

**§ 440.10**

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(2) Which meets the performance and quality standards prescribed in § 440.21 (c) of this part.

*Rental Dwelling Unit* means a dwelling unit occupied by a person who pays rent for the use of the dwelling unit.

*Residential Energy Expenditures* means the average annual cost of purchased residential energy, including the cost of renewable energy resources.

*Secretary* means the Secretary of the Department of Energy.

*Separate Living Quarters* means living quarters in which the occupants do not live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements, and includes shelters for homeless persons.

*Shelter* means 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.

*Single-Family Dwelling Unit* means a structure containing no more than one dwelling unit.

*Skirting* means material used to border the bottom of a dwelling unit to prevent infiltration.

*State* means each of the States, the District of Columbia, American Samoa, Guam, Commonwealth of the Northern Mariana Islands, Commonwealth of Puerto Rico, and the Virgin Islands.

*Subgrantee* means an entity managing a weatherization project which receives a grant of funds awarded under this part from a grantee.

*Support Office Director* means the Director of the DOE Field Support Office with the responsibility for grant administration or any official to whom that function may be redelegated by the Assistant Secretary.

*Total Program Allocations* means the annual appropriation less funds reserved for training and technical assistance.

*Tribal Organization* means the recognized governing body of any Indian tribe or any legally established organization of Native Americans which is controlled, sanctioned, or chartered by such governing body.

*Unit of General Purpose Local Government* means any city, county, town, parish, village, or other general purpose political subdivision of a State.

*Vestibule* means an enclosure built around a primary entry to a dwelling unit.

*Weatherization Materials* mean:

(1) Caulking and weatherstripping of doors and windows;

(2) Furnace efficiency modifications including, but not limited to—

(i) Replacement burners, furnaces, or boilers or any combination thereof;

(ii) Devices for minimizing energy loss through heating system, chimney, or venting devices; and

(iii) Electrical or mechanical furnace ignition systems which replace standing gas pilot lights;

(3) Cooling efficiency modifications including, but not limited to—

(i) Replacement air conditioners;

(ii) Ventilation equipment;

(iii) Screening and window films; and

(iv) Shading devices.

*Weatherization Project* means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are energy inefficient.

[49 FR 3629, Jan. 27, 1984, as amended at 50 FR 712, Jan. 4, 1985; 50 FR 49917, Dec. 5, 1985; 55 FR 41325, Oct. 10, 1990; 58 FR 12525, Mar. 4, 1993; 60 FR 29480, June 5, 1995; 65 FR 77217, Dec. 8, 2000; 71 FR 35778, June 22, 2006; 74 FR 12539, Mar. 25, 2009]

**§ 440.10 Allocation of funds.**

(a) DOE shall allocate financial assistance for each State from sums appropriated for any fiscal year, upon annual application.

(b) Based on total program allocations at or above the amount of \$209,724,761, DOE shall determine the program allocation for each State from available funds as follows:

(1) Allocate to each State a “Base Allocation” as listed in Table 1.

BASE ALLOCATION TABLE

Alabama .....	\$1,636,000
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BASE ALLOCATION TABLE—Continued

Alaska .....	1,425,000
Arizona .....	760,000
Arkansas .....	1,417,000
California .....	4,404,000
Colorado .....	4,574,000
Connecticut .....	1,887,000
Delaware .....	409,000
District of Columbia .....	487,000
Florida .....	761,000
Georgia .....	1,844,000
Hawaii .....	120,000
Idaho .....	1,618,000
Illinois .....	10,717,000
Indiana .....	5,156,000
Iowa .....	4,032,000
Kansas .....	1,925,000
Kentucky .....	3,615,000
Louisiana .....	912,000
Maine .....	2,493,000
Maryland .....	1,963,000
Massachusetts .....	5,111,000
Michigan .....	12,346,000
Minnesota .....	8,342,000
Mississippi .....	1,094,000
Missouri .....	4,615,000
Montana .....	2,123,000
Nebraska .....	2,013,000
Nevada .....	586,000
New Hampshire .....	1,193,000
New Jersey .....	3,775,000
New Mexico .....	1,519,000
New York .....	15,302,000
North Carolina .....	2,853,000
North Dakota .....	2,105,000
Ohio .....	10,665,000
Oklahoma .....	1,846,000
Oregon .....	2,320,000
Pennsylvania .....	11,457,000
Rhode Island .....	878,000
South Carolina .....	1,130,000
South Dakota .....	1,561,000
Tennessee .....	3,218,000
Texas .....	2,999,000
Utah .....	1,692,000
Vermont .....	1,014,000
Virginia .....	2,970,000
Washington .....	3,775,000
West Virginia .....	2,573,000
Wisconsin .....	7,061,000
Wyoming .....	967,000
American Samoa .....	120,000
Guam .....	120,000
Puerto Rico .....	120,000
Northern Mariana Islands .....	120,000
Virgin Islands .....	120,000
Total .....	171,858,000

(2) Subtract 171,258,000 from total program allocations.

(3) Calculate each State's formula share as follows:

(i) Divide the number of "Low Income" households in each State by the number of "Low Income" households in the United States and multiply by 100.

(ii) Divide the number of "Heating Degree Days" for each State by the median "Heating Degree Days" for all States.

(iii) Divide the number of "Cooling Degree Days" for each State by the

median "Cooling Degree Days" for all States, then multiply by 0.1.

(iv) Calculate the sum of the two numbers from paragraph (b)(3)(ii) and (iii) of this section.

(v) Divide the residential energy expenditures for each State by the number of households in the State.

(vi) Divide the sum of the residential energy expenditures for the States in each Census division by the sum of the households for the States in that division.

(vii) Divide the quotient from paragraph (b)(3)(v) of this section by the quotient from paragraph (b)(3)(vi) of this section.

(viii) Multiply the quotient from paragraph (b)(3)(vii) of this section for each State by the residential energy expenditures per low-income household for its respective Census division.

(ix) Divide the product from paragraph (b)(3)(viii) of this section for each State by the median of the products of all States.

(x) Multiply the results for paragraph (b)(3)(i), (iv) and (ix) of this section for each State.

(xi) Divide the product in paragraph (b)(3)(x) of this section for each State by the sum of the products in paragraph (b)(3)(x) of this section for all States.

(4) Calculate each State's program allocation as follows:

(i) Multiply the remaining funds calculated in paragraph (b)(2) of this section by the formula share calculated in paragraph (b)(3)(xi) of this section,

(ii) Add the base allocation from paragraph (b)(1) of this section to the product of paragraph (b)(4)(i) of this section.

(c) Should total program allocations for any fiscal year fall below \$209,724,761, then each State's program allocation shall be reduced from its allocated amount under a total program allocation of \$209,724,761 by the same percentage as total program allocations for the fiscal year fall below \$209,724,761.

(d) All data sources used in the development of the formula are publicly available. The relevant data is available from the Bureau of the Census, the

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Department of Energy's Energy Information Administration and the National Oceanic and Atmospheric Administration.

(e) Should updates to the data used in the formula become available in any fiscal year, these changes would be implemented in the formula in the following program year.

(f) DOE may reduce the program allocation for a State by the amount DOE determines cannot be reasonably expended by a grantee to weatherize dwelling units during the budget period for which financial assistance is to be awarded. In reaching this determination, DOE will consider the amount of unexpended financial assistance currently available to a grantee under this part and the number of dwelling units which remains to be weatherized with the unexpended financial assistance.

(g) DOE may increase the program allocation of a State by the amount DOE determines the grantee can expend to weatherize additional dwelling units during the budget period for which financial assistance is to be awarded.

(h) The Support Office Director shall notify each State of the program allocation for which that State is eligible to apply.

[60 FR 29480, June 5, 1995, as amended at 74 FR 12539, Mar. 25, 2009]

### § 440.11 Native Americans.

(a) Notwithstanding any other provision of this part, the Support Office Director may determine, after taking into account the amount of funds made available to a State to carry out the purposes of this part, that:

(1) The low-income members of an Indian tribe are not receiving benefits under this part equivalent to the assistance provided to other low-income persons in the State under this part and

(2) The low-income members of such tribe would be better served by means of a grant made directly to provide such assistance.

(b) In any State for which the Support Office Director shall have made the determination referred to in paragraph (a) of this section, the Support Office Director shall reserve from the sums that would otherwise be allocated

to the State under this part not less than 100 percent, or more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Native Americans for whom a determination under paragraph (a) of this section has been made bears to the population of all low-income persons in the State.

(c) The Support Office Director shall make the determination prescribed in paragraph (a) of this section in the event a State:

(1) Does not apply within the sixty-day time period prescribed in § 440.12(a);

(2) Recommends that direct grants be made for low-income members of an Indian tribe as provided in § 440.12(b)(5);

(3) Files an application which DOE determines, in accordance with the procedures in § 440.30, not to make adequate provision for the low-income members of an Indian tribe residing in the State; or

(4) Has received grant funds and DOE determines, in accordance with the procedures in § 440.30, that the State has failed to implement the procedures required by § 440.16(6).

(d) Any sums reserved by the Support Office Director pursuant to paragraph (b) of this section shall be granted to the tribal organization serving the individuals for whom the determination has been made, or where there is no tribal organization, to such other entity as the Support Office Director determines is able to provide adequate weatherization assistance pursuant to this part. Where the Support Office Director intends to make a grant to an organization to perform services benefiting more than one Indian tribe, the approval of each Indian tribe shall be a prerequisite for the issuance of a notice of grant award.

(e) Within 30 days after the Support Office Director has reserved funds pursuant to paragraph (b) of this section, the Support Office Director shall give written notice to the tribal organization or other qualified entity of the amount of funds reserved and its eligibility to apply therefor.

(f) Such tribal organization or other qualified entity shall thereafter be treated as a unit of general purpose local government eligible to apply for