

CHAPTER 23
IOWA COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM

261—23.1(15) Purpose. The primary purpose of the community development block grant program is the development of viable communities by providing decent housing and suitable living environments and expanding economic opportunities, primarily for persons of low and moderate income.

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

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

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

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

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

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

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

“*CDBG*” means community development block grant.

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

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

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

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

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

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

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

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

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

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

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

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 2038C, IAB 6/24/15, effective 7/29/15]

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

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

- a. Executive summary.
- b. Sources of federal and state funds.
- c. Statement of specific annual objectives.

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

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

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

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

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.4(15) Allocation of funds and eligible applicants.

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

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

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

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

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

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

23.4(6) *Recaptured funds.* Recaptured funds shall be available for use through the water and sewer fund, the community facilities fund, the opportunities and threats fund, the housing fund, the downtown revitalization fund, and the economic development set-aside fund. As approved by the director, recaptured funds may be used to fund projects from the job creation, retention and employment enhancement fund in order to respond to an immediate business need if no funds are available through the economic development set-aside fund or public facilities set-aside fund. Recaptured funds remaining

at the end of a program year shall be reallocated in amounts and to funds as approved by the director to ensure the availability of resources to those funds in which the greatest need is demonstrated to exist or to respond to a community or business need.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

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

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

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

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

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

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

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

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

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

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

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

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

23.5(9) Applicants shall certify their compliance with the following:

a. The Civil Rights Act of 1964 (PL 88-352) and Title VIII of the Civil Rights Act of 1968 (PL 90-284) and related civil rights, fair housing and equal opportunity statutes and orders;

b. Title I of the Housing and Community Development Act of 1974;

c. Age Discrimination Act of 1975;

d. Section 504 of the Housing and Urban Development Act of 1973;

e. Section 3 of the Housing and Urban Development Act of 1968;

f. Davis-Bacon Act (40 U.S.C. 276a-5) where applicable under Section 100 of the Housing and Community Development Act of 1974;

g. Lead-Based Paint Poisoning Prevention Act;

h. 24 CFR Part 58 and the National Environmental Policy Act of 1969;

i. Uniform Relocation Assistance and Real Property Acquisition Act of 1979, Titles II and III;

j. Americans with Disabilities Act;

k. Section 102 of the Department of Housing and Urban Development Reform Act of 1989;

- l.* Contract Work Hours and Safety Act;
- m.* Copeland Anti-Kickback Act;
- n.* Fair Labor Standards Act;
- o.* Hatch Act;
- p.* Prohibition on the Use of Excessive Force and Barring Entrance;
- q.* Drug-Free Workplace Act;
- r.* Governmentwide Restriction on Lobbying;
- s.* Single Audit Act;
- t.* State of Iowa Citizen Participation Plan; and
- u.* Other relevant regulations as noted in the CDBG management guide.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.6(15) Requirements for the water and sewer and community facilities funds.

23.6(1) Restrictions on applicants.

a. An applicant shall be allowed to submit one application per year under the water and sewer fund and one application per year under the community facilities fund.

b. An eligible applicant involved in a joint application (not as the lead applicant) shall be allowed to submit a separate, individual application only if the applicant is bound by a multijurisdictional agreement by state statute to provide a public service that is facilitated by the joint application and the activity proposed in the joint application is not located in the applicant's jurisdiction.

23.6(2) Grant ceilings. Maximum grant awards are as follows:

1. Applicants with populations of fewer than 1,000 shall apply for no more than \$300,000.
2. Applicants with populations of 1,000 to 2,499 shall apply for no more than \$500,000.
3. Applicants with populations of 2,500 to 14,999 shall apply for no more than \$600,000.
4. Applicants with populations of 15,000 to 49,999 shall apply for no more than \$800,000.

However, no recipient shall receive more than \$1,000 per capita based on the total population within the recipient's jurisdiction. If a county applies on behalf of one or more unincorporated communities within its jurisdiction, the \$1,000 per capita ceiling shall pertain to any project benefiting all residents of the unincorporated community or communities, not the entire unincorporated population of the county applying. Applicants shall use one of the following for population figures to determine the applicable grant ceilings: 2000 census figures, special census figures or adjusted figures based on annexation completed in accordance with statutory requirements in Iowa Code chapter 368. County populations shall be calculated for unincorporated areas only to determine applicable grant ceilings.

a. Joint applications for sewer and water projects shall be awarded no more than the cumulative joint total allowed according to the population of each jurisdiction participating in the project. For all other joint applications, an application shall be awarded no more than one and one-half times the maximum amount allowed for either of the joint applicants.

b. Applicants may apply for the maximum amount for which they are eligible under both the sewer and water fund and community facilities and services fund.

c. Applicants may apply for multiple activities under each fund for an amount up to the applicable ceilings.

23.6(3) Water and sewer fund application procedure. The authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by the authority.

a. Application forms shall be available at iowagrants.gov.

b. Applications shall be submitted by the deadline established by the authority.

c. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- (1) Magnitude of need for the project.
- (2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.

(3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion. Procurement of an engineer shall be considered evidence of readiness to proceed.

(4) Degree to which water and sewer fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.

(5) Capacity to operate and maintain the proposed activity.

(6) Capacity for continued viability of the activity after CDBG assistance.

(7) Scope of project benefit relative to the amount of CDBG funds invested.

(8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.

d. Applicants shall submit preliminary engineering reports with their full applications for drinking water projects.

e. Applicants shall submit facility plans with their full applications for wastewater projects.

f. Authority staff may consult on proposed activities with other state agencies responsible for water- and sewer-related activities and may conduct site evaluations of proposed activities.

g. Applicants selected to receive awards shall be notified by letter from the authority director by date(s) determined by the authority.

23.6(4) Community facilities fund application procedure. Each year, the authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by the authority.

a. Application forms shall be available at iowagrants.gov.

b. Applications shall be submitted by the deadline established by the authority.

c. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

(1) Magnitude of need for the project.

(2) Impact of the activity on standard of living or quality of life of proposed beneficiaries.

(3) Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion.

(4) Degree to which community facilities and services fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount possible of local financial support for the activity.

(5) Capacity to operate and maintain the proposed activity.

(6) Capacity for continued viability of the activity after CDBG assistance.

(7) Scope of project benefit relative to the amount of CDBG funds invested.

(8) Degree to which the project promotes orderly, compact development supported by affordable public infrastructure.

(9) Whether the project meets or exceeds the minimum building and site design criteria established by the authority to be eligible for funding.

d. Authority staff may consult on proposed activities with other state agencies responsible for community facilities and services-related activities and may conduct site evaluations of proposed activities.

e. Applicants selected to receive awards shall be notified by letter from the authority director by date(s) determined by the authority.

23.6(5) Matching funds. The authority may require matching funds as a contingency of an award as described in the annual action plan.

23.6(6) Negotiation of awards. The authority may negotiate award amounts and terms as described in the annual action plan.

261—23.7(15) Requirements for the economic development set-aside fund.**23.7(1) Restrictions on applicants.**

a. Applicants shall apply only for direct loans or forgivable loans to make to private businesses for the creation of new jobs or the retention of existing jobs that would otherwise be lost. Eligible activities include infrastructure projects in direct support of economic development activities.

b. The maximum grant award for individual business assistance applications from any city or county is \$1,000,000.

c. For a project to be eligible for assistance, jobs created or retained shall meet the qualifying wage described in the annual action plan.

d. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.

e. Projects must maintain a minimum ratio of one permanent job created or retained for every \$20,000 in CDBG funds awarded.

f. Terms of conventional loans proposed for the project must be consistent with terms generally accepted by conventional financial institutions.

g. Applications must provide evidence of adequate private equity.

h. Applications must provide evidence that the EDSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.

i. The authority shall not consider applications proposing business relocation from within the state unless evidence exists of unusual circumstances that make the relocation necessary for the business' viability.

j. No significant negative land use or environmental impacts shall occur as a result of the project.

23.7(2) Application procedure. Application forms and instructions shall be available at iowagrants.gov. The authority shall accept EDSA applications at any time and shall review applications on a continuous basis. The authority shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.7(3) Review criteria. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

a. Impact of the project on the community.

b. Appropriateness of the jobs to be created or retained by the proposed project.

c. Appropriateness of the proposed wage and benefit package available to employees in jobs created or retained by the proposed project.

d. Degree to which EDSA funding would be leveraged by private investment.

e. Degree of demonstrated business need.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.8(15) Requirements for the public facilities set-aside fund. PFSA funds are reserved for infrastructure projects in direct support of economic development activities that shall create or retain jobs.

23.8(1) Restrictions on applicants.

a. The maximum grant award for individual applications is \$500,000.

b. At least 51 percent of the permanent jobs created or retained by the proposed project shall be taken by or made available through first consideration activities to persons from low- and moderate-income families.

c. Projects must maintain a minimum ratio of one permanent job created or retained for every \$10,000 in CDBG funds awarded.

d. The applicant local government must contribute at least 50 percent of the total amount of funds requested.

e. Applications must provide evidence that the PFSA funds requested are necessary to make the proposed project feasible and that the business requesting assistance can continue as a going concern in the foreseeable future if assistance is provided.

f. Jobs created as a result of other jobs being displaced elsewhere in the state shall not be considered to be new jobs created.

g. No significant negative land use or environmental impacts shall occur as a result of the project.

h. Applications shall include a business assessment plan, projecting for each identified business the number of jobs to be created or retained as a result of the public improvement proposed for assistance.

23.8(2) *Application procedure.* Application forms and instructions shall be available at iowagrants.gov. The authority shall accept PFSA applications at any time and shall review applications on a continuous basis. The authority shall take action on submitted applications within 60 days of receipt. Action may include funding the application for all or part of the requested amount, denying the applicant's request for funding or requesting additional information from the applicant for consideration before a final decision is made.

23.8(3) *Review criteria.* The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- a.* Impact of the project on the community.
- b.* Number of jobs created or retained per funds requested.
- c.* Degree to which PFSA funding would be leveraged by private investment.
- d.* Degree of demonstrated need for the assistance.

23.8(4) *Transfer of PFSA to EDSA.* On or after July 29, 2015, funding for public facility infrastructure projects will be available under the EDSA program described in rule 261—23.7(15).

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.9(15) Requirements for the career link program. Projects funded through the career link program assist the unemployed and underemployed to obtain the training and services necessary to move into available higher-skill, higher-paying jobs.

23.9(1) *Restrictions on applicants.*

a. Applications for training projects shall include evidence of business participation in the curriculum design and evidence that a number of positions are available equal to or greater than the number of persons to be trained. Applications for employment-related transportation projects shall include evidence of local support for the project, including matching funds committed to the project.

b. The project length shall not exceed 24 months.

c. Applicants may use career link funds for training, apprenticeship programs, employment-related transportation and supportive services, and child care costs. Up to 5 percent of funds may be used for administration.

23.9(2) *Application procedure.* Application forms and instructions shall be available at iowagrants.gov. The authority shall accept career link applications at any time and shall review applications on a continuous basis until all program funds are obligated or the program is discontinued.

23.9(3) *Review criteria.* The authority shall review applications and make funding decisions based on criteria described in the annual action plan.

a. Review criteria for training projects typically include:

- (1) Quality of the jobs available and business participation.
- (2) Merit of the proposed training plan.
- (3) Degree to which career link funds are leveraged by other funding sources.
- (4) Merit of the recruitment/job matching plan.
- (5) Scope of project benefit relative to the amount of funds invested.

b. Review criteria for supportive services typically include:

- (1) Degree to which career link funds are leveraged by other funding sources.
- (2) Scope of project benefit relative to the amount of funds invested.
- (3) Magnitude of need for the project.

(4) Local support for the project.
 [ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.10(15) Requirements for the opportunities and threats fund. The opportunities and threats fund is reserved for communities experiencing a threat to public health, safety or welfare that necessitates immediate corrective action sooner than can be accomplished through normal community development block grant procedures, or for disaster recovery activities, or for communities developing a sustainable community demonstration project.

23.10(1) Application procedure. Those local governments applying for contingency funds shall submit a written request to the Economic Development Authority, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the situation, the project budget including the amount of the request from the authority, projected use of funds and an explanation of the reason that the situation cannot be remedied through normal CDBG funding procedures.

23.10(2) Application review. Upon receipt of a request for opportunities and threats funding, the authority shall determine whether the project is eligible for funding and notify the applicant of its determination. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- a. Projects to address a threat to health and safety.
 - (1) An immediate threat to health, safety or community welfare must exist that requires immediate action.
 - (2) The threat must be the result of unforeseeable and unavoidable circumstances or events.
 - (3) No known alternative project or action would be more feasible than the proposed project.
 - (4) Sufficient other local, state or federal funds either are not available or cannot be obtained in the time frame required.
- b. Projects to demonstrate sustainable community activities.
 - (1) The project is consistent with sustainability and smart growth principles.
 - (2) The project provides a beneficial impact on the standard of living and quality of life of proposed beneficiaries.
 - (3) The project can be ready to proceed and be completed in a timely manner.
 - (4) The project leverages the maximum amount of local funds possible.
 - (5) The project will continue to remain viable after CDBG assistance.
 - (6) The project meets the funding standards established by the funding criteria set forth in this rule.
 - (7) The applicant provides adequate information to the authority on total project design and costs as requested.
 - (8) The project is innovative and could be replicated in other communities.
 - (9) The project meets or exceeds the minimum building and site design criteria established by the authority.

23.10(3) Additional information. The authority may request additional information on forms prescribed by the authority prior to making a final funding decision. The authority may negotiate final project award and design components.

23.10(4) Future allocations. The authority may reserve future funds anticipated from federal CDBG allocations to the contingency fund to offset current need for commitment of funds which may be met by amounts deferred from current awards.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.11(15) Requirements for the housing fund program.

23.11(1) Housing fund application procedure. Each year, the authority shall announce the availability of funds and instructions for applying for funds through direct mail, public notices, media releases, workshops or other means determined necessary by the authority.

- a. Application forms shall be available at iowagrants.gov.
- b. Applications shall be submitted by the deadline established by the authority.

c. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- (1) Level of need.
- (2) Level of impact.
- (3) Community involvement in other housing and community development activities.
- (4) Project readiness.
- (5) Local involvement in the project.

d. Applicants selected to receive awards shall be notified by letter from the authority director by the date(s) determined by the authority.

23.11(2) *Applicability to housing fund on or after July 1, 2015.* For CDBG housing fund program awards made on or after July 1, 2015, the administrative rules in this chapter will apply. For CDBG housing fund program awards made before July 1, 2015, the administrative rules in 261—Chapter 25 will apply for contract administration and project closeout purposes.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.12(15) Interim financing program. Rescinded ARC 2038C, IAB 6/24/15, effective 7/29/15.

261—23.13(15) Flood recovery fund. Rescinded IAB 9/18/02, effective 10/23/02.

261—23.14(15) Disaster recovery fund. The disaster recovery fund is reserved for communities impacted by natural disasters when a supplemental disaster appropriation is made under the community development block grant program. Funds are available to repair damage and to prevent future threat to public health, safety or welfare that is directly related to the disaster for which HUD supplemental funds have been allocated to the state.

23.14(1) *Application procedure.* Communities in need of disaster recovery funds shall submit a written request to the Economic Development Authority, Community Development Division, 200 East Grand Avenue, Des Moines, Iowa 50309. The request shall include a description of the community's problem, the amount of funding requested, projected use of funds, the amount of local funds to be provided and the percent of low- and moderate-income persons benefiting from the project.

23.14(2) *Application review.* Upon receipt of a request, the authority, in consultation with appropriate federal, state and local agencies, shall make a determination of whether the community and project are eligible for funding and notify the applicant community of its determination. A project shall be considered eligible only if it meets all of the following criteria:

- a. A threat must exist to health, safety or community welfare that requires immediate action.
- b. The threat must be a result of a natural disaster receiving a presidential declaration for which the authority received a supplemental HUD appropriation.
- c. No known alternative project or action would be more feasible than the proposed project.
- d. Sufficient other local, state or federal funds (including the CDBG competitive program) either are not available or cannot be obtained in the time frame required.

23.14(3) *Compliance with federal and state regulation.* A community receiving funds under the disaster recovery fund shall comply with all laws, rules and regulations applicable to the CDBG competitive program, except those waived by HUD as a result of federal action in conjunction with the disaster recovery initiative and those not required by federal law that the authority may choose to waive. The authority shall make available a list of all applicable federal regulations and disaster-related waivers granted by Congress and relevant federal agencies to all applicants for assistance.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.15(15) Administration of a CDBG award. This rule applies to all grant recipients awarded funds from any of the CDBG programs. Recipients shall comply with requirements and instructions set forth in the applicable CDBG management guide.

23.15(1) *Contracts.* After making an award notification to a recipient, the authority will issue a CDBG contract. The contract shall be between the recipient local government and the authority. These rules and applicable federal and state laws and regulations shall be part of the contract.

a. Recipients shall execute and return the contract to the authority within 45 days of the transmittal date from the authority. Failure to do so may be cause for termination of the award.

b. Certain activities require permits or clearances that shall be obtained from other state or federal agencies prior to proceeding with the project. The authority may include securing necessary permits or clearances as conditions to the CDBG contract.

23.15(2) *General financial management standards.* Recipients shall comply with 24 CFR 85, as revised January 1, 2007, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. Allowable costs shall be determined in accordance with OMB Circular A-87, "Cost Principles Applicable to Grants and Contracts with State and Local Governments."

23.15(3) *Requests for funds.* Recipients shall submit requests for funds in the manner described and on the forms provided in the CDBG management guide. Individual requests for funds shall be made in whole dollar amounts not less than \$500, except for the final request for funds.

23.15(4) *Program income.* If a recipient receives program income before the contract end date, the program income must be expended before additional funds are requested. If a recipient receives program income on or after the contract end date, the recipient may reuse the program income according to an authority-approved reuse plan, or the recipient may return the program income to the authority. If a recipient receives less than \$35,000 of program income cumulative of all CDBG grants in a program year, the program income shall be considered miscellaneous revenue and may be used for any purpose.

23.15(5) *Record keeping and retention.* All records related to the project, including the original grant application, reports, financial records and documentation of compliance with state and federal requirements, shall be retained for five years after contract closeout. Representatives of HUD, the Inspector General, the General Accounting Office, the state auditor's office and the authority shall have access to all books, accounts, documents, records and other property belonging to or in use by recipients pertaining to the receipt of CDBG funds.

23.15(6) *Performance reports and reviews.* Recipients shall submit recipient performance reports to the authority as prescribed in the CDBG management guide. The authority shall perform project reviews and site inspections deemed necessary to ensure program compliance. When noncompliance is indicated, the authority may require remedial actions to be taken.

23.15(7) *Contract amendments.* Any substantive change to a funded CDBG project, including time extensions, budget revisions and significant alteration to proposed activities, shall be considered a contract amendment. The recipient shall request the amendment in writing. No amendment shall be valid until approved in writing by the authority.

23.15(8) *Contract closeout and audit.* Upon completion of project activities and contract expiration, the authority shall initiate closeout procedures. Contracts may be subject to audit before closeout of the contract can be completed. The audit shall be performed in a manner consistent with the provisions set forth in the Single Audit Act of 1996 and described in the CDBG management guide.

23.15(9) *Contractors and subrecipients limitation.* CDBG funds shall not be used directly or indirectly to employ, award contracts to, otherwise engage the services of or fund any contractor or subrecipient during any period of debarment, suspension or placement in ineligibility status by HUD under the provisions of 24 CFR 24, as revised April 1, 1997.

23.15(10) *Compliance with federal and state laws and regulations.* Recipients shall comply with all applicable provisions of the Housing and Community Development Act of 1974 and these administrative rules. Recipients shall also comply with any provisions of the Iowa Code governing activities performed under this program.

23.15(11) *Noncompliance.* At any time before project closeout, the authority may, for cause, find that a recipient is not in compliance with requirements under this program. At the authority's discretion, remedies for noncompliance may include penalties up to and including the return of program funds to the authority. Findings of noncompliance may include the use of CDBG funds for activities not described in the application, failure to complete approved activities in a timely manner, failure to comply with any applicable state or federal rules or regulations or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

23.15(12) Appeals process for findings of noncompliance. Appeals shall be entertained in instances where it is alleged that authority staff participated in a decision that was unreasonable, arbitrary, capricious or otherwise beyond the authority delegated to the authority. Appeals shall be addressed to the division administrator of the community development division. Appeals shall be in writing and submitted to the authority within 15 days of receipt of the finding of noncompliance. The appeal shall include reasons why the decision should be reconsidered. The director shall make the final decision on all appeals.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.16(15) Requirements for the downtown revitalization fund. Downtown revitalization funds are reserved for eligible CDBG activities that assist in the revitalization of downtown areas.

23.16(1) Maximum grant award. The maximum grant award for individual applications is \$500,000.

23.16(2) Application procedure. Application forms and instructions shall be available at iowagrants.gov.

23.16(3) Review criteria. The authority shall review applications and make funding decisions based on criteria described in the annual action plan. Review criteria typically include:

- a. Impact of the project on the community.
- b. Readiness to proceed with the proposed activity and likelihood that the activity can be completed in a timely fashion.
- c. Level of community support for a downtown revitalization effort.
- d. Degree to which downtown revitalization fund assistance would be leveraged by other funding sources and documentation of applicant efforts to secure the maximum amount of local financial support for the activity.
- e. Degree to which the activity meets or exceeds the minimum building and site design criteria established by the authority to be eligible for funding.
- f. Level of planning completed for comprehensive downtown revitalization efforts.

23.16(4) Notification of award. Applicants selected to receive awards shall be notified by letter from the authority director by the date(s) determined by the authority.

[ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—23.17(15) Section 108 Loan Guarantee Program. The authority will apply to HUD's Section 108 Loan Guarantee Program to establish a section 108 program to assist with economic and community development projects in Iowa.

23.17(1) Eligible applicants.

- a. All incorporated cities and all counties in the state of Iowa, except those designated as entitlement areas by HUD, are eligible to apply for and receive funds under this program.
- b. Projects must meet a national objective as described in subrule 23.5(2).
- c. The minimum loan amount for a project will be \$500,000. The maximum loan amount for a project will be \$10 million.
- d. Applications must provide evidence of adequate private equity and ability to repay loan funds.
- e. Applicants must certify to meet all applicable federal requirements including those requirements in subrule 23.5(9).

23.17(2) Eligible activities. Projects under the program will fall into at least one of the following categories:

- a. Economic development resulting in substantial private investment and job creation/retention.
- b. Adaptive reuse of vacant or underutilized commercial or industrial buildings for residential purposes.
- c. Conversion of buildings to provide upper-story residential units.
- d. Rehabilitation of vacant single-family residential units or demolition of blighted, unoccupiable, vacant single-family residential units.

23.17(3) Application procedure. Application forms and instructions shall be available at iowagrants.gov. The authority shall accept section 108 applications at any time and shall review applications on a continuous basis as long as funding is available.

23.17(4) Review criteria and funding decision. The authority shall review applications based on criteria described in the annual action plan. All final funding decisions will be made by HUD.
[ARC 2038C, IAB 6/24/15, effective 7/29/15]

These rules are intended to implement Iowa Code section 15.108(1) "a."

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¹ See IAB Economic Development Department.