

**STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENERGY
WEATHERIZATION ASSISTANCE PROGRAM**

**PERFORMANCE AUDIT REPORT
MARCH 2023**



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To The Fiscal Committee Of The General Court:

The purpose of this audit was to determine if the Weatherization Assistance Program was efficiently and effectively overseeing community action agencies weatherization services during State fiscal years (SFY) 2019-2022. The audit was to address the recommendation made to you by the joint Legislative Performance Audit and Oversight Committee. Due to the New Hampshire Department of Energy's creation on July 1, 2021, and documents from prior SFYs were not readily available, this audit was limited in scope to activities primarily occurring during SFY 2022.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Office of Legislative Budget Assistant

Office Of Legislative Budget Assistant

March 2023

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**STATE OF NEW HAMPSHIRE
WEATHERIZATION ASSISTANCE PROGRAM**

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ABBREVIATIONS

CAA	Community Action Agency
CFR	Code Of Federal Regulations
FAP	Fuel Assistance Program
HEA	Home Energy Assistance
LBA	Legislative Budget Assistant
NH Energy	New Hampshire Department Of Energy
QA	Quality Assurance
QC	Quality Control
SFY	State Fiscal Year
US DOE	United States Department Of Energy
WAP	Weatherization Assistance Program

**STATE OF NEW HAMPSHIRE
WEATHERIZATION ASSISTANCE PROGRAM**

EXECUTIVE SUMMARY

We found the New Hampshire Department of Energy's (NH Energy) monitoring of the Weatherization Assistance Program (WAP), which was designed to improve energy efficiency in the homes of low income clients, was generally effective and the program had exceeded its expected statewide number of dwellings weatherized in two of the three State fiscal years (SFY) for which we requested federal reports. Because the WAP works through community action agencies (CAA), it does not provide weatherization services directly to clients. The CAAs qualify and serve clients based on federal statutes, regulations, and State WAP guidelines. The WAP functioned primarily in an oversight and grant management role for about \$1.7 million in annual federal funds. The WAP is separate and distinct from several other weatherization programs.

We found the WAP could be operated more efficiently and effectively with an information system specifically designed to support the program and operated by the WAP. The information system used by the WAP during the audit period was operated by one of the CAAs and designed for the Fuel Assistance Program. Related to the lack of an information system, we found WAP records were generally not readily available to management or authorized outside parties when needed. Without timely access to required documents, efficient management oversight and routine operations are impeded. In addition, while the WAP was able to report to the US Department of Energy how many dwelling units were completed during the quarter, it did not track which CAAs completed the units. Although the WAP exceeded its statewide goals, the WAP did not track which CAAs were achieving their individual goals, and therefore had not been able to incentivize individual CAAs to produce more or identify which CAAs needed attention.

Staffing during the audit period consisted of one full-time program manager, with periodic assistance from other divisions within NH Energy like accounting. During SFY 2023, a program specialist was added to provide assistance for the program manager position. Having a program run by only one person over many years, albeit largely successfully, may have contributed to some deficiencies we identified. We found some WAP processes imposed requirements on applicants and vendors that were not codified in administrative rules as required by State law. The WAP had implemented a new income limit but had not fully updated its external and internal documents. In addition, NH Energy conducted a risk assessment of the WAP in SFY 2023 that needs to be periodically updated for planning and improvement purposes.

If recommendations made here are implemented in addition to the new administrative support provided by NH Energy, the WAP appears to be well-positioned to improve its operating efficiency and effectiveness in overseeing the provision of weatherization services to low-income families in New Hampshire. This enhanced efficiency will be especially important as the State implements its share of funding of the federal Bipartisan Infrastructure Law which is expected to bring an additional \$18.2 million through the end of SFY 2027 for weatherization.

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RECOMMENDATION SUMMARY

Observation Number	Page	Legislative Action May Be Required	Recommendations	Agency Response
1	13	No	Work with the Department of Information Technology to: 1) identify the requirements of an information system that will better support the Weatherization Assistance Program (WAP), 2) develop or purchase a system that will meet these unique requirements, and 3) immediately establish a secure method of receiving monthly requests for reimbursements and supporting documentation from community action agencies (CAAs).	Concur
2	15	No	Develop and implement a records management system that will enable the WAP to organize its records for efficient oversight and program reporting.	Concur
3	16	No	Track the number of completed dwelling units by each CAA.	Concur
4	19	No	Comply with State rulemaking laws and federal regulations and ensure it promulgates required rules by: 1) documenting its inventory of requirements it places on program recipients, CAAs, and weatherization vendors; 2) adopting State-required administrative rules for the WAP; 3) adopting administrative rules where required by federal regulation; and 4) consulting with the Department of Justice and Office of Legislative Services on whether rules are needed for aspects of the program being implemented and managed through contracts between the WAP and CAAs.	Concur
5	21	No	Establish periodic formal written risk assessments to be used for planning, budgeting, and implementing program improvements.	Concur
6	22	No	Review and revise the WAP website to remove any reference to 200 percent of the federal poverty guideline and update its own policy and procedures manual.	Concur

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**STATE OF NEW HAMPSHIRE
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WEATHERIZATION IN NEW HAMPSHIRE

The Weatherization Assistance Program (WAP) is a federal program that reduces heating and cooling costs for low-income families by improving the energy efficiency of their homes while at the same time improving their health and safety, particularly for households with the elderly, people with disabilities, and children, whenever possible. The New Hampshire Department of Energy (NH Energy) contracted with New Hampshire's community action agencies (CAA) to operate and deliver weatherization services at the local level. CAAs used in-house or private contractors to make energy efficiency improvements such as attic air sealing, weather-stripping, replacing exterior doors, repairing damaged windows, furnace maintenance and repair, and adding insulation where needed.

The WAP was separate and distinct from other energy efficiency programs offered within New Hampshire. However, considerable coordination took place among the programs to fund projects within each program's guidelines.

- The federal Low Income Home Energy Assistance Program, funded by the federal Department of Health and Human Services, provided support for the New Hampshire Building Weatherization Program, managed by the WAP primarily to enable heating system component repair or replacement.
- Funding for the Home Energy Assistance (HEA) efficiency programs was provided through the system benefits charge which was paid by the New Hampshire electric utility customers. It was supplemented by funds available through the Independent System Operator – New England's forward capacity market, and the regional greenhouse gas initiative. Funding for the HEA natural gas energy efficiency programs was provided through the Local Delivery Adjustment Clause paid by gas utility customers. These funds were used extensively to complement and augment the WAP and, most often, supported HEA stand-alone low-income weatherization work.

Organization And Program Structure

Although the program had been created in the 1970s, since July 1, 2021, NH Energy had been responsible for the WAP. Prior to this date, the program had been operated by the Governor's Office of Strategic Initiatives. NH Energy was overseen by a Commissioner and the WAP was operated through its Division of Policy and Programs, in addition to other programs including the Fuel Assistance Program. During the audit period, the WAP consisted primarily of a full-time program manager, with support coming from other NH Energy positions. Starting in August 2022, the Program Manager position had been supplemented with a Program Specialist II position.

Community Action Agencies

NH Energy contracted with New Hampshire's CAAs to operate and deliver weatherization services at the local level. CAAs operated independently of one another but collaborated through the New Hampshire Community Action Association. All CAAs within the State offered the WAP.

There were five CAAs located throughout the State as shown in Table 1. NH Energy was responsible for the statewide oversight of fiscal and program operations and for providing the WAP technical assistance to the CAAs.

Table 1

Community Action Agencies

Community Action Agency	County Coverage
Tri-County Community Action	Coos, Carroll, and Grafton
Community Action Program of Belknap-Merrimack Counties	Belknap and Merrimack
Southern New Hampshire Services	Hillsborough and Rockingham
Southwestern Community Services	Cheshire and Sullivan
Community Action Partnership of Strafford County	Strafford

Source: NH Energy

Application And Eligibility

The complete weatherization process is depicted in Figure 1. Applications to the WAP were made by potential clients to their local CAAs. Rather than applying directly to the WAP, applicants first applied to the Fuel Assistance Program (FAP) for fuel assistance. If determined eligible for FAP, applicants automatically become eligible for WAP. Eligible dwelling types included stationary mobile homes, apartments, groups of rooms, qualified shelters or other group facilities but exclude government institutions, halfway houses, nursing homes, recreational vehicles, cars, trucks, or tents. Homeowners and renters, including renters whose heat is included in their rent, are eligible.

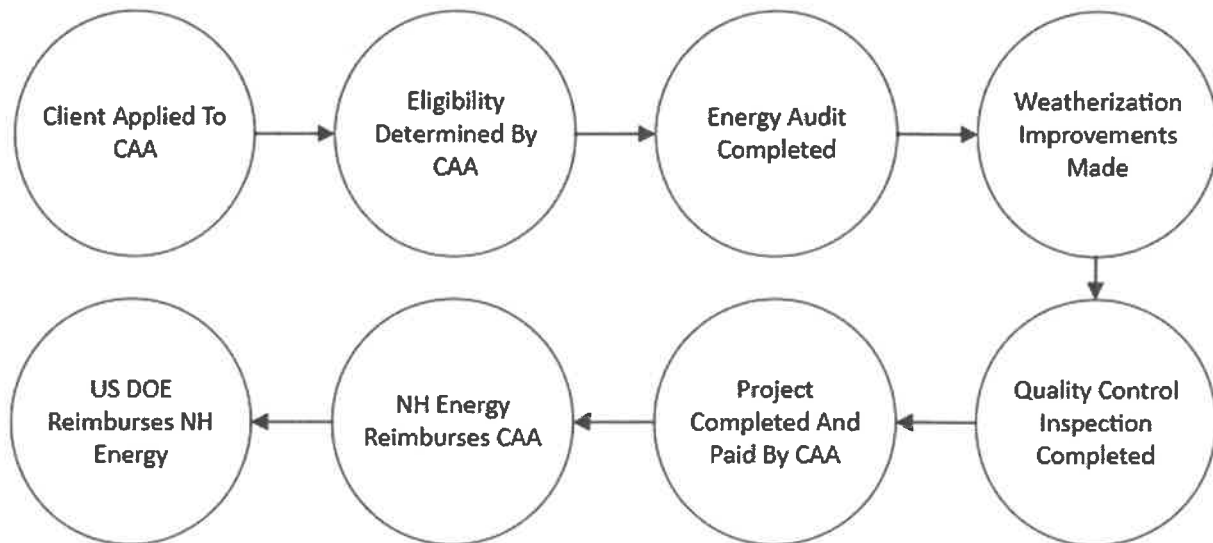
Eligibility and benefits for the WAP and FAP were determined by gross household income (total income before taxes), number of household members, and vulnerability to heating costs. Starting January 1, 2022, the maximum gross household income by the number of people in the household was established at or below 60 percent of the State median income. This change brought the WAP into alignment with other assistance programs operated by the CAAs. Prior to this date, the income ceiling was 200 percent of the federal poverty guideline. CAAs were solely responsible for determining eligibility.

Once an applicant was determined income eligible, the application was placed on hold until an energy audit was completed, and the client’s priority had been established. A CAA-employed or contracted energy auditor contacted the client to schedule a time to perform a comprehensive home energy audit. The audit included diagnostic testing which helped determine if the building qualified for weatherization. If the building was qualified, the energy auditor developed a detailed

energy audit report that identified all cost-effective energy saving improvements and determined which qualified improvements are to be installed based on the order of highest savings. Typical high priority measures include air sealing and/or insulation of basements and crawl spaces, attic air sealing, installing attic insulation, and installing wall insulation.

Figure 1

Weatherization Process



Source: LBA analysis of WAP documents.

The CAAs used the Client Priority Scorecard to assess each client’s priority for service delivery to ensure the most vulnerable households were served first. The Client Priority Scorecard was a point-based tool that assigned points based on specific criteria outlined in federal regulations. One point was assigned for each of the following conditions present: households with residents aged 60 or older, households with disabled residents, and households with children under the age of 19. In addition, two points were assigned to households with energy expenditures meeting or exceeding six percent of the annual household income.

The CAAs generally served households with the highest scores first with some exceptions, including whether money was available to leverage from other sources, there was a high cost of travel between potential job sites, or an eligible household was in crisis. All other things being equal, CAAs looked to additional distinguishing characteristics, such as length of time the client had been waiting, as a way to determine job priority. In addition, because several New Hampshire communities were served by municipally-owned electric utilities that did not participate in the statewide ratepayer-funded energy efficiency programs, the CAAs were empowered to use their judgment about exact placement on the priority list. CAAs may *not* use housing type as a factor in setting priorities for service.

Deferrals were sometimes used when a residence was not ready for work to begin. A deferral means work must be postponed until identified problems could be resolved or alternative resources were found. Deferrals were not tracked by the WAP during the audit period. However, a tracking system was placed into operation during State Fiscal Year (SFY) 2023. Reasons for deferral included:

- There was a question about the reported household size.
- There was a question about the reported income.
- There were health and safety issues beyond the scope of the WAP preventing the installation of weatherization measures.
- The structural integrity of the home prevented weatherization materials from being effectively installed.
- The customer refused work items that have a higher savings-to-investment ratio value than remaining measures.
- A building could not be adequately weatherized with available funds. Adequate means all necessary and appropriate measures to make the weatherization successful without causing harm to occupants, workers, the building, or other installed measures.

The CAAs most often hired a contractor to complete the weatherization work, but one CAA had its own in-house crews that performed the work. The contractors were selected through a Request for Qualifications process that occurred once each year. Advertisements were placed to invite potential contractors to submit their qualifications to the CAAs for selection as authorized contractors to complete weatherization work. Contractors must agree to a fixed price list of services set by each CAA for each service.

Once the work was completed, the CAAs arranged for a Quality Control (QC) Inspector to review whether the work was completed according to specifications. After the QC Inspector designated the project completed, the CAA paid the contractor and requested reimbursement from NH Energy on its monthly report.

Program Monitoring And Oversight

Program monitoring and oversight occurred at four distinct levels: 1) US Department of Energy (US DOE) Monitoring Reviews, 2) CAA Oversight done by NH Energy including Quality Assurance (QA) inspections, 3) QC inspections, and 4) monthly reporting and reimbursement. Together, program monitoring and oversight represented a comprehensive system to ensure WAP program requirements were met, and training and technical assistance needs were identified and provided, outstanding monitoring assessment issues were resolved, and weatherization best practices were documented.

US DOE Monitoring Reviews

Starting at the broadest level, the US DOE was responsible for ensuring the public purpose of the WAP was met. US DOE developed an extensive monitoring system to review programmatic and

technical elements to ensure funds were used in accordance with WAP rules, regulations, and guidance. Monitoring assisted US DOE to:

- ensure proper and timely use of WAP funds and expected benefits were realized,
- provide transparency and accountability,
- provide quality control, and
- provide State grantees technical assistance and training.

NH Energy received its last monitoring review conducted by US DOE personnel in September 2022, and the WAP submitted a corrective action plan in November 2022. The federal review found four concerns and made one recommendation. Its concerns were: 1) some of the CAAs lacked documentation for some data collected during energy audits; 2) errors in ventilation calculations occurred in most project files examined; 3) a formal client health and safety evaluation form was needed; and 4) work orders did not include all installed measures when compared with the invoices, software modeling, or closeout sheet. The US DOE recommended the WAP establish a target infiltration reduction value, identify how the target was determined, and whether the target must be met to pass the inspection. The last prior monitoring review was conducted in 2018. In addition, federal Project Officers conducted quarterly desktop monitoring of program and fiscal reports. For this monitoring activity, each State WAP submitted its financial and program reports that disclosed its financial and operating activities.

CAA Oversight

The WAP was responsible for performing monitoring and technical inspections and conducted onsite monitoring at least once per year for each of the CAAs. Oversight was intended to ensure CAAs were accountable and WAP funds were expended in accordance with all WAP program requirements. NH Energy staff conducted fiscal reviews of all programmatic expenditures, eligibility requirements, percentage of dwelling units weatherized, production rates and types of units weatherized, procurement of material and labor, payments to vendors and reports for reimbursement, and material standards and installation for each CAA. In addition, random client files were reviewed to ensure proper documentation of weatherization procedures, correct completion of required forms, and source documentation of installed measures and costs.

QC Inspections

Under US DOE rules, QC inspections must be performed on every job in which any WAP money has been invested. The QC inspection expense is part of the total job cost for each job. CAAs were not reimbursed for any job until that job had passed a QC inspection, conducted by a properly credentialed QC Inspector. QC Inspectors reviewed the quality, compliance, and effectiveness of the weatherization work completed on client dwellings. They checked to be sure that appropriate and allowable materials had been used, and ensure the energy auditing was thorough and conveyed to the installation crews in a work plan that left no missed opportunities. The QC Inspector also certified the work was done in a manner that left the dwelling's residents in no foreseeable danger, such as from lead paint, asbestos, or inadequate ventilation measures. Successful QC inspections were required before CAAs could designate jobs complete and, therefore, eligible for submission to NH Energy for reimbursement.

QA Inspections

QA inspections were conducted on ten percent of all job completions in which any WAP funding was involved, so QA inspections followed the QC inspection performed by the CAA responsible for the work. QA inspections were the responsibility of the WAP rather than the CAAs. QA inspection costs were not part of the total job cost but were expended as part of NH Energy's oversight of CAA management of WAP funding. QA Inspectors must hold a current QC Inspector's credential and must conduct a thorough review of the whole job, from the client file paperwork to a full diagnostic evaluation of contractor performance and an interview with the client to determine satisfaction with both the work and the conduct of the contractors.

Any activity found out of compliance with any portion of the WAP standards or other State or federal regulations could have resulted in disallowed costs. Deficiencies noted during monitoring that resulted in a monitoring "finding" may be considered justification for requiring the subgrantee's QC Inspector to re-inspect other dwellings.

Reporting And Reimbursement

Each CAA submitted three spreadsheet forms monthly to the WAP: the *Monthly Expenditure Report*, the *Status Report*, and the *Production Details Report*. Completing these reports was said to be time consuming by two of the five CAAs (40 percent). A new electronic information system, designed specifically for the program, would presumably make this monthly reporting process more efficient.

The WAP *Monthly Expenditure Report*, also known as a request for reimbursement, was a spreadsheet which provided information on the status of a subgrantee's funds for the weatherization program. It contained amounts for each category as follows: monthly expenditures, year-to-date expenditures, budgeted amounts, and the remaining balance budgeted. It also contained information on the number of dwellings completed during the month, the installed cost per-unit average, and the health and safety per-unit average. The subgrantee explained any deviations exceeding ten percent of the planned and actual expenditures, any negative expenditure balance in a given month, or any unusual spending patterns in the status report. The WAP *Monthly Expenditure Report* also provided NH Energy with information on the status of a subgrantee's activities with funds allocated for Technical and Training Assistance and the status of expenditures and the balance of remaining funds. A job cost sheet must accompany the report, listing names and addresses of completed client jobs, total materials costs, total subgrantee labor costs, total contractor costs, repair costs (labor and materials reported separately), materials and labor, and health and safety costs. For those agencies weatherizing with contractors only, labor and material costs may be reported together.

The WAP *Status Report* was used both as a baseline-planning document and as a monthly status report. As a planning document it summarized the planned schedule. As a monthly status report, it generally described the performance of the WAP. This report provided an opportunity for the CAA to discuss program highlights, problems, production issues, and deviations from the plan. This report must accompany the monthly reimbursement and reporting forms.

The WAP *Production Details Report* tracked monthly and cumulative annual information about units weatherized. Details about housing type, household characteristics, and income category for units weatherized with WAP funds were tracked in this report for the purpose of reporting to the US DOE. WAP units could only be reported as completed after the CAA had performed a final inspection by a QC Inspector and found the unit was completed in accordance with program requirements. Units that were re-weatherized using WAP money were counted towards the per-unit average but must be tracked separately from newly weatherized units.

Program Expenditures

NH Energy operated the WAP solely with grants from the US DOE. Program funds are allocated to the states based on a formula. Between SFYs 2020 and 2022 New Hampshire spent approximately \$5.2 million of federal program funds as shown in Table 2. The amount spent on actual weatherization services was \$3.8 million over the three SFYs. Administrative costs at the State level were \$233,035 and at the CAA level were \$356,097 for a total of \$589,132. Altogether, over the three SFYs, administrative expenses for the program were 11.3 percent of the total spent. Health and Safety costs, such as costs to comply with Occupational Safety and Health Administration requirements and mitigating air quality concerns for the client during construction, totaled \$129,683.

Table 2

**New Hampshire WAP Program Expenditures
SFYs 2020-2022**

	2020	2021	2022	Total
Weatherization Services	\$1,304,566	\$1,317,618	\$1,197,317	\$3,819,501
WAP Administration	91,592	64,356	77,087	233,035
WAP Training and Technical Assist.	165,181	92,607	151,667	409,455
CAA Administration	111,630	110,646	133,821	356,097
CAA Training and Technical Assist.	65,278	90,179	107,339	262,795
Health and Safety	33,873	66,023	29,787	129,683
Total Expenditures	\$1,772,120	\$1,741,429	\$1,697,018	\$5,210,567

Source: LBA analysis of US DOE Quarterly Program Reports.

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**STATE OF NEW HAMPSHIRE
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INFORMATION MANAGEMENT

Information is the lifeblood of any modern organization. Information management is the collection, processing, and summarizing information for effective use by an organization. Information systems, either automated or manual, are the tools used to collect, process, summarize, and retain data. The Weatherization Assistance Program (WAP) had no information system of its own to manage its program, limiting its ability to effectively manage its information. This inability to manage its own information prevented the WAP from providing us with needed information timely. The lack of an electronic information system also led to the WAP's inability to easily track the performance of individual community action agencies (CAA) and limited its ability to collect data for strategic planning purposes.

Observation No. 1

Information System Needed

The WAP did not have its own information system to support its operations. It relied on the information system operated by a CAA for use by all five CAAs. The system was developed to support the Fuel Assistance Program (FAP), which was also provided directly to clients by the CAAs and overseen by the Department of Energy (NH Energy). This system performed eligibility determination and contained demographic information for both programs, but it was set up to primarily support the needs of the FAP. As a result, the WAP program relied on spreadsheets filled out by CAA personnel using data from the FAP system to complete its requests for reimbursement and federal grant reporting. We found three versions of spreadsheets in use during State fiscal year (SFY) 2022 in the nine invoices we reviewed. Program management was unable to tell us what changes had been made between the revisions. A program that had a well-developed information system should not rely on spreadsheets, which are inherently unreliable for important functions.

The following concerns about using the FAP information system and its ownership were expressed by NH Energy and CAA personnel:

- It was antiquated technology.
- Data collection and reporting was a manual process.
- Controls over the system were inadequate.
- The system was unreliable for the WAP.
- The system was designed for another program.

In addition, confidentiality of client data may be at risk because it was sent from some CAAs to the WAP using spreadsheets via unencrypted email on a monthly basis to support the WAP's operations, reporting, and reimbursement needs.

Capital Funds Available But Not Used

The Department of Information Technology and NH Energy's predecessor organization, the Office of Strategic Initiatives, had previously proposed an off-the-shelf application to Governor and Executive Council in May 2012 for \$316,000 but the item was not approved. Since then, there has been no effort to get the project approved, even though the WAP had \$316,000 in capital funds available for an information system since at least July 2017. Plans to replace the reliance on spreadsheets for supporting the WAP was in the conceptual phase as of November 2022, when audit fieldwork was completed for this audit.

Program management should design its information system to obtain and process data to meet information processing requirements and to respond to the entity's objectives and risks. Information technology should enable information related to operational processes to become available to the entity on a timely basis. Additionally, information technology may enhance internal control over security and confidentiality of information by appropriately restricting access. Without an information system that meets information processing objectives, such as completeness, accuracy, validity, and security, program needs may not have been adequately met.

Recommendations:

We recommend NH Energy management work with the Department of Information Technology to:

- **identify the requirements of an information system that will better support the WAP, and**
- **develop or purchase a system that will meet these unique requirements.**

We also recommend NH Energy management immediately establish a secure method of receiving monthly requests for reimbursements and supporting documentation from CAAs.

Auditee Response:

We concur with the recommendations.

As noted in the recommendation, the Community Action Agencies rely on antiquated software for information system that manages not only Weatherization Assistance Program (WAP), but also the Fuel Assistance Program (FAP), and the Electric Assistance Program (EAP). As also noted, in 2012, the Department's predecessor organization had attempted to replace this system, but the contract was not approved by the Governor and Council. The capital budget appropriation has continued to be carried forward in subsequent biennial capital budgets, though unexpended. Prior to the COVID-19 pandemic, an attempt was made to contract for services to help develop an RFP for software replacement, but no responses were received. Since the creation of the Department, staff has begun the process of procurement of a new software system, including asking for additional funds in the capital budget to meet increased costs as well as increased functionality required for federal reporting requirements. There are several companies that offer software that meets the needs for both WAP and FAP and will address the shortcomings identified in this

recommendation. The department is currently working to develop a scope of services for a request for proposal (RFP) to procure this new software.

In addition, the Department moved immediately to a secure method of receiving monthly requests for reimbursements and supporting documentation from the Community Action Agencies once it had been identified by the LBA auditor.

Observation No. 2

Improve Records Management

Records management refers to the comprehensive life cycle of documents and information including, planning, controlling, directing, organizing, training, and other activities involving records within an organization. As such, records management is a component of an organization's internal control system, which comprises the processes used by management to help an organization achieve its goals.

NH Energy had difficulty retrieving WAP records we requested that were created prior to the Department's formation on July 1, 2021. NH Energy was created by combining the Public Utilities Commission with the Governor's Office of Strategic Initiatives, of which the WAP was a part, but staffing did not change significantly. Throughout the audit, requests for documents went weeks before being fulfilled, often needing to be re-requested. Although a heavy workload due to federal demands was the reason given for delays in fulfilling information requests, we could not discern that any file system existed based on the amount of time it took to fulfill document requests. The WAP manager was unaware of any NH Energy-wide records management policy and stated records were not stored in any specific place, like a file cabinet, or organized electronically on a network drive for easy retrieval.

Management is responsible for establishing internal controls. Appropriate internal controls limit improper access to records while simultaneously allowing easy access to records under appropriate circumstances. Without timely access to required documents, efficient management oversight and routine operations are impeded.

Recommendation:

We recommend NH Energy develop and implement records management policies, procedures, and access controls that will enable the WAP to organize its records for efficient oversight and program reporting.

Auditee Response:

We concur with the recommendations.

Department leadership will work with the program manager and staff to set up a more robust records management process to enable effective and accurate recall of information going forward. That system will see records kept in a consistent manner and conform with state records retention

policies as well as all applicable federal records retention policies. The data system referred to in Observation No. 1 will be able to retain and archive many records automatically, eliminating the need for staff to manually archive them, reducing staff time needed and improving accuracy.

In addition, the Department of Energy is working with the State Archives on an agencywide records retention policy.

Observation No. 3

Track Completed Units By CAA

Every year during the audit period, each CAA prepared a budget and signed a contract estimating the number of dwelling units it planned to complete. While the WAP was able to report to the US Department of Energy (US DOE) how many dwelling units were completed for every quarter, it did not track which CAAs completed the units. We examined CAA contracts from SFYs 2020 through 2022 and determined the CAAs committed to completing 424 dwelling units. The contract with each CAA states deviations of more than 20 percent below the expected dwelling unit goals in any quarter may result in a reduction of the contract amounts and a reallocation of funds to other CAAs. Over the three-year period we reviewed, the WAP reported to US DOE having completed 524 dwelling units or 123.6 percent of the committed number of dwelling unit completions on its *Quarterly Program Report*. Given the significant number of completed units which exceeded the statewide minimum expected level of 339 units (80.0 percent of 424 units), it is unlikely any CAA was consistently below its minimum level during this three-year period.

Although the WAP exceeded its statewide goals, the WAP did not track which CAAs were achieving their individual goals, and therefore had not been able to incentivize individual CAAs to produce more or identify which CAAs might need attention. Even if all CAAs were exceeding minimum levels and expected levels of performance, collecting such information may identify lower performing CAA performers, which could also help the WAP to better manage the program.

Recommendation:

We recommend WAP management track the number of completed dwelling units by CAA each quarter to: 1) act when individual CAAs do not consistently achieve their goals, 2) help identify best practices, and 3) help ensure available funds are used efficiently. Capturing subtotals by CAAs should be relatively easy as the number of completed units are individually submitted by CAAs.

Auditee Response:

We concur with the recommendation.

As noted in the recommendation, this recommendation would not be administratively difficult to accomplish as the data is readily available through other reporting mechanisms. These quarterly reports will serve as excellent check ins during the program year to ensure time for corrective

actions to be identified and be implemented before the end of the program year, or to highlight best practices.

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**STATE OF NEW HAMPSHIRE
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PROGRAM OPERATIONS

Staffing of the Weatherization Assistance Program (WAP) was limited primarily to a single full-time program manager and assisted periodically by other individuals within the New Hampshire Department of Energy (NH Energy) during State fiscal year (SFY) 2022, and earlier during the audit period by the Office of Strategic Initiatives. We found several important functions were not carried out at least in part due to inadequate staffing during the audit period. Staffing improved during SFY 2023 when a Program Specialist was added to assist the WAP manager in operating the program. We found the WAP was lacking administrative rules, had not completely updated its website, nor periodically assessed risks to its program.

Observation No. 4

Administrative Rules Needed

When the NH Energy was created effective July 1, 2021, it combined the operations of the Public Utilities Commission and certain operations within the Governors Executive Office into the new Department of Energy. While the Public Utilities Commission had expired administrative rules, there were no rules for the WAP. NH Energy management claimed rules were unnecessary because the WAP operated under federal rules. However, the WAP was not exempted from State rulemaking requirements under RSA 541-A, and federal regulations required specific State rules.

State Requirements

Under State law, an administrative rule is a regulation, standard, form, or other statement of general applicability adopted by an agency to (a) implement, interpret, or make specific a statute enforced or administered by such agency, or (b) prescribe or interpret an agency policy, procedure or practice requirement binding on persons outside the agency, whether members of the general public or personnel in other agencies. Rules have the force of law, and no rule is valid or effective, nor could it be enforced by an agency, until it is properly adopted. Rules were meant to supplement statutory requirements by describing how requirements are implemented. The *New Hampshire Drafting And Procedure Manual For Administrative Rules*, published by the Office of Legislative Services and required to be followed by all Executive Branch agencies, stated in determining whether an agency policy or procedure should be in rule, agencies must pay special attention to whether the policy affects private rights or change the substance of another rule binding on the public.

We found some WAP processes imposed requirements on applicants and vendors were not codified in rules as required by State law. It seems requirements for beneficiaries of the WAP, like providing family income information, would be required to be established in rules. In addition, we found no organizational rules or hearing rules commonly required for agencies.

Federal Requirements

Title 10 of the Code of Federal Regulations, section 440 also appears to require states to develop rules in some areas. Below are examples of federal requirements imposed on states:

- “A State may terminate financial assistance under a subgrant agreement for a grant period only in accordance with established State procedures that provide to the subgrantee appropriate notice of the State’s reasons for termination and afford the subgrantee an adequate opportunity to be heard.”
- “Prior to the expenditure of any grant funds each grantee shall develop, publish, and implement procedures.”
- How the State plan is to be implemented, including:
 - The procedures used by the State for providing additional administrative funds to qualified subgrantees.
 - Procedures for determining the most cost-effective measures in a dwelling unit.
 - The definition of ‘low-income’ which the State has chosen for determining eligibility for use statewide.
 - The definition of ‘children’ which the State has chosen.

Without clear and comprehensive administrative rules, there may be confusion regarding program requirements and the responsibilities of all parties involved in the WAP.

Rules And Contracts

Contracts are legally enforceable promises which define each parties’ rights, responsibilities, and remedies under the agreement to provide services or goods. The WAP entered into contracts with community action agencies (CAA) to implement this federal program. While the WAP had contracts governing its relationship with CAAs, it is unclear whether corresponding administrative rules were also required. State law requires agencies adopt rules when affecting private rights and making requirements binding on someone outside of the State agency. Yet, both parties to a contract voluntarily enter into the agreements and its requirements.

We found no clear guidance on when utilizing a contract negates the need for similar requirements also being in administrative rules. In addition, there is a substantially different kind of governmental oversight of the requirements between when rules are properly adopted and approved by the Legislative Rules Committee, as opposed to a contract which is approved by Governor and the Executive Council.

Recommendation:

We recommend NH Energy management comply with State rulemaking laws and federal regulations and ensure it promulgates required rules by:

- **documenting its inventory of requirements it places on program recipients, CAAs, and weatherization vendors;**

- adopting state-required administrative rules for the WAP;
- adopting administrative rules where required by federal regulation; and
- consulting with the Department of Justice and Office of Legislative Services on whether rules are needed for aspects of the program being implemented and managed through contracts between the WAP and CAAs.

Auditee Response:

We concur with the recommendation.

The Department has requested a review by the Department of Justice for an opinion as to whether the agency must adopt rules for the program and if so, the extent of the areas those rules must cover. The Department is waiting for a response from the Department of Justice on this question. The Department's full response to this observation will conform to the opinion received from the Department of Justice.

Observation No. 5

Periodic Risk Assessment Needed

Risk assessment is the identification and analysis of risks related to achieving an organization's objectives to form a basis for designing risk responses. Management analyzes the identified risks to estimate their significance, which provides a basis for responding to the risks. Management may then choose to accept, avoid, reduce, or share risk. The WAP did not conduct a formal risk assessment during the audit period but completed one during SFY 2023.

NH Energy personnel asserted the program was protected from risk due to federal reporting requirements and its limited role in disbursing funds to the community action agencies. While some risks may be mitigated by following well defined rules, there are many types of risks to consider. The following risks were not addressed by the WAP's recent assessment and which may not have been considered:

- fraud by program recipients;
- program disruptions (like COVID-19 or natural disasters);
- quality of NH Energy, subgrantee, and contractor staff; and
- quality of program data.

Without a robust risk assessment, management may not be able to respond efficiently and effectively to risk events arising during its weatherization assistance operations.

Recommendation:

We recommend the WAP establish periodic formal written risk assessments to be used for planning, budgeting, and implementing program improvements.

Auditee Response:

We concur with the recommendation.

As noted, the Department conducted a risk assessment during the SFY 2023 and will continue to conduct periodic risk assessments going forward to identify and mitigate risks and threats to the program.

Observation No. 6

Public Information Needs To Convey Accurate Income Eligibility

The WAP, through the CAAs, used household income as part of its determination whether clients were eligible for its services. The WAP changed its income eligibility limit in January 2022 to align its eligibility criteria with the eligibility guidelines used by the Fuel Assistance Program and the Electric Assistance Program, which used 60 percent of the state median income. Until the limit was changed, the WAP used 200 percent of the federal poverty guideline. This change made weatherization services available to more people.

While the WAP had implemented the new income limit, it had not fully updated external and internal documents. The WAP **Frequently Asked Questions** web page showed the income limit was 200 percent of the federal poverty guideline as of the end of our fieldwork in November 2022. However, other web pages correctly changed the income limit to 60 percent of the state median income. In addition, the WAP *Policy and Procedures Manual* still used 200 percent of the federal poverty guideline as the household income limit.

Without accurate household income limits posted on its web pages, some otherwise eligible households may have forgone applying for weatherization services for which they might otherwise have been eligible.

Recommendations:

We recommend NH Energy management review and revise its website to remove any reference to the 200 percent of the federal poverty guideline. It should also update its own policy and procedures manual.

Auditee Response:

We concur with the recommendations.

As part of the creation of the new Department, content from both the Public Utilities Commission and the Office of Strategic Initiatives was transferred to the new website. As content was being moved over, staff attempted to correct any inaccuracies, but the reference to 200% of federal poverty level reference in the frequently asked questions page was not updated to the correct figure. Upon receiving the draft observation from the LBA auditor, this was corrected, and the

website reviewed to ensure that any other references were updated to the correct income limit figure.

The policy and procedures manual is currently in the early stages of being revised and updated. While the existing policy and procedures manual is still in effect, a notation has been made on the website where the document is posted as to the correct income limit.

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**STATE OF NEW HAMPSHIRE
WEATHERIZATION ASSISTANCE PROGRAM**

**APPENDIX A
SCOPE, OBJECTIVE, AND METHODOLOGY**

In March 2022, the Fiscal Committee of the General Court adopted a joint Legislative Performance Audit and Oversight Committee recommendation to conduct a performance audit of the Weatherization Assistance Program (WAP) overseen by the New Hampshire Department of Energy (NH Energy) and implemented by community action agencies (CAA). We held an entrance conference with NH Energy in April 2022.

Scope And Objective

We designed the audit to answer the following question:

Did the WAP efficiently and effectively monitor the provision of weatherization services by CAAs during State fiscal years (SFY) 2019-2022?

Subsequent to the approval of the scope statement, it became apparent that NH Energy could not readily provide documentation needed to complete the audit as planned. Due to NH Energy's creation on July 1, 2021, and apparent staffing difficulties, documents from SFYs prior to 2022 were not readily available so this audit was limited in scope to activities primarily occurring during SFY 2022. We accepted this limitation on our review based on NH Energy being newly created, staffing issues, and knowing the WAP also undergoes a federal program review.

Methodology

To gain a general understanding of weatherization, we:

- reviewed relevant State and federal laws and federal regulations, US Department of Energy (US DOE) Weatherization Program Notices and memorandums, New Hampshire Weatherization Guide, and State plans;
- reviewed NH Energy and US DOE web pages and other public information related to weatherization; and
- reviewed audits and evaluations from other states and national organizations.

To gain an understanding of the WAP and the role played by CAAs, we:

- interviewed the WAP manager, relevant NH Energy management and staff, and CAA weatherization representatives;
- reviewed financial information such as Statements of Appropriation, budgets, US DOE *Quarterly Program Reports*, and *Quarterly Federal Financial Reports*;
- reviewed CAA contracts; and
- reviewed WAP and NH Energy fiscal policies and procedures.

Requests For Reimbursements

To evaluate efficiency and accuracy of requests for reimbursement submitted to the WAP from CAAs, we used a judgmental sample size of ten items to randomly select requests for reimbursement for the SFY 2022. The sample size was based on auditor judgement from the estimated 60 requests for reimbursement submitted to the WAP during SFY 2022. Analysis was limited to SFY 2022 because the WAP was part of a different department prior to July 1, 2021, and the documentation was not readily available. Of the ten items selected, one item had not been submitted for the month selected. This item was excluded from subsequent analysis. Documentation for each request for reimbursement and attached documents was reviewed. Mathematical accuracy was determined by creating a spreadsheet that mimicked the one used by DOE in calculating expenditure and project data.

Monitoring And Oversight

To evaluate monitoring and oversight of program operations, we reviewed materials from the WAP, the State Plan, Weatherization Program Notices, and Code of Federal Regulations (10 CFR Part 440). We reviewed WAP monitoring documentation from SFY 2022 for each of the five CAAs generated from the five CAA onsite monitoring visits.

Internal Control

Internal control is defined as a process effected by an entity's oversight body, management, and other personnel that provides reasonable assurance that the objectives of an entity will be achieved. Auditing standards require we identify and determine which, if any, internal control principles are significant to the audit.

We identified two internal control principles that we considered the most significant to the audit objective.

1. Design Information Systems to Achieve Objectives – Requires management to design the entity's information system with appropriate control activities and technology infrastructure. We reviewed the use of information technology within the WAP program and found the WAP had no ownership over an electronic information system and the system was designed to support a different program (Observation No. 1).
2. Identify, Analyze, and Respond to Risks – requires management to identify its risks associated with achieving its objectives, analyzing those risks, and establishing responses to those risks identified. We reviewed the WAP risk assessment completed during SFY 2023 but noted no assessment had been completed during the audit period or earlier (Observation No. 5).

**STATE OF NEW HAMPSHIRE
WEATHERIZATION ASSISTANCE PROGRAM**

**APPENDIX B
AGENCY RESPONSE TO AUDIT**

COMMISSIONER
Jared S. Chicoine

DEPUTY COMMISSIONER
Christopher J. Elms, Jr.



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March 24, 2023

The Honorable Kenneth Weyler, Chairman
Joint Legislative Fiscal Committee
Legislative Office Building
33 N. State Street
Concord, NH 03301

Dear Representative Weyler,

The Department of Energy would like to thank the Audit Division of the Office of Legislative Budget Assistant for their review of the Weatherization Assistance Program (WAP).

This performance audit and report gives the Department of Energy clear steps to improve the operations and functions of WAP. The Department concurs with all the recommendations in the audit and is taking concrete steps to implement them going forward.


Observation No. 2 (Improve Records Management), Observation No. 3 (Track Completed Units By CAA), Observation No. 5 (Periodic Risk Assessment Needed), and Observation No. 6 (Public Information Needs To Convey Accurate Income Eligibility) have already been implemented and the Department will work to ensure that these are maintained going forward.

Observation No. 1 (Information System Needed) is currently in the process of being addressed. While some measures can be done through changes at the Department, a permanent solution is a new database system. Funding for such a system was requested by the Department and included in the Governor's proposed 2024-2025 Capital Budget (HB 25). We look forward to working with your colleagues on the House and Senate Capital Budget Committees.

Observation No. 4 (Administrative Rules Needed) is a more complex question, and the Department has requested a review by the Department of Justice for a legal opinion on the need for Administrative Rules for this program, as recommended by the auditors.

Again, we would like to thank Audit Division of the Office of Legislative Budget Assistant and their patience with the Department as we were balancing simultaneous competing priorities including application for federal funds and a review of the program by the US Department of Energy with limited staff.

Respectfully Submitted,


Jared Chicoine
Commissioner

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