

### § 440.3

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would require the State or other service provider to balance a clearly defined public interest in obtaining this information against the individuals' legitimate expectation of privacy.

(4) Given a legitimate, articulated public interest in the disclosure, States and other service providers may release information regarding recipients in the aggregate that does not identify specific individuals. However, a State or service provider must apply an FOIA Exemption (b)(6) balancing test to any request for information that can not be satisfied by such less-intrusive methods.

[49 FR 3629, Jan. 27, 1984, as amended at 75 FR 11422, Mar. 11, 2010; 77 FR 11737, Feb. 28, 2012]

#### § 440.3 Definitions.

As used in this part:

*Act* means the Energy Conservation in Existing Buildings Act of 1976, as amended, 42 U.S.C. 6851 *et seq.*

*Assistant Secretary* means the Assistant Secretary for Conservation and Renewable Energy or official to whom the Assistant Secretary's functions may be redelegated by the Secretary.

*Base Allocation* means the fixed amount of funds for each State as set forth in § 440.10(b)(1).

*Base temperature* means the temperature used to compute heating and cooling degree days. The average daily outdoor temperature is subtracted from the base temperature to compute heating degree days, and the base temperature is subtracted from the average daily outdoor temperature to compute cooling degree days.

*Biomass* means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

*CAA* means a Community Action Agency.

*Capital-Intensive furnace or cooling efficiency modifications* means those major heating and cooling modifications which require a substantial amount of funds, including replacement and major repairs, but excluding

such items as tune-ups, minor repairs, and filters.

*Children* means dependents not exceeding 19 years or a lesser age set forth in the State plan.

*Community Action Agency* means a private corporation or public agency established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88-452, which is authorized to administer funds received from Federal, State, local, or private funding entities to assess, design, operate, finance, and oversee antipoverty programs.

*Cooling Degree Days* means a population-weighted annual average of the climatological cooling degree days for each weather station within a State, as determined by DOE.

*Deputy Assistant Secretary* means the Deputy Assistant Secretary for Technical and Financial Assistance or any official to whom the Deputy Assistant Secretary's functions may be redelegated by the Assistant Secretary.

*DOE* means the Department of Energy.

*Dwelling Unit* means a house, including a stationary mobile home, an apartment, a group of rooms, or a single room occupied as separate living quarters.

*Elderly Person* means a person who is 60 years of age or older.

*Electric base-load measures* means measures which address the energy efficiency and energy usage of lighting and appliances.

*Family Unit* means all persons living together in a dwelling unit.

*Formula Allocation* means the amount of funds for each State as calculated based on the formula in § 440.10(b)(3).

*Formula Share* means the percentage of the total formula allocation provided to each State as calculated in § 440.10 (b)(3).

*Governor* means the chief executive officer of a State, including the Mayor of the District of Columbia.

*Grantee* means the State or other entity named in the Notification of Grant Award as the recipient.

*Heating Degree Days* means a population-weighted seasonal average of the climatological heating degree days for each weather station within a State, as determined by DOE.

*High residential energy user* means a low-income household whose residential energy expenditures exceed the median level of residential expenditures for all low-income households in the State.

*Household with a high energy burden* means a low-income household whose residential energy burden (residential expenditures divided by the annual income of that household) exceeds the median level of energy burden for all low-income households in the State.

*Incidental Repairs* means those repairs necessary for the effective performance or preservation of weatherization materials. Such repairs include, but are not limited to, framing or repairing windows and doors which could not otherwise be caulked or weatherstripped and providing protective materials, such as paint, used to seal materials installed under this program.

*Indian Tribe* means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaskan native village, or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, Pub. L. 92-203, 85 Stat. 688, which (1) is recognized as eligible for the special programs and services provided by the United States to Native Americans because of their status as Native Americans, or (2) is located on, or in proximity to, a Federal or State reservation or rancheria.

*Local Applicant* means a CAA or other public or non profit entity unit of general purpose local government.

*Low income* means that income in relation to family size which:

(1) At or below 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Secretary of Health and Human Services, determines that such a higher level is necessary to carry out the purposes of this part and is consistent with the eligibility criteria established for the weatherization program under Section 222(a)(12) of the Economic Opportunity Act of 1964;

(2) Is the basis on which cash assistance payments have been paid during the preceding twelve month-period under Titles IV and XVI of the Social Security Act or applicable State or local law; or

(3) If a State elects, is the basis for eligibility 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 determined in accordance with criteria established by the Director of the Office of Management and Budget.

*Native American* means a person who is a member of an Indian tribe.

*Non-Federal leveraged resources* means those benefits identified by State or local agencies to supplement the Federal grant activities and that are made available to or used in conjunction with the DOE Weatherization Assistance Program for the purposes of the Act for use in eligible low-income dwelling units.

*Persons with Disabilities* means any individual (1) who is a handicapped individual as defined in section 7(6) of the Rehabilitation Act of 1973, (2) who is under a disability as defined in section 1614(a)(3)(A) or 223(d)(1) of the Social Security Act or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (3) who is receiving benefits under chapter 11 or 15 of title 38, U.S.C.

*Program Allocation* means the base allocation plus formula allocation for each State.

*Relevant Reporting Period* means the Federal fiscal year beginning on October 1 and running through September 30 of the following calendar year.

*Renewable energy system* means a system which when installed in connection with a dwelling—

(1) Transmits or uses solar energy, energy derived from geothermal deposits, energy derived from biomass (or any other form of renewable energy which DOE subsequently specifies through an amendment of this part) for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or wind energy for nonbusiness residential purposes; and

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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