

§ 96.88

grantee as a proportion of the total final net value of the countable leveraged resources provided by all grantees during the base period; except that: No grantee may receive more than twelve (12.0) percent of the total amount of leveraging incentive funds available for distribution to grantees in any award period; and no grantee may receive more than the smaller of its net Federal allotment of funds allocated under section 2602(b) of Public Law 97-35 (42 U.S.C. 8621(b)) during the base period, or two times (double) the final net value of its countable leveraged resources for the base period. The calculations will be based on data contained in the leveraging reports submitted by grantees under paragraph (h) of this section as approved by the Department, and allocation data developed by the Department.

(j) *Uses of leveraging incentive funds.*

(1) Funds awarded to grantees under the leveraging incentive program must be used to increase or maintain heating, cooling, energy crisis, and/or weatherization benefits through (that is, within and as a part of) the grantee's LIHEAP program. These funds can be used for weatherization without regard to the weatherization maximum in section 2605(k) of Public Law 97-35 (42 U.S.C. 8624(k)). However, they cannot be counted in the base for calculation of the weatherization maximum for regular LIHEAP funds authorized under section 2602(b) of Public Law 97-35 (42 U.S.C. 8621(b)). Leveraging incentive funds cannot be used for costs of planning and administration. However, in either the award period or the fiscal year following the award period, they can be counted in the base for calculation of maximum grantee planning and administrative costs under section 2605(b)(9) of Public Law 97-35 (42 U.S.C. 8624(b)(9)). They cannot be counted in the base for calculation of maximum carryover of regular LIHEAP funds authorized under section 2602(b) of Public Law 97-35 (42 U.S.C. 8621(b)).

(2) Grantees must include the uses of leveraging incentive funds in their LIHEAP plans (referred to in section 2605(c)(1)(A) of Public Law 97-35) (42 U.S.C. 8624(c)(1)(A)) for the fiscal year in which the grantee obligates these funds. Grantees must document uses of

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leveraging incentive funds in the same way they document uses of regular LIHEAP funds authorized under section 2602(b) of Public Law 97-35 (42 U.S.C. 8621(b)). Leveraging incentive funds are subject to the same audit requirements as regular LIHEAP funds.

(k) *Period of obligation for leveraging incentive funds.* Leveraging incentive funds are available for obligation during both the award period and the fiscal year following the award period, without regard to limitations on carryover of funds in section 2607(b)(2)(B) of Public Law 97-35 (42 U.S.C. 8626(b)(2)(B)). Any leveraging incentive funds not obligated for allowable purposes by the end of this period must be returned to the Department.

[60 FR 21359, May 1, 1995; 60 FR 36334, July 14, 1995]

§ 96.88 Administrative costs.

(a) *Costs of planning and administration.* Any expenditure for governmental functions normally associated with administration of a public assistance program must be included in determining administrative costs subject to the statutory limitation on administrative costs, regardless of whether the expenditure is incurred by the State, a subrecipient, a grantee, or a contractor of the State.

(b) *Administrative costs for territories and Indian tribes.* For Indian tribes, tribal organizations and territories with allotments of \$20,000 or less, the limitation on the cost of planning and administering the low-income home energy assistance program shall be 20 percent of funds payable and not transferred for use under another block grant. For tribes, tribal organizations and territories with allotments over \$20,000, the limitation on the cost of planning and administration shall be \$4,000 plus 10% of the amount of funds payable (and not transferred for use under another block grant) that exceeds \$20,000.

[52 FR 37967, Oct. 13, 1987]

§ 96.89 Exemption from standards for providing energy crisis intervention assistance.

The performance standards in section 2604(c) of Pub. L. 97-35 (42 U.S.C. 8623),

as amended by section 502(a) of the Human Services Reauthorization Act of 1986 (Pub. L. 99-425)—concerning provision of energy crisis assistance within specified time limits, acceptance of applications for energy crisis benefits at geographically accessible sites, and provision to physically infirm low-income persons of the means to apply for energy crisis benefits at their residences or to travel to application sites—shall not apply under the conditions described in this section.

(a) These standards shall not apply to a program in a geographical area affected by (1) a major disaster or emergency designated by the President under the Disaster Relief Act of 1974, or (2) a natural disaster identified by the chief executive officer of a State, territory, or direct-grant Indian tribe or tribal organization, if the Secretary (or his or her designee) determines that the disaster or emergency makes compliance with the standards impracticable.

(b) The Secretary's determination will be made after communication by the chief executive officer (or his or her designee) to the Secretary (or his or her designee) of the following:

(1) Information substantiating the existence of a disaster or emergency;

(2) Information substantiating the impracticability of compliance with the standards, including a description of the specific conditions caused by the disaster or emergency which make compliance impracticable; and

(3) Information on the expected duration of the conditions that make compliance impracticable.

If the communication is made by the chief executive officer's designee and the Department does not have on file written evidence of the designation, the communication must also include:

(4) Evidence of the appropriate delegation of authority.

(c) The initial communication by the chief executive officer may be oral or written. If oral, it must be followed as soon as possible by written communication confirming the information provided orally. The Secretary's exemption initially may be oral. If so, the Secretary will provide written confirmation of the exemption as soon as possible after receipt of appropriate

written communication from the chief executive officer.

(d) Exemption from the standards shall apply from the moment of the Secretary's determination, only in the geographical area affected by the disaster or emergency, and only for so long as the Secretary determines that the disaster or emergency makes compliance with the standards impracticable.

[53 FR 6827, Mar. 3, 1988]

Subpart I—Community Services Block Grants

§ 96.90 Scope.

This subpart applies to the community services block grant.

§ 96.91 Audit requirement.

Pursuant to section 1745(b) of the Reconciliation Act (31 U.S.C. 1243 note) an audit is required with respect to the 2-year period beginning on October 1, 1981, and with respect to each 2-year period thereafter. In its application for funds, a State may modify the assurance required by section 675(c)(9) of the Reconciliation Act (42 U.S.C. 9904(c)(9)) to conform to the requirements of section 1745(b).

§ 96.92 Termination of funding.

Where a State determines pursuant to section 675(c)(11) of the Community Services Block Grant Act that it will terminate present or future funding of any community action agency or migrant and seasonal farmworker organization which received funding in the previous fiscal year, the State must provide the organization with notice and an opportunity for hearing on the record prior to terminating funding. If a review by the Secretary of the State's final decision to terminate funding is requested pursuant to section 676A, the request must be made in writing, within 30 days of notification by the State of its final decision to terminate funding. The Department will confirm or reject the State's finding of cause, normally within 90 days. If a request for a review has been made, the State may not discontinue present or future funding until the Department confirms the State's finding of cause. If