

WEATHERIZATION ASSISTANCE PROGRAM AUTHORIZING STATUTE

42 USCS § 6861

§ 6861. Findings and purpose

(a) The Congress finds that--

(1) a fast, cost-effective, and environmentally sound way to prevent future energy shortages in the United States while reducing the Nation's dependence on imported energy supplies, is to encourage and facilitate, through major programs, the implementation of energy conservation and renewable-resource energy measures with respect to dwelling units;

(2) existing efforts to encourage and facilitate such measures are inadequate because--

(A) many dwellings owned or occupied by low-income persons are energy inefficient;

(B) low-income persons can least afford to make the modifications necessary to provide for efficient energy equipment in such dwellings and otherwise to improve the energy efficiency of such dwellings;

(3) weatherization of such dwellings would lower shelter costs in dwellings owned or occupied by low-income persons as well as save energy and reduce future energy capacity requirements; and

(4) States, through Community Action Agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to alleviate the adverse effects of energy costs on such low-income persons, to supplement other Federal programs serving such low-income persons, and to increase energy efficiency.

(b) It is, therefore, the purpose of this part [42 USCS §§ 6861 et seq.] to develop and implement a weatherization assistance program to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total residential energy expenditures, and improve their health and safety, especially low-income persons who are particularly vulnerable such as the elderly, the handicapped, and children.

42 USCS § 6862

§ 6862. Definitions

As used in this part [42 USCS §§ 6861 et seq.]:

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "Director" means the Director of the Community Services Administration.

(3) The term "elderly" means any individual who is 60 years of age or older.

(4) The term "Governor" means the chief executive officer of a State (including the Mayor of the District of Columbia).

(5) The term "handicapped person" means any individual (A) who is an individual with a disability, as defined in section 7 of the Rehabilitation Act of 1973 [29 USCS § 706], (B) who is under a disability as defined in section 1614 (a)(3)(A) or 223(d)(1) of the Social Security Act [42 USCS § 1382c(a)(3)(A) or 423(d)(1)] or in section 102(7) of the Developmental Disabilities Services and Facilities Construction Act, or (C) who is receiving benefits under chapter 11 or 15 of title 38, United States Code [38 USCS §§ 1101 et seq. or §§ 1501 et seq.].

(6) The terms "Indian", "Indian tribe", and "tribal organization" have the meanings prescribed for such terms by section 102 of the Older Americans Act of 1965 [42 USCS § 3002].

(7) The term "low-income" means that income in relation to family size which (A) is at or below 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, except that the Secretary may establish a higher level if the Secretary, after consulting with the Secretary of Agriculture and the Director of the Community Services Administration, determines that such a higher level is necessary to carry out the purposes of this part [42 USCS §§ 6861 et seq.] and is consistent with the eligibility criteria established for the weatherization program under section 222(a)(12) of the Economic Opportunity Act of 1964, (B) is the basis on which cash assistance payments have been paid during the preceding 12-month period under titles IV and XVI of the Social Security Act [42 USCS §§ 601 et seq. and 1381 et seq.] or applicable State or local law, or (C) if a State elects, is the basis for eligibility for assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621), provided that such basis is at least 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

(8) State. The term "State" means--

- (A) a State;
- (B) the District of Columbia;
- (C) the Commonwealth of Puerto Rico; and
- (D) any other territory or possession of the United States.

(9) The term "weatherization materials" means--

- (A) caulking and weatherstripping of doors and windows;
- (B) furnace efficiency modifications, including, but not limited to--
 - (i) replacement burners, furnaces, or boilers or any combination thereof;
 - (ii) devices for minimizing energy loss through heating system, chimney, or venting devices; and
 - (iii) electrical or mechanical furnace ignition systems which replace standing gas pilot lights;
- (C) clock thermostats;
- (D) ceiling, attic, wall, floor, and duct insulation;
- (E) water heater insulation;
- (F) storm windows and doors, multiglazed windows and doors, heat-absorbing or heat-reflective window and door materials;
- (G) cooling efficiency modifications, including, but not limited to, replacement air-conditioners, ventilation equipment, screening, window films, and shading devices;
- (H) solar thermal water heaters;
- (I) wood-heating appliances; and
- (J) such other insulating or energy conserving devices or technologies as the Administrator may determine, after consulting with the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Community Services Administration.

42 USCS § 6863

§ 6863. Weatherization program

(a) Development and conduct of program by Secretary; grants to States and Indian tribal organizations. The Secretary shall develop and conduct, in accordance with the purpose and provisions of this part [42 USCS §§ 6861 et seq.], a weatherization program. In developing and conducting such program, the Secretary may, in accordance with this part [42 USCS §§ 6861 et seq.] and regulations promulgated under this part [42 USCS §§ 6861 et seq.], make grants (1) to States, and (2) in accordance with the provisions of subsection (d), to Indian tribal organizations to serve Native Americans. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, occupied by low-income families.

(b) Consultation by Secretary with other Federal departments and agencies on development and publication in Federal Register of proposed regulations; required regulatory provisions; standards and procedures; rental units.

(1) The Secretary, after consultation with the Director, the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, and the heads of such other Federal departments and agencies as the Secretary deems appropriate, shall develop and publish in the Federal Register for public comment, not later than 60 days after the date of enactment of this part [enacted Aug. 14, 1976], proposed regulations to carry out the provisions of this part [42 USCS §§ 6861 et seq.]. The Secretary shall take into consideration comments submitted regarding such proposed regulations and shall promulgate and publish final regulations for such purpose not later than 90 days after the date of such enactment [enacted Aug. 14, 1976]. The development of regulations under this part [42 USCS §§ 6861 et seq.] shall be fully coordinated with the Director.

(2) The regulations promulgated pursuant to this section shall include provisions--

(A) prescribing, in coordination with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, and the Director of the National Bureau of Standards in the Department of Commerce, for use in various climatic, structural, and human need settings, standards for weatherization materials, energy conservation techniques, and balanced combinations thereof, which are designed to achieve a balance of a healthful dwelling environment and maximum practicable energy conservation;

(B) that provide guidance to the States in the implementation of this part [42 USCS §§ 6861 et seq.], including guidance designed to ensure that a State establishes (i) procedures that provide protection under paragraph (5) to tenants paying for energy as a portion of their rent, and (ii) a process for monitoring compliance with its obligations pursuant to this part [42 USCS §§ 6861 et seq.]; and

(C) that secure the Federal investment made under this part [42 USCS §§ 6861 et seq.] and address the issues of eviction from and sale of property receiving weatherization materials under this part [42 USCS §§ 6861 et seq.].

(3) The Secretary, in coordination with the Secretaries and Director described in paragraph (2)(A) and with the Director of the Community Services Administration and the Secretary of Agriculture, shall develop and publish in the Federal Register for public comment not later than

60 days after the date of enactment of this paragraph [enacted Nov. 9, 1978], proposed amendments to the regulations prescribed under paragraph (1). Such amendments shall provide that the standards described in paragraph (2)(A) shall include a set of procedures to be applied to each dwelling unit to determine the optimum set of cost-effective measures, within the cost guidelines set for the program, to be installed in such dwelling unit. Such standards shall, in order to achieve such optimum savings of energy, take into consideration the following factors--

- (A) the cost of the weatherization material;
- (B) variation in climate; and
- (C) the value of energy saved by the application of the weatherization material.

Such standards shall be utilized by the Secretary in carrying out this part [42 USCS §§ 6861 et seq.], the Secretary of Agriculture in carrying out the weatherization program under section 504(c) of the Housing Act of 1949 [42 USCS § 1474(c)], and the Director of the Community Services Administration in carrying out weatherization programs under section 222(a)(12) of the Economic Opportunity Act of 1964. The Secretary shall take into consideration comments submitted regarding such proposed amendment and shall promulgate and publish final amended regulations not later than 120 days after the date of enactment of this paragraph [enacted Nov. 9, 1978].

(4) In carrying out paragraphs (2)(A) and (3), the Secretary shall establish the standards and procedures described in such paragraphs so that weatherization efforts being carried out under this part [42 USCS §§ 6861 et seq.] and under programs described in the fourth sentence of paragraph (3) will accomplish uniform results among the States in any area with a similar climatic condition.

(5) In any case in which a dwelling consists of a rental unit or rental units, the State, in the implementation of this part [42 USCS §§ 6861 et seq.], shall ensure that--

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

(B) for a reasonable period of time after weatherization work has been completed on a dwelling containing a unit occupied by an eligible household, the tenants in that unit (including households paying for their energy through their rent) will not be subjected to rent increases unless those increases are demonstrably related to matters other than the weatherization work performed;

(C) the enforcement of subparagraph (B) is provided through procedures established by the State by which tenants may file complaints and owners, in response to such complaints, shall demonstrate that the rent increase concerned is related to matters other than the weatherization work performed; and

(D) no undue or excessive enhancement will occur to the value of such dwelling units.

(6) As a condition of having assistance provided under this part [42 USCS §§ 6861 et seq.] with respect to multifamily buildings, a State may require financial participation from the owners of such buildings.

(c) Failure of State to submit application; alternate application by any unit of general purpose local government or community action agency; submission of amended application by State. If a State does not, within 90 days after the date on which final regulations are promulgated under this section, submit an application to the Secretary which meets the requirements set forth in section 414 [42 USCS § 6864], any unit of general purpose local government of sufficient size (as determined by the Secretary), or a community action agency carrying out

programs under title II of the Economic Opportunity Act of 1964, may, in lieu of such State, submit an application (meeting such requirements and subject to all other provisions of this part [42 USCS §§ 6861 et seq.]) for carrying out projects under this part [42 USCS §§ 6861 et seq.] within the geographical area which is subject to the jurisdiction of such government or is served by such agency. A State may, in accordance with regulations promulgated under this part [42 USCS §§ 6861 et seq.], submit an amended application.

(d) Direct grants to low-income members of Indian tribal organizations or alternate service organizations; application for funds.

(1) Notwithstanding any other provision of this part [42 USCS §§ 6861 et seq.], in any State in which the Secretary determines (after having taken into account the amount of funds made available to the State to carry out the purposes of this part [42 USCS §§ 6861 et seq.]) that the low-income members of an Indian tribe are not receiving benefits under this part [42 USCS §§ 6861 et seq.] that are equivalent to the assistance provided to other low-income persons in such State under this part [42 USCS §§ 6861 et seq.], and if he further determines that the members of such tribe would be better served by means of a grant made directly to provide such assistance, he shall reserve from sums that would otherwise be allocated to such State under this part [42 USCS §§ 6861 et seq.] not less than 100 percent, nor more than 150 percent, of an amount which bears the same ratio to the State's allocation for the fiscal year involved as the population of all low-income Indians for whom a determination under this subsection has been made bears to the population of all low-income persons in such State.

(2) The sums reserved by the Secretary on the basis of his determination under this subsection shall be granted to the tribal organization serving the individuals for whom such a determination has been made, or, where there is no tribal organization, to such other entity as he determines has the capacity to provide services pursuant to this part [42 USCS §§ 6861 et seq.].

(3) In order for a tribal organization or other entity to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary an application meeting the requirements set forth in section 414 [42 USCS § 6864].

(e) Transfer of funds. Notwithstanding any other provision of law, the Secretary may transfer to the Director sums appropriated under this part [42 USCS §§ 6861 et seq.] to be utilized in order to carry out programs, under section 222(a)(12) of the Economic Opportunity Act of 1964, which further the purpose of this part [42 USCS §§ 6861 et seq.].

42 USCS § 6864

§ 6864. Financial assistance

(a) Annual application; contents; allocation to States. The Secretary shall provide financial assistance, from sums appropriated for any fiscal year under this part [42 USCS §§ 6861 et seq.], only upon annual application. Each such application shall describe the estimated number and characteristics of the low-income persons and the number of dwelling units to be assisted and the criteria and methods to be used by the applicant in providing weatherization assistance to such persons. The application shall also contain such other information (including information needed for evaluation purposes) and assurances as may be required (1) in the regulations

promulgated pursuant to section 413 [42 USCS § 6863] and (2) to carry out this section. The Secretary shall allocate financial assistance to each State on the basis of the relative need for weatherization assistance among low-income persons throughout the States, taking into account the following factors:

- (A) The number of dwelling units to be weatherized.
- (B) The climatic conditions in the State respecting energy conservation, which may include consideration of annual degree days.
- (C) The type of weatherization work to be done in the various settings.
- (D) Such other factors as the Secretary may determine necessary, such as the cost of heating and cooling, in order to carry out the purpose and provisions of this part [42 USCS §§ 6861 et seq.].

(b) Requirements for assistance. The Secretary shall not provide financial assistance under this part [42 USCS §§ 6861 et seq.] unless the applicant has provided reasonable assurances that it has--

(1) established a policy advisory council which (A) has special qualifications and sensitivity with respect to solving the problems of low-income persons (including the weatherization and energy-conservation problems of such persons), (B) is broadly representative of organizations and agencies which are providing services to such persons in the State or geographical area in question, and (C) is responsible for advising the responsible official or agency administering the allocation of financial assistance in such State or area with respect to the development and implementation of such weatherization assistance program;

(2) established priorities to govern the provision of weatherization assistance to low-income persons, including methods to provide priority to elderly and handicapped low-income persons, and such priority as the applicant determines is appropriate for single-family or other high-energy-consuming dwelling units;

(3) established policies and procedures designed to assure that financial assistance provided under this part [42 USCS §§ 6861 et seq.] will be used to supplement, and not to supplant, State or local funds, and, to the extent practicable, to increase the amounts of such funds that would be made available in the absence of Federal funds for carrying out the purpose of this part [42 USCS §§ 6861 et seq.], including plans and procedures (A) for securing, to the maximum extent practicable, the services of volunteers and training participants and public service employment workers, pursuant to title I of the Workforce Investment Act of 1998, to work under the supervision of qualified supervisors and foremen, (B) for using Federal financial assistance under this part [42 USCS §§ 6861 et seq.] to increase the portion of low-income weatherization assistance that the State obtains from non-Federal sources, including private sources, and (C) for complying with the limitations set forth in section 415 [42 USCS § 6865]; and

(4) selected on the basis of public comment received during a public hearing conducted pursuant to section 415(b)(1) [42 USCS § 6865(b)(1)], and other appropriate findings, community action agencies or other public or nonprofit entities to undertake the weatherization activities authorized by this title: Provided, Such selection shall be based on the agency's experience and performance in weatherization or housing renovation activities, experience in assisting low-income persons in the area to be served, and the capacity to undertake a timely and effective weatherization program: Provided further, That in making such selection preference shall be given to any community action agency or other public or nonprofit entity which has, or is currently administering, an effective program under this title or under title II of the Economic Opportunity Act of 1964.

(c) Annual update of data used in allocating funds. Effective with fiscal year 1991, and annually thereafter, the Secretary shall update the population, eligible households, climatic, residential energy use, and all other data used in allocating the funds under this part [42 USCS §§ 6861 et seq.] among the States pursuant to subsection (a).

42 USCS § 6864a

§ 6864a. Private sector investments

(a) In general. The Secretary shall, to the extent funds are made available for such purpose, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 [42 USCS §§ 6863 or 6864] for the development and initial implementation of partnerships, agreements, or other arrangements with utilities, private sector interests, or other institutions, under which non-Federal financial assistance would be made available to support programs which install energy efficiency improvements in low-income housing.

(b) Use of funds. Financial assistance provided under this section may be used for--

- (1) the negotiation of such partnerships, agreements and other arrangements;
- (2) the presentation of arguments before State or local agencies;
- (3) expert advice on the development of such partnerships, agreements, and other arrangements; or
- (4) other activities reasonably associated with the development and initial implementation of such arrangements.

(c) Conditions.

(1) Financial assistance provided under this section to entities other than States shall, to the extent practicable, coincide with the timing of financial assistance provided to such entities under section 413 or section 414 [42 USCS §§ 6863 or 6864].

(2) Not less than 80 percent of amounts provided under this section shall be provided to entities other than States.

(3) A recipient of financial assistance under this section shall have up to three years to complete projects undertaken with such assistance.

42 USCS § 6864b

§ 6864b. Technical transfer grants

(a) In general. The Secretary may, to the extent funds are made available, provide financial assistance to entities receiving funding from the Federal Government or from a State through a weatherization assistance program under section 413 or section 414 [42 USCS §§ 6863 or 6864] for--

- (1) evaluating technical and management measures which increase program and/or private entity performance in weatherizing low-income housing;
- (2) producing technical information for use by persons involved in weatherizing low-income housing;
- (3) exchanging information; and
- (4) conducting training programs for persons involved in weatherizing low-income housing.

(b) Conditions.

- (1) Not less than 50 percent of amounts provided under this section shall be awarded to entities other than States.
- (2) A recipient of financial assistance under this section may contract with nonprofit entities to carry out all or part of the activities for which such financial assistance is provided.

42 USCS § 6865

§ 6865. Limitations on financial assistance

(a) Purchase of materials and administration of projects.

(1) Not more than an amount equal to 10 percent of any grant made by the Secretary under this part [42 USCS §§ 6861 et seq.] may be used for administrative purposes in carrying out duties under this part [42 USCS §§ 6861 et seq.], except that not more than one-half of such amount may be used by any State for such purposes, and a State may provide in the plan adopted pursuant to subsection (b) for recipients of grants of less than \$ 350,000 to use up to an additional 5 percent of such grant for administration if the State has determined that such recipient requires such additional amount to implement effectively the administrative requirements established by the Secretary pursuant to this part [42 USCS §§ 6861 et seq.].

(2) The Secretary shall establish energy audit procedures and techniques which (i) meet standards established by the Secretary after consultation with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act [42 USCS § 6325(g)], (ii) establish priorities for selection of weatherization measures based on their cost and contribution to energy efficiency, (iii) measure the energy requirement of individual dwellings and the rate of return of the total conservation investment in a dwelling, and (iv) account for interaction among energy efficiency measures.

(b) Allocation, termination or discontinuance by Secretary. The Secretary shall insure that financial assistance provided under this part [42 USCS §§ 6861 et seq.] will--

(1) be allocated within the State or area in accordance with a published State or area plan, which is adopted by such State after notice and a public hearing, describing the proposed funding distributions and recipients;

(2) be allocated, pursuant to such State or area plan, to community action agencies carrying out programs under title II of the Economic Opportunity Act of 1964 or to other appropriate and qualified public or nonprofit entities in such State or area so that--

(A) funds will be allocated on the basis of the relative need for weatherization assistance among the low-income persons within such State or area, taking into account appropriate climatic and energy conservation factors; and

(B) due consideration will be given to the results of periodic evaluations of the projects carried out under this part [42 USCS §§ 6861 et seq.] in light of available information regarding the current and anticipated energy and weatherization needs of low-income persons within the State; and

(3) be terminated or discontinued during the application period only in accordance with policies and procedures consistent with the policies and procedures set forth in section 418 [42 USCS § 6868].

(c) Limitations on expenditures; exceptions; annual adjustments.

(1) Except as provided in paragraphs (3) and (4), the expenditure of financial assistance provided under this part [42 USCS §§ 6861 et seq.] for labor, weatherization materials, and related matters shall not exceed an average of \$ 6,500 per dwelling unit weatherized in that State. Labor, weatherization materials, and related matter includes, but is not limited to--

(A) the appropriate portion of the cost of tools and equipment used to install weatherization materials for a dwelling unit;

(B) the cost of transporting labor, tools, and materials to a dwelling unit;

(C) the cost of having onsite supervisory personnel;

(D) the cost of making incidental repairs to a dwelling unit if such repairs are necessary to make the installation of weatherization materials effective, and

(E) the cost of making heating and cooling modifications, including replacement[.]

(2) Dwelling units partially weatherized under this part [42 USCS §§ 6861 et seq.] or under other Federal programs during the period September 30, 1975, through September 30, 1994, may receive further financial assistance for weatherization under this part [42 USCS §§ 6861 et seq.].

(3) Beginning with fiscal year 2000, the dwelling unit averages provided in paragraphs (1) and (4) shall be adjusted annually by increasing the average amount by an amount equal to--

(A) the average amount for the previous fiscal year, multiplied by

(B) the lesser of (i) the percentage increase in the Consumer Price Index (all items, United States city average) for the most recent calendar year completed before the beginning of the fiscal year for which the determination is being made, or (ii) three percent.

(4) The expenditure of financial assistance provided under this part [42 USCS §§ 6861 et seq.] for labor, weatherization materials, and related matters for a renewable energy system shall not exceed an average of \$ 3,000 per dwelling unit.

(5) (A) The Secretary shall by regulations--

(i) establish the criteria which are to be used in prescribing performance and quality standards under paragraph (6)(A)(ii) or in specifying any form of renewable energy under paragraph (6)(A)(i)(I); and

(ii) establish a procedure under which a manufacturer of an item may request the Secretary to certify that the item will be treated, for purposes of this paragraph, as a renewable energy system.

(B) The Secretary shall make a final determination with respect to any request filed under subparagraph (A)(ii) within 1 year after the filing of the request, together with any information required to be filed with such request under subparagraph (A)(ii).

(C) Each month the Secretary shall publish a report of any request under subparagraph (A)(ii) which has been denied during the preceding month and the reasons for the denial.

(D) The Secretary shall not specify any form of renewable energy under paragraph (6)(A)(i)(I) unless the Secretary determines that--

(i) there will be a reduction in oil or natural gas consumption as a result of such specification;

(ii) such specification will not result in an increased use of any item which is known to be, or reasonably suspected to be, environmentally hazardous or a threat to public health or safety; and

(iii) available Federal subsidies do not make such specification unnecessary or inappropriate (in the light of the most advantageous allocation of economic resources).

(6) In this subsection--

(A) the term "renewable energy system" means a system which--

(i) when installed in connection with a dwelling, transmits or uses--

(I) solar energy, energy derived from the geothermal deposits, energy derived from biomass, or any other form of renewable energy which the Secretary specifies by regulations, for the purpose of heating or cooling such dwelling or providing hot water or electricity for use within such dwelling; or

(II) wind energy for nonbusiness residential purposes;

(ii) meets the performance and quality standards (if any) which have been prescribed by the Secretary by regulations;

(iii) in the case of a combustion rated system, has a thermal efficiency rating of at least 75 percent; and

(iv) in the case of a solar system, has a thermal efficiency rating of at least 15 percent; and

(B) the term "biomass" means any organic matter that is available on a renewable or recurring basis, including agricultural crops and trees, wood and wood wastes and residues, plants (including aquatic plants), grasses, residues, fibers, and animal wastes, municipal wastes, and other waste materials.

(d) Supplemental financial assistance to certain States. Beginning with fiscal year 1992, the Secretary may allocate funds appropriated pursuant to section 422(b) [42 USCS § 6872(b)] to provide supplementary financial assistance to those States which the Secretary determines have achieved the best performance during the previous fiscal year in achieving the purposes of this part [42 USCS §§ 6861 et seq.]. In making this determination, the Secretary shall--

(1) consult with the State Energy Advisory Board established under section 365(g) of the Energy Policy and Conservation Act [42 USCS § 6325(g)]; and

(2) give priority to those States which, during such previous fiscal year, obtained a significant portion of income from non-Federal sources for their weatherization programs or increased significantly the portion of low-income weatherization assistance that the State obtained from non-Federal sources.

(e) Supplemental financial assistance to grant recipients.

(1) (A) Beginning with fiscal year 1992, the Secretary may allocate, from funds appropriated pursuant to section 422(b) [42 USCS § 6872(b)], among the States an equal amount for each State not to exceed \$ 100,000 per State. Each State shall make available amounts received under this subsection to provide supplementary financial assistance to recipients of grants under this part [42 USCS §§ 6861 et seq.] that have achieved the best performance during the previous fiscal year in advancing the purposes of this part [42 USCS §§ 6861 et seq.].

(B) None of the funds made available under this subsection may be used by any State for administrative purposes.

(2) The Secretary shall, after consulting with the State Energy Advisory Board referred to in subsection (d)(1), prescribe guidelines to be used by each State in making available supplementary financial assistance under this subsection, with a priority being given to subgrantees that, by law or through administrative or other executive action, provided non-Federal resources (including private resources) to supplement Federal financial assistance under this part [42 USCS §§ 6861 et seq.] during the previous fiscal year.

42 USCS § 6866

§ 6866. Monitoring and evaluation of funded projects; technical assistance; limitation on assistance

The Secretary in coordination with the Director, shall monitor and evaluate the operation of projects receiving financial assistance under this part [42 USCS §§ 6861 et seq.] through methods provided for in section 417(a) [42 USCS § 6867(a)], through onsite inspections, or through other means, in order to assure the effective provision of weatherization assistance for the dwelling units of low-income persons. The Secretary shall also carry out periodic evaluations of the program authorized by this part [42 USCS §§ 6861 et seq.] and projects receiving financial assistance under this part [42 USCS §§ 6861 et seq.]. The Secretary may provide technical assistance to any such project, directly and through persons and entities with a demonstrated capacity in developing and implementing appropriate technology for enhancing the effectiveness of the provision of weatherization assistance to the dwelling units of low-income persons, utilizing in any fiscal year not to exceed up to 20 percent of the sums appropriated for such year under this part [42 USCS §§ 6861 et seq.].

42 USCS § 6867

§ 6867. Administration of projects receiving financial assistance

(a) Reporting requirements. The Secretary, in consultation with the Director, by general or special orders, may require any recipient of financial assistance under this part [42 USCS §§ 6861 et seq.] to provide, in such form as he may prescribe, such reports or answers in writing to specific questions, surveys, or questionnaires as may be necessary to enable the Secretary and the Director to carry out their functions under this part [42 USCS §§ 6861 et seq.].

(b) Maintenance of records. Each person responsible for the administration of a weatherization assistance project receiving financial assistance under this part [42 USCS §§ 6861 et seq.] shall keep such records as the Secretary may prescribe in order to assure an effective financial audit and performance evaluation of such project.

(c) Audit and examination of books, etc. The Secretary, the Director (with respect to community action agencies), and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, information, and records of any project receiving financial assistance

under this part [42 USCS §§ 6861 et seq.] that are pertinent to the financial assistance received under this part [42 USCS §§ 6861 et seq.].

(d) Method of payments. Payments under this part [42 USCS §§ 6861 et seq.] may be made in installments and in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

42 USCS § 6868

§ 6868. Approval of application or amendment for financial assistance; administrative procedures applicable

(a) The Secretary shall not finally disapprove any application submitted under this part [42 USCS §§ 6861 et seq.], or any amendment thereto, without first affording the State (or unit of general purpose local government or community action agency under section 413(c) [42 USCS § 6863(c)], as appropriate) in question, as well as other interested parties, reasonable notice and an opportunity for a public hearing. The Secretary may consolidate into a single hearing the consideration of more than one such application for a particular fiscal year to carry out projects within a particular State. Whenever the Secretary, after reasonable notice and an opportunity for a public hearing, finds that there is a failure to comply substantially with the provisions of this part [42 USCS §§ 6861 et seq.] or regulations promulgated under this part [42 USCS §§ 6861 et seq.], he shall notify the agency or institution involved and other interested parties that such State (or unit of general purpose local government or agency, as appropriate) will no longer be eligible to participate in the program under this part [42 USCS §§ 6861 et seq.] until the Secretary is satisfied that there is no longer any such failure to comply.

(b) Reasonable notice under this section shall include a written notice of intention to act adversely (including a statement of the reasons therefor) and a reasonable period of time within which to submit corrective amendments to the application, or to propose corrective action.

42 USCS § 6869

§ 6869. Judicial review of final action by Secretary on application

(a) Time for appeal; jurisdiction; filing of administrative record by Secretary. If any applicant is dissatisfied with the Secretary's final action with respect to the application submitted by it under section 414 [42 USCS § 6864] or with a final action under section 418 [42 USCS § 6868], such applicant may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which the State involved is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) Conclusiveness of findings of Secretary; remand; modified findings by Secretary; certification of record. The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive. The court may, for good cause shown, remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action. The Secretary shall certify to the court the record of any such further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) Power of court to affirm or set aside action of Secretary; appeal to Supreme Court. The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification, as provided in section 1254 of title 28, United States Code.

42 USCS § 6870

§ 6870. Prohibition against discrimination; notification to funded project of violation; penalties for failure to comply

(a) No person in the United States shall, on the ground of race, color, national origin, or sex, or on the ground of any other factor specified in any Federal law prohibiting discrimination, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, project, or activity supported in whole or in part with financial assistance under this part [42 USCS §§ 6861 et seq.].

(b) Whenever the Secretary determines that a recipient of financial assistance under this part [42 USCS §§ 6861 et seq.] has failed to comply with subsection (a) or any applicable regulation, he shall notify the recipient thereof in order to secure compliance. If, within a reasonable period of time thereafter, such recipient fails to comply, the Secretary shall--

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(2) exercise the power and functions provided by title VI of the Civil Rights Act of 1964 [42 USCS §§ 2000d et seq.] and any other applicable Federal nondiscrimination law; or

(3) take such other action as may be authorized by law.

42 USCS § 6871

§ 6871. Annual report by Secretary and Director to President and Congress on weatherization program

The Secretary and (with respect to the operation and effectiveness of activities carried out through community action agencies) the Director shall each submit, on or before March 31, 1977, and annually thereafter, a report to the Congress and the President describing the weatherization assistance program carried out under this part [42 USCS §§ 6861 et seq.] or any

other provision of law, including the results of the periodic evaluations and monitoring activities required by section 416 [42 USCS § 6866]. Such report shall include information and data furnished by each State on the average costs incurred in weatherization of individual dwelling units, the average size of the dwellings being weatherized, and the average income of households receiving assistance under this part [42 USCS §§ 6861 et seq.].