

Department of Energy

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(6) The cost of purchasing vehicles, except that any purchase of vehicles must be referred to DOE for prior approval in every instance.

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§ 440.19 Labor.

(a) Payments for labor costs under § 440.18(c)(2) shall consist of:

(1) Payments permitted by the Department of Labor to supplement wages paid to training participants and public service employment workers pursuant to JTPA and

(2) Payments to employ labor (particularly persons eligible for training under JTPA) or to engage a contractor (particularly a nonprofit organization or a business owned by disadvantaged individuals which performs weatherization services), provided a grantee has determined an adequate number of volunteers, training participants, and public service employment workers, assisted pursuant to JTPA, are not available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

[49 FR 3629, Jan. 27, 1984, as amended at 50 FR 713, Jan. 4, 1985; 58 FR 12527, Mar. 4, 1993]

EFFECTIVE DATE NOTE: At 65 FR 77218, Dec. 8, 2000, § 440.19 was revised, effective Jan. 8, 2001. For the convenience of the user, the revised text is set forth as follows:

§ 440.19 Labor.

Payments for labor costs under § 440.18(c)(2) must consist of:

(a) Payments permitted by the Department of Labor to supplement wages paid to training participants, public service employment workers, or other Federal or State training programs; and

(b) Payments to employ labor or to engage a contractor (particularly a nonprofit organization or a business owned by disadvantaged individuals which performs weatherization services), provided a grantee has determined an adequate number of volunteers, training participants, public service employment workers, or other Federal or State training programs are not available to weatherize dwelling units for a subgrantee under the supervision of qualified supervisors.

§ 440.20 Low-cost/no-cost weatherization activities.

(a) An eligible dwelling unit may be weatherized without regard to the limi-

tations contained in § 440.18 (e)(2) or § 440.21(b) from funds designated by the grantee for carrying out low-cost/no-cost weatherization activities provided:

(1) Inexpensive weatherization materials are used, such as water flow controllers, furnace or cooling filters, or items which are primarily directed toward reducing infiltration, including weatherstripping, caulking, glass patching, and insulation for plugging and

(2) No labor paid with funds provided under this part is used to install weatherization materials referred to in paragraph (a)(1) of this section.

(b) A maximum of 10 percent of the amount allocated to a subgrantee, not to exceed \$50 in materials costs per dwelling unit, may be expended to carry out low-cost/no-cost weatherization activities, unless the Support Office Director approves a higher expenditure per dwelling unit.

[49 FR 3629, Jan. 27, 1984, as amended at 50 FR 713, Jan. 4, 1985; 58 FR 12529, Mar. 4, 1993]

§ 440.21 Standards and techniques for weatherization.

(a) Paragraphs (b) through (g) of this section set forth the energy audit procedures which apply to the grantees and subgrantees who are subject to the 40 percent material cost requirement in § 440.18(a) of this part. Paragraphs (b), (d), (e), and (h) through (k) of this section set forth the requirements for the energy audit procedures which, if satisfied in the State plan, warrant approval of a State's application to waive the 40 percent material cost requirement in § 440.18(a) of this part.

(b) Only weatherization materials which are listed in appendix A and which meet or exceed standards prescribed in appendix A to this part shall be purchased with funds provided under this part, except that DOE may approve an unlisted material upon application from any State.

(c) The most cost-effective weatherization materials for each dwelling unit shall be determined by audit procedures using the following formula:

(1) The cost of fuel saved per year by installing a weatherization material in a dwelling unit;

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(2) Multiplied by the appropriate lifetime of the weatherization material; and

(3) Divided by the cost of the weatherization material and the cost of the installation of the weatherization material.

(d) The computation of the cost of fuel saved per year must take into account the number of heating or cooling degree days in the area of which the computation is being made and must otherwise use reasonable methods and assumptions.

(e) The figures used for the lifetime of the materials and for the costs of materials and cost of the installation of the materials must be generally accepted in the relevant trade.

(f) The weatherization materials which shall be installed first are those which are determined to be the most cost effective using the formula in paragraph (c) of this section.

(g) The audit procedures used in Project Retro-Tech to determine the most cost-effective weatherization materials comply with this section. The grantee or subgrantee may use other audit procedures to determine the most cost-effective weatherization materials, provided that these procedures comply with this section and are approved by the Support Office Director prior to their use. A grantee or subgrantee may use results obtained from audits conducted under the Residential Conservation Service Program as part of the audit procedures which have been approved by the Support Office Director.

(h) The energy audit procedures must—

- (1) Consider the rate of energy use;
- (2) Address significant heating and cooling needs;
- (3) Make provision for use of advanced diagnostic and assessment techniques which DOE has determined are consistent with sound engineering practices;
- (4) Determine energy use from actual energy bills or by generally accepted engineering calculations;
- (5) Consistent with paragraphs (d) and (e) of this section, determine that each weatherization material is cost effective by ensuring that the net fuel cost savings over the lifetime of such

weatherization material, discounted to present value in accordance with paragraph (i) of this section, to the costs to be claimed as allowable under § 440.18(c)(1), (2), and (7), and any other significant, related cost required to be included by a State, is greater than or equal to one;

(6) Assign priorities among weatherization materials in descending order of their cost effectiveness ratios calculated under paragraph (h)(5) of this section;

(i) After adjusting those ratios for interaction between architectural and mechanical weatherization materials by decreasing the estimated fuel cost savings for a lower priority weatherization material in light of fuel cost savings for a related higher priority weatherization material; and

(ii) Eliminating any weatherization material if its cost effectiveness ratio, as adjusted under paragraph (h)(6) of this section, is less than one;

(7) Determine that the total conservation investment has a positive rate of return by ensuring that the ratio of the cumulative net fuel cost savings of all weatherization materials, adjusted for interaction between architectural and mechanical weatherization materials if any, to the cumulative costs included under paragraph (h)(5) of this section and the costs to be claimed as allowable under § 440.18(c)(9), is greater than or equal to one;

(8) Identify health and safety hazards to be abated with DOE funds in compliance with the State's DOE-approved health and safety procedures under § 440.16(h); and

(9) Treat the dwelling unit as a whole system by examining its heating and cooling system, its air exchange system and its occupants' living habits and needs, and making necessary adjustments to the priority of weatherization materials with adequate documentation of the reasons for such an adjustment.

(i) The energy audit must provide for use of the annually adjusted discount rate provided by DOE except that a State may keep that rate constant up to 5 years or may use a reasonable higher real discount rate. Subject to a

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ceiling of 10 percent and floor of 3 percent and subject to adjustment by DOE region for a rate of fuel cost escalation predicted by the DOE Energy Information Administration, DOE shall calculate annually the adjusted discount rate, for use under paragraph (h) of this section as a 12-month average of the composite yields of all outstanding U.S. Treasury bonds neither due nor callable in less than 10 years, as most recently reported by the Federal Reserve, adjusted to exclude estimated increases in the general level of prices consistent with projections of inflation in the most recent Economic Report of the President's Council of Economic Advisers.

(j) For typical dwelling units without unusual energy consuming characteristics which significantly alter typical energy usage, energy audits may be accomplished by using a priority list developed by conducting, in compliance with paragraph (h) of this section, site-specific energy audits of a representative sample of typical dwelling units for each major dwelling type covered by the State's weatherization program. Priority lists developed in accordance with this paragraph must be revalidated by conducting a representative sample of site-specific energy audits every 5 years.

(k) Subject to DOE approval, a State may use as a part of an energy audit, a list of presumptively cost effective general heat waste reduction weatherization materials and the circumstance under which such materials may be presumed cost effective without need for further audit justification if those materials are shown to be cost effective in typical dwelling units for major dwelling unit types in the State based on documentation of a representative number of site-specific energy audits.

[58 FR 12527, Mar. 4, 1993]

EFFECTIVE DATE NOTE: At 65 FR 77218, Dec. 8, 2000, § 440.21 was revised, effective Jan. 8, 2001. For the convenience of the user, the revised text is set forth as follows:

§ 440.21 Weatherization materials standards and energy audit procedures.

(a) Paragraph (b) of this section describes the required standards for weatherization materials. Paragraphs (c) and (d) of this section describe the cost-effectiveness tests that weatherization materials must pass be-

fore they may be installed in an eligible dwelling unit. Paragraph (e) of this section lists the other energy audit requirements that do not pertain to cost-effectiveness tests of weatherization materials. Paragraphs (f) and (g) of this section describe the use of priority lists and presumptively cost-effective general heat waste reduction materials as part of a State's energy audit procedures. Paragraph (h) of this section explains that a State's energy audit procedures and priority lists must be re-approved by DOE every 5 years.

(b) Only weatherization materials which are listed in Appendix A to this part and which meet or exceed standards prescribed in Appendix A to this part may be purchased with funds provided under this part. However, DOE may approve an unlisted material upon application from any State.

(c) Except for materials to eliminate health and safety hazards allowable under § 440.18(c)(15), each individual weatherization material and package of weatherization materials installed in an eligible dwelling unit must be cost-effective. These materials must result in energy cost savings over the lifetime of the measure(s), discounted to present value, that equal or exceed the cost of materials, installation, and on-site supervisory personnel as defined by the Department. States have the option of requiring additional related costs to be included in the determination of cost-effectiveness. The cost of incidental repairs must be included in the cost of the package of measures installed in a dwelling.

(d) The energy audit procedures must assign priorities among individual weatherization materials in descending order of their cost-effectiveness according to paragraph (c) of this section after:

(1) Adjusting for interaction between architectural and mechanical weatherization materials by using generally accepted engineering methods to decrease the estimated fuel cost savings for a lower priority weatherization material in light of fuel cost savings for a related higher priority weatherization material; and

(2) Eliminating any weatherization materials that are no longer cost-effective, as adjusted under paragraph (d)(1) of this section.

(e) The energy audit procedures also must—

(1) Compute the cost of fuel saved per year by taking into account the climatic data of the area where the dwelling unit is located, where the base temperature that determines the number of heating or cooling degree days (if used) reasonably approximates conditions when operation of heating and cooling equipment is required to maintain comfort, and must otherwise use reasonable energy estimating methods and assumptions;

(2) Determine existing energy use and energy requirements of the dwelling unit from

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actual energy bills or by generally accepted engineering calculations;

(3) Address significant heating and cooling needs;

(4) Make provision for the use of advanced diagnostic and assessment techniques which DOE has determined are consistent with sound engineering practices;

(5) Identify health and safety hazards to be abated with DOE funds in compliance with the State's DOE-approved health and safety procedures under § 440.16(h);

(6) Treat the dwelling unit as a whole system by examining its heating and cooling system, its air exchange system, and its occupants' living habits and needs, and making necessary adjustments to the priority of weatherization materials with adequate documentation of the reasons for such an adjustment; and

(7) Be specifically approved by DOE for use on each major dwelling type that represents a significant portion of the State's weatherization program in light of the varying energy audit requirements of different dwelling types including single-family dwellings, multi-family buildings, and mobile homes.

(f) For similar dwelling units without unusual energy-consuming characteristics, energy audits may be accomplished by using a priority list developed by conducting, in compliance with paragraphs (b) through (e) of this section, site-specific energy audits of a representative subset of these dwelling units. For DOE approval, States must describe how the priority list was developed, how the subset of similar homes was determined, and circumstances that will require site-specific audits rather than the use of the priority lists. States also must provide the input data and list of weatherization measures recommended by the energy audit software or manual methods for several dwelling units from the subset of similar units.

(g) States may use, as a part of an energy audit, general heat waste reduction weatherization materials that DOE has determined to be generally cost-effective. States may request approval to use general heat waste materials not listed in DOE policy guidance by providing documentation of their cost-effectiveness and a description of the circumstances under which such materials will be used.

(h) States must resubmit their energy audit procedures (and priority lists, if applicable, under certain conditions) to DOE for approval every five years. States must also resubmit to DOE, for approval every five years, their list of general heat waste materials in addition to those approved by DOE in policy guidance, if applicable. Policy guidance will describe the information States must submit to DOE and the circumstances that reduce or increase documentation requirements.

§ 440.22 Eligible dwelling units.

(a) A dwelling unit shall be eligible for weatherization assistance under this part if it is occupied by a family unit:

(1) Whose income is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget;

(2) Which contains a member who has received cash assistance payments under Title IV or XVI of the Social Security Act or applicable State or local law at any time during the 12-month period preceding the determination of eligibility for weatherization assistance; or

(3) If the State elects, is eligible for assistance under the Low-Income Home Energy Assistance Act of 1981, provided that such basis is at least 125 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(b) A subgrantee may weatherize a building containing rental dwelling units using financial assistance for dwelling units eligible for weatherization assistance under paragraph (a) of this section, where:

(1) The subgrantee has obtained the written permission of the owner or his agent;

(2) Not less than 66 percent (50 percent for duplexes and four-unit buildings) of the dwelling units in the building:

(i) Are eligible dwelling units, or

(ii) Will become eligible dwelling units within 180 days under a Federal, State, or local government program for rehabilitating the building or making similar improvements to the building; and

(3) The grantee has established procedures for dwellings which consist of a rental unit or rental units to ensure that:

(i) The benefits of weatherization assistance in connection with such rental units, including units where the tenants pay for their energy through their rent, will accrue primarily to the low-income tenants residing in such units;

(ii) For a reasonable period of time after weatherization work has been completed on a dwelling containing a