

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed Emergency After Notice

Rule making related to butchery innovation and revitalization loan program

The Economic Development Authority (IEDA) hereby rescinds Chapter 51, “Self-Employment Loan Program,” and adopts a new Chapter 51, “Butchery Innovation and Revitalization Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15.106A and 2021 Iowa Acts, House File 857.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, House File 857.

Purpose and Summary

2021 Iowa Acts, House File 857, directs IEDA to establish and administer a Butchery Innovation and Revitalization Program. The program will provide grants to eligible businesses to expand, refurbish, or establish new meat processing businesses or for buildings, refrigeration facilities, freezer facilities, or equipment necessary to expand meat processing capacity.

Eligible applicants are Iowa businesses that are licensed by the Iowa Department of Agriculture and Land Stewardship (IDALS) to process meat. The maximum amount of assistance that may be awarded to an eligible applicant is \$50,000. Applications for the program will be scored by a review committee appointed by the Director of IEDA and the Secretary of Agriculture.

As directed in 2021 Iowa Acts, House File 857, IEDA developed the program and the rules in consultation with IDALS staff. New Chapter 51 replaces current Chapter 51 relating to the Self-Employment Loan Program created pursuant to Iowa Code section 15.241, which was repealed by 2003 Iowa Acts, chapter 71, section 6.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 11, 2021, as **ARC 5851C**.

Johnathan Hladik, on behalf of the Center for Rural Affairs, submitted comments suggesting the following:

- Define “local small-scale farmers.”
- Specify in paragraph 51.5(2)“b” that applications will score fewer points if they are likely to negatively impact existing small-scale meat processing businesses rather than all existing meat processing businesses.
- Specify in paragraph 51.5(2)“e” that applications will be evaluated based on both created and maintained jobs as a result of the project.

The following changes from the Notice have been made:

- Clarify in paragraph 51.3(1)“f” that the business must employ fewer than 50 individuals across all locations.
- List factors in paragraph 51.3(1)“g” that may be considered in determining whether an applicant is actively working toward licensure.
- Clarify in paragraph 51.5(2)“b” that application reviewers will grant fewer points to projects that are likely to negatively impact existing meat processing businesses and may also consider the extent of any likely negative impact.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), IEDA finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on September 17, 2021, because the rules create a new financial assistance program to benefit Iowa meat processing businesses.

Adoption of Rule Making

This rule making was adopted by IEDA on September 17, 2021.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond the appropriation made in 2021 Iowa Acts, House File 871.

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 IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

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).

Effective Date

This rule making became effective on September 17, 2021.

The following rule-making action is adopted:

Rescind 261—Chapter 51 and adopt the following **new** chapter in lieu thereof:

CHAPTER 51

BUTCHERY INNOVATION AND REVITALIZATION PROGRAM

261—51.1(15E) Purpose. Pursuant to Iowa Code section 15E.370 as enacted by 2021 Iowa Acts, House File 857, section 1, the authority is authorized to provide financial assistance to businesses for projects relating to butchery innovation and revitalization as identified in this chapter.

261—51.2(15E) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Agreement*” means a contract for financial assistance under the program describing the terms on which the financial assistance is to be provided.

“*Applicant*” means a business applying for assistance under the program.

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

“*Authority’s website*” means the information and related content found at www.iowaeda.com and may include integrated content at affiliate sites.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Business*” means a sole proprietorship, partnership, corporation, or other business entity organized for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“*Committee*” means the committee of application reviewers appointed by the director and the secretary pursuant to subrule 51.5(1).

“*Department*” means the department of agriculture and land stewardship.

“*Director*” means the director of the authority.

“*Establishment*” means the same as defined in Iowa Code section 189A.2.

“*Federal grant of inspection*” means a certification issued by the Food Safety and Inspection Service certifying that an establishment is in compliance with the applicable requirements of 9 Code of Federal Regulations Chapter III and has been granted daily inspection services by FSIS.

“*Federally inspected small-scale meat processing business*” means an establishment that has been issued a federal grant of inspection and meets eligible business criteria in subrule 51.3(1).

“*Financial assistance*” means assistance provided only from the funds and assets legally available to the authority pursuant to Iowa Code section 15.370 as enacted by 2021 Iowa Acts, House File 857, section 1, and includes assistance in the form of grants, low-interest loans, and forgivable loans.

“*Food Safety and Inspection Service*” or “*FSIS*” means the agency of the United States Department of Agriculture which regulates establishments.

“*Grant*” means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the contract with the authority for the project, repayment of funds is not required.

“*Licensed custom locker*” means an establishment that slaughters or prepares livestock exclusively for use by the owners of the livestock, members of their household, and their nonpaying guests and employees, that is periodically inspected by the department, and that meets the eligible business criteria in subrule 51.3(1).

“*Mobile slaughter unit*” means a self-contained slaughter establishment that can travel from site to site, that operates in compliance with applicable laws, regulations, and the most current mobile slaughter unit compliance guide issued by FSIS, and that meets the eligible business criteria in subrule 51.3(1).

“*Program*” means the butchery innovation and revitalization program established pursuant to this chapter.

“*Project*” means an activity or activities undertaken by the applicant to be carried out at an establishment.

“*Secretary*” means the secretary of agriculture, who is the head of the department.

“*State grant of inspection*” means a certification issued by the department certifying that an establishment is in compliance with the applicable requirements of 21—Chapter 76 and has been granted daily inspection services by the department.

“*State-inspected small-scale meat processing business*” means an establishment that has been issued a state grant of inspection and meets the eligible business criteria in subrule 51.3(1).

261—51.3(15E) Eligibility.

51.3(1) Eligible businesses. To be eligible for a grant under the program, an applicant shall meet all of the following requirements:

a. The business must be located in this state. For the purposes of this paragraph, a business is located in this state if at least 98 percent of the business’s employees work at the business’s operations in Iowa or if the employees that are paid at least 98 percent of the business’s payroll work at the business’s operations in Iowa.

b. The business must be incorporated or organized in Iowa or authorized to do business in Iowa.

c. The business must not have been subject to any regulatory enforcement action related to federal, state, or local environmental, worker safety, food processing, or food safety laws, rules, or regulations within the last five years. For the purposes of this paragraph, regulatory enforcement actions include, but are not limited to, an administrative order, consent order or similar formal order issued by

an applicable enforcement agency or an involuntary withdrawal of a state grant of inspection or federal grant of inspection.

- d. The business must only employ individuals legally authorized to work in the state.
- e. The business must not currently be in bankruptcy.
- f. The business must employ less than 50 individuals across all the business's locations at the time of application.
- g. The business must be an establishment that holds a current license from the department in accordance with the requirements of Iowa Code chapter 189A or is actively working with the department to obtain a license. Factors the authority may consider in determining whether a business is actively working with the department to obtain a license include, but are not limited to, the number and frequency of contacts the business has had with the department, whether the business has submitted an application for inspection to the department or FSIS, and whether the department or FSIS has conducted a site visit at the business.

51.3(2) Eligible projects. The applicant must propose one of the following types of projects:

- a. To expand or refurbish an existing, or to establish a new, state-inspected small-scale meat processing business.
- b. To expand or refurbish an existing, or to establish a new, federally inspected small-scale meat processing business.
- c. To expand or refurbish an existing, or to establish a new, licensed custom locker.
- d. To expand or refurbish an existing, or to establish a new, mobile slaughter unit.
- e. To rent or purchase buildings, refrigeration facilities, freezer facilities, or equipment necessary to expand processing capacity, including mobile slaughter or refrigeration units used exclusively for meat or poultry processing by a federally inspected small-scale meat processing business, a licensed custom locker, a mobile slaughter unit, or a state-inspected small-scale meat processing business.

51.3(3) Matching support required. The applicant shall demonstrate the ability to provide matching financial support for the project on a one-to-one basis in the form of cash. The matching financial support must be obtained from private sources.

261—51.4(15E) Application submittal and review process.

51.4(1) The authority will develop a standardized application process and make information on applying available on the authority's website. To apply for assistance under the program, an eligible business shall submit an application to the authority in the form and manner prescribed by the authority.

51.4(2) Applications will be accepted only during established application periods as announced on the authority's website. Applications will be reviewed in the order received by the authority.

51.4(3) The authority may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds.

51.4(4) A scoring committee that includes authority and department staff as described in subrule 51.5(1) will consider, evaluate, and recommend applications for financial assistance under the program. The committee will review applications for financial assistance and score the applications according to the criteria described in subrule 51.5(2). Applications deemed to meet the minimum scoring criteria will be submitted to the board for a final funding decision.

51.4(5) The board, after considering the recommendations made by the committee, will determine which applications to fund and how much should be awarded to each applicant. The board has final decision-making authority on requests for financial assistance for the program. The director will take final action on all applications for financial assistance, except those rejected pursuant to subrule 51.4(3). The board may approve an award, decline to award, or refer an application back to staff for further review and recommendation.

51.4(6) The maximum amount of financial assistance awarded to an eligible business for all applications under the program shall not exceed \$50,000. The board may increase the maximum amount of financial assistance per eligible business if funds are made available for the program in addition to the funds appropriated by 2021 Iowa Acts, House File 871.

51.4(7) Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the award.

261—51.5(15E) Application scoring criteria.

51.5(1) *Application scoring.* A scoring committee will be composed of at least one representative of the authority appointed by the director, at least one representative of the department appointed by the secretary, and two additional members mutually agreed upon by the director and the secretary. The committee will evaluate the applications and give them an average numerical score between 0 and 100. The board may not approve a grant for an application that receives an average score of less than 75 points.

51.5(2) *Scoring criteria.* The criteria under which each application will be scored are:

a. The extent to which the project benefits local small-scale farmers by creating or expanding opportunities to market processed meat under private labels or by providing greater flexibility or convenience to have animals processed: 25 points. Projects that increase processing capacity or efficiency will receive more points.

b. The extent to which the project establishes an essential community asset: 25 points. Projects that are likely to negatively impact existing meat processing businesses will receive fewer points. The committee may also consider the extent of any likely negative impact.

c. The sufficiency of the proposed project's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds: 15 points.

d. The extent to which the applicant has planned for long-term use of the project and the likelihood of long-term use: 15 points.

e. The number and quality of jobs to be created by the applicant as a result of the project: 10 points. Projects that create more jobs or higher quality jobs will receive more points. Factors the committee will consider in assessing the quality of jobs include, but are not limited to, wages and benefits.

f. The financial need of the applicant: 10 points. Applicants that received a business improvement grant from the department for expenses incurred between March 1, 2020, and December 1, 2020, will receive fewer points.

261—51.6(15E) Funding decisions. Each application, including its numerical score, will be referred to the board with a recommended funding decision. The board will make the final funding decision on each application, taking into consideration the score and the funding recommendation of the committee.

261—51.7(15E) Contract administration.

51.7(1) The authority will prepare a contract for each award approved by the board. The contract will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this chapter.

51.7(2) Any substantive change to a proposed project shall require an amendment to the contract. Amendments shall be requested in writing. No amendment shall be valid until approved by the board. The authority may execute nonsubstantive or corrective changes to the contract without board approval.

261—51.8(15E) Disbursement of funds. The authority will disburse funds for a project only after a complete application has been received, an award has been approved by the board, a contract has been executed between the applicant and the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the contract will be on a reimbursement basis for expenses incurred by the applicant after the date the board approves the award and as provided under the contract.

261—51.9(15E) Reporting. An applicant receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

These rules are intended to implement Iowa Code section 15E.370 as enacted by 2021 Iowa Acts, House File 857, section 1.

[Filed Emergency After Notice 9/17/21, effective 9/17/21]

[Published 10/6/21]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/6/21.