

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### ASSISTANCE LISTING 93.499 LOW-INCOME HOUSEHOLD WATER ASSISTANCE PROGRAM

#### I. PROGRAM OBJECTIVE

Congress established the Low-Income Household Water Assistance Program (LIHWAP) as part of the federal government's response to the COVID-19 pandemic. This emergency formula grant program is designed to target assistance to those households with the lowest incomes that pay a high proportion of household income for water and wastewater services. The federal grant is awarded to states, territories and Indian Tribes who will issue funds on behalf of eligible, applicant households to owners or operators of public water systems or treatment works to reduce arrearages of and rates charged to such households for those services.

States, territories, and Indian Tribes—the LIHWAP grantees--shall, as appropriate and to the extent practicable, use existing processes, procedures, policies, and systems in place to provide assistance on behalf of low-income households, particularly in coordination with the federal Low Income Home Energy Assistance Program (LIHEAP), except where otherwise noted. Grantees shall provide LIHWAP benefits according to the following priorities: (1) households whose services are disconnected due to non-payment, (2) households whose services are facing an imminent disconnection due to non-payment, and (3) households with only a current bill due (no past due/arrearage amount). Grantees must ensure that benefits and other interventions are sufficient to ensure restoration and/or continuity of services.

#### II. PROGRAM PROCEDURES

##### A. LIHWAP Formula Grants

The US Department of Health and Human Services (HHS), Administration for Children and Families (ACF), Office of Community Services (OCS), administers LIHWAP at the federal level. LIHWAP grant funds are distributed by formula to the states, the District of Columbia, and the Territories. In addition, federally or state-recognized Indian tribes (including tribal consortia) that received fiscal year (FY) 2021 LIHEAP funding were eligible to serve as recipients of direct funding from ACF.

Each grantee is responsible for designing and implementing its own LIHWAP within broad federal guidelines. Grantees must administer their LIHWAP according to their ACF approved Plan, and any amendments, and in conformance with the federal ACF Mandatory General Terms and Conditions and the LIHWAP Specific Terms and Conditions. Grantees must establish appropriate systems and procedures to prevent, detect and correct waste, fraud, and abuse, by clients, vendors, and administering agencies.

In order to receive funding, each grantee was required to submit a LIHWAP implementation Plan that served as the grantee's application for federal funding and

describes how the grantee's LIHWAP will be administered, including a set of program integrity questions in which the grantee must describe the systems in place to detect and deter fraud, waste, and abuse in its LIHWAP program.

All grantees must have allowed for public participation in the development of their annual Plans prior to submission to ACF.

### **Source of Governing Requirements**

LIHWAP was authorized under the Consolidated Appropriations Act, 2021 (P.L. 116-260) and the American Rescue Plan Act of 2021 (P.L. 117-2).

LIHWAP is subject to all of 45 CFR Part 75, which is the HHS implementation of 2 CFR Part 200, commonly known as the Office of Management and Budget's Uniform Administrative Guidance.

In addition, LIHWAP grantees must administer their LIHWAP according to their respective Plans that they submitted to HHS. Grantees are permitted to submit revised LIHWAP plans within a reasonable amount of time after making significant changes to their policies and/or procedures referenced in their plans.

Grantees must also abide by the [LIHWAP Specific Terms and Conditions](#) and the [ACF General Mandatory Grant Terms and Conditions](#). Both sets of Terms and Conditions can be found here: <https://acf.hhs.gov/grants/mandatory-formula-block-and-entitlement-grants>

### **Availability of Other Program Information**

The ACF LIHWAP web page (<https://www.acf.hhs.gov/ocs/programs/lihwap>) provides general information about this program, including a section on Policy and Guidance.

## **III. COMPLIANCE REQUIREMENTS**

In developing the audit procedures to test compliance with the requirements for this federal program, the auditor must determine, from the following summary (also included in Part 2, "Matrix of Compliance Requirements"), which of the 12 types of compliance requirements have been identified as subject to the audit (noted with a "Y" in the summary matrix below), and then determine which of the compliance requirements that are subject to the audit are likely to have a direct and material effect on the federal program at the auditee. For each such compliance requirement subject to the audit, the auditor must use Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and this program supplement (which includes any program-specific requirements) to perform the audit. When a compliance requirement is shown in the summary below as "N," it has been identified as not being subject to the audit. Auditors are not expected to test requirements that have been noted with an "N." See the Safe Harbor Status discussion in Part 1 for additional information.

LIHWAP:

A	B	C	E	Ft	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	Y	N	Y	Y	N	N	Y	Y	N

## B. Allowable Costs/Cost Principles

### 1. Allowable Costs

Grantees must provide the bill payment benefits directly to the owners or operators of public water systems or treatment works on behalf of specific, approved households with accounts with such providers.

Benefits on behalf of households are limited to credits to the households' accounts to pay towards arrearages, current and/or future water charges (e.g., a credit to the account). This can include payment towards reconnection fees, late payment fees, and other fees to the extent they are charged to the recipient household in the same fashion as any other account holder with the water provider (no discrimination in fees charged to program recipients or low income customers).

Funds must not be used towards infrastructure purchases, repairs or improvements, e.g., repair or replacement of toilets, pipes, and other related equipment. Funding must not be used towards in-kind benefits to the household.

A reasonable amount of funds may be used for related program outreach and eligibility intake activities.

### 2. Cost Principles

All of 45 CFR Part 75 applies to this program. Of particular note, grantees must establish and maintain accurate central office cost allocation plans in addition to negotiated indirect cost agreements (see 45 CFR section 75.416).

## **E. Eligibility**

### **1. Eligibility for Individuals**

Grantees must provide benefit payments to water/wastewater companies on behalf of households that are income eligible based on either (a) one or more individuals are receiving assistance from the LIHEAP, TANF, SSI, SNAP benefits, or certain needs-tested veterans' benefits; or (b) total household income that does not exceed the greater of 150 percent of the state's established poverty level or 60 percent of the state median income. Grantees may establish lower income eligibility criteria, but no household may be excluded solely on the basis of income if the household income is less than 110 percent of the state's poverty level. Grantees must give priority to those households with the highest home water and wastewater costs or needs in relation to income and household size. This includes targeting households with vulnerable members, including a senior (60 years or older), a young child (5 years or younger), and/or a disabled member (disabled defined by the grantee).

Households whose water bills are included in their rent are eligible for program benefits to the extent the household pays rent and provides adequate documentation to show water is provided by the landlord. Payments on behalf of renters must still be made to the owners or operators of public water systems or treatment works, those payments must reduce arrearages of and rates charged to the landlord's account, and the landlord must pass the benefit in full to eligible households in the form of lower rent payments. Grantees must establish consumer protections, such as by issuing two-party checks, sufficient to ensure that the water provider correctly credits the account and that the landlord credits the household's rent bill to reflect the LIHWAP benefit amount.

Grantees must provide funds to owners or operators of public water systems or treatment works ("owners or operators") to reduce arrearages of and rates charged to eligible households for such services. For all payments to owners or operators on behalf of individual households, the grantee must establish procedures to:

- i. notify, or require the owner or operator to notify, each participating household of the amount of assistance paid on its behalf;
- ii. assure that the owner or operator will charge the eligible household, in the normal billing process, the difference between the actual amount due and the amount of the payment made by the LIHWAP grant;
- iii. assure that any agreement the grantee enters into with an owner or operator under this paragraph will contain provisions to assure that no household receiving assistance under this grant will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements;
- iv. ensure that the provision of payments to the owner or operator remains at the option of the grantee, in consultation with local subgrantees; and

- v. ensure that the owner or operator provides written reconciliation and confirmation on a regular basis that benefits have been credited appropriately to households and their services have been restored on a timely basis or disconnection status has been removed if applicable.

Households that rely entirely on well water and/or septic service are ineligible for assistance under this program, unless they qualify for a special other water service such as delivered water under extenuating circumstances.

**2. Eligibility for Group of Individuals or Area of Service Delivery**

Not Applicable

**3. Eligibility for Subrecipients**

To the extent it is necessary to designate local administrative agencies, the grantee is to give special consideration to local public or private non-profit agencies (or their successor agencies) which were receiving energy assistance or weatherization funds under the Economic Opportunity Act of 1964 or other laws, provided that the grantee finds that they meet program and fiscal requirements set by the grantee.

**G. Matching, Level of Effort, Earmarking**

**1. Matching**

Not Applicable

**2. Level of Effort**

Not Applicable

**3. Earmarking**

The following limitations apply to LIHWAP formula grants:

a. *Administrative Costs*

- (1) No more than 15 percent of a state's LIHWAP funds for each appropriation (P.L. 116-260 and P.L. 117-2) may be used for administrative costs, including both direct and indirect costs. This limitation applies, in the aggregate, to administrative costs at both the state and subrecipient levels. This cap must not be exceeded by supplementing with other federal funds.

## H. Period of Performance

1. Period of Performance/Obligation Period: The LIHWAP formula grant funds payable to the grantee in federal fiscal year 2021 must be obligated by the grantee by September 30, 2023. Funds not obligated by September 30, 2023, must be returned to ACF.

Per 45 CFR section 75.2, the term “obligation” is defined as: “when used in connection with a non-federal entity's utilization of funds under a federal award, *obligations* means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-federal entity during the same or a future period.”

Expenditure: Grantees must expend (liquidate) the funds, based upon prior valid obligations, no later than 90 calendar days after the close of FY 2023, (i.e., by December 31, 2023).

## L. Reporting

### 1. Financial Reporting

- a. *SF-425, Federal Financial Report* – Applicable—due 90 days after the close of each federal fiscal year.

45 CFR 75.2 also defines the term “expenditures” to mean: “charges made by a non-Federal entity to a project or program for which a Federal award was received.

(1) The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.

(2) For reports prepared on a cash basis, expenditures are the sum of:

- (i) Cash disbursements for direct charges for property and services;
- (ii) The amount of indirect expense charged;
- (iii) The value of third-party in-kind contributions applied; and
- (iv) The amount of cash advance payments and payments made to subrecipients.

(3) For reports prepared on an accrual basis, expenditures are the sum of:

- (i) Cash disbursements for direct charges for property and services;
- (ii) The amount of indirect expense incurred;
- (iii) The value of third-party in-kind contributions applied; and
- (iv) The net increase or decrease in the amounts owed by the non-Federal entity for:

(A) Goods and other property received;

(B) Services performed by employees, contractors, subrecipients, and other payees;

(C) Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.”

## 2. Performance Reporting

*LIHWAP Quarterly Performance and Management Data Report (OMB-No-0970-0578)*—All grantees will need to submit this report within 30 days after the close of each federal quarter beginning with FY 2022, e.g., January 31, 2022 for the October 1, 2021 through December 31, 2021 quarter. The brief report will ask a few questions about grantee progress, barriers, and training and technical assistance needs.

*LIHWAP Annual Performance and Management Data Report (OMB No -0970-0578)*—All grantees will need to submit this report by December 31st following each federal fiscal year (e.g., December 31, 2021 for FY 2021 obligations and expenditures and December 31, 2022 for FY 2022 obligations and expenditures, and December 31, 2023 for FY 2023 obligations and expenditures). The report includes key performance indicators such as the number and types of households assisted, the average benefit amount provided to households, and performance measures related to targeting assistance to high water burden households (i.e., households that incur the greatest water bills in relation to household income).

## 3. Special Reporting

Not Applicable

## 4. Special Reporting for Federal Funding Accountability and Transparency Act

See Part 3.L for audit guidance.

## M. Subrecipient Monitoring

### 2. Assess subrecipient risk

Evaluate each subrecipient’s risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring, per 45 CFR section 75.352.

### 3. Monitor subrecipients

Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved per 45 CFR 75.352(d). Pass-through entity monitoring of the subrecipient must include: (1) reviewing financial and performance reports required by the pass-through entity; (2) following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means; and (3) issuing a management decision for audit findings pertaining to the federal award provided to the subrecipient from the pass-through entity as required by 45 CFR section 75.521.

## IV. OTHER INFORMATION

Grantees must follow the specific LIHWAP terms and conditions associated with the grant awards. They include a number of provisions related to consumer protections, etc. They are accessible here:

[\[https://www.acf.hhs.gov/sites/default/files/documents/LIHWAP%20Terms%20and%20Conditions%20for%20States.pdf\]](https://www.acf.hhs.gov/sites/default/files/documents/LIHWAP%20Terms%20and%20Conditions%20for%20States.pdf)

They are also bound by the General Mandatory Terms and Conditions, which are posted here: [https://www.acf.hhs.gov/sites/default/files/documents/general\\_terms\\_and\\_conditions\\_2019\\_final.pdf](https://www.acf.hhs.gov/sites/default/files/documents/general_terms_and_conditions_2019_final.pdf).