

ARKANSAS REGISTER

Transmittal Sheet



Charlie Daniels
Secretary of State
State Capitol Rm. 026
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For Office
Use Only:

Effective Date _____

Code Number

016.20.10-002

Name of Agency

Arkansas Department of Human Services

Department

Office of Community Services

Contact Person

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Statutory Authority for Promulgating Rules

Public Law 94-385

ARRA Weatherization Assistance Program State Plan 2009-2012

Date

Intended Effective Date

☐ Emergency

Legal Notice Published

September 23, 2010

☐ 10 Days After Filing

Final Date for Public Comment

October 25, 2010

☒ Other

Reviewed by Legislative Council

Amendment

Adopted by State Agency

November 8, 2010

☐ Electronic Copy of Rule Provided (per Act 1478 of 2003)

☒ Electronic Copy of Rule to be e-mailed from:

Thomas Green
Contact Person

thomas.green@arkansas.gov

E-mail Address

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with Act 434 of 1967 As Amended.


Signature

682-8375

joni.jones@arkansas.gov

Phone Number

E-mail Address

Director, Division of County Operations

Title

11/3/2010

Date

FILED

NOV 05 2010

CHARLIE DANIELS
SECRETARY OF STATE

**ARKANSAS DEPARTMENT OF HUMAN SERVICES
DIVISION OF COUNTY OPERATIONS
OFFICE OF COMMUNITY SERVICES**

**AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)
WEATHERIZATION ASSISTANCE PROGRAM
2009-2012 STATE PLAN**

REVISED

TABLE OF CONTENTS

Part I - Annual File

(1) Overview	4
(2) Grant Application – Standard Form 424	12
(3) Budget	30
(4) Subgrantees	46
(5) Production Schedule	61
(6) Energy Savings	65
(7) Training and Technical Assistance and Monitoring Activities	67
(8) Leveraging Activities	79
(9) Policy Advisory Council	81
(10) Hearings and Transcripts	89
(11) Adjustments to On-Line Information	91
(12) Miscellaneous	93
(13) Assurances and Certifications – Updated	95
(14) Energy Audit Plan	106

Part II - Master File

(1) Eligible Population	160
(2) Climatic Conditions	165
(3) Weatherization Work	169
(4) Health and Safety	171
(5) Rental Procedures	203
(6) Program Management	212
• Administrative Expenditure Limits	220
• Monitoring – Approach	222
• Evaluation	255
• Training and Technical Assistance – Approach	258
• Summary	265
• Quality Control	301
• Crisis Relief Plan	316
• Field Guide	324

PART I
ANNUAL FILE

OVERVIEW

A. Background

Arkansas Department of Human Services, Division of County Operations, Office of Community Services (DHS) will administer the American Recovery and Reinvestment Act (ARRA) Low-Income Weatherization Assistance Program in compliance with public law 111-5. DHS will administer the American Recovery and Reinvestment Act, 2009-2012 Weatherization Program, in compliance with the applicable law, including regulations contained in 10 CFR Part 440 (issued February 1, 2002), and other procedures applicable to this regulation as the United States Department of Energy may prescribe for the administration of financial assistance. The plan is for a three-year period, fiscal year 2009 through fiscal year 2012.

DHS will monitor subgrantee performance in an effort to increase production of weatherized units. Quarterly production reports will be submitted to DOE on time.

All units weatherized using American Recovery and Reinvestment Act funds from DOE will comply with all requirements for a completed unit and will be reported to DOE.

The purpose of the Weatherization Assistance program is to increase energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety.

The priority population for the Weatherization Assistance Program is persons who are particularly vulnerable such as the elderly, persons with disabilities, families with children, high residential energy users, and households with high energy burden. The ARRA weatherization program was enacted to preserve and create jobs and promote economic recovery. The only health and safety measures installed with ARRA funds will be "energy-related" health and safety measures. The state ensures that it will comply with the DOE "prudent use" policy for health and safety funds.

B. General Funding

The federally appropriated ARRA funds are included in the plan for DOE approval. The DOE allocation is \$48,114,415.

C. Adjusted Average

The adjusted average of \$6,500 will be in use for the program.

D. Funds for Administrative Purposes

The state will use less than 5% for administration; the balance up to the 5% allowable will be passed to subgrantees. Subgrantees will receive 5% for administration since all will be allocated more than \$350,000 for the program period.

E. Additional funding

The state has received an amendment to the existing grant for Sustainable Energy Resources for Consumers (SERC) activities.

1. Selected Arkansas Weatherization subgrantees are hereby authorized to obligate funds and perform all tasks associated with the Sustainable Energy Resources for Consumers (SERC) activities as delineated in the Department of Energy notice of selection dated August 25, 2010 and the authorizing law, EISA Section 411(b), which states that funds must be used to expand WAP for materials, benefits, and renewable and domestic energy technologies not covered under the program.
2. The selected project(s) must comply with the following guidelines:
 - a) **State limits per unit:** DOE limits the *statewide* average cost per unit to \$12,000 and limits any individual expenditure per unit to a maximum of \$30,000.
 - b) **Expansion of the WAP Program:** Ensure that SERC funds are spent to expand the Weatherization program beyond the materials, benefits and technologies currently covered by the WAP. Expanding the program is defined as using funds to:
 - a. Implement technologies outside of Appendix A to Part 440 - Standards for Weatherization Materials (Appendix A).
 - b. Implement technologies included in Appendix A, but that do not meet current WAP SIR requirements for the Sub-Grantee.Technologies not installed with WAP funds due to budgetary constraints (to comply with the \$6,500 average per home limit) or precluded by existing income limits are *not* eligible expenses.
 - c) **Evaluation:** The Department of Energy will be conducting independent evaluations of project performance under the Sustainable Energy Resources for Consumers grants program. This will sometimes require structuring projects in a way that will enable the development of accurate performance metrics. These performance metrics may include but not be limited to the creation of comparison groups, the gathering of metering information, the collection of billing data and the collection of comprehensive cost information.
3. The Recipient shall revise their current Annual Plan and Budget with the Office of Community Services (OCS) to reflect the addition of the SERC activities. **The Budget Revision Application shall be submitted within 60 days of the date of this amendment.** The application shall include, at a minimum, the following information:
 - Standard Form 424
 - Standard Form 424A
 - Budget Justification File

In the event an application is not received within 60 days after the date of this amendment, the Arkansas Department of Human Services, Office of Community Services reserves the right to place a hold on the funds the Recipient can request for reimbursement or advance.

4. The Special Terms and Conditions, Reporting Requirements Provision is hereby revised to include the following language:

"NOTE: Subject to OMB approval pursuant to the Paperwork Reduction Act and the Privacy Information Act, DOE reserves the right to amend the Reporting requirements to include additional data."

5. The Special Terms and Conditions are hereby revised to include the following NEPA provision.

"NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS

The following SERC activities have received a Categorical Exclusion (CX) NEPA determination:

- Durable high-R enclosure system retrofits, including high-performance walls, foundations, windows, attic ventilation, attic and basement air sealing, and ceiling or cathedral roof insulation;
- High-performance space conditioning system retrofits, including air handler upgrades, ducts in conditioned space, ventilation, heating, solar ventilation pre-heat, cooling, and direct supply of combustion air, if needed;\
- High-performance hot water systems, including condensing, tankless, and solar hot water systems;
- Cool roof technologies;
- Integration with utility smart-grid pilots or implementations;
- Energy usage benchmarking with feedback, which could be
 - o In-home displays
 - o Increased on-line access to energy use information
 - o Reports or mailings
 - o Other means of transmitting this information;
- Community-Based Social Marketing (CBSM) and other behavior approaches;
- Developing innovative buying cooperatives and bulk buying strategies to lower costs of materials;
- Onsite renewable energy technology that generates electricity from renewable resources, including the following which are generally categorically excluded under the National Environmental Policy Act (NEPA):
 - o Solar Electricity/Photovoltaic - appropriately sized system or unit on existing rooftops and parking shade structures; or a 60 KW system or small unit installed on the ground within the boundaries of an existing facility.
 - o Wind Turbine - 20 KW or smaller.
 - o Solar Thermal - system must be 20 KW or smaller.
 - o Solar Thermal Hot Water - appropriately sized for residences or small commercial buildings.
 - o Ground Source Heat Pump - 5.5 tons of capacity or smaller, horizontal/ vertical, ground, closed-loop system.
 - o Combined Heat and Power System - boilers sized appropriate for the buildings in which they are located.
 - o Biomass Thermal - 3 MMBTUs per hour or smaller system with appropriate Best Available Control Technologies (BACT) installed and operated.

Any SERC activities that are not identified above may require an individual NEPA review and determination. You are restricted from

taking any action using Federal funds for projects that would have an adverse effect on the environment prior to DOE providing a final NEPA determination.

If an eligible sub grantee moves forward with activities that are identified above in advance of a final NEPA determination, associated costs may not be recognized as allowable project costs.

E. Leveraged Resources

The local agencies will use DOE resources to leverage with the Arkansas Weatherization Program.

F. Training and Technical Assistance

The state will use the ARRA T/TA funds to provide training and technical assistance to subgrantees. As a part of its technical assistance plan the state will develop a certification program for subgrantees. As a part of this process, the state proposes to develop a model weatherization program by restructuring the program at Pine Bluff Jefferson County Economic Opportunity Commission, Inc. The new program model developed for PBJCEOC will innerface with the Weatherization Training Center as a pathway to certification of all subgrantee staff in the state.

G. Application Package

- The state will comply with Fed Connect and other requirements as prescribed by DOE.
- The Master file has been eliminated from the plan. The state, however, will keep relevant information on file.
- The state does not use funds for Low-Cost/No-Cost. The state will use the MHEA and NEAT energy audits. These plans are kept on file but are not included in this plan.
- The plan is for a three-year period, fiscal year 2009 through fiscal year 2012.
- The source of labor is no longer required to be reported.
- The Congressional Districts served by the various subgrantees are included in this plan. However, a breakdown of the percentage of funds going to the various districts is no longer required.
- The production, as required by DOE, is included in this plan. There are no downsizing efforts this program period.
- The potential energy savings are included in this plan.
- The Training and Technical Assistance Plan and the Monitoring Plan are combined into one plan. A house may be re-weatherized if it was previously weatherized prior to September 30, 1994.
- The annual application includes ARRA DOE funds. All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Public Law 111.5, will be paid, wages at rates not less than those prevailing on projects of a character similar in locality as determined by the Secretary of Labor in accordance with Subchapter IV of Chapter 31 title 40, United States Code.
- Subgrantees use DOE funds for leveraging purposes with the Arkansas Weatherization Program. Electric base load measures are included in the NEAT/MHEA Audits.
- A list of PAC members is included in this plan.

- Subgrantees use DOE funds for leveraging purposes with the Arkansas Weatherization Program. Electric base load measures are included in the NEAT/MHEA Audits.
- A list of PAC members is included in this plan.
- A transcript is included in this plan. The state requires subgrantees and contractors to maintain adequate liability insurance and pollution occurrence insurance.

H. Public Hearing

The state conducted a public hearing January 29, 2010 in compliance with ARRA DOE requirements. During the Public Hearing, information pertaining to the operation of the WAP was shared including that subgrantees are selected in compliance with 10 CFR 440.14 and 10 CFR 440.15. Additionally, information was shared as to the what action the state would take if production falls substantially below the projection rate for a subgrantee, as prescribed by the Office of Community Services, the Office of Community Services reserved the right to transfer all or a part of the responsibility for administration of the program from one subgrantee to another.

The Pine Bluff Economic Opportunity Commission, Inc. (PBJCEOC) encountered problems during the ramp up phase of the ARRA program and subsequently suffered the loss of its Executive Director and Weatherization Director. Interim leadership attempted to operate the program; however, it became obvious that a total restructuring of the program would be necessary. In order to meet the production goals established by DOE for ARRA, the state made the decision to transfer both the regular DOE and ARRA program to the Central Arkansas Development Council (CADC). Simultaneously the state will restructure the program at PBJCEOC with the goal of transferring the regular DOE program back March 31, 2011. Due to the limited time remaining under the ARRA program the state decided that CADC will retain the ARRA program through completion March 31, 2012.

On July 31, 2010, the Office of Community Services held a Public Hearing regarding the Pine Bluff Economic Opportunity Commission, Inc. (PBJCEOC) agency and the presented the plan transferring the program to another Community Action Agency (CAA).

There were no comments received during the comment period.

On September 27, 2010, the Office of Community Services held a Public Hearing regarding the SERC grant.

There were no comments received during the comment period.

I. Training and Technical Assistance Plan

DHS has developed two training centers to address the training needs of the WAP network. All subgrantee staff engaged in weatherization work will be required to obtain certification through one of the state training centers by March 31, 2012 in order to continue working in the Weatherization Assistance Program. Subgrantees using contractors will be required to use only WAP Certified contractors. No staff will be "grandfathered" into certification. Once all program staff is certified, additional training needs will be assessed through a review of monitoring reports and agency requests for training. The state has a full time

Weatherization Training Coordinator who assesses training needs and will coordinate training on a continuous basis. The training centers will have a curriculum based upon the Weatherization Core Competencies. Additionally, training will be designed for each staff role, energy auditor, inspector, crew chief, weatherization technician.

In addition to training at state training centers, the Weatherization Directors will be required to attend the state annual training conference and fall skills training. No certification is required prior to hire date; however, new hires must obtain certification within six months from the date of hire.

J. Client Education

The state provides client information and material at the time of weatherization.

K. Program Evaluation

DOE published a national evaluation of weatherization in 1993. Implementation of the new national evaluation has been suspended by the Office of Energy Efficiency and Renewable Energy (EERE). EERE has commissioned a strategic evaluation of the program to access a variety of program structures and options for program development.

L. Grantee Program Oversight

The state will monitor each subgrantee at least two times annually and monitor at least 15% of the units and files.

M. Energy Audit Criteria

The state will use the MHEA and the NEAT energy audits.

N. Health and Safety

The Health and Safety Plan is included in the Master File and is not included in this Annual File. The plan has been amended to include DOE requirements regarding mold and mildew.

O. Vehicle Purchases

The state will allow vehicle purchases with an acquisition price of \$5,000 or more to be spread over the entire life of the vehicle and the number of homes served during that period.

P. Policy Advisory Council

The state will maintain the Policy Advisory Council instead of using a State Council.

Q. Reporting Requirements

The state will comply with the financial and program reporting requirements of ARRA DOE.

R. Reporting DOE Completed Units.

The state will report all units that contain ARRA DOE funds. All units weatherized with DOE funds will comply with the DOE definition of a completed unit.

S. Financial Audits

Subgrantees may budget financial audit cost as a separate budget category.

T. Newly Legalized Aliens

The Immigration and Nationality Act made certain aliens legalized under the Immigration and Control Act of 1986 temporarily ineligible for weatherization assistance. The provisions of this law have expired. The only potential implications are those cases that were open while this law was in effect. Local agencies that are charitable and nonprofit are exempt from implementing new status verification requirements for nonqualified aliens. However, local government agencies must conduct status verification when serving nonqualified aliens.

U. Multi-Family Eligibility

A multifamily building may be weatherized if two-thirds of the units are eligible. Certain multifamily buildings with significant energy efficiency improvements or leverage resources require only one-half of the units to be eligible. A building containing two or four units may be weatherized if one-half of the units are eligible. A nonqualified alien could be the recipient of weatherization services as part of the two-thirds or one-half rule.

V. Recovered Materials

Each subgrantee has a policy and procedure for using insulation composed of the highest percentage of recovered materials practical.

W. Rental Requirements

There are no changes in rental procedures.

X. Income Eligibility

The state will use 200 percent of poverty as the income eligibility level.

Y. Fuel Switching

DOE does not permit the general practice of fuel switching when replacing furnaces and appliances.

Z. Protection of Whistleblowers

Any employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing information the employee believes is evidence of: gross management of an agency contract or grant relating to covered funds; a

gross waste of covered funds, a substantial and specific danger to public health or safety related to the implementation or use of covered funds; an abuse of authority related to the implementation or use of covered funds; or a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to recovered funds.

AA. False Claims Act

The state and subgrantees will promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principle, employee, agency, contractor, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

BB. Information in Support of Recovery Act Reporting

The state or subgrantees may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. The state or subgrantees shall provide copies of backup documentation at the request of the Contracting Officer or designee.

CC. Access to Records

Any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized to (1) examine any records of the state, any of its contractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions in relation to, the subcontract, grant, or subgrant; and (2) interview any officer or employee of the contractor, grantee, or subgrantee, or agency regarding such transactions.

GRANT APPLICATION

STANDARD FORM 424

Application for Federal Assistance SF-424		Version 02
*1. Type of Submission: <input type="checkbox"/> Preapplication <input type="checkbox"/> Application <input checked="" type="checkbox"/> Changed/Corrected Application		*2. Type of Application <input type="checkbox"/> New <input type="checkbox"/> Continuation <input checked="" type="checkbox"/> Revision * If Revision, select appropriate letter(s) A. Increase Award *Other (Specify) _____
3. Date Received:		4. Applicant Identifier:
5a. Federal Entity Identifier: DEFG2807NT43109		*5b. Federal Award Identifier:
State Use Only:		
6. Date Received by State: 09/01/2010		7. State Application Identifier:
8. APPLICANT INFORMATION:		
*a. Legal Name: Arkansas Department of Human Services		
*b. Employer/Taxpayer Identification Number (EIN/TIN): 71-0422538		*c. Organizational DUNS: 024720901
d. Address:		
*Street 1: 700 Main Street Street 2: _____ *City: Little Rock County: Pulaski *State: Arkansas Province: _____ *Country: United States *Zip / Postal Code: 72201		
e. Organizational Unit:		
Department Name: Department of Human Services/Office of Community Services		Division Name: County Operations
f. Name and contact information of person to be contacted on matters involving this application:		
Prefix: Mr. *First Name: Thomas Middle Name: E. *Last Name: Green Suffix: _____ Title: Assistant Director Organizational Affiliation: _____ *Telephone Number: (501) 682-8715 Fax Number: (501) 682-8738 *Email: Thomas.Green@arkansas.gov		

Application for Federal Assistance SF-424

Version 02

***9. Type of Applicant 1: Select Applicant Type:**

A.State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

*Other (Specify)

***10 Name of Federal Agency:**

Department of Energy

11. Catalog of Federal Domestic Assistance Number:

CFDA Title:

81.042 Weatherization Assistance for Low Income Persons

***12 Funding Opportunity Number:**

DE-EE0000123-005

*Title:

Recovery Act Weatherization Award for State of Arkansas

13. Competition Identification Number:

Title:

14. Areas Affected by Project (Cities, Counties, States, etc.):

State of Arkansas

***15. Descriptive Title of Applicant's Project:**

Sustainable Energy Resources for Consumers (SERC) Grant. This grant will be used to expand the energy conservation measures in homes being weatherized and to include new efficiency measures.

Application for Federal Assistance SF-424

Version 02

16. Congressional Districts Of:

*a. Applicant: AR 002

*b. Program/Project: 1, 2, 3 and 4

17. Proposed Project:

*a. Start Date: 11/01/2010

*b. End Date: 03/31/2012

18. Estimated Funding (\$):

*a. Federal	\$2,330,000
*b. Applicant	
*c. State	
*d. Local	
*e. Other	
*f. Program Income	
*g. TOTAL	\$2,330,000

*19. Is Application Subject to Review By State Under Executive Order 12372 Process?

- ☒ a. This application was made available to the State under the Executive Order 12372 Process for review on 09/15/2010
- ☐ b. Program is subject to E.O. 12372 but has not been selected by the State for review.
- ☐ c. Program is not covered by E. O. 12372

*20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes", provide explanation.)

☐ Yes ☒ No

21. *By signing this application, I certify (1) to the statements contained in the list of certifications** and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances** and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U. S. Code, Title 218, Section 1001)

☒ ** I AGREE

** The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

Authorized Representative:

Prefix: Mr.
Middle Name: E.
*Last Name: Green
Suffix:

*First Name: Thomas

*Title: Assistant Director

*Telephone Number: (501) 682-8715

Fax Number: (501) 682-8736

* Email: Thomas.Green@arkansas.gov

*Signature of Authorized Representative:

*Date Signed:

Application for Federal Assistance SF-424

Version 02

***Applicant Federal Debt Delinquency Explanation**

The following should contain an explanation if the Applicant organization is delinquent of any Federal Debt.

SUPPLEMENTARY GRANT INFORMATION

APPLICANT:
Office of Community Services
Post Office Box 1437/S330
Little Rock, Arkansas 72203-1437

PROJECT DURATION:
04/01/09 - 03/31/12

Name of Funding Agency: Department of Energy

Part I: Project Description

Briefly describe the purpose of the grant, the work to be done and the projected accomplishments.

The Weatherization Assistance Program for will weatherize 5578 units for the low-income families. Two subgrantees have been selected to receive Sustainable Energy Resources for Consumers grant. The funds will be used to expand the energy conservation measures in homes being weatherized and to include new efficiency measures.

Part II: Budgetary Information

	Applicant	Federal	State, Local, Other (Specify)	Total
Personal Services		\$395,874		\$395,874
Supplies and Materials		\$1,954,004		\$1,954,004
Travel		\$1,251,521		\$1,251,521
Capital Outlay		\$0		\$0
Consultants Services				
Other		\$45,540,272		\$45,540,272
Total				
Indirect Cost (____%)		1,302,744		1,302,744
Total Support		\$50,444,415		\$50,444,415

Indicate Other Services: _____

Indicate "In-Kind" support by an (*) next to amount.

If the project is for more than one year, you should submit a separate budget for each applicable year.

