



STATE OF TENNESSEE
COMPTROLLER OF THE TREASURY
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Justin P. Wilson
Comptroller

December 20, 2010

The Honorable Virginia T. Lodge, Commissioner
Department of Human Services
400 Deaderick Street
Nashville, Tennessee 37248

Dear Commissioner Lodge:

On April 1, 2009, the U.S. Department of Energy (DOE) awarded the state \$99 million in American Recovery and Reinvestment Act of 2009 (ARRA) funds for the Weatherization Assistance for Low-Income Persons (WAP) program. The ARRA funds are available for a three-year period ending March 31, 2012. In addition, DOE awarded \$7 million of non-ARRA funding to the state in fiscal year ended June 30, 2010, bringing the total award to \$106 million. Each of the three prior non-ARRA awards has not exceeded \$8.5 million. To implement the program, the Department of Human Services (DHS) contracted with 18 subrecipients (nonprofit organizations) across the state.

WAP was created in 1976; however, the amount awarded for the year ended June 30, 2010, was at an unprecedented level for our state. The annual awards for the program for the three fiscal years ended June 30, 2007, 2008, and 2009 were approximately \$3.7 million, \$4.1 million, and \$8.5 million, respectively. The total number of homes weatherized for these three fiscal years was 5,416.

In light of the numerous problems we noted in our field work, we wanted to advise you of our preliminary findings so that appropriate corrective actions could be initiated as soon as practicable. Our discussion of these preliminary findings regarding WAP raises substantial concerns and should be considered in the context of the

anticipated completion of the *2010 Single Audit Report* by March 31, 2011. The *Single Audit Report* provides information to the federal government on the state's accountability for federal financial assistance and is critical to securing continued federal funding.

Office of Management and Budget Circular A-133, "Audits of State, Local Governments, and Non-Profit Organizations," requires us to plan and perform our audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements that could have a direct and material effect on a major federal program occurred. At this point, we anticipate having to report that material noncompliance occurred with the Weatherization Assistance for Low-Income Persons program.

Program Objectives

According to Office of Management and Budget Circular A-133 Compliance Supplement:

The objective of the Weatherization Assistance for Low-Income Persons (WAP) program is to increase the energy efficiency of dwellings owned or occupied by low-income persons, reduce their total expenditures on energy, and improve their health and safety. WAP has a special interest in addressing these needs for low-income persons who are particularly vulnerable, such as the elderly, disabled persons, and families with children, as well as those with high energy usage and high energy burdens.

Scope of the Review

As of June 30, 2010, DHS paid the aforementioned 18 subrecipients, (See **Attachment 1**), approximately \$36 million for weatherizing approximately 6,800 homes. To determine DHS's compliance with WAP requirements, we reviewed the related client files, energy auditor files, and contractor files for 444 weatherized homes. During our preliminary analysis of the 444 homes reviewed, we found deficiencies with 233 files (52%).

Our work also included site visits at 84 weatherized homes. We noted that contractors had not performed weatherization measures, had not properly completed the weatherization measures, or had performed work that was not allowable under the weatherization program for 38 homes (45%).

Below is a summary of the significant internal control and compliance weaknesses we noted from our file reviews and site visits.

Internal Control and Compliance Weaknesses in Weatherization Process

Incomplete Files

During our review of the files, we noted that the subrecipients' weatherization coordinators did not always ensure that the files contained all the required documentation. Specifically, the files did not always contain:

- proof of home-ownership or written permission from the owner to weatherize the home,
- proof of income for weatherization applicants,
- pre-energy audit forms that identified the energy auditors,
- documented on-site visits approving work change orders in excess of \$100, or
- documented verification that the energy auditor verified that each measure was completed.

Without all the required documentation in the files, we could not determine if the applicant was eligible for the program or whether the weatherization work performed was properly authorized and approved.

Post-Energy Audit Deficiencies

File Review

The post-energy audit is the final control for determining that the work has been appropriately completed and that payment can be issued. Although the department had created home inspection forms for the energy auditors to document review of weatherization measures performed, some subrecipients have used different forms. Our file review disclosed that in a number of instances, the home inspection forms

- did not include all weatherization measures to be inspected, and
- were not consistently completed to document whether the measure passed or failed.

However, the forms had been signed by the energy auditor and used by the subrecipient to process final payment to the contractor.

Site Visits

We also reviewed the home inspection forms as part of our site visits. Our review disclosed the home inspection forms were signed, certifying that the work was inspected and approved. However, we noted that the energy auditor did not always document

whether individual measures were inspected (passed or failed). During our site visits, we noted that individual measures were

- not marked as failed on the forms, and the measures were not completed; or
- marked as passed on the forms, but the measures were poorly completed or not completed.

Consequently, based on our file review and site visits contractors were paid for work not inspected, not performed, or that was of poor quality.

Based on our site visits we also noted that the energy auditors failed to document on the forms whether individual measures passed or failed but the measures were completed and the contractors were properly paid.

Uncertified or Unauthorized Persons Performing Energy Audits

We noted at three subrecipients that the subrecipients' weatherization coordinators did not always ensure energy audits were conducted by certified or authorized individuals. At one subrecipient, a contracted certified energy auditor allowed an uncertified family member to conduct 22 energy audits. The subrecipient paid \$4,400 for these energy audits. We also noted at two other subrecipients instances where the energy auditors permitted their uncertified or unauthorized assistants to perform at least 14 energy audits. The subrecipients paid at least \$3,400 for these energy audits.

Weatherization Measures Poorly Performed or Not Performed at All

We noted at least \$3,600 paid to weatherization contractors for weatherization measures that were not performed in seven homes. The post-energy audits failed to identify that weatherization measures invoiced by the contractor had not been properly performed or performed at all. Furthermore, the subrecipients' weatherization coordinators did not ensure appropriate post-audits were performed before the contractors were paid. **See Exhibit 1 and Exhibits 5-12.**

Subrecipient Did Not Verify Contractor's License

We noted at one subrecipient that an unlicensed contractor performed weatherization work. Based on discussion with the weatherization coordinator, the subrecipient did not verify the license of the contractor prior to awarding the contract and authorizing weatherization work to begin on the seven homes. In fact, the contractor had completed weatherization work on four homes and was installing weatherization measures on three additional homes before the subrecipient determined the contractor did not have a license. This unlicensed contractor was paid \$27,743 for work performed.

Non-Weatherization Measures Performed

We noted at least nine subrecipients' energy auditors inappropriately recommended measures which were not allowable under the program to be performed in at least 13 homes. The non-weatherization measures included stairs, steps, ramps, and shower surrounds, which do not increase energy efficiency of the home. The subrecipients' weatherization coordinators failed to identify the unallowable measures for which the contractors were paid. The subrecipients paid at least \$6,785 for these non-weatherization measures. **See Exhibits 2-4.**

Weatherization Measures Needed But Not Performed

During our home visits, we noted that several homes needed critical weatherization measures to achieve energy efficiency; however, these weatherization measures were either not recommended by the pre-energy audit or, if recommended, the measures were not performed.

In one example, the pre-energy audit failed to recommend that a broken window pane be replaced. When we pointed this out to the weatherization coordinator, he stated that he believed the problem was that the energy auditor was new and lacked proper training to assess the energy needs of the home.

In another instance, the pre-energy audit recommended that broken window panes should be replaced; however, the recommended measures did not make it to the final work order. In some cases, homes are in such poor condition that the cost of weatherization measures required to increase energy efficiency may exceed the average spending allowance of \$7,100 per dwelling (\$6,500 average per dwelling and \$600 for health and safety measures) permitted in the federal award application. As a result, not all recommended or needed weatherization measures could be installed. In these situations, the subrecipients' weatherization coordinators should have prioritized which weatherization measures needed to be installed to achieve the optimal energy efficiency for the home. In the instance mentioned above, the weatherization coordinator's prioritization of weatherization measures did not, in our opinion, provide optimal energy efficiency for the dwelling. **See Exhibit 13.**

Reasons Provided for the Above Internal Control and Compliance Weaknesses

When we discussed the above internal control and compliance weaknesses with the subrecipients' weatherization coordinators, we were informed that they felt rushed to weatherize a large number of homes. The contracts between DHS and the subrecipients include benchmarks to weatherize 25% of homes by December 31, 2009; 50% by March 31, 2010; 85% by June 30, 2010; and 100% by September 30, 2010.

The subrecipients' weatherization coordinators also explained that many of the weaknesses were caused by inexperienced personnel and lack of training. DHS is taking actions to improve the performance of the subrecipients involved in the weatherization process based on problems noted by the department's monitors and our office by providing additional training to the contractors and energy auditors.

As our review of the program progressed, we noted that subrecipients improved performance. Although it is possible that these latter subrecipients already had better controls, the subrecipients also received additional training and have been advised by DHS of the need to improve their controls over the weatherization program.

Immediate and Continuing Actions

We recognize that management of the Department of Human Services has experienced significant program implementation difficulties given the unprecedented federal award funding levels for the fiscal year June 30, 2010. In addition to the infusion of over \$100 million to our state, DHS management has been expected to spend the federal funds quickly and efficiently to provide weatherization benefits to low-income persons who are particularly vulnerable, such as the elderly, disabled persons, and families with children, as well as those with high energy usage and high energy burdens.

We also realize that, given the number of homes weatherized, management relies on all parties involved in the weatherization process to perform their responsibilities in accordance with contract terms and federal regulations. In such circumstances it is critical that those individuals charged with the responsibility for approving, performing, and reviewing the actual work realize that there are real consequences for failure to meet their obligations. To that end, all remedies, including administrative, civil, and criminal actions, should be taken to hold those individuals accountable for their actions or failures to act. One of the greatest defenses to fraud is individuals understanding that there will be consequences for their behavior.

We have been informed by your staff that as of June 30, 2010, DHS weatherization monitors have inspected 455 of 6,796 weatherized homes (6.7%). As a result, DHS is currently on track to achieve the 5% federal monitoring requirement of all weatherized homes by March 31, 2012. We have also observed DHS's prompt action when subrecipient and/or contractor deficiencies have been identified by your program staff and monitors.

Because of the ongoing potential for risks of noncompliance, fraud, waste, and abuse in the program, it is imperative that management continue to monitor the work performed by subrecipients and contractors. The department should use the knowledge

gained from these monitoring efforts to identify and mitigate these and other risks promptly.

Specifically, DHS management, at a minimum, should:

1. Require WAP program staff to develop effective tools to assist in identifying patterns of potential noncompliance, fraud, waste, or abuse, and share those tools with the subrecipients.
2. Reemphasize to the subrecipients that they are responsible for following all contract terms, policies, procedures, and guidelines.
3. Enforce strict penalties for subrecipients, energy auditors, or contractors who fail to follow contract terms.
4. Determine why energy auditors have not performed appropriate post-energy audits to identify contractors who fail to perform weatherization measures.
5. Require subrecipients to complete the DHS Weatherization Home Inspection Form that itemizes the specific weatherization measures that were to be performed and to require energy auditors to initial each item individually as to whether the measure passed or failed the inspection and to sign the form.
6. Take prompt action to address post-energy audit deficiencies and require subrecipients to terminate contracts or employment with the energy auditors or contractors as necessary.
7. Provide continued training for subrecipients, energy auditors, and contractors regarding WAP requirements.
8. Ensure prompt action is taken to report possible fraud, waste, and abuse to the appropriate authorities.
9. Take steps to remind all parties involved in the program that fraud, waste, and abuse will be dealt with promptly and decisively and that each individual has a continuing duty to report any indication of fraud, waste, and abuse to the Comptroller's hot-line at 1-800-232-5454 or to your staff.

Government officials are responsible for our tax dollars. Taxpayers rightly expect that state officials responsible for the weatherization program for low-income persons will identify eligible persons, determine needed and allowable weatherization measures, have the weatherization work performed by qualified companies and individuals, verify that the work has been completed as specified, and ensure prompt payment. Therefore, it is imperative that the Department of Human Services in conjunction with its 18 subrecipients:

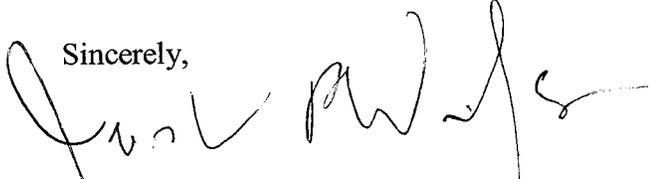
- ensure the weatherization program achieves its objectives;
- ensure that weatherization services are provided effectively, efficiently, economically, ethically, and equitably; and

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- manage and spend the weatherization resources in compliance with laws and regulations.

Failure to comply with program requirements may cause the state to lose substantial federal funding for which our citizens pay taxes.

Sincerely,

A handwritten signature in black ink, appearing to read "Justin P. Wilson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Justin P. Wilson
Comptroller

JPW/kbt
Attachment 1/Exhibits 1-13

cc: Senator Bill Ketron, Chair, Senate State and Local Government Committee
Representative Curry Todd, Chair, House State and Local Government Committee
Robert E. Cooper, Jr., Office of the Attorney General and Reporter

WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS

Attachment 1

The Department of Human Services contracted with the following subrecipients for the fiscal year ended June 30, 2010, to administer the Weatherization Assistance for Low-Income Persons

1. Mid-Cumberland Community Action Agency - **Lebanon**
2. Clarksville-Montgomery County Community Action Agency - **Clarksville**
3. South Central Human Resource Agency - **Fayetteville**
4. Upper Cumberland Human Resource Agency - **Cookeville**
5. Chattanooga Human Services Department - **Chattanooga**
6. Highland Rim Economic Corporation - **Erin**
7. Upper East Tennessee Human Development Agency - **Kingsport**
8. Metropolitan Development and Housing Agency - **Nashville**
9. Southwest Human Resource Agency - **Henderson**
10. Northwest Tennessee Economic Development Council - **Dresden**
11. Knoxville-Knox County Community Action Committee - **Knoxville**
12. Mid-East Community Action Agency - **Kingston**
13. Blount County Community Action Agency - **Maryville**
14. Bradley-Cleveland Community Services Agency - **Cleveland**
15. Shelby County Community Services Agency - **Memphis**
16. Delta Human Resource Agency - **Covington**
17. East Tennessee Human Resource Agency - **Knoxville**
18. Southeast Tennessee Human Resource Agency - **Dunlap**

Exhibits

Exhibit 1: The contractor was paid to install a crawl space door; however, the contractor only installed plywood and cinder block. **Metropolitan Development and Housing Agency**



Exhibit 2: The contractor installed a ramp on a home which was not a weatherization measure. **Metropolitan Development and Housing Agency**



Exhibit 3: The contractor repaired steps entering a crawl space which was not a weatherization measure. **Metropolitan Development and Housing Agency**



Exhibit 4: The contractor was paid for painting the fascia perimeter of the home which was not a weatherization measure. **Highland Rim Economic Corporation**



Exhibits 5 – 7 relate to the same house

Exhibit 5: This was the photo taken by the energy auditor of the floor insulation that was to be repaired and installed. **Metropolitan Development and Housing Agency**



Exhibit 6: This is the photo we took at the time of our review where the contractor was paid to repair and install floor insulation which was not completed. **Metropolitan Development and Housing Agency**



Exhibit 7: The contractor left the floor insulation instead of installing. **Metropolitan Development and Housing Agency**



Exhibit 8: The contractor did not properly install the windows. **Metropolitan Development and Housing Agency**



Exhibit 9: The contractor did not properly install the door. **Metropolitan Development and Housing Agency**



Exhibit 10: The contractor did not properly install the door allowing air to enter the home. **Metropolitan Development and Housing Agency**

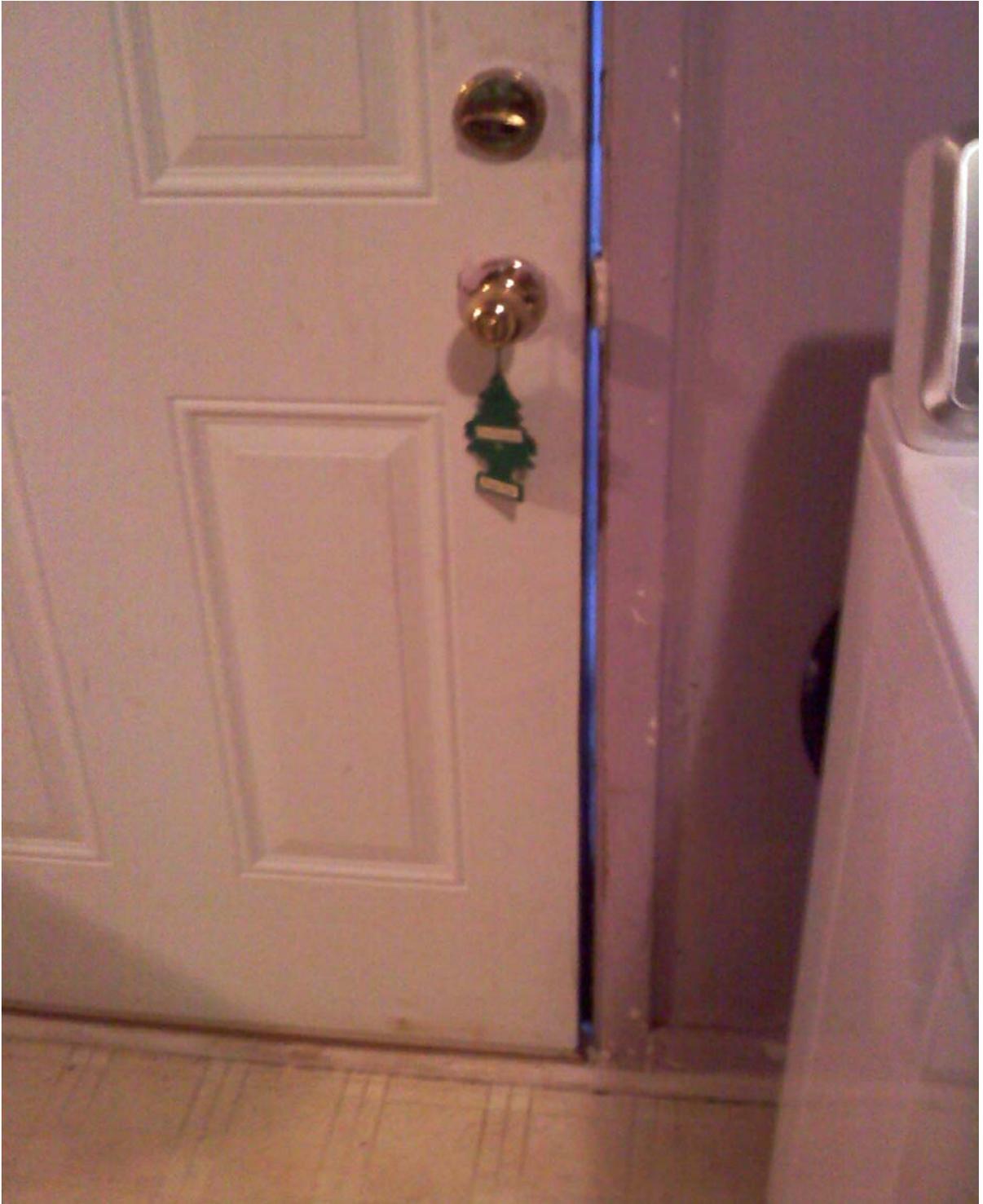


Exhibit 11: The contractor did not properly install eight windows and screens. Nails were inserted by the homeowner after the contractor left to hold the window screens in place. **Upper East Tennessee Human Development Agency**



Exhibit 12: The hot water heater wrap was not properly installed. **Metropolitan Development and Housing Agency**



Exhibit 13: The window panes should have been replaced to reduce the flow of air that entered the home. **Bradley-Cleveland Community Services Agency**

