

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to Iowa community development block grant program

The Economic Development Authority hereby amends Chapter 23, “Iowa Community Development Block Grant Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.108.

Purpose and Summary

The Authority administers the federal Community Development Block Grant (CDBG) program in all of Iowa’s incorporated cities and counties, except those designated as U.S. Department of Housing and Urban Development (HUD) entitlement areas. Authorized under the Housing and Community Development Act, the main goal of the CDBG program is to “develop viable communities by providing decent housing and suitable living environments and expanding economic opportunities, principally for persons of low and moderate incomes.” All projects must meet the national objectives as defined by HUD.

These amendments update the rules to be consistent with current administration of the CDBG program and remove references to specific funds associated with the program. The changes also accommodate a HUD recommendation to minimize administrative rules for the program in order to avoid conflict with HUD regulations and policies. State program policies are required to be outlined in the State’s annual action plan submitted to HUD. The plan is updated annually in conjunction with a public input process.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on January 12, 2022, as **ARC 6139C**. No public comments were received. No changes from the Notice have been made.

Adoption of Rule Making

This rule making was adopted by the Authority Board on February 18, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

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

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, pursuant to 261—Chapter 199.

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 April 13, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend rule 261—23.2(15) as follows:

261—23.2(15) Definitions. When used in this chapter, unless the context otherwise requires:

~~“Activity” means one or more specific activities, projects or programs assisted with CDBG funds.~~

~~“Adaptive reuse” means conversion of an existing building or structure from nonresidential use to residential use.~~

~~“Annual action plan” means the annual plan required and approved by the U.S. Department of Housing and Urban Development that outlines the state’s processes and procedures for distribution of CDBG funds. The annual action plan is an annual update to the state’s CDBG consolidated plan. The federal requirements for an annual action plan can be found at http://www.hud.gov/offices/cpd/about/complan/toolsandguidance/guidance/state_guidelines.pdf. The annual action plan can be found is available on the authority’s CDBG Web site website.~~

~~“Annual allocation” means the annual amount HUD allocates to the state of Iowa for CDBG activities.~~

~~“Authority” means the economic development authority created in Iowa Code section 15.105.~~

~~“Authority’s website” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.~~

~~“Career link” means a program providing training and enhanced employment opportunities to low- and moderate income persons.~~

~~“CDBG” means community development block grant.~~

~~“Citizen participation plan” means the plan required and approved by the U.S. Department of Housing and Urban Development that describes the state’s process for including citizen participation in development of its consolidated plan and annual action plan. The citizen participation plan is available on the authority’s CDBG Web site website.~~

~~“Consolidated plan” means the five-year plan required and approved by the U.S. Department of Housing and Urban Development that establishes goals and objectives for the state’s CDBG program. The consolidated plan is available on the authority’s CDBG Web site website.~~

~~“EDSA” means economic development set-aside.~~

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

~~“LMI” means low and moderate income. Households earning 80 percent or less of the area median income are LMI households.~~

~~“PFSA” means public facilities set-aside.~~

~~“Program income” means gross income a recipient receives that is directly generated by the use of CDBG funds, including funds generated by the use of program income.~~

~~“Management guide” means the administrative reference manual published by the authority for each program year. The management guide is available on the authority’s website.~~

~~“Program year” means the annual period beginning January 1 and ending December 31.~~

~~“Recipient” means a local government entity awarded CDBG funds under any CDBG program.~~

~~“Subrecipient” means a public or nonprofit entity contracting with and receiving funds from a recipient to carry out CDBG project activities.~~

~~“Sustainable community activities” means activities to develop viable communities while preserving precious environment and resources.~~

ITEM 2. Amend rule 261—23.3(15) as follows:

261—23.3(15) Annual action plan. The authority will prepare a CDBG annual action plan for submittal to and approval by HUD. The plan will provide a description of the activities and programs that will take place during the year to meet goals established in the consolidated plan.

~~23.3(1) The annual action plan will contain the following:~~

- ~~a. Executive summary.~~
- ~~b. Sources of federal and state funds.~~
- ~~c. Statement of specific annual objectives.~~
- ~~d. Outcome measures.~~
- ~~e. Method of distribution of funds.~~
- ~~f. Allocation priorities and geographic distribution.~~
- ~~g. Annual affordable housing goals.~~
- ~~h. Homeless and other special needs.~~
- ~~i. Other actions to meet underserved community development needs.~~
- ~~j. Citizen participation in development of the plan.~~
- ~~k. Certifications required by 24 CFR 91.325 as revised December 5, 2011.~~
- ~~l. Monitoring efforts to ensure compliance.~~

~~23.3(2)~~ **23.3(1)** The authority will follow the state’s citizen participation plan during the development of the annual action plan. A draft annual action plan will be available on the authority’s ~~CDBG Web site website~~ for 30 days for public review and comment. The authority will hold a public hearing during the comment period to collect public input on the plan prior to its submittal to HUD.

~~23.3(3)~~ **23.3(2)** The annual action plan will be submitted to HUD by November 15 of each year or 60 days after HUD announces the annual allocation amount. Upon review and approval by HUD, the annual action plan will cover activities from January 1 to December 31 of the year following plan submittal to HUD.

~~23.3(4)~~ **23.3(3)** The annual action plan will include the proposed CDBG program funding allocation, including the percentage of funds allocated for each of the CDBG programs and activities listed in rule 261—23.4(15).

ITEM 3. Amend rule 261—23.4(15) as follows:

261—23.4(15) Allocation of funds and eligible applicants. Upon approval by HUD, the authority will annually allocate CDBG funds among programs or activities described in the state’s most recent annual action plan, which may include, but not be limited to, the following:

~~23.4(1) Allocation of funds.~~ Upon approval by HUD, the authority will annually allocate CDBG funds among programs or activities according to the annual action plan as follows:

- ~~a. Administration.~~
- ~~b. Technical assistance.~~
- ~~c. Housing fund.~~
- ~~d. Job creation, retention and employment enhancement fund. Job creation, retention and employment enhancement funds are awarded through three programs: the economic development set-aside (EDSA), the public facilities set-aside (PFSA), and career link.~~
- ~~e. Water and sewer fund.~~
- ~~f. Community facilities fund.~~
- ~~g. Opportunities and threats fund.~~

~~23.4(2) Eligible applicants.~~ All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by the U.S. Department of Housing and Urban Development, are eligible to apply for and receive funds under the CDBG program. Applicants shall not apply on behalf of eligible applicants other than themselves.

~~23.4(3) Application with subrecipients. Any eligible applicant may apply directly or on behalf of a subrecipient.~~

~~23.4(4) Joint applications. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.~~

~~23.4(5) Reallocation. Any reserved funds not used for their specified purpose within the program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to community or business needs.~~

~~23.4(6) Recaptured funds. Recaptured funds shall be available for use through the water and sewer fund, the community facilities fund, the opportunities and threats fund, the housing fund, the downtown revitalization fund, and the economic development set-aside fund. As approved by the director, recaptured funds may be used to fund projects from the job creation, retention and employment enhancement fund in order to respond to an immediate business need if no funds are available through the economic development set-aside fund or public facilities set-aside fund. Recaptured funds remaining at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.~~

- ~~1. Housing assistance.~~
- ~~2. Job training and employment-related transportation services.~~
- ~~3. Water and sewer improvements.~~
- ~~4. Community facilities improvements.~~
- ~~5. Opportunities and threats fund.~~
- ~~6. Business or microenterprise assistance.~~
- ~~7. Neighborhood revitalization activities.~~

ITEM 4. Amend rule 261—23.5(15) as follows:

261—23.5(15) Common requirements Requirements for funding. Applications for funds under any of the program-allocated funds pursuant to rule 261—23.4(15) shall meet the following minimum criteria: described in subrules 23.5(1) through 23.5(3).

23.5(1) Proposed activities shall be eligible, as authorized by Title I, Section 105 of the Housing and Community Development Act of 1974, as amended, and as further defined in 24 CFR Part 570, as revised April 1, 1997.

23.5(2) Proposed activities shall address at least one of the following three objectives:

a. Primarily benefit low- and moderate-income persons. To address this objective, 51 percent or more persons benefiting from a proposed activity must have incomes at or below 80 percent of the area median income.

b. Aid in the prevention or elimination of slums and blight. To address this objective, the application must document the extent or seriousness of deterioration in the area to be assisted, showing a clear adverse effect on the well-being of the area or community and illustrating that the proposed activity will alleviate or eliminate the conditions causing the deterioration.

c. Meet an urgent community development need. To address this objective, the applicant must certify that the proposed activity is designed to alleviate existing conditions that pose a serious and immediate threat to the health or welfare of the community and that are recent in origin or that recently became urgent; that the applicant is unable to finance the activity without CDBG assistance and that other sources of funding are not available. ~~A condition shall be considered recent if it developed or became urgent within 18 months prior to submission of the application for CDBG funds.~~

~~23.5(3) Applicants shall demonstrate capacity for grant administration. Administrative capacity shall be evidenced by previous satisfactory grant administration, availability of qualified personnel or plans to contract for administrative services. Funds used for administration shall not exceed 10 percent of the CDBG award amount or 10 percent of the total contract amount, except for awards made under the career link program, for which funds used for administration shall not exceed 5 percent of the CDBG award amount.~~

~~23.5(4)~~ Applicants who have received previous CDBG awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.

~~23.5(5)~~ Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.

~~23.5(6)~~ To the greatest extent feasible, applications shall propose the use of CDBG funds as gap financing. Applications shall identify and describe any other sources of funding for proposed activities.

~~23.5(7)~~ Applications shall include a community development and housing needs assessment.

~~23.5(8)~~ Negotiation of awards. The authority may negotiate award amounts, terms and conditions prior to making any award under any program.

~~23.5(9)~~ **23.5(3)** Applicants shall certify their compliance with federal requirements applicable to the CDBG program including, but not limited to, the following:

a. to u. No change.

ITEM 5. Rescind rule 261—23.6(15) and adopt the following **new** rule in lieu thereof:

261—23.6(15) Award and administration. The authority may negotiate award amounts, terms and conditions prior to making any award under the program. Recipients shall comply with requirements and instructions set forth in the applicable CDBG management guide.

ITEM 6. Rescind and reserve rules **261—23.7(15)** to **261—23.11(15)**.

ITEM 7. Rescind and reserve rules **261—23.14(15)** to **261—23.17(15)**.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 3/9/22.