



**American Recovery & Reinvestment Act of 2009  
Texas Weatherization Assistance Program Notice of  
Funding Availability (NOFA)**

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**Definitions**

- ADR:** alternative dispute resolution
- ARRA:** American Recovery and Reinvestment Act of 2009
- CFR:** Code of Federal Regulation
- CO:** carbon monoxide
- DOE:** United States Department of Energy
- Energy Star:** an efficiency rating standard cosponsored by DOE and U.S. Environmental Protection Agency.
- NOFA:** Notice of funding availability
- OMB:** Office of Management and Budget
- Subrecipient:** entity that receives a portion of a federal grant via the department
- T&TA:** training and technical assistance (a DOE budget category)
- TAC:** Texas Administrative Code
- TDHCA:** Texas Department of Housing and Community Affairs
- WAP:** Weatherization Assistance Program

## 1) Summary

- a) The Weatherization Assistance Program (WAP) is designed to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety, especially low income persons who are particularly vulnerable such as the elderly, persons with disabilities, families with young children, high residential energy users, and households with high energy burden. Typical weatherization work includes the installation of attic and wall insulation, caulking, weather stripping, repair or replacement of inefficient appliances, doors, windows, and minor energy-related repairs. The type of weatherization that a household may receive is contingent upon a household's income eligibility, a comprehensive assessment of the household's energy use, and the availability of weatherization funds.
- b) The Texas Department of Housing and Community Affairs ("TDHCA" or the "Department") announces the expected distribution and use of \$297,507,285 (amount includes all administrative funds, see Figure 1) through the Weatherization Assistance Program ("WAP"), which the U.S. Department of Energy ("DOE") is providing to the State of Texas from the American Recovery and Reinvestment Act ("ARRA") of 2009.
- c) The availability and use of these funds is subject to the Weatherization Assistance Program regulations (10 CFR Part 440), Texas Administrative Code (TAC) Chapter 5 and Chapter 2306, Texas Government Code. Other federal regulations may also apply including, but not limited to, OMB Circulars A-87, A-122, A-102 and A-110, as applicable, subchapter IV of chapter 31 of title 40, United State Code (Davis Bacon Act) and others. Applicants are encouraged to familiarize themselves with all of the applicable state and federal rules and program guidelines that govern the program.

## 2) Allocation of Texas WAP Funds

- a) These funds will be distributed in Texas by TDHCA. A contract will be executed between TDHCA and each subrecipient to establish a statewide network for the Texas WAP. TDHCA will coordinate activities in accordance with DOE-WAP guidelines. Households directly assisted with WAP funds must qualify by income and earn no more than 200% of the Federal Poverty Income Guidelines, as defined by US Department of Health and Human Services.
- b) Texas WAP funding is available to 34 existing WAP providers, cities whose populations exceed 75,000 (based on 2000 Census) and whose criteria-based award exceeds \$1,000,000, and units of local government and/or non profits whose population does not exceed 75,000 persons based on 2000 Census data. Each of the entities must apply in order to be considered for a WAP contract. Three pools of funds will be used in the distribution of funds to subrecipients.
  - i) The first pool, the Existing Subrecipient Network pool, is a reservation of \$180,000,000 available solely to existing weatherization service providers serving all 254 counties. The Existing Subrecipient Network is the network of 34 existing WAP

- providers as included in the PY 2009 State Plan.
- ii) The second pool, Criteria Based Awards pool, is an allocation of \$101,873,523 available to cities whose populations exceed 75,000 persons (2000 Census). The approved award amounts are based on the poverty populations in each city (2000 Census). Based on the poverty calculation not all cities with populations exceeding 75,000, qualify for awards in excess of \$1,000,000. For cities whose awards do not exceed \$1,000,000 the award will be made directly with the existing local weatherization provider from the Existing Subrecipient Network in order to efficiently administer the program. The existing Subrecipient Network provider is restricted to using those funds only within the city limits as awarded.
  - iii) The third pool, Competitive Pool, is for units of local government and non-profits with less than 75,000 persons. TDHCA will score eligible applications for a minimum award of \$500,000 and maximum award of \$1,000,000.

c) The following table summarizes the program distribution of Texas DOE funds:

**Figure 1. Program Distribution of Texas DOE Funds**

<b>Program Fund Pool</b>	<b>Pool Amount</b>
Existing Subrecipient Network	\$180,000,000
Direct funded awards from the Criteria Based Awards	\$7,823,640
Criteria-Based Awards for entities with populations exceeding 75,000	\$94,049,883
Competitive Pool for entities with populations under 75,000	\$7,500,000
Administration and Training and Technical Assistance (Shared by the Department and subrecipients)	\$37,602,209
<b>Total Texas DOE ARRA Allocation</b>	<b>\$326,975,732</b>

**3) Applicable Rules**

TDHCA will administer each of the three pools in conjunction with ARRA, the DOE rules, 10 CFR Part 440, 10 CFR Part 600, 10 TAC Chapter 5 Community Affairs Program rules and OMB circulars as applicable.

**4) Ineligible Use of Funds**

- a) WAP funds may not be used to purchase or improve land, or for the purchase of construction or permanent improvement of any building or other facility.
- b) Any entity that receives funds from this proposal assumes responsibility for planning, coordination, and developing WAP activities. The funds shall not be used for the provision of services or the employment or assignment of personnel to support the following activities: any partisan or non-partisan political activity or any political activity in an election for public or party office; any activity to provide voters or prospective voters with transportation to the polls or similar assistance in connection with any such election; or any voter registration activity. Any other uses or activities deemed ineligible by state or federal rule would also be ineligible.

- c) Before the effective date of the Texas WAP Contract, an interested party that ultimately receives an award of Texas WAP funds, (subrecipient) may not incur nor be reimbursed for travel costs, as provided for with Administration funds, related to implementation training required by the Department as a condition of receiving a WAP award and Contract.
- d) There are no allowances for pre-award costs or activities, including but not limited to legal, procurement, or administrative fees.
- e) Additional limitations as defined in ARRA and DOE WAP Program Notices will be strictly enforced.

**5) Administrative Costs Limitations**

Each applicant that is awarded a WAP contract will receive funding for administrative costs. The award amount for the Administration line item shall not exceed five percent (5%) of the total contract amount for all activities except for agencies that receive less than \$350,000 that will receive 10% for the administration of the ARRA WAP funds. For cities with populations above 75,000 and awards less than \$1,000,000 the administration awarded to the existing subrecipient weatherization provider will be 5%. The administrator must use funds for all administrative costs in accordance with 10 CFR §440.18, 10 TAC §5.2 and Office of Management and Budget (OMB) Circulars A-87, A-122, A-102 and A-110, as applicable. Administrative funds are earned through the provision of direct client services.

**6) Eligible and Prohibited Activities.**

- a) The use of WAP grant funds must constitute an eligible use in the ARRA. See Section 7 of the NOFA for a complete listing of eligible activities and uses.
- b) Prohibited activities include, but are not limited to:
  - i) To weatherize a dwelling unit which is designated for acquisition or clearance by a Federal, State, or local program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or
  - ii) To install or otherwise provide weatherization materials for a dwelling unit weatherized previously with grant funds under this part, except:
    - (1) As provided under 10 CFR §440.20;
    - (2) If such dwelling unit has been damaged by fire, flood, or act of God and repair of the damage to weatherization materials is not paid for by insurance; or
    - (3) That dwelling units partially weatherized under this part or under other Federal Programs prior to September 30, 1994; and
  - iii) The payment of any cost that is not eligible under 10 CFR §440.18.

**7) Eligible and Ineligible Applicants.**

- a) Eligible applicants for WAP funding are Units of General Local Government and

nonprofit organizations. For Criteria Based Awards Pool (cities that exceed a \$1,000,000 award), nonprofit organizations must secure a letter from an eligible city granting the nonprofit organization the authority to apply on their behalf.

- b) The following violations will cause a submitted application to be ineligible:
  - i) The Applicant has had a previously funded Contract for which Department funds have been partially or fully deobligated due to failure to meet contractual obligations during the 12 months prior to application submission date; an exception may be made at the discretion of the Department if the deobligation was voluntary, part of project close-out or the remainder was completed on a subsequent Contract;
  - ii) The Applicant has failed (within the reasonable time allotted) to submit: a response to a request for explanation, evidence of corrective action, or a payment of disallowed costs or fees as a result of a monitoring review;
  - iii) The submitted Application has excessive omissions of documentation as required in this NOFA; or is so unclear, disjointed, or incomplete, as determined by the Department, that a thorough review cannot reasonably be performed.
  - iv) Any Application that includes financial participation by a Person who, during the five-year period preceding the date of the bid or award, has been convicted of violating a federal law in connection with a contract awarded by the federal government for relief, recovery, or Reconstruction efforts as a result of Hurricanes Rita or Katrina or any other disaster occurring after September 25, 2005, or was assessed a federal civil or administrative penalty in relation to such a contract.
- c) An applicant is not eligible to apply for funds or any other assistance from the Department unless the most recent required audit or Audit Certification Form has been submitted to the Department in a satisfactory format on or before the application deadline for funds or other assistance per 10 TAC §1.3(b). This is a threshold requirement outlined in the application, therefore applications that have outstanding past audits will be disqualified.
- d) Staff will not recommend applications for funding to the Department's Governing Board unless all reported unresolved audit findings, questions or disallowed costs for Department funded programs are resolved per 10 TAC §1.3(c).

## **8) Weatherization Assistance Program Budget Activities**

### **a) Administration**

- i) DOE allows 5% of funds to be utilized for administration of the WAP. Administrative costs incurred by Subrecipient in performing this contract are to be based on actual programmatic expenditures and shall be allowed up to the amount in the administration budget approved by the Department.
- ii) Allowable administrative costs may include reasonable costs associated with subrecipients administrative personnel, travel, audit fees, office space, equipment, and supplies necessary for the administration of the WAP.
- iii) Subrecipients may use any or all of the funds allowed for administrative purposes for

the purchase and delivery of weatherization materials. This transfer requires a contract amendment; therefore the subrecipient must provide written notification to the Department at least 90 days prior to the end of the contract term before the funds can be moved.

- iv) Administrative funds are earned through the provision of direct services to eligible client households.
- v) Except as expressly modified by law or the terms of the contracts, subrecipients shall comply with the cost principles and uniform administrative requirements set forth in the Uniform Grant and Contract Management Standards, 1 TAC §§5.141, et seq. (the "Uniform Grant Management Standards") provided, however, that all references therein to "local government" shall be construed to mean subrecipient. Uniform cost principles for local governments are set forth in Office of Management and Budget (OMB) Circular A-87, and for non-profit organizations in OMB Circular A-122. Uniform administrative requirements for local governments are set forth in OMB Circular A-102, and for non-profits in OMB Circular A-110. OMB Circular A-133 "Audits of States, Local Governments, and Non-Profit Organizations," provides audit standards for governmental organizations and other organizations expending federal funds. The expenditure threshold requiring an audit under OMB Circular A-133 is \$500,000. In addition to cost principles and administrative requirements listed above WAP subrecipients must comply with 10 TAC §5.601 (relating to Cost Principles and Administrative Requirements). Subrecipients administering DOE programs must also adhere to 10 CFR Part 440 or DOE WAP rules, 10 CFR Part 600 and the International Residential Code.

**b) Training and Technical Assistance**

- i) The Weatherization Assistance Program provides for Training and Technical Assistance (T&TA) for subrecipients and their contractors. Subrecipients will be provided funding for T&TA activities including but not limited to national conferences, state conferences, regional conferences, state trainings, regional workshops, cluster workshops, and training conferences. Subrecipients are permitted to attend State of Texas approved trainings during the contract period.
- ii) The Department may develop a technical training academy to supplement the training mentioned above. Administrative funds or T&TA can be used to travel to any training academy courses.
- iii) The Department does not currently require certification or licensing of subrecipient staff; however, the Department is exploring certification requirements for subrecipient weatherization staff. Any required certifications will be required within, or amended into, the subrecipient contracts and strictly enforced.

**c) Direct Services funds approved in the budget may be used as follows:**

- i) Materials – includes the costs of weatherization materials as defined in 10 CFR 440.3 Definitions “Weatherization Materials” and in 10 CFR 440.21 and Appendix A.

- ii) Labor – includes the cost of labor as defined in 10 CFR §440.19.
- iii) Program Support - includes the purchase and delivery of weatherization materials, and the transportation of weatherization and repair materials, tools, equipment, and work crews to a storage site and to the site of weatherization work. Also included are salary and fringe of non-administrative personnel such as staff who conduct pre and post inspections, determine eligibility, maintain client files, or compile programmatic reporting.

**d) Health and Safety**

- i) The Health and Safety budget will represent a maximum of 20% of the Materials, Labor and Program Support budgets. Subrecipients shall provide weatherization services with the primary goal of energy efficiency. The Department considers establishing a healthy and safe home environment to be important to ensuring that energy savings result from weatherization work. If health and safety issues identified on an individual unit (which would be exacerbated by any weatherization work performed) cannot be abated within the allowable WAP limits, the unit exceeds the scope of this program. Subrecipients shall test all combustion appliances for high carbon monoxide (CO) levels and bring CO levels to acceptable levels before weatherization work can start.
- ii) Health and Safety funds not expended may be moved to the materials, labor and program support budget category. This transfer requires a contract amendment; therefore, the subrecipient must provide written notification to the Department at least 90 days prior to the end of the contract term before the funds can be moved.

**e) Audit**

Subrecipients receive funding for, and shall arrange for, the performance of an annual financial and compliance audit of funds received and performances rendered under the contract.

**f) Insurance**

Subrecipients receive funding (or in the case of local governments, shall maintain sufficient reserves) for personal injury and property damage liability insurance to protect against the hazards arising out of or in connection with the performance of the services.

**g) Pollution Occurrence Insurance**

Subrecipients receive funding for pollution occurrence insurance. Generally, regular liability insurance policies do not provide coverage for potential effects of many health and safety measures, such as lead disturbances and other pollution occurrence items. Subrecipients are encouraged to review existing policies to ensure that lead contamination is covered and if not, secure adequate coverage for all units to be weatherized.

**9) Milestones**

- a) In the ARRA WAP contracts, the Department will implement and enforce stringent contract management benchmarks to ensure meeting the federal mandates and to ensure the timely use of funds.
- b) Subrecipients that fail to show adequate progress based on contract benchmarks as identified in the WAP contract are subject to deobligation of weatherization funds at the discretion of the Department.

**10) Client Eligibility**

- a) Clients to be served through the WAP must have an annualized gross income not to exceed 200% of the poverty income guidelines as provided by the U. S. Department of Health and Human Services and available on the TDHCA website.
- b) Income guidelines are outlined in 10 TAC Chapter 5 Subchapter A General Provisions §5.19 Client Income Guidelines.
- c) Income eligibility is further defined in 10 TAC Chapter 5 Subchapter A General Provisions §5.20 Determining Income Eligibility.
- d) Additional eligibility guidance can be found in 10 TAC Chapter 5 Subchapter E Weatherization Assistance Program General §5.507 and §5.525 and Subchapter F §5.604.

**11) Record Keeping Requirements**

- a) Subrecipients will comply with record keeping requirements set forth in 10 CFR §440.24 and additional record keeping requirements as set forth by the Department or DOE.
- b) Subrecipients shall give DOE, the Department or its assigns, and the Comptroller General of the United States access to and the right to reproduce all records pertaining to this contract. All such records shall be maintained for at least three years after final payment has been made and all other pending matters are closed. Subrecipients shall include this requirement in all subcontracts.
- c) All WAP records maintained by subrecipient, except records made confidential by law, shall be available for inspection by the public during subrecipient's normal business hours to the extent required by the Texas Public Information Act, Texas Government Code Annotated Chapter 552.

**12) Reporting Requirements**

- a) WAP subrecipients shall electronically submit to the Department no later than 10 days (10) days after the end of each month of the contract term:
  - a performance report listing demographic information on all units completed in

the previous month and

- an expenditure report detailing the expenses incurred by the subrecipient. These reports are due even if there has been no new activity to report. WAP contracts will specify the required reporting data.
  - ARRA reporting requirements, using the protocol determined by the Department, including but not limited to job creation and job retention.
- b) If the subrecipient fails to submit, in a timely and satisfactory manner, any report or response required (including responses to monitoring reports) the Department may withhold any and all payments otherwise due or requested by the subrecipient.

### 13) **Additional Requirements**

- a) DOE weatherized units will comply with federal lead-based paint requirements in housing built before 1978 (DOE Weatherization Program Notices 02-6, 08-6, and 09-6).
- b) Davis-Bacon Labor Standards, as applicable.
- c) Any additional requirements as applied by DOE and/or the State of Texas.
- d) If DOE funds weatherize a property that was previously weatherized with DOE funds, subrecipients must ensure the weatherization occurred prior to September 30, 1994, or meets the requirements set forth in Section 6(b)(ii) of this document.
- e) Subrecipients are required to verify addresses of eligible client households against a master data base provided by the department of previously weatherized units (or in coordination with the existing subrecipient provider of weatherization services).

### 14) **Application Requirements**

- a) **Existing Subrecipient Network Pool and Criteria Based Awards Pool:** To receive an Allocation, Part I of the application from each subrecipient must be submitted to the Department by the Application deadline (Sect. 17). Failure to meet the deadline can result in the relinquishment and reallocation of the reservation of funds. The State intends to award funds under these two pools on the criteria defined in the activity described in this NOFA by August 1, 2009.
- b) **Competitive Pool:** To receive an Allocation, Part I and II of the application from each subrecipient must be submitted to the Department by the Application deadline. Failure to meet the deadline will result in the relinquishment and reallocation of the reservation of funds. The State intends to award Competitive Pool funds based on the selection criteria defined in the activity described in this NOFA by August 1, 2009.
- c) **Selection Criteria and Priorities:** The State of Texas has established the priorities described below that will be used in the application review process. While the criteria are important to demonstrate a successful proposal, the structure is designed to ensure that the State complies with the ARRA intent to create jobs, and stimulate the local economy

through the expenditure of the ARRA funding.

**Part I - Capacity Threshold:** Recipients must demonstrate their capacity to effectively administer the ARRA funding. Please provide a narrative description that demonstrates the capacity to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential expenditures, and improve their health and safety, especially low income persons who are particularly vulnerable such as the elderly, persons with disabilities, families with children, high residential energy users, and households with high energy burden. Please describe:

- i) **Federal Program Experience:** Network providers must briefly describe what federal programs your entity currently administers. Please describe the program, award amounts, current status and contract dates. For non-department funded programs please provide the most recent monitoring report and subsequent response by the entity.
- ii) **Energy Efficiency Experience:** Describe any energy efficiency programs (other than TDHCA funded programs) your entity currently administers (city, county, federal or utility-funded energy efficiency programs). Please provide details, program guidelines, funding amounts and copies of contract documents.
- iii) **Key Staff Qualifications:** Please describe existing key staff positions and qualifications that would enhance the applicant's capacity to effectively administer the WAP. Also please describe how your organization will expand to address the significant increase in fund and how staffing will be addressed.
- iv) **Service Delivery Structure:** Please provide a narrative of how the weatherization service delivery model will be coordinated with current programs and staff to take advantage of existing process and procedures. (You can attach existing process or procedure documents that demonstrate your entity's capacity.)
- v) **Growth and Contraction:** describe specifically how your entity will expand its operational capacity (equipment, staff, accounting, quality assurance, etc.) to address new funds and the subsequent contraction strategy. For non network providers: If existing staff will provide quality control checks, please provide a job description of current quality assurance duties and if no quality assurance duties exist, how the entity intends to properly train and equip staff for quality assurance checks, or procure third party quality assurance services.
- vi) **Timeline:** Please provide a timeline that demonstrates how your entity will meet the demand for timely expenditures. The timeline should include quantifiable steps to measure progress and adhere to stringent expenditure requirements.
- vii) **Outreach Plans:** Please describe how your entity currently performs outreach for your existing programs, how you administer waiting lists (if applicable), please provide a copy of your current waiting list, and how your entity will reach out to underserved populations in your service area.

**Part II – Competitive Pool additional documentation: (50 points maximum)**

- i) Please describe any current program that your city administers that is similar in purpose to the ARRA Weatherization. This could include city, county, federally or utility funded programs. (20 points)
- ii) If your entity has funded or intends to fund a program similar in nature, please

- provide a copy of the budget that enumerates the dedicated funding plan. (10 points)
- iii) If your entity has collaborated, or intends to collaborate with another jurisdiction to provide for energy efficiency services please provide a copy of the contract memorandum of understanding (MOU) or other documentation that clarifies the roles and responsibilities of each party. (10 points)
  - iv) Is your city an Entitlement Community for CDBG funds? Please provide the most recent award letter, monitoring report, and response for each fund source. (10 points)

**15) Review Process**

- a) Each application will be reviewed on its own merits, as applicable. Applications will be reviewed for threshold criteria as described in this NOFA.
- b) The Department will ensure review of materials required under the NOFA and Program Guide and will issue a notice of any Administrative deficiencies within ten (10) business days of the received date. Administrative deficiencies are omissions, inaccuracies or incomplete information on the application that can be readily corrected. Applications with Administrative Deficiencies not cured within a subsequent ten (10) business days, are subject to termination. Applications that have completed this phase will be reviewed for recommendation to the TDHCA Board by the Selection Committee.
- c) If a submitted Application has an entire section of the application missing; has excessive omissions of documentation from the Criteria or required documentation; or is so unclear, disjointed or incomplete that a thorough review cannot reasonably be performed by the Department, as determined by the Department, the application will be terminated without being processed based on Administrative Deficiency. To the extent that a review could be performed, specific reasons for the Department's determination of ineligibility will be included in the termination letter to the Applicant.
- d) All Applicants will be processed through the Department's Application Evaluation System, and will include a previous award and past performance evaluation. Poor past performance may disqualify an Applicant for a funding recommendation or the recommendation may include conditions.
- e) Funding recommendations of eligible Applicants will be presented to the Department's Governing Board of Directors based on eligibility and limited by the total amount of funds available under this NOFA and the minimum and maximum award amount.
- f) In accordance with §2306.082, Texas Government Code and 10 TAC §1.17, it is the Department's policy to encourage the use of appropriate alternative dispute resolution procedures ("ADR") under the Governmental Dispute Resolution Act, Chapter 2009, Texas Government Code, to assist in resolving disputes under the Department's jurisdiction. As described in Chapter 154, Civil Practices and Remedies Code, ADR procedures include mediation. Except as prohibited by the Department's ex parte communications policy, the Department encourages informal communications between Department staff and Applicants, and other interested persons, to exchange information and informally resolve disputes. The Department also has administrative appeals

processes to fairly and expeditiously resolve disputes. If at anytime an Applicant or other person would like to engage the Department in an ADR procedure, the person may send a proposal to the Department's Dispute Resolution Coordinator. For additional information on the Department's ADR Policy, see the Department's General Administrative Rule on ADR at 10 TAC §1.17.

- g) An Applicant may appeal decisions made by staff in accordance with 10 TAC §1.7.

## **16) Additional Requirements**

In order to receive ARRA funds the state is required to include the following additional requirements:

- a) Segregation of Costs - Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.
- b) Prohibition on Use of Funds - None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- c) Wage Rates - All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code.
- d) Reporting Requirements for Recipients - Not later than 10 days after the end of each calendar quarter, each recipient shall submit a report to the Contracting Officer or to an address or website designated by the Contracting Officer that contains:
  - i) The total amount of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds received from that agency;
  - ii) The amount of American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, covered funds received that were expended or obligated to projects or activities;
  - iii) A detailed list of all projects or activities for which American Recovery and Reinvestment Act of 2009, Pub L. 111-5, covered funds were expended or obligated including:
    - 1) Name of project or activity
    - 2) Contract or agreement number
    - 3) Description of project or activity

- 4) Evaluation of the completion status of project or activity
  - 5) Estimate of number of jobs created and retained by project or activity in the manner and form prescribed
  - 6) Infrastructure investments made by State and local governments, purpose, total cost, rationale of agency for funding infrastructure investment, name of agency contact.
  - 7) Information on subgrants awarded by recipient to include data elements required to comply with the Federal Accountability and Transparency Act of 2006 (Pub. L. 109-282).
- iv) See the Reporting Requirements Checklist for the ARRA-Performance Progress Report and Instructions.
  - v) This information shall be reported to and published on the Internet at [www.Recovery.gov](http://www.Recovery.gov).
  - vi) Recipients required to report must register with the Central Contractor Registration (CCR) database. Recipient shall ensure that all first-tier subrecipients have a DUNS number and are registered in the CCR no later than the date the first report is due under paragraph E above.
  - vii) Failure to comply with this reporting requirement may result in termination of that part of the award funded by the Recovery Act.
- e) Access to Records - With respect to each contract or grant awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized –
    - i) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions related to, the contract, subcontract, grant, or subgrant; and
    - ii) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.
  - f) Publication - An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

#### **Notice of Restriction on Disclosure and Use of Data**

The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction

from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

- g) Protecting State and Local Government and Contractor Whistleblowers - The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:
- i) Prohibition on Reprisals: An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of:
    - 1) gross management of an agency contract or grant relating to covered funds;
    - 2) a gross waste of covered funds
    - 3) a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
    - 4) an abuse of authority related to the implementation or use of covered funds; or
    - 5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.
  - ii) Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:
    - 1) Order the employer to take affirmative action to abate the reprisal.
    - 2) Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
    - 3) Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

- iii) Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.
- iv) Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 located at [www.recovery.gov](http://www.recovery.gov), for specific requirements of this section and prescribed language for the notices.)
- h) RESERVED
- i) False Claims Act - Recipient and sub-recipients shall promptly refer to the DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict or interest, bribery, gratuity or similar misconduct involving those funds.
- j) Information in Support of Recovery Act Reporting - Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.
- k) Availability of Funds - Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.
- l) Buy American –
  - i) None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act, Pub. L. 111-5, may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.
  - ii) Subsection (a) shall not apply in any case or category of cases in which the head of the Federal department or agency (grantor) finds that –
    - 1) applying subsection (a) would be inconsistent with the public interest;
    - 2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
    - 3) inclusion of iron, steel and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.
  - iii) If the head of a Federal department or agency determines that it is necessary to waive

the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

- iv) This section shall be applied in a manner consistent with United States obligations under international agreements.
- v) Implementation of this provision should follow the forthcoming requirements in the Federal Acquisition Regulation or as otherwise identified by the Contracting Officer.
- m) Additional Funding Distribution and Assurance of Appropriate Use of Funds
  - i) Certification by Governor -- Not later than April 3, 2009, for funds provided to any State or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5, the Governor of the State shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.
  - ii) Acceptance by State Legislature -- If funds provided to any State in any division of the Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.
  - iii) Distribution – After adoption of a State legislature’s concurrent resolution, funding to the State will be authorized for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State’s discretion.
- n) Certifications - With respect to funds made available to State or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certifies by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used for posting on the Internet. A State or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.

## 17) Application Submission

- a) All applications submitted for the Existing Subrecipient Network Pool and the Criteria Based Awards under this NOFA must be received on or before 5:00 p.m. on **Tuesday June 23, 2009, regardless of method of delivery.**
- b) All applications submitted for the Competitive Pool under this NOFA must be received on or before 5:00 p.m. on **Friday June 26, 2009, regardless of method of delivery.**

- c) The Department will accept applications from 8 a.m. to 5 p.m. each business day, excluding federal and state holidays from the date this NOFA is published on the Department's web site until the deadline. Questions regarding this NOFA should be addressed to:

Texas Department of Housing & Community Affairs  
221 E. 11<sup>th</sup> Street  
Austin, Texas 78701  
Telephone: (512) 463-8921  
E-mail: [michael.deyoung@tdhca.state.tx.us](mailto:michael.deyoung@tdhca.state.tx.us)

- d) All applications must be submitted, and provide all documentation, as described in this NOFA and associated application materials.
- e) Applicants must submit two complete printed copies of all Application materials.
- f) All Application materials will be available on the Department's website at <http://www.tdhca.state.tx.us/> by May 28, 2009.
- g) This NOFA does not include text of the various applicable regulatory provisions that may be important to the WAP Program. For proper completion of the application, the Department strongly encourages potential applicants to review the State and Federal regulations, and contact the Energy Assistance Section for guidance and assistance.
- h) **Application Workshop:** the Department will present application workshops in San Antonio June 3, 2009 for the existing subrecipient network, and Dallas June 8, 2009 for cities and non profits not currently providing WAP services. The workshops will address information such as the Application preparation and submission requirements, evaluation criteria, and state and federal program information. The Application workshop schedule and registration will be posted on the Department's website at <http://www.tdhca.state.tx.us/recovery/detail-wap.htm>
- i) Applications may be sent via overnight delivery to:

**Texas Department of Housing and Community Affairs**  
**Attn: Energy Assistance Section**  
**221 East 11<sup>th</sup> Street**  
**Austin, TX 78701-2410**

or via the U.S. Postal Service to:  
**Texas Department of Housing and Community Affairs**  
**Attn: Energy Assistance Section**  
**Post Office Box 13941**  
**Austin, TX 78711-3941**

**Exhibit 1. Texas Weatherization Assistance Program  
Existing Subrecipient Organizations**

Subrecipient	Base Formula Award	Actual Award (Base award with Direct funding added)
Alamo Area Council of Governments	\$14,396,113	\$14,396,113
Bee Community Action Agency	\$1,013,387	\$1,013,387
Big Bend Community Action Agency	\$2,253,117	\$2,253,117
Brazos Valley Community Action	\$5,888,283	\$5,888,283
Community Action Committee of Victoria	\$4,642,987	\$4,642,987
Cameron-Willacy Counties Community Projects Inc.	\$5,129,658	\$5,129,658
Caprock Community Action	\$1,795,845	\$1,795,845
City of Fort Worth	\$7,501,189	\$7,501,189
Combined Community Action	\$3,338,110	\$3,338,110
Community Council of Reeves County	\$676,556	\$676,556
Community Action Program	\$3,989,045	\$3,989,045
Community Services, Inc.	\$9,654,888	\$12,169,815
Concho Valley Community Action Agency	\$3,496,445	\$4,339,879
Community Action Corporation of South Texas	\$10,789,991	\$10,789,991
Community Services Agency of South Texas	\$3,561,625	\$3,561,625
Dallas County Department of Human Services	\$13,352,411	\$15,521,450
El Paso Community Action-Project BRAVO	\$7,148,323	\$7,148,323
Economic Opportunities Advancement Corp. of Planning Reg. XI	\$3,677,044	\$3,677,044
Greater East Texas Community Action Program	\$5,724,797	\$5,724,797
Hill Country Community Action Agency	\$4,309,750	\$5,017,472
Institute of Rural Development	\$327,610	\$327,610
City of Lubbock	\$2,420,804	\$2,420,804
Nueces County Community Action Association	\$3,045,356	\$3,045,356
Panhandle Community Services	\$6,062,442	\$6,062,442
Program for Human Services	\$6,273,982	\$6,273,982
Rolling Plains Management Corporation	\$3,197,048	\$4,018,881
Sheltering Arms Senior Services, Inc.	\$22,228,257	\$22,228,257
South Plains Community Action Agency	\$1,519,239	\$1,519,239
South Texas Development Council	\$1,704,115	\$1,704,115
Texoma Council of Government	\$5,839,604	\$5,839,604
Travis County Human Services Department	\$4,498,894	\$4,498,894
Tri-County Community Action, Inc.	\$3,365,619	\$3,365,619
Webb County Community Action Agency	\$2,302,205	\$2,302,205
West Texas Opportunities, Inc.	\$4,875,260	\$5,641,943
	<b>\$180,000,000</b>	<b>\$187,823,640</b>

**Exhibit 2. Texas Weatherization Assistance Program  
Criteria Based Awards**

City	Award
Houston	\$23,447,474
Dallas	\$13,183,180
San Antonio	\$12,308,804
El Paso	\$7,896,261
Austin	\$5,845,969
Fort Worth	\$5,270,464
Laredo	\$3,271,636
Brownsville	\$3,157,780
Corpus Christi	\$3,039,667
Lubbock	\$2,234,926
Arlington	\$2,064,651
Waco	\$1,769,084
McAllen	\$1,585,466
Amarillo	\$1,581,844
Pasadena	\$1,431,646
Beaumont	\$1,382,533
Irving	\$1,285,388
Garland	\$1,208,954
Odessa	\$1,051,259
Abilene	\$1,032,897
<b>Total</b>	<b>\$94,049,883</b>

### **Regulatory and Legal Citations in this NOFA**

- 1) §2306.082 Texas Government Code
- 2) 10 CFR §440
- 3) 10 TAC §1.17
- 4) 10 TAC §1.3
- 5) 10 TAC §1.7
- 6) 10 TAC §5 Community Affairs Program Rules
- 7) 10 TAC §5.6
- 8) American Recovery and Reinvestment Act (ARRA) of 2009
- 9) Civil Practices and Remedies Code Chapter 154
- 10) Davis-Bacon Act, Labor Standards
- 11) DOE WAP Program Notices 02-6, 08-6, 09-6
- 12) International Residential Code
- 13) Office of Management and Budget (OMB) Circular A-87
- 14) OMB Circulars A-122, A-102, A-110, A-133
- 15) Texas Administrative Code (TAC) Chapter 5
- 16) Texas Government Code Chapter 2306
- 17) Texas Government Code, Chapter 2009 Governmental Dispute Resolution Act
- 18) Texas Public Information Act, Texas Government Code Annotated, Chapter 552.8, Uniform Grant and Contract Management Standards, 10 TAC §5.141, et seq (the “Uniform Grant Management Standards”)
- 19) WAP State Plan 2009 (Texas)

TDHCA ORGANIZATION DUNS NUMBER 806781902