

IOWA FINANCE AUTHORITY[265]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 16.5(1)“m,” 16.5(1)“r” and 17A.3(1)“b,” the Iowa Finance Authority proposes to amend Chapter 39, “HOME Investment Partnerships Program,” Iowa Administrative Code.

The purpose of these amendments is to clarify the rules and eliminate redundancies or conflicts with federal laws or regulations relating to the HOME Investment Partnerships Program.

The Authority does not intend to grant waivers under the provisions of these rules, other than as may be allowed under the Authority’s general rules concerning waivers.

The Authority will receive written comments on the proposed amendments until 4:30 p.m. on September 19, 2017. Comments may be addressed to Carolann Jensen, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to (515)725-4901 or e-mailed to carolann.jensen@iowa.gov.

The Authority anticipates that it may make changes to the proposed amendments based on comments received from the public.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 16.5(1)“m” and 42 U.S.C. sections 12701 et seq.

The following amendments are proposed.

ITEM 1. Amend rule 265—39.2(16) as follows:

265—39.2(16) 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 HOME investment partnerships program.

“*Administrative plan*” means a document that a HOME recipient establishes that describes the operation of a funded activity in compliance with all state and federal requirements.

“*Affordability period*” means the length of time a recipient or subrecipient must impose the rent or occupancy income restrictions on the units assisted by HOME funds as established by federal program requirements.

“*CHDO*” means a community housing development organization, which is a nonprofit organization registered with the Iowa secretary of state and certified as such by IFA, pursuant to 24 CFR 92.2 (July 24, 2013).

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

“*Contract*” means a binding written agreement between IFA and the recipient or subrecipient for the purpose of utilizing HOME funds to build, buy or rehabilitate (or both buy and rehabilitate) affordable housing for rent or homeownership or to provide direct rental assistance to low-income people.

~~“*Developer*” means any individual or entity responsible for initiating and controlling the development process and ensuring that all phases of the development process, or any material portion thereof, are accomplished. The development process applies to transitional housing, rental housing, rehabilitation and rental housing new construction.~~

~~“*Development subsidies*” means financial assistance provided to developers of newly constructed, single-family housing to address the added costs of constructing housing. In such cases, the total cost~~

of development is likely to exceed the sales price or the appraised fair market value of the housing. Additional costs might include labor, materials and equipment; professional design and construction oversight costs; and required third-party energy efficiency verification and certification costs.

“Displaced homemaker” means an individual who (1) is an adult; (2) has not worked full-time/full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family; and (3) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

“Energy Star” means a joint program of the U.S. Environmental Protection Agency and the U.S. Department of Energy that establishes standards and practices to improve energy efficiency.

“Energy Star certification” means a property meets strict guidelines for energy efficiency set by the U.S. Environmental Protection Agency (EPA), making the property 20 to 30 percent more efficient than standard homes. Homes achieve this level of performance through a combination of energy-efficient improvements, including effective insulation systems, high-performance windows, tight construction and ducts, efficient heating and cooling equipment, and Energy Star-qualified lighting and appliances.

“Energy Star rater” means a certified inspector who works closely with the builder throughout the construction process to help determine the needed energy-saving equipment and construction techniques and to conduct required on-site diagnostic testing and inspections to document that the home is eligible to earn the Energy Star certification.

“First-time homebuyer” or *“homebuyer”* means an individual or an individual and the individual’s spouse who have not owned a home during the three-year period before the purchase of a home with HOME assistance, except that an individual who is a displaced homemaker or single parent may not be excluded from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with the individual’s spouse or resided in a home owned by a spouse; and an individual may not be excluded from consideration on the basis that the individual owns or owned, as a principal residence during the three-year period before purchase of a home with HOME assistance, a dwelling unit whose structure is (1) not permanently affixed to a permanent foundation in accordance with local or other applicable regulations or (2) not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

“Fully accessible unit” means a unit designed and constructed for full accessibility in accordance with Section 1002 of the International Code Council (ICC) A117.1.

“HOME” means the HOME Investment Partnerships Program, authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990.

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

“IDIS” means the HUD Integrated Disbursement and Information System.

“IFA” means the Iowa finance authority.

“Lead hazard reduction or abatement carrying costs” means the additional costs incurred by lead professionals to ensure that target housing is lead-safe at the completion of rehabilitation. “Lead hazard reduction or abatement carrying costs” includes, but is not limited to, required notifications and reports, lead hazard or abatement evaluations, revisions to project specifications to achieve lead safety, lead hazard reduction or abatement oversight, and clearance testing and final assessment.

“LIHTC” means low-income housing tax credits and federal tax incentives created through the Tax Reform Act of 1986 and allocated through IFA for affordable rental housing development.

“Local financial support” means financial investment by the recipient through the use of the recipient’s own discretionary funds that are a permanent financial contribution or commitment applied to and related to the objectives of the housing activity or project assisted through the HOME partnership program and that are used during the same time frame as the requested housing activity or project.

“Local support” means involvement, endorsement and investment by local citizens, local organizations or the governing body of the local government in which the housing project is located. The local support shall promote the objectives of the housing activity or projects assisted through HOME.

“Low-income” means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD. An individual does not qualify as a low-income family if the individual is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the United States military; is unmarried; does not have a dependent child; and is not otherwise individually low-income or does not have parents who qualify as low-income.

“Multifamily housing” means a structure with five or more dwelling units serving five or more family residences.

“Net proceeds” means the amount determined by calculating the difference between the sale price and the amount of the outstanding principal loan balance owed plus any seller’s reasonable and customary closing costs associated with the sale.

“New construction rental units” means the on-site construction or erection of a building, or buildings, for the purpose of providing rental housing units. New construction rental units include conventional, on-site, stick-built construction and on-site erection or fabrication of manufactured housing units or components of units. New construction rental units also include the addition of any rental units outside the existing walls (the building envelope) of an existing building, or buildings, that are part of a rental rehabilitation, renovation or conversion project.

“Period of affordability” means the length of time a recipient or subrecipient must impose the rent or occupancy income restrictions on the units assisted by HOME funds as established by federal program requirements.

“Program income” means gross income received by the participating jurisdiction, state recipient, or a subrecipient directly generated from the use of HOME funds or matching contributions.

“Project” means a site or sites together with any building (including a manufactured housing unit) or buildings located on the site(s) that are under common ownership, management, and financing and are to be assisted with HOME funds as a single undertaking. The project includes all the activities associated with the site and building. For tenant-based rental assistance, project means assistance to one or more families.

“Project completion” means that all construction work and title transfer (if applicable) are completed and the final draw of HOME funds has been disbursed. In addition:

1. For homebuyer projects, the beneficiary data have been entered into IDIS;
2. For rental projects, the units have all been initially occupied and the unit data have been entered into IDIS;
3. For tenant-based rental assistance projects, all HOME funds associated with the tenant-based rental assistance contract have been disbursed and beneficiary data have been entered into IDIS.

“Qualified veteran” means a person who served in the active military, naval, or air service and who was discharged or released therefrom under conditions other than dishonorable.

“Reasonable and customary closing costs” means:

1. Seller’s reasonable and customary closing costs incurred include, but are not limited to: abstract updating, title search fees, document preparation fees, bringing current the seller’s county taxes, and real estate commission fees. Ineligible costs include, but are not limited to: lender discount points, allowances, inspection fees, and buyer closing costs.

2. Buyer’s reasonable and customary closing costs incurred include, but are not limited to: lender origination fees, credit report fees, fees for the title evidence or title opinion, fees for recording and filing of legal documents, attorneys’ fees, appraisal fees, and required inspection fees. Ineligible costs under this definition include, but are not limited to: prepayment of taxes, prepayment of insurance, lender discount points and seller’s closing costs.

“Recaptured funds” means HOME funds which are recouped by the recipient when the housing unit assisted by the HOME program homebuyer funds does not continue to be the principal residence of the assisted homebuyer for the full period of affordability period.

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

“*Repayment*” means HOME funds which the recipient shall repay to IFA because the funds were invested in a project or activity that is terminated before completion or were invested in a project or activity which failed to comply with federal program requirements.

“*Single-family housing unit*” means a one- to four-family residence, combination of manufactured housing unit and lot, or manufactured housing lot.

“*Single parent*” means an individual who (1) is unmarried or is legally separated from a spouse; and (2) has one or more minor children of whom the individual has custody or joint custody, or is pregnant.

“*Subrecipient*” means a public agency or nonprofit organization selected by IFA to administer all or a portion of an activity to produce affordable housing, provide down payment assistance, or provide tenant-based rental assistance under the HOME program. A public agency or nonprofit organization that receives HOME funds solely as a developer or owner of housing is not a subrecipient. The selection of a subrecipient by IFA is not subject to the procurement procedures and requirements under federal or state law.

“*Technical services*” means ~~all services that are necessary to carry out individual, scattered site activities including but not limited to: (1) conducting initial inspections, (2) work write-up or project specification development, (3) cost estimate preparation, (4) construction supervision associated with activities that do not require an architect or engineer, (5) lead hazard reduction or lead abatement need determination and oversight, (6) lead hazard reduction or abatement carrying costs, (7) temporary relocation coordination, (8) financing costs such as security agreement preparation and recording or filing fees, (9) processing of individual applications for assistance, (10) income eligibility determination and verification, (11) value determination (new construction) or after rehabilitation value determination (existing structures), and (12) project-specific environmental clearance processes.~~

“*Technical services provision*” means ~~the cost to provide other individual housing project-related services such as: (1) financing costs (security agreement preparation, recording and filing fees), (2) processing individual applications for assistance, (3) income eligibility determination and verification, (4) after rehabilitation value determination, and (5) project-specific environmental clearance.~~

“*Very low income*” means families whose annual incomes do not exceed 50 percent of the median income for the area, as determined by HUD. An individual does not qualify as a very low income family if the individual is enrolled as a student at an institution of higher education; is under 24 years of age; is not a veteran of the United States military; is unmarried; does not have a dependent child; and is not otherwise individually very low income or does not have parents who qualify as very low income.

ITEM 2. Amend rule 265—39.3(16) as follows:

265—39.3(16) Eligible applicants. Eligible applicants for HOME assistance include all incorporated cities and all counties within the state of Iowa, nonprofit 501(c) organizations, CHDOs, and for-profit corporations or partnerships. Any eligible applicant may apply directly to IFA.

39.3(1) Any eligible applicant may apply directly to IFA.

39.3(2) Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

ITEM 3. Amend rule 265—39.4(16) as follows:

265—39.4(16) Eligible activities and forms of assistance.

39.4(1) Eligible activities may include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction and adaptive reuse, homebuyer assistance that includes some form of direct subsidy to the homebuyer, and other housing-related activities as may be deemed appropriate by IFA. Assisted housing may be single-family housing or multifamily housing and may be designed for occupancy by homebuyers or tenants.

a. ~~Assisted units shall meet the period of affordability as set forth in the federal program requirements.~~

~~b. For homebuyer assistance, the initial purchase price for newly constructed units or the after-rehabilitation value for rehabilitated units shall not exceed the maximum homeownership value limit as established by HUD.~~

~~c. For a rental project, rents shall be limited to the rents allowed by HUD for HOME.~~

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

~~(1) For a rental project, all assisted units shall be rented to low-income households; at initial occupancy, at least 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, at least 20 percent of the units shall be rented to very low-income households.~~

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

~~(3) For homebuyer assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted.~~

~~e. Property standards. All newly constructed housing (single-family and multifamily housing) shall be constructed in accordance with any locally adopted and enforced building codes, standards and ordinances. In the absence of locally adopted and enforced building codes, the requirements of the state building code shall apply.~~

~~(1) All rental housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted and enforced building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the state building code shall apply.~~

~~(2) All single-family housing involving rehabilitation shall be rehabilitated in accordance with any locally adopted building or housing codes, standards and ordinances. In the absence of locally adopted and enforced building or housing codes, the requirements of the most current version of Iowa's Minimum Housing Rehabilitation Standards shall apply (all communities with populations of 15,000 or less).~~

~~f. Energy Star. All new rental construction must obtain Energy Star certification verified by an Energy Star rater.~~

~~39.4(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 IFA.~~

~~39.4(3) For all single-family housing projects or activities assisting homebuyers, the only form of HOME assistance to the end beneficiary is a forgivable loan.~~

~~39.4(4) 39.4(3) Program income must be returned to IFA.~~

~~39.4(5) 39.4(4) A site including any building located thereon or project acquired or used for rental activities must be held in fee simple title by the recipient upon the disbursement of HOME funds and throughout the contract term with IFA. An installment contract or leasehold interest is not an acceptable recipient interest.~~

~~39.4(6) 39.4(5) A site including any building located thereon or project acquired or used for homebuyer activities must be held in fee simple title by the recipient or homebuyer upon the disbursement of HOME funds and throughout the contract term with IFA. An installment contract or leasehold interest is not an acceptable recipient or homebuyer interest.~~

ITEM 4. Amend rule 265—39.5(16) as follows:

265—39.5(16) Application procedure.

~~39.5(1) HOME applications shall be reviewed at least annually. IFA reserves the right to withhold funding from the annual HOME competitive cycle to compensate for insufficient number of or quality of applications received, to ensure IFA meets its 15 percent CHDO set-aside from HOME funds, to add HOME funds to existing HOME awards within one year of the original award date, to reallocate deobligated or recaptured funds, and to fund projects that are consistent with the Rural Development Section 515 Preservation Demonstration Program as long as the program exists. In the event that funds are withheld from the annual competitive cycle, IFA will entertain additional applications, requests for proposals, or other forms of requests as deemed appropriate by IFA will be received from eligible~~

applicants as often as the state expects funding from HUD. The applications must be submitted on the forms or online system prescribed by IFA and must, at a minimum, include the amount of funds requested, a description of the need for the funds, documentation of other available funding sources, the source of required local match, and the estimated number of persons to be served by the applicant. Maximum and minimum grant awards will be established by IFA for each competition.

~~39.5(2) Joint applications. For applicants requesting funding from both the HOME and LIHTC programs, the applicant may request application forms and related materials from the LIHTC program at IFA. IFA will make a joint tax credit and HOME application available to a potential applicant. The applicant must submit to IFA the completed application with required HOME attachments by the deadline established in the application package. An applicant shall meet the requirements of the LIHTC and HOME programs to receive an award of HOME funds.~~

~~a.—IFA shall appoint a joint review team to discuss and review applications for HOME and LIHTC funds and any other funding sources. Staff for each program may communicate frequently regarding common projects. Information contained in the joint application will be shared with each program.~~

~~b.—HOME staff shall review applications for eligibility and for activity threshold requirements. The joint review team shall meet to compare and discuss each common project. Final award decisions regarding funding recommendations will be made in accordance with IFA's qualified allocation plan (scoring and set-asides) and the HOME application requirements. Staff for each program will make recommendations for funding to the IFA board of directors. A decision by one program does not bind the other program to fund a project.~~

~~c.—An applicant for the HOME program must meet the threshold requirements outlined in rule 265—39.6(16).~~

ITEM 5. Amend rule 265—39.6(16) as follows:

265—39.6(16) Application requirements. To be considered for HOME assistance, an application shall meet the following threshold criteria.

39.6(1) The application shall propose a housing activity consistent with the HOME fund purpose and eligibility requirements and the state consolidated plan.

39.6(2) The application shall document the applicant's capacity to administer the proposed activity. Such documentation may include evidence of successful administration of prior housing activities. IFA reserves sole discretion to deny funding to an applicant that has failed to comply with federal or state requirements in the administration of a previous project funded by the state of Iowa or that failed to comply with federal requirements in the administration of a previous project funded in any other state. Documentation of the ability of the applicant to provide technical services and the availability of certified lead professionals and contractors either trained in safe work practices or certified as abatement contractors may also be required as applicable to the HOME fund activity.

39.6(3) The application shall provide evidence of the need for the proposed activity, the potential impact of the proposed activity, the feasibility of the proposed activity, and the impact of additional housing resources on the existing related housing market.

39.6(4) The application shall demonstrate local support for the proposed activity.

39.6(5) The application shall show that a need for HOME assistance exists after all other financial resources have been identified and secured for the proposed activity.

39.6(6) The application shall include HOME certification that the applicant will comply with all applicable state and federal laws and regulations.

39.6(7) Maximum per-unit subsidy amount, subsidy layering, and underwriting review.—The following shall apply to all applications:

~~a.—The total amount of HOME funds awarded on a per-unit basis may not exceed the per-unit dollar limitations established under Section 221(d)(3)(ii) of the National Housing Act (12 U.S.C. 17151(d)(3)(ii)) for nonprofit elevator-type projects that apply to the area in which the housing is located.~~

~~b.—IFA shall evaluate the project in accordance with subsidy layering guidelines adopted by HUD for this purpose.~~

~~*c.*—The total amount of HOME funds awarded on a per-unit basis cannot exceed the pro rata or fair share of the total project costs when compared to a similar unit in a rental activity.~~

~~*d.*—IFA shall conduct an underwriting review of the project.~~

~~**39.6(8)** An application for a homebuyer assistance activity must indicate that recipients will require the beneficiaries of the applicant's homebuyer assistance activity to use a principal mortgage loan product that meets the following criteria:~~

~~*a.*—With the exception of Habitat for Humanity principal mortgage loan products, the principal mortgage loan must be the only repayable loan in all individual homebuyer assistance projects.~~

~~*b.*—The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME homebuyer assistance must maintain their assistance security agreements in the above-stated recording position throughout the applicable period of affordability and will not be allowed to subordinate the required recording position to any other form of assistance, such as home equity loans. A homebuyer search is required, and any collection/unpaid obligation that would become a judgment or any judgments must be paid in full prior to closing.~~

~~*c.*—Any mortgage lending entity's principal mortgage loan products may be used provided they meet all of the following minimum requirements:~~

~~(1) The loan must be a fully amortizing, fixed-rate loan with rate not to exceed Fannie Mae 90-day yield + 0.125% or VA-published interest rate at par;~~

~~(2) No less than a 15-year, fully amortized, fixed-rate mortgage shall be used; and~~

~~(3) No adjustable rate mortgages or balloon payment types of mortgages will be allowed.~~

~~**39.6(9)** An application for a homebuyer assistance activity must stipulate that homebuyer assistance is for first-time homebuyers or qualified veterans only and that the assisted unit will remain as the assisted homebuyer's principal residence throughout the required period of affordability, which must be verified annually by the subrecipient. If the assisted homebuyer fails to maintain the home as the principal residence during the period of affordability, then all HOME funds associated with that address must be repaid to IFA.~~

~~**39.6(10)** An application for a homebuyer assistance activity must include a system for:~~

~~*a.*—Annual verification that all assisted units are insured for at least the full value of the assisted unit;~~

~~*b.*—Underwriting review of the potential homebuyer;~~

~~*c.*—Housing counseling to homebuyers; and~~

~~*d.*—Application of IFA policies and procedures regarding homebuyer assistance activities.~~

ITEM 6. Amend rule 265—39.7(16) as follows:

265—39.7(16) Application review criteria.

39.7(1) IFA shall evaluate applications and make funding decisions based on general activity criteria, need, impact, feasibility, and activity administration based upon the specific type of activity to be undertaken. The activity criteria shall be a part of the application. Training will be offered prior to the application deadline to provide information and technical assistance to potential applicants.

39.7(2) Notice of the availability of funding and the funding round requirements will be placed on IFA's Web site at www.iowafinanceauthority.gov.

39.7(3) Special consideration will be given to applications where 100 percent of the HOME-funded rental units are fully accessible units.

ITEM 7. Amend rule 265—39.8(16) as follows:

265—39.8(16) Allocation of funds.

39.8(1) IFA may retain up to 10 percent of the state's annual HOME allocation from HUD for administrative costs associated with program implementation and operation.

39.8(2) Not less than 15 percent of the state's annual HOME allocation shall be reserved for eligible housing activities developed, sponsored or owned by CHDOs.

~~39.8(3)~~ IFA reserves the right to set aside a portion of the state's annual HOME allocation for rental housing activities for the Rural Development Section 515 Preservation Demonstration Program as long as the program exists.

~~39.8(4)~~ Not more than 5 percent of the state's annual HOME allocation may be reserved for CHDO operating expenses.

~~39.8(5)~~ IFA reserves the right to limit or exceed the amount of funds set aside for any single activity type.

~~39.8(6)~~ A single award shall be limited to no more than:

~~a.~~—\$600,000 for single-family housing activity, or

~~b.~~—\$1,000,000 for rental project, or

~~c.~~—\$1,000,000 for tenant-based rental assistance activity.

~~39.8(7)~~ Single-family per-unit subsidies:

~~a.~~—The maximum per-unit subsidy for all single-family housing activities involving rehabilitation is \$37,500. The \$37,500 per-unit limit includes all applicable costs including, but not limited to, the hard costs of rehabilitation or the acquisition subsidy or both; homebuyer assistance activities; technical services costs, including lead hazard reduction carrying costs; lead hazard reduction costs; and temporary relocation. All rehabilitation hard costs funded with HOME funds are limited to \$24,999. All applicable technical services costs, including any lead hazard reduction carrying costs, are limited to \$4,500 per unit.

~~b.~~—Assistance for single-family housing activities providing acquisition assistance for housing (mortgage buy-down, down payment or closing costs assistance or both, or combinations thereof) is limited to \$35,000 per unit, inclusive of all costs, including technical services costs.

~~39.8(8)~~ ~~39.8(3)~~ Subrecipients shall identify general administrative costs in the HOME application. IFA reserves the right to negotiate the amount of funds provided for general administration, but in no case shall the amount for general administration exceed 10 percent of a total HOME award. Only local government and nonprofit recipients are eligible for general administrative funds. Subrecipients must certify that all general administrative costs reimbursed by HOME funds are separate from and not reimbursed by HOME as technical services costs.

~~39.8(9)~~ ~~39.8(4)~~ IFA reserves the right to negotiate the amount and terms of a HOME award.

~~39.8(10)~~ ~~39.8(5)~~ IFA reserves the right to make award decisions such that the state maintains the required level of local match to HOME funds.

ITEM 8. Amend rule 265—39.9(16) as follows:

265—39.9(16) Administration of awards. Applicants selected to receive HOME awards shall be notified by letter from the IFA executive director or designee.

~~39.9(1)~~ *Preaudit survey.* Rescinded IAB 10/5/11, effective 11/9/11.

~~39.9(2)~~ *Contract.* A contract shall be executed between the recipient and IFA. These rules, the approved application, the IFA HOME Program Guide for the specified activity 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 IFA within 45 days of transmittal of the final contract from IFA. Failure to do so may be cause for IFA 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. Contracts 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.~~—Rescinded IAB 12/15/10, effective 1/19/11.

~~e.~~—Release of funds shall be conditioned upon IFA's receipt and approval of documentation of environmental clearance.

~~39.9(3)~~ *Local administrative and technical services contracts.*

~~a.~~—Subrecipients awarded funds to perform the general administrative functions for homebuyer assistance and tenant-based rental assistance activities shall enter into a contract with IFA.

~~b. Recipients awarded funds for activities requiring technical services (e.g., inspections, work write-ups, cost estimates, construction supervision, lead hazard reduction need determination and oversight, lead hazard reduction carrying costs, and temporary relocation coordination) that employ a third-party entity to perform all or part of the technical services shall enter into a contractual agreement for the technical services to be performed. The procurement must follow 24 CFR Part 84 and 24 CFR Part 85, when necessitated by those regulations.~~

~~**39.9(4) Requests for funds.** Recipients shall submit requests for funds in the manner and on forms prescribed by IFA. 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. Adequate and itemized documentation supporting the amount of funds requested shall be provided to and approved by IFA prior to release of funds. For rental projects, IFA may retain up to 10 percent of the total HOME award for up to 30 days after the recipient satisfactorily completes the work, all HOME-assisted units have been initially occupied, and a final draw and completion form has been submitted to and approved by IFA. For homebuyer projects, IFA may retain up to 5 percent of the total HOME award until the subrecipient satisfactorily completes the work and the final draw and completion form for the last activity in the project has been submitted to and approved by IFA.~~

~~**39.9(5) Record keeping and retention.**~~

~~a. HOME funded projects. For HOME funded projects, 24 CFR 92.508 provides the record retention requirements. Recipients and subrecipients shall retain the following:~~

~~(1) For rental housing projects, records shall be retained for five years after the project completion date, except that records of individual tenant income verifications, project rents and project inspections shall be retained for the most recent five-year period, until five years after the period of affordability terminates;~~

~~(2) For homebuyer housing projects, records shall be retained for five years after the project completion date, except for documents imposing recapture/resale restrictions which must be retained for five years after the period of affordability terminates;~~

~~(3) For tenant-based rental assistance projects, records shall be retained for five years after the project completion date;~~

~~(4) For records covering displacements and acquisitions, see 24 CFR 92.508;~~

~~(5) For records relating to litigation, see 24 CFR 92.508.~~

~~b. Representatives of IFA, 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 HOME funds award; to the total project receipts and expenditures related to new construction, acquisition, or rehabilitation; and to any records maintained by third-party administrators for general administration or technical services for the HOME-funded project. IFA reserves the right to demand any and all additional records and documents that may relate to the HOME award.~~

~~**39.9(6) Performance reports and reviews.** Recipients shall submit performance reports to IFA in the manner and on forms prescribed by IFA. Reports shall assess the use of funds and progress of activities. IFA may perform reviews or field inspections necessary to ensure recipient performance.~~

~~**39.9(7) 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 IFA following the procedure specified in the contract between the recipient and IFA.~~

~~**39.9(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. IFA may require a construction sign meeting specifications outlined by IFA to be erected on the property at the initiation of construction or rehabilitation of rental projects.~~

~~**39.9(9) Remedies for noncompliance.** At any time, IFA may, for cause, find that a recipient is not in compliance with the requirements of this program. At IFA's discretion, remedies for noncompliance may include, but not be limited to, penalties up to and including the return of program funds to IFA.~~

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.

~~39.9(10) Appeals process for findings of noncompliance. Appeals will be entertained in instances where it is alleged that IFA staff participated in a decision which was unreasonable, arbitrary, or capricious or otherwise beyond the authority delegated to IFA. Appeals should be addressed to the executive director of IFA. Appeals shall be in writing and submitted to IFA within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. IFA's executive director will make the final decision on all appeals.~~