within which applications are determined to be eligible or ineligible once the application is complete, processing of the application and assistance delivery, and notification to the applicant.

§6.308 Allowable Subrecipient Administrative and Program Services Costs

(a) Funds available for Subrecipient administrative activities will be calculated by the Department as a percentage of direct services Expenditures. Administrative costs shall not exceed the maximum percentage of total direct services Expenditures, as indicated in the Contract. All other

administrative costs, exclusive of administrative costs for program services, must be paid with nonfederal funds. Allowable administrative costs for administrative activities includes costs for general administration and coordination of CEAP, and all indirect (or overhead) costs, and activities as described in paragraphs (1) - (7) of this subsection:

- (1) Salaries;
- (2) Fringe benefits;
- (3) Non-training travel;
- (4) Equipment;
- (5) Supplies;
- (6) Audit (limited to percentage of the contract expenditures, excluding training/travel costs as indicated in the Contract); and
- (7) Office space (limited to percentage of the contract expenditures, excluding training/travel costs as indicated in the Contract).

(b) Program Services costs shall not exceed the maximum percentage of total direct services Expenditures, as indicated in the Contract. Program Services costs are allowable when associated with providing customer direct services. Program services costs may include outreach activities and expenditures on the information technology and computerization needed for tracking or monitoring required by CEAP, and activities as described in paragraphs (1) - (9) of this subsection:

- (1) Direct administrative cost associated with providing the customer direct service;
- (2) Salaries and [fringe](#) benefits cost for staff providing program services;
- (3) Supplies;
- (4) Equipment;
- (5) Travel;
- (6) Postage;
- (7) Utilities;
- (8) Rental of office space; and
- (9) Staff time to provide energy conservation education, needs assessments, and referrals.

§6.309 Types of Assistance and Benefit Levels

(a) Allowable CEAP Expenditures include customer education, utility payment assistance, repair of existing heating and cooling units, [purchase of heating and cooling units when none exist](#), and crisis-related purchase of portable heating and cooling units.

(b) Total maximum possible annual Household benefit (all allowable benefits combined) shall not exceed \$12,300 during a Program Year, [not including arrears](#).

(c) Benefit determinations are based on the Household's income (even if the Household is Categorically Eligible), the Household size, Vulnerable Populations in the Household, plus other priority status, whether a Household has one or more Unqualified Aliens for which calculation adjustments must be made as described in paragraphs (1) and (2) of this subsection, and the availability of funds.

- (1) Count income for all Household members 18 years of age and older, including Unqualified Aliens; and
- (2) Adjust the Household size for determining eligibility and benefit assistance level to exclude all Unqualified Aliens.

(d) For purposes of determining Categorical Eligibility or Vulnerable Populations (i.e. priority status), the Household is not considered to satisfy the definition of having Categorical Eligibility or

Vulnerable Population if the only individual(s) in the Household with that Categorical Eligibility or Vulnerable Population status are Unqualified Aliens. For purposes of reporting, all individuals in the Households should be reported.

(e) Benefit determinations for the Utility Payment Assistance Component and the Crisis Assistance Component cannot exceed the sliding scale described in paragraphs (1) - (3) of this subsection:

- (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 more than 50% but at or below 75% of Federal Poverty Guidelines may receive an amount not to exceed \$2,300 per Component; and
- (3) Households with Incomes more than 75% but at or below 150% of Federal Poverty Guidelines may receive an amount not to exceed \$2,200 per Component.

(f) Service and Repair of existing heating and cooling units. Households may receive up to \$7,500 for service and repair of existing heating and cooling units when the Household has an inoperable heating or cooling system based on requirements in §6.310 of this subchapter (relating to Crisis Assistance Component) for Non-Vulnerable Population Households and §6.311 of this subchapter (relating to Utility Assistance Component) for Vulnerable Population Households.

(g) Purchase of heating and cooling units. Households may receive up to \$7,500 for the purchase of a heating and cooling unit when a heating or cooling system is nonexistent based on requirements in §6.310 of this subchapter (relating to Crisis Assistance Component) for Non-Vulnerable Population Households and §6.311 of this subchapter (relating to Utility Assistance Component) for Vulnerable Population Households.

(h) Assistance with ~~service and repair or~~ purchase of portable ~~cooling and/or air conditioning~~ heating units, window units, ~~evaporative coolers, and mini splits and heating units~~ cannot exceed \$7,500. Refer to §6.310(c)(~~6~~9) of this subchapter for requirements relating to ~~service and repair or~~ purchase of ~~portable air conditioning/evaporative coolers and heating~~ these types of units.

(i) Energy bills already paid may not be reimbursed by the program. Funds from CEAP shall not be used to weatherize dwelling units, for medicine, food, transportation assistance (e.g., vehicle fuel) ~~except as noted in §6.310(d) of this subchapter~~, income assistance, or to pay for penalties or fines assessed to customers ~~except in the case of arrearage payments as noted in §6.309(i)(9) of this subchapter~~. Subrecipient shall provide only the types of assistance described in this subsection with funds from CEAP:

- (1) Payment to vendors and suppliers of fuel/utilities, goods, and other services, such as past due or current bills related to the procurement of energy for heating and cooling needs of the residence, not to include security lights and other items unrelated to energy assistance as follows:
 - (A) Subrecipient may make utility payments on behalf of Households based on the previous 12 month's home energy consumption history, including allowances for cost inflation. If a 12 month's home energy consumption history is unavailable, Subrecipient may base payments on current Program Year's bill or utilize a Department-approved alternative method. Subrecipient will note such exceptions in customer files. Benefit amounts exceeding the actual bill shall be treated as a credit for the customer with the utility company;
 - (B) Vulnerable Population Households can receive benefits to cover the remaining bills within the Program Year as long as the cost does not exceed the maximum annual benefit for the Utility Assistance Component. Bill payment may cover two separate fuel sources; and
 - (C) Non-Vulnerable Population Households can receive benefits to cover up to six remaining bills

- within the Program Year as long as the cost does not exceed the maximum annual benefit for the Utility Assistance Component. Bill payment may cover two separate fuel sources;
- (2) Needs assessment and energy conservation tips, coordination of resources, and referrals to other programs;
 - (3) Payment of water, wastewater and solid waste charges are not an allowable LIHEAP expense even in cases where those charges are an inseparable part of a utility bill. Whenever possible, Subrecipient shall negotiate with the utility providers to pay only the "home energy" (heating and cooling) portion of the bill or utilize other funds to pay for the water related charges;
 - (4) Payment of reconnection fees in line with the registered tariff filed with the Public Utility Commission and/or Texas Railroad Commission. Payment cannot exceed that stated tariff cost. Subrecipient shall negotiate to reduce the costs to cover the actual labor and material and to ensure that the utility does not assess a penalty for delinquency in payments;
 - (5) Payment of security deposits only when state law requires such a payment, or if the Public Utility Commission or Texas Railroad Commission has listed such a payment as an approved cost, and where required by law, tariff, regulation, or a deferred payment agreement includes such a payment. Subrecipient shall not pay such security deposits that the energy provider will eventually return to the customer;
 - (6) While rates and repair charges may vary from vendor to vendor, Subrecipient shall negotiate for the lowest possible payment. Prior to making any payments to an energy vendor a Subrecipient shall have a signed vendor agreement on file from the energy vendor receiving direct CEAP payments from the Subrecipient;
 - (7) Subrecipient may 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 utility or fuel bill payment. Subrecipient shall ensure that amount of assistance paid on behalf of customer is deducted from customer's rent; and
 - (8) In lieu of deposit required by an energy vendor, Subrecipient may make advance payments. The Department does not allow CEAP Expenditures to pay deposits, except as noted in paragraph (5) of this subsection. Advance payments may not exceed an estimated two months' billings.
 - (9) Payment of existing arrearages related to home energy costs. Such payments have no maximum cost limit and do not count towards the total maximum possible annual Household benefit. Payment of arrearages may include the payment of penalties and fines related to home energy.

§6.310 Crisis Assistance Component

- (a) Crisis Assistance can be provided to persons who have already lost service or are in immediate danger of losing service only under one of the conditions listed in paragraphs (1) - (3) of this subsection, and shall not exceed the caps as defined in §6.309 of this subchapter (relating to Types of Assistance and Benefit Levels):
 - (1) Extreme Weather Conditions, as defined in §6.301 of this subchapter (relating to Background and Definitions), with assistance provided within 48 hours;
 - (2) Disaster, as defined in §6.301 of this subchapter, with assistance provided within 48 hours; or
 - (3) Life Threatening Crisis, as defined in §6.301 of this subchapter, with assistance provided within 18 hours.
- (b) In order to resolve the crisis, Subrecipient shall ensure that for customers assisted through Crisis Assistance services are provided within the timeframes as described in subsection (a) of this section. The time limit commences upon completion of the application process. The application process is considered complete when an agency representative accepts an application and completes the eligibility process. Subrecipient must maintain written documentation in customer files showing

crises resolved within the appropriate timeframe. The Department may disallow improperly documented Expenditures.

(c) Low Income Households as defined in §6.2 of this chapter (relating to Definitions) may be eligible for any one or more of the types of assistance listed in paragraphs (1) - (8) of this subsection:

(1) Payment of utilities or fuel bills and utility bill deposits necessary to retain heating or cooling.

(2) Emergency deliveries of fuel up to 250 gallons per crisis per Household, at the prevailing price.

This benefit may include coverage for tank pressure testing.

(3) Utility reconnection costs.

(4) Blankets, as tangible benefits to keep individuals warm.

(5) For Non-Vulnerable Populations meeting the conditions described in subsection (a) of this section, service and repair of existing heating and cooling units is allowed when the Household has an inoperable heating or cooling system or the system is not functioning according to its intended purpose. If a component(s) of the heating or cooling system cannot be repaired using parts, the Subrecipient can replace the component(s) in order to repair the heating or cooling system. When a heating or cooling system is nonexistent, purchase of heating or cooling, or heating and cooling units for up to \$7,500 is allowed. [The cost shall not exceed \\$7,500 and will not be counted towards the total maximum benefit level per Household under the Crisis Assistance Component.](#)

(6) When a Household meets the definition of Life Threatening Crisis, purchase of portable [cooling and/or heating and/or cooling units, window units, evaporative coolers, and mini splits](#) is allowable.

Units must be Energy Star[®]. In cases where the type of unit is not Energy Star[®], or if Energy Star[®] units are not available due to supply shortages, Subrecipient may purchase the highest rated unit available. Purchase of more than two [of these types of units for a Household portable heating and/or cooling units](#) requires prior written approval from the Department.

(7) Purchase of fans. The number, type, size and cost of these items may not exceed the minimum needed to resolve the crisis.

(8) If necessary, the purchase of a generator is allowable when a Household meets the definition of Life Threatening Crisis.

(d) When Disasters result in energy supply shortages or other energy-related emergencies, CEAP will allow home energy related expenditures for:

(1) Temporary Shelter in the limited instances that supply of power to the Dwelling Unit is disrupted causing a temporary evacuation.

(2) Cost to temporary Shelter or house individuals in hotel, apartments or other living situations in which homes have been destroyed or damaged when health and safety is endangered by loss of access to heating and cooling.

(3) Costs for transportation (e.g., cars, shuttles, buses) to move the individuals away from the crisis area to Shelters when health and safety is endangered by loss of access to heating and cooling.

(e) Subrecipient may request a waiver from the Executive Director or designee for the 18 and 48 hour timeframes in the case of a Natural Disaster. The Executive Director or designee may grant a waiver if good cause is found.

(f) Benefit Level for Crisis Assistance:

(1) Crisis Assistance for one Household cannot exceed the maximum allowable benefit level in one Program Year as defined in §6.309 of this subchapter. If a Household's Crisis Assistance needs exceed that maximum allowable benefit, Subrecipient may pay up to the Crisis Assistance limit only if the remaining amount of Household need can be paid from other funds to resolve the crisis. If the Household's crisis requires more than the Household limit to resolve and no other funds are available, the crisis exceeds the scope of this [C](#) component.

- (2) Payments may not exceed Household's actual utility bill.
- (3) Payments may not exceed the Maximum Household allowable assistance benefit level.
- ~~(4) Service and repair or purchase of heating or cooling, or heating and cooling units for up to \$7,500 will not be counted towards the total maximum Household allowable assistance under the utility assistance and crisis components.~~
- (45) Temporary Shelter not to exceed the annual Household benefit limit for the duration of the Contract Term.

§6.311 Utility Assistance Component

- (a) A Subrecipient may use home energy payments to assist Low Income Households to reduce their home energy costs. Subrecipient shall combine home energy payments with energy conservation tips, participation by utilities, and coordination with other services in order to assist low income Households to reduce their home energy needs.
- (b) Subrecipient must make payments directly to vendors and/or landlords on behalf of eligible Households.
- (c) For Vulnerable Population Households, service and repair of existing heating and cooling units is allowed when the Household has an inoperable heating or cooling system or the system is not functioning according to its intended purpose. If a component(s) of the heating or cooling system cannot be repaired using parts, the Subrecipient can replace the component(s) in order to repair the heating or cooling system. If a heating or cooling system is nonexistent, purchase of heating or cooling, or heating and cooling units for up to \$7,500 is allowed. The cost shall not exceed \$7,500 and will not be counted towards the total maximum benefit level per Household allowable under the Utility Assistance Component. Subrecipients may leverage this type of assistance with LIHEAP and/or DOE Weatherization.

§6.312 Payments to Subcontractors and Vendors

- (a) A bi-annual Vendor Agreement is required to be implemented by the Subrecipient and shall contain assurances as to fair billing practices, delivery procedures, and pricing procedures for business transactions involving CEAP beneficiaries. The Subrecipient must use the Department's current Vendor Agreement template, ~~found on the CEAP Program Guidance page of the Department's website~~. These agreements are subject to monitoring procedures performed by the Department staff.
- (b) Subrecipient shall maintain proof of payment to Subcontractors and vendors as required by Chapter 1, Subchapter D of this title (relating to Uniform Guidance for Recipients of Federal and State Funds).
- (c) Subrecipient shall notify each participating Household of the amount of assistance to be paid on its behalf. Subrecipient shall document this notification.
- (d) Subrecipients shall use the Vendor Payment method for CEAP components. Subrecipient shall not make cash payments directly to eligible Household for any of the CEAP components.
- (e) Payments to vendors for which a valid Vendor Agreement is not in place may be subject to disallowed costs unless prior written approval is obtained from the Department.

(f) A Vendor Refund is program income and must be reimbursed to the Subrecipient, and not the customer. When a Vendor Refund is issued, Subrecipient shall determine which TDHCA Contract the payment(s) was charged to, the Household associated to the payment, and if the Contract remains open.

(1) If the Contract remains open, Subrecipient must enter the amount into the Contract System in the appropriate budget line item into the adjustment column in the next monthly report, and make the appropriate note in the system. This will credit back the Vendor Refund for the Subrecipient to expend on eligible expenses.

(2) If the Contract is closed, Subrecipient must return the Vendor Refund to the Department within ten calendar days of receipt. The payment must contain the Contract number and appropriate budget line item associated with the refund.

SUBCHAPTER D WEATHERIZATION ASSISTANCE PROGRAM

§6.402 Purpose and Goals

(a) DOE-WAP and LIHEAP-WAP offers awards to Private Nonprofit Organizations, and Public Organizations with targeted beneficiaries being Households with low incomes, with priority given to Vulnerable Populations, High Energy Burden, and Households with High Energy Consumption. In addition to meeting the income-eligibility criteria, the weatherization measures to be installed must meet specific energy-savings goals. Neither of these programs are entitlement programs and there are not sufficient funds to serve all customers that may be eligible.

(b) The programs fund the installation of weatherization materials and provide energy conservation education. The programs help control energy costs to ensure a healthy and safe living environment.

(c) Organizations administering a Department-funded weatherization program must administer both the DOE-WAP and the LIHEAP-WAP. Organizations that have one Weatherization program removed will have both program removed. If it is necessary to designate a new Subrecipient to administer WAP, the Department shall give special consideration to Subrecipients receiving funds under LIHEAP or DOE WAP, in accordance with Assurance 6 of the Low Income Home Energy Assistance Act of 1981, [as amended](#).

(d) The Department shall administer and implement the DOE-WAP program in accordance with DOE rules (10 CFR Part 440 [and active DOE WAP Program Notices/Memorandums](#)) [and the current DOE State Plan](#), ~~except that Categorical Eligibility will follow the eligibility reflected in the LIHEAP plan.~~ The Department shall administer and implement the LIHEAP-WAP program in accordance with a combination of LIHEAP statute (42 U.S.C. §§6861, et seq.) and DOE rules. LIHEAP Weatherization measures may be leveraged with DOE Weatherization measures in which case all DOE rules and requirements as described in this title and in the Contract will apply.

§6.403 Definitions

(a) Department of Housing and Urban Development (HUD)--Federal department that provides funding for certain housing and community development activities.

(b) Electric Base-Load Measure (EBL)--Weatherization measures which address the energy efficiency and energy usage of lighting and appliances.

(c) Energy Audit--The energy audit software and procedures used to determine the cost

effectiveness of Weatherization measures to be installed in a Dwelling Unit. ~~The Energy Audit shall be used for any Dwelling Unit weatherized utilizing DOE funds.~~

(d) Energy Repairs--Weatherization-related repairs necessary to protect or complete regular Weatherization energy efficiency measures.

(e) Multifamily Dwelling Unit--A structure containing more than one Dwelling Unit.

(f) Priority List--For LIHEAP-WAP only, a list developed by the Department, as may be updated from time to time, ~~included in the Contract, and~~ which provides the prescribed method to be used by Subrecipients when addressing weatherization measures. For DOE-WAP only, a list currently approved by DOE, which provides the prescribed method to be used by Subrecipients when addressing weatherization measures.

(g) Rental Unit--A Dwelling Unit occupied by a person who pays rent for the use of the Dwelling Unit.

(h) Renter--A person who pays rent for the use of the Dwelling Unit.

(i) Reweathering--If a Dwelling Unit has been damaged by fire, flood, or act of God and repair of the damage to Weatherization materials is not paid for by insurance; or if a Dwelling Unit ~~was~~ has not been partially weatherized in the previous 15 years, the Dwelling Unit may be reweatherized to receive further financial-weatherization assistance ~~for Reweathering.~~

(j) Shelter--A Dwelling Unit or Units whose principal purpose is to house on a temporary basis individuals who may or may not be related to one another and who are not living in nursing homes, prisons, or similar institutional care facilities.

(k) Significant Energy Savings--A Savings to Investment Ratio (SIR) of 1.0 or greater.

(l) Single Family Dwelling Unit--A structure containing no more than one Dwelling Unit.

(m) Weatherization Assistance Program Policy Advisory Council (WAP PAC)--The WAP PAC was established by the Department in accordance with 10 CFR §440.17 to provide advisory services in regards to the DOE WAP program.

(n) Weatherization Material--The material listed in Appendix A of 10 CFR Part 440.

(o) Weatherization--A program conducted to reduce heating and cooling demand of Dwelling Units that are energy inefficient.

§6.406 Subrecipient Requirements for Establishing Household Eligibility and Priority Criteria

(a) The structure's design must allow for energy conservation retrofits and meet the definition of a Dwelling Unit per §6.2 of this chapter (relating to Definitions).

(b) A Dwelling Unit cannot be served if a single meter is utilized by another Dwelling Unit that is not a part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient must provide services if:

(1) The members of the separate structures that share a meter submit a separate Household application to include all persons and applicable income for each Dwelling Unit attached to the meter; and

(2) All Household Dwelling Units served by the meter are determined eligible to receive weatherization benefits.

(c) Subrecipient shall establish a written procedure to serve Households that have a Vulnerable Population Household member, Households with High Energy Burden, and Households with High Energy Consumption. High Energy Burden shall be the highest rated item in sliding scale priority determinations. The Subrecipient must maintain documentation of the use of the criteria.

(d) Subrecipient shall determine applicant income eligibility in compliance with §6.4 of this chapter (relating to Income Determination).

(e) Categorical Eligibility for DOE-WAP benefits exist when at least one person in the Household receives assistance payments under Title IV or XVI of the Social Security Act at any time during the 12-month period preceding the determination of eligibility or resides in a building that receives assistance under specific federal programs as identified in §6.414 or by Contract. Categorical Eligibility for LIHEAP-WAP benefits are the same as those specified for CEAP benefits described in §6.307(b) of this chapter (relating to Subrecipient Requirements for Customer Eligibility Criteria, Provision of Services, and Establishing Priority for Eligible Households).

(f) Social Security numbers are not required for applicants.

(g) U.S. Citizen, U.S. National or Qualified Alien. Unqualified Aliens are not eligible to receive WAP benefits. Mixed Status Households shall not be denied WAP assistance based solely on the presence of a non-qualified member, except if the member is the sole member of the Household. In accordance with §1.410(f), relating to Exemptions under PRWORA, Subrecipient must document verify U.S. Citizen, U.S. National, ~~or~~ and Qualified Alien status using the Department approved form. Qualified Alien status must also be verified and documented of all Household members using SAVE. Assistance shall be determined as follows:

(1) Count income for all Household members eighteen years of age and older, including Unqualified Aliens; and

(2) Adjust the Household size for determining eligibility and benefit assistance level to exclude all Unqualified Aliens.

(h) For purposes of determining Categorical Eligibility or Vulnerable Populations (e.g. priority status) the Household is not considered to satisfy the definition of having Categorical Eligibility or Vulnerable Population if the only individual(s) in the Household with Categorical Eligibility or Vulnerable Population status is an Unqualified Alien. For purposes of reporting, all individuals in the Household should be reported.

§6.407 Program Requirements

(a) Each Dwelling Unit weatherized requires completion of a written whole house assessment. Subrecipient must perform the whole house assessment then let that assessment guide whether the Dwelling Unit is best served through DOE and/or LIHEAP-WAP funds utilizing ~~using~~ the Energy Audit or Priority List(s) as applicable, through LIHEAP-WAP funds using the priority list, or a combination of DOE and LIHEAP funds.

(b) Any Dwelling Unit that is weatherized using DOE funds must either use the State of Texas approved Energy Audit or DOE approved Priority List as a guide for installed measures. A Subrecipient combining DOE funds with LIHEAP-WAP funds on an individual Dwelling Unit or building may ~~not mix the use of the Energy Audit to justify all measures installed or utilize and the DOE and LIHEAP Priority Lists together to address all measures allowed.~~

(c) Any Dwelling Unit that is weatherized using LIHEAP only must be completed using the LIHEAP Priority List as a guide for installed measures. ~~Failure to complete a written whole house assessment as indicated in §6.416 of this subchapter (relating to Whole House Assessment) prior to Weatherization may lead to unit failure during quality control inspection.~~

(d) If a Subrecipient's Weatherization work does not consistently meet DOE Standard Work Specifications Weatherization standards, the Department may proceed with the removal of the programs from the Subrecipient.

§6.408 Department of Energy Weatherization Requirements

(a) In addition to cost principles and administrative requirements listed in §1.402 in Chapter 1 of this title (relating to Cost Principles and Administrative Requirements), Subrecipients administering DOE programs must also adhere to 10 CFR Part 440, 10 CFR Part 600, active DOE WAP Program Notices/Memorandums, NREL Standard Work Specifications, and the applicable International Residential Code (IRC).

(b) WAP Policy Advisory Council. In accordance with Tex. Gov't Code, §2110.005 and 10 CFR §440.17, the Department shall establish the Weatherization Assistance Program Policy Advisory Council (WAP PAC), with which it will consult prior to the submission of the annual plan and award of funds to DOE.

(c) Adjusted Average Expenditure Per Dwelling Unit. Expenditures of financial assistance provided under DOE-WAP funding for the Weatherization services for labor, weatherization materials, and program support shall not exceed the DOE adjusted average expenditure limit for the current Program Year per Dwelling Unit as provided by DOE, and as cited in the Contract, without special agreement via an approved waiver from the Department.

(d) Electric Base Load Measures. DOE has approved the inclusion of selected Electric Base Load (EBL) measures as part of the Weatherization of eligible residential units. Refrigerators usage data must be obtained either by metering the appliance for a minimum of two (2) hours or from a DOE approved tool when calculating the EBL SIR. ~~must be metered for a minimum of two hours when calculating the EBL and SIR.~~

~~(e) Subrecipient may not enter into vehicle lease agreements with WAP funds.~~

~~(e)~~ Energy Audit Procedures.

(1) SIR for the Energy Audit procedures will determine the installation of allowable Weatherization measures. The Weatherization measures must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, and installation. An Energy Audit may consist of Incidental Repairs, Energy-Saving Measures (starting with Duct Sealing and Infiltration Reduction), and Health and Safety Measures. All Energy-Saving Measures must rank with an SIR of one or greater. The total Cumulative SIR, prior to Health and Safety measures, must be a one or greater in order to weatherize the dwelling unit.

- (2) The Energy Audit has not been approved for multifamily buildings containing 25 or more units. A Subrecipient that proposes weatherizing a building containing 25 or more units must receive approval from the Department prior to beginning any Weatherization activity.
- (3) Energy Auditors must use the established R-values for existing measures provided in the International Energy Conservation Code (IECC) when entering data into the Energy Audit. Subrecipient must follow minimum requirements set in the applicable IRC or jurisdictions authorized by state law to adopt later editions.
- (4) A Subrecipient utilizing the Energy Audit must enter into the audit all materials and labor measures proposed to be installed.

(f) Priority List Procedures. Subrecipient is limited to Weatherization measures as detailed in the DOE approved Priority List. Measures must be addressed according to the instructions in the Weatherization Contract, Priority List criteria, and the Department's DOE Priority List policies and procedures.

§6.414 Eligibility for Multifamily Dwelling Units and Shelters

- (a) Multifamily building and Shelter weatherization is not considered a federal public benefit and the activity is exempt from the requirements of §6.406(g) and (h) of this subchapter (relating to U.S. Citizen, U.S. National or Qualified Alien, and determining Categorical Eligibility or Vulnerable Populations, respectively).
- (b) A Subrecipient may weatherize a building containing Rental Units if not less than 66% (50% for duplexes and four-unit buildings) of the Dwelling Units in the building are occupied by low income Households, or will become occupied by Low-income Households within 180 days under a Federal, State, or local government program for rehabilitating the building or making similar improvements to the building.
- (c) In order to weatherize large multifamily buildings containing twenty-five or more Dwelling Units or those with shared central heating (e.g., boilers) and/or shared cooling plants (e.g., cooling towers that use water as the coolant) regardless of the number of Dwelling Units, Subrecipient shall submit in writing to the Department a request for approval along with evidence which clearly shows that an investment of funds would result in Significant Energy Savings because of upgrades to equipment, energy systems, common space, or the building shell. When necessary, the Department will seek approval from DOE. Approvals from the Department in writing must be received prior to the installation of any Weatherization measures in this type of structure.
- (d) In order to weatherize Shelters, Subrecipient shall submit a written request for approval from the Department. Written approval from the Department must be received prior to the installation of any Weatherization measures. Income determination is not required to be done for residents of Shelters.
- (e) If roof repair is to be considered as an eligible repair cost under the Weatherization process, the expenses must be shared equally by all eligible Dwelling Units weatherized under the same roof. If multiple storied buildings are weatherized, eligible ground floor units must be allocated a portion of the roof cost as well as the eligible top floor units. All Weatherization measures installed in multifamily units must meet applicable IRC requirements, NREL Standard Work Specifications, the standards set in 10 CFR §440.18(d)(9) and (15), and Appendix A-Standards for Weatherization Materials.
- (f) Subrecipient shall establish a multifamily master file for each multifamily project in addition to

the applicable Dwelling Unit recordkeeping requirements found in the Contract. The multifamily master file must include, at a minimum, the forms (available on the Department's website) listed in paragraphs (1) - (6) of this subsection:

- (1) Multifamily Project Preparation Checklist;
- (2) Multifamily Project Completion Checklist;
- (3) Landlord Permission to Perform Assessment and Inspections for Rental Units;
- (4) Landlord Agreement;
- (5) Landlord Financial Participation Form; and
- (6) Multifamily Project Building Data Checklist.

(g) Subrecipient shall contact the Department for record keeping guidance if it wishes to weatherize a Shelter.

(h) For DOE WAP, if a public housing or assisted multi-family building has HUD assisted tenants, the most current and applicable Weatherization Program Notice shall be utilized in determining client and building eligibility, gone through the HUD Property Certification Procedure outlined in DOE Weatherization Program Notice 17-4 or is identified by the HUD and included on a list identified in Weatherization Program Notice 17-4 or successor notice as having already gone through the HUD Property Certification Procedure, that building meets income eligibility without the need for further evaluation or verification by Subrecipient. A public housing or assisted housing building that does not appear on the list using HUD records may still qualify for the WAP. Income eligibility can be made on an individual basis by the Subrecipient based on information supplied by property owners and the Households in accordance with subsection (b) of this section.

(i) For any Dwelling Unit that is weatherized using funding provided under DOE WAP, all Weatherization measures installed must be justified with entered into an approved Energy Audit or with the DOE approved Priority List. If using the Energy Audit, all allowable Weatherization measures needed must be entered. Weatherization measures will be performed in order of highest SIR to lowest depending on funds available. If using the Priority List, included Weatherization measures must be addressed according to the instructions in the Weatherization Contract, Priority List criteria, and the Department's DOE Priority List policies and procedures (if applicable). ~~installed shall begin with repair items, then continue with those measures having the greatest SIR and proceed in descending order to the measures with the smallest SIR or until the maximum allowable per Dwelling Unit expenditures are achieved, and finishing with Health and Safety measures.~~

§6.416 Whole House Assessment

(a) Subrecipient must conduct a whole house assessment on all eligible Dwelling Units. Whole house assessments must be used to determine whether the Priority List or an Energy Audit is most appropriate for the unit. Whole house assessments must collect all required Energy Audit information to include all, but are not limited to; the items described in paragraphs (1) - (15) of this subsection:

- (1) Wall--Condition, type, orientation, and existing R-values;
- (2) Windows--Condition, type material, glazing type, leakiness, and solar screens;
- (3) Doors--Condition, type;
- (4) Attic--Type, condition, existing R-values, and ventilation;
- (5) Foundation--Condition, existing R-values, and floor height above ground level;
- (6) Heating System--For all systems: unit type, fuel source (primary or secondary), thermostat, and output; for combustion systems only: vented or unvented efficiency, CO-levels, complete fuel gas analysis, gas leaks, and combustion venting;

- (7) Cooling System--Unit type, condition, area cooled, size in BTU rating, Seasonal Energy Efficiency Rating (SEER) or Energy Efficiency Rating (EER), manufacture date, and thermostat;
- (8) Duct System--Condition, existing insulation level, evaluation of registers, duct infiltration, return air register size, and condition of plenum joints;
- (9) Water Heater--For all water heaters: condition, fuel type, energy factor, recovery efficiency, input and output ratings, size, existing insulation levels, existing pipe insulation; for combustion water heaters only: carbon monoxide levels, draft test, complete fuel gas analysis;
- (10) Refrigerator--Condition, manufacturer, manufacture date and make, model, and consumption reading (minutes and meter reading); customer refusal must be documented;
- (11) Lighting System--Quantity, watts, and estimated hours used per day;
- (12) Water Savers--Number of showerheads, estimated gallons per minute and estimated minutes used per day;
- (13) Health and Safety--For all units: smoke detectors, wiring, minimum air exchange, moisture problems, lead paint present, asbestos siding present, condition of chimney, plumbing problems, mold; for units with combustion appliances: unvented space heaters, carbon monoxide levels on all combustion appliances, carbon monoxide detectors;
- (14) Air Infiltration--To be determined from Blower Door testing; areas requiring air sealing will be noted; and
- (15) Repairs--Measures needed to preserve or protect installed Weatherization measures may include lumber, shingles, flashing, siding, masonry supplies, minor window repair, gutters, downspouts, paint, stains, sealants, and underpinning.

(b) If using the Energy Audit, all allowable Weatherization measures needed must be entered. Measures will be performed in order of highest SIR to lowest depending on funds available. If using the Priority List, included Weatherization measures must be addressed according to the instructions in the [Exhibit to the Weatherization Contract, Priority List criteria, and the Department's DOE Priority List policies and procedures \(if applicable\)](#).

§6.417 Blower Door Standards

Subrecipient is required to use the [most current Blower Door and Duct Blaster Data Sheet](#) ~~blower door/duct blower data~~ form adopted by the Department and available on the Department's website (<http://www.tdlhca.state.tx.us/community-affairs/wap/index.htm>).