

CHAPTER 25
HOUSING FUND

261—25.1(15) Purpose. The primary purpose of the housing fund, made up of federal CDBG and HOME funds, is to expand the supply of decent and affordable housing for low- and moderate-income Iowans.

261—25.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

“*Activity*” means one or more specific housing activities, projects or programs assisted through the housing fund.

“*Administrative plan*” means a document that a housing fund recipient submits to IDED describing the operation of a funded activity.

“*AHTC*” means affordable housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through the Iowa finance authority for affordable rental housing development.

“*CDBG*” means community development block grant nonentitlement program, the grant program authorized by Title I of the Housing and Community Development Act of 1974, as amended, for counties and cities, except those designated by HUD as entitlement areas.

“*CHDO*” means community housing development organization, a nonprofit organization registered with the Iowa secretary of state and certified as such by IDED, pursuant to 24 CFR 92.2 (April 1, 1997).

“*Consolidated plan*” means the state’s housing and community development planning document and the annual action plan update approved by HUD.

“*HART*” means the housing application review team, a body of affordable housing funding agencies which meets to review housing proposals.

“*HOME*” means the HOME investment partnership program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

“*Housing fund*” means the program implemented by this chapter and funded through the state’s annual HOME allocation from HUD and 25 percent of the state’s CDBG allocation from HUD.

“*Housing needs assessment*” means a comprehensive analysis, in a format that conforms to IDED guidelines, of housing needs for one or more units of local government.

“*HUD*” means the U.S. Department of Housing and Urban Development.

“*IDED*” means the Iowa department of economic development.

“*IFA*” means the Iowa finance authority.

“*Local support*” means endorsement by local individuals or entities that have a substantial interest in a housing activity, particularly by those whose opposition or indifference would hinder the activity’s success.

“*Program income*” means funds generated by a recipient or subrecipient from the use of CDBG or HOME funds.

“*Recipient*” means the entity under contract with IDED to receive housing funds and undertake the funded housing activity.

“*Staff contact*” means the IDED staff person assigned after the HART review process to consult with applicants in the preparation of the housing fund application.

“*Subrecipient*” means an entity operating under an agreement or contract with a recipient to carry out a funded housing fund activity.

261—25.3(15) Eligible applicants. Eligible applicants for housing fund assistance include all incorporated cities and counties within the state of Iowa; nonprofit organizations; CHDOs; and for-profit corporations, partnerships and individuals.

1. Any eligible applicant may apply directly or on behalf of a subrecipient.
2. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

261—25.4(15) Eligible activities and forms of assistance.

25.4(1) Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion), rental housing new construction, home ownership assistance, owner-occupied housing rehabilitation and other housing-related activities as may be deemed appropriate by IDED. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by tenants or homeowners.

a. Assisted units shall be affordable.

(1) For rental activities, all assisted units shall rent at the lesser of the area fair market rents or 30 percent of 65 percent of the area median family income and, for projects with five or more units, 20 percent of the units shall rent at the lesser of the fair market rent or 30 percent of 50 percent of the area median family income. Assisted units shall remain affordable for a specified period: 20 years for newly constructed units; 10 years for rehabilitated units receiving \$15,000 to \$24,999 in assistance; and 5 years for projects receiving less than \$15,000 per unit.

(2) For tenant-based rental assistance, gross rents shall not exceed the jurisdiction's applicable rent standard and shall be reasonable, based on rents charged for comparable, unassisted rental units.

(3) For home ownership assistance, the initial purchase price for newly constructed units and the after rehabilitation appraised value for rehabilitated units shall not exceed 95 percent of the median purchase price for the same type of single-family housing in the area. Assisted units shall remain affordable through resale or recapture provisions for a specified period: 5 years for projects receiving up to \$15,000 in assistance per unit, and 10 years for projects receiving \$15,000 to \$24,999 in assistance.

(4) For owner-occupied housing rehabilitation, the after rehabilitation value of rehabilitated units shall not exceed the median purchase price for the same type of single-family housing in the area.

b. Assisted households shall meet income limits established by federal program requirements.

(1) For rental activities, all assisted units shall be rented to households with incomes at or below 80 percent of the area's median family income; 90 percent of the units shall be rented to households with incomes at or below 60 percent of the area's median family income and, for projects with five or more units, 20 percent of the units shall be rented to households with incomes at or below 50 percent of the area's median family income.

(2) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; additionally, 90 percent of the households served shall have incomes at or below 60 percent of the area's median family income.

(3) For home ownership assistance and owner-occupied housing rehabilitation, only households with incomes at or below 80 percent of the area median family income shall be assisted.

c. Unless evidence exists of an emergency situation that would require otherwise, assisted units shall, at a minimum, meet HUD Section 8 Housing Quality Standards, 24 CFR 882 (April 1, 1997). New units must be constructed pursuant to standards specified at 24 CFR 92.251(a)(1) (April 1, 1997).

25.4(2) Eligible forms of assistance include grants, interest-bearing loans, non-interest-bearing loans, interest subsidies, deferred payment loans, forgivable loans or other forms of assistance as may be approved by IDED.

261—25.5(15) Application procedure. Applicants shall complete and submit a HART form describing the proposed housing activity. If, after HART review, the proposal is determined appropriate for housing fund assistance, IDEED shall assign a staff contact and send the applicant a housing fund application form and related materials by mail.

25.5(1) HART forms shall be available upon request from IDEED, 200 East Grand Avenue, Des Moines, Iowa 50309; telephone (515)242-4825.

25.5(2) HART forms submitted by the last working day of a month shall be reviewed and responded to in the following month.

25.5(3) Applicants shall work with their assigned staff contacts in the preparation of housing fund applications.

a. If an applicant does not initiate communication with the staff contact within six months of receiving the HART response letter, IDEED will determine the proposal inactive and remove it from the staff contact files.

b. Submission of a housing fund application without appropriate consultation with the staff contact may result in the application being held until it is determined ready for review.

25.5(4) Housing fund applications which the staff contacts determine are ready for review by the last working day of a month shall be reviewed and responded to in the following month to the extent funds are available. Once funds have been expended, IDEED reserves the right to hold applications for review until after the next allocation of funds from HUD.

25.5(5) Applications for rental housing activities proposed to be funded jointly through the housing fund and the affordable housing tax credit program shall be reviewed and award decisions made through an annual competition for funds reserved for this purpose under subrule 25.8(3). Applicants shall be required to submit a housing fund/affordable housing tax credit application supplement to IDEED by the deadline established by IFA for the submission of AHTC applications. IDEED shall distribute information about the application procedure to potential applicants with IFA's annual AHTC program announcement.

261—25.6(15) Minimum application requirements. To be considered for housing fund assistance, an application shall meet the following threshold criteria:

25.6(1) The application shall propose a housing activity consistent with the housing fund purpose and eligibility requirements, the state consolidated plan and any local housing plans.

25.6(2) The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of the successful administration of prior activities or a statement that the applicant intends to contract with another entity for administrative services.

25.6(3) The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity and the feasibility of the proposed activity.

25.6(4) The application shall demonstrate local support for the proposed activity.

25.6(5) The application shall show that a need for housing fund assistance exists after all other financial resources have been identified for the proposed activity.

25.6(6) The application shall include a certification that the applicant will comply with all applicable state and federal laws and regulations.

261—25.7(15) Application review criteria. IDED shall evaluate applications and make funding decisions based on the criteria of need, impact and feasibility.

25.7(1) As applicable, the review criteria for need shall include the following:

- a. Housing market conditions in the activity area, including the number of low- and moderate-income persons, the supply of housing in relation to demand, housing costs, vacancy rates, availability of affordable housing, condition of housing, community economic growth, other recent housing and community development activities and number of potential beneficiaries;
- b. Documented community support for the activity; and
- c. Evidence that alternatives other than housing fund assistance were considered but determined not feasible for the activity.

25.7(2) As applicable, the review criteria for impact shall include the following:

- a. Documentation that housing fund assistance is needed to make the proposed activity affordable;
- b. Degree to which the activity's potential impact corresponds to the identified need;
- c. Portion of need to be met through the activity; and
- d. Suitability of the proposed activity location or site, including infrastructure, availability of utilities, zoning and environmental issues.

25.7(3) As applicable, the review criteria for feasibility shall include the following:

- a. Documentation of how the need for housing funds was determined;
- b. Cost estimates;
- c. Degree to which housing fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity;
- d. Documentation that the activity can be completed in a timely fashion; and
- e. Applicant administrative capacity, including evidence of the timely completion of previously assisted activities.

25.7(4) Activity-specific housing fund application review criteria.

- a. Applications for rental new construction and rental rehabilitation shall include the following:
 - (1) Justification for new construction, if applicable;
 - (2) Identification of construction or rehabilitation standards to be used, as applicable;
 - (3) For rental rehabilitation activities other than conversion, documentation that at least 50 percent of total costs shall be funded through sources other than the housing fund;
 - (4) Description of how long-term affordability will be ensured;
 - (5) Discussion of issues related to the accessibility for tenants with disabilities;
 - (6) Discussion of potential tenant displacement/relocation issues, if applicable;
 - (7) Statement of sources and uses of funds;
 - (8) Identification of proposed rents, including allowances for tenant-paid utilities; and
 - (9) A 20-year operating pro forma.
- b. Applications for tenant-based rental assistance shall include the following:
 - (1) Documentation that the proposed assistance will not duplicate existing programs;
 - (2) Description of the form of assistance to be provided;
 - (3) Description of proposed rent levels and tenant contributions toward rent; and
 - (4) Discussion of the issues of portability, tenant selection, leases, security deposits, period of assistance and utility deposits.

c. Applications for home ownership assistance shall include the following:

- (1) Description of the resale/recapture provisions that shall be used to ensure long-term affordability;
- (2) Documentation of local lender support for and involvement in the proposal and data on lender underwriting criteria, loan rates and terms, down payment requirements and mortgage denial trends;
- (3) Discussion of how program income shall be handled, including potential plans for reuse;
- (4) Assurance that assisted properties shall be the homeowners' principal residences;
- (5) If applicable, identification of rehabilitation standards to be used and evidence of existing units for sale in the appropriate price range; and
- (6) If applicable, justification for new construction, identification of construction standards to be used, and documentation that infrastructure for new construction is in place or planned for and financed by sources other than the housing fund.

d. Applications for owner-occupied housing rehabilitation shall include the following:

- (1) Description of the method the applicant will use to determine the amount that assisted households shall contribute toward housing rehabilitation expenses;
- (2) Discussion of how the applicant shall address properties infeasible for rehabilitation;
- (3) Documentation of local lender support for and involvement in the proposal;
- (4) Description of the rehabilitation standards to be applied;
- (5) Description of how homeowner applications for assistance shall be processed and the form of assistance to be provided;
- (6) Discussion of how program income shall be handled, including potential plans for reuse; and
- (7) Assurance that assisted properties shall be the homeowners' principal residences.

25.7(5) IDED staff may conduct site evaluations of proposed activities.

261—25.8(15) Allocation of funds.

25.8(1) IDED may retain a portion of the amount provided for at 261—subrule 23.6(1) of the state's annual CDBG allocation from HUD and up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

25.8(2) Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities proposed by CHDOs.

25.8(3) Up to 75 percent of the state's annual HOME allocation shall be reserved for rental housing activities jointly funded with HOME and affordable housing tax credits.

25.8(4) IDED reserves the right to allocate up to 5 percent of CDBG funds allocated to the housing fund for the emergency repair of homeless shelters. Recipients funded for this purpose shall not be required to follow the application procedure set forth in rule 261—25.5(15).

25.8(5) IDED will determine the appropriate source of funding, either CDBG or HOME, for each housing fund award based on factors including the availability of funds, the nature of the housing activity and the recipient type.

25.8(6) IDED reserves the right to limit the amount of funds that shall be awarded for any single activity type.

25.8(7) Awards shall be limited to no more than \$700,000.

25.8(8) The maximum per unit housing fund subsidy is \$24,999.

25.8(9) Recipients shall justify administrative costs in the housing fund application. IDED reserves the right to negotiate the amount of funds provided for administration, but in no case shall the amount exceed 15 percent of a total housing fund award.

25.8(10) IDED reserves the right to negotiate the amount and terms of a housing fund award.

25.8(11) IDED reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

25.8(12) IDED reserves the right to allocate a portion of funds to comprehensive areawide housing programs. Potential recipients shall be identified through a request for qualifications of entities interested in and capable of operating an areawide program. Areawide program proposals shall be evaluated on and awards negotiated on the targeted number of beneficiaries to be assisted across income levels, household types and unmet housing needs, rather than on specific activities.

261—25.9(15) Administration of awards. Applications selected to receive housing fund awards shall be notified by letter from the IDED director.

25.9(1) Source of funds. If the source of funding for a housing fund award is HOME, the recipient shall administer the activity and manage funds in compliance with the regulations set forth in the HOME final rule, 24 CFR Part 92 (April 1, 1997). If the source of funding for a housing fund award is CDBG, the recipient shall administer the activity and manage funds in compliance with federal regulations set forth in 24 CFR Part 570 (April 1, 1997).

25.9(2) A contract shall be executed between the recipient and IDED. These rules, the housing fund application, the housing management guide and all applicable federal and state laws and regulations shall be part of the contract.

a. The recipient shall execute and return the contract to IDED within 45 days of transmittal of the final contract from IDED. Failure to do so may be cause for IDED to terminate the award.

b. Certain activities may require that permits or clearances be obtained from other state or local agencies before the activity may proceed. Awards may be conditioned upon the timely completion of these requirements.

c. Awards shall be conditioned upon commitment of other sources of funds necessary to complete the housing activity.

d. Awards shall be conditioned upon IDED receipt and approval of an administrative plan for the funded activity.

25.9(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by IDED. Individual requests for funds shall be made in whole dollar amounts equal to or greater than \$500 per request, except for the final draw of funds.

25.9(4) Record keeping and retention. The recipient shall retain all financial records, supporting documents and all other records pertinent to the housing fund activity for five years after contract expiration. Representatives of IDED, HUD, the Inspector General, the General Accounting Office and the state auditor's office shall have access to all records belonging to or in use by recipients and subrecipients pertaining to a housing fund award.

25.9(5) Performance reports and reviews. Recipients shall submit performance reports to IDED in the manner and on forms prescribed by IDED. Reports shall assess the use of funds and progress of activities. IDED may perform reviews or field inspections necessary to ensure recipient performance.

25.9(6) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Changes include time extensions, budget revisions and significant alterations of the funded activities affecting the scope, location, objectives or scale of the approved activity. Amendments shall be requested in writing by the recipient and are not considered valid until approved in writing by IDED following the procedure specified in the contract between the recipient and IDED.

25.9(7) *Contract closeout.* Upon the contract expiration date or work completion date, as applicable, IDEED shall initiate contract closeout procedures. Recipients shall comply with applicable audit requirements described in the housing fund application and management guide.

25.9(8) *Compliance with federal, state and local laws and regulations.* Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program and with applicable federal, state and local regulations.

25.9(9) *Remedies for noncompliance.* At any time, IDEED may, for cause, find that a recipient is not in compliance with the requirements of this program. At IDEED's discretion, remedies for non-compliance may include penalties up to and including the return of program funds to IDEED. Reasons for a finding of noncompliance include the recipient's use of funds for activities not described in the contract, the recipient's failure to complete funded activities in a timely manner, the recipient's failure to comply with applicable state or local rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved activities in a timely manner.

25.9(10) *Appeals process for findings of noncompliance.* Appeals will be entertained in instances where it is alleged that IDEED staff participated in a decision which was unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to IDEED. Appeals should be addressed to the division administrator of the division of community and rural development. Appeals shall be in writing and submitted to IDEED within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The director will make the final decision on all appeals.

These rules are intended to implement Iowa Code section 15.108(1) "a."

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