

LOW INCOME HOME ENERGY ASSISTANCE PROGRAM (LIHEAP)

MODEL PLAN

PUBLIC LAW 97-35, AS AMENDED

FEDERAL FISCAL YEAR 2017

GRANTEE: Texas Department of Housing and Community Affairs

EIN: 17426105429

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CHECK ONE: TRIBE / TRIBAL ORGANIZATION _____ STATE X _____ INSULAR AREA _____

**Department of Health and Human Services
Administration for Children and Families
Office of Community Services
Washington, DC 20447**

August 1987, revised 05/92, 02/95, 03/96, 12/98, 11/01

OMB Approval No. 0970-0075

THE PAPERWORK REDUCTION ACT OF 1995 (Pub. L. 104-13)

Use of this model plan is optional. However, the information requested is required in order to receive a Low Income Home Energy Assistance Program (LIHEAP) grant in years in which the grantee is not permitted to file an abbreviated plan. Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Assurances

The Texas Department of Housing and Community Affairs agrees to:

(1) use the funds available under this title to--

(A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);

(B) intervene in energy crisis situations;

(C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this title including leveraging programs, and the State agrees not to use such funds for any purposes other than those specified in this title;

(2) make payments under this title only with respect to--

(A) households in which one or more individuals are receiving--

(i) assistance under the State program funded under part A of title IV of the Social Security Act;

(ii) supplemental security income payments under title XVI of the Social Security Act;

(iii) food stamps under the Food Stamp Act of 1977; or

(iv) payments under section 415, 521, 541, or 542 of title 38, United States Code, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a Federal fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income.

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this title, and any

similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(4) coordinate its activities under this title with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program), under the supplemental security income program, under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act, or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clauses 2(A) and 2(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this title, to give special consideration, in the designation of such agencies, to any local public or private nonprofit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 or any other provision of law on the day before the date of the enactment of this Act, except that--

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the Federal fiscal year preceding the Federal fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to--

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this title;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions

to assure that no household receiving assistance under this title will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendor payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this Act that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that--

(A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and

(B) the State will treat owners and renters equitably under the program assisted under this title;

(9) provide that--

(A) the State may use for planning and administering the use of funds under this title an amount not to exceed 10 percent of the funds payable to such State under this title for a Federal fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this title and will not use Federal funds for such remaining cost (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this title, including procedures for monitoring the assistance provided under this title, and provide that the State will comply with the provisions of chapter 75 of title 31, United States Code (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 2608;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c);

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) are denied or are not acted upon with reasonable promptness; and

(14) cooperate with the Secretary with respect to data collecting and reporting under section 2610.

(15) beginning in Federal fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs.

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

Certification to the Assurances: As Chief Executive Officer, I agree to comply with the sixteen assurances contained in Title XXVI of the Omnibus Budget Reconciliation Act of 1981, as amended. By signing these assurances, I also agree to abide by the standard assurances on lobbying, debarment and suspension, and a drug-free workplace.

Signature of the Tribal or Board Chairperson or Chief Executive Officer of the State or Territory.

Signature: _____

Title: Executive Director, Texas Department of Housing and Community Affairs

Date: August , 2016

The Governor of Texas has delegated the responsibility of signing this document to the Executive Director of the Texas Department of Housing and Community Affairs. A copy of the letter is attached.

The EIN (Entity Identification Number) of the Texas Department of Housing & Community Affairs, which receives the grant funds, appears on the cover of this application.

In the above assurances which are quoted from the law, "State" means the 50 States, the District of Columbia, an Indian Tribe or Tribal Organization, or a Territory; "title" of the Act refers to Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (OBRA), as amended, the "Low Income Home Energy Assistance Act"; "section" means Section 2605 of OBRA; and, "subsection" refers to Section 2605(b) of OBRA.

Section 1¹

Program Components, 2605(a), 2605(b)(1) – Assurance 1, 2605(c)(1)(C)

1.1 Check which components you will operate under the LIHEAP program. (Note: You must provide information for each component designated here as requested elsewhere in this plan.)

Dates of Operation²

<input checked="" type="checkbox"/>	Heating assistance	Start date: 10/01/2016	End date: 09/30/2018
<input checked="" type="checkbox"/>	Cooling assistance	Start date: 10/01/2016	End date: 09/30/2018
<input checked="" type="checkbox"/>	Crisis assistance	Start date: 10/01/2016	End date: 09/30/2018
<input checked="" type="checkbox"/>	Weatherization assistance	Start date: 10/01/2016	End date: 10/30/2018

Estimated Funding Allocation, 2604(c), 2605(k)(1), 2605(b)(9), 2605(b)(16) – Assurances 9 and 16

1.2 Estimate what amount of available LIHEAP funds will be used for each component that you will operate: **The total of all percentages must add up to 100%.**

10% heating assistance

40% cooling assistance

25% crisis assistance

Up to 15% weatherization assistance³

0% carryover to the following Federal fiscal year

10% administrative and planning costs

0% services to reduce home energy needs including needs assessment (Assurance 16)

0% used to develop and implement leveraging activities

100% **TOTAL**

¹ Capitalized terms are defined in Title 10, Chapter 1 or Chapter 5 (as applicable) of the Texas Administrative Code or by federal law.

² Dates of operation signify periods in which we most expect seasonal usage. Identification of these periods does not limit the payment of assistance on any “seasonal” basis.

³ If 15% is not used for weatherization assistance, the balance will be added to heating, cooling, or crisis assistance as needed.

Alternate Use of Crisis Assistance Funds, 2605(c)(1)(C)

1.3 The funds reserved for winter crisis assistance that have not been expended by March 15 will be reprogrammed to:

- Heating assistance
- Weatherization assistance
- Cooling assistance
- Other (specify): n/a, funds are not reserved specifically for winter crisis assistance.

Categorical Eligibility, 2605(b)(2)(A) – Assurance 2, 2605(c)(1)(A), 2605(b)(8A) – Assurance 8

1.4 Do you consider households categorically eligible if one household member receives one of the following categories of benefits in the left column below? Yes No

Program	Cooling	Heating	Crisis	Weatherization
Supplemental Security Income	Yes	Yes	Yes	Yes
Temporary Assistance for Needy Families	No	No	No	No
Supplemental Nutrition Assistance Program	No	No	No	No
Means-tested Veteran’s Programs	Yes	Yes	Yes	Yes

1.5 Do you automatically enroll households without a direct annual application?

- Yes
- No

1.6 How do you ensure there is no difference in the treatment of categorically eligible households from those not receiving other public assistance when determining eligibility and benefit amounts?

FY 2017 is the second year that Texas implemented categorical eligibility for SSI and means-tested Veteran’s Programs into its program. State rules were amended to include a provision that there is to be no difference in the treatment of categorically eligible households. The Department has a system for persons to submit complaints and the monitoring reviews would also note any differences in treatment of persons that are or are not categorically eligible.

SNAP Nominal Payments

1.7 Do you allocate LIHEAP funds toward a nominal payment for SNAP households? If you answered “yes” to question 1.71 you must provide a response to 1.7b, 1.7c, 1.7d.

- a. Yes No

b. Amount of Nominal Assistance: \$ ___ NA _____

c. Frequency of Assistance:

- Once per year
- Once every five years
- Other (describe): _____ NA _____

d. How do you confirm that the household receiving a nominal payment has an energy cost or need?

Determination of Eligibility – Countable Income

1.8 In determining a household's income eligibility for LIHEAP, do you use gross income or net income?

- Gross Income (except for self employment or farm income or gambling/lottery winnings)
 Net Income

1.9. Select all of the applicable forms of countable income used to determine a household's income eligibility for LIHEAP.

- Wages (except as prohibited by the Workforce Investment Act of 1998)
 Self-employment income
 Contract income
 Payments from mortgage or sales contracts
 Unemployment Insurance
 Strike pay
 Social Security Administration (SSA) benefits
 Including Medicare deduction Excluding Medicare deduction
 Supplemental Security Income (SSI)
 Retirement / pension benefits
 General Assistance benefits (except as excluded by federal law or 10 TAC §5.19)
 Temporary Assistance for Needy Families (TANF) benefits (except for one-time payments)
 Supplemental Nutrition Assistance Program (SNAP) benefits
 Women, Infants, and Children Supplemental Nutrition Program (WIC) benefits
 Loans that need to be repaid
 Cash gifts
 Savings account balance
 One-time lump-sum payments, such as rebates/credits, refund deposits, etc.
 Jury duty compensation
 Rental income
 Income from employment through Workforce Investment Act (WIA)
 Income from work study programs
 Alimony
 Child support
 Interest, dividends, or royalties
 Commissions
 Legal settlements
 Insurance payments made directly to the insured
 Insurance payments made specifically for the repayment of a bill, debt, or estimate
 Veterans Administration (VA) benefits (Some types are included, some types are excluded)
 Earned income of a child under the age of 18
 Balance of retirement, pension, or annuity accounts where funds cannot be withdrawn without a penalty.
 Income tax refunds
 Stipends from senior companion programs, such as VISTA
 Funds received by household for the care of a foster child
 AmeriCorps Program payments for living allowances, earnings, and in-kind aid.
 Reimbursements (for mileage, gas, lodging, meals, etc.)
 Other Any item not excluded in 10 Texas Administration Code §5.19 or by other federal law

Section 2 - HEATING ASSISTANCE

Eligibility, 2605(b)(2) – Assurance 2

2.1 Designate The income eligibility threshold used for the heating component:

2017 or most current HHS poverty income level:

FY 2016 state’s median income 60%⁴

2.2 Do you have additional eligibility requirements for **HEATING ASSISTANCE**?

Yes⁵ No

2.3 Check the appropriate boxes below and describe the policies for each.

- | | <u>Yes</u> | <u>No</u> |
|--|-------------------------------------|-------------------------------------|
| ● Do you require an assets test? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Do you have additional/differing eligibility policies for: | | |
| ● Renters? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters living in subsidized housing? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Renters with utilities included in the rent? ⁶ | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ● Do you give priority in eligibility to: | | |
| ● Elderly? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Disabled? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Young children? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Households with high energy burdens? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ● Other? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Households with high energy consumption | | |

⁴ In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 150% of the poverty guidelines or 60% of the State’s median income (“SMI”). The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department’s Executive Director. The State will communicate this designation to affected subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

⁵ Currently, §5.407(f) of 10 Texas Administrative states: “Household units where the Subrecipient is unable to determine whether the meter is utilized by another household may not be served without approval from Community Affairs Division staff. A Household cannot be served if the meter is utilized by another Household that is not part of the application for assistance. In instances where separate structures share a meter and the applicant is otherwise eligible for assistance, Subrecipient may provide services if: (1) the members of the separate structures that share a meter meet the definition of a Household per §5.2 of this Chapter; (2) the members of the separate structures that share a meter submit one application as one Household; and (3) all persons and applicable income from each structure are counted when determining eligibility.”

⁶ If the renter’s situation is one where the utilities are not a distinct charge from the rent, payments may be made to landlords on behalf of eligible renters..

Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.4 Describe how you prioritize the provision of heating assistance to vulnerable households, e.g., benefit amounts, application period, etc.

Subrecipients use a household rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Households with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household’s income. The number of benefit payments is based on the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children. The maximum benefit amount is determined per-program year based on household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

2.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need:
 - Fuel type
 - Climate/region
 - Individual bill
 - Dwelling type
 - Energy burden (% of income spent on home energy)
 - Energy need
 - Other (Describe)

Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

2.6 Describe estimated benefit levels for FY 2017:

\$1 Minimum benefit \$5400 Maximum benefit

2.7 Do you provide in-kind (e.g., blankets, space heaters) and/or other forms of benefits?

Yes No -- If yes, describe.

For explanation on response to question 2.6, see attached document “Attchmnt 3 Heating and Cooling Benefit Matrix” for more information on benefit levels.

Section 3: COOLING ASSISTANCE

Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2

3.1 Designate the income eligibility threshold used for the cooling component:

2017 HHS poverty income level

OR
FY 2016 median income 60%⁷

3.2 Do you have additional eligibility requirements for **COOLING ASSISTANCE**

Yes No

3.3 Check the appropriate boxes below and describe the policies for each.

	<u>Yes</u>	<u>No</u>
● Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you have additional/differing eligibility policies for:		
● Renters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters living in subsidized housing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Renters with utilities included in the rent? ⁸	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you give priority in eligibility to:		
● Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Young children?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Households with high energy burdens?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
● Other?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Households with high energy consumption		

3.4 Describe how you prioritize the provision of cooling assistance to vulnerable households, e.g., benefit amounts, application periods, etc.

Subrecipients use a household rating system which determines priority based on persons in Households who are particularly vulnerable such as the Elderly, Persons with Disabilities, Families with Young Children, Households with High Energy Burden, and Households with High Energy Consumption. Benefit amounts are determined on a sliding scale based on the Household's income. The number of benefit payments is based on the presence of a vulnerable member such as the Elderly, Persons with Disabilities, and Households with Young Children. The maximum benefit amount is determined per-program year based on household need, is split between heating and cooling assistance, and is not required to be applied equally to heating and cooling costs.

⁷ In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 150% of the poverty guidelines or 60% of the State's median income. The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. The State will communicate this designation to affected subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

⁸ If the renter's situation is one where the utilities are not a distinct charge from the rent, payments may be made to landlords on behalf of eligible renters.

Determination of Benefits, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

3.5 Check the variables you use to determine your benefit levels. (Check all that apply):

- Income
- Family (household) size
- Home energy cost or need
 - Fuel type
 - Climate/region
 - Individual bill
 - Dwelling type
 - Energy burden (% of income spent on home energy)
 - Energy need
 - Other (describe)

Benefit Levels, 2605(b)(5) – Assurance 5, 2605(c)(1)(B)

3.6 Describe benefit levels:

\$1 Minimum benefit \$5400 Maximum benefit

3.7 Do you provide in-kind (e.g., fans, air conditioners) and/or other forms of benefits?

Yes No -- If yes, describe.

For explanation on response to question 2.6, see attached document “Attchmnt 3 Heating and Cooling Benefit Matrix” for more information on benefit levels.

Section 4: CRISIS ASSISTANCE,

Eligibility - 2604(c), 2605(c)(1)(A)

4.1 Designate the income eligibility threshold used for the crisis component:

2017 HHS poverty income level

OR

FY 2016 state median income 60%

4.2 Provide your LIHEAP program’s definition for determining a crisis.

A bona fide Household crisis exists when extraordinary events or situations resulting from extreme weather conditions and/or fuel supply shortages or a terrorist attack have depleted or will deplete Household financial resources and/or have created problems in meeting basic Household expenses, particularly bills for energy so as to constitute a threat to the well-being of the Household, particularly the Elderly, Persons with Disabilities, or children age 5 and younger. A utility disconnection notice may constitute a Household energy crisis.

4.3 What constitutes a life-threatening crisis?

State rules define a life threatening crisis as: “A life threatening crisis exists when at least one person in the applicant household could lose their life without the Subrecipient’s utility assistance because there is a shut-off notice or a delivered fuel source is below a ten (10) day supply (by client report) and any member of the Household is dependent upon equipment that is prescribed by a medical professional, operated on electricity or gas and is necessary to sustain the person’s life. Examples of life-sustaining equipment include but are not limited to kidney dialysis machines, oxygen concentrators, cardiac monitors, and in some cases heating and air conditioning when ambient temperature control is prescribed by a medical professional. Documentation must not include information regarding the applicant’s medical condition but may include certification that such a device is required in the home to sustain life.”

Crisis Requirements, 2604(c)

4.4 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households? 48 Hours

4.5 Within how many hours do you provide an intervention that will resolve the energy crisis for eligible households in life-threatening situations? 18 Hours⁹

Crisis Eligibility, 2605(c)(1)(A)?

4.6 Do you have additional eligibility requirements for **CRISIS ASSISTANCE?**

Yes No

⁹ Pursuant to §2604(c)(2) of the LIHEAP Statute, the Department provides “some form of assistance that will resolve the energy crisis” not later than 18 hours after a household applies for crisis benefits if such household is eligible to receive such benefits and is in a life-threatening situation.

4.7 Check the appropriate boxes below and describe the policies for each.

	<u>Yes</u>	<u>No</u>
● Do you require an assets test?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you give priority in eligibility to:		
• Elderly?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Disabled?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Young children?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Households with high energy burdens?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Other?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Households with high energy consumption		
● In order to receive crisis assistance: ¹⁰		
• Must the household have received a shut-off notice or have a near empty tank?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Must the household have been shut off or have an empty tank?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
• Must the household have exhausted their regular heating benefit?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Must renters with heating costs included in their rent have received an eviction notice?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Must heating/cooling be medically necessary?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Must the household have non-working heating or cooling equipment?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Other?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
● Do you have additional/differing eligibility policies for:		
• Renters?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Renters living in subsidized housing?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
• Renters with utilities included in the rent?	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Determination of Benefits

4.8 How do you handle crisis situations?

- Separate component
- Fast Track
- Other

¹⁰ The program has different requirements depending on whether the Household contains a member of a priority group.

¹¹ If the renter's situation is one where the utilities are not a distinct charge from the rent, payments may be made to landlords on behalf of eligible renters.

4.9 If you have a separate component, how do you determine crisis assistance benefits?

Amount to resolve crisis, up to a maximum of \$1200

Other

Heating and cooling equipment repair or replace up to \$3,000

Crisis Requirements, 2604(c)

4.10 Do you accept applications for energy crisis assistance at sites that are geographically accessible to all households in the area to be served?

Yes No

Explain: According to state program rules: "Subrecipients shall accept applications at sites that are geographically and physically accessible to all Households requesting assistance. If Subrecipient's office is not accessible, Subrecipient shall make reasonable accommodations to ensure that all Households can apply for assistance."

4.11 Do you provide individuals who have physical disabilities the means to:

■ Submit applications for crisis benefits without leaving their homes?

Yes No If no, explain.

Applications can be mailed in. In some cases, applications may be completed online or the organization will go to the applicant's home to take the application.

■ Travel to the sites at which applications for crisis assistance are accepted?

Yes No If yes, explain.

If you answered "No" to both questions 4.11, please explain alternative means of intake to those who are homebound or physically disabled.

Benefit Levels, 2605(c)(1)(B)

4.12 Indicate the maximum benefit for each type of crisis assistance offered.

Winter Crisis \$_____ maximum benefit

Summer Crisis \$_____ maximum benefit

Year-round Crisis \$1200 maximum benefit

4.13 Do you provide in-kind (e.g., blankets, space heaters, fans) and/or other forms of benefits? Yes No If yes, describe.

Repair of existing heating and cooling units, purchase of portable heating/cooling units, temporary shelter, blankets, fans, generators.

4.14 Do you provide for equipment repair or replacement using crisis funds?

Yes No

4.15 Check appropriate boxes below to indicate type(s) of assistance provided:

	Winter Crisis	Summer Crisis	Year- round Crisis
Heating system repair			X
Heating system replacement			X
Cooling system repair			X
Cooling system replacement			X
Wood stove purchase			
Pellet stove purchase			
Solar panel(s)			
Utility poles / Gas line hook-ups			
Other (Specify): Heating and Cooling systems can be provided if a system is non-existent.			X

4.16 Do any of the utility vendors you work with enforce a winter moratorium on shut offs? If you respond "Yes" to question 4.16, you must respond to question 4.17.

Yes No

4.17 Describe the terms of the moratorium and any special dispensation received by LIHEAP clients during or after the moratorium period.

Pursuant to §25.483 Disconnection of Service of the Texas Public Utilities Commission rules:

"An electric utility cannot disconnect a customer anywhere in its service territory on a day when:

(1) the previous day's highest temperature did not exceed 32 degrees Fahrenheit, and the temperature is predicted to remain at or below that level for the next 24 hours, according to the nearest National Weather Service (NWS) reports; or

(2) the NWS issues a heat advisory for any county in the electric utility's service territory, or when such advisory has been issued on any one of the preceding two calendar days in a county."

Section 5: WEATHERIZATION ASSISTANCE

Eligibility, 2605(c)(1)(A), 2605(b)(2) – Assurance 2

5.1 Designate the income eligibility threshold used for the weatherization component:

2017 HHS poverty income level

OR

FY 2016 state median income 60%¹²

5.2 Do you enter into an interagency agreement to have another government agency administer a **WEATHERIZATION component**? Yes No

5.3 If yes, name the agency. _NA_

5.4 Is there a separate monitoring protocol for weatherization? Yes No

WEATHERIZATION - Types of Rules

5.5 Under what rules do you administer LIHEAP weatherization? (Check only one.)

Entirely under LIHEAP (not DOE) rules

Entirely under DOE WAP (not LIHEAP) rules

Mostly under LIHEAP rules with the following DOE WAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

Income Threshold

Weatherization of entire multi-family housing structure is permitted if at least 66% of units (50% in 2- & 4-unit buildings) are eligible units or will become eligible within 180 days.

Weatherization of shelters temporarily housing primarily low income persons (excluding nursing homes, prisons, and similar institutional care facilities) is permitted.

Other (describe): TDHCA uses a priority list for LIHEAP households at 150% or below HHS poverty income level. Energy-related home repair: TDHCA will allow the use of LIHEAP weatherization funds for structural and ancillary repairs only if required to enable effective weatherization. If LIHEAP funds are

¹² In the county of a major disaster or emergency designated by the Secretary of the Department of Health and Human Services or by the President under the Disaster Relief Act of 1974, the State will use the highest of 150% of the poverty guidelines or 60% of the State's median income. The State may also use this flexibility to set poverty guidelines in a local crisis as defined by the Department's Executive Director. The State will communicate this designation to affected subrecipients through email and by website posting. Subrecipients must receive prior written approval before using 60% SMI. Place based assistance must be performed in the county, but person based assistance for those displaced by a disaster or emergency may be in other counties.

included in a DOE unit, the SIR/audit must be used to justify all measures.

Mostly under DOE WAP rules, with the following LIHEAP rule(s) where LIHEAP and WAP rules differ: (Check all that apply.)

- Income Threshold.
- Weatherization not subject to DOE WAP maximum statewide average cost per dwelling unit.
- Weatherization measures are not subject to DOE Savings to Investment Ratio (SIR) standards.
- Other (describe)

Eligibility, 2605(b)(5) – Assurance 5

5.6 Do you require an assets test?

<u>Yes</u>	<u>No</u>
<input type="checkbox"/>	<input checked="" type="checkbox"/>

5.7 Do you have additional/differing eligibility policies for:

- Renters?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------
- Renters living in subsidized housing?

<input type="checkbox"/>	<input checked="" type="checkbox"/>
--------------------------	-------------------------------------

5.8 Do you give priority in eligibility to:

- Elderly?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------
- Disabled?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------
- Young children?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------
- Households with high energy burdens?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------
- Other?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

Households with high energy consumption

Benefit Levels

5.9 Do you have a maximum LIHEAP weatherization benefit/expenditure per household?
 Yes No

5.10 If yes, what is the maximum amount? \$6,500, unless additional expenditure is authorized in writing by the Department.

Types of Assistance, 2605(c)(1), (B) & (D)

5.11 What LIHEAP weatherization measures do you provide? (Check all categories that apply.)

- | | |
|---|---|
| <input checked="" type="checkbox"/> Weatherization needs/assessments/audits | <input checked="" type="checkbox"/> Energy related roof repair |
| <input checked="" type="checkbox"/> Caulking and insulation | <input checked="" type="checkbox"/> Major appliance repairs |
| <input type="checkbox"/> storm windows | <input checked="" type="checkbox"/> Major appliance replacement |
| <input checked="" type="checkbox"/> Furnace/heating system modifications/ Repairs | <input checked="" type="checkbox"/> windows/sliding glass doors |
| <input checked="" type="checkbox"/> Furnace replacement | <input checked="" type="checkbox"/> Doors |
| <input checked="" type="checkbox"/> Cooling system modifications/repairs | <input checked="" type="checkbox"/> Water Heater |
| <input checked="" type="checkbox"/> Water conservation measures | <input checked="" type="checkbox"/> Cooling system replacement |
| <input checked="" type="checkbox"/> Compact fluorescent light bulbs | <input checked="" type="checkbox"/> Other (describe)
Solar screens or window film. Smart thermostats, miscellaneous repairs up to \$500 for structural and ancillary only if required to enable effective weatherization. |

If any of the questions require further explanation or clarification that could not be made in the fields provided, attach a document with said explanation here.

Section 6: Outreach, 2605(b)(3) – Assurance 3, 2605(c)(3)(A)

6.1 Select all outreach activities that you conduct that are designed to assure that eligible households are made aware of all LIHEAP assistance available:

- Place posters/flyers in local and county social service offices, offices of aging, Social Security offices, VA, etc.
- Publish articles in local newspapers or broadcast media announcements.
- Include inserts in energy vendor billings to inform individuals of the availability of all types of LIHEAP assistance.
- Mass mailing(s) to prior-year LIHEAP recipients.
- Inform low income applicants of the availability of all types of LIHEAP assistance at application intake for other low-income programs.

Execute interagency agreements with other low-income program offices to perform outreach to target groups.

Other (specify):

Section 7: Coordination, 2605(b)(4) – Assurance 4

7.1 Describe how you will ensure that the LIHEAP program is coordinated with other programs available to low-income households (TANF, SSI, WAP, etc.)

- Joint application for multiple programs
- Intake referrals to/from other programs
- One-stop intake centers
- Other – describe:

Section 8: Agency Designation, 2605(b)(6) – Assurance 6

8.1 How would you categorize the primary responsibility of your State agency?

- Administration Agency
- Commerce Agency
- Community Services Agency
- Energy/Environment Agency
- Housing Agency
- Welfare Agency
- Other – describe:

Alternate Outreach and Intake, 2605(b)(15) – Assurance 15

8.2 How do you provide alternate outreach and intake for **HEATING ASSISTANCE**?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by state representatives and other service providers.

8.3 How do you provide alternate outreach and intake for **COOLING ASSISTANCE**?

Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by state representatives and other service providers.

8.4 How do you provide alternate outreach and intake for **CRISIS ASSISTANCE**?

In instances of natural disaster, Subrecipient coordinates with other assistance organizations (shelters, Red Cross, etc.). Report of available services at various workgroup meetings with community stakeholders (disability, health services, homeless, etc), presentation at area events organized by or at the direction or request of elected officials and other service providers.

8.5 LIHEAP Component Administration	<u>Heating</u>	<u>Cooling</u>	<u>Crisis</u>	<u>Weatherization</u>
8.5a. Who determines client eligibility?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits
	<u>Heating</u>	<u>Cooling</u>	<u>Crisis</u>	<u>Weatherization</u>
8.5b. Who processes benefit payments to gas and electric vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	N/A
8.5c. Who processes benefit payments to bulk fuel vendors?	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	Local governments, CAAs and Other Nonprofits	N/A
8.5d. Who performs installation of weatherization measures?	N/A	N/A	N/A	Local governments, CAAs and Other Nonprofits

8.6 What is your process for selecting local administering agencies?

The Department ensures that to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of Title 42 U.S.C. §§8621, et seq. special consideration is given to any local public or private nonprofit agency which was receiving CSBG or LIHEAP funds.

(1) The Department before giving such special consideration, determines that the agency involved meets program and fiscal requirements established by law and by the Department; and

(2) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the Department gives special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made.

Currently, the Department administers all aspects of program delivery through the existing Subrecipients that have demonstrated that they are operating the program in accordance with the Economic Opportunity Act of 1964, the Low-Income Home Energy Assistance Act of 1981, as amended (42 U.S.C. §§8621, et seq.), and the Department rules. If Subrecipients are successfully administering the program, the Department may offer to renew the contract.

Under this model, the Department determines that an organization is not administering the program satisfactorily, corrective actions are taken to remedy the problem. Thereafter, if Subrecipient fails to administer the program correctly, the Department will proceed with the process of removing funds and reassign the service area or a portion to another existing Subrecipient or conducts solicitation or selection of a new Subrecipient in accordance with the Low-Income Home Energy Assistance Act of 1981. The affected Subrecipient may request a hearing in accordance with §2105.204 of the Texas Government Code.

However, the Department retains the right to go through a procurement process for some or all aspects of the LIHEAP program.

8.7 How many local administering agencies do you use?

40

8.8 Have you changed any local administering agencies from last year?

Yes No

8.9 If so, why?

Agency was in noncompliance with grantee requirements for LIHEAP

Agency is under criminal investigation

Added agency

Agency closed

Other – describe – voluntary relinquishment of WAP

Section 9: Energy Suppliers, 2605(b)(7) – Assurance 7

9.1 Do you make payments directly to home energy suppliers?

Heating Yes No

Cooling Yes No

Crisis Yes No

Are there exceptions? Yes No

If yes, describe.

9.2 How do you notify the client of the amount of assistance paid?

The administering agency informs them once the determination is made.

9.3 How do you assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment?

Vendor agreements are used in all components. A sample copy is attached with the Program Integrity Assessment Report.

9.4 How do you assure that no household receiving assistance under this title will be treated adversely because of their receipt of LIHEAP assistance?

Vendor agreements are used in all components. A sample copy is attached with the Program Integrity Assessment Report.

9.5 Do you make payments contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households? Yes No. If so, describe the measures unregulated vendors may take.

Section 10: Program, Fiscal Monitoring, and Audit, 2605(b)(10) – Assurance 10

- 10.1. How do you ensure good fiscal accounting and tracking of LIHEAP funds?
 1. Review annual audits
 2. Monitor fiscal records
 3. Review current and prior year monthly expenditure and performance reports

Audit Process

10.2. Is your LIHEAP program audited annually under the Single Audit Act and OMB Circular A-133?

Yes No

10.3. Describe any audit findings rising to the level of material weakness or reportable condition cited in the A-133 audits, Grantee monitoring assessments, inspector general reviews, or other government agency reviews of the LIHEAP agency from the most recently audited federal fiscal year.

Finding ¹³	Type	Brief Summary	Resolved?	Action Taken

¹³ The Department has a single audit annually, but LIHEAP is not audited as a major program every year. LIHEAP was last audited as a major program in FY 2013 and is scheduled to be audited as a major program in 2016.

10.4. Audits of Local Administering Agencies

What types of annual audit requirements do you have in place for local administering agencies/district offices?

Local agencies/district offices are required to have an annual audit in compliance with 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance).¹⁴

Local agencies/district offices are required to have an annual audit (other than 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance)).

Local agencies/district offices 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) or other independent audits are reviewed by Grantee as part of compliance process.

Grantee conducts fiscal and program monitoring of local agencies/district offices.

Compliance Monitoring

10.5. Describe the Grantee’s strategies for monitoring compliance with the Grantee’s and Federal LIHEAP policies and procedures by:

Grantee employees:

Internal program review

Departmental oversight

Secondary review of invoices and payments

Other program review mechanisms are in place. Describe: Cross Division peer review of documents

Local Administering Agencies/District Offices:

On-site evaluation

Annual program review

Monitoring through Central Database

Desk reviews

Client File Testing/Sampling

Other program review mechanisms are in place. Describe: Desk review of 2 CFR 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance); A review of the Subrecipient’s resolution of prior monitoring or Single Audit reports is performed prior to awarding new contracts.

10.6. Explain, or attach a copy of, your local agency monitoring schedule and protocol.
See attached monitoring schedule and monitoring instruments.

Describe how you select local agencies for monitoring reviews?

On-site monitoring visits and desk reviews are mechanisms used for in-depth investigation and overall assessment, respectively. The Department will conduct on-site monitoring reviews and desk reviews of contracts based on an assessment of risk of non-compliance and failure to achieve performance

¹⁴ For 2017, subrecipients will follow the audit requirements in 45 CFR 75 Subpart F, as applicable, and the requirements in the Texas Single Audit Act.

outcomes. Subrecipient monitors review necessary program documents and financial records through desk reviews and on-site reviews to ascertain compliance with program requirements. Selection of contracts for monitoring is primarily based on risk assessment. LIHEAP subrecipients are monitored at least once every three years. This is a component of the risk assessment score. If a subrecipient also has Community Service Block Grant funds, the LIHEAP monitoring may be done at the same time. Subrecipients that leverage LIHEAP funds with DOE funds for weatherization are monitored according to the DOE monitoring schedule (once a year). Contracts may also be selected for monitoring based on other factors, such as prior findings, complaints, or special requests.

10.7. Site Visits: Onsite monitoring visits are conducted at least once every three years. The Department will inspect a minimum of 5% of all LIHEAP weatherized units reported as complete.

Desk Reviews: Some materials are requested and reviewed at the Department's office prior to the onsite visit. If the review results in findings of noncompliance, corrective action reviews are completed as a desk review rather than a return to the subrecipient's office.

10.8. How often is each local agency monitored? At least once, every three years.

10.9. What is the combined error rate for eligibility determinations? (Optional question)
Optional

10.10. What is the combined error rate for benefit determinations? (Optional question)
Optional

10.11. How many local agencies are currently on corrective action plans for eligibility and/or benefit determination issues? (Number only) 0

10.12. How many local agencies are currently on corrective action plans for financial accounting or administrative issues? (Number only) 1

Section 11: Timely and Meaningful Public Participation, 2605(b)(12) – Assurance 12, 2605(c)(2)

11.1 How did you obtain input from the public in the development of your LIHEAP plan?

Check all that apply:

- Tribal Council meeting(s)
- Public Hearing(s)
- Draft Plan posted to website and available for comment
- Hard copy of plan is available for public view and comment
- Comments from applicants are recorded
- Request for comments on draft Plan is advertised
- Stakeholder consultation meeting(s)
- Comments are solicited during outreach activities
- Other, describe: Comments are solicited via on-line forums.

11.2 What changes did you make to your LIHEAP plan as a result of this participation?

Edits were made to: Section 1.8, relating to Countable Income, by checking the box for "Gross Income"; Section 4.15 relating to the Benefit for Crisis Assistance by adding that a heating and cooling system can be added in houses that do not have a system; Section 5.11 relating to Weatherization adding doors and windows as eligible uses of LIHEAP WAP (although these will be added at the bottom of the LIHEAP weatherization priority list, so windows and doors are only be able to be added after the other higher

prioritized weatherization measures for a household have been provided); Section 12, Fair Hearing, by adding when the process of assigning priority rating will occur; Section 13 by making revisions to better reflect that Assurance 16 will be in place in FY 2017; Section 14 by clarifying the LITE-UP program; Section 16.2 adding a clarifying sentence relating to prior performance measure tracking; Section 17 removing a reference to a possible statewide data system; and under the Citizenship Section clarifying which subrecipients use the SAVE system.

Public Hearings, 2605(a)(2)

11.3 List the date(s) and location(s) that you held public hearing(s) on the proposed use and distribution of your LIHEAP funds?

Date	Event Description
June 14, 2016, 6:00 p.m.	LIHEAP Plan Public Hearing – 221 East 11 th Street, Austin, Texas
Tuesday, June 14, 2016, 11:00 a.m.	LIHEAP Plan Public Hearing – 103 South Frio , San Antonio, Texas
Wednesday, June 15, 2016, 6:00 p.m.	LIHEAP Plan Public Hearing – 3838 Aberdeen Way, Houston, Texas
Wednesday June 15, 2016, 1:30 p.m.	LIHEAP Plan Public Hearing – 818 Missouri Avenue, Fort Worth, Texas

11.4 How many parties commented on your plan at the hearing(s)?

Seven parties.

11.5 Summarize the comments you received at the hearing(s).

Question 1.8: Commenter recommends checking both the “Net Income” box in addition to the “Gross Income” box.

Question 4.15: Commenter recommends that the Department check the “Other (Specify)” box and specify: Heating and cooling systems are provided if a system is nonexistent.

Question 4.17: Commenter recommends amending the description to reflect that year-round crisis assistance is available to vulnerable populations (elderly, disabled and families with children age five and under). Commenter suggests that the establishment of moratoriums is not always timely and as a result the vulnerable populations suffer, even sometimes death occurs.

Question 5.11: Commenter recommends that the boxes for “windows/sliding glass doors” and “Doors” be checked because these retrofits will allow subrecipients more options for addressing energy efficiency in eligible households. Commenter further suggests these retrofits would be analyzed on a case by case basis and not expected to be a regular part of retrofit consideration. Photographic documentation is also suggested by commenter as a possible requirement.

Question 12.6: Commenter recommends removal of the statement from the Plan which states that priority rating is assigned at intake and for the Department to allow flexibility to the subrecipients based on their service delivery plan. The subrecipient would only be required to inform applicants that their application will be reviewed in a certain time frame. Commenter recommends that an applicant who does not receive assistance be required to reapply for assistance and that the subrecipient be required to give the client written notice of whether or not they are certified for assistance.

Questions 13.2, 13.3, 13.4, 13.5 and 13.6: Commenter pointed out that the Department's response to questions 13.2, 13.3, 13.4, 13.5 and 13.6 regarding Assurance 16 needs to be amended to reflect that the Department will be reinstating Assurance 16 in FY 2017. Commenter recommends the 2017 State plan reflect this change.

Question 14.3: Commenter recommends revision of the explanation of how the Electric Utility Discount is integrated and coordinated with LIHEAP. Commenter pointed out that the LITE-UP rate discount is not exclusively for elderly household, but rather the target population is qualified low income individuals.

Question 16.1: Commenter suggests that if the Department's goal of obtaining new software to capture performance measures from subrecipients, then subrecipients should be provided funds to offset the cost of new software and/or upgrades to software.

Question 16.2: Commenter recommends that a response be inserted.

Question 17.3: Commenter requests clarification of the statement that "the department is contemplating a state wide data collection system."

Question 17.4: Commenter recommends adding a footnote to the box checked "noncitizens are verified through the SAVE system" to clarify that public entities comply with the SAVE system. Commenter adds that public entities are required to use the SAVE system to verify citizenship whereas the requirement does not apply to nonprofit organizations.

Question 17.5: Commenter recommends checking the "Bank statements" box and adding a footnote: "This form of documentation is allowable for Social Security Administration, Veterans Administration and Railroad Retirement recipients." Commenter suggests that bank statements do not need to be required from all clients to verify income because it is not always feasible. However, household income of recipients of Social Security, Veteran's benefits and Railroad retirement and who have bank statement should be considered as proof of income.

General Comments: Commenters would like to see unspent LIHEAP funds sent to subrecipients that have a higher need and have the ability to serve the low income population. Commenters supported the Plan as written and appreciate the funding received to assist the low income population. Commenter would like to see an increase in their funding for both energy assistance and weatherization. Commenter indicates that more and more low-income people are moving into their area and the funding for utility assistance has been drained.

11.6 What changes did you make to your LIHEAP plan as a result of the public hearing(s)?

Question 1.8: Staff has amended the plan to reflect this change.

Question 4.15: Staff has amended the plan to reflect this change.

Question 4.17: No change. Staff appreciates the comment and will review the crisis component language in the current rulemaking.

Question 5.11: Staff has amended the plan to reflect this change.

Question 12.6: The Department appreciates the recommendation. Applicants are only required to apply for assistance once in a program year. Also, the current Plan in section 12.4 states that an applicant denied assistance must be provided a written denial of assistance notice from the subrecipient. Staff recommends no change based on this comment.

Questions 13.2, 13.3, 13.4, 13.5 and 13.6: Staff has amended the 2017 State plan to show that Assurance 16 has been clarified for FFY 2017.

Question 14.3: Staff has revised the explanation to reflect this change.

Question 16.1: Staff will take this into consideration if and when this is realized, but will not address this in the Plan.

Question 16.2: A response was not inserted because performance goals and measures were not required to be collected in FFY 2016. Staff revised the Plan to address this comment.

Question 17.3: Because a state wide data collection system is only hypothetical at present, staff removed this statement from the State plan.

Question 17.4: Staff has amended the plan to clarify that the SAVE requirement applies only to those public organizations whose benefit determinations are not completed by a private nonprofit organization.

Question 17.5: Bank statements do not provide the level of detail needed to confirm categorical eligibility. The federal awarding agency could provide payments for other programs other than listed below and that level of detail is not in many cases on the statement. Also, bank accounts could also be set up in other than the name of the awarded person. For example, a minor child could not be part of the household but could have the deposit in a bank account of a member of the household. General Comments: Staff is looking into this issue and in the process of developing options to grant funds to subrecipients with a higher need or ability to spend on the low income population. Staff recommends no change based on this comment.

Section 12: Fair Hearings, 2605(b)(13) – Assurance 13

12.1 How many fair hearings did the grantee have in the prior Federal fiscal year?

None

12.2 How many of those fair hearings resulted in the initial decision being reversed?

N/A

12.3 Describe any policy and/or procedural changes made in the last Federal fiscal year as a result of fair hearings?

N/A

12.4 Describe your fair hearing procedures for **households whose applications are denied**.

Subgrantee contracts include the following section:

SECTION 39. APPEALS PROCESS

In compliance with the LIHEAP Act, Subrecipient must provide an opportunity for a fair administrative hearing to individuals whose application for assistance is denied, terminated or not acted upon in a timely manner. Subrecipient must establish a denial of service complaint procedure in accordance with §5.405 the State Rules. The rule states:

(a) Subrecipient shall establish a denial of service complaint procedure to address written complaints from program applicants/clients. At a minimum, the procedures described in paragraphs (1) - (8) of this subsection shall be included:

(1) Subrecipients shall provide a written denial of assistance notice to applicant within ten (10) days of the adverse determination. This notification shall include written notice of the right of a hearing and specific reasons for the denial by component. The applicant wishing to appeal a decision must provide written notice to Subrecipient within twenty (20) days of receipt of the denial notice.

(2) Subrecipient who receives an appeal shall establish an appeals committee composed of at least three persons. Subrecipient shall maintain documentation of appeals in their client files.

(3) Subrecipients shall hold the appeal hearing within ten (10) business days after the Subrecipient received the appeal request from the applicant.

(4) Subrecipient shall record the hearing.

(5) The hearing shall allow time for a statement by Subrecipient staff with knowledge of the case.

(6) The hearing shall allow the applicant at least equal time, if requested, to present relevant information contesting the decision.

(7) Subrecipient shall notify applicant of the decision in writing. The Subrecipient shall mail the notification by close of business on the business day following the decision (1 day turn-around).

(8) If the denial is solely based on income eligibility, the provisions described in paragraphs (2) - (7) of this subsection do not apply and the applicant may request a recertification of income eligibility based on initial documentation provided at the time of the original application. The recertification will be an analysis of the initial calculation based on the documentation received with the initial application for services and will be performed by an individual other than the person who performed the initial determination. If the recertification upholds the denial based on income eligibility documents provided at the initial application, the applicant is notified in writing and no further appeal is afforded to the applicant.

(b) If the applicant is not satisfied, the applicant may further appeal the decision in writing to the Department within ten (10) days of notification of an adverse decision.

(c) Applicants/clients who allege that the Subrecipient has denied all or part of a service or benefit in a manner that is unjust, violates discrimination laws, or without reasonable basis in law or fact, may request a contested hearing under Texas Government Code, Chapter 2001.

(d) The hearing shall be conducted by the State Office of Administrative Hearings on behalf of the Department in the locality served by the Subrecipient.

(e) If client appeals to the Department, the funds should remain encumbered until the Department completes its decision.

12.5 When and how are applicants informed of these rights?

Within ten days of the determination the Subrecipient must provide written notification; can be made in person or by mail.

12.6 Describe your fair hearing procedures for **households whose applications are not acted on in a timely manner**.

Applicants are required to submit an application each program year. During the review of applications, applicants are assigned a priority rating based on indicators such as poverty level, energy burden and use, and the presence of vulnerable household members. The applicant is informed of their rating and informed whether their application will be acted on immediately or if higher priority applicants will be served first. If due to a low priority rating an applicant does not receive services during a program year, the applicant must re-apply the following year. This is a program requirement and is not subject to applicant appeal.

If an applicant is concerned that their application has been mishandled, the applicant may file a complaint with the Department. TDHCA has an online complaint system, and staff phone numbers are posted online. In general, applicants who have a complaint are given contact information for TDHCA at the time the complaint is received by the Subrecipient. Applicants who call are encouraged to use the online system, but rarely do. Staff records the complaint and proceeds as if the complaint were a denial of services appeal, as described in Section 12.4 above.

12.7 When and how are applicants informed of these rights?

Applicants who have a complaint are given contact information for TDHCA at the time the complaint is received by the Subrecipient.

Section 13: Reduction of home energy needs, 2605(b)(16) – Assurance 16

13.1 Describe how you use LIHEAP funds to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance?

13.2 How do you ensure that you don't use more than 5% of your LIHEAP funds for these activities?

n/a

13.3 Describe the impact of such activities on the number of households served in the previous Federal fiscal year.

n/a 13.4 Describe the level of direct benefits provided to those households in the previous Federal fiscal year.

. n/a

13.5 How many households applied for these services?

n/a

13.6 How many households received these services?

n/a

Section 14: Leveraging Incentive Program, 2607A

14.1 Do you plan to submit an application for the leveraging incentive program?

Yes No

14.2 Describe instructions to any third parties and/or local agencies for submitting LIHEAP leveraging resource information and retaining records.

Pursuant to the Memorandum of Understanding between the Department and the Texas Public Utility Commission, the Commission will make available to the Department information on LITE-UP electric discount program electric activities sufficient for the Department to report activities to USHHS for the previous federal fiscal year.

14.3 For each type of resource and/or benefit to be leveraged in the upcoming year that will meet the requirements of 45 C.F.R. § 96.87(d)(2)(iii), describe the following:

Resource	What is the type of resource or benefit?	What is the source(s) of the resource?	How will the resource be integrated and coordinated with LIHEAP?
1	Electric utility discount	Texas Public Utility Commission	The Department will refer eligible LIHEAP households to LITE-UP

Section 15: Training

15.1. Describe the training you provide for each of the following groups:

a. Grantee Staff:

Formal training on grantee policies and procedures

How often?

Annually

Biannually

As needed

Other – Describe:

Employees are provided with policy manual

Other – Describe:

b. Local Agencies:

Formal training conference

How often?

Annually

Biannually

As needed

Other – Describe: The conference is sponsored by the Texas Association of Community Action Agencies; the Department provides training at this conference.

On-site training

How often?

Annually

Biannually

As needed

Other – As needed as determined either by the Department or by request of the agency.

Employees are provided with policy manual

Other – Describe: the Department schedules a teleconference each quarter to provide information, training, and technical assistance to the local agencies.

c. Vendors

Formal training conference

How often?

Annually

Biannually

As needed

Other – Describe:

Policies communicated through vendor agreements

Policies are outlined in a vendor manual

Other – Describe:

15.2. Does your training program address fraud reporting and prevention?

- Yes No

Section 16: Performance Goals and Measures, 2605(b)

16.1 Describe your progress toward meeting the data collection and reporting requirements of the four required LIHEAP performance measures. Include timeframes and plans for meeting these requirements and what you believe will be accomplished in the coming federal fiscal year. As of 05/10/16 the Department is in the final stages of testing an in-house database built specifically for capturing LIHEAP Performance Measures from Subrecipients. The Department anticipates reporting on required performance measures on the next LIHEAP Households report due in December of 2016.

16.2 Summarize results of performance goals and measures for the prior Federal fiscal year. Performance goals and measures were not tracked for the prior federal fiscal year.

Section 17: Program Integrity, 2605(b)(10)

17.1. Fraud Reporting Mechanisms

a. Describe all mechanisms available to the public for reporting cases of suspected waste, fraud, and abuse. Select all that apply.

- Online Fraud Reporting
- Dedicated Fraud Reporting Hotline
- Report directly to local agency/district office or Grantee office
- Report to State Inspector General or Attorney General
- Forms and procedures in place for local agencies/district offices and vendors to report fraud, waste, and abuse.
- Other – describe:

b. Describe strategies in place for advertising the above-referenced resources. Select all that apply.

- Printed outreach materials
- Addressed on LIHEAP application
- Website
- Other – describe:

17.2. Identification Documentation Requirements

a. Indicate which of the following forms of identification are required or requested to be collected from LIHEAP applicants or their household members.

Type of Identification Collected	Collected from Whom?		
	Applicant Only	All Adults in HH	HH Members Seeking Assistance*

Social Security Card is photocopied and retained	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Social Security Number (without actual card)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>
Government-issued identification card (i.e.,: driver's license, state ID, Tribal ID, passport, etc.)	Required <input type="checkbox"/>	Required <input type="checkbox"/>	Required <input type="checkbox"/>
	Requested <input checked="" type="checkbox"/>	Requested <input type="checkbox"/>	Requested <input type="checkbox"/>

b. Describe any exceptions to the above policies: Explanation for 17.2a. The State does not require it, but some subrecipients require it for other programs.

*Households may include members who are not seeking assistance and may not be included in the household count.

b. Describe any exceptions to the above policies.

17.3. Identification Verification

Describe what methods are used to verify the authenticity of identification documents provided by clients or household members. Select all that apply.

- Verify SSNs with Social Security Administration
- Match SSNs with death records from Social Security Administration or state agency
- Match SSNs with state eligibility/management system (e.g., SNAP, TANF)
- Match with state Department of Labor system
- Match with state and/or federal corrections system
- Match with state child support system
- Verification using private software (e.g., The Work Number)
- In-person certification by staff
- Match SSN/Tribal ID number with tribal database or enrollment records (for tribal grantees only)
- Other – describe:

Public organization subrecipients verify the authenticity of identification documents provided by clients who are not U.S. citizens or nationals. That verification is made through the Systematic Alien Verification for Entitlements (“SAVE”) system.

17.4. Citizenship/Legal Residency Verification

What are your procedures for ensuring that household members are U.S. citizens or aliens who are qualified to receive LIHEAP benefits?

- Clients sign an attestation of citizenship or legal residency
- Clients’ submission of Social Security cards is accepted as proof of legal residency
- Noncitizens must provide documentation of immigration status

- Citizens must provide a copy of their birth certificate, naturalization papers, or passport
- Noncitizens are verified through the SAVE system
- Tribal members are verified through Tribal database/Tribal ID card
- Other – describe: The SAVE requirement only applies to the public organizations whose benefit determinations are not completed by a private non-profit organization.

17.5. Income Verification

What methods does your agency utilize to verify household income?

- Require documentation of income for all adult household members
 - Pay stubs
 - Social Security award letters
 - Bank statements
 - Tax statements
 - Zero-income statements
 - Unemployment Insurance letters
 - Other – describe: Court Documents or government benefit statements as applicable.
- Computer data matches:
 - Income information matched against state computer system (e.g., SNAP, TANF)
 - Proof of unemployment benefits verified with state Department of Labor
 - Social Security income verified with SSA
 - Utilize state directory of new hires
- Other – describe:

17.6. Protection of Privacy and Confidentiality

Describe the financial and operating controls in place to protect client information against improper use or disclosure.

- Policy in place prohibiting release of information without written consent
- Grantee LIHEAP database includes privacy/confidentiality safeguards
- Employee training on confidentiality for:
 - Grantee employees
 - local agencies/district offices
- Employees must sign confidentiality agreement
 - Grantee employees
 - local agencies/district offices
- Physical files are stored in a secure location
- Other – describe:

Grantee contracts include the following section:

SECTION 9. RECORD KEEPING REQUIREMENTS

Subrecipient acknowledges that all information collected, assembled, or maintained by Subrecipient pertaining to this Contract, except records made confidential by law, is subject to the Texas Public Information Act (Chapter 552 of Texas Government Code) and must provide citizens, public agencies, and other interested parties with reasonable access to all records pertaining to this Contract subject to and in accordance with the Texas Public Information Act.

Texas Administrative Code, Title 10 Chapter 5, Subchapter A §5.22 requires that:

Client Records. The Department requires Subrecipient organizations that administer Community Affairs Programs and serve clients to document client services. Subrecipient organizations must arrange for the security of all program-related computer files through a remote, online, or managed backup service. Confidential client files must be maintained in a manner to protect the privacy of each client and to maintain the same for future reference. Subrecipient organizations must store physical client files in a secure space in a manner that ensures confidentiality and in accordance with Subrecipient organization policies and procedures. To the extent that it is financially feasible, archived client files should be stored offsite from Subrecipient headquarters, in a secure space in a manner that ensures confidentiality and in accordance with organization policies and procedures.

Texas Administrative Code, Title 10 Chapter 1, Subchapter A §1.24

(a) Definitions. The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Affiliate--Shall have the meaning assigned by the specific program or programs described in this title.

(2) Department--The Texas Department of Housing and Community Affairs.

(3) Protected Health Information--As defined in 45 CFR §160.103.

(4) Subrecipient--Includes any entity receiving funds or awards from the Department.

(b) If Subrecipients or Affiliates collect or receive Protected Health Information in the course of administering Department programs, they are required to follow the procedures in Texas Health and Safety Code, Subtitle I, Chapter 181.

(c) A nonprofit agency is exempt from this subchapter; unless the nonprofit's primary business is the provision of health care or reimbursement for health care services.

17.7. Verifying the Authenticity of Energy Vendors

What policies are in place for verifying vendor authenticity?

- All vendors must register with the State/Tribe
- All vendors must supply a valid SSN or TIN/W-9 form
- Vendors are verified through energy bills provided by the household
- Grantee and/or local agencies/district offices perform physical monitoring of vendors
- Other – describe, and note any exceptions to policies above:

17.8. Benefits Policy – Gas and Electric Utilities

What policies are in place to protect against fraud when making benefit payments to gas and electric utilities on behalf of clients? Select all that apply.

- Applicants required to submit proof of physical residency
- Applicants must submit current utility bill
- Data exchange with utilities that verifies:
 - Account ownership
 - Consumption
 - Balances
 - Payment history
 - Account is properly credited with benefit
 - Other – describe:
- Centralized computer system/database tracks payments to all utilities
- Centralized computer system automatically generates benefit level
- Separation of duties between intake and payment approval
- Payments coordinated among other heating assistance programs to avoid duplication of payments
- Payments to utilities and invoices from utilities are reviewed for accuracy
- Computer databases are periodically reviewed to verify accuracy and timeliness of payments made to utilities
- Direct payment to households are made in limited cases only
- Procedures are in place to require prompt refunds from utilities in cases of account closure
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

17.9. Benefits Policy — Bulk Fuel Vendors

What procedures are in place for averting fraud and improper payments when dealing with bulk fuel suppliers of heating oil, propane, wood, and other bulk fuel vendors? Select all that apply.

- Vendors are checked against an approved vendors list
- Centralized computer system/database is used to track payments to all vendors
- Clients are relied on for reports of non-delivery or partial delivery
- Two-party checks are issued naming client and vendor
- Direct payment to households are made in limited cases only
- Vendors are only paid once they provide a delivery receipt signed by the client.
- Conduct monitoring of bulk fuel vendors
- Bulk fuel vendors are required to submit reports to the Grantee
- Vendor agreements specify requirements selected above, and provide enforcement mechanism
- Other – describe:

17.10. Investigations and Prosecutions

Describe the Grantee's procedures for investigating and prosecuting reports of fraud, and any sanctions placed on clients/staff/vendors found to have committed fraud. Select all that apply.

- Refer to state Inspector General
- Refer to local prosecutor or state Attorney General
- Refer to US DHHS Inspector General (including referral to OIG hotline)

- Local agencies/district offices or Grantee conduct investigation of fraud complaints from public
- Grantee attempts collection of improper payments. If so, describe the recoupment process.
- Clients found to have committed fraud are banned from LIHEAP assistance. For how long is a household banned?
- Contracts with local agencies require that employees found to have committed fraud are reprimanded and/or terminated (limited to state law requirements)
- Vendors found to have committed fraud may no longer participate in LIHEAP
- Other — describe: A Subrecipient may be referred to the Department's Enforcement Committee or proposed for debarment.

Section 18: Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. BrBr.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of

Parties Excluded from Federal Procurement and Nonprocurement Programs.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to

which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, [[Page 33043]] should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility an Voluntary Exclusion--Lower Tier Covered Transactions

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

. By checking this box, the prospective primary participant is providing the certification set out above.

Section 19: Certification Regarding Drug-Free Workforce Requirements

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988: 45 CFR Part 76, Subpart, F. Sections 76.630(c) and (d)(2) and 76.645(a)(1) and (b) provide that a Federal agency may designate a central receipt point for STATE-WIDE AND STATE AGENCY-WIDE certifications, and for notification of criminal drug convictions. For the Department of Health and Human Services, the central point is: Division of Grants Management and Oversight, Office of Management and Acquisition, Department of Health and Human Services, Room 517-D, 200 Independence Avenue, SW Washington, DC 20201.

Certification Regarding Drug-Free Workplace Requirements (Instructions for Certification)

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.
2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.
3. For grantees other than individuals, Alternate I applies.
4. For grantees who are individuals, Alternate II applies.
5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.
6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).
7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).
8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled

Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

Certification Regarding Drug-Free Workplace Requirements

Alternate I. (Grantees Other Than Individuals)

The grantee certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an ongoing drug-free awareness program to inform employees about --(1)The dangers of drug abuse in the workplace;
(2) The grantee's policy of maintaining a drug-free workplace;
(3) Any available drug counseling, rehabilitation, and employee assistance programs; and
(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will --
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted -

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

(B) The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

221 East 11th Street

Austin, Travis County, Texas, 78701

Check if there are workplaces on file that are not identified here.

Alternate II. (Grantees Who Are Individuals)

(a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;

(b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

[55 FR 21690, 21702, May 25, 1990]

By checking this box, the prospective primary participant is providing the certification set out above.

Section 20: Certification Regarding Lobbying

The submitter of this application certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

By checking this box, the prospective primary participant is providing the certification set out above.

REQUIRED ATTACHMENTS

The following documents must be attached to this application:

- Assurances signature page
- Designation letter for signature to Assurances is required if someone other than the Governor or Tribal Chairperson signs the Assurances.
- Heating component benefit matrix.
- Cooling component benefit matrix.
- Local Agency Monitoring Schedule