DEPARTMENT OF ENERGY

ASSISTANCE LISTING 81.041 STATE ENERGY PROGRAM

I. PROGRAM OBJECTIVES

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

SEP received additional funding under the Infrastructure Investment and Jobs Act (IIJA) which created additional compliance requirements. Each SEP grantee will have an award with IIJA funding, which can be found at State Energy Program Guidance | Department of Energy. Subrecipients receiving 81.041 funding are expected to follow all of the requirements established by the pass-through entity as permitted by 2 CFR 200.332.

II. PROGRAM PROCEDURES

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

A. Master File: includes information on the state’s overall strategic energy plan, the key elements, goals, and objectives of that plan, and how specific SEP activities fit into that overall plan. It must also include a plan for state subrecipient monitoring.

B. Annual File: includes a description of the energy efficiency and renewable energy programs and activities that the state intends to carry out during its program year (PY), with budget information and milestones for each project/activity, and an overall budget broken out by object class.

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

In addition to federal appropriated funds, other sources of funding under this program may include oil overcharge funds, also known as petroleum violation escrow (PVE) funds. If PVE funds are allocated to a state SEP program, the state is required to follow all program requirements as if those were SEP funds.
Source of Governing Requirements

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

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

Availability of Other Program Information

Additional details on SEP requirements can be found in the following State Energy Program Funding Opportunity Announcements and Administrative and Legal Requirements Document (ALRD):

1. DE-FOA-0001644 FY 2017
   https://www.energy.gov/sites/prod/files/2017/10/f37/2017-sep-competitive-awards.pdf or


   https://www.energy.gov/sites/default/files/2022-08/SEP-IIJA-ALRD_0.pdf

4. State Energy Program (SEP) Infrastructure Investment and Jobs Act (IIJA) of 2021 Energy Efficiency Revolving Loan Fund Capitalization Grant Program (EE RLF) IIJA - Administrative and Legal Requirements Document (ALRD) issued 11/15/22

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

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a
compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

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### A. Activities Allowed or Unallowed

1. **Activities Allowed**

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

   (1) mandatory lighting efficiency standards for public buildings;

   (2) carpool, vanpool, and public transportation initiatives;

   (3) energy efficient procurement procedures;

   (4) mandatory thermal efficiency standards for new and renovated buildings;

   (5) right turn on red, and left turn from one-way streets onto one-way streets;

   (6) coordination among local, state, and federal energy efficiency, renewable energy, and public transportation programs;

   (7) public education to promote energy conservation;

   (8) transportation efficiency such as accelerating use of alternative transportation fuels and hybrid vehicles;

   (9) encouraging use of energy efficiency technologies in industry, buildings, transportation and utilities;
(10) financing for energy efficiency and renewable energy capital investments and programs, including loans, performance contracting, rebates and grants, which includes establishment of revolving loan funds (RLF) and loan loss reserves (LLR) to the extent that the activities supported by the loans are eligible activities under the program (see III.A.1.b, below) (10 CFR 420.18(d));

(11) energy audits for buildings and industrial facilities (including industrial processes) within the state;

(12) adoption of integrated energy plans, which provide for periodic evaluation of a state’s energy needs, available energy resources and energy costs;

(13) promoting the use of adequate and reliable energy supplies, including greater energy efficiency that meet applicable safety, environmental, and policy requirements at the lowest cost;

(14) energy efficiency in residential housing;

(15) identifying and educating consumers about deceptive practices related to implementation of energy efficient and renewable resource energy measures;

(16) reducing utility companies’ peak demand;

(17) promoting energy efficiency as an integral part of economic development and environmental planning conducted by state and local governments or utilities;

(18) training and education for building designers and contractors to promote buildings that are energy efficient;

(19) building retrofit standards and regulations;

(20) feasibility studies of renewable energy and energy efficiency technologies;

(21) partnerships with other state agencies to leverage additional funds, such as public benefit funds and state and local investments in Clean Air Act compliance; and

(22) collaborative programs for energy efficiency and renewable energy technologies that link a state’s energy and environmental objectives (10 CFR sections 420.15 and 420.17).

(23) transmission and distribution planning:
(a) support for local governments and Indian Tribes
(b) feasibility studies for transmission line routes and alternatives
(c) preparation of necessary project design and permits
(d) outreach to affected stakeholders

b. Loan repayments and interest earned on loans can be used only on activities that are included in the state’s annual application (10 CFR section 420.18(d)).
c. SEP funds may be used for administrative costs associated with the continued operation of an American Recovery and Reinvestment Act (ARRA)-funded RLF or LLR.

2. **Activities Unallowed**

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

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

**G. Matching, Level of Effort, Earmarking**

1. **Matching**

IIJA states that SEP funds shall not be subject to the cost matching requirement. Accordingly, cost match is not required. The matching requirement for SEP has been waived until 2027. Therefore, State Energy Offices no longer have to provide match to receive their allocation in their PY22 (thru 2027) funds.
Petroleum Violation Escrow (PVE) Funds

PVE, or oil-overcharge funds support a variety of energy related programs in the states. Each state determines how it wishes to allocate the funds across eligible programs. States may use these funds and the interest earned for SEP eligible activities, and other eligible uses. States may use some PVE funds outside of their SEP grants, while some PVE funds must be used within their grants. See State Energy Program Operations Manual for more information.

PVE Funds Used Within the State’s Annual Formula SEP Grant

When used within the scope and budget of a state’s SEP grant, PVE funds are subject to SEP grant and program requirements. A state or other non-federal match is not required for PVE funds used within an SEP grant. PVE funds are not subject to the 20% limitation on equipment purchases under the program. See 10 CFR 420.12 and 10 CFR 420.18.

2. Level of Effort

2.1 Level of Effort - Maintenance of Effort

Not applicable

2.2 Level of Effort – Supplement Not Supplant

Each state receiving federal financial assistance shall provide reasonable assurance that federal financial assistance will be used to supplement, and not to supplant, state and local funds and increase the amount of state and local funds that otherwise would be available, in the absence of the federal financial assistance, for the implementation of a State Energy Plan. See 10 CFR 420.13(b)(7).

3. Earmarking

Not Applicable

IV. OTHER INFORMATION

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

DEPARTMENT OF ENERGY

ASSISTANCE LISTING 81.042 WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

I. PROGRAM OBJECTIVES

The objective of the Weatherization Assistance for Low-Income Persons (WAP) program is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total expenditures on energy, and improve their health and safety. WAP has a special interest in addressing these needs for low-income persons who are particularly vulnerable, such as the elderly, disabled persons, and families with children, as well as those with high energy usage and high energy burdens.

WAP received additional funding under the Infrastructure Investment and Jobs Act (IIJA) which created additional compliance requirements. Each WAP grantee has an additional award for these funds, separate from the annual award. These requirements can be found at the link included in the Availability of Other Program Information.

Subrecipients receiving 81.042 funding are expected to follow all of the requirements established by the pass-through entity as permitted by 2 CFR 200.332.

II. PROGRAM PROCEDURES

States may submit an application and plan to the Department of Energy (DOE). The submission describes the proposed weatherization projects and contains a budget, a production schedule of dwelling units to be weatherized with grant funds, a monitoring plan, a training and technical assistance plan, and rental procedures. Upon approval, states receive funds from DOE and may enter into sub-agreements with local administering agencies having approved plans. If a state does not submit an application or if the State Plan is rejected, a local applicant may submit a plan to carry out weatherization projects. Section 411(c) of the Energy Independence and Security Act of 2007 added Puerto Rico and the US territories to the definition of “state.” As a result, DOE makes WAP awards to American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the US Virgin Islands. References to “state” in this program supplement include these entities. DOE also provides direct grants to select Native American tribes each year.

In addition to federal appropriated funds, other sources of funding under this program may include oil overcharge funds, also known as petroleum violation escrow (PVE) funds. PVE-leveraged funds identified in the budget and incorporated into the DOE award (as part of the approved budget) must meet all DOE requirements, including allowability of costs, specified in the award. If such funds are not included in the approved budget, states have greater flexibility in how those funds are used.

Source of Governing Requirements

WAP is authorized under Title IV, Part A, of the Energy Conservation and Production Act (Act), as amended (42 USC 6861 through 6873), including amendments made by, Consolidated
Appropriations Act of 2021 (Pub. L. No. 116-260; December 27, 2020); Implementing regulations are published at 10 CFR Part 440.

Availability of Other Program Information

Program notices are available at Weatherization Program Notices and Memorandums | Department of Energy.

III. COMPLIANCE REQUIREMENTS

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, “Matrix of Compliance Requirements”), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a “Y” in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as “N,” it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an “N.” See the Safe Harbor Status discussion in Part 1 for additional information.

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A. Activities Allowed or Unallowed

1. Activities Allowed

   a. The cost of purchase and delivery of weatherization materials (10 CFR section 440.18(d)(1)). Funds may only be expended on weatherization materials listed in Appendix A to 10 CFR Part 440 or as approved by DOE.

   b. Labor costs in accordance with 10 CFR section 440.19.
c. Transportation of weatherization materials, tools, and equipment, and work crews to a storage site and/or to the site of weatherization work (10 CFR section 440.18(d)(3)).

d. Maintenance, operation, and insurance of vehicles used to transport weatherization materials (10 CFR section 440.18(d)(4)).

e. Maintenance of tools and equipment (10 CFR section 440.18(d)(5)).

f. Purchase or annual lease of tools, equipment and/or vehicles, except that any purchase of vehicles shall be referred to DOE in every instance (10 CFR section 440.18(d)(6)).

g. Employment of on-site supervisory personnel (10 CFR section 440.18(d)(7)).

h. Storage of weatherization materials, tools, and equipment (10 CFR section 440.18(d)(8)).

i. The costs of incidental repairs to make the installation of weatherization materials effective (10 CFR section 440.18(d)(9)).

j. The cost of liability insurance for weatherization projects for personal injury and property damage (10 CFR section 440.18(d)(10)).

k. The cost of carrying out low cost/no cost weatherization assistance (10 CFR section 440.20).

l. The cost of WAP financial audits in accordance with 10 CFR section 440.23.

m. Administrative expenses (10 CFR section 440.18(d)(13)).

n. The costs of eliminating health hazards, necessary to ensure the safe installation of weatherization materials (10 CFR section 440.18(d)(15)).

o. Leveraging activities, as specified in the leveraging section of the State Plan and grant agreement (10 CFR 440.14(c)(6)(xiv), Sec. 1011(g) of the Energy Act of 2020 (Division Z of P.L. 116-260)). Leveraging entails a state obtaining additional program-targeted nonfederal or in-kind contributions as a result of WAP-funded activities. Leveraging should be limited to contributions that can be clearly attributed to a state’s weatherization activities, and that are used to augment those activities. The maximum percentage of Weatherization funds that can be diverted for leveraging activities is 15 percent of the grantee’s total allocation.

p. Expenditures for labor, weatherization materials, and related matters for a renewable energy system, as defined in 10 CFR section 440.3, shall not
exceed an average of $3,000 per dwelling unit or adjusted amount as published in WAP program notices from the Energy Policy Act of 2005, Pub. L. No. 109-58 (42 USC 6865(c)(4); 10 CFR section 440.18(b)).

2. **Activities Unallowed**

   a. Funds shall not be used to weatherize a dwelling unit which is designated for acquisition or clearance by a federal, state, or local program within 12 months from the date of the weatherization (10 CFR section 440.18(f)(1)).

   b. Funds may not be used to install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds, unless:

      (1) The weatherization activities may be considered “low cost/no cost” as described in 10 CFR section 440.20: inexpensive weatherization materials are used; no labor paid with funds provided is used to install weatherization materials referred to here; and a maximum of 10 percent of the amount allocated to a subgrantee, not to exceed $50 in materials costs per dwelling unit, is expended (10 CFR section 440.18(f)(2)(i));

      (2) Such a dwelling has been damaged by fire, flood or other act of God and the repair of the damage is not paid for by insurance (10 CFR section 440.18(f)(2)(ii)); or

      (3) Language introduced in Consolidated Appropriations Act of 2021, Pub. L. No. 116-260, (h) AMENDING RE-WEATHERIZATION DATE.—Paragraph (2) of section 415(c) of the Energy Conservation and Production Act (42 USC 6865(c)) is amended to read as follows:

      “(2) Dwelling units weatherized (including dwelling units partially weatherized) under this part, or under other Federal programs (in this paragraph referred to as ‘previous weatherization’), may not receive further financial assistance for weatherization under this part until the date that is 15 years after the date such previous weatherization was completed. This paragraph does not preclude dwelling units that have received previous weatherization from receiving assistance and services (including the provision of information and education to assist with energy management and evaluation of the effectiveness of installed weatherization materials) other than weatherization under this part or under other Federal programs, or from receiving non-Federal assistance for weatherization.”
E. Eligibility

Regulations for these requirements are found at 10 CFR 440.22

1. Eligible dwelling units

a. A dwelling unit is eligible for weatherization assistance if it is occupied by a family unit (section 10 CFR 440.22(a)(1-3):

(1) Whose income is at or below 200 percent of the poverty level determined in accordance with the criteria established by the Director of the Office of Management and Budget;

(2) That contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable state or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance; or

(3) If the state elects, is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, provided that such basis is at least 200 percent of the poverty level (42 USC 6862(7), as amended by Section 407(a), ARRA, 123 Stat 146).

The poverty guidelines are issued each year in the Federal Register and HHS maintains a web page that provides the poverty guidelines (Poverty Guidelines | ASPE (hhs.gov)).

b. A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (b) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent;

(2) Not less than 66 percent (50 percent for duplexes and four-unit buildings, and certain eligible types of large multi-family buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days under a federal, state, or local government program for rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures for dwellings which consist of a rental unit or rental units to ensure that:
(i) The benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(ii) For a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(iii) The enforcement of paragraph (b)(3)(ii) of this section is provided through procedures established by the state by which tenants may file complaints, and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(iv) No undue or excessive enhancement shall occur to the value of the dwelling units.

(4) (i) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraphs (b)(3)(ii) and (b)(3)(iv), of this section if it is included on the most recent list posted by DOE of Assisted Housing and Public Housing buildings identified by the US Department of Housing and Urban Development as meeting those requirements.

(ii) A building containing rental dwelling units meets the requirements of paragraph (b)(2), and paragraph (b)(3)(iv), of this section if it is included on the most recent list posted by DOE of Assisted Housing and Public Housing buildings identified by the US Department of Housing and Urban Development as meeting those requirements.

(iii) A building containing rental dwelling units meets the requirement of paragraph (b)(2) of this section if it is included on the most recent list posted by DOE of Low Income Housing Tax Credit buildings identified by the US Department of Housing and Urban Development as meeting that requirement and of Rural Housing Service Multifamily Housing buildings identified by the US Department of Agriculture as meeting that requirement.
(iv) For buildings identified under paragraphs (b)(4)(i), (ii) and (iii) of this section, states will continue to be responsible for ensuring compliance with the remaining requirements of this section, and states shall establish requirements and procedures to ensure such compliance in accordance with this section.

c. In order to secure the federal investment made under this part and address the issues of eviction from and sale of property receiving weatherization materials under this part, States may seek landlord agreement to placement of a lien or to other contractual restrictions;

d. As a condition of having assistance provided under this part with respect to multifamily buildings, a State may require financial participation, when feasible, from the owners of such buildings. Such financial participation shall not be reported as program income, nor will it be treated as if it were appropriated funds. The funds contributed by the landlord shall be expended in accordance with the agreement between the landlord and the weatherization agency.

e. In devising procedures under paragraph (b)(3)(iii) of this section, States should consider requiring use of alternative dispute resolution procedures including arbitration.

f. A State may weatherize shelters. For the purpose of determining how many dwelling units exist in a shelter, a grantee may count each 800 square feet of the shelter as a dwelling unit or it may count each floor of the shelter as a dwelling unit.

2. Eligibility for Group of Individuals or Area of Service Delivery

Not Applicable

3. Eligibility for Subrecipients

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

a. It is a public or nonprofit entity, or a Community Action Agency (CAA) (e.g., a private corporation or public agency established under the Economic Opportunity Act of 1964, which is authorized to administer funds received from federal, state, or local entities to assess, design, operate, finance, and oversee antipoverty programs) (10 CFR section 440.15(a)(1)); and

b. It has been selected as a participant in the weatherization program on the basis of public comment received during a public hearing (10 CFR section 440.15(a)(2)).
L. Reporting

All program reporting is done in a web-based interface, Performance and Accountability for Grants in Energy (PAGE) (https://page.energy.gov/). The site provides DOE and grantees, including state and local governments, and tribal organizations, with the ability to electronically submit and manage grant performance and financial information.

Subrecipients receiving 81.042 funding are expected to follow all of the reporting requirements established by the pass-through entity as permitted by 2 CFR 200.332(a)(3).

1. Financial Reporting

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

2. Performance Reporting

   DOE F 540.3, WAP Quarterly Program Report (OMB Control No. 1910-5127) – This report has columns for each reporting quarter and is submitted online using PAGE).

   Reported data can generally be corrected, if needed, until the submission of the subsequent Quarterly Program Report.

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

   1. Grants Outlays – Funds Subject to DOE Program Rules. Outlays by Function – Total Outlays by Function:
      a. Grantee Administration
      b. Subgrantee Administration
      c. Grantee T&TA
      d. Subgrantee T &TA
      e. Program Operations Total
      f. Health and Safety
      g. Vehicles and Equipment – Acquisition Cost
      h. Liability Insurance
      i. Leveraging
j. Financial Audits

2. Grant Production – Total Annual Energy Savings (final report only)
   - For clarification, this is data is only required to be reported in the last quarterly report, in other words the Q4 report containing the annual cumulative values.

   a. DOE UNITS* (includes other funds if included in DOE budget)

      UNITS BY TYPE:
      (1) Owner-Occupied Single Family Site Built
      (2) Single-Family Rental Site Built
      (3) Multi-Family (5 or more units per building)
      (4) Owner-Occupied Mobile Home
      (5) Renter-Occupied Mobile Home
      (6) Shelter

   b. UNITS BY PRIMARY HEATING FUEL

      (1) Natural Gas
      (2) Fuel Oil
      (3) Electricity
      (4) Propane/LPG
      (5) Kerosene
      (6) Wood
      (7) Other

   c. UNITS BY OCCUPANCY

      (1) Elderly-Occupied
      (2) Disabled-Occupied
      (3) Native American-Occupied
      (4) Children-Occupied
      (5) High Residential Energy User
      (6) Household with a High Energy Burden
d. OTHER UNIT CATEGORIES- Reweatherized Total

e. TOTAL PEOPLE ASSISTED WITH GRANT FUNDS* (includes other funds if included in DOE budget)

   (1) Elderly
   (2) Persons with Disabilities
   (3) Native Americans
   (4) Children

f. Leveraged Units (units completed with other funds that are not included in DOE budget, any part of the definition of a DOE unit has been met)

3. Special Reporting

   Not Applicable

4. Special Reporting for Federal Funding Accountability and Transparency Act

   See Part 3.L for audit guidance.