

Regulatory Analysis

Notice of Intended Action to be published: 265—Chapter 42
“Emergency Solutions Grant Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 16.5(1)“r” and 16.5(1)“m”

State or federal law(s) implemented by the rulemaking: Iowa Code section 16.5(1)“m” and 42 U.S.C. Sections 11371 through 11378.

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

March 11, 2025

12 noon to 12:15 p.m.

1963 Bell Avenue

Des Moines, Iowa

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis, which must be received by the Iowa Finance Authority no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

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Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 42 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Emergency Solutions Grant Program (program). The program is intended to assist homeless individuals and families to regain stability in permanent housing by supporting the costs of operations of homeless and domestic violence shelters, essential services for the homeless, and evaluation and reporting of services for the homeless.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• **Classes of persons that will bear the costs of the proposed rulemaking:**

Entities that apply for and are approved for grants through the program will bear the costs of the rulemaking.

• **Classes of persons that will benefit from the proposed rulemaking:**

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

• **Quantitative description of impact:**

Entities interested in applying for grants may require staff time to complete an application. Recipients may similarly incur costs to comply with reporting and monitoring requirements. Some

applicants may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary, depending on the compensation of staff or service providers involved.

- **Qualitative description of impact:**

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Authority staff time is required to review and approve applications, administer grants, and communicate with program applicants and recipients.

- **Anticipated effect on state revenues:**

This rulemaking has no fiscal impact. The Authority is the recipient and administrator of program funds allocated to the state of Iowa by the U.S. Department of Housing and Urban Development.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Only the entities that will potentially benefit from financial assistance bear the costs of the rulemaking. The costs to the State to administer the program are proportional to the activities supported by financial assistance.

5. **Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:**

The Authority has not identified less costly methods or less intrusive methods of administering the program.

6. **Alternative methods considered by the agency:**

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any alternative methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any alternative methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rules do not have a substantial impact on small business. The application, contracting, and monitoring requirements related to the program are no more than necessary to administer the statutory requirements of the program. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 42 and adopt the following **new** chapter in lieu thereof:

CHAPTER 42
EMERGENCY SOLUTIONS GRANT PROGRAM

265—42.1(16) Purpose. The Emergency Solutions Grant Program (ESG program) is a federal program of the U.S. Department of Housing and Urban Development (HUD) as set forth in Title 42 of the U.S. Code (42 U.S.C. Sections 11371-11378) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

265—42.2(16) Definitions.

“*Applicant*” means an eligible provider of eligible homeless services that is applying for funds through the ESG program.

“*Authority*” means the Iowa finance authority.

“*Domestic violence shelter*” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“*DVIMS*” means the Domestic Violence Information Management System, which is Iowa’s designated database for domestic violence shelters.

“*HMIS*” means the Homeless Management Information System as defined in 24 CFR Part 576.

“*Homeless*” means the same as set forth in 24 CFR Part 576.

“*Private nonprofit organization*” means an organization as set forth in 42 U.S.C Section 11371, which has registered with the state of Iowa as a nonprofit corporation.

“*SAF*” means the shelter assistance fund as set forth in Iowa Code section 16.41.

“*Subrecipient*” means any private nonprofit organization or city or county government to which the authority distributes ESG program funds.

265—42.3(16) Eligible applicants. City governments, county governments, and private nonprofit organizations are eligible applicants under the ESG program. City or county governments may apply on behalf of a nonprofit service provider within their jurisdictions when the nonprofit service provider would otherwise qualify as an eligible applicant under the ESG program.

265—42.4(16) Eligible activities. Eligible activities may include only the following:

42.4(1) Street outreach. The provision of essential services necessary to reach out to unsheltered homeless people; to connect them with shelter, housing, or critical services; and to provide urgent, non-facility-based care to unsheltered homeless people who are unwilling or unable to access shelter, housing, or an appropriate health facility.

42.4(2) Shelter. The provision of essential services to homeless families and individuals in shelters, the renovation of buildings to be used as emergency shelters for homeless families and individuals, and the operation of emergency shelters.

42.4(3) Prevention of homelessness. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to prevent an individual or family from experiencing homelessness.

42.4(4) Rapid rehousing. The provision of housing relocation and stabilization services, short- or medium-term rental assistance, or other financial assistance as necessary to help an individual or family experiencing homelessness to move as quickly as possible into permanent housing and achieve stability in that housing.

42.4(5) Administrative costs. A subrecipient may use a portion of a grant received for administrative purposes as determined by the authority.

42.4(6) HMIS projects. The authority may award grants for HMIS implementation to support data collection, reporting, and analysis as long as the total amount of such grants does not exceed 10 percent of the total ESG program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. The authority may in its discretion award such a

grant, subject to the terms of this subrule, without regard to the application and review provisions of rules 265—42.6(16) and 265—42.7(16). Subrecipients of grants in support of other eligible activities listed in subrules 42.4(1) through 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or the DVIMS.

265—42.5(16) Ineligible activities. Any activity that is not authorized under the provisions of the Stewart B. McKinney-Vento Homeless Assistance Act of 1987 as amended by the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), and implemented by 24 CFR Part 576, is ineligible to be carried out with ESG program funds.

265—42.6(16) Application procedures. The authority will issue requests for applications periodically, specifying requirements, priorities, period of funding, and maximum and minimum award amounts, subject to available funds. Requests for applications may be issued jointly with the SAF program. Only applications submitted as prescribed by the authority will be considered.

265—42.7(16) Application review process. Applications will be reviewed based on priorities established during each funding round, in accordance with the state of Iowa consolidated plan for housing and community development. Review criteria include but are not limited to applicant's project design, applicant experience and capacity, community partnerships and need, past performance, budget and grant management, project accessibility, project partnerships, the number of persons or households served, and how well the project leverages other resources.

42.7(1) If an application contains an activity determined to be ineligible, at the authority's discretion, the ineligible activity may be deleted from the application, the applicant may be referred to another funding source or the application may be disqualified.

42.7(2) Authority staff may review applications with other state agencies or any other party deemed appropriate in the authority's sole discretion.

42.7(3) Based on the review process and subject to available funding, the authority may revise the applicant's overall funding request by activity or funding level and recommend a final funding figure to the authority's board of directors for approval.

265—42.8(16) Matching requirement. Each subrecipient of ESG program funds must provide matching contributions according to the requirements for each round of funding. In calculating the amount of matching funds, the following may be included: cash contributions expended for allowable costs of the subrecipient for the ESG program or noncash contributions, including the value of any real property, equipment, goods, or services contributed to the subrecipient's ESG program-supported project, provided that, if the subrecipient had to pay for them with grant funds, the costs would have been allowable. The authority may allow an exemption of matching funds up to a maximum of \$100,000 of the state allocation received from HUD for the subrecipients least capable of providing such matching amounts. Subrecipients seeking this exemption from matching requirements must document their need for the exemption and receive prior approval from the authority before the exemption becomes effective.

265—42.9(16) Funding awards.

42.9(1) *Awards on behalf of multiple applicants.* A city or county government or private nonprofit organization may be designated, at the discretion of the authority, to administer a contract for multiple applicants within a prescribed geographic area.

42.9(2) *Right to negotiate.* The authority reserves the right to negotiate with the subrecipient the amount of the funding award, the scale or scope of the subrecipient's project, and alternative methods for completing the project.

42.9(3) *Special purpose awards.* The authority may, at its discretion, award any remaining funds as it sees fit within the ESG program regulations.

265—42.10(16) Compliance with applicable federal and state laws and regulations. Subrecipients shall comply with the following:

1. Iowa Code governing activities performed under this program;
2. Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations;
3. HEARTH Act; and
4. Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR Part 200.

265—42.11(16) Administration.

42.11(1) Contracts. Upon selection of an application for funding, the authority will initiate a contract. These rules and applicable federal and state laws and regulations will become part of the contract. Certain activities may necessitate that permits or clearances be obtained from other state or federal agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements or any other conditions stipulated in the contract at the authority's sole discretion.

42.11(2) Recordkeeping and retention. Financial records, supporting documents, statistical records, and all other records pertinent to the funded project shall be retained by the subrecipient and made available to the authority upon request. Private nonprofit subrecipients covered through an ESG program contract from a city or county government or another nonprofit organization are responsible for ensuring that pertinent records of their ESG program funds be made available to the administering city or county government or other nonprofit organization and to the authority upon request. Proper record retention must be in accordance with the following:

- a. Retention of records for any assisted activity for five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by the authority.
- b. Access to all books, accounts, documents, records, and other property belonging to or in use by a subrecipient pertaining to the receipt of assistance under these rules by representatives of the Secretary of HUD, the Inspector General, the General Accounting Office, the Office of Auditor of State, the authority or the authority's designee.

42.11(3) Reporting requirements. Subrecipients shall submit reports to the authority as prescribed in the contract. Reports include:

- a. HMIS data reports. All subrecipients are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by the authority unless a subrecipient qualifies as a domestic violence shelter, in which case the subrecipient must submit reports using the DVIMS.
- b. Requests for funds. Subrecipients must submit requests for funds during the contract period at intervals and using forms as prescribed by the authority. The authority may perform any review or field inspections it deems necessary to ensure program compliance, including review of subrecipient records and reports. When problems of compliance are noted, the authority may require remedial actions to be taken. Failure to respond to notifications of need for remedial action may result in the remedies for noncompliance set forth in subrule 42.11(4).

42.11(4) Remedies for noncompliance. Should the authority find that a subrecipient is not in compliance with the requirements under this program, the authority may employ any remedies it deems appropriate, including but not limited to the following:

- a. Issue a warning letter stating that continued failure to comply with program requirements within a stated period of time will result in a more serious action.
- b. Condition a future award on correcting compliance issues.
- c. Direct the subrecipient to stop incurring costs with grant funds.
- d. Require that some or all of the awarded funds be remitted to the authority.
- e. Reduce the level of funds the subrecipient would otherwise be entitled to receive.
- f. Elect not to provide future award funds to the subrecipient until appropriate actions are taken to ensure compliance.

These rules are intended to implement Iowa Code section 16.5(1) “*m*” and 42 U.S.C. Sections 11371 through 11378.