

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Proposing rule making related to Iowa energy center grant program and providing an opportunity for public comment

The Economic Development Authority hereby proposes to adopt new Chapter 404, “Iowa Energy Center Grant Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 15.120.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.120.

Purpose and Summary

2017 Iowa Acts, chapter 169, created new Iowa Code section 15.120 and transferred the Iowa Energy Center from Iowa State University to the Economic Development Authority. Pursuant to Iowa Code section 15.120, the Iowa Energy Center Board is directed to oversee programs, including grant programs, established by the Iowa Energy Center and to adopt rules for the administration of the Iowa Energy Center and its programs.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on December 26, 2018. Comments should be directed to:

Kristin Hanks-Bents
Iowa Economic Development Authority
200 East Grand Avenue
Des Moines, Iowa 50309
Email: kristin.hanks-bents@iowaEDA.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making action is proposed:

Adopt the following **new** 261—Chapter 404:

CHAPTER 404
IOWA ENERGY CENTER GRANT PROGRAM

261—404.1(15) Definitions.

“Activity” means one or more specific activities, projects or programs associated with Iowa energy center grant funds.

“Annual allocation” means the annual dollar amount the board allocates to the Iowa energy center for energy center grant activities.

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

“Board” means the governing board of the Iowa energy center established pursuant to Iowa Code section 15.120(2).

“Co-investigator” means a person who shares the responsibility of conducting grant activities with the principal investigator of a project.

“Funding announcement” means a publicly available document that contains the official information for a grant, including the application deadline, goals of the activity, eligibility requirements, reporting requirements, availability of funds and instructions on applying for the grant.

“Iowa energy center” or *“IEC”* means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

“Principal investigator” means a person with the primary responsibility for conducting research.

“Recipient” means an organization that was awarded an Iowa energy center grant.

“Subinvestigator” means a person who is carrying out grant activities at the direction of the principal investigator and is receiving funds from the award made to the recipient.

“Subrecipient” means an organization contracting with and receiving funds from a recipient to carry out IEC grant activities.

261—404.2(15) Policies and procedures handbook. The authority will prepare a policies and procedures handbook for approval by the board. The board will review the policies and procedures handbook on an annual basis. The policies and procedures will include the annual allocation to each grant activity.

261—404.3(15) Eligibility.

404.3(1) Eligible applicants. Eligible applicants include Iowa businesses, colleges and universities, and private nonprofit agencies and foundations.

404.3(2) Applications with subrecipients. Any eligible applicant may submit an application that includes one or more subrecipients. The amount of an award that a subrecipient can receive is set forth in the policies and procedures.

404.3(3) Joint applications. Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

404.3(4) Restrictions on applicants. A principal investigator will be allowed to submit one application per funding announcement. An applicant who has submitted an application as the principal

investigator for a funding announcement may also be named as a co-investigator on additional applications submitted for the same funding announcement, provided the applicant is not the principal investigator on any additional applications.

404.3(5) Eligible projects. Requirements for IEC grant awards include but are not limited to the following:

- a. Applicants shall demonstrate a benefit for ratepayers.
- b. Applicants shall demonstrate that they are eligible candidates.
- c. Applicants shall demonstrate the capacity for grants administration.
- d. Applicants who have previously received Iowa energy center awards shall have demonstrated acceptable past performance, including the timely expenditure of funds.
- e. Applications shall demonstrate the feasibility of completing the proposed activities with the funds requested.
- f. Applications shall identify and describe any other sources of funding for the proposed activities.

404.3(6) Ineligible projects. The following types of projects are ineligible for an award.

- a. Relocation of a business.
- b. Expansion of a business.
- c. Funding for existing training programs.
- d. Private asset development.
- e. Pipeline, transmission line, and distribution line construction.
- f. First generation ethanol.
- g. Cellulosic ethanol.

261—404.4(15) Funding and award terms.

404.4(1) For each fiscal year that funds are available, the board will determine the amount of funds available to be awarded as grants in that fiscal year.

404.4(2) If any funds are allocated to a specific grant activity but are not awarded after a funding cycle, the board may reallocate those funds to a different grant activity.

404.4(3) The board may reallocate any recaptured funds to a different grant activity.

404.4(4) The maximum grant award is \$1 million per application. The minimum grant award is \$10,000 per application.

404.4(5) The initial duration of a grant agreement will be no longer than three years. However, a recipient may apply for a no-cost extension of an agreement. If the approval of a no-cost extension would cause the duration of the grant agreement to exceed five years, the no-cost extension shall not be granted.

261—404.5(15) Project budget.

404.5(1) Eligible expenses. Only expenditures directly related to the implementation of the funded grant activity will be reimbursed. Examples of eligible expenses can be found in the policies and procedures handbook. Vehicle purchases are eligible only when the purchase of the vehicle is an integral part of the funded grant activity and must be approved by the board at the time the award is made.

404.5(2) Ineligible expenses include but are not limited to:

- a. Purchase or rental of buildings.
- b. Office equipment.
- c. Furniture and fixtures.
- d. Intangible assets.
- e. International travel.
- f. Insurance.
- g. Phone expenses.

404.5(3) Other budget requirements include the following:

- a. Indirect costs shall not exceed more than 20 percent of a grant award.
- b. IEC grant funds shall not be used as cost share to a federal grant award.
- c. Vehicle purchases or other vehicle-related expenses are not eligible if the purchase or expense supports the proposed grant activity but is not an integral part of the proposed grant activity. If a vehicle

purchase is an integral part of a grant activity but a recipient fails to obtain board approval prior to the purchase, then the vehicle purchase is ineligible.

261—404.6(15) Application process and review.

404.6(1) The board will issue funding announcements for grant applications at least once per fiscal year, provided funds are available.

404.6(2) Application forms will be available at iowagrants.gov.

404.6(3) Applications will only be accepted during the established application period, as identified by the Iowa energy center on its website at www.iowaeconomicdevelopment.com.

404.6(4) The Iowa energy center will review applications and make funding decisions after each funding announcement. Review criteria typically include but are not limited to:

a. The proposed project demonstrates a need for further research, development, training or pilots.

b. The proposed project provides a benefit to ratepayers.

c. The application has a well-developed budget that is relevant to the project and that provides documentation of planned project expenses.

d. The application describes a dissemination plan for postgrant activities.

404.6(5) Applicants must first submit a preapplication. The authority will review the preapplication for eligibility and recommend preapplications to the grant committee. The grant committee will review the preapplications and determine which preapplications warrant submission of full applications.

404.6(6) An application may not be submitted to the Iowa energy center until a preapplication has been submitted to the Iowa energy center and the grant committee has approved submission of the application. The authority will review applications for completeness, eligibility, and technical and financial merit. The authority may engage an outside technical review panel to complete technical review of applications. The authority will prepare recommendations for the grant committee. The grant committee will review the applications and staff recommendations and make recommendations to the board. Upon review of the recommendations of the grant committee, the board shall approve, defer, or deny each application.

261—404.7(15) Administration.

404.7(1) *Notice of approval.* The authority will notify successful applicants in writing of an approved request for funding. Notification will include the terms or conditions under which approval is granted.

404.7(2) *Agreement.* After notifying the recipient of an award, the authority will issue an agreement. The agreement shall be between the recipient and the authority.

404.7(3) *Transmittal.* The recipient must execute and return the agreement to the authority within 45 days of the transmittal of the final agreement from the authority. Failure to do so may be cause for the board to terminate the award.

404.7(4) *Disbursement of funds.* Recipients shall submit requests for grant funds in the manner prescribed by the authority. Disbursements shall be made on a reimbursement basis. No advance disbursements shall be allowed. Disbursements may be withheld if applicable performance reports have not been received and approved. Individual requests for funds shall be made in an amount equal to or greater than \$500 per request, except for the final draw of funds.

404.7(5) *Record keeping and retention.* Recipients shall retain all financial records, supporting documents and all other records pertinent to the grant for five years after agreement closeout.

404.7(6) *Performance reports and reviews.* Recipients shall submit performance reports to the authority as described in the policies and procedures handbook. The authority may perform annual project reviews and site inspections as necessary to ensure program compliance.

404.7(7) *Agreement amendments.*

a. Any substantive change to a funded IEC project, including time extensions, budget revisions, and alterations to proposed activities, will be considered an agreement amendment. The recipient shall request an amendment in writing. No amendment shall be valid until approved by the board, except as provided in paragraph 404.7(7)“*b*” and confirmed in writing by the authority.

b. Staff approvals.

(1) Staff may approve one no-cost extension provided that the extension complies with subrule 404.4(5). Additional no-cost extensions shall be presented to the board for approval.

(2) Budget modifications. Any substantial modification of a project budget shall require board approval. Staff may approve budget modifications that are not substantial. For purposes of this subparagraph, “substantial modification” means a budget modification of either \$10,000 or 10 percent of the total grant award, whichever is less.

404.7(8) *Agreement closeout.* Upon agreement expiration or project completion, the authority shall initiate project closeout procedures.

404.7(9) *Compliance with state and local laws and rules.* Recipients shall comply with these rules, with any provisions of the Iowa Code governing activities performed under this program, and with any applicable local rules.

404.7(10) *Noncompliance.* At any time during a project, the IEC may, for cause, find that a recipient is not in compliance with the requirements of this program. At the board’s discretion, remedies may include penalties up to and including the return of grant funds to the IEC. Findings of noncompliance may include the use of Iowa energy center 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, regulations, or laws; or the lack of a continuing capacity of the recipient to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code section 15.120.