



# IRA Home Energy Rebates State Program Design Recommendations: A Resource for Advocates



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Consumer, community, environmental justice, and energy efficiency advocates have an important opportunity to help ensure equitable investment in energy efficiency and building electrification equipment for low- and moderate- income households. The energy offices in the states and territories will [start, or have started](#), designing [two federal home energy rebate programs](#): The Home Energy Performance-Based, Whole House Rebates (known as “Home Efficiency Rebates” or “HOMES”) and the High-Efficiency Electric Home Rebate Program (known as “Home Electrification and Appliance Rebates” or “HEAR”). Together the rebate programs are known as the Home Energy Rebate Programs.

The Inflation Reduction Act (IRA) provides almost [\\$9 billion](#) to the states and territories for the [Home Energy Rebate Programs](#), and states and territories must submit their program plans to the Department of Energy (DOE) by January 31, 2025. DOE will be approving these plans on a rolling basis. DOE has provided [guidance](#) to states on what must be included in the state plans, and DOE is issuing FAQs to help clarify their guidance and provide additional information on rebate program questions.

This **IRA Home Energy Rebates Resource for Advocates** outlines issue areas that advocates for low-income consumers and tenants should prioritize when providing stakeholder input into the state rebate plans. We provide citations to the IRA law creating the rebate programs<sup>1</sup> where applicable, as well as to the DOE guidance.<sup>2</sup> Some parts of this resource cover aspects of the state plan that are mandatory, but will need attention to detail in the implementation. Other portions of this resource focus on areas where the state has the flexibility to go beyond the IRA guidance and direct more funds to low-income consumers or be more protective of consumers.

The first two sections focus on recommendations regarding initial feedback to the states regarding the overall design of the rebate programs. The [next section](#) focuses on recommendations for tenant protections, and the [last section](#) focuses on the state’s Consumer Protection Plan, which must be submitted to DOE before the rebate programs are implemented and must be updated periodically.

## A. General Concepts

### 1. *Promote leveraging through braiding and stacking.*

States have the opportunity to provide deeper investments in the homes of low-income families by **leveraging** the over \$8 billion from the two IRA home energy rebate programs with existing utility-based energy efficiency programs, the federal low-income weatherization program, and other state and federal programs. For example, IRA programs could be combined with those that address building health and safety improvements, building envelope measures, and building efficiency and electrification funding. Successful sequencing, braiding, and stacking of the different program resources can eliminate upfront costs for low-income households, substantially lower costs for moderate-income households, and ensure that consumers are not left to navigate the rebate programs themselves. The proper sequencing of these different program investments can also reduce the risk of improperly sized electrification equipment and reduce the risk of bill increases.

- a. **Stakeholder engagement.** Organizations and advocates with expertise in enrolling consumers and implementing low-income utility programs, particularly energy efficiency and weatherization programs, should provide input to the state energy offices about recommendations for integrating outreach, enrollment, data sharing, and program implementation and reporting. Maintaining open lines of communication will help with the leveraging efforts.

### 2. *Promote iterative program design.*

States should plan on improving the two rebate programs over time. Funding for the federal rebate programs is available until September 30, 2031. DOE is also posting resources to help inform rebate program design.<sup>3</sup> Advocates should check these webpages periodically for resources to help inform program design and implementation best practices.

- a. **Data access.** Per DOE guidance requirements, states will be collecting a lot of data<sup>4</sup> from the implementation of the rebate programs. Advocates should demand meaningful transparency, including publicly available analysis and reports as well as regular release of raw data to track changes over time. Stakeholders should also have access to complaints and resolution data as well as consumer survey data. This information is particularly helpful to identify aspects of rebate program design and implementation that should be improved. The complaint, resolution, and survey data are helpful for consumers as they make decisions regarding whether to participate and the scope of measures to adopt.
- b. **Advisory group.** Advocates should recommend that states establish a state energy rebates program advisory group with representation from low-income consumer advocacy and tenant groups. These groups should have access to the data in real-time and have the ability and authority to make recommendations that must be considered regarding implementation improvements (such as better targeting of rebates) and consumer protections.

### 3. *Establish funded navigators.*

To the extent the state rebate plans are not coordinated (braided, stacked, and sequenced) with the existing low-income programs, states should prioritize the establishment of funded navigators to limit the burden on consumers to understand the complicated program landscape. Low- and moderate-income (LMI) consumers, in particular, will benefit from trained navigators to help guide them through the sequencing and stacking of rebate program measures with existing weatherization, energy efficiency, rehabilitation programs, etc. The rebate program rules forbid combining federal grants and rebates for the same measure,<sup>5</sup> so coordination with the state's [Weatherization](#) program will be critical.

- a. **Independence.** The navigators should be independent from the contractors implementing the energy programs. Navigators should help consumers select the measures, projects, and programs that best meet their needs, help consumers enroll in applicable programs, and serve as a case manager as homes undergo work. State Energy Offices should identify funding sources to pay for energy program navigators (such as experts with federal Weatherization and state energy efficiency programs). Whether these navigators are housed in the rebate programs or another energy program is less important than making sure that these navigators are independent and are focused on the best interest of the household.
- b. **Community outreach and language access.** States can use a portion of their IRA Home Energy Rebates administrative budgets for outreach and education.<sup>6</sup> The navigators could also help with this. Navigators and community-based organizations can also play a key role in ensuring that households with Limited English Proficiency have full access to the programs.

## B. IRA Rebate Program Design Recommendations

### 1. *Increase the low-income funding allocations.*

States should increase the set-asides for low-income households and low-income multifamily housing beyond the minimums established by DOE.

- a. **DOE Guidance.** The DOE Guidance discusses the importance of ensuring low-income households benefit from these home energy rebates. The Guidance requires each state to dedicate a minimum allocation for low-income households and low-income multifamily housing. DOE has prepared a [state-by-state chart](#) of the minimum allocations in Appendix A of the DOE Rebate Guidance. The DOE guidance, as discussed below, provides states with the ability to go further and increase the amount of rebate funds set aside for low-income households.<sup>7</sup>
- b. **Recommendation.** Advocates should recommend that states increase the set-asides for low-income households and low-income multifamily housing.<sup>8</sup> Regarding the low-income multifamily housing, states should (1) prioritize opportunities to preserve existing affordable housing, such as expiring Low-Income Housing Tax Credit properties, for the long term, and protect tenants from rent increases and

displacement and (2) dedicate resources to reducing health hazards in the home, such as the removal of gas appliances.<sup>9</sup>

**2. *Cover 100% of low-income project costs in HOMES.***

Congress expressly permits states to increase the amount of the HOMES rebate for low- or moderate-income (LMI) households beyond the floor established by DOE.<sup>10</sup> The DOE Guidance rationale for states to increase the HOMES rebate up to 100% of project costs for these LMI households is “to allow meaningful retrofits of low-income homes.”<sup>11</sup>

- a. DOE Guidance.** Under the HOMES statute and DOE Guidance, states can ask the Department of Energy for permission for the HOMES rebate to cover up to 100% of project costs for low- or moderate-income households.<sup>12</sup>
- b. Recommendation.** Advocates should use this discretion in the IRA HOMES program to press for the maximum for project costs (100%) for low- (and depending on the needs of the community, moderate-) income households.

**3. *Expand covered measures and rebate amounts, and leverage available funding.***

The IRA Home Energy Rebate statutory language sets out the maximum rebates available for each rebate program.<sup>13</sup> States can choose which measures to cover and the amount of the rebate (up to the statutory caps) for the HOMES and HEAR rebate.<sup>14</sup>

- a. DOE Guidance.** The IRA rebate statute provides the maximum rebate amounts for the HOMES and HEAR rebates, but states have the flexibility to set the rebate amounts below the statutory caps and to offer less than the full suite of covered measures.<sup>15</sup> The DOE Frequently Asked Questions provides some examples of how a state might limit the rebate measures. For example, a state may set the per household rebate amount limits, limit the technologies covered, choose not to allow the HEAR rebate for gas appliances, or limit the HOMES rebate to building envelope measures.<sup>16</sup>
- b. Recommendation.** The low-income advocates familiar with the utility efficiency and federal weatherization programs should provide recommendations for prioritizing and incentivizing the measures and rebate amounts that can be braided and stacked with the existing energy assistance programs in the state (for example, low-income Weatherization) and with a particular utility. Ideally, the braiding and stacking can lead to deeper, more comprehensive investments in low- (and moderate-) income housing. The rebate program rules forbid combining federal grants and rebates for the same measure,<sup>17</sup> so coordination with the state’s Weatherization and ratepayer funded programs will be critical.

**4. *Maximize use of categorical eligibility.***

One way to make it easier for low-income households to apply for the state rebate programs is to use household participation in another means-tested federal assistance program as proof of eligibility for the rebates program (referred to in this resource as “Categorical eligibility”).

- a. **DOE Guidance.** Categorical eligibility is expressly permitted in the definition of low- and moderate-income households in the IRA Home Energy Statute.
  - i. **Definition of “low- or moderate-income households” for HOMES.** “The term “low-or moderate-income household” means an individual or family the total annual income of which is less than 80 percent of the median income of the area in which the individual or family resides, as reported by the Department of Housing and Urban Development, including an individual or family that has demonstrated eligibility for another Federal program with income restrictions equal to or below 80 percent of area median income.”<sup>18</sup>
  - ii. **Definition of “Low- or moderate-income households” for HEAR.** “The term “low-or moderate-income household” means an individual or family the total annual income of which is less than 150 percent of the median income of the area in which the individual or family resides, as reported by the Department of Housing and and Urban Development, including an individual or family that has demonstrated eligibility for another Federal program with income restrictions equal to or below 150 percent of area median income.”<sup>19</sup>
  - iii. To facilitate the state use of categorical eligibility, DOE has prepared a detailed [list](#) of programs that are approved for categorical eligibility for the states’ rebate programs.
- b. **Recommendation.** Advocates should support the use of as many programs on the DOE [list](#) as possible to make a household categorically eligible for the state’s rebate programs. A state could design its application so that a household would only have to self-certify that it is participating in one of the categorical eligibility programs (subject to a random audit) to show that the household met the income qualifications of being “low-income.”<sup>20</sup> Categorical eligibility with self-certification provides a streamlined process for quickly determining income-eligibility. Ideally states would be able to enter into inter-agency agreements to cross-check program roles to determine if a household is participating in a pre-qualifying program. If that is not possible, then randomly selecting households to provide documentation of participation could be the means for ensuring program integrity. Agencies or non-profit organizations that handle low-income eligibility determinations for other programs are better situated to handle this sensitive task. In no event should contractors performing the work be in the position to handle the income eligibility determination, as there are safer alternatives described above.

## 5. **Pilot measured savings for the HOMES rebate.**

States can design their HOMES rebate to use measured savings, modeled savings, or both to determine the rebate amount.<sup>21</sup> Most states will likely use modeled savings for their existing energy efficiency programs. However, modeled savings risk over-predicting savings.<sup>22</sup> This shifts the risk onto consumers that the savings won’t materialize for the homeowner, resulting in higher costs than expected for the homeowners.

- a. **DOE Guidance.** The IRA statute allows the state the option of designing their HOMES rebate to use measured savings, modeled savings, or both.<sup>23</sup> The DOE

Guidance § 3.1.2.2 for the measured energy savings requires use of DOE-approved open-source measurement and verification (M&V) to measure savings post-installation. Rebate amounts under the measured approach are based on reported savings using the M&V software, household income level, total project cost, and home type (e.g., single-family). The DOE Guidance § 3.1.2.1 for modeled energy savings requires use of home energy models consistent with the BPI-2400 standard. Rebate amounts are based on estimated energy savings for completed improvements, household income level, total project cost, and home type.<sup>24</sup>

- b. Recommendation.** The HOMES rebate program provides an opportunity for a state that uses modeled savings to pilot a measured savings approach. In states that currently use modeled savings for rate-payer funded energy efficiency programs, those states could use their modeled savings approach to more quickly implement the HOMES program and to braid and stack the HOMES rebate with existing Weatherization and ratepayer-funded energy efficiency programs that use a modeled savings approach. At the same time, those states could also start a pilot HOMES rebate program that uses the measured savings approach, with guaranteed protection against any cost increases, as a way to test this alternative design.

## **6. *Develop strong state community benefits plans.***

Each state home energy rebates plan must include a Community Benefits Plan. The Community Benefits Plan is where advocates can insist on meaningful participation,<sup>24</sup> strong workforce development and engagement, and a meaningful flow of benefits to underrepresented groups and disadvantaged communities.

- a. DOE Guidance.** DOE Guidance § 3.1.4 and § 4.1.4 require each state plan to include a Community Benefits Plan. The Community Benefits Plan must include: how the state will engage the community and workforce; how the state will support a qualified workforce; how the state will describe efforts to address diversity, equity, and inclusion objectives; and how the state will ensure that benefits will flow to disadvantaged communities per the Justice40 Initiative.<sup>25</sup>
- b. Recommendation.** Advocates should view the Community Benefits Plan as a vehicle for ensuring true stakeholder engagement. Many of the recommendations in this guidance (such as expanding the allocation for low- and moderate-income households and streamlining eligibility determinations through the use of categorical eligibility) are modest ways to help the benefits of the rebates flow to disadvantaged communities. Programs can build accountability through transparency of the data and stakeholder working groups. The working groups will be in a position to see how the program is performing in real-time and offer mid-course improvement suggestions and program design modifications that can lower barriers or increase access for certain under-represented communities.



## C. Tenant Protections

### 1. *Protect tenants from rent increases and displacement.*

States should ensure that all tenants in affected properties are protected from displacement, no-cause eviction, and rising rents when property owners receive resources as a result of IRA funding.

- a. **DOE Guidance.** States are required to ensure that landlords do not evict a tenant to obtain higher rent based on IRA-subsidized improvements. The property owner must also agree not to increase the rent of any tenant of the building as a result of the energy improvements, with the exception of increases to recover actual increases in property taxes and/or specified operating expenses and maintenance costs.<sup>26</sup>
- b. **Recommendations.** Advocates should insist that landlords of a property with IRA-subsidized improvements may only evict a tenant for good cause related to material breach of the lease or rental agreement.<sup>27</sup> To ensure the enforceability of such protections, landlords should be required to provide notice to the current tenant or any subsequent tenants of the receipt of IRA subsidies and accompanying tenant protections.
  - i. Any necessary displacement as a result of a rehabilitation should be subject to a right to return for all tenants without rescreening or rent increases, and to the Uniform Relocation Act (URA), since the displacement is occurring as a result of federal dollars.<sup>28</sup> Under the URA, displaced persons are eligible for relocation assistance, including advisory services, reimbursement for moving expenses, and rental assistance payment.
  - ii. For a designated period of time based on the level of funding received, any rent increases should be limited to demonstrated increases in operating expenses over documented base-year levels. Rent increases based on the value of the improvements themselves should not be allowed, as the landlords have already received the benefit of the IRA subsidies. IRA Section 50121 provides larger rebates for low-income households to address the structural barriers that prevent low-income households from benefiting from the rebate programs.<sup>29</sup> If landlords are allowed to increase the rent based on the value of the improvements, low-income families will not receive the intended benefits of the program.

### 2. *Preserve affordable rental housing.*

Rental property owners receiving IRA funds should have to maintain or extend affordability for a designated period of time, based on the level of funding received.

- a. **DOE Guidance.** States are required to ensure that landlords rent affected dwelling units to low-income tenants for the two years following receipt of the rebates. The Guidance further requires property owners to agree that if the

property is sold within two years of receipt of the rebates, the tenant protections apply to the new owner and must be part of the purchase agreement.<sup>30</sup>

- b. Recommendations.** To preserve affordable housing, states should prioritize opportunities to preserve existing affordable housing, such as Low Income Housing Tax Credit properties, for the long term. When possible, affordability should be maintained or extended for longer than the two-year minimum period in the DOI guidance when a property owner receives a substantial investment of federal dollars.
  - i.** To ensure the enforceability of these provisions, states should require property owners to notify the state if a tenancy is terminated or if the property is sold. Property owners should provide a copy of the purchase agreement verifying the requisite provisions have been included. In the event the property owner fails to comply, the property owner must refund the rebate.

### **3. *Provide additional protections for renters in federally supported low-income housing.***

To keep subsidized housing affordable for low-income households, federal law for most federally assisted housing programs limits tenants' rent contributions. The tenant rent contribution in these programs includes both shelter and the costs for a reasonable amount of utilities. Where utilities are tenant-paid, a tenant is entitled to a "utility allowance" to cover reasonable utility costs. If utility allowances are lowered based on decreases in utility charges following IRA-subsidized improvements, the tenants may not receive any financial benefit from the use of IRA funds.

- a. Guidance.** DOE did not provide any guidance on protections for tenants in subsidized housing. Federal regulations generally govern the setting of utility allowances in federally supported housing, although additional guidance may be found in HUD guidebooks. The applicable regulations vary depending on the type of housing subsidy involved.<sup>31</sup>
- b. Recommendation.** Tenants in subsidized housing must retain the same or better rights and protections they enjoyed prior to the infusion of IRA resources into their properties. Tenants in subsidized housing should be able to retain the utility allowances they had prior to the IRA-related improvements
  - i.** Because project owners are best financially positioned, especially with the infusion of these funds, to pay directly for building utility costs, where utilities are master metered, states should require owners to retain the master meter model. Low- and moderate-income tenants in particular should not have to pay utility costs directly, because that increases their housing insecurity. For existing individually metered properties, owners should be required to demonstrate that all tenants will directly financially benefit from the proposed project.



#### 4. *Ensure the enforceability of tenant protections.*

States must include robust enforcement mechanisms in their IRA programs to ensure that IRA rebates do not spur gentrification, unnecessary rent increases (as discussed above), displacement, and loss of affordable units.

- a. **DOE Guidance.** The Guidance includes the following requirements to ensure enforceability: (1) In the event the owner does not comply, the owner must refund the rebate. (2) A specific and verifiable mechanism (e.g., addendum to the lease) must be in place that provides tenants with written notice of their rights and their building owner's obligations. (3) Enforcement and penalties are clear and sufficient to act as a deterrent for owner violations and provide for damages and attorney's fees recoverable by tenants.<sup>32</sup>
- b. **Recommendation.** Compliance with tenant protections should be an explicit condition of the receipt of IRA funds.
  - i. States should require landlords to publicly disclose that they have received a rebate for the IRA-subsidized improvements to the rental property and post a notice in the common area of the property to make tenants aware of their rights and of the landlord's obligations.
  - ii. For substantial IRA investments, limits on rent increases and no-cause evictions and affordability restrictions should be included in a recorded use agreement enforceable by the tenants so that any purchaser of the property is on notice of the applicable protections.
  - iii. Tenant protections should be incorporated into residential leases through lease addendums that are enforceable by the tenants.
  - iv. To enforce affordability requirements, states should require property owners who receive IRA rebates to provide notice if a tenancy is terminated and certify that any new tenants meet the income qualifications throughout any required affordability period.

### D. Consumer Protection Plans

#### 1. *Publish a qualified contractor list.*

The state should publish and maintain a list of vetted and approved contractors.

- a. **DOE Guidance.** The Guidance requires programs to describe how they will develop the qualified contractor list, including qualifications to which contractors will be held, such as (but not limited to): home performance industry credentials, training requirements, business insurance and licensure, skills standards, and labor standards.
  - i. The State's Consumer Protection Plan must also describe the process by which contractors will be added to the qualified contractor list and what

conditions would lead to a contractor being delisted. The qualified contractor list is to be made public.<sup>33</sup>

**b. Recommendations.** The qualified contractors list for both Home Energy Rebate programs should also include a list of qualified retailers and distributor partnerships. For conditions that would lead to a contractor being delisted, consumer protection complaints and violations found in on-site inspections should be a basis for delisting a contractor. Other instances in which contractors should be delisted are provided below.

**i. Example.** Similar lists have been developed for other programs, including by the California Contractors' State License Board, which allows consumers to look up a contractor license or Home Improvement Salesperson registration to verify information, including complaint disclosure, bond information, license classification and status.<sup>34</sup>

## **2. Direct low-income households to the no-cost programs.**

Leverage and stack federal, state, and ratepayer resources to cover the full cost of the project and prioritize the no-cost programs in the layering of funding for low-income households.

**a. DOE Guidance.** Low-income households are important populations for the Home Efficiency Rebates. IRA Section 50121 provides larger rebates for single-family homes occupied by low-income households (below 80% AMI) and allows states to request authority to provide even larger rebates – up to 100% of project costs – to allow meaningful retrofits of low-income homes.<sup>35</sup> States are strongly encouraged to design their rebate programs in ways that allow for effective combinations of various funding sources, including through integration with existing programs.<sup>36</sup>

**b. Recommendations.** As outlined above, we recommend advocating for 100% coverage of the Home Efficiency Rebate program costs for low-income households. If that cannot be achieved, programs should inform consumers that there are other federal programs that provide no-cost efficiency measures for low-income consumers (for example, federal low-income Weatherization and Low-Income Home Energy Assistance Program (LIHEAP) funds can be used for low-cost measures). All outreach, contracts, and informational materials should emphasize the availability of the no-cost programs for low-income households and how to get more information.

**i.** Given the complexities of braiding resources due to the various eligibility criteria for federal, state, and local programs, states should allow categorical co-enrollment based on other federal programs that meet the income thresholds.<sup>37</sup> It would be ideal if states provided navigators to help consumers determine the best way to achieve energy efficient improvements.

- ii. For example, the California Mortgage Relief Program engaged with nearly 100 HUD-Certified counseling agencies across the state, nearly a dozen organizations that give legal assistance to Californians, and 17 community-based organizations (CBOs) to provide homeowners with application navigation services. These organizations provide direct connections to homeowners in their communities, offering application assistance and answers in-language, and serving as a liaison relaying critical updates to complement the Program's outreach efforts and other communications.<sup>38</sup>
- iii. Contractors should not be provided with a list of consumers participating in low-income programs. In general, there should be stricter rules and severe consequences if low- to moderate-income, vulnerable communities are harmed.

### 3. *Support strong contract provisions.*

Contracts must not contain mandatory arbitration clauses. Ensure inclusion of [the holder-in-due course rule](#) so consumer protections are not lost just because the contract is assigned to a third party creditor.

- a. **DOE Guidance.** Contracts should not contain mandatory arbitration clauses and must ensure inclusion of the holder-in-due course rule so consumer protections are not lost just because the contract is assigned to a third party creditor.<sup>39</sup>
- b. **Recommendations.** Currently this requirement is only included in the resolution procedures, but states should also include it in reporting and data review. Contractors should also be required to provide their form contracts prior to being added to the verified contractor list and should only be added to the list if their form contracts comply. Compliance with these requirements could also be monitored in the consumer feedback. If it is determined later that a contractor has included a mandatory arbitration clause or has left out the required holder-in-due provision course provision, the contractor should be delisted from the verified contractor list.

### 4. *Include protections for electronic signatures and electronic records.*

Ensure that when the agreement and the required disclosures are provided to a consumer on an electronic device, and when the consumer's signature is applied electronically, that all requirements of the Electronic Signatures in Global and National Commerce Act<sup>40</sup> (E-Sign Act) are met. These include requiring that: 1) the consumer provide consent to receive the electronic records in a manner that clearly demonstrates the consumer can access the electronic records, and 2) the electronic process used to signify the consumer's signature is attached to an electronic record that the consumer actually intended to sign.

- a. **Guidance.** As part of the independent onsite post-install inspections protocol, it is required that the inspection ensure compliance with all requirements of the E-Sign Act and prohibits the use of electronic devices and signatures to enter into the contract if not E-Sign compliant. The Guidance further states in footnotes 43

and 65, “A written copy (in the person’s primary or secondary language) should be provided even if there is also an electronic contract .”<sup>41</sup>

- b. Recommendation.** To align the above guidance with the requirements of the E-Sign Act, states should require that a separate 8”-by-11” paper version of the required disclosures in at least 12 point font be provided to consumers in advance of the consumer being asked to sign a contract.

- i.** To ensure compliance with these requirements, any contractor found to be non-compliant with E-Sign’s requirements should be immediately delisted from the list of approved contractors.
  - ii.** The Consumer Feedback system should include specific questions about whether the contract was e-signed, what language the contract was negotiated in, if a paper copy of the contract was made available to the consumer, and whether the consumer has a copy of their contract.<sup>42</sup>

**5. *Require energy audits for the Home Efficiency Rebates Program.***

The IRA Home Efficiency Rebates program should prioritize and be used for high-environmental-leverage home interventions, i.e., those conferring considerable energy savings and cost-effectiveness. Energy audits provide homeowners with an objective assessment of their home’s energy options before expensive energy upgrades are installed or an inspection after installation to confirm that promised savings will be realized.

- a. DOE Guidance.** States may request to use a portion of rebate funds for these project-related costs. For example, utilities, third-party organizations, or agencies may provide funding for home energy audits. DOE will provide assistance to states specifically in support of identifying program implementation cost reductions.<sup>43</sup> An assessment is required for every single-family home and multifamily building receiving Home Efficiency Rebates.<sup>44</sup> However, the Guidance does not require a cost-benefit analysis. A cost-benefit analysis would include an analysis of available energy consumption records to validate estimates of energy savings from the installed home performance upgrades and a projected site energy savings associated with the recommended home performance upgrade package(s).<sup>45</sup>
- b. Recommendation.** An independent energy auditor should confirm the need for the work and the expected benefits/savings before the consumer enters into any contract. After the work has been done, there should be a quality control inspection before the contractor is paid in full (includes verifying the permits were finalized and work was done as per the contract).

**6. *Establish resolution procedures and a restitution fund.***

There should be a quick and easy complaints procedure and immediate investigation of complaints.

- a. DOE Guidance.** Resolution procedures must include: (1) a written conflict resolution procedure that documents how disputes will be resolved between homeowners and contractors, or aggregators, that includes protocols for a timely

response; identification of responsible parties; documentation of corrective actions, including the financial benefits resulting from the corrective action for the complainant; and a means of identifying and addressing systemic issues; (2) a remediation process to ensure that when deficiencies are detected through the inspection process, these results are communicated to the responsible party and any remedial or punitive actions taken follow a predefined set of protocols, which must be described in the plan; and (3) a requirement to maintain records on quality control inspections, including sampling rates, findings, corrective actions taken, and verification of conformance to requirements.<sup>46</sup>

**b. Recommendation.** To ensure easy access there should be a button on the home page of each state's program that takes consumers to where they can file a complaint with the appropriate agency; easy-to-understand instructions for submitting a complaint; and information about how to find an attorney, including free legal help for those who qualify. State agencies can help regarding consumer complaints (e.g., state energy office, ratepayer advocate, contractor licensing board and/or financial regulatory agency, if applicable). There should also be an adequately funded restitution fund since the terms of many of these contracts could run for 20 years, and contractors may disappear or go bankrupt.

**i. Example.** The Clean Energy Justice Coalition in California put together a page for homeowners impacted by PACE about how to file complaints with various agencies: <https://cleanenergyjustice.org/take-action/file-a-complaint/>.

**ii.** California also established a \$5 million Solar Energy System Restitution Program (SESRP) to reimburse qualifying consumers who were defrauded or financially harmed by licensed or unlicensed solar contractors. The program was created by Assembly Bill 137 in July 2021 and was administered by the Contractors State License Board.<sup>47</sup> The fund was exhausted by December 31, 2022.

## **7. Establish a strong ability-to-repay requirement that excludes measured savings.**

If financing is involved (and for low-income consumers it should be avoided where possible), states should require an ability-to-repay determination that does *not* include projected savings from an energy report because expected savings may not materialize due to household variability and market developments. Measures should be adopted to protect against fraud and abuse.

**a. DOE Guidance.** Ensure an ability-to-repay determination that does not include projected savings from an energy report because they may not materialize due to household and market developments.<sup>48</sup>

**b. Recommendations.** (1) Programs should prohibit contractors from selling the financing for these projects. (2) Ability-to-repay analyses should be completed by an independent third party to ensure any consumer agreeing to home

improvement work has the ability to pay for the improvements up front and wait for a rebate to be issued later. (3) To the extent contractors are ever used to perform ability-to-pay determinations (for non-low-income households, as we suggest above that contractors not be provided with lists of customers participating in low-income programs), they should be trained in how to complete such determinations, and the states should review the contractors' determinations to ensure they are completing them correctly and in good faith. (4) Consumers should be screened for eligibility for other programs such as the LIHEAP, ideally by an independent third party; to the extent contractors are involved, they should be trained about the available programs and their eligibility criteria. (5) There should be confirmation from an independent entity that the consumer understands the contract and wants to proceed (using open-ended Questions versus leading or Yes/No).

*For more information, please contact Olivia Wein, [owein@nclc.org](mailto:owein@nclc.org), or Stacey Tutt, [stutt@nhlp.org](mailto:stutt@nhlp.org).*

## Endnotes

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<sup>1</sup> See Inflation Reduction Act of 2022, [Pub. L. No. 117-169](#), §§ 50121, 50122, 136 Stat. 1818, at 2033, 2036 (2022). Section 50121 (HOMES) and Section 50122 (HEAR) are codified at [42 U.S.C. § 18795](#) (HOMES) and [42 U.S.C. § 18795a](#) (HEAR).

<sup>2</sup> U.S. Dep't of Energy, [Home Energy Rebates Application Guidance](#) and [IRA Home Energy Rebates Program Requirements & Application Instructions](#), ver. 1.1 (Oct. 13, 2023) (hereafter [IRA Rebates Guidance](#)).

<sup>3</sup> U.S. Dep't of Energy, [Home Energy Rebates: Program Design and Implementation](#).

<sup>4</sup> See, e.g., U.S. Dep't of Energy, [IRA Home Energy Rebates: Data & Tools Requirements Guide](#), ver. 1.1 (Oct. 13, 2023) (data and tools).

<sup>5</sup> [42 U.S.C. § 18795\(c\)\(7\)](#) and [42 U.S.C. § 18795a\(c\)\(8\)](#); [IRA Rebates Guidance](#) § 3.3.2, at 44–46 and § 4.3.2 at 82–84.

<sup>6</sup> Definition of “Administrative Costs,” [IRA Rebates Guidance](#) § 2.1, at 6. See also [IRA Rebates Guidance](#) § 3.2.1, at 32 and § 4.2.1, at 69 (discussion of Education and Outreach).

<sup>7</sup> [IRA Rebates Guidance](#) § 3.1.3, at 14–16 (HOMES rebates) and § 4.1.3, at 52–53 (HEAR rebates).

<sup>8</sup> [IRA Rebates Guidance](#) § 3.1.3, at 15–16 and § 4.1.3, at 53.

<sup>9</sup> See e.g., U.S. Dep't Health & Hum. Servs., [Quality of Housing](#) (HHH summary of literature on quality of housing as a social determinant of health).

<sup>10</sup> [42 U.S.C. § 18795\(c\)\(3\)](#).

<sup>11</sup> [IRA Rebates Guidance](#) § 3.1.3, at 15.



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- <sup>12</sup> [42 U.S.C. § 18795\(c\)\(3\)](#); [IRA Rebates Guidance § 3.1.2](#) at 11, 12–13, 16; § 3.1.2, at 25.
- <sup>13</sup> [42 U.S.C. § 18795\(c\)\(2\)](#) and [42 U.S.C. § 18795a\(c\)\(3\)](#).
- <sup>14</sup> [IRA Rebates Guidance § 3.1.2](#), at 10–14 and § 3.1.7, at 24 (HOMES rebates) and § 4.1.2, at 50–51 and § 4.1.8, at 62 (HEAR rebates).
- <sup>15</sup> *Id.*
- <sup>16</sup> U.S. Dep’t of Energy, [Home Energy Rebates Frequently Asked Questions](#), Nos. 27, 41 and 42 (note numbering may change as FAQs are added).
- <sup>17</sup> [42 U.S.C. § 18795\(c\)\(7\)](#) and [42 U.S.C. § 18795a\(c\)\(8\)](#); [IRA Rebates Guidance § 3.3.2](#), at 44–46 and § 4.3.2, at 82–84.
- <sup>18</sup> [42 U.S.C. § 18795\(d\)\(3\)](#).
- <sup>19</sup> [42 U.S.C. § 18795a\(d\)\(4\)](#).
- <sup>20</sup> Self attestation of income level or enrollment in a pre-qualifying program is permitted. See Program Requirement, [IRA Rebates Guidance § 3.1.2](#), at 26 (HOMES) and § 4.1.6, at 65 (HEAR).
- <sup>21</sup> [42 U.S.C. § 18795\(c\)\(2\)](#); [IRA Rebates Guidance § 3.1.2.1](#), at 12–13 (modeled) and § 3.1.2.2, at 13–14 (measured).
- <sup>22</sup> *Id.* See also, [IRA Rebates Guidance § 3.2.5](#) (re financing, ability to repay determination cannot include projected savings from an energy report because of the risk the savings won’t materialize).
- <sup>23</sup> [42 U.S.C. § 18795\(c\)\(2\)](#).
- <sup>24</sup> [IRA Rebates Guidance § 3.1.2.1](#), at 12–13 (modeled) and § 3.1.2.2, at 13–14 (measured).
- <sup>25</sup> [IRA Rebates Guidance § 3.1.4](#), at 17–21 (HOMES) and § 4.1.4, at 54–58 (HEAR).
- <sup>26</sup> [IRA Rebates Guidance](#), § 3.1.3, at 17 and § 4.1.3, at 54.
- <sup>27</sup> Examples of good cause reasons include failure to pay rent, serious or repeated lease violations, and owner’s intent to move in or permanently remove the unit from the rental housing market. For more details on tenant protections in multi-family housing, see [National Housing Law Project’s Response to FHFA’s Request for Input on Multifamily Tenant Protections](#) (July 31, 2023). See also Julietta Cuellar, [Effect of “Just Cause” Eviction Ordinances in Four California Cities](#), Princeton U.J. of Pub & Int’l Aff. (May 2019).
- <sup>28</sup> [42 U.S.C. § 4622](#). The URA establishes relocation assistance standards for persons displaced from their dwellings as a direct result of federally funded programs and projects. The URA is intended to create a uniform policy for the fair and equitable treatment of displaced persons and to ensure that such persons shall not suffer disproportionate injuries as a result of programs and projects designed for the benefit of the public as a whole.
- <sup>29</sup> [IRA Rebates Guidance § 3.1.3](#), at 14–16 (HOMES rebates) and § 4.1.3, at 52–53 (HEAR rebates).
- <sup>30</sup> [IRA Rebates Guidance § 3.1.3](#), at 17 and § 4.1.3, at 54.
- <sup>31</sup> National Housing Law Project, [HUD’s Housing Programs: Tenants’ Rights](#) Chapter 5 (5<sup>th</sup> ed.).
- <sup>32</sup> [IRA Rebates Guidance § 3.1.3](#), at 17 and § 4.1.3, at 54.
- <sup>33</sup> [IRA Rebates Guidance § 3.2.5](#), at 39 and § 4.2.5, at 78.
- <sup>34</sup> See Cal. Dep’t Consumer Affairs, [Check a Contractor License or Home Improvement Salesperson \(HIS\) Registration](#).
- <sup>35</sup> [42 U.S.C. § 18795\(c\)\(3\)](#); [IRA Rebates Guidance § 3.1.3](#), at 14–15.
- <sup>36</sup> [IRA Rebates Guidance § 3.3.2](#), at 44. See also §§ 3.3.1, 3.3.2, 4.3.2.

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<sup>37</sup> See [IRA Rebates Guidance § 3.1.3](#), at 16. See also U.S. Dep't of Energy, [IRA 50121 & 50122 Home Energy Rebates Categorical Eligibility List](#) (Oct. 13, 2023) (federal programs approved for categorical eligibility). This is discussed further in the section on program design recommendations.

<sup>38</sup> Cal. Housing Fin. Agency, [HAF Annual Report 7](#) (2022).

<sup>39</sup> [IRA Rebates Guidance § 3.2.5](#), at 38 and [§ 4.2.5](#), at 77.

<sup>40</sup> [15 U.S.C. §§ 7001–7031](#).

<sup>41</sup> [IRA Rebates Guidance § 3.2.5](#), at 39 and [§ 4.2.5](#), at 78.

<sup>42</sup> See [IRA Rebates Guidance § 3.2.5](#), at 37 and [§4.2.5](#), at 76 (description of consumer feedback system to be developed).

<sup>43</sup> [IRA Rebates Guidance § 3.1.1](#), at 10.

<sup>44</sup> [IRA Rebates Guidance § 3.2.2](#), at 32.

<sup>45</sup> Building Performance Institute, Inc., [ANSI/BPI-1100-T-2023 Home Energy Auditing Standard](#) at 3 (June 6, 2023).

<sup>46</sup> [IRA Rebates Guidance § 3.2.5](#), at 38 and [§ 4.2.5](#), at 76-77

<sup>47</sup> Press Release, [Cal. Contractors State License Bd., Contractors State License Board Helps Consumers with \\$5 Million Solar Energy System Restitution Program](#) (May 11, 2022).

<sup>48</sup> [IRA Rebates Guidance § 3.2.5](#), at 40 and [§ 4.2.5](#), at 79.