

## 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 17A.3(1)“b,” 16.5(1)“r” and 16.5(1)“m,” the Iowa Finance Authority proposes to amend Chapter 39, “HOME Partnership Program,” Iowa Administrative Code.

The purpose of these amendments is to revise the rules and to adopt additional rules relating to the application and allocation process by which HOME funds are to be awarded.

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 November 9, 2010. Comments may be addressed to Carla Pope, Iowa Finance Authority, 2015 Grand Avenue, Des Moines, Iowa 50312. Comments may also be faxed to Carla Pope at (515)725-4901 or E-mailed to [carla.pope@iowa.gov](mailto:carla.pope@iowa.gov).

The Authority will conduct a public hearing on the proposed amendments on November 9, 2010, at 2 p.m. at the Authority’s offices, located at 2015 Grand Avenue, Des Moines, Iowa.

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

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. Adopt the following **new** definitions in rule **265—39.2(16)**:

“*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 that 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.

“*Extremely low income*” means families whose annual incomes do not exceed 30 percent of the median income for the area, as determined by HUD.

“*Handicapped accessible*” means that the unit meets the construction standards for the rental unit set forth in Chapter 11 of the International Building Code 2009 or, if more stringent, the local building code related to accessibility of rental units.

“*Low income*” means families whose annual incomes do not exceed 80 percent of the median income for the area, as determined by HUD.

“*Very low income*” means families whose annual incomes do not exceed 50 percent of the median income for the area, as determined by HUD.

ITEM 2. Rescind the definition of “Iowa green communities criteria” in rule ~~265—39.2(16)~~.

ITEM 3. Adopt the following new rule 265—39.3(16):

**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.

**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 4. Amend subrule 39.4(1) as follows:

**39.4(1)** Eligible activities include transitional housing, tenant-based rental assistance, rental housing rehabilitation (including conversion and preservation), rental housing new construction, home ownership assistance (including development subsidies), ~~owner-occupied housing rehabilitation~~, 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 homeowners or tenants.

*a.* Assisted units shall be affordable.

(1) to (3) No change.

~~(4) For owner-occupied housing rehabilitation, the after rehabilitation value of the rehabilitated unit shall not exceed 95 percent of the median purchase price as established by HUD mortgage limits 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 for projects with 35 units or fewer, all assisted units shall be rented to low-income households with incomes at or below 80 percent of the area’s median family income; at initial occupancy, 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~~ 5 or more units, 20 percent of the units shall be rented initially to very low-income households with incomes at or below 50 percent of the area’s median family income.

(2) For rental activities for projects with 36 units or more, all assisted units shall be rented to low-income households; at initial occupancy and throughout the HOME compliance period, 5 percent of all of the units, assisted or not assisted, in the project shall be rented to extremely low-income households, and the household shall not pay more than the rent established by HUD for extremely low-income households. At initial occupancy, the remainder of the HOME assisted units shall be rented to households with incomes at or below 60 percent of the area’s median family income and, for projects with 5 or more units, 20 percent of the units shall be rented initially to very low-income households.

~~(2)~~ (3) For tenant-based rental assistance, only households with incomes at or below 80 percent of the area median family income shall be assisted; 90 percent of the households served shall have incomes at or below 60 percent of the area’s median family income.

~~(3)~~ (4) For home ownership assistance ~~and owner-occupied rehabilitation~~, only households with incomes at or below 80 percent of the area median family income shall be assisted.

*c.* No change.

*d.* ~~Iowa green communities criteria. All newly constructed housing (single-family and multifamily housing) and all multifamily rental activities involving gut rehabilitation shall meet the mandatory requirements of the Iowa green communities criteria. All other multifamily rental activities involving rehabilitation (that is, not gut rehabilitation) shall meet the applicable mandatory requirements of the Iowa green communities criteria regarding rehabilitation.~~ Energy Star. All new construction must obtain Energy Star certification verified by an Energy Star rater.

ITEM 5. Adopt the following new rule 265—39.5(16):

**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 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. 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.

**39.5(2)** Joint applications. For applicants requesting funding from both the HOME partnership and low-income housing tax credit (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.

*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). 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 partnership program must meet the threshold requirements outlined in rule 265—39.6(16).

ITEM 6. Rescind rule 265—39.6(16) and adopt the following new rule in lieu thereof:

**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 the right 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 a certification that the applicant will comply with all applicable state and federal laws and regulations.

**39.6(7)** Local participating jurisdiction requirement. An application for a project located in a locally designated participating jurisdiction (PJ) must show evidence of a financial commitment from the local PJ at least equal to 25 percent of the total IFA HOME funds requested. Sources of local PJ financial commitment may include one or more of the following: HOME, community development block grant,

tax increment financing, tax abatement, or general funds; the value of waived taxes, fees or charges associated with HOME projects; the value of donated land or real property; the cost of infrastructure improvements associated with HOME projects; and the contracted commitment to provide the direct costs of supportive services to residents of HOME projects provided by a city-owned agency using nonfederal funds.

**39.6(8)** An application for home ownership assistance activity must indicate that recipients will require the beneficiaries of the applicant's home ownership 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 home ownership assistance projects.

*b.* The HOME assistance must be recorded in second lien position to the principal mortgage loan, if one exists. Recipients of HOME fund home ownership assistance activities 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) Loan terms must include an 80 percent or higher loan-to-value ratio;

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

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

*d.* Recipients are encouraged but not required to have the beneficiaries of their home ownership assistance activity utilize a principal mortgage loan product offered by one of the following: Iowa finance authority, USDA Rural Development, Federal Home Loan Bank, HUD (including FHA and VA), Habitat for Humanity, Fannie Mae, or Freddie Mac.

**39.6(9)** An application for a home ownership assistance activity must stipulate that home ownership assistance is for first-time homebuyers only and that the assisted unit will remain as the assisted homebuyer's principal residence throughout the required period of affordability.

ITEM 7. Adopt the following new rule 265—39.7(16):

**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)** A request for proposals shall be published by IFA when funds are available to award. The request for proposals shall specify the general criteria, need, impact and feasibility criteria, and the administrative criteria based on the activity proposed. Notice of the availability of funding will be placed on IFA's Web site at [www.iowafinanceauthority.gov](http://www.iowafinanceauthority.gov).

**39.7(3)** Special consideration will be given to applications where 100 percent of the HOME-funded rental units are fully handicapped accessible (not adaptable).

ITEM 8. Amend subrule 39.8(3) as follows:

**39.8(3)** IFA reserves the right to set aside a portion of the state's annual HOME allocation for rental housing activities jointly funded with HOME and low-income housing tax credits and for the Rural Development Section 515 Preservation Demonstration Program.

ITEM 9. Amend rule 265—39.9(16) as follows:

**265—39.9(16) Administration of awards.** Applicants selected to receive HOME funds awards shall be notified by letter from the ~~IEDD director or~~ IFA executive director or IFA affordable rental production division director.

**39.9(1) Preaudit survey.** A preaudit survey may be required for all for-profit and nonprofit direct recipients for assistance that exceeds \$150,000.

**39.9(2) Contract.** A contract shall be executed between the recipient and IFA. These rules, the approved application, the ~~Iowa Housing Fund~~ IFA HOME 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 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. ~~Release of funds shall be conditioned upon IFA's receipt of an administrative plan for the funded activity.~~

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

**39.9(3)** No change.

**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 must be provided prior to release of funds.

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

a. No change.

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.

**39.9(6) and 39.9(7)** No change.

**39.9(8) Contract closeout.** Upon the contract expiration date or work completion date, as applicable, and IFA's receipt of final draw and completion documentation, IFA shall initiate closeout procedures. Recipients shall comply with applicable audit requirements, quarterly performance reports and Section 3 requirements and provide other required documents described in the HOME funds application and ~~Iowa Housing Fund, the contract, IFA HOME~~ Management Guide, and IFA HOME partnership program policies and procedures.

**39.9(9) to 39.9(11)** No change.