

IOWA FINANCE AUTHORITY[265]

Adopted and Filed

Rule making related to qualified allocation plans

The Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35 and Section 42 of the Internal Revenue Code.

Purpose and Summary

The updated 2019 9% Qualified Allocation Plan and the 4% Qualified Allocation Plan (QAPs) dated September 5, 2018, set forth the purposes of the plans, administrative information required for participation, threshold criteria, selection criteria, postreservation requirements, appeal process, and compliance monitoring components. The plans also establish the fees for filing an application for low-income housing tax credits and for compliance monitoring. Copies of the qualified allocation plans are available upon request from the Authority and are available electronically on the Authority’s website at www.iowafinanceauthority.gov. It is the Authority’s intent to incorporate the updated QAPs by reference consistent with Iowa Code chapter 17A and 265—subrules 17.4(2) and 17.12(2).

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 1, 2018, as **ARC 3917C**. A public hearing was held on August 21, 2018, at 9 a.m. at the Authority offices, 2015 Grand Avenue, Des Moines, Iowa. Comments on the QAPs received at the public hearing included comments on the timing of the due date of the application for the 9% QAP, set-aside issues, the requirement that 50 percent of the developer fee above \$750,000 be deferred, and a perception that income averaging is discouraged by the QAPs. Written comments received about the QAPs were similar to the comments made at the public hearing.

The only changes from the amendments published under Notice were made in rules 265—12.1(16) and 265—12.2(16) and reflect a change in the date subsequent to which no amendments or additions to the QAPs are included and no modifications or amendments to the Internal Revenue Code are incorporated by reference. The date proposed in the Notice was July 11, 2018, and that date has been changed to September 5, 2018.

In addition, in response to public comments about the QAPs, the Authority made certain changes to the QAPs based on those comments. For example, among other changes, the timing of the application was revised to allow more time between the final adoption of the QAP and the application deadline, and the requirement that 50 percent of the developer fee above \$750,000 be deferred was removed. Additionally, based on public comments, a Disaster Relief Set-Aside was added, and the prohibition against building in a 100-year flood plain was eased, as long as certain criteria are met.

Adoption of Rule Making

This rule making was adopted by the Authority on September 5, 2018.

Fiscal Impact

The fees that will be increased will result in an estimated additional \$18,500 in revenue for the Authority. Due to fluctuations in requests and the lack of historical data, the estimated fiscal impact of the new fees on the increase in revenue for the Authority is unknown.

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The Low-Income Housing Tax Credit program has a substantial positive impact on job creation in Iowa, with many jobs created annually in the construction, finance, and property management fields, among others.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on October 31, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend rule 265—12.1(16) as follows:

265—12.1(16) Qualified allocation plans.

12.1(1) Four percent qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program 4% Qualified Allocation Plan ("4% QAP") dated ~~September 7, 2016~~ September 5, 2018, shall be the qualified allocation plan for the allocation of 4 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 4% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 4% QAP does not include any amendments or editions created subsequent to ~~September 7, 2016~~ September 5, 2018.

12.1(2) Nine percent qualified allocation plan. The qualified allocation plan entitled Iowa Finance Authority Low-Income Housing Tax Credit Program ~~2018~~ 2019 Qualified Allocation Plan ("9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP is incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to ~~September 6, 2017~~ September 5, 2018.

ITEM 2. Amend rule 265—12.2(16) as follows:

265—12.2(16) Location of copies of the plans.

12.2(1) 4% QAP. The 4% QAP can be reviewed and copied in its entirety on the authority's ~~Web~~ website at <http://www.iowafinanceauthority.gov> www.iowafinanceauthority.gov. Copies of the 4% QAP, application, and all related attachments and exhibits shall be deposited with the administrative

rules coordinator and at the state law library and shall be available on the authority's ~~Web site~~ website. The 4% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~September 7, 2016~~ September 5, 2018. Additionally, the 4% QAP incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's ~~Web site~~ website.

12.2(2) 9% QAP. The 9% QAP can be reviewed and copied in its entirety on the authority's ~~Web site~~ website at ~~<http://www.iowafinanceauthority.gov>~~ www.iowafinanceauthority.gov. Copies of the 9% QAP, application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's ~~Web site~~ website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of ~~September 6, 2017~~ September 5, 2018. Additionally, the 9% QAP incorporates by reference Iowa Code section 16.35. These documents are available from the state law library, and information about these statutes, regulations and rules is on the authority's ~~Web site~~ website.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 9/26/18.