

CHAPTER 42
EMERGENCY SOLUTIONS GRANT PROGRAM

[Prior to 10/20/10, see 261—Ch 24]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

265—42.1(16) Purpose. The Emergency Solutions Grant Program is a federal program of the U.S. Department of Housing and Urban Development, designed to assist individuals and families to quickly regain stability in permanent housing after experiencing a housing crisis or homelessness. The Iowa finance authority is the recipient and administrator of ESG program funds allocated to the state of Iowa.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 0186C, IAB 6/27/12, effective 8/1/12; ARC 3427C, IAB 10/25/17, effective 11/29/17]

265—42.2(16) Definitions. When used in this chapter, unless the context otherwise requires:

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

“*ESG program*” means the Emergency Solutions Grant Program created pursuant to Title 42 of the U.S. Code (42 U.S.C. Section 11375) as well as parts of Title 24 of the Code of Federal Regulations (24 CFR Part 576).

“*HMIS*” means the Homeless Management Information System, which is a client-level data collection and management system implemented at the community level that allows for better coordination among agencies providing services to clients.

“*Homeless*” or “*homeless individual*” shall have the meaning set forth in 24 CFR Part 91.

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

“*IFA*” means the Iowa finance authority.

“*Private, nonprofit organization*” means an organization described in Section 501(c) of the Internal Revenue Code which:

1. Is exempt from taxation under Subtitle A of the Internal Revenue Code,
2. Has an accounting system and a voluntary board,
3. Practices nondiscrimination in the provision of services to clients, and
4. Has registered with the state of Iowa as a nonprofit corporation.

“*SAF*” means the shelter assistance fund, as set forth in 265—Chapter 41.

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

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 0186C, IAB 6/27/12, effective 8/1/12; ARC 3427C, IAB 10/25/17, effective 11/29/17]

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 serves homeless and near-homeless clients by providing overnight shelter and other services eligible under the ESG program as determined by HUD.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 0186C, IAB 6/27/12, effective 8/1/12]

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

42.4(1) Street outreach. 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. 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 re-housing.* 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 IFA. IFA reserves the authority for distribution of administrative funds.

42.4(6) *Homeless Management Information System (HMIS) projects.* IFA 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 Emergency Solutions Grant Program allocation. Eligible costs may include equipment, software, services, personnel, space, and operations for HMIS activities. IFA 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) to 42.4(4) may also use a portion of such grants to support data collection and reporting using the HMIS or comparable database.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 9633B, IAB 7/27/11, effective 7/8/11; ARC 9830B, IAB 11/2/11, effective 12/7/11; ARC 0186C, IAB 6/27/12, effective 8/1/12; ARC 3427C, IAB 10/25/17, effective 11/29/17; ARC 5343C, IAB 12/30/20, effective 2/3/21]

265—42.5(16) *Ineligible activities.* As a general rule, any activity that is not authorized under the provisions of the HEARTH Act of 2009 is ineligible to be carried out with ESG program funds.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 3427C, IAB 10/25/17, effective 11/29/17; ARC 5343C, IAB 12/30/20, effective 2/3/21]

265—42.6(16) *Application procedures.* IFA will issue requests for applications periodically, as long as the state expects funding from HUD. Requests for applications may combine the ESG program with the SAF program. The application shall be submitted as prescribed by IFA. Application requirements, priorities, and maximum and minimum grant awards will be established by IFA for each competition.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 9633B, IAB 7/27/11, effective 7/8/11; ARC 9830B, IAB 11/2/11, effective 12/7/11; ARC 0186C, IAB 6/27/12, effective 8/1/12; ARC 3427C, IAB 10/25/17, effective 11/29/17]

265—42.7(16) *Application review process.* The following procedures will be used in the review of applications.

42.7(1) *Review; threshold criteria; eligible activities.*

a. Review of applications. Applications will be reviewed based on priorities established during each competition round, in accordance with the state of Iowa consolidated plan for housing and community development. IFA may utilize a panel to review the applications. Review criteria include, but are not limited to, program design, applicant experience and capacity, community partnerships and need, performance, budget and grant management, program accessibility, program partnerships, the number of persons or households served, and how well the program leverages other resources.

b. Threshold criteria. IFA will identify threshold criteria that all programs must meet in order to be eligible.

c. Activities eligible during funding cycle. Each competition round will also specify which of the total eligible program activities will be supported during that competition round.

42.7(2) If an application contains an activity determined to be ineligible, at IFA's discretion, the ineligible activity may be deleted from the application or referred to another funding source or the application may be disqualified.

42.7(3) IFA reserves the right to negotiate directly with the applicant to determine the priority of funding requested within the application.

42.7(4) IFA staff may review applications with other state agencies or other groups with expertise in the area of serving homeless persons before making final funding recommendations. Consultation with other agencies is intended to avoid duplication and promote maximum utilization of funding sources.

42.7(5) Based on the review process, IFA may revise the overall funding request by activity or funding level and recommend a final funding figure to the IFA board of directors for approval.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 3427C, IAB 10/25/17, effective 11/29/17]

265—42.8(16) Matching requirement. Each subrecipient of ESG program funds must provide matching contributions, according to the requirements of each competition. 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 provided that, if the subrecipient had to pay for them with grant funds, the costs would have been allowable. IFA 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. The subrecipient must document its need to participate in this exemption from matching requirements and must receive prior approval from IFA before the exemption will be effective.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 0186C, IAB 6/27/12, effective 8/1/12; ARC 3427C, IAB 10/25/17, effective 11/29/17]

265—42.9(16) Funding awards.

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

42.9(2) *Right to negotiate.* IFA reserves the right to negotiate the amount of the funding award, the scale of the project, and alternative methods for completing the project.

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

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11]

265—42.10(16) Compliance with applicable federal and state laws and regulations. All subrecipients shall comply with the Iowa Code governing activities performed under this program and with all applicable provisions of the Stewart B. McKinney Homeless Assistance Act of 1987 and its implementing regulations, as well as the revising regulations of the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), as defined by 24 CFR Part 576. All subrecipients shall also comply with all applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 CFR Part 200.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 0186C, IAB 6/27/12, effective 8/1/12; ARC 3427C, IAB 10/25/17, effective 11/29/17]

265—42.11(16) Administration.

42.11(1) *Contracts.* Upon selection of an application for funding, IFA will initiate a contract. These rules and applicable federal and state laws and regulations become part of the contract. Certain activities may require 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.

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

a. Records for any assisted activity shall be retained for five years after the end of the grant period and, if applicable, until audit procedures are completed and accepted by IFA.

b. Representatives of the Secretary of the U.S. Department of Housing and Urban Development, the Inspector General, the General Accounting Office, the state auditor's office, and IFA shall have 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.

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

a. HMIS data reports. All subrecipients of ESG program funds are required to submit regular reports on clients served using the current HMIS reporting process as prescribed by IFA unless a subrecipient qualifies as a domestic violence shelter, in which case the subrecipient must submit reports using a comparable database. A comparable database must collect client-level data over time and generate unduplicated aggregate reports based on that data.

b. Requests for funds. Subrecipients must submit requests for funds during the contract period at intervals and using forms as prescribed by IFA. IFA 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, IFA 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(5).

42.11(4) *Amendments to contracts.* Contracts may be amended on an individual basis in emergency situations. Any request to amend a contract must be submitted in writing to IFA. IFA will determine if the request to amend is justified based on the material presented in the letter of request. No amendment is valid until approved in writing by IFA.

42.11(5) *Remedies for noncompliance.* At any time, IFA may, for cause, find that a subrecipient is not in compliance with the requirements under this program. Reasons for a finding of noncompliance include, but are not limited to, the subrecipient's use of program funds for activities not described in its application, the subrecipient's failure to complete approved activities in a timely manner, the subrecipient's failure to comply with any applicable state or federal rules or regulations, or the subrecipient's lack of continuing capacity to carry out the approved program in a timely manner. At IFA's discretion, remedies for noncompliance may include 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.

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 state.

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.

[ARC 9166B, IAB 10/20/10, effective 10/1/10; ARC 9282B, IAB 12/15/10, effective 1/19/11; ARC 9633B, IAB 7/27/11, effective 7/8/11; ARC 9830B, IAB 11/2/11, effective 12/7/11; ARC 0186C, IAB 6/27/12, effective 8/1/12; ARC 3427C, IAB 10/25/17, effective 11/29/17]

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

[Filed Emergency ARC 9166B, IAB 10/20/10, effective 10/1/10]

[Filed ARC 9282B (Notice ARC 9167B, IAB 10/20/10), IAB 12/15/10, effective 1/19/11]

[Filed Emergency ARC 9633B, IAB 7/27/11, effective 7/8/11]

[Filed ARC 9830B (Notice ARC 9635B, IAB 7/27/11), IAB 11/2/11, effective 12/7/11]

[Filed ARC 0186C (Notice ARC 0095C, IAB 4/18/12), IAB 6/27/12, effective 8/1/12]

[Filed ARC 3427C (Notice ARC 3276C, IAB 8/30/17), IAB 10/25/17, effective 11/29/17]

[Filed ARC 5343C (Notice ARC 5219C, IAB 10/7/20), IAB 12/30/20, effective 2/3/21]