

**261—49.12(404A) Agreement.** Upon successful registration of the project as described in subrule 49.11(7), the eligible taxpayer shall have 90 calendar days or until the end of the fiscal year, whichever is less, to purchase or lease the property, if applicable, and enter into an agreement with the authority. Nothing in these rules shall affect the authority's ability to comply with the annual award limitations described in Iowa Code section 404A.4. The authority shall not enter an agreement until it receives proof that the eligible taxpayer is the actual fee simple owner or has a binding qualified long-term lease that meets the requirements of the federal rehabilitation credit. An eligible taxpayer shall not be eligible for historic tax credits unless the eligible taxpayer enters into an agreement with the authority concerning the qualifying rehabilitation project and satisfies the terms and conditions that must be met to receive the tax credit award.

**49.12(1) Terms and conditions.** The agreement shall contain mutually agreeable terms and conditions, which shall, at a minimum, provide for the following:

*a.* The maximum amount of the tax credit award. Notwithstanding anything in this chapter to the contrary, no tax credit certificate shall be issued until the authority verifies the amount of final qualified rehabilitation expenditures and compliance with all other requirements of the agreement, Iowa Code chapter 404A, and the applicable rules.

*b.* The rehabilitation work to be performed. An eligible taxpayer shall perform the rehabilitation work consistent with the U.S. Secretary of the Interior's standards for rehabilitation, as determined by the department.

*c.* The budget of the qualified rehabilitation project. The budget should include projected qualified rehabilitation expenditures, and those expenditures not qualified, and allowable cost overruns. The amount of allowable cost overruns provided for in the agreement shall not exceed the following amounts:

(1) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of not more than \$750,000, 15 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(2) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$750,000 but not more than \$6 million, 10 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

(3) For a qualified rehabilitation project with estimated final qualified rehabilitation expenditures of more than \$6 million, 5 percent of the projected qualified rehabilitation expenditures provided for in the agreement.

*d.* A schedule of all funding sources received or anticipated to be received that will be used to fund the project, including those funding sources used or that will be used to finance or reimburse both qualified rehabilitation expenditures and those expenditures not being claimed as qualified rehabilitation expenditures, along with supporting documentation. The schedule must identify all government funding as defined in rule 261—49.3(404A).

*e.* The commencement date.

*f.* The completion date.

*g.* The agreement termination date.

*h.* Such other terms, conditions, representations, and warranties as the authority may determine are necessary or desirable to protect the interests of the state.

**49.12(2) Agreement timeline.** The commencement date indicated in the agreement shall be no later than the end of the fiscal year in which the agreement is entered into. The completion date indicated in the agreement shall be no later than 36 months from the commencement date. The agreement termination date indicated in the agreement shall not be earlier than five years from the date on which the tax credit certificate is issued.

**49.12(3) Amendments.** The authority may for good cause amend an agreement. However, the authority may not amend an agreement to allow cost overruns in excess of the amount described in paragraph 49.12(1) "c." Any amendment approved by the authority shall be signed by both parties.

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