

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).

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