

**STATE OF NEBRASKA**

**ATTESTATION AGREED-UPON PROCEDURES WITH  
THE NEBRASKA ENERGY OFFICE ON THE  
COMMUNITY ACTION PARTNERSHIP OF  
LANCASTER AND SAUNDERS COUNTIES**

**APRIL 1, 2009 THROUGH SEPTEMBER 30, 2010**

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**Issued on January 24, 2011**



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### Independent Accountant's Report

Nebraska Energy Office:

We have performed the procedures enumerated below, which were agreed to by the management of the Nebraska Energy Office (NEO), solely to assist you in evaluating the Community Action Partnership of Lancaster and Saunders Counties' (CAPLSC) compliance with specified Federal regulations over weatherization assistance for the period April 1, 2009, through September 30, 2010. CAPLSC's management is responsible for compliance with weatherization assistance regulations. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants, and the standards applicable to attestation engagements contained in *Government Auditing Standards* issued by the Comptroller General of the United States. The sufficiency of these procedures is solely the responsibility of those parties specified in this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures and associated findings are as follows:

#### ***Commingling of ARRA Funds (Title 2 CFR 176.210)***

1. We interviewed staff and documented procedures.

There are three sources of Weatherization Federal funds sub-granted from the NEO to CAPLSC: Department of Energy Weatherization Assistance to Low-Income Persons (DOE), DOE-ARRA (American Recovery and Reinvestment Act), and Low-Income Home Energy Assistance Program (LIHEAP). Each month the accountant prepares a monthly report for NEO to request reimbursement for costs related to all completed jobs that have been inspected and approved. The accountant prepares a separate report for each funding source or three reports each month. The reports are reviewed by the Director of Finance before they are submitted to NEO. The accountant also records a receivable for each program in the General Ledger (GL). The GL has separate codes for each program: 7010 DOE, 7020 LIHEAP, and 7025 DOE-ARRA.

NEO reviews the monthly reports and replies to CAPLSC in a letter indicating any questioned costs. CAPLSC maintains a spreadsheet to track the monthly questioned costs by grant program. CAPLSC communicates with NEO until NEO resolves the questioned costs as either allowable or disallowed costs. NEO will send CAPLSC a reimbursement as an ACH deposit into their bank account. All three programs are reimbursed in one amount. The accountant performs the bank reconciliation, and the Director of Finance reviews and initials the reconciliation; neither is authorized to sign checks.

After a project is approved and invoices are received from the contractors, the contractor payments are recorded to a prepaid account. The GL for prepaid expenses also uses the separate codes for each program; 7010 DOE, 7020 LIHEAP, and 7025 DOE-ARRA. Prior to April 2010, CAPLSC used program 7030 to record all weatherization prepaid expenses, after the project was complete the costs were expensed to the individual programs.

Invoices are given to the accounts payable clerk who determines what program the invoice is for and prepares a Payment Request/Authorization form. This form and invoice is then forwarded to the Weatherization Program Administrator (Administrator). The appropriate Weatherization staff reviews the invoice, adds the account coding, and signs the form. The form and invoice is then forwarded to the Administrator's supervisor for review. The forms and invoices are returned to the accounts payable clerk who enters the information into the accounting system. The Director of Finance or the Executive Director review and sign each Payment Request/Authorization form. After all reviews, the accounts payable clerk prints the checks and agrees them to the Payment Request/Authorization forms. Two signatures are required on each check. Once a project is completed, the Administrator verifies all expenses and inventory related to that project are accounted for, and a journal entry is prepared by the accountant to expense the project costs to appropriate program expense accounts.

2. We selected 3 monthly payments from NEO to CAPLSC and:
  - a. Traced receipt of grant funds to bank account;
  - b. Traced deposit per bank statement to CAPLSC accounting records;
  - c. Traced receipt of grant funds agreed to monthly reimbursement request; and
  - d. Determined funds were deposited in the appropriate accounts and separately identified by grant.

No exceptions were noted.

3. We selected 25 CAPLSC payments to contractors and:
  - a. Determined entire project was reimbursed from only one program;
  - b. Traced payment to check stub and traced the check number and amount to bank statement; and
  - c. Determined costs for each project originally coded to program 7030 were expensed to 7010 DOE, 7020 LIHEAP, or 7025 DOE-ARRA by tracing to the CAPLSC accounting system.

No exceptions were noted to each project tested reimbursed from one program. No exceptions were noted in tracing the payment to check stub and bank statement. No exceptions were noted for completed projects with costs originally coded to program 7030 being expensed to programs

7010 DOE, 7020 LIHEAP, or 7025 DOE-ARRA. Two of the 25 projects selected were still open. These two projects had costs prior to April 2010 coded to program 7030. The Accountant indicated the prepaid costs to program 7030 would be expensed to the appropriate program when the project was complete and reimbursement requested from NEO. Neither of the two projects are ARRA projects.

**CAPLSC Response:** *CAPLSC appreciates the determination within this January 2011 Attestation that it did not commingle ARRA funds with other sources of funding. CAPLSC delivered to the Nebraska Energy Office (NEO) on April 19, 2010 documentation demonstrating changes in its general ledger treatment of Weatherization Program funding indicating that it was segregating expenditures and obligations by funding source.*

*As noted within the Attestation, payment to CAPLSC occurs after units are completed with all three programs reimbursed in one amount with one ACH deposit by the Nebraska Energy Office. Payments by NEO do not match requests for payment made by CAPLSC because they often include reimbursement for previously disallowed costs or nonpayment for cost under review. Payment is not accompanied by explanation by NEO regarding amount per funding source or weatherized unit making it difficult to appropriately account for payment by source. CAPLSC requests that if payment of ARRA funds continues to be made with other funding sources that an explanation process be implemented to provide specific information detailing units reimbursed by funding source.*

**NEO Response:** The Energy Office has implemented a process to provide detailed information to sub-grantees identifying the funding source, amount of payment, and other details including budget line item as needed to the sub-grantee prior to the disbursement of monthly reimbursements. This will help sub-grantees properly account for payments from the Energy Office among the various Weatherization Assistance Program funding sources.

#### ***Eligibility of Clients (10 CFR § 440.22)***

1. We interviewed staff and documented procedures.

When an individual is seeking weatherization assistance they are provided a packet which includes an application, request of income, form identifying each person in the household or family unit, and a form asking if the individual rents or owns the property. Once the packet is completed and returned it is reviewed. The review involves verifying all required documentation is included and completed. If it is determined not all information has been provided, then CAPLSC will call or send letters to the individual requesting whatever information is missing. CAPLSC will work on contacting the individual for 3 months. If they are unable to contact the individual or if no response is received after 3 months, the file is closed. CAPLSC does not track these individuals past 3 months. If the individual requests assistance after the 3 months then the process starts over, beginning with the packet. The eligibility review is performed by clerks or the Administrator.

We noted there was no supervisory review of work performed for eligibility. See comment below (Inadequate Documentation and Review of Eligibility).

2. We reviewed 39 case files (66% of project) associated with the multi-family project, Crossroads House, and determined they were eligible, client income was in accordance with guidelines, and adequate documentation to support eligibility was on file.

No exceptions were noted.

3. We selected eight cases from the program 7025 prepaid general ledger and determined whether the client was eligible, client income was in accordance with guidelines, and adequate documentation to support eligibility was on file. We also selected one additional case based on the largest house valuation of \$287,900.

We noted the following:

### **Inadequate Documentation and Review of Eligibility**

We noted four of nine clients tested did not have adequate documentation in the case file to determine eligibility income for the household. It was also noted not all income, as noted by the client, was used in the income calculation, nor was the most recent three months used or obtained from the client. It would also appear the income eligibility was calculated after the work was completed. We also noted there was no supervisory review of work performed by the clerks in determining eligibility, nor was there a review done by a second individual when the Administrator performed the eligibility work.

Office of Management and Budget (OMB) Circular A-133 §.300(b) states the auditee shall: “Maintain internal control over Federal programs that provides reasonable assurance that the auditee is managing Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of its Federal programs.”

Weatherization Program Notice 09-5 effective date February 18, 2009, defines income, “Refers to total annual cash receipts before taxes from all sources, with the exceptions noted...Income data for a part of a year may be annualized in order to determine eligibility—for example, by multiplying by four the amount of income received during the most recent three months...Grantees should have a consistent policy covering its subgrantees on re-certification of applicants whose eligibility may have changed due to the length of time that may have expired awaiting weatherization services.” It also states “Income includes...wages and salaries before any deductions...”

Weatherization Assistance Program State Plan 2010 Program Year dated July 1, 2010, states “Low income will mean that income in relation to family size, which: (1) is at or below 200 percent of the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget, or (2) is the basis on which cash assistance payments have been paid at any time during the preceding twelve months under Titles IV and XVI of the Social Security Act, or (3) is the basis on which energy assistance payments have been paid under the Low Income Home Energy Assistance Program at any time during the preceding twelve months.”

The CAPLSC Policy Manual states for income verification of those persons that are self-employed, a Federal income tax return should be obtained. A good internal control plan requires adequate documentation and review prior to determining eligibility.

The following was noted:

- The client on job number 2010-046 had provided CAPLSC with a copy of their paycheck dated December 31, 2009, showing their year to date gross pay in the amount of \$51,472. This paystub showed they received \$9,240 as part of a severance package. The client also provided CAPLSC a copy of their unemployment check dated September 18, 2010, in the amount of \$308. On the client's Weatherization Intake Form, they noted their spouse was self-employed – having a daycare watching two children and receiving \$850 a month. CAPLSC based the client's income eligibility only on the husband's income of \$51,780 (\$51,472 + \$308) but did not include his wife's income for the daycare. There was no support in the file to show CAPLSC obtained proof of income for the most recent three months. There was no copy of their 2009 Federal income tax return in their file at the time of review. The size of the family unit was 6; the 2009 Poverty Income Guideline from the Department of Energy for a family size of 6 was \$59,060. If the income from the daycare was included, the client would not have been eligible. The work was completed in April 2010; although the unemployment check in the file was dated September 18, 2010. It would appear his income eligibility was calculated after the weatherization work was completed. There was a note in the file dated October 14, 2010, and October 20, 2010, documenting a phone call placed to the client, requesting a copy of their 2009 Federal income tax return. Per discussion with the Administrator, she did not include the daycare income because as self-employed they could write-off a number of deductions and; therefore, this income would not have made a difference in determining their eligibility. After the APA reviewed the file, CAPLSC obtained a copy of the client's 2009 income tax return on November 2, 2010. Per the tax return, the client appeared to be eligible; however, the tax return was not signed, claimed five exemptions rather than six, and the adjusted gross income did not appear to agree with the income stated on the client's intake form.
- The client on job 2009-433 had provided CAPLSC with only one weeks' unemployment income. CAPLSC used this one weeks' income to calculate income eligibility. CAPLSC noted this client was eligible per notification letter dated December 1, 2009. The valuation of this client's house was \$287,900 per the Lancaster County Assessor's website. On May 20, 2010, CAPLSC noted this client was denied because their household income exceeded the limits, per information provided by phone. This client had claimed four in the household; however, notes in the file indicated his two children were in college and only lived in the house during the summer. CAPLSC requested reimbursement from NEO of \$151 for this job, for 2 inspections and a 2<sup>nd</sup> opinion. NEO questioned \$48 for the second inspection, but was not made aware that the client was later determined ineligible.
- The client on job 2010-049 indicated they were receiving unemployment. There was a letter in the file from CAPLSC to the client requesting verification of income from January 2009 – 2010; however, the only support in the file was for October 2009, one month's unemployment. Date on the intake form was January 5, 2010.

- The client on job 2009-354 noted on their intake form they were self-employed. There was no documentation in the file to show income calculation was done by CAPLSC nor was there a copy of the client's Federal income tax return. The date on the intake form was October 20, 2009, and CAPLSC determined the client was eligible on October 29, 2009, per date on the notification letter sent to the client.

Eligibility is reviewed and determined by clerks or by the Administrator. When the clerks perform this work, there is no supervisory review done. When the Administrator performs this work there is no review done by a second individual.

There is an increased risk of ineligible individuals receiving benefits when income is not adequately documented in the client file or when adequate support is not obtained.

We consider this finding to be a significant deficiency.

We recommend all income as identified in the Weatherization Program Notice 09-5 and in CAPLSC's policy manual, be included in the household income calculation and adequate supporting documentation of income verification be maintained in the client file. We also recommend income eligibility be determined and verified prior to incurring any costs related to a job. We further recommend a supervisory review be completed and documented when the eligibility is performed by clerks. When the eligibility is completed by the Administrator, we recommend a review be completed and documented by a second individual.

**CAPLSC Response:** *All recommendations will be adopted within a revised eligibility procedure currently being drafted by CAPLSC with input and review by the Nebraska Energy Office Weatherization Program staff (NEO). CAPLSC requests that NEO provide clearer language relating to determining eligibility of clients within the 2011 state plan.*

**NEO Response:** The Energy Office agrees with the Auditor's recommendation, "all income as identified in the Weatherization Program Notice 09-5 and in CAPLSC's policy manual, be included in the household income calculation and adequate supporting documentation of income verification be maintained in the client file. We also recommend income eligibility be determined and verified prior to incurring any costs related to a job."

It is not acceptable to collect and review income eligibility after weatherization work is completed on a home. Income documentation must be obtained from the applicant, reviewed, and the client determined to be eligible for assistance prior to any inspections or weatherization work. Proof of income eligibility needs to be present in the file for review by Energy Office program and fiscal compliance monitors. The Energy Office will provide additional information to CAPLSC regarding acceptable documentation of income verification.

### ***Payroll – Davis-Bacon Act Requirements***

1. We interviewed staff and documented procedures.

ARRA funded weatherization activities are subject to the Davis-Bacon Act requirements. For those construction activities funded by ARRA, the Grants Administrator receives weekly certified payrolls from their contractors. The Grants Administrator reviews the payroll by worker or job classification and agrees the wage rate to a wage rate schedule obtained from NEO. If they don't agree she will contact the contractor. Also, when CAPLSC does inspections; they will ask a few workers on the job site what they are getting paid. The inspector then agrees the wage to the contractors' payroll and then to the certified payroll that was submitted to CAPLSC to ensure they agree. All contracts have a clause regarding Davis-Bacon Act requirements and the required prevailing wage rates.

2. We selected three contractors and verified the construction contract included that the contractor or subcontractor comply with the Davis-Bacon Act, including prevailing wage rate clauses. We selected one week of payroll for two contractors and verified the required certified payrolls were submitted and the laborers and mechanics were paid wages not less than the prevailing wage rate.

No exceptions were noted.

### ***Indirect Cost Reimbursement (OMB Circular A-122)***

1. We verified the indirect cost rate was approved by the U.S. Department of Health and Human Services.

No exceptions were noted.

2. We tested the July 2010 indirect costs were correctly calculated (26.90% of direct salaries and wages including fringe benefits) and was consistently applied between various programs.

No exceptions were noted.

3. We agreed salaries used to determine indirect costs for weatherization assistance programs agreed to the general ledger.

No exceptions were noted.

4. We reviewed the detail of salaries by employee for July 2010 and selected 2 employees to determine costs were correctly charged to the appropriate program in accordance with OMB Circular A-122.

We noted leave taken was not allocated to grants based on actual time spent on activities, see comment below.

### **Leave Not in Accordance with OMB Circular A-122**

During testing of two employees with time charged to weatherization assistance, we noted leave taken for holidays and personal time was not allocated in proportion to actual time devoted to other activities as required by OMB Circular A-122.

Per OMB A-122, Attachment B, Selected Items of Costs 8g (1) “Fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as vacation leave, sick leave, military leave, and the like, are allowable, provided such costs are absorbed by all organization activities in proportion to the relative amount of time or effort actually devoted to each.”

CAPLSC indicated they instructed personnel to allocate their Personal time and Holiday time in a manner similar to their regular working hours; however, CAPLSC did not have documentation showing that the percentages used by staff were the same as regular working hours. CAPLSC felt they were in compliance with OMB Circular A-122, Attachment A, General Principles 4a which states, “a cost is allocable to a particular cost objective, such as a grant, contract, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Federal award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it: (1) Is incurred specifically for the award. (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received. . .” However, CAPLSC did not have documentation to support the costs were allocated in accordance with the relative benefits received, as there was no documentation to support the allocation used agreed with actual time spent by grant.

We tested two employees for one biweekly pay period. One employee coded leave time 37.5% DOE-ARRA, 31.25% LIHEAP, and 31.25% DOE; per the timesheet for the period the actual activity excluding leave was 69% DOE-ARRA, 25% LIHEAP, and 6% DOE. The second employee coded leave 37% DOE-ARRA, 31.5% LIHEAP, and 31.5% DOE; per the timesheet for the period actual activity excluding leave was 58.8% DOE-ARRA, 33.6% LIHEAP, and 7.6% DOE. The auditor reviewed all time for the two employees from May 1, 2010, through July 30, 2010 and noted the percentage of leave coded by grant varied from actual activity by grant from 14.44% overcharged to 24.55% undercharged. Calculating the leave usage based on actual activity by grant multiplied by the employees wage rate and including indirect cost charges on the wages, we computed DOE was overcharged \$215.97, LIHEAP was overcharged \$236.93, and DOE-ARRA was undercharged \$452.90 for May through July.

As a result grants may be undercharged or overcharged for leave and indirect costs.

We recommend leave charges be allocated based on the amount of time devoted to each activity in accordance with OMB Circular A-122.

***CAPLSC Response:*** *The recommendation to allocate leave based on the amount devoted to each funding source within the current pay period has been implemented.*

### ***Direct Cost Standard***

1. We gained an understanding of Title 10 CFR 440, OMB Circular A-110, and OMB Circular A-122 and analyzed adherence on a review of 25 sampled jobs.  
See comment below (Weatherization Assistance Job Costs).

## *Other*

### 1. We reviewed the conflict of interest policy.

CAPLSC provided a copy of their Fiscal Policy Manual. The Procurement section states, “No officer, board member, associate, or agent shall participate in the selection or administration of a vendor if a real or apparent conflict of interest would be involved. Such a conflict would arise if an officer, board member, associate or agent, or any member of his/her immediate family, his/her spouse/partner, or an organization that employs or is about to employ any of the parties indicated herein, has a financial or other interest in the vendor selected.” The Competition section states, “In order to promote open and free competition, purchasers will:

- Be alert to any internal potential conflicts of interest,
- Be alert to any noncompetitive practices among contractors that may restrict, eliminate or restrain trade,
- Not permit contractors who develop specifications, requirements or proposals to bid on such procurements,
- Award contracts to bidders whose product/service is most advantageous in terms of price, quality and other factors,
- Issue solicitations that clearly set forth all requirements to be evaluated,
- Reserve the right to reject any and all bids when it is in the Agency’s best interest.”

The Fiscal Policy Manual, Procurement section was last updated March 11, 2010.

CAPLSC also provided a copy of their Service Code of Conduct that all new employees complete, which also addresses conflict of interest. The Service Code of Conduct, Associate/Client Boundaries 4, states “Although Associates may develop friendships with their Associate peers, it violates this Service Code of Conduct for an Associate who manages the case of an Associate/Client to spend personal time with that Associate/Client. Such a relationship puts program effectiveness and client confidentiality at risk and could be construed as creating a conflict of interest. If such a relationship poses this risk, it is responsibility of the Associate providing case management to request reassignment of the case, or for their supervisor to mandate reassignment.” The Service Code of Conduct was created September 2009.

In addition, CAPLSC provided their Board’s conflict of interest policy. See Exhibit A. The Board’s policy was last updated March 25, 2008.

### 2. We selected a sample of jobs and:

- a. Vouched actual costs incurred to original bid (see exhibit B);
- b. Compared invoices provided for reimbursement to actual expenditures/payments;
- c. Reviewed savings investment ratio (SIR) for each job selected; and
- d. Compared cost of sampled jobs to assessed value of the property (see exhibit C).

See comment below.

## **Weatherization Assistance Job Costs**

During our review of 25 jobs we noted several concerns and questionable practices including: infiltration invoices prepared by CAPLSC rather than the contractor, numerous change orders with only one approval and without on-site verification, unallowable air conditioner and water heater replacements, inadequate support for windows, doors, and insulation replaced, a client employed by the contractor who replaced their air conditioner; and one job not awarded to the lowest bidder.

Title 10 CFR 600.121 (January 2010) requires financial management systems to provide effective control over and accountability for all funds, property and other assets and accounting records that are supported by source documentation. OMB Circular A-122, Attachment A, General Principles A2g, states “To be allowable under an award, costs must... be adequately documented.” Good internal control and sound business practice require change orders be approved by the CAPLSC inspector after an on-site verification of the need for the change order. Good internal control and sound accounting practice also requires invoices be prepared and submitted by the contractor for payment, and not by CAPLSC staff based on a phone call.

CAPLSC Policy Manual states three oral or written bids are to be obtained for purchases \$10,000 to \$24,999 and the Bid Worksheet is to be used to document such bids. Sound business practice requires purchases greater than \$10,000 to have more than one bid.

Per Appendix I of the State Plan, “the audit measures mandated for use by all subgrantees in the NEAT, MHEA and TREAT audits shall be implemented only when the measure is called for by the audit. Audit measures with an individual SIR of 1.0 or greater shall be implemented. Audit measure with an SIR of less than 1.0 shall not be implemented.” Appendix I Nebraska Energy Office 2009 Weatherization Installation Measures and Work Standards states, “New gas water heaters shall have a minimum efficiency of .60 and new electric water heaters shall have a minimum efficiency of .91.” Health and Safety measures are not required to have an SIR but must have adequate documentation supporting the measure is necessary. Based on information entered the National Energy Audit Tool (NEAT), Manufactured Home Energy Audit (MHEA), or Targeted Retrofit Energy Analysis Tool (TREAT) calculates the savings-to-investment ratio (SIR). The SIR is the ratio of the present value savings to the present value costs of an energy or water conservation measure. The numerator of the ratio is the present value of net savings in energy or water and non-fuel or non-water operation and maintenance costs attributable to the proposed energy or water conservation measure. The denominator of the ratio is the present value of the net increase in investment and replacement costs less salvage value attributable to the proposed energy or water conservation measure.

We selected 25 jobs and tested all contractor payments from April 1, 2009, through September 30, 2010, for those jobs. We noted the following:

- 16 of the jobs tested included air conditioner replacements. Per testing and discussions with NEO, we noted 12 of those replacements were not allowable due to the cost used to calculate the SIR, and/or the Seasonal Energy Efficiency Ratio (SEER) used to calculate the SIR, or the BTU capacity of the replacement.

- 5 air conditioner replacements had costs used for the SIR calculation that were lower than the actual cost, which could result in an SIR less than 1.0; and 1 did not have costs included. If actual costs had been used none of the 6 would have been allowable.
- The contractors are to complete a Replacement Form when replacing furnaces and air conditioners. This form includes information such as the SEER of the existing unit as well as the brand, model, and SEER of the new unit. CAPLSC then takes this information from the replacement form and enters it into the NEAT Input Report. We noted 11 of 16 air conditioners which were replaced where the SEER of the existing unit, per the Replacement Form, did not agree with what was entered into the NEAT Input Report. We noted 5 of the 11 did not have the existing SEER noted on the Replacement Form and yet the NEAT Input Report did. CAPLSC indicated they do not contact the contractor if information such as the SEER is not on the form. They also stated this is a required field and they put in something, referring to such entries as an “educated guess.” CAPLSC was unable to provide any support for the SEER that was used when it was not noted on the replacement form. It did not appear these units would have had a SIR of 1.0 had the correct SEER been entered. CAPLSC stated the Administrator reviews the NEAT Input Report; although, we noted this review was not documented.
- We also noted air conditioners replaced where the NEAT/MHEA input report was run several times, 9 of the 16 were ran over 10 times and one was ran 28 times.
- Some Replacement Forms also appeared to be altered.

See Exhibit D for detailed information regarding air conditioner replacements tested.

- While looking at one job we became aware the weatherization client had worked for Reinick Heating and Air Conditioning during the timeframe the air conditioner was replaced. The input report had been run several times after the air conditioner was replaced, the actual cost paid to Reinick Heating and Air Conditioning did not agree to the NEAT report, the SEER per the replacement form did not agree to the input report, and it appeared the replacement was not allowable.
- 7 jobs with health/safety work did not have an SIR of at least 1.0 or documentation (such as pictures) on file to verify the work was needed. An SIR is not required for health and safety work, but must have documentation to support the necessity of the measures taken. The 7 jobs included: 3 water heater replacements, 2 door replacements, 1 job with window replacements, and 1 for garage and attic insulation.
- Three of four water heaters which were replaced were not documented as having met the minimum efficiency requirements. For jobs 2009-345 and 2009-428 the efficiency rating was not documented in the file or on the contractor’s invoice. For job 2009-357 it was noted on the contractor’s invoice the unit was .59 efficiency rating. We also noted job 2009-345 did not have an estimate on file.

- 16 jobs had payments to infiltration contractors where the amounts paid exceeded the original bid. A change order was on file approved by the Administrator, but was not approved by the CAPLSC inspector or signed by the contractor. The largest change noted in testing was an original bid of \$3,622 with a change order of \$3,008 for a total payment of \$6,630 or an 83% increase. See complete detail by job on Exhibit B. CAPLSC indicated they were changing their procedures over change orders to have them signed by the Administrator, the CAPLSC inspector, and the contractor. CAPLSC provided a change order dated October 4, 2010, that was signed by all three. However, per the Administrator, change orders were still completed per a phone call with the contractor; an on-site verification was not performed by the inspector prior to approval.
- 22 jobs had payments for infiltration that did not have invoices from the contractor, but were invoices prepared by the Administrator per a phone conversation with the contractor. CAPLSC did not receive invoices from Stoddard Construction, Ural Construction, All-Weather Insulation, Mueller Construction, or Clarke Contracting. Per the Administrator, in the past they have had problems reading contractor invoices or noted errors in the invoices submitted. The Administrator prepared an invoice with CAPLSC's stock, per a phone call with the contractor noting any changes from the original bid.
- Job 2010-046 was not awarded to the lowest bidder and did not have 3 bids. Per documentation in the bid packet and per the Administrator, the bid was not awarded to the lowest bidder due to one contractor having 6 open jobs over 30 days – they were therefore excluded from the bidding. One contractor was the lowest bidder having bid on 6 jobs totaling \$10,692. One other contractor also bid on the same 6 jobs totaling \$12,871. The bid was awarded to the \$12,871 bidder. Per the Administrator, because the low bidder had 6 jobs past 30 days this put them in poor standing, and therefore the bid went to the other bidder. The CAPLSC's policy was to repackage jobs and rebid when only one bid was obtained. CAPLSC did not repackage the jobs or re-open the bidding process in this situation, as they felt the process was sufficient.

Without adequate controls and supporting documentation there is an increased risk for fraud or errors to occur.

We consider this finding to be a significant deficiency.

We recommend documentation include pictures of items needing replacement or repair when the SIR is less than 1.0 but the work is required for health and safety purposes, and a second review of the NEAT or MHEA audit reports to ensure information is accurate and the SIR calculations are correct. We further recommend change orders accurately reflect additional work necessary, are approved prior to the work being performed, are verified by the CAPLSC inspector and be appropriately documented. We also recommend invoices be required from all contractors prior to payment. Finally, we recommend more than one bid on purchases over \$10,000; if only one acceptable bid is obtained, the jobs should be repackaged and rebid.

**CAPLSC Response:** *The recommendation to include photo documentation relating to work approved for when the SIR is less than 1.0 but required for health and safety purposes and to incorporate a second review of these NEAT, MHEA and TREAT audits has been implemented. A revised change order procedure was forwarded to NEO and the State Auditor's office on November 12, 2010 and has been implemented as forwarded. It includes the recommendation within this Attestation. The recommendation to require all contractors to submit invoices has been implemented. The bidding process has been revised and includes the recommendation provided.*

### **Waiting List**

1. We requested a list from CAPLSC of individuals waiting for weatherization assistance to determine how many clients were on the waiting list and whether the waiting list was prioritized in accordance with the State Plan.

We noted 109 individuals identified on the waiting list as waiting for inspection. The waiting list was not prioritized in accordance with the State Plan.

### **Waiting List Should Be Improved**

During testing of the waiting list of weatherization assistance projects, we noted the waiting list did not include adequate information to determine if projects were prioritized in accordance with the State Plan.

Title 10 CFR § 440.16(b) (January 1, 2010) requires, "Prior to the expenditure of any grant funds each grantee shall develop, publish, and implement procedures to ensure that: (b) Priority is given to identifying and providing weatherization assistance to: (1) Elderly persons; (2) Persons with disabilities; (3) Families with children; (4) High residential energy users; and (5) Households with a high energy burden." The Weatherization Assistance Program State Plan requires "subgrantees must serve clients by date of application by priority by county."

CAPLSC indicated they have a manual system for tracking client files and to ensure clients are served in priority order; however, this type of system is only effective at a current date and does not provide historical documentation to ensure the State Plan priorities were met.

Both clients tested did not include the client's application date or priority code on the waiting list. None of the projects on the waiting list had a priority code, some projects had a date only, and several projects had no date or priority code. Auditor was unable to determine what position a specific client had on the waiting list and could not determine what priority code without looking at the individual client file. Per discussion with the Administrator, the position on the waiting list was based on a tally sheet maintained by the clerk reviewing the files; however, this tally sheet was not available for review by the auditor. It was also noted when client files are selected for bid there was no documentation of how files were selected to verify clients were provided services according to the State Plan priorities (date of application/priority code/county).

As a result there is an increased risk of noncompliance with the Federal and State priority requirements.

We recommend the waiting list include adequate information to document compliance with Federal and State priority requirements.

***CAPLSC Response:*** *The waiting list process has been redrafted and will be implemented to establish a current ranking of each waiting list client based on the priorities established within the Weatherization Assistance Program State Plan – 2010 Program Year III.1.3. This waiting list ranking will be maintained within CAPLSC’s Weatherization Program’s client database.*

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on compliance with Federal requirements for weatherization assistance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

In accordance with *Government Auditing Standards*, we are required to report findings of deficiencies in internal control, violations of provisions of contracts or grant agreements, and abuse that are material to the CAPLSC’s compliance with Federal requirements over weatherization assistance and any fraud and illegal acts that are more than inconsequential that come to our attention during our review. We are also required to obtain the views of management on those matters. We did not perform our review for the purpose of expressing an opinion on the internal control over the CAPLSC’s weatherization assistance or on compliance and other matters; accordingly, we express no such opinions.

Our agreed-upon procedures disclosed certain findings that are required to be reported under *Government Auditing Standards* and certain other matters. Those findings, along with the views of management and the identification of significant deficiencies, are described above. A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A material weakness is a deficiency or combination of deficiencies in internal control, such that there is a reasonable possibility that a material misstatement of the subject matter will not be prevented, or detected and corrected on a timely basis. A significant deficiency is a deficiency, or a combination of deficiencies, in internal control that is less severe than a material weakness, yet important enough to merit attention by those charged with governance.

This report is intended solely for the information and use of the management of the Nebraska Energy Office, others within the agency, and the appropriate Federal and regulatory agencies. Although it should not be used by anyone other than these specified parties, this report is a matter of public record and its distribution is not limited.

Signed Original on File

Mike Foley  
Auditor of Public Accounts

Pat Reding, CPA, CFE  
Assistant Deputy Auditor

January 10, 2011

AGREED-UPON PROCEDURES OF THE  
COMMUNITY ACTION PARTNERSHIP OF LANCASTER AND SAUNDERS COUNTIES  
CONFLICT OF INTEREST POLICY

I. **Purposes**

The purposes of this Conflict of Interest Policy are (A) to protect Community Action Partnership of Lancaster and Saunders Counties's tax-exempt status under Section 501(c)(3) of the Internal Revenue Code (I.R.C.) when it is contemplating entering into a transaction or arrangement that might benefit the private interest of a director or officer of the corporation, or might result in a possible excess benefit transaction, and (B) to protect Community Action Partnership of Lancaster and Saunders Counties's status as a designated Head Start agency under Section 9837 of the Head Start Act ("Act") by ensuring compliance with the conflict of interest provisions set forth in § 9837(c)(1)(C) of the Act. This policy statement is intended to supplement, but not replace, any applicable state and federal laws governing conflicts of interest applicable to nonprofit charitable organizations exempt from tax under I.R.C § 501(c)(3), and to designated Head Start agencies under § 9837 of the Act.

II. **Definitions**

A. **Interested Person.** An "interested person" is any director or officer of the corporation who has a direct or indirect financial interest, as defined below.

B. **Financial Interest.** A director or officer of the corporation has a "financial interest" if the person has, directly or indirectly, through business, investment, or family: (1) an ownership or investment interest in any entity with which Community Action Partnership of Lancaster and Saunders Counties has a transaction or arrangement, (2) a compensation arrangement with Community Action Partnership of Lancaster and Saunders Counties or with any entity or individual with which Community Action Partnership of Lancaster and Saunders Counties has a transaction or arrangement, or (3) a potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which Community Action Partnership of Lancaster and Saunders Counties is negotiating a transaction or arrangement. A financial interest is not necessarily a conflict of interest, as described below.

C. **Compensation.** "Compensation" includes direct and indirect remuneration, as well as gifts or favors that are not insubstantial.

AGREED-UPON PROCEDURES OF THE  
COMMUNITY ACTION PARTNERSHIP OF LANCASTER AND SAUNDERS COUNTIES  
CONFLICT OF INTEREST POLICY

D. Conflict of Interest. A "conflict of interest" exists only if the Board of Directors of Community Action Partnership of Lancaster and Saunders Counties determines that a financial interest constitutes a conflict of interest, pursuant to the procedures set forth in Section III below.

III. **Procedures**

A. Duty to Disclose

In connection with any actual or possible conflict of interest, any director or officer of the corporation which is an interested person must disclose the existence of the financial interest to the Board of Directors and be given the opportunity to disclose all material facts.

B. Determining Whether a Conflict of Interest Exists

After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall then leave the Board meeting while the determination of whether a conflict of interest exists is discussed and voted upon. The Board (or remaining Board members) shall then decide if a conflict of interest exists.

C. Procedures for Addressing the Conflict of Interest

If the Board of Directors determines that a conflict of interest exists, then it must follow the procedures set forth in this section to address the conflict. The procedures for addressing a conflict of interest depend upon the area of the conflict and whether the interested person is a Board member or an officer.

1. If a conflict of interest involves a Board member and exists with respect to Community Action Partnership of Lancaster and Saunders Counties's Head Start program, either (a) the Board member must resign from the Board, or (b) the Board of Directors must terminate the transaction or arrangement that is causing or will cause the conflict of interest.

2. If a conflict of interest exists with respect to any other Community Action Partnership of Lancaster and Saunders Counties service or program, the Board of Directors must exercise due diligence to determine whether Community Action Partnership of Lancaster and Saunders Counties can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that

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would not give rise to a conflict of interest. The Board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement. If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board shall determine by a majority vote of the disinterested directors whether the transaction or arrangement is in Community Action Partnership of Lancaster and Saunders Counties's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, the Board shall make its decision as to whether to enter into the transaction or arrangement. If Community Action Partnership of Lancaster and Saunders Counties enters into the transaction or arrangement, the interested person shall not vote or engage in debate concerning the transaction or arrangement in which he or she has a financial interest.

D. Records of Proceedings

The Board minutes shall contain: (1) the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, (2) the nature of the financial interest, (3) a description of any action taken to determine whether a conflict of interest was present, (4) the Board's decision as to whether a conflict of interest in fact existed, (5) the names of the persons who were present for discussions and votes relating to the transaction or arrangement, (6) the content of the discussion, including any alternatives to the proposed transaction or arrangement, and (7) a record of any votes taken in connection with the proceedings.

IV. Violations of the Conflicts of Interest Policy

If the Board has reasonable cause to believe a Board member or officer has failed to disclose actual or possible conflicts of interest, it shall inform the person of the basis for such belief and afford the person an opportunity to explain the alleged failure to disclose. If, after hearing the person's response and after making further investigation as warranted by the circumstances, the Board determines the person has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

V. Head Start Agency Restrictions on Board Members

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AGREED-UPON PROCEDURES OF THE  
COMMUNITY ACTION PARTNERSHIP OF LANCASTER AND SAUNDERS COUNTIES  
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A. As a designated Head Start agency, members of the Board of Directors of Community Action Partnership of Lancaster and Saunders Counties shall:

1. not have a financial conflict of interest with the Head Start agency (including any delegate agency);
2. not receive compensation for serving on the Board of Directors or for providing services to Community Action Partnership of Lancaster and Saunders Counties;
3. not be employed, nor shall members of their immediate family be employed, by Community Action Partnership of Lancaster and Saunders Counties (including any delegate agency); and
4. operate as an entity independent of staff employed by Community Action Partnership of Lancaster and Saunders Counties.

B. Exception. If an individual holds a position as a result of public election or political appointment, and such position carries with it a concurrent appointment to serve as a member of the Board of Directors of Community Action Partnership of Lancaster and Saunders Counties, and such individual has any conflict of interest described in subsection 2 or 3 of Section A above, then -

1. such individual shall not be prohibited from serving on the Board of Directors, and Community Action Partnership of Lancaster and Saunders Counties shall report such conflict to the Secretary as provided in the Act; and
2. if the position held as a result of public election or political appointment provides compensation, such individual shall not be prohibited from receiving such compensation.

VI. Compensation

A. A Board member who receives compensation, directly or indirectly, from Community Action Partnership of Lancaster and Saunders Counties for services is precluded from voting on matters pertaining to that individual's compensation.

B. A member of any committee whose jurisdiction includes compensation matters and who receives compensation, directly or

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indirectly, from Community Action Partnership of Lancaster and Saunders Counties for services is precluded from voting on matters pertaining to that member's compensation.

C. No Board member whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from Community Action Partnership of Lancaster and Saunders Counties, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

VII. **Annual Statements**

Each director and officer shall annually sign a statement which affirms such person has reviewed and understands this Conflicts of Interest Policy and agrees to comply with this policy. Furthermore, the annual statement shall affirm that the director or officer understands that Community Action Partnership of Lancaster and Saunders Counties is a tax-exempt charitable institution under I.R.C. § 501(c)(3) and that, in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

VIII. **Periodic Reviews**

To ensure Community Action Partnership of Lancaster and Saunders Counties operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

1. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining; and
2. Whether partnerships, joint ventures, and arrangements with management organizations conform to Community Action Partnership of Lancaster and Saunders Counties's written policies, are properly recorded, reflect reasonable investment returns or payments for goods and services, further Community Action Partnership of Lancaster and Saunders Counties's charitable purposes, and do not result in inurement, impermissible private benefit or an excess benefit transaction.

IX. **Use of Outside Experts**

When conducting the periodic reviews, Community Action Partnership of Lancaster and Saunders Counties may, but need not, use

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outside advisors. If outside experts are used, their use shall not relieve the Board of Directors of its responsibility for ensuring periodic reviews are conducted.

Adopted March 25, 2008

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**AGREED-UPON PROCEDURES OF THE  
 COMMUNITY ACTION PARTNERSHIP OF LANCASTER AND SAUNDERS COUNTIES  
 LIST OF CONTRACTOR PAYMENTS WITH CHANGE ORDERS FOR JOBS SAMPLED  
 April 1, 2010 through September 30, 2010**

<u>Contractor</u>	<u>Job</u>	<u>Amount Paid</u>	<u>Bid Amount</u>	<u>Change</u>	<u>%</u>
All-Weather Insulation					
	2009-428	\$ 2,767.38	\$ 2,474.00	\$ 293.38	12%
	2009-266	\$ 785.00	\$ 770.00	\$ 15.00	2%
	2009-408	\$ 1,020.00	\$ 1,420.00	\$ (400.00)	(28%)
	2009-302	\$ 2,650.00	\$ 3,175.00	\$ (525.00)	(17%)
Clarke Contracting					
	2009-282	\$ 2,252.16	\$ 2,118.00	\$ 134.16	6%
	2009-347	\$ 4,013.50	\$ 3,881.00	\$ 132.50	3%
	2009-162	\$ 1,702.00	\$ 1,694.00	\$ 8.00	0.5%
	2009-211	\$ 4,186.00	\$ 4,216.00	\$ (30.00)	(1%)
	2009-309	\$ 885.00	\$ 950.00	\$ (65.00)	(7%)
Mueller Contracting					
	2009-219	\$ 8,964.06	\$ 8,305.00	\$ 659.06	8%
	2009-161	\$ 6,123.00	\$ 6,080.00	\$ 43.00	1%
Stoddard Contracting					
	2009-303	\$ 6,630.00	\$ 3,622.00	\$ 3,008.00	83%
	2009-357	\$ 4,534.39	\$ 3,533.00	\$ 1,001.39	28%
	2009-243	\$ 2,610.00	\$ 2,320.00	\$ 290.00	13%
	2009-154	\$ 1,602.00	\$ 1,412.00	\$ 190.00	13%
	2009-263	\$ 2,044.00	\$ 1,964.00	\$ 80.00	4%
	2009-173	\$ 2,007.00	\$ 1,936.00	\$ 71.00	4%
	2009-178	\$ 1,834.54	\$ 2,740.00	\$ (905.46)	(33%)
	2010-046	\$ 840.00	\$ 1,850.00	\$ (1,010.00)	(55%)
Ural Contracting					
	2009-214	\$ 7,659.60	\$ 5,095.00	\$ 2,564.60	50%
	2009-270	\$ 769.00	\$ 544.00	\$ 225.00	41%
	2009-204	\$ 329.00	\$ 299.00	\$ 30.00	10%

*Note: We sampled 25 jobs of which 22 had payments for infiltration, all 22 had change orders.*

**AGREED-UPON PROCEDURES OF THE  
 COMMUNITY ACTION PARTNERSHIP OF LANCASTER AND SAUNDERS COUNTIES  
 COMPARISON OF HOME VALUATION TO  
 WEATHERIZATION COSTS FOR JOBS SAMPLED**

April 1, 2010 through September 30, 2010

<u>Job #</u>	<u>County</u>	<u>Home Valuation</u>	<u>Weatherization</u>	
			<u>Costs</u>	<u>Ratio</u>
<b>Mobile Homes</b>				
2009-345	Lancaster	\$ 1,500.00	\$ 10,446.25	696.4%
* 2009-357	Lancaster	\$ 1,700.00	\$ 14,327.64	842.8%
2009-161	Lancaster	\$ 1,800.00	\$ 15,087.70	838.2%
2009-303	Lancaster	\$ 1,800.00	\$ 15,228.85	846.0%
2009-219	Lancaster	\$ 3,000.00	\$ 17,607.91	586.9%
<b>Frame Homes</b>				
2009-347	Saunders	\$ 34,720.00	\$ 12,134.95	35.0%
2009-173	Lancaster	\$ 57,800.00	\$ 8,890.75	15.4%
2009-211	Lancaster	\$ 62,600.00	\$ 4,269.75	6.8%
2009-214	Lancaster	\$ 67,600.00	\$ 14,798.45	21.9%
2009-266	Lancaster	\$ 73,500.00	\$ 2,323.85	3.2%
2009-302	Lancaster	\$ 82,700.00	\$ 3,032.50	3.7%
2009-263	Saunders	\$ 86,370.00	\$ 2,398.75	2.8%
2009-282	Lancaster	\$ 86,400.00	\$ 6,526.51	7.6%
2009-428	Saunders	\$ 87,320.00	\$ 13,731.38	15.7%
2009-309	Lancaster	\$ 92,200.00	\$ 1,110.60	1.2%
2009-178	Lancaster	\$ 104,400.00	\$ 9,673.39	9.3%
2009-162	Lancaster	\$ 108,300.00	\$ 1,785.75	1.6%
2010-046	Lancaster	\$ 115,200.00	\$ 9,303.85	8.1%
2009-204	Lancaster	\$ 117,400.00	\$ 7,454.85	6.3%
2009-270	Lancaster	\$ 119,700.00	\$ 988.35	0.8%
2009-243	Lancaster	\$ 120,400.00	\$ 9,600.85	8.0%
* 2010-022	Lancaster	\$ 122,200.00	\$ 366.75	0.3%
2009-369	Lancaster	\$ 130,300.00	\$ 10,393.35	8.0%
2009-154	Lancaster	\$ 146,800.00	\$ 9,770.75	6.7%
* 2010-035	Lancaster	\$ 207,600.00	\$ 8,988.00	4.3%

\*Jobs have not been completed and may have additional costs.

**AGREED-UPON PROCEDURES OF THE  
 COMMUNITY ACTION PARTNERSHIP OF LANCASTER AND SAUNDERS COUNTIES  
 AIR CONDITIONER REPLACEMENTS  
 April 1, 2009 through September 30, 2010**

Job	Contractor for A/C	2009 Central Air Replacement Form		NEAT/MHEA Input Report		NEAT/MHEA Report		Amount Paid Per GL if different than NEAT Report	Allowable
		SEER of Existing Unit	SEER of New Unit	SEER Per Report	Number of times Input Report was run	Cost Per Report	SIR Per Report		
2009-154	Reinick	6	14	5	3	\$ 1,950.00	1.3	\$ 2,200.00	NO (1)
2009-161	Reinick	8	14	8	28	\$ 2,190.00	1.4		YES
2009-173	Reinick	Not on Form	14	8	4	\$ 1,800.00	4.5	\$ 3,404.00	NO (1)
2009-178	Cool Concepts	Not on Form	14	7	4	\$ 1,800.00	5.8	\$ 3,700.00	NO (1)
2009-204	Reinick	5	14	5	11	\$ 2,042.00	1.3		YES
2009-214	Cool Concepts	Not on Form	14	5	18	\$ 3,001.00	2.1		NO (1)
2009-219	Reinick	Not on Form	14	6	21	\$ 2,345.00	1		NO (2)
2009-243	Reinick	10	14	10	2	not on report	not on report	\$ 2,025.00	NO (1)
2009-282	Cool Concepts	Not on Form	14	3	16	\$ 4,001.00	1.9		NO (2)
2009-303	Reinick	8	14	5	11	\$ 2,270.00	1.2		NO (1)
2009-345	Reinick	4	14	5	17	\$ 2,240.00	1.8		YES
2009-347	Reinick	8	14	5	8	\$ 1,950.00	1.3	\$ 2,135.00	NO (1)
2009-408	Reinick	4	14	5	5	\$ 2,446.00	1.1		YES
2009-428	Reinick	7	95%	7	10	\$ 3,176.00	1	\$ 2,810.00	NO (3)
2010-035	Reinick	8	14	5	21	\$ 2,251.00	1	\$ 2,445.00	NO (1)
2010-046	Reinick	6	14	6	7	\$ 2,361.00	1.2		NO (3)

- (1) Based on recalculation by NEO, the SIR would be less than 1.0.
- (2) Based on discussion with NEO these do not appear allowable as the SEER was not on the replacement form and if unknown, the minimum SEER input should be 7.
- (3) Questioned by NEO due to BTU capacity of replacement.