

### § 440.13

(3) Disapprove the application if it does not conform to the requirements of this part.

(Approved by the Office of Management and Budget under control number 1904-0047)

[49 FR 3629, Jan. 27, 1984, as amended at 50 FR 712, Jan. 4, 1985; 55 FR 41325, Oct. 10, 1990; 58 FR 12529, Mar. 4, 1993; 60 FR 29481, June 5, 1995]

#### § 440.13 Local applications.

(a) The Support Office Director shall give written notice to all local applicants throughout a State of their eligibility to apply for financial assistance under this part in the event:

(1) A State, within which a local applicant is situated, fails to submit an application within 60 days after notice in accordance with § 440.12(a) or

(2) The Support Office Director finally disapproves the application of a State, and, under § 440.30, either no appeal is filed or the Support Office Director's decision is affirmed.

(b) To be eligible for financial assistance, a local applicant shall submit an application pursuant to § 440.12(b) to the Support Office Director within 30 days after receiving the notice referred to in paragraph (a) of this section.

(c) In the event one or more local applicants submits an application for financial assistance to carry out projects in the same geographical area, the Support Office Director shall hold a public hearing with the same procedures that apply under section § 440.14(a).

(d) Based on the information provided by a local applicant and developed in any hearing held under paragraph (c) of this section, the Support Office Director shall determine in writing whether to award a grant to carry out one or more weatherization projects.

(e) If there is an adverse decision in whole or in part under paragraph (d) of this section, that decision is subject to administrative review under § 440.30 of this part.

(f) If, after a State application has been finally disapproved by DOE and the Support Office Director approves local applications under this section, the Support Office Director may reject a new State application in whole or in part as disruptive and untimely with-

### 10 CFR Ch. II (1-1-06 Edition)

out prejudice to submission of an application for the next program year.

(Approved by the Office of Management and Budget under control number 1904-0047)

[49 FR 3629, Jan. 27, 1984, as amended at 58 FR 12525, 12529, Mar. 4, 1993]

#### § 440.14 State plans.

(a) Before submitting to DOE an application, a State must provide at least 10 days notice of a hearing to inform prospective subgrantees, and must conduct one or more public hearings to receive comments on a proposed State plan. The notice for the hearing must specify that copies of the plan are available and state how the public may obtain them. The State must prepare a transcript of the hearings and accept written submission of views and data for the record.

(b) The proposed State plan must:

(1) Identify and describe proposed weatherization projects, including a statement of proposed subgrantees and the amount of funding each will receive;

(2) Address the other items contained in paragraph (c) of this section; and

(3) Be made available throughout the State prior to the hearing.

(c) After the hearing, the State must prepare a final State plan that identifies and describes:

(1) The production schedule for the State indicating projected expenditures and the number of dwelling units, including previously weatherized units which are expected to be weatherized annually during the program year;

(2) The climatic conditions within the State;

(3) The type of weatherization work to be done;

(4) An estimate of the amount of energy to be conserved;

(5) Each area to be served by a weatherization project within the State, and must include for each area:

(i) The tentative allocation;

(ii) The number of dwelling units expected to be weatherized during the program year; and

(iii) Sources of labor.

(6) How the State plan is to be implemented, including:

(i) An analysis of the existence and effectiveness of any weatherization

## Department of Energy

## § 440.15

project being carried out by a subgrantee;

(ii) An explanation of the method used to select each area served by a weatherization project;

(iii) The extent to which priority will be given to the weatherization of single-family or other high energy-consuming dwelling units;

(iv) The amount of non-Federal resources to be applied to the program;

(v) The amount of Federal resources, other than DOE weatherization grant funds, to be applied to the program;

(vi) The amount of weatherization grant funds allocated to the State under this part;

(vii) The expected average cost per dwelling to be weatherized, taking into account the total number of dwellings to be weatherized and the total amount of funds, Federal and non-Federal, expected to be applied to the program;

(viii) The average amount of the DOE funds specified in § 440.18(c)(1) through (9) to be applied to any dwelling unit;

(ix) [Reserved]

(x) The procedures used by the State for providing additional administrative funds to qualified subgrantees as specified in § 440.18(d);

(xi) Procedures for determining the most cost-effective measures in a dwelling unit;

(xii) The definition of “low-income” which the State has chosen for determining eligibility for use statewide in accordance with § 440.22(a);

(xiii) The definition of “children” which the State has chosen consistent with § 440.3; and

(xiv) The amount of Federal funds and how they will be used to increase the amount of weatherization assistance that the State obtains from non-Federal sources, including private sources, and the expected leveraging effect to be accomplished.

[65 FR 77217, Dec. 8, 2000, as amended at 66 FR 58366, Nov. 21, 2001]

### § 440.15 Subgrantees.

(a) The grantee shall ensure that:

(1) Each subgrantee is a CAA or other public or nonprofit entity;

(2) Each subgrantee is selected on the basis of public comment received during a public hearing conducted pursu-

ant to § 440.14(a) and other appropriate findings regarding:

(i) The subgrantee’s experience and performance in weatherization or housing renovation activities;

(ii) The subgrantee’s experience in assisting low-income persons in the area to be served; and

(iii) The subgrantee’s capacity to undertake a timely and effective weatherization program.

(3) In selecting a subgrantee, preference is given to any CAA or other public or nonprofit entity which has, or is currently administering, an effective program under this part or under title II of the Economic Opportunity Act of 1964, with program effectiveness evaluated by consideration of factors including, but not necessarily limited to, the following:

(i) The extent to which the past or current program achieved or is achieving weatherization goals in a timely fashion;

(ii) The quality of work performed by the subgrantee;

(iii) The number, qualifications, and experience of the staff members of the subgrantee; and

(iv) The ability of the subgrantee to secure volunteers, training participants, public service employment workers, and other Federal or State training programs.

(b) The grantee shall ensure that the funds received under this part will be allocated to the entities selected in accordance with paragraph (a) of this section, such that funds will be allocated to areas on the basis of the relative need for a weatherization project by low-income persons.

(c) If DOE finds that a subgrantee selected to undertake weatherization activities under this part has failed to comply substantially with the provisions of the Act or this part and should be replaced, such finding shall be treated as a finding under § 440.30(i) for purposes of § 440.30.

(d) Any new or additional subgrantee shall be selected at a hearing in accordance with § 440.14(a) and upon the basis of the criteria in paragraph (a) of this section.

(e) A State may terminate financial assistance under a subgrant agreement for a grant period only in accordance