

(e) “*Good cause*” waiver. (1) If a grantee does not meet one or more of the three criteria in paragraph (c)(2) of this section, then the grantee may submit documentation that demonstrates good cause why a waiver should be granted despite the grantee’s failure to meet this criterion or these criteria. “Good cause” waiver requests must include the following information, in addition to the information specified in paragraph (c) of this section:

(i) For each criterion under paragraph (c)(2) of this section that the grantee does not meet, an explanation of the specific reasons demonstrating good cause why the grantee does not meet the criterion and yet proposes to use additional funds for weatherization, citing measurable, quantified data, and stating the source(s) of the data used;

(ii) A statement of the grantee’s LIHEAP heating, cooling, and crisis assistance eligibility standards (eligibility criteria) and benefits levels for the fiscal year for which the waiver is requested and for the preceding fiscal year; and, if eligibility standards were less restrictive and/or benefit levels were higher in the preceding fiscal year for one or more of these program components, an explanation of the reasons demonstrating good cause why a waiver should be granted in spite of this fact;

(iii) A statement of the grantee’s opening and closing dates for applications for LIHEAP heating, cooling, and crisis assistance in the fiscal year for which the waiver is requested and in the preceding fiscal year, and a description of the grantee’s outreach efforts for heating, cooling, and crisis assistance in the fiscal year for which the waiver is requested and in the preceding fiscal year, and, if the grantee’s application period was longer and/or outreach efforts were greater in the preceding fiscal year for one or more of these program components, an explanation of the reasons demonstrating good cause why a waiver should be granted in spite of this fact; and

(iv) If the grantee took, or will take, other actions that led, or will lead, to a reduction in the number of applications for LIHEAP heating, cooling, and/or crisis assistance, from the pre-

ceding fiscal year to the fiscal year for which the waiver is requested, a description of these actions and an explanation demonstrating good cause why a waiver should be granted in spite of these actions.

(2) If the Department determines that a grantee requesting a “good cause” waiver has demonstrated good cause why a waiver should be granted, has provided all information required by paragraphs (c) and (e)(1) of this section, has shown adequate concern for timely and meaningful public review and comment, and has proposed weatherization that meets all relevant requirements of title XXVI of Public Law 97–35 (42 U.S.C. 8621 *et seq.*) and 45 CFR part 96, the Department will approve a “good cause” waiver.

(f) *Approvals and disapprovals.* After receiving the grantee’s complete waiver request, the Department will respond in writing within 45 days, informing the grantee whether the request is approved on either a “standard” or “good cause” basis. The Department may request additional information and/or clarification from the grantee. If additional information and/or clarification is requested, the 45-day period for the Department’s response will start when the additional information and/or clarification is received. No waiver will be granted for a previous fiscal year.

(g) *Effective period.* Waivers will be effective from the date of the Department’s written approval until the funds for which the waiver is granted are obligated in accordance with title XXVI of Public Law 97–35 (42 U.S.C. 8621 *et seq.*) and 45 CFR part 96. Funds for which a weatherization waiver was granted that are carried over to the following fiscal year and used for weatherization shall not be considered “funds allotted” or “funds available” for the purposes of calculating the maximum amount that may be used for weatherization in the succeeding fiscal year.

[60 FR 21358, May 1, 1995; 60 FR 33260, June 27, 1995]

§ 96.84 Miscellaneous.

(a) *Rights and responsibilities of territories.* Except as otherwise provided, a territory eligible for funds shall have

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the same rights and responsibilities as a State.

(b) *Applicability of assurances.* The assurances in section 2605(b) of Public Law 97-35 (42 U.S.C. 8624(b)), as amended, pertain to all forms of assistance provided by the grantee, with the exception of assurance 15, which applies to heating, cooling, and energy crisis intervention assistance.

(c) *Prevention of waste, fraud, and abuse.* Grantees must establish appropriate systems and procedures to prevent, detect, and correct waste, fraud, and abuse in activities funded under the low-income home energy assistance program. The systems and procedures are to address possible waste, fraud, and abuse by clients, vendors, and administering agencies.

(d) *End of transfer authority.* Beginning with funds appropriated for FY 1994, grantees may not transfer any funds pursuant to section 2604(f) of Public Law 97-35 (42 U.S.C. 8623(f)) that are payable to them under the LIHEAP program to the block grant programs specified in section 2604(f).

[57 FR 1978, Jan. 16, 1992, as amended at 64 FR 55858, Oct. 15, 1999]

§ 96.85 Income eligibility.

(a) *Application of poverty income guidelines and State median income estimates.* In implementing the income eligibility standards in section 2605(b)(2) of Public Law 97-35 (42 U.S.C. 8624(b)(2)), grantees using the Federal government's official poverty income guidelines and State median income estimates for households as a basis for determining eligibility for assistance shall, by October 1 of each year, or by the beginning of the State fiscal year, whichever is later, adjust their income eligibility criteria so that they are in accord with the most recently published update of the guidelines or estimates. Grantees may adjust their income eligibility criteria to accord with the most recently published revision to the poverty income guidelines or State median income estimates for households at any time between the publication of the revision and the following October 1, or the beginning of the State fiscal year, whichever is later.

(b) *Adjustment of annual median income for household size.* In order to de-

termine the State median income for households that have other than four individuals, grantees shall adjust the State median income figures (published annually by the Secretary), by the following percentages:

- (1) One-person household, 52 percent;
 - (2) Two-person household, 68 percent;
 - (3) Three-person household, 84 percent;
 - (4) Four-person household, 100 percent;
 - (5) Five-person household, 116 percent;
 - (6) Six-person household, 132 percent;
- and
- (7) For each additional household member above six persons, add three percentage points to the percentage adjustment for a six-person household.

[53 FR 6827, Mar. 3, 1988, as amended at 64 FR 55858, Oct. 15, 1999]

§ 96.86 Exemption from requirement for additional outreach and intake services.

The requirement in section 2605(b)(15) of Public Law 97-35 (42 U.S.C. 8624(b)(15)), as amended by section 704(a)(4) of the Augustus F. Hawkins Human Services Reauthorization Act of 1990 (Pub. L. 101-501)—concerning additional outreach and intake services—does not apply to:

- (a) Indian tribes and tribal organizations; and
- (b) Territories whose annual LIHEAP allotments under section 2602(b) of Public Law 97-35 (42 U.S.C. 8621(b)) are \$200,000 or less.

[57 FR 1978, Jan. 16, 1992]

§ 96.87 Leveraging incentive program.

(a) *Scope and eligible grantees.* (1) This section concerns the leveraging incentive program authorized by section 2607A of Public Law 97-35 (42 U.S.C. 8626a).

(2)(i) The only entities eligible to receive leveraging incentive funds from the Department are States (including the District of Columbia), Indian tribes, tribal organizations, and territories that received direct Federal LIHEAP funding under section 2602(b) of Public Law 97-35 (42 U.S.C. 8621(b)) in both the base period for which leveraged resources are reported, and the