



Department of Energy
Washington, DC 20585

WEATHERIZATION PROGRAM NOTICE 10-15A
EFFECTIVE DATE: April 8, 2010

SUBJECT: GUIDANCE REGARDING ACCRUAL OF BENEFITS TO LOW-INCOME TENANTS IN MULTI-FAMILY BUILDINGS UNDER THE WEATHERIZATION ASSISTANCE PROGRAM

PURPOSE: To issue guidance for Grantees on establishing procedures to ensure that the benefits of weatherization assistance in connection with multi-family buildings comprised of rental units will accrue primarily to the low-income tenants residing in such units.

LEGAL AUTHORITY: Title IV, Energy Conservation and Production Act, as amended, authorizes the DOE to administer the Weatherization Assistance Program (WAP). All grant awards made under this Program shall comply with applicable laws including regulations contained in 10 CFR Part 440 and other authorities applicable to WAP.

BACKGROUND: A local weatherization agency may weatherize a building containing rental units (e.g., multi-family buildings) using financial assistance for dwelling units eligible for weatherization assistance under WAP if certain conditions are met. 10 CFR 440.22(b). DOE published a final rule in the Federal Register on January 25, 2009, amending 10 CFR Part 440.22. (75 FR 3847). As a result of the final rule, if a multi-unit building is under an assisted or public housing program and is identified by the U.S. Department of Housing and Urban Development (HUD) or the U.S. Department of Agriculture (USDA), and included on a list published by DOE, that building will meet certain income eligibility requirements, and may also satisfy one or both of the procedural requirements to protect against rent increases and undue or excessive enhancement of the weatherized building, as indicated by the list, under WAP without the need for further evaluation or verification.

On March 2, 2010, DOE posted listings of eligible properties to the DOE web page at: http://apps1.eere.energy.gov/wip/eligibility_hud.cfm.

As noted in the January 25, 2009 final rule, inclusion on the published lists does not require the weatherization of the properties, nor does it require a prioritization of these

properties. Additionally, the final rule noted that a request for weatherization of a multi-unit building that is on a published list, as with any multi-family building, would still need to demonstrate to the Grantee (or subgrantee administering the program) that the benefits of the weatherization work accrue primarily to the low-income tenants. 75 FR at 3853. This guidance primarily addresses how Grantees can ensure that the benefits of weatherizing a building which consists of rental units will accrue primarily to the low-income tenants of that property.

GUIDANCE: Under the WAP regulations, a Grantee must ensure that for multi-unit buildings the benefits of weatherizing a building that consists of rental units, including rental units where the tenant pays for energy through rent, accrue primarily to the low-income tenants. (42 U.S.C. 6863(b)(5)(A); 10 CFR 440.22(b)(3)(i)).

DOE is not promulgating prescriptive guidance, but wants to provide examples to Grantees of how to address the accrual of benefits. DOE encourages Grantees to establish procedures that will ensure that all owners of multi-unit buildings submit sufficient detail and explanation to allow a determination that the accrual of benefit requirements in 10 CFR 440.22 have been met.

In instances in which tenants of multi-family buildings pay directly for energy, the accrual of benefits requirement can be assured by demonstrating a reduction in the tenants' energy bills. However, DOE recognizes that there are instances in which a tenant does not pay directly for energy (e.g., energy costs are paid through rent, or under certain housing assistance programs, energy costs are paid for through vouchers).

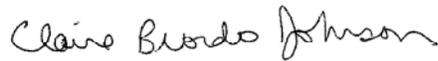
In instances in which a tenant does not pay for energy directly, a combination of several categories of benefits could be used to demonstrate that the benefits of the weatherization accrue primarily to the tenant. Benefits that could be combined, include, but are not limited to:

- longer term preservation of the property as affordable housing;
- continuation of protection against rent increases beyond that required under the WAP regulations (10 CFR 440.22(b)(3)(ii));
- Investment of the energy savings in facilities or services that offer measurable direct benefits to tenants;
- Investment of the energy savings from the weatherization work in specific health and safety improvements with measurable benefits to tenants;
- Improvements to heat and hot water distribution, and ventilation, to improve the comfort of residents; and
- Establishment of a shared savings programs.

Generic assertions such as “tenant services will be improved” or “weatherization will improve health and safety” are not sufficient to demonstrate that the accrual of benefits requirement is met. Procedures established by the Grantee must require significant

additional information quantifying the outcomes and benefits to present building residents. Any request for weatherization of eligible multi-unit buildings needs to demonstrate in sufficient detail to the grantee/subgrantee that the benefits of weatherization work accrue primarily to the low-income tenants.

CONCLUSION: Expanding weatherization into the multi-family housing sector, including the public housing market, will provide greater opportunities for local agencies to serve even more low-income persons in their communities. If there are additional questions or concerns, Grantees should contact their PMC Project Officer. DOE appreciates your cooperation and patience as we work together to achieve the Administration's goal of creating jobs and increasing the number of people who benefit from Recovery Act funded weatherization projects.



Claire Broido Johnson
Acting Program Manager
Office of Weatherization and Intergovernmental Program
Energy Efficiency and Renewable Energy