

CHAPTER 48
WORKFORCE HOUSING TAX INCENTIVES PROGRAM

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261—48.1(15) Authority and purpose. The workforce housing tax incentives program is administered pursuant to Iowa Code sections 15.351 through 15.356 and 2022 Iowa Acts, Senate File 2325, sections 7 through 13. The purpose of the program is to assist the development of workforce housing in Iowa communities by providing incentives for housing projects that are targeted at middle-income households and that focus on the redevelopment or repurposing of existing structures.

[ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 6467C, IAB 8/24/22, effective 9/28/22]

261—48.2(15) Definitions. As used in this chapter, unless the context otherwise requires:

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

“Average dwelling unit cost” means the costs directly related to the housing project divided by the total number of dwelling units in the housing project.

“Board” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“Brownfield site” means an abandoned, idled, or underutilized property where expansion or redevelopment is complicated by real or perceived environmental contamination. A brownfield site includes property contiguous with the site on which the property is located. A brownfield site does not include property which has been placed, or is proposed for placement, on the national priorities list established pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §9601 et seq. In order to administer similar programs in a similar manner, the authority will attempt to apply this definition in substantially the same way as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294 and may consult members of the council or other staff as necessary.

“Community” means a city or county.

“Costs directly related” means expenditures that are incurred for construction of a housing project to the extent that they are attributable directly to the improvement of the property or its structures. “Costs directly related” includes expenditures for site preparation work, surveying, construction materials, construction labor, architectural services, and engineering services. “Costs directly related” does not include expenditures for property acquisition, building permits, building inspection fees, furnishings, appliances, accounting services, legal services, loan origination and other financing costs including interest on construction loans, syndication fees and related costs, developer fees, or the costs associated with selling or renting the dwelling units whether incurred before or after completion of the housing project.

“Disaster recovery housing project” means a qualified housing project located in a county that has been declared a major disaster by the President of the United States on or after March 12, 2019, and that is also a county in which individuals are eligible for federal individual assistance.

“Grayfield site” means a property meeting all of the following requirements:

(1) The property has been developed and has infrastructure in place but the property’s current use is outdated or prevents a better or more efficient use of the property. Such property includes vacant, blighted, obsolete, or otherwise underutilized property.

(2) The property’s improvements and infrastructure are at least 25 years old and one or more of the following conditions exists:

1. Thirty percent or more of a building located on the property that is available for occupancy has been vacant or unoccupied for a period of 12 months or more.
2. The assessed value of the improvements on the property has decreased by 25 percent or more.
3. The property is currently being used as a parking lot.
4. The improvements on the property no longer exist.

In administering the program, the authority will attempt to apply this definition in substantially the same manner as similar definitions are applied by the brownfield advisory council established in Iowa Code section 15.294.

“Greenfield site” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“Housing business” means a business that is a housing developer, housing contractor, or nonprofit organization that completes a housing project in the state.

“Housing project” means a project located in this state meeting the requirements of rule 261—48.4(15).

“Laborshed area” means the same as defined in 261—Chapter 173.

“Laborshed wage” means the same as defined in 261—Chapter 173.

“Multi-use building” means a building whose street-level ground story is used for a purpose that is other than residential, and whose upper story or stories are currently used primarily for a residential purpose, or will be used primarily for a residential purpose after completion of the housing project associated with the building.

“New dwelling units” means dwelling units that are made available for occupancy in a community as a result of a housing project and that were not available for occupancy as residential housing in the community for a period of at least six months prior to the date on which application is made to the authority under the program. If a dwelling unit has served as residential housing and been occupied during the six months preceding the date on which application is made to the authority under the program, then the dwelling unit shall be presumed not to be a new dwelling unit.

“Program” means the workforce housing tax incentives program administered under this chapter.

“Project completion” means the same as defined in Iowa Code section 15.355(2).

“Qualifying new investment” means costs that are directly related to the acquisition, repair, rehabilitation, or redevelopment of a housing project in this state. For purposes of this rule, “costs directly related to acquisition” includes the costs associated with the purchase of real property or other structures.

(1) The amount of costs that may be used to compute “qualifying new investment” shall not exceed the costs used for the first \$150,000 of value for each dwelling unit that is part of a housing project.

(2) “Qualifying new investment” does not include the following:

1. The portion of the total cost of a housing project that is financed by federal, state, or local government tax credits, grants, forgivable loans, or other forms of financial assistance that do not require repayment, excluding the tax incentives provided under this program.

2. If a housing project includes the rehabilitation, repair, or redevelopment of an existing multi-use building, the portion of the total acquisition costs of the multi-use building, including a proportionate share of the total acquisition costs of the land upon which the multi-use building is situated, that are attributable to the street-level ground story that is used for a purpose that is other than residential.

3. Any costs, including acquisition costs, incurred before the housing project is approved by the authority.

“Refund notice” means a notice provided by the authority of the amount that an eligible housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2).

“Rehabilitation, repair, or redevelopment” means construction or development activities associated with a housing project that are undertaken for the purpose of reusing or repurposing existing buildings or structures as new dwelling units. Rehabilitation, repair, or redevelopment does not include new construction of dwelling units at a greenfield site. Rehabilitation, repair, or redevelopment includes new structures at a qualified grayfield site.

“Small city” means a city that meets the applicable criteria in rule 261—48.3(15).

“Tax credit certificate” means a certificate issued by the authority stating the amount of workforce housing investment tax credits under Iowa Code section 15.355(3) that an eligible housing business may claim.

“Urban area” means any city or township, except for a small city, that is wholly located within one or more of the 11 most populous counties in the state, as determined by either the most recent population

estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

[ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 3581C, IAB 1/17/18, effective 2/21/18; ARC 4724C, IAB 10/23/19, effective 10/3/19; ARC 6086C, IAB 12/15/21, effective 1/19/22; ARC 6467C, IAB 8/24/22, effective 9/28/22]

261—48.3(15) Small cities. For the purposes of this chapter, the following subrules will determine which cities and townships will be considered small cities.

48.3(1) For projects that received a refund notice or tax credit certificate on or before June 30, 2021, a small city is any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by the most recent population estimates issued by the United States Bureau of the Census.

48.3(2) For projects that received a refund notice or tax credit certificate on or after July 1, 2021, a small city is any city or township located in this state, except those located wholly within one or more of the 11 most populous counties in the state, as determined by either the most recent population estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

48.3(3) On or after July 1, 2021, any city or township located wholly within one or more of the 11 most populous counties in the state, as determined pursuant to subrule 48.3(2), may be considered a small city if the city meets all of the following requirements:

a. The city or township has a population less than or equal to 2,500 as determined by either the most recent population estimate produced by the United States Bureau of the Census or the most recent decennial census released by the United States Bureau of the Census.

b. The city or township had population growth of less than 30 percent as calculated by comparing the population in the most recent decennial census released by the United States Bureau of the Census to the population in the decennial census released ten years prior.

[ARC 6467C, IAB 8/24/22, effective 9/28/22]

261—48.4(15) Housing project requirements.

48.4(1) *Eligible project types.*

a. To receive workforce housing tax incentives pursuant to the program, a proposed housing project shall meet all of the requirements of Iowa Code section 15.353. Projects located in a 100-year floodplain are not eligible.

b. The authority will determine whether a dwelling unit should be classified as a single-family dwelling unit for the purposes of this subrule. The authority may consider factors such as:

- (1) Whether a unit is separated from other units by a ground-to-roof wall;
- (2) Whether the unit has a separate heating system;
- (3) Whether the unit has an individual meter for public utilities; and
- (4) Whether the unit has other units above or below.

48.4(2) *Maximum cost.* Except as provided in subrules 48.4(3) and 48.4(4) below, the average dwelling unit cost does not exceed the maximum amount established by the board for each fiscal year for the applicable project type and project location. The board shall establish the maximum average dwelling unit cost for the project types set forth in paragraphs 48.4(2) “a” through “d.” In establishing each maximum average dwelling unit cost, the board shall primarily consider the most recent annual United States Bureau of the Census building permits survey and historical program data.

a. Single-family dwelling units located in a small city.

b. Single-family dwelling units located in an urban area.

c. Multiple dwelling unit buildings located in a small city.

d. Multiple dwelling unit buildings located in an urban area.

48.4(3) *Maximum cost for historic projects.* If the project is a qualified rehabilitation project, as that term is defined in Iowa Code section 404A.1(8) “a,” the average dwelling unit cost shall not exceed 125 percent of the maximum average dwelling unit cost established by the board for the applicable project type and project location as provided in subrule 48.4(2).

48.4(4) *Maximum cost on or before June 30, 2021.* For projects that received a refund notice or tax credit certificate on or before June 30, 2021, the average dwelling unit cost shall not exceed \$200,000 per dwelling unit. If the project involves the rehabilitation, repair, redevelopment, or preservation of eligible property, as that term is defined in Iowa Code section 404A.1(8) “a,” the average dwelling unit cost does not exceed \$250,000 per dwelling unit.

[ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 3581C, IAB 1/17/18, effective 2/21/18; ARC 5139C, IAB 8/12/20, effective 9/16/20; ARC 6467C, IAB 8/24/22, effective 9/28/22; ARC 7492C, IAB 1/10/24, effective 2/14/24]

261—48.5(15) Housing project application and agreement.

48.5(1) *Application.*

a. A housing business seeking workforce housing tax incentives provided in rule 261—48.6(15) shall make application to the authority in the manner prescribed in this rule.

b. The application required in paragraph 48.5(1) “a” shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least \$1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9) if required.

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the program.

48.5(2) *Application review—tax incentive award.*

a. All completed applications shall be reviewed and scored on a competitive basis by the authority pursuant to these rules. Review criteria include but are not limited to project need, project readiness, financial capacity, and project impact.

b. Upon review and scoring of all applications received during an application period, the authority may make a tax incentive award to a housing project. The tax incentive award shall represent the maximum amount of tax incentives the housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application from the housing business. Tax incentive awards shall be approved by the director of the authority.

c. After making a tax incentive award, the authority shall notify the housing business of its tax incentive award. The notification shall include the amount of tax incentives under rule 261—48.6(15) for which the housing business has received an award and a statement that the housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to paragraph 48.5(3) “a,” are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of the requirements in subrule 48.5(3).

d. An applicant that does not receive a tax incentive award during an application period may make additional applications during subsequent application periods. Such applicant shall be required to submit a new application, which shall be competitively reviewed and scored in the same manner as other applications in that application period.

48.5(3) *Agreement and fees.*

a. Upon receiving a tax incentive award for a housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the program. The agreement shall identify the tax incentive amount, the tax incentive award date, the project completion deadline and the total costs of the housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under this program and shall be collected by the authority in the same manner and to the same extent as described in that provision.

c. Housing project completion deadline.

(1) Except as provided in subparagraph 48.5(3)“*c*”(2), a housing business shall complete its housing project within three years from the date the housing project is registered by the authority.

(2) The authority may for good cause within the discretion of the authority extend a housing project’s completion deadline by up to 12 months upon application by the housing business, which application shall be made prior to the expiration of the three-year completion deadline in subparagraph 48.5(3)“*c*”(1) in the manner and form prescribed by the authority. The authority may approve a second extension of up to 12 months if prior to the expiration of the first 12-month extension the housing business applies and substantiates to the satisfaction of the authority that the second extension is warranted due to extenuating circumstances outside the control of the housing business. An application by a housing business shall be made in the manner and form prescribed by the authority.

d. Upon completion of a housing project, a housing business shall submit all of the following to the authority:

(1) An examination of the project in accordance with the American Institute of Certified Public Accountants’ statements on standards for attestation engagements, completed by a certified public accountant (CPA) authorized to practice in this state. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA’s professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.5(3)“*a*”; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

e. Upon review of the examination, verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.5(3)“*d*”(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use taxes under subrule 48.6(2) and may issue a tax credit certificate to the housing business stating the amount of workforce housing investment tax credits under rule 261—48.6(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

f. If, upon review of the examination in paragraph 48.5(3)“*d*,” the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall do one of the following for projects that received a refund notice or tax credit certificate on or after July 1, 2021:

(1) If the project costs do not cause the housing project’s average dwelling unit cost to exceed the applicable maximum amount authorized in rule 261—48.4(15), the authority may consider the agreement fulfilled and may issue a tax credit certificate.

(2) If the project costs cause the housing project’s average dwelling cost to exceed the applicable maximum amount authorized in rule 261—48.4(15) but do not cause the average dwelling unit cost to exceed 150 percent of such applicable amount, the authority shall reduce the tax incentive award and the corresponding amount of tax incentives the eligible project may claim under rule 261—48.6(15) by the same percentage that the housing project’s average dwelling cost exceeds the applicable maximum amount under rule 261—48.4(15), and such tax incentive reduction shall be reflected on the tax credit certificate. If the authority issues a certificate pursuant to this subrule, the department of revenue shall accept the

certificate notwithstanding that the housing project's average dwelling unit cost exceeds the maximum amount specified in rule 261—48.4(15).

(3) If the project costs cause the housing project's average dwelling unit cost to exceed 150 percent of the applicable maximum amount authorized in rule 261—48.4(15), the authority shall determine the eligible housing business to be in default under the agreement, shall revoke the tax incentive award and shall not issue a tax credit certificate. The housing business shall not be allowed a refund of sales and use tax under rule 261—48.6(15).

48.5(4) *Maximum incentives amount.*

a. The maximum aggregate amount of tax incentives that may be awarded under rule 261—48.6(15) to a housing business for a housing project shall not exceed \$1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.6(15) than is allowed by the limitation imposed in paragraph 48.5(4)“*a.*,” the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales tax refund provided in subrule 48.6(2) and the workforce housing investment tax credits provided in subrule 48.6(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.5(4)“*a.*”

c. The authority shall issue tax incentives under the program on a first-come, first-served basis until the maximum amount of tax incentives allocated pursuant to Iowa Code section 15.119(2) is reached. The authority shall maintain a list of registered housing projects under the program so that if the maximum aggregate amount of tax incentives is reached in a given fiscal year, registered housing projects that were completed but for which tax incentives were not issued shall be placed on a wait list in the order the registered housing projects were registered and shall be given priority for receiving tax incentives in succeeding fiscal years.

48.5(5) *Termination and repayment.* The failure by a housing business in completing a housing project to comply with any requirement of this program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the reduction, termination, or rescission of the approved tax incentives and may subject the housing business to the repayment or recapture of tax incentives claimed under rule 261—48.6(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

[ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 3581C, IAB 1/17/18, effective 2/21/18; ARC 4510C, IAB 6/19/19, effective 7/24/19; ARC 5139C, IAB 8/12/20, effective 9/16/20; ARC 6086C, IAB 12/15/21, effective 1/19/22; ARC 6467C, IAB 8/24/22, effective 9/28/22]

261—48.6(15) Workforce housing tax incentives.

48.6(1) *Eligibility.* A housing business that has entered into an agreement pursuant to rule 261—48.5(15) is eligible to receive the tax incentives described in subrules 48.6(2) and 48.6(3).

48.6(2) *Sales tax refunds.* A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a housing project and specified in the agreement. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of this program.

48.6(3) *Income tax credits.*

a. A housing business may claim a tax credit in an amount not to exceed the following:

(1) For a housing project not located in a small city, 10 percent of the qualifying new investment of a housing project specified in the agreement.

(2) For a housing project located in a small city, 20 percent of the qualifying new investment of a housing project specified in the agreement.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. To claim a tax credit under this subrule, a taxpayer shall file a claim with the department of revenue pursuant to the department's applicable rules.

d. Tax credit certificates issued under an agreement entered into pursuant to subrule 48.5(3) may be transferred to any person pursuant to the department's applicable rules. However, tax credit certificate amounts of less than \$1,000 shall not be transferable.

[ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 3581C, IAB 1/17/18, effective 2/21/18; ARC 5139C, IAB 8/12/20, effective 9/16/20; ARC 6086C, IAB 12/15/21, effective 1/19/22]

261—48.7(15) Annual program funding allocation, reallocation, and management of excess demand.

48.7(1) Each year the authority will allocate to the program a portion of the maximum aggregate tax credit cap described in Iowa Code section 15.119.

48.7(2) If, during a fiscal year, the authority determines that program demand is less than the amount initially allocated, the authority may reallocate unused amounts to other programs under Iowa Code section 15.119.

[ARC 1801C, IAB 12/24/14, effective 1/28/15; see Delay note at end of chapter; ARC 5139C, IAB 8/12/20, effective 9/16/20]

261—48.8(15) Application submittal and review process.

48.8(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315.

48.8(2) The authority has final decision-making authority on requests for financial assistance for this program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

[ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 6086C, IAB 12/15/21, effective 1/19/22]

DISASTER RECOVERY HOUSING PROGRAM

261—48.9(15) Housing project minimum requirements. To receive disaster recovery housing tax incentives pursuant to the program, a proposed disaster recovery housing project shall meet all of the following requirements:

48.9(1) The project includes at least one of the following:

- a.* Four or more single-family dwelling units, except for a project located in a small city, then two or more single-family dwelling units.
- b.* One or more multiple dwelling unit buildings each containing three or more individual dwelling units.
- c.* Two or more dwelling units located in the upper story of an existing multi-use building.

48.9(2) The project consists of any of the following:

- a.* Rehabilitation, repair, or redevelopment at a brownfield site or grayfield site that results in new dwelling units. Redevelopment at a brownfield site or grayfield site includes construction of new buildings.
- b.* The rehabilitation, repair, or redevelopment of dilapidated dwelling units.
- c.* The rehabilitation, repair, or redevelopment of dwelling units located in the upper story of an existing multi-use building.
- d.* For a project located in a small city that meets the minimum housing project requirements under this subrule, development at a greenfield site.
- e.* For a disaster recovery housing project, development at a greenfield site.

48.9(3) The average dwelling unit cost does not exceed the applicable maximum amount established by the board pursuant to rule 261—48.4(15).

48.9(4) The dwelling units, when completed and made available for occupancy, meet the U.S. Department of Housing and Urban Development's housing quality standards and all applicable local safety standards.

48.9(5) The project is not located in a 100-year floodplain.

[ARC 4724C, IAB 10/23/19, effective 10/3/19; ARC 6467C, IAB 8/24/22, effective 9/28/22]

261—48.10(15) Housing project application and agreement.**48.10(1) Application.**

a. A housing business seeking disaster recovery housing tax incentives pursuant to rule 261—48.11(15) shall make application to the authority in the manner prescribed in this rule. The authority may establish a disaster recovery application period following the declaration of a major disaster by the President of the United States for a county in Iowa. The authority will acknowledge receipt of the application and review applications in a timely manner. The authority will notify applicants in writing of a tax incentive award for a disaster recovery housing project.

b. The application for disaster recovery housing tax incentives described in paragraph 48.10(1) “*a*” shall include all of the following:

(1) The following information establishing local participation for the housing project:

1. A resolution in support of the housing project by the community where the housing project will be located.

2. Documentation of local matching funds pledged for the housing project in an amount equal to at least \$1,000 per dwelling unit, including but not limited to a funding agreement between the housing business and the community where the housing project will be located. For purposes of this paragraph, local matching funds shall be in the form of cash or cash equivalents or in the form of a local property tax exemption, rebate, refund, or reimbursement.

(2) A report that meets the requirements and conditions of Iowa Code section 15.330(9).

(3) Information showing the total costs and funding sources of the housing project sufficient to allow the authority to adequately determine the financing that will be utilized for the housing project, the actual cost of the dwelling units, and the amount of qualifying new investment.

(4) A certification that the applicant’s housing project is located in a county that has been declared a major disaster by the President of the United States on or after March 12, 2019, and is also located in a county in which individuals are eligible for federal individual assistance.

(5) Documentation that provides evidence that the housing project is needed due to impact of the disaster that is the subject of the presidential major disaster declaration.

(6) Information showing that the housing project is located outside of a 100-year floodplain.

(7) Any other information deemed necessary by the authority to evaluate the eligibility and financial need of the housing project under the disaster recovery housing program.

48.10(2) Application review—tax incentive award.

a. Upon review and scoring of all applications received during a disaster recovery application period, the authority may make a tax incentive award to a disaster recovery housing project under the disaster recovery housing program. The tax incentive award shall represent the maximum amount of tax incentives that the disaster recovery housing project may qualify for under the program. In determining a tax incentive award, the authority shall not use an amount of project costs that exceeds the amount included in the application of the housing business. Tax incentive awards shall be approved by the director of the authority.

b. After making a tax incentive award, the authority shall notify the housing business of its tax incentive award under the program. The notification shall include the amount of tax incentives under rule 261—48.11(15) for which the housing business has received an award and a statement that a housing business has no right to receive a tax incentive certificate or claim a tax incentive until all requirements of the program, including all requirements imposed by the agreement entered into pursuant to subrule 48.10(3), are satisfied. The amount of tax credits included on a tax credit certificate issued pursuant to this chapter, or a claim for refund of sales and use taxes, shall be contingent upon completion of all requirements in subrule 48.10(3).

48.10(3) Agreement and fees.

a. Upon receipt of a tax incentive award to the disaster recovery housing project, the housing business shall enter into an agreement with the authority for the successful completion of all requirements of the disaster recovery housing program. The agreement shall identify the tax incentive award amount, the tax incentive award date, the project completion deadline, and the total costs of the disaster recovery housing project.

b. The compliance cost fees imposed in Iowa Code section 15.330(12) shall apply to all agreements entered into under the program and shall be collected by the authority in the same manner and to the same extent as described in Iowa Code section 15.330(12).

c. A housing business shall complete its disaster recovery housing project within three years from the date incentives are awarded by the authority to the disaster recovery housing project. The authority may extend a housing project's completion deadline as described in subparagraph 48.5(3) "c"(2).

d. Upon completion of a disaster recovery housing project, a housing business shall submit all of the following to the authority:

(1) An examination of the project in accordance with the American Institute of Certified Public Accountants' statements on standards for attestation engagements, completed by a certified public accountant (CPA) authorized to practice in this state. The attestation applicable to this examination is SSAE No. 10 (as amended by SSAE Nos. 11, 12, 14), AT section 101 and AT section 601. The procedures used by the CPA to conduct the examination should allow the CPA to conclude that, in the CPA's professional judgment, the expenditures claimed are eligible pursuant to the agreement; Iowa Code chapter 15, subchapter II, part 17; and all rules adopted pursuant to Iowa Code chapter 15, subchapter II, part 17, in all material respects. Within ten business days of a request by the authority, the housing business shall make available to the authority the documents reviewed by the CPA unless good cause is shown.

(2) A statement of the final amount of qualifying new investment for the housing project.

(3) Any information the authority deems necessary to ensure compliance with the agreement signed by the housing business pursuant to paragraph 48.10(3) "a"; the requirements of Iowa Code chapter 15, subchapter II, part 17; and these rules and rules adopted by the department of revenue pursuant to Iowa Code section 15.356.

e. Upon review of the examination as described in paragraph 48.10(3) "d," verification of the amount of the qualifying new investment, and review of any other information submitted pursuant to subparagraph 48.10(3) "d"(3), the authority may notify the housing business of the amount that the housing business may claim as a refund of the sales and use tax under Iowa Code section 15.355(2), and may issue a tax credit certificate to the housing business stating the amount of disaster recovery housing investment tax credits under rule 261—48.11(15) that the eligible housing business may claim. The sum of the amount that the housing business may claim as a refund of the sales and use tax and the amount of the tax credit certificate shall not exceed the amount of the tax incentive award.

f. If, upon review of the examination in paragraph 48.10(3) "d," the authority determines that a housing project has incurred project costs in excess of the amount submitted in the application and identified in the agreement, the authority shall proceed as described in paragraph 48.5(4) "f."

48.10(4) Maximum tax incentives amount.

a. The maximum amount of tax incentives that may be awarded under rule 261—48.11(15) to a housing business for a disaster recovery housing project shall not exceed \$1 million.

b. If a housing business qualifies for a higher amount of tax incentives under rule 261—48.11(15) than is allowed by the limitation imposed in paragraph 48.10(4) "a," the authority and the housing business may negotiate an apportionment of the reduction in tax incentives between the sales and use tax refund provided in subrule 48.11(2) and the disaster recovery housing investment income tax credits provided in subrule 48.11(3) provided the total aggregate amount of tax incentives after the apportioned reduction does not exceed the amount in paragraph 48.10(4) "a."

48.10(5) Termination and repayment. The failure by a housing business in completing a disaster recovery housing project to comply with any requirement of the disaster recovery housing program or any of the terms and obligations of an agreement entered into pursuant to this rule may result in the revocation, reduction, termination, or rescission of the tax incentive award or the approved tax incentives and may subject the housing business to the repayment or recapture of tax incentives claimed under rule 261—48.11(15). The repayment or recapture of tax incentives pursuant to this rule shall be accomplished in the same manner as provided in Iowa Code section 15.330(2).

[ARC 4724C, IAB 10/23/19, effective 10/3/19; ARC 6086C, IAB 12/15/21, effective 1/19/22; ARC 6467C, IAB 8/24/22, effective 9/28/22]

261—48.11(15) Disaster recovery housing tax incentives.

48.11(1) Eligibility. A housing business that has entered into an agreement with the authority for the successful completion of program requirements pursuant to rule 261—48.10(15) is eligible to receive the tax incentives described in subrules 48.11(2) and 48.11(3).

48.11(2) Sales tax refunds. A housing business may claim a refund of the sales and use taxes paid under Iowa Code chapter 423 that are directly related to a disaster recovery housing project. The refund available pursuant to this subrule shall be as provided in Iowa Code section 15.331A to the extent applicable for purposes of the disaster recovery housing program.

48.11(3) Income tax credits.

a. For a disaster recovery housing project, a housing business may claim a tax credit in an amount not to exceed 20 percent of the qualifying new investment of a disaster recovery housing project.

b. The tax credit shall be allowed against the taxes imposed in Iowa Code chapter 422, subchapters II, III, and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329.

c. To claim a tax credit under this subrule, a taxpayer shall file a claim with the department of revenue pursuant to the department's applicable rules.

d. A tax credit certificate issued under an agreement entered into pursuant to subrule 48.10(3) may be transferred to any person pursuant to the department's applicable rules. However, tax credit certificate amounts of less than \$1,000 shall not be transferable.

[ARC 4724C, IAB 10/23/19, effective 10/3/19; ARC 6086C, IAB 12/15/21, effective 1/19/22]

261—48.12(15) Program funding allocation and management of excess demand. The authority shall allocate \$10 million to disaster recovery housing tax incentives pursuant to rules 261—48.9(15) to 261—48.13(15). In allocating tax credits pursuant to Iowa Code section 15.119(5) for the period beginning July 1, 2019, and ending June 30, 2024, the authority shall not allocate more than \$10 million for purposes of Iowa Code section 15.119(5).

[ARC 4724C, IAB 10/23/19, effective 10/3/19; ARC 6086C, IAB 12/15/21, effective 1/19/22]

261—48.13(15) Application submittal and review process.

48.13(1) The authority will develop a standardized application and make the application available to eligible housing businesses and to communities. To apply for assistance under the disaster recovery housing program, an interested person shall submit an application to the authority. Applications must be submitted online at www.iowagrants.gov. Instructions for application submission may be obtained at www.iowagrants.gov or by contacting the Community Development Division, Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315.

48.13(2) The authority has final decision-making authority on requests for financial assistance for the disaster recovery housing program. Applications will be reviewed and scored by the staff of the authority. The director or the director's designee will make final funding decisions after considering the recommendations of staff. The director may approve, defer or deny an application.

[ARC 4724C, IAB 10/23/19, effective 10/3/19; ARC 6086C, IAB 12/15/21, effective 1/19/22]

These rules are intended to implement Iowa Code sections 15.351 through 15.356 and 2022 Iowa Acts, Senate File 2325, sections 7 through 13.

[Filed ARC 1801C (Notice ARC 1628C, IAB 9/17/14), IAB 12/24/14, effective 1/28/15]¹

[Filed ARC 3581C (Notice ARC 3377C, IAB 10/11/17), IAB 1/17/18, effective 2/21/18]

[Filed ARC 4510C (Notice ARC 4353C, IAB 3/27/19), IAB 6/19/19, effective 7/24/19]

[Filed Emergency ARC 4724C, IAB 10/23/19, effective 10/3/19]

[Filed ARC 5139C (Notice ARC 4967C, IAB 3/11/20), IAB 8/12/20, effective 9/16/20]

[Filed ARC 6086C (Notice ARC 5909C, IAB 9/22/21), IAB 12/15/21, effective 1/19/22]

[Filed ARC 6467C (Notice ARC 6359C, IAB 6/15/22), IAB 8/24/22, effective 9/28/22]

[Filed ARC 7492C (Notice ARC 7106C, IAB 11/1/23), IAB 1/10/24, effective 2/14/24]

- ¹ January 28, 2015, effective date of 48.7(2) [ARC 1801C] delayed until the adjournment of the 2015 General Assembly by the Administrative Rules Review Committee at its meeting held January 6, 2015.