



**Department of Energy**  
Washington, DC 20585

June 23, 2010

The Honorable Rita Landgraf  
Secretary  
Delaware Department of Health and Social Services  
1901 North DuPont Highway  
New Castle, Delaware 19720

Dear Secretary Landgraf;

Attached please find the Final Report for the Management Performance Review conducted by staff from the U.S. Department of Energy (DOE), Weatherization and Intergovernmental (OWIP). This review was prompted by the findings discovered during DOE's monitoring of Delaware's Weatherization Assistance Program in May 2010.

I would like to thank you and your staff for making our review work easy and useful. Everyone provided timely access to all records, staff and support documents for the Program. That you were also accessible and accompanied us throughout the review process reflected how seriously your Department was in finding the problems and moving quickly to enact corrections.

I would also like to thank Lieutenant Governor Matthew Denn and his staff, who also worked with us throughout both the Performance Review. His knowledge and experience in the Recovery Act requirements and expectations was invaluable as we determined future actions for the WAP. His continued support to the Department and the process has made an enormous difference in moving things quickly to resolution for all.

While the findings and recommendations contained in the Report are serious and must be addressed immediately, it should be noted that corrective actions were being implemented even before we finished our review. The state moved quickly to hire experts and contractors from around the country to identify the scope of issues that needed to be addressed. Trainers have already been identified and contracted to help the local agencies restart the WAP under a newly configured business model. This model will protect the resources while expediting the delivery of WAP services to eligible low-income families throughout the state.

My staff and I want to work with you as a partner to move Delaware's WAP beyond these temporary problems so it can become the model Program it has the potential to be. To that end, we will continue to provide access to our best experts and program specialist

throughout the restart of your WAP. I know there have been certain opinions about moving the program from your Department. While we normally allow states to operate the Program within the department it seems most appropriate, I would strongly discourage such a move at this time. The business model for future operations must be solidified and training must occur at all levels to ensure success. The move of the WAP would be disruptive and could delay the Program start-up from six months to a year – too long for the impact of these Recovery Act funds to be withheld from the state’s economy. We want to put the contractors and local staff to work now – not a year from now. Please let me know if there is any further support I can provide.

I look forward to working with you over the next few months to implement the recommendations contained in the Report. I am anxious to see the great things that can be accomplished in Delaware.

Sincerely,

A handwritten signature in black ink, appearing to be 'R. Adams', with a long horizontal line extending to the right.

Robert C. Adams, Supervisor  
Weatherization and Intergovernmental Programs  
Energy Efficiency and Renewable Energy

cc: Lt. Governor Matthew Denn  
Mary Dupont, DHHS  
Holly Raveslout, DOE  
David Kirshner, NETL



**U.S. Department of Energy  
Office of Weatherization and  
Intergovernmental Program**

**Management Performance Report**

**Delaware Health and Social Services  
Division of State Services Centers**

**Weatherization Assistance Program**

**U.S. Department of Energy  
Office of Weatherization and Intergovernmental Program**

**Management Performance Report for the  
Delaware Health and Social Services Division of State Services Centers  
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**U.S. Department of Energy  
Office of Weatherization and Intergovernmental Program**

**Performance Report for the  
Delaware Health and Social Services Division of State Services Centers  
Weatherization Assistance Program**

## **Background**

On March 22, 2010, David Kirschner, Project Officer for Delaware, of the National Energy Technology Laboratory (NETL), conducted an on-site monitoring visit of the State of Delaware's Weatherization Assistance Program (WAP), grant number DE-EE0000174. The monitoring visit included a review of administrative and programmatic operations of the Delaware WAP.

During the monitoring visit, DOE noticed inconsistencies with the overall program operations and administration. These inconsistencies are identified as findings and concerns in specific areas of the Delaware program including financial, administrative, programmatic, and technical. The outcome of the initial monitoring visit is detailed in the monitoring report NETL provided to Delaware on May 3, 2010. The monitoring report provides information on specific findings and concerns and requests corrective action follow-up by specific dates.

There were also findings that identified poor workmanship. Specifically the reviews identified two instances where the contractor charged for materials that were not installed. On job number N09-381997, the audit identified the need to install 4,020 sq. ft. of insulation in the sidewalls. The audit significantly overestimated the wall area, and there was only the need to install 1,000 sq. ft. of insulation. The contractor installed 1000 sq. ft., but billed and was paid for installing 4,020 sq. ft. On job number N09-379361, the audit called for 10-inches of attic insulation to bring the attic to R-30. DOE observed that there was no more than a dusting. The contractor was paid for the installation, but the material was not present.

On April 21, 2010, DOE conducted an exit conference with the Grantee where DOE identified concerns resulting from the monitoring. DOE provided the Grantee with a written report on May 3, 2010, which required a corrective action plan to resolve the issues identified in the monitoring report.

As follow up to the findings from the March 22-25 monitoring visit to Delaware, DOE assembled a team of individuals to return to Delaware May 2-6 and May 10-12 to determine the extent of the March 22-25 findings, whether these issues are isolated to one area or statewide.

Four teams were assembled with specific tasks:

- 1) “Monitor the State Monitor” – David Kirschner (NETL Project Officer for Delaware) and Kelly Cutchin (SMS Technical Staff) visited state monitored units that had been signed off on and determined whether the monitoring/state oversight is being done effectively/efficiently/correctly in accordance to the program standards.
- 2) “Local Agency Process” – Holly Ravesloot (DOE HQ Technical Specialist), Anthony Provenzano (NETL Business Manager) and Ken Feller (SMS Technical Staff) met with the state and local agencies to determine the current processes being followed, reviewed files to ensure the process in place is being followed consistently, and made note of any inconsistencies found in review/practices that aren’t consistent with “good work practices,” or out of compliance with federal regulations/guidance.
- 3) “Quality Assurance/Reviews” – Dave Ollett (NETL Project Officer), Glen Salas and Dan Vida (D&R Technical Staff, under subcontract to SMS) visited houses (similar to the March 22-25 monitoring) and observed as many different contractors’ completed work as possible – looking at the quality of the work and determining whether the issues found in March were isolated or reflect statewide concerns.
- 4) “Grantee Assessment” – David Kirschner (NETL Project Officer for Delaware), Erica Burrin (NETL Project Officer and Indiana Former State Director), Pete Davis (Golden Field Office Project Officer and Nebraska Former State Director), Angela Young (NETL Intergovernmental Programs Outreach Division Director), John Golovach (NETL Contracting Officer), and Holly Ravesloot (DOE HQ Technical Specialist) met with Grantee staff to determine current processes being followed, reviewed files to ensure the process in place is being followed consistently, and made note of any inconsistencies found in review/practices that aren’t consistent with “good work practices” or that are out of compliance with federal regulations/guidance.

On May 12, DOE’s Grantee Assessment team conducted an exit briefing with DSSC staff and identified short term next steps for the Grantee due by June 4, 2010:

- DOE asked that the Grantee review files and determine actual amounts for the following:
  - Units Reported to DOE 2009 and ARRA
  - Client Demographics Reported to DOE 2009 and ARRA
  - Average Cost Per Unit for 2009 and ARRA
  - Determine if DOE funds were commingled
- DOE provided a spreadsheet to assist with tracking this information.
- Grantee Actions to Date:
  - Based on the DOE exit briefing, the Grantee made the decision to slow down production. The Grantee communicated via email to all of the

contractors only to complete work on units that have been started. If they have a proceed order and have not commenced work they cannot start work on that unit

- Grantee also updated their fiscal monitoring instrument
- Grantee found a temporary replacement for the Weatherization Program Manager
- Grantee scheduled a meeting with the Subgrantees to discuss DOE findings, next steps and new Subgrantee responsibilities upon contract renewal
- Grantee arranged for Subgrantee training on Priority List and is contracting additional training on procurement
- Grantee is currently revising Subgrantee Contracts to include flow-down requirements of the Recovery Grant and revised budgets
- Subgrantees and Grantee are creating a database for all units by address where work was performed tracking funding source, inspections, window and door replacements, and 200% of poverty compliance
- Grantee decided to remove the existing Price List from the program
- Revised Policy and Procedures Manual at the Grantee Level
- Contracted with 3 existing BPI Certified companies in Delaware to serve as an additional Quality Control component for units will need revisited also referred to as "Go Back" units.
- Paid outstanding invoices with money from the State Treasury

During our review we noted several items of gross mismanagement and potential fraudulent activity. The report details Grantee findings and concerns, subgrantee observations, broad recommendations, and technical resources. The attachments include the "Monitor the State Monitor" and "Quality Assurance/Review" findings as a breakdown of observations with images specific to the units visited. The DOE Project Officer will follow the progress of the Grant and may monitor on a more frequent basis based on the material presented in this report.

## **Grantee Findings/Concerns**

*Delaware Health and Social Services Division of State Services Centers (DSSC) the State agency designated by Governor Jack Markell, is responsible for the proper implementation of the Weatherization Assistance Program. There are several areas under 10 CFR 440 Program Regulations, Weatherization Grant Guidance, and Program Notices where the Grantee is in direct violation of the federal regulations and guidance documents. The items below detail examples of violations identified during the management performance review:*

### ***Grantee Programmatic Findings***

#### **Policies and Procedures**

**Delaware provides limited written policies and procedures identifying program rules and regulations. Grantee has no discernable systems or processes to ensure allowable use of funds or to deliver services effectively to clients.** Subgrantees have limited written procedures to follow and or do not follow procedures written in the contracts. Subgrantees lack ownership of the process, relying on verbal direction from the State (Grantee) or informal procedures that were “inherited” – instead having a written road map on how the program should be implemented. The subgrantees act as a pass through, invoice processing agent of the State; they have little to no direct communication with the clients. Also, the lines of responsibility have not been clearly identified by the Grantee; therefore it is unclear on whether the Grantee or the Subgrantee is directing the actual work. One example of this is the Grantee directly sending the client list – gathered by Catholic Charities as an alpha and numeric priority list - to the energy audit provider and the subgrantees simultaneously. The subgrantees do not send the client list to initiate work; instead the State provides the list directly to the energy audit contractor, though the subgrantee has the legally binding contractual relationship with the energy audit provider. The energy audit firm begins selecting clients for services without contacting the subgrantees. DOE could not determine when the subgrantee actually interacts with the clients, if at all. The subgrantees hold the privity of contract with the energy auditor vendor. It is apparent the Grantee is violating the subgrantee privity of contract by directly providing the list of eligible clients to the vendor whereby commencing the energy audit work.

***Recommendation: The Grantee must set up a meeting with the subgrantees to define the lines of responsibility in order to adequately operate the program. The Grantee must also complete and disseminate a Weatherization Assistance Program Operations Manual. It is imperative that the Grantee identify and schedule training for Grantee staff and subgrantee staff to fully understand the program rules, requirements, and expectations in order to properly operate.***

#### **Client Eligibility**

**Delaware uses Catholic Charities to perform intake services for most of the clients that receive Weatherization. This intake process is also used for the Low Income Heating Assistance Program (LIHEAP). If clients do not go through Catholic**

Charities, they can be referred to State Service Centers. Subgrantees do not perform any client intake. According to the Delaware approved State plan, client eligibility is based on 200% of poverty. During the DOE assessment, staff reviewed approved invoices for two months of services. One of the invoices indicated that DOE ARRA funds paid for the installation of a \$7,350 boiler for a client at 80% state median income (N09-R088). Client eligibility requirements are identified in 10 CFR 440.22, which were amended by the American Recovery and Reinvestment Act to increase eligibility to households at or below 200% of poverty as identified in WPN 09-1 and WPN 09-1B. The poverty income guidelines at 200% defined in program notice WPN 09-5 indicates for a household of one the income threshold is \$21,660. According to Delaware's State Housing Agency, 80% Area Median Income for Wilmington, DE is \$43,600. The client served at 80% is not eligible based on the Delaware's eligibility requirements identified in the State plan.

*Recommendation: The Grantee must follow the client eligibility requirements identified in their state plan. The Grantee must also allow the weatherization subgrantees the ability to perform the client intake process based on the approved eligibility requirements. In order to effectively monitor client eligibility, the Grantee must establish an oversight process that ensures the clients served by the DOE WAP have the proper eligibility documentation in the files located at the subgrantee.*

#### **Programmatic Monitoring/Oversight**

Delaware performed a programmatic monitoring visit of both subgrantees at the end of January 2010 but has not drafted or disseminated a report. Grantee has not provided proper oversight of the subgrantees. By reviewing the Grantee programmatic checklist/guide used during the visit mentioned above, it is apparent that the checklist was not constructed to adequately monitor the Delaware program infrastructure. Most of the responses were documented as not applicable since the subgrantees contract out most of their functions.

**Delaware contracts out technical monitoring, but does not provide the technical monitor with adequate tools to effectively provide oversight during the technical visits.** The monitor is unable to perform the administrative function because he does not have access to work orders/invoices/final inspection. Observations should verify amount and quality of work installed, and identify necessary technical training for auditors, inspectors, and contractors performing the work. Current practice does not capture those necessary aspects.

According to Delaware's approved State plan, Delaware plans on monitoring 40% of the units completed. At the time of DOE's visit Delaware had monitored 10 % of the units completed. Monitoring requirements are identified in 10 CFR 440.23 and further clarified in Weatherization Program Notice (WPN) 09-1 and 09-1B section 4.0. Due to the level of issues that were identified during the DOE quality assurance visits, it is imperative that DSSC increase their monitoring visits and more clearly define the role and responsibility of the technical monitor.

*Recommendation: The Grantee must create a monitoring instrument that adequately assesses the subgrantee performance specific to the program operation requirements as determined by DOE and the Grantee. Part of the Grantee's oversight process must include a technical assessment of the quality of work. Delaware must establish a plan to meet the approved 40% monitoring requirement of completed units. The Grantee must schedule training on monitoring and oversight for its state staff.*

### **Reporting**

**The State of Delaware does not maintain a list of homes weatherized by funding source. Subgrantees have no way of knowing if a given home is considered a DOE ARRA unit or a DOE Formula Grant unit. The quarterly and monthly reports submitted to the Department of Energy are based on funds spent instead of an actual count of completed units. Subgrantees report the number of units weatherized to the State for a given month. A pro-rated share of these homes are designated ARRA or Formula Grant homes based on the State's percentage of expenditures from each funding source for that month. Client demographics are reported in a similar manner based on a breakdown of information contained in weatherization applications submitted to Catholic Charities, who does client intake for the Low Income Heating Assistance Program (LIHEAP). Weatherization Program Notice 09-1 and 09-1B section 6.0 identifies the reporting requirements.**

**Also the Grantee cannot verify if units reported to DOE as completed meet DOE's definition of a completed unit as identified in 10 CFR 440.16 "No dwelling unit may be reported to DOE as completed until all weatherization materials have been installed and the subgrantee, or its authorized representative, has performed a final inspection(s) including any mechanical work performed and certified that the work has been completed in a workmanlike manner and in accordance with the priority determined by the audit procedures required by 10 CFR 440.21." The Grantee and the subgrantees acknowledged that they report units completed and make payment work prior to a final inspection.**

**At the time of the visit, DSSC did not provide copies of subgrantee reports as required by the DHSS contract for the Weatherization Assistance Program. DSSC did provide an e-mail that they obtain from the subgrantees on a weekly basis. According to the DSSC contract, the subgrantees are required to provide reports in the following intervals:**

- **Monthly Production Report due 5 working days following the end of each month;**
- **Monthly Financial Report due within 10 working days following the end of each month**

*Recommendation: The Grantee must establish an accurate reporting system for DOE 2009 and DOE ARRA funds, as determined by an analysis of Grantee invoices and subgrantee client files. Grantee must update PAGE reporting system to reflect actual numbers for the metrics defined in DOE reporting requirements. The Grantee must also*

*ensure that the subgrantees are meeting the defined reporting requirements indentified in the subgrantee contracts.*

## ***Grantee Procurement***

### **Procurement**

**DSSC has contractual arrangements with two subgrantees and a quality assurance monitor responsible for visiting 30% of total production. In January 2009, DHSS issued a Request for Proposal (RFP) to select the current subgrantees. The RFP process followed proper procurement practices. DSSC did not properly procure the quality assurance contractor, Bennie Young. According to the approved ARRA State plan, the State of Delaware proposed completing 1,526 units. Bennie Young is contractually responsible for 30% of quality assurance visits that would require him to visit at least 459 based on 1,526 total units completed during the grant period. At a cost of \$207 per visit, Bennie Young's contract should be at least \$95,000. DSSC sole source selected Bennie Young under the premise that he had a 1-year contract in place at \$47,999. According to Delaware procurement rules, the State does not have to compete for services under \$50,000. Delaware is aware of the three year ARRA period and the continuous need for quality assurance reviews. Also, DSSC has reported to DOE that 941 ARRA units have been completed; this means that Bennie Young would have to perform 282 quality assurance reviews, at a cost of \$58,436.**

***Recommendation: The Grantee must follow the state procurement rules when procuring services such as the technical monitoring service. The agreement with Mr. Young must be terminated and the services procured with the proper parameters for contract negotiations.***

### **Contract Language**

**DOE reviewed the approved contracts for both DOE annual funds and DOE ARRA funds. Overall the contracts with subgrantees lack adequate flow down requirements.**

**Items missing in contractual agreements include:**

- **Reference to 10 CFR 600 and 10 CFR 440**
- **Reference to DOE Grant Guidance/Program Requirements**
- **Usage of the Delaware Technical Standards identified in the Delaware Field Guide (the current contracts reference using NEAT/MHEA as audit tool, not the Field Guide)**
- **Davis Bacon requirements as identified in the terms and conditions of the ARRA awards**
- **Delaware Procurement Rules/Requirements to procure services**

***Recommendations: The Grantee must amend/re-issue new contracts with the subgrantees to include the language above. These contracts should include all of the proper flow down language identified in the Grantee Terms and Conditions section of the DOE award. During the contract amendment process the Grantee should also***

*include all of the program operation expectations to ensure an understanding of proper implementation of the program.*

### **Contract Review**

**During the review of invoices, a subgrantee submitted an invoice for six quality control inspections dated March 30, 2010. The invoice was paid for with DOE 2010 Program Year grant funds. The DOE 2010 Program Year did not begin until April 1, 2010. Invoices paid from DOE 2010 Program Year funds for services provided in program year 2009 are considered a disallowed cost.**

The subgrantee contracts do not contain specific language on Delaware procurement requirements; therefore, there is lack of evidence of the subgrantees properly procuring services. One example includes: the subgrantees' utilization of contractors. Contract relationships have been haphazard, and the process does not foster selection based on competition, level of special expertise/required training, or past performance. Heretofore, contractors could become eligible to perform weatherization services in Delaware simply by responding to advertisements and having their name entered on a "rotation list." It remains unclear how the rotation list works and why some contractors were selected for jobs on a more frequent basis than other contractors.

There is also evidence that the subgrantees have entered into a contractual relationship with a vendor that contains a conflict of interest. One vendor has been directly involved in the provision of weatherization measures at housing units (i.e., air sealing) - the same vendor is also responsible for performing the initial energy audit and a final inspection at those same housing units.

**Grantee is not complying with the Davis Bacon Act terms and conditions of the ARRA award. Items not in evidence are:**

- **Original weekly payrolls (most are faxed copies, some originals)**
- **Grantee review of weekly payrolls**
- **SF 1413s are not in evidence at the Grantee or Subgrantee level.**
- **DBA Standard Labor Clauses are not part of the ARRA Subgrantee contracts**
- **Incorporation of revised Wage Determinations in subgrantee agreements are not in evidence.**
- **Wage inquiries are not in evidence.**

***Recommendation: The Grantee must ensure that the active contracts in place include the appropriate funding codes to ensure that proper invoicing and payments can occur. A payment cannot be made outside the contract period. Grantee contracts must include State procurement expectations. The subgrantees must be trained on proper procurement practices. Delaware must insure that contracts in place do not contain a conflict of interest. Grantee must ensure that they are complying with Davis Bacon requirements. It is imperative to obtain training on procurement practices and Davis Bacon compliance expectations.***

### **Negotiated Price List**

DSSC requires that the subgrantees use a negotiated price list for weatherization construction (shell) measures. DSSC negotiates this list on an annual basis. The price list includes the cost for materials and labor (many price list used in other States only include materials not labor), which encourages fast-paced, careless work. The price list includes several items that are not called for by the Delaware approved Priority List. Also, the price list does not include standards or specifications contractors should use as guidance when purchasing materials, or that inspectors should use to verify the work quality; therefore, a contractor could purchase a material of a lesser quality than intended by the Program and charge the set price (i.e. prices remain constant whether installing an Energy Star replacement window or the lowest-priced unit that will fit the opening). Another example of this is belly insulation for mobile homes. On page 215 of the Delaware Field Guide the recommended insulation for mobile home bellies is fiberglass. During the DOE Quality Assurance visits, there was an instance when the contractor used cellulose but billed for the price for belly insulation on the negotiated price list, where the specified material is fiberglass. Fiberglass is more expensive than cellulose so the contractor over-billed for the material actually used, because of the ambiguity on the price list.

*Recommendation: Delaware must reconfigure the use of the negotiated price list to break out the cost of materials from labor. Other adjustments include a clear specification of the material quality and only include materials that are required to complete the items on the approved priority list. The Grantee must also establish a review process to ensure that materials installed meet the standards of the Delaware Field Guide.*

#### **Procurement Monitoring/Oversight**

DSSC has not provided proper oversight with regard to procurement processes. The subgrantees entered into contracts in excess of \$50,000 for weatherization services and did not properly procure these services. The services were procured without competition.

*Recommendation: The Grantee must create a monitoring instrument that adequately assesses the subgrantee performance with respect to proper procurement of vendors for Weatherization services.*

#### ***Grantee Fiscal***

##### **Monitoring Follow-Up**

On the March 22<sup>nd</sup> monitoring trip, DOE identified two instances where the contractor charged for materials that were not installed. On job number N09-381997, the audit identified the need to install 4,020 sq. ft. of insulation in the sidewalls. The audit significantly overestimated the wall area, and there was only the need to install 1,000 sq.

ft. of insulation. The contractor installed 1000 sq. ft., but billed and was paid for installing 4,020 sq. ft. On job number N09-379361, the audit called for 10-inches of attic insulation to bring the attic to R-30. DOE observed that there was no more than a dusting and the client stated that there was not a hose brought through the house. The contractor was paid for the installation, but the material was not present during time of monitoring.

**During the May 10-12th visit, DOE verified that both contractors were paid-in-full for the incomplete work with DOE funds through review of invoices provided by the Grantee. There were two separate contractors involved in the material overcharge and both are still working in the Weatherization Assistance Program.**

*Recommendation: Grantee must decide whether or not to pursue legal action with the contractors, identifying potential debarment due to questionable costs and billing for materials not installed.*

### **Payment Tracking Systems**

**The subgrantees do not assign funds to activities based on funding sources; DSSC program office codes all of the funds for weatherization services. DSSC has five separate funding sources to pay for weatherization services for any given year. These funding sources include: DOE Base Program Year, DOE ARRA, LIHEAP, Utility, and Regional Green House Gas Initiative funds. DSSC only draws down on one funding sources at any given time. The subgrantees submit invoices based on work completed over a span of three to six months for one unit. One home can have separate invoices for: the initial energy audit; mechanical work; construction (shell) measures; and the final quality control inspection. DSSC does not have a system to track unit invoicing by address; therefore if DSSC pays for the initial audit on one unit with DOE ARRA funds in January, then changes to using DOE Base Program Year Funds in March the mechanical, construction (shell), and quality control in that same unit will be paid for out of DOE Base. Thus, there is no system in place to ensure against the commingling of ARRA and Base Grant Funds. This is a violation of WPN 09-1B Section 2.5.**

*Recommendation: The Grantee must establish a system to properly separate and track funding sources. This system should be able to track which funding sources are applied to each individual unit. The Grantee should also consider allowing the subgrantees to have control of the budgets to operate the program and the Grantee role would then shift to an oversight responsibility.*

### **Advances**

**DSSC does not allow advances to the subgrantees, which can cause cash flow problems for payment of contractors. According to 10 CFR 600.221(c) “Grantees and subgrantees shall be paid in advance, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of the funds and their disbursement by the grantee or subgrantee.”**

*Recommendation: The Grantee must establish a process to administer advanced*

*funding to the Subgrantee based on production needs.*

### **Unallowable Costs**

As mentioned in the above descriptions, DSSC is not reporting completed units based on DOE rules 10 CFR 440.16 (g). Also, DSSC contracts require the subgrantees to use the National Energy Audit Tool (NEAT) and the Mobile Home Energy Audit (MHEA) to accurately diagnose the pre-condition of the unit and prescribe energy savings measures that meet the savings to investment ratio of 1.0 or greater. There is no documentation in the files of the use of NEAT or MHEA. Although Delaware does have an approved priority list, there is no evidence that the priority list has been disseminated to their subgrantees and contractors. According to 10 CFR 440.21 weatherization materials installed must pass the cost effectiveness test before they are installed in an eligible unit. Currently there is no documentation in the files to indicate that the materials installed meet the DOE cost effectiveness requirements. Without proper documentation, all of the measures installed would be considered a disallowed cost.

*Recommendation: The Grantee must determine which audit protocol is to be followed for installation of energy efficiency measures. In order to substantiate work that was completed without documentation of a diagnostic energy audit, the Grantee must follow the steps identified below:*

- *Energy Services Group to verify past audit and Quality Control activity*
- *Where applicable, contractors are required to complete incomplete work*
- *Invoice / charges will be recoded to appropriate funding sources*
- *25% Quality Assurance required for work completed*
- *Adjust all reports at Federal level*
- *Establish complete customer file for each completion*
- *Adjust program and fiscal reports from sub grantees*

### **Invoice Review and Tracking**

DSSC does not appear to have a system in place for invoice review/approval. During the Grantee visit, DOE staff reviewed two months of invoices and determined several instances of questionable costs and practices.

**Some examples include:**

- **Electric Dryers (not in Appendix A);**
- **Multiple furnaces installed in one unit –no documentation for replacement need**
- **Furnace Installations – replacing an 80% efficient unit with an 80% efficient unit and no documentation of furnace failure;**
- **Air Conditioning (not allowable in Delaware’s climate);**
- **Double billing of items listed on the price list and the negotiated items document (change order request form);**
- **Excessive amounts of door sweeps charged (one unit received eight door sweeps – sweeps should only be applied to exterior doors);**

- **Gas Cook Stove charged to DOE, the cost of the stove seemed excessive at a cost exceeding \$1,100.**

**Invoices dated prior to January 2010 did not include backup documentation. There is no evidence of DSSC disapproving an invoice.**

**Another area of concern for DOE is that one subgrantee submitted invoices from Energy Services Group (ESG) – the energy audit vendor - for approximately 90 initial audits during the month of April 2010. This was after the Project Officer’s March 2010 monitoring visit was issued regarding Delaware’s auditing practices and ESG staff members were present during the visit. Audits should not have been charged during the end of a funding cycle, since audits initiate the weatherization workflow.**

***Recommendations: The Grantee must establish a process for invoice review/approval. The process must include the ability to disallow costs based on program rules and regulations. The Grantee must seek training on the allowable costs for the Weatherization Assistance Program.***

## ***Grantee Technical***

### **Technical Guidelines**

There seems to be a discrepancy between written documentation and individual assumptions on what are the technical drivers for the program in Delaware. The contractual agreements between the Grantee and Subgrantees specify the use of NEAT and MHEA to determine appropriate, cost-effective measures for each dwelling. When DOE asked the Delaware program manager, it was stated that they use a priority list. Based on DOE’s review, there is little documentation to support the use of either a priority list or computerized audit software tool. The measures installed need to be evaluated to determine if the cost were allocable and reasonable based on the cost-effectiveness test; since there is no discernable documentation of the measures installed meeting the cost-effective test, DSSC is in violation of 10 CFR 440.21.

Delaware’s current technical process requires the energy audit vendor to complete the diagnostic energy audit and also air seal the unit prior to the completion of heating system work completed. This is a health and safety concern. There are documented instances (N09-381751) when the energy auditor noted high levels of CO from the furnace, but still completed air sealing – potentially exacerbating the CO levels, and then submitted the work order for services. Work did not begin on this unit until two months after the diagnostic audit was completed.

Delaware installs windows and there is no documentation or materials charged to indicate that the contractors are following Lead Safe Weatherization requirements. Unless windows can be proved to be cost effective they are not allowable and the Grantee is responsible for the disallowed cost of the windows.

*Recommendation: The Grantee must determine which audit protocol must be followed for installation of energy efficiency measures and provide training specific to the approved technical protocol to the subgrantees and contractors. Delaware must establish a procedure to quickly rectify health & safety issues when identified during the audit phase. Delaware must update its health and safety plan to adequately address all health and safety requirements identified in WPN 02-5. The Grantee must cease installation of windows unless they are cost justified.*

### **Technical Monitoring/Oversight**

DSSC contracts out the technical monitoring function and has not provided the technical monitor with the proper training and materials to perform an adequate quality assurance visit. During the visit, DOE observed that the state monitor is going on site visits to completed homes without having the necessary components of the file to properly monitor. The monitor has only the bulleted list portion of the work order as submitted to the contractor, not including sketches of the dwelling with windows and doors labeled, change orders, invoices, or price lists. Without this information it is impossible to verify, for example, which windows were designated for repair or replacement, the amount of insulation billed for (in square footage of coverage), and heating system work requirements discovered after the initial audit, this renders the monitoring visit inadequate. The monitor is also relying on the homeowner to verify the work was done instead of checking attics, crawlspaces, etc. By not having the unit files, the monitor does not have the baseline information to monitor against – specifically, he does not know all the measures that were required in the work order and what materials were supposed to be installed, and not knowing what the diagnostic readings were at pre and post weatherization, which leads to an ineffective review of the quality of work.

The state monitor has not been properly trained in the technical aspects of the program. He was unaware of the expectations to run diagnostics, verify the results, or what actions he should perform to determine whether a quality job was performed. The contractor is not equipped with the necessary diagnostic equipment to perform the technical monitoring function. He does not have an adequate checklist to work from in monitoring a completed home. The current tool does not prompt the necessary components that should be observed/verified by the State monitor. Also, the monitor has not been instructed to use the Delaware Field Guide/Technical Standards to determine quality of work or if it is performed to DE standards.

*Recommendation: The Grantee must establish a technical monitoring/quality assurance review procedure. The technical monitor must be trained on the technical expectations of the Delaware program and fully equipped with the proper tools to assess the technical weatherization process from the energy audit, to the installation, to quality control inspection.*

### **Subgrantee Observations**

*DSSC has contracts with two subgrantees to deliver weatherization services to eligible clients in the state of Delaware - Neighborhood House Inc. and First State Community Action Agency, Inc. DOE included the subgrantees as part of the assessment of the*

*Grantee's program. The comments below are to be considered observations. DOE's privity of contract is with the Grantee. Several comments below would typically be identified as concerns during the Grantee monitoring of the subgrantee.*

## ***Subgrantee Programmatic***

### **Overall Process**

The process identified by the subgrantee and the process described by the State was not consistent in some areas. Subgrantee appears to be carrying out direction in accordance to verbal direction given by the Grantee. Performance does not reflect the necessary oversight expected by a subgrantee - selection, negotiation, and monitoring of the auditor; eliminating conflict of interest with one entity performing auditing, weatherization measures, and final inspection function; invoicing practices; etc.

The Program does not contain necessary checks and balances expected. The process does not flow with one piece of information building upon the previous, but rather each part appears to be performing independent of one another resulting in disconnects at multiple levels within the process. An example of such disconnect occurs when the Grantee commences the energy audit by sending the eligible client list directly to the energy audit company. The subgrantee is unaware of when the energy audits are being performed until they receive the completed audit documentation by the contractor.

The subgrantee only uses subgrantee administration funds to operate the program; therefore, the subgrantees have inadequate staffing levels. This may be the root of the subgrantee inability to provide the necessary oversight. Adequate staffing is necessary to perform the basic functions. Subgrantee does not have staff (or an independent entity) to monitor the contractors and ensure the quality of all work performed (auditing, installation of measures, and inspection).

The subgrantee client files exhibit a lack of documentation – specifically on how decisions are being made, why certain measures are being included, who performed the audit/inspection, dates of signatures, etc. Client files reflect poor practices and leave the whole process at risk of abuse. Also, client files do not have the necessary information available at the time individuals are performing their jobs (e.g., final inspector is performing inspection after the work has been invoiced and paid; State monitor is reviewing units without access to complete file including invoice). The files reflected numerous issues with documentation – signatures, authorization, dates, etc. Even if the work were all authorized and followed specific protocols, it is impossible to determine the chain of events based on the lack of documentation in the files.

## ***Subgrantee Procurement***

### **Overall Process**

The subgrantees are not following proper procurement procedures. They are selecting contractors on a rolling basis; therefore there are over 28 contractors in the Delaware Weatherization Program. There is no evidence of a bid opening to procure contractors.

Also there is no process in place to select contractors for specific jobs to ensure equality among contractors.

The executed contracts with the subgrantee contractors do not include proper flow down language such as Davis Bacon requirements. Several contractor agreements will terminate on March 31, 2010. There was no documentation in files for contract extensions, though the subgrantees stated that the contracts were verbally extended.

The Grantee requires the use of a price list for weatherization construction (shell) measures. If there are items that the energy audit calls for that are not on the price list, the contractors are required to list these cost on the Negotiated Items Document (NID). The NID is broken out by labor and material. The labor cost is a standard \$50/hour and the material is the cost of the product, though there is no documentation confirming that cost. If the contractor is onsite working on a unit and comes across materials that should have been called for in the energy audit, they call the subgrantee and ask to increase the job cost, there is no cost justification required or backup documentation to substantiate the increase cost. The files reflected numerous issues with documentation – signatures, authorization, dates, etc. Even if the work were all authorized and followed specific protocols, it is difficult if not impossible to determine the chain of events based on the lack of documentation in the files.

### ***Subgrantee Fiscal***

#### **Overall Fiscal**

The subgrantee has adopted invoicing practices that are not in compliance with regulations/guidance that dictates that no units may be billed until completed. Current practice is to consider the unit as complete prior to the final inspection being performed. There were contractor submitted invoices that were not signed or certified by the agent from the company.

The subgrantees have little control over the funds being used in the units, as the Grantee determines which funding sources will be used. The Grantee has started submitting receipts back to the subgrantees so they can track the funds as they are charged to each unit.

## *Subgrantee Technical*

### **Overall Technical**

The subgrantee client files do not have the necessary documentation necessary to justify the measures being required by the auditor (measures selected are not consistent with either following the DE priority list or a site specific audit) and the measures installed may or may not be consistent with the work order. Invoices show variance from work order without any justification. Materials are invoiced without following any procurement practices (getting multiple bids) and the materials are not required to meet any specific standards.

The subgrantee contractor is performing inadequate Auditing Practices and Work Order Generation. The State Plan calls for the site specific audits to be performed, although DE has been approved to use a Priority List generated from computerized audits. There is no evidence of the audit or the priority list being used for determining measures being called for in the Work Order. Work Orders call for measures that are not approved on the priority list and do not render any energy savings. There are critical measures that would result in energy savings that are not called for in lieu of more expensive/less effective measures – for example, no attic or sidewall insulation was installed in a dwelling while fourteen windows were replaced. Also, there is no evidence of diagnostics being performed routinely at pre and post weatherization.

There is evidence of disconnect between Work Orders and Measures Installed. Some measures are listed on the work order and invoice with no evidence of the work being performed. This could mean that the measure wasn't performed by the contractor but billed anyway. This reflects a lack of training and use of the field guide. The contractor appears not to understand what is being called for on the work order, resulting in other work being done rather than what was expected. There are also examples of additional materials being installed and billed, with no justification or change order validating the reason for installing the additional materials. The materials on the price list do not reflect any specific standards – cheap and poor quality materials can be selected and the contractor is paid the same price as when higher quality, more effective materials are installed.

The Final Inspection process does not appear to follow program standards or the expectations of the Program. Specifically, the Delaware Field Guide and Standards is not being used to guide how measures are installed. Several clients reported that the inspector did not look at measures himself, but instead asked the clients to verify that work was performed.

There were problems observed during the DOE visit that were not properly recorded in the Final Inspector's report (e.g., missing materials, insulation falling out of mobile home belly, inadequate roof patches, etc.). There is no documentation of final inspection diagnostics being performed.

## **General Recommendations Summary List**

*Overview: The key players involved with the implementation of the Weatherization Assistance Program in Delaware needs to restructure their approach in order to adequately run the Program in accordance with DOE rules and regulations. Below are general recommendations outlined by due date as well as a recommended plan for addressing all units to be weatherized:*

### **DOE Actions to Date:**

- On May 3, 2010, DOE NETL issued a Monitoring Report with Action Items requiring a response within 15 days
- DOE placed the state of Delaware on an ASAP reimbursement payment system.

### **Short Term Plan discussed in Delaware on May 19<sup>th</sup>, 2010 : DOE and Grantee GOING FORWARD**

1. Resolve current cash flow issues
  - a. Accounting for all invoices
  - b. Identify Documentation by fund code
  - c. Distribute costs appropriately and as allowable
  - d. Invoice Federal Government for allowable costs

### **PROGRAM RESTART (PHASE 1) – Due by June 18<sup>th</sup>**

1. Finish all work in progress (Contractor and Quality Control)
2. Training on the field guide, priority list and weatherization core competencies.
  - a. 2 day training – separated out by North and Southern parts of Delaware
3. Establish Interim Quality Control (QC) at the State level
4. Quality Assurance on interim QC by Department of Energy
5. Training for Subgrantees
6. Department of Energy will serve as a resource during this period
7. Accurate Reporting for DOE 2009 and DOE ARRA funds, as determined by an analysis of Grantee invoices and subgrantee client files (DOE provided a spreadsheet to assist) Grantee must update PAGE reporting system to reflect actual numbers for the metrics defined in DOE reporting requirements.
8. The Weatherization Program implementation responsibilities of the Grantee and the Subgrantee are unclear. The Grantee must set up a meeting with the subgrantees to define the lines of responsibility in order to adequately operate the program.
9. Identify/Schedule Training for the Grantee staff and Subgrantee staff to fully understand program rules, requirements, and expectations in order to properly operate (include State monitor in training)
10. The Grantee must identify dedicated State staff to run the Weatherization Assistance Program
11. Grantee must decide whether or not to pursue legal action with contractors, identifying potential debarment due to questionable costs, double billing for materials, billing for materials not installed, etc.

12. Identify a process to revisit and correct as necessary all of the units that have been inappropriately completed with DOE funds
13. Establish an invoice review process and begin questioning costs that do not meet DOE rules

**PROGRAM RESTART (PHASE 2) – Due August 2<sup>nd</sup>, 2010**

1. Rewrite contracts - consider a contract period of July 1st 2010 – March 2012
2. Amend the Subgrantee Contracts to include:
  - **Reference to 10 CFR 600 and 10 CFR 440**
  - **Reference to DOE Grant Guidance/program requirements**
  - **Usage of the Delaware Technical Standards identified in the Delaware Field Guide**
  - **Davis Bacon requirements as identified in the terms and conditions of the ARRA awards**
  - **Delaware Procurement Rules/Requirements to procure services**
3. Develop funding, spending plans and budgets
4. Training for all stakeholders (all levels)
5. Renegotiate existing contracts with Energy Audit Contractor (potentially ESG)
6. **Grantee must complete and disseminate a Weatherization Policies and Procedures Manual**
7. **Subgrantees must determine the number of contractors required to complete production expectations**
8. **Subgrantees must properly procure contractors (may use the DOE Procurement Toolkit as a guide to proper procurement)**
9. **Provide technical training for subgrantees**
10. Local agency needs to have a quality control component (Agency should hire staff for Quality Control and Program Management)
11. Staff at grantee level for Quality Assurance
12. Interim State Weatherization Office Program Management Assistance
13. Advance Operating funds to sub grantees
14. Rebid price list
15. DOE/DHSS/DSSC technical assistance and resources

**GOING BACK**

- ESG to verify past audit and Quality Control activity
- Where applicable, contractors are required to complete incomplete work
- Invoice / charges will be recoded to appropriate funding sources
- 25% Quality Assurance required for work completed
- Adjust all reports at Federal level
- Establish complete customer file for each completion
- Adjust program and fiscal reports from sub grantees

**Training & Technical Assistance Resources**

Several years ago, to help ensure a consistent, high-quality training, the program drew upon the knowledge of the Weatherization Trainers Consortium to develop weatherization core competencies for each discipline, based on the skills needed for a given position (see list of positions below). Many grantees have developed their training programs around these core competencies. The increasing levels of competency provide a career or development path for agency and contractor personnel. For example, the core competencies for an auditor build on those needed for a crew chief, which build on the skills needed for an installer.

In general, the weatherization workforce includes, but is not limited to, the following:

- **Auditors**, who assess eligible dwelling for potential weatherization services; visually inspect building shell and mechanical systems; conduct diagnostic, health, and safety tests; use computerized energy audit or priority list to select cost-effective measures; and prepare work orders to ensure the most appropriate measures are installed properly;
- **Installers**, who install weatherization measures (can be contractors or crew members);
- **Crew Chiefs**, who supervise crews of installers and direct their efforts;
- **Quality Control Inspectors**, who verify the proper selection, installation, and effectiveness of measures; review documentation; visually inspect; and perform diagnostic, health, and safety testing;
- **Trainers**, who provide training to weatherization staff;
- **Technical Monitors**, who monitor local agencies to ensure work quality, and often identify training needs and provide or recommend training;
- **Intake Eligibility Staff**, who determine the eligibility of prospective clients; and
- **State and Local Program Managers**, who manage day-to-day operations.

DOE has a cadre of individuals available, as part of the National Training and Technical Assistance, to assist Grantees in identifying appropriate and available resources for programs that need attention in specific areas.

For Delaware, the following are suggested as possible avenues to assist the state in achieving the goals/aims of the program. This is not a comprehensive list of all the available resources but should assist in moving DE in the direction needed. Contact information for the entities listed below is available from the PMC Project Officer.

**Management:**

- Secure services from individuals that previously worked as Weatherization Directors within state government.
- ACKCO/Susan White has provided training nationally on procurement and compliance at local agencies.
- Current subgrantee managers can be accessed to assist in setting up systems and procedures for smooth reporting/operations.

**Technical:**

- Secure services from Weatherization Training Centers (listed on [www.waptac.org](http://www.waptac.org)) that may have excess capacity and be able to provide targeted training to contractors currently working in the program.
- Contact independent trainers (perhaps widespread call through WAP-list or Trainers Consortium list) asking who might be interested/available in providing training.
- Access peer exchange opportunities to observe other subgrantees in neighboring states to observe best practices in the Mid-Atlantic climate.
- Engage ORNL technical staff to assist with implementation of NEAT/MHEA on homes that are not addressed on the DOE approved priority list.
- Contact SMS staff to assist with addressing technical issues related to the priority list, DE field guide implementation, standards, and best practices.