CHAPTER 5
SMALL BUSINESS LOAN PROGRAM

PART I
GENERAL

265—5.1(16) Program description. This program is intended to allow qualified small businesses to obtain loans at below market interest rates for qualified purposes through tax-exempt financing. Loans will be available from a participating lender under the IFA small business loan program. Project sponsors shall apply directly to the participating lenders, who shall make credit and risk evaluations and otherwise make the decision, based on sound lending practices, whether or not to extend credit to the project sponsor.

After the decision to extend credit has been made by the participating lender, the authority will contemporaneously enter into a loan agreement with the project sponsor and will issue a small business development revenue bond, the interest on which is exempt from federal income taxation, in the amount of the loan. The authority will assign the loan to the participating lender, and the lender will purchase that bond. The proceeds will be used to fund the loan assigned to the lender.

Under the IFA revenue bond procedures, the bond which is issued by the authority and purchased by the mortgage-lender is a nonrecourse obligation. The only security for the lender is the underlying security on the assigned loan.

265—5.2(16) Waiver. The authority may by resolution waive or vary particular provisions of these rules to conform to requirements of the federal government in connection with a small business loan with respect to which federal assistance, insurance or guaranty is sought, provided the waiver does not conflict with Iowa Code chapter 16.

265—5.3(16) Urban revitalization. To assist in improving the economy of areas which have been designated as a revitalization area under state law, applications for businesses located or to be located in such areas may be given priority by the authority. A minimum of 10 percent of the bonding authority authorized by the legislature for use on small business loans shall be reserved for use and application in those areas of the state designated as urban revitalization areas.

265—5.4 to **5.9** Reserved.

PART II
DEFINITIONS

265—5.10(16) Definitions. As used in connection with the small business loan program, the following terms have the meanings indicated.

5.10(1) *"Annual gross revenues"* means total sales, before deducting returns and allowances but after deducting corrections and trade discounts, sales taxes and excise taxes based on sales, as determined in accordance with Generally Accepted Accounting Principles.

5.10(2) *"Application"* means those documents required by the participating lender and the authority, which shall include all of the information required by rule 5.20(16).

5.10(3) *"Time of application"* means the date by which a participating lender has received an application from a project sponsor.

5.10(4) *"Eligible project sponsor"* means a small business as defined in Iowa Code section 16.1(28).

5.10(5) *"Operation of a farm"* means the same as "farming" as defined in Iowa Code section 172C.1, subsection 6.

5.10(6) *"Profession"* means those old historically recognized vocations of law and medicine.

5.10(7) *"Participating lender"* means a mortgage lender as defined in Iowa Code section 16.1 that has submitted a letter of interest to the authority which has been approved by the board of the authority.

5.10(8) *"Full-time equivalent position"* means any of the following:

a. An employment position requiring an average work week of 40 or more hours;

b. An employment position for which compensation is paid on a salaried full-time basis without regard to the hours worked; or

c. An aggregation of any number of part-time positions which equal one full-time position. For purposes of this subrule each part-time position shall be categorized with regard to the average number of hours required per week as a one-quarter, half, three-quarter, or full-time position, as shown in the following table:

Average Number of Weekly Hours	Category
More than 0 but less than 15	1/4
15 or more but less than 25	1/2
25 or more but less than 35	3/4
35 or more	1 (full time)

265—5.11 to **5.19** Reserved.

PART III
LOAN CRITERIA AND DOCUMENTATION

265—5.20(16) Application. Eligible project sponsors for small business loans shall apply directly to participating lenders in the IFA small business loan program in accordance with the procedures in Chapter 4 of these rules.

265—5.21(16) Public benefit. Before approving a small business development revenue bond issue for any project sponsor, the authority must find that the proposed project will result in one or more of the following:

1. Creation of jobs in Iowa;
2. Increased revenues for the borrower from a more modern or expanded facility located in Iowa;
3. Providing a service facility needed in the Iowa community where the project will be located.

265—5.22(16) Loan criteria.

5.22(1) *Evaluation.* The participating lender shall evaluate each application for a small business loan to assure that the following criteria are met:

a. The project sponsor shall show evidence that it is able to operate the business successfully. This shall include an overall business management plan including, but not limited to, the following:

1. A generalized projection of revenues and expenditures for the three-year period beginning the month of anticipated loan closing;
2. Capital formation plans, if any, other than from the small business loan program;
3. To the extent possible, identification and analysis of risks;
4. Plans for record keeping, personnel and financial management;
5. Plans for marketing.

b. The project sponsor shall have enough capital in the business so that, with assistance from the small business loan program, the project sponsor will be able to operate the business on a financially sound basis. The project sponsor shall provide the participating lender access to its financial records including, but not limited to, information concerning the identity of all persons having an ownership interest in the small business, its capital structure, and its present and projected debt structure.

c. The loan shall be so secured or of sound value as to reasonably assure repayment. The participating lender may require any collateral, security or mortgage documents or other filings or protection as are reasonably necessary to assure security.

d. The business's past earnings record and future prospects shall indicate an ability to repay the loan out of income from the business. The project sponsor shall provide a summary of past earnings and future earnings prospects for the business, and allow the participating lender reasonable access to its books and records.

5.22(2) *Small business qualifications.* For the purpose of meeting the employment position test of Iowa Code chapter 16, a project sponsor, to be an eligible project sponsor, shall not have had more than 20 full-time positions during each of the 26 consecutive weeks within the 52-week period immediately preceding the date on which the project sponsor files an application with the participating lender and shall not have more than 20 full-time equivalent positions on the date of application.

5.22(3) *Business dominant in its field of operation.* For the purposes of the employment position test and the gross revenue test of Iowa Code chapter 16, a business shall be considered dominant in its field of operation if:

a. It has had more than 20 full-time positions during each of 26 consecutive weeks within the 52-week period immediately preceding the date on which the project sponsor, which is an affiliate or is a subsidiary of the business to which the test is being applied, files an application with a participating lender, or has more than 20 full-time equivalent positions on the date of application; and

b. It has more than $3,000,000 in gross revenues as computed for the preceding fiscal year, or as the average of the three preceding fiscal years.

5.22(4) *Professions.* For the purpose of meeting the professional tests, to be an eligible project sponsor, the project sponsor shall not be a business more than 50 percent of which is owned, in the aggregate by professionals or professional entities which occupy or use, in the aggregate, more than 50 percent of the project. For purposes hereof, a professional entity shall be considered to be occupying or using a project to the extent that its partners, shareholders, officers or owners occupy or use such project.

This rule is intended to implement Iowa Code section 16.1(28).

265—5.23(16) Good character. A project sponsor must be of good character, to be determined in the following manner by the participating lender:

1. A project sponsor who has never been convicted of a felony is of good character.
2. A project sponsor who has been convicted of a felony but who has been restored to full rights of citizenship by the governor, pursuant to Iowa Code section 248.12, is of good character.
3. A project sponsor who has been convicted of a felony but who has not been restored to full rights of citizenship by the governor may be presumed to be of good character if no legal restrictions apply to the operation of the business for which they are seeking financing by a person so convicted.
4. The participating lender may inquire at appropriate local, county, state and federal law enforcement agencies in making the above determination.
5. If the good character of the project sponsor cannot be established as provided in paragraphs 1 to 3 herein, the lender shall notify the Iowa finance authority for further guidance.

These rules are intended to implement Iowa Code chapter 16.

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