

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 41 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Shelter Assistance Fund program (program) established pursuant to Iowa Code section 16.41. The program is intended to support the costs of operations of homeless and domestic violence shelters, essential services for the homeless, and evaluation and reporting of services for the homeless.

Analysis of Impact

1. Persons affected by the proposed rulemaking:

• Classes of persons that will bear the costs of the proposed rulemaking:

Entities that apply for and are approved for grants through the program will bear the costs of the rulemaking.

• Classes of persons that will benefit from the proposed rulemaking:

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

• Quantitative description of impact:

Entities interested in applying for grants may require staff time to complete an application. Recipients may similarly incur costs to comply with reporting and monitoring requirements. Some applicants may choose to rely on an external service provider to complete these tasks.

The amount of the costs will vary, depending on the compensation of staff or service providers involved.

- **Qualitative description of impact:**

Entities that apply for and are approved for grants will benefit from clarity and streamlining of the rules.

3. **Costs to the State:**

- **Implementation and enforcement costs borne by the agency or any other agency:**

Authority staff time is required to review and approve applications, administer grants, and communicate with program applicants and recipients.

- **Anticipated effect on state revenues:**

The rulemaking has no fiscal impact. The Authority is directed to administer the shelter assistance fund by Iowa Code section 16.41.

4. **Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:**

Only the entities that will potentially benefit from financial assistance bear the costs of the rulemaking. The costs to the State to administer the program are proportional to the activities supported by financial assistance.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Authority has not identified less costly methods or less intrusive methods of administering the program.

6. Alternative methods considered by the agency:

- **Description of any alternative methods that were seriously considered by the agency:**

The Authority did not consider any alternative methods.

- **Reasons why alternative methods were rejected in favor of the proposed rulemaking:**

The Authority did not consider any alternative methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.

- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.

- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.

- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The proposed rules do not have a substantial impact on small business. The application, contracting, and monitoring requirements related to the program are no more than necessary to administer the statutory requirements of the program. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 265—Chapter 41 and adopt the following **new** chapter in lieu thereof:

CHAPTER 41

SHELTER ASSISTANCE FUND

265—41.1(16) Purpose. The shelter assistance fund (SAF) is created pursuant to and for the purposes stated under Iowa Code section 16.41.

265—41.2(16) Definitions.

“*Applicant*” means an eligible provider of homeless services that is applying for SAF funds.

“*Authority*” means the Iowa finance authority.

“*Domestic violence shelter*” means a homeless shelter primarily or exclusively serving clients who are homeless due to domestic violence.

“*DVIMS*” means the Domestic Violence Information Management System, which is Iowa’s designated database for domestic violence shelters.

“*ESG*” 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 as defined in 24 CFR Part 91.

“*Homeless*” means the same as set forth in 24 CFR Part 91.

“*Homeless shelter*” or “*shelter*” means a facility properly zoned and lawfully operating in compliance with all state, county and municipal laws and regulations, including possessing all permits, licenses, certifications and other authorizations required for the facility’s location, which provides temporary shelter with overnight sleeping accommodations for homeless persons and which does not require occupants to sign leases or occupancy agreements.

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

“*Participant*” means any person or family who is homeless or at risk of becoming homeless and is provided assistance from a recipient utilizing SAF funds.

“*Private nonprofit organization*” means an organization as set forth in 42 U.S.C. Section 11371, which has registered with the state of Iowa as a nonprofit corporation.

“*Recipient*” means any organization to which the authority distributes SAF funds.

265—41.3(16) Eligible applicants. City governments, county governments, instrumentalities of government, and nonprofit organizations that operate a homeless shelter are eligible applicants under the SAF program.

265—41.4(16) Eligible activities. Eligible activities may include the following, where necessary to assist participants:

41.4(1) Operating expenses for homeless and domestic violence shelters necessary for the operation of the shelter, including staff salaries, maintenance (including minor or routine

repairs), rent, security, fuel, equipment, insurance, utilities, food, furnishings, and supplies. Where or when no appropriate shelter is available for a homeless family or individual, eligible costs may include a hotel or motel voucher for that family or individual. Costs of third-party agencies in providing food to one or more shelters or directly to participants may also be included as eligible costs.

41.4(2) Essential services for individuals and families in homeless and domestic violence shelters, including case management, coordinated entry or centralized intake, child care, education services, employment assistance and job training, outpatient health services, legal services, life skills training, mental health services, substance abuse treatment services, and transportation necessary to provide services.

41.4(3) Evaluation and reporting of services for the homeless, including the implementation of the HMIS.

265—41.5(16) Application procedures. The authority shall issue requests for applications periodically, specifying requirements, priorities, period of funding, and maximum and minimum award amounts, subject to available funding. Requests for applications may be issued jointly with the ESG program. Only applications submitted as prescribed by the authority will be considered.

265—41.6(16) Application review process.

41.6(1) Applications will be reviewed by the authority for funding approval or denial based on priorities established during each competition round. Review criteria include but are not limited to the following:

- a. Project design,
- b. Applicant experience and capacity,
- c. Community partnerships and need,
- d. Past performance, and

e. Budget and grant management.

41.6(2) If an application contains an activity determined to be ineligible, at the authority's discretion, the ineligible activity may be deleted from the application or the application may be disqualified in its entirety.

41.6(3) Before making final funding recommendations, the authority may review applications with other state agencies or any other party deemed appropriate in the authority's sole discretion.

41.6(4) Based on the review process and subject to available funding, the authority may revise the applicant's overall funding request by activity or funding level and recommend a final funding figure to the authority's board of directors for approval.

265—41.7(16) Matching contributions. The authority reserves the right to designate a portion or all of SAF funds to be used toward the matching contributions requirement imposed by HUD for ESG funds received by the state of Iowa. SAF funds designated as ESG matching contributions may not be used to meet matching requirements of other grant moneys received by recipients. Recipients will be informed if SAF funds have been used toward the ESG matching requirement and will be responsible for ensuring compliance with the matching requirements of other grant programs.

265—41.8(16) Funding awards.

41.8(1) *Authorization.* The authority's board of directors approves funding awards during each application cycle.

41.8(2) *Right to negotiate.* The authority reserves the right to negotiate with the recipient the amount of the funding award, the scale or scope of the recipient's project, and alternative methods for completing the project.

41.8(3) *Special purpose awards.* The authority may, at its discretion, make funding awards for evaluation, reporting, or implementation of services for the homeless, including

but not limited to the HMIS or coordinated entry, apart from the application procedures and application review process set forth in rules 265—41.5(16) and 265—41.6(16).

265—41.9(16) Requirements placed on recipients.

41.9(1) *Participation by homeless individuals and families.* To the extent possible, recipients are required to involve, through employment, volunteer services, or otherwise, homeless individuals and families in constructing, renovating, maintaining, and operating facilities assisted with SAF funds and providing services assisted with SAF funds.

41.9(2) *Termination of assistance and grievance procedure.* Recipients shall establish and implement a formal process to terminate assistance to participants who violate SAF program requirements. This process shall include a hearing that provides participants a full opportunity to address issues of noncompliance.

41.9(3) *Data reporting system.* Recipients shall participate in the HUD-approved HMIS adopted by the authority unless the recipient qualifies as a domestic violence shelter, in which case the recipient shall use the DVIMS.

41.9(4) *Ensuring confidentiality.* Recipients shall develop and implement procedures to guarantee the confidentiality of records pertaining to any participant, including any individual to whom family violence prevention or treatment services are provided. In addition, the address or location of any domestic violence shelter shall not be disclosed to any person except with written authorization of the shelter director.

41.9(5) *Requirements for religious organizations.* Recipients shall not engage in religious proselytizing or counseling using SAF funds, require attendance at religious services as a requirement or condition to receive assistance with SAF funds, nor limit services or give preference to persons seeking assistance with SAF funds on the basis of religion.

41.9(6) *Prohibition against involuntary family separation.* If a shelter provides services to families with children under the age of 18, the age of a child under the age of 18 shall not be used as a basis for denying any family's admission to shelter.

41.9(7) *Lead-based paint.* Recipients shall follow the federal rules for lead-based paint, including the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in 24 CFR Part 35, Subparts A, B, H, J, K, M, and R, which apply to all shelters occupied by participants.

41.9(8) *Habitability standards.* Recipients shall follow the federal rules for habitability, ensuring that shelters receiving SAF funds adhere to minimum habitability standards for being safe, sanitary, and adequately maintained, according to the regulations at CFR Part 576.403, and comply with all applicable local building codes.

41.9(9) *Other requirements.* The authority may impose additional requirements on recipients, which will be described in the request for applications, the grant contract, or other guidance materials issued from time to time.

265—41.10(16) Compliance with applicable federal and state laws and regulations.

Recipients shall comply with all applicable federal, state, and local laws with respect to activities performed under this SAF program, including the Iowa Civil Rights Act as set forth in Iowa Code chapter 216. Recipients shall also comply with the following additional requirements.

41.10(1) *Review of financial statements.* Recipients shall obtain from an independent certified public accountant an annual audit report or an annual independent review of recipients' financial statements.

41.10(2) *Conflict of interest.* No person, including any employee, agent, consultant, officer, or elected or appointed official of a recipient, exercising any functions or

responsibilities with respect to activities assisted under the SAF program or in a position to participate in a decision-making process or gain inside information with regard to activities assisted under the SAF program shall:

- a. Obtain a financial interest or benefit from an assisted activity;
- b. Have a financial interest in any contract, subcontract, or agreement with respect to an assisted activity; or
- c. Have a financial interest in the proceeds derived from an assisted activity, either for the person or for those with whom the person has immediate family or business ties.

This subrule shall apply during a person's tenure and for a one-year period thereafter.

265—41.11(16) Administration.

41.11(1) *Contracts.* Upon selection of an application for funding, the authority will initiate a contract. These rules and applicable federal and state laws and regulations will become part of the contract. Certain activities may necessitate that permits or clearances be obtained from other state agencies before the start of the project. Funding awards may be conditioned upon the timely completion of these requirements or any other conditions stipulated in the contract at the authority's sole discretion.

41.11(2) *Recordkeeping and retention.* Financial records, supporting documents, statistical records, and all other records pertinent to the funded project shall be retained by the recipient and made available to the authority upon request. Proper record retention shall be in accordance with the following:

- a. Retention of records for any assisted activity for five years after the end of the grant period and, if applicable, until audit and compliance monitoring procedures are completed and accepted by the authority.

b. Access to all books, accounts, documents, records, and other property belonging to or in use by a recipient pertaining to the receipt of assistance under these rules by the office of auditor of state, the authority or the authority's designee.

41.11(3) *Reporting requirements.* Recipients shall submit reports to the authority as prescribed in the contract. Reports include:

a. HMIS data reports. All recipients are required to submit regular reports on participants served using the current HMIS reporting process as prescribed by the authority unless a recipient qualifies as a domestic violence shelter, in which case the recipient shall submit reports using the DVIMS.

b. Requests for funds. Recipients shall submit requests for funds during the contract period at intervals and using forms as prescribed by the authority. The authority may perform any review or field inspections it deems necessary to ensure SAF program compliance, including review of recipient records and reports. When problems of compliance are noted, the authority 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 41.11(4).

41.11(4) *Remedies for noncompliance.* Should the authority find that a recipient is not in compliance with the requirements under this SAF program, the authority may employ any remedies it deems appropriate, including but not limited to the following:

a. Issue a warning letter stating that continued failure to comply with SAF program requirements within a stated period of time will result in a more serious action.

b. Condition a future award on correcting compliance issues.

c. Direct the recipient to stop incurring costs with grant funds.

d. Require that some or all of the awarded funds be remitted to the authority.

e. Reduce the level of funds the recipient would otherwise be entitled to receive.

f. Elect not to provide future award funds to the recipient until appropriate actions are taken to ensure compliance.

g. Prohibit a future award of funds.

These rules are intended to implement Iowa Code section 16.41.