Fact Sheet
HUD-DOE Weatherization Memorandum of Understanding
Streamlining Weatherization Assistance in Affordable Housing

Earlier this year, HUD and DOE established a partnership to support coordination of the use of $16 billion in funds appropriated by Congress through the American Recovery and Reinvestment Act.

These funds include $4.5 billion in HUD capital funds for public and Indian housing and $250 million to retrofit privately-owned federally-assisted housing. DOE received $5 billion to fund the Weatherization Assistance Program, $3.2 billion for Energy Efficiency and Conservation Block Grants for cities, counties, states and Indian Tribes, and $3.1 billion for the State Energy Program, and additional funds for other programs.

On May 6, the two Departments published a Memorandum of Understanding (MOU) aimed at lowering barriers that have historically existed to the use of weatherization funds in public and assisted multifamily housing.

The MOU is intended to streamline the weatherization eligibility process for residents in approximately 1.1. million public housing units, another 1.2 million privately owned federally-assisted units, and some 950,000 units financed with Low Income Housing Tax Credits (LIHTC).

Implementing the MOU. DOE is publishing a notice of proposed rulemaking in the Federal Register that is intended to reduce the review and verification burden related to income verification, rent increases and property enhancement criteria under the Weatherization Assistance Program for certain properties identified by HUD.

The notice of proposed rulemaking provides for a 30-day comment period. To read the proposed rule and offer comments, please visit the Federal eRulemaking Portal at www.regulations.gov and follow the instructions for submitting comments. Comments should reference the regulatory information number (RIN) 1904–AB97. Comments with this RIN in the subject area may also be submitted to WXHUDNOPR@ee.doe.gov. Comments are due by June 22, 2009.

Focus of the Proposed Rule. The proposed rule focuses on the weatherization and retrofit of the following properties:

(1) Public housing;
(2) Project-based Section 8 assisted housing, Section 202 Supportive Housing for the Elderly, Section 811 Supportive Housing for Persons with Disabilities; and
(3) Certain Low Income Housing Tax Credit (LIHTC) properties.

These properties are collectively defined as "HUD Qualified Assisted Housing" in the proposed rule. Section 221(d)3 and d(5), and Section 236 Below Market Interest Rate properties without project-based assistance are not addressed by the proposed rule. Section 8 tenant-based rental vouchers are also not addressed.

Key Features. The proposed rule, if made final, would eliminate duplicative income verification requirements for residents of public housing, qualified assisted housing, and LIHTC projects. To be eligible for weatherization assistance, a unit must be occupied by a family whose income is below 200 percent of the federal poverty level; at least 66 percent of the units in multifamily buildings (50 percent for properties with fewer than 5 units), must be occupied by families who fall below this income threshold.

Under the proposed rule, states would be able to accept HUD's annual verification procedures for resident incomes in public and assisted housing, as well as income verification procedures in LIHTC properties, as evidence of their eligibility for the weatherization program. HUD would provide a listing, to be posted on DOE's web site, of all properties where at least 66 percent of the residents have income below the DOE income threshold (50 percent of the residents for smaller properties). The presence of a property on this list would provide automatic evidence of its eligibility for weatherization assistance.

State discretion and authority. The proposed rule, if made final, would not require states or local Weatherization agencies (LWAs) to provide weatherization funds to income-qualified public housing, assisted housing, or LIHTC properties. The state and/or the LWA retain the authority to set priorities for the use of weatherization funds. The proposed rule simply would eliminate key barriers that have historically constrained or prevented states and their local weatherization agencies in utilizing weatherization funds in multifamily buildings.

List of income eligible projects to be posted on web. Under the procedures outlined in the proposed rule , HUD would provide a list of income-eligible HUD Qualified Assisted Housing projects and LIHTC properties that, based on HUD data, would meet the income eligibility requirements under the Weatherization Assistance Program. This list would be posted on DOE's web site. Note that appearance on the list simply would mean that the building is income-eligible for the weatherization assistance program – not that the building automatically qualifies for weatherization assistance. Funding for individual projects will be a function of state or local weatherization priorities, and funding availability.

Additional requirements for multifamily projects. In addition to meeting the income requirements, multifamily buildings must also meet additional requirements: the benefits that accrue from weatherization projects must be targeted to low-income residents who pay for utility and other energy-related expenses. DOE is seeking comment regarding current practices and experience. Tenants who reside in weatherized units cannot be subjected to rent increases unless it can be demonstrated that the increases are not a direct result of such improvements. The Proposed Rule, if made final, would deem HUD projects eligible under this requirement. No "undue or excessive enhancement" can occur to the value of the property. States may also require a matching contribution from multifamily building owners. The Proposed Rule, if made final, would deem HUD projects eligible under this requirement.

More information about the Weatherization and HUD Qualified Assisted Housing programs. DOE and HUD are planning to conduct a series of joint outreach forums across the country to facilitate the implementation of the MOU and to educate stakeholders and constituency groups on how to conduct energy performance audits and invest in home energy improvements. For information on HUD's Economic Recovery Act programs, please visit www.hud.gov/recovery; for information on DOE's weatherization program, go to www.eere.energy/wip.