

ECONOMIC DEVELOPMENT AUTHORITY[261]

Adopted and Filed

Rule making related to sports tourism marketing and infrastructure

The Enhance Iowa Board hereby amends Chapter 214, “Enhance Iowa Board,” and Chapter 215, “Sports Tourism Program,” and adopts Chapter 216, “Sports Tourism Program: Infrastructure Fund,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 15F.104.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 15F and 2022 Iowa Acts, House File 2579.

Purpose and Summary

2022 Iowa Acts, House File 2579, amends Iowa Code sections 15F.401 and 15F.403 relating to the Sports Tourism Program and creates a new Iowa Code section 15.404. The purpose of the program is to provide financial assistance for projects that promote sporting events. The legislation creates a separate fund for sports tourism infrastructure projects and distinguishes this fund from the previously established Sports Tourism Marketing Fund.

The Board adopted amendments to Chapters 214 and 215 to reflect the changes made to the Iowa Code and the legislative intent in updating the program. This rule making also creates a new Chapter 216 to implement the infrastructure fund with the requirements established in the legislation.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on August 10, 2022, as **ARC 6444C**. No public comments were received. Two changes from the Notice have been made in subrules 215.4(2) and 216.4(2) to clarify that compensation of applicant staff is not an eligible expense for the marketing fund or infrastructure fund.

Adoption of Rule Making

This rule making was adopted by the Board on October 6, 2022.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa beyond that of the legislation it is intended to implement.

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 Board for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 213.

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 will become effective on December 7, 2022.

The following rule-making actions are adopted:

ITEM 1. Amend subparagraph **214.2(5)“b”(2)** as follows:

(2) Sports tourism marketing and infrastructure;

ITEM 2. Amend **261—Chapter 215**, title, as follows:

SPORTS TOURISM PROGRAM: MARKETING FUND

ITEM 3. Amend rule 261—215.1(15F) as follows:

261—215.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“*Accredited colleges and universities*” means any college, university, or institution of higher learning that is accredited by the Higher Learning Commission or any other college, university, or institution of higher learning that is accredited by an accrediting agency that is recognized by the U.S. Department of Education.

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

“*Bid fees*” means fees paid as part of proposing a location for an event.

“*Board*” means the enhance Iowa board as created in Iowa Code section 15F.102.

“*Convention and visitors bureau*” or “*CVB*” means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area’s facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“*District*” means a regional sports authority district certified under Iowa Code section 15E.321.

“*Financial assistance*” means assistance provided only from the funds available to the authority or the board and includes assistance in the form of grants, loans, and forgivable loans.

“*Infrastructure*” means equipment, appurtenant structures, or site development that is related to the operation of a sporting event that is the subject of the project land acquisition and construction; major renovations of buildings; and all appurtenant structures, utilities, and site development that are related to the operation of a sporting event.

“*Marketing*” means planning for or implementing efforts to publicize a sporting event using a range of strategies, tools and tactics.

“*Marketing fund*” means the fund established pursuant to Iowa Code section 15F.403 for purposes of financing sports tourism marketing projects.

“*Organization*” means a corporation, conference, association, or other organization which has as one of its primary purposes the sponsoring or administration of extracurricular intercollegiate athletic contests or competitions, or professional sporting events.

“*Professional sporting events*” means any sporting events for which the competing athletes receive payment for their participation in such sporting event.

“*Program*” means the portion of the sports tourism marketing and infrastructure program administered pursuant to this chapter and funded by the marketing fund.

“Promote” or “promotion” means to undertake specific identifiable actions that encourage greater awareness of and attendance at a sporting event. This includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a sporting event.

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization including one that sponsors or supports sporting events.

“Sporting event” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity.

“Sports tourism program review committee” or “review committee” means the committee established by Iowa Code section 15F.402(2) and shall consist of members of the board, with one member from each congressional district under Iowa Code section 15F.102(2) “a” and one member from the state at large under Iowa Code section 15F.102(2) “b.”

ITEM 4. Amend rule 261—215.2(15F) as follows:

261—215.2(15F) Eligible applicants. Eligible applicants for ~~sports tourism~~ financial assistance from the marketing fund include cities or counties in the state or public organizations, including convention and visitors bureaus.

ITEM 5. Amend rule 261—215.3(15F), catchwords, as follows:

261—215.3(15F) Eligible marketing projects.

ITEM 6. Amend rule 261—215.4(15F) as follows:

261—215.4(15F) Eligible and ineligible marketing expenses.

215.4(1) No change.

215.4(2) Ineligible expenses. Expenses that are not directly related to the active promotion of a sporting event will be ineligible for reimbursement under the program. Examples of ineligible expenses include, but are not limited to:

- a. Bid fees, rights fees, solicitation efforts or lobbying fees;
- b. Travel costs or compensation of applicant staff;
- c. Meals, dining, or alcoholic beverages;
- d. Items that are purchased for resale;
- e. Prizes given to participants;
- f. Costs related to infrastructure or ongoing costs of a facility;
- g. Other costs that the board determines to be ineligible.

ITEM 7. Amend **261—Chapter 215**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 15F.401, ~~and~~ 15F.402, and 15F.403 as amended by 2022 Iowa Acts, House File 2579.

ITEM 8. Adopt the following **new** 261—Chapter 216:

CHAPTER 216

SPORTS TOURISM PROGRAM: INFRASTRUCTURE FUND

261—216.1(15F) Definitions. When used in this chapter, unless the context otherwise requires:

“Accredited colleges and universities” means any college, university, or institution of higher learning that is accredited by the Higher Learning Commission or any other college, university, or institution of higher learning that is accredited by an accrediting agency that is recognized by the U.S. Department of Education.

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

“Bid fees” means fees paid as part of proposing a location for an event.

“Board” means the enhance Iowa board as created in Iowa Code section 15F.102.

“Convention and visitors bureau” or *“CVB”* means an organization engaged primarily in the marketing and promotion of a local community or communities to businesses and to leisure travelers interested in the area’s facilities. Such organizations are typically engaged in a wide range of activities including but not limited to assisting businesses and leisure travelers in identifying meeting locations and convention sites; providing maps and other travel information; providing information on local attractions, lodging, and restaurants; and organizing tours of local historical, recreational, and cultural attractions.

“District” means a regional sports authority district certified under Iowa Code section 15E.321.

“Financial assistance” means assistance provided only from the funds available to the authority or the board and includes assistance in the form of grants, loans, and forgivable loans.

“Infrastructure” means land acquisition and construction; major renovations of buildings; and all appurtenant structures, utilities, and site development that are related to the operation of a sporting event.

“Infrastructure fund” means the fund established pursuant to Iowa Code section 15F.404 for purposes of financing sports tourism infrastructure projects.

“Marketing” means planning for or implementing efforts to publicize a sporting event using a range of strategies, tools, and tactics.

“Organization” means a corporation, conference, association, or other organization which has as one of its primary purposes the sponsoring or administration of extracurricular intercollegiate athletic contests or competitions, or professional sporting events.

“Professional sporting events” means any sporting events for which the competing athletes receive payment for their participation in such sporting events.

“Program” means the portion of the sports tourism marketing and infrastructure program administered pursuant to this chapter and funded by the infrastructure fund.

“Promote” or *“promotion”* means to undertake specific identifiable actions that encourage greater awareness of and attendance at a sporting event. This includes the planning, organizing, advertising, marketing, managing, hosting, and sponsoring of a sporting event.

“Public organization” means a not-for-profit economic development organization or other not-for-profit organization including one that sponsors or supports sporting events.

“Sporting event” means an athletic activity requiring skill or physical prowess, usually competitive in nature and governed by a set of rules provided by a nationally recognized sanctioning body. A sporting event typically includes the placing of competitors into a fixed order of finish, depending upon their respective athletic performance within the rules provided for that activity.

“Sports tourism program review committee” or *“review committee”* means the committee established by Iowa Code section 15F.402(2) and shall consist of members of the board, with one member from each congressional district under Iowa Code section 15F.102(2)“a” and one member from the state at large under Iowa Code section 15F.102(2)“b.”

261—216.2(15F) Eligible applicants. Eligible applicants for financial assistance from the infrastructure fund include cities and counties in the state and public entities that are a convention and visitors bureau or a district.

261—216.3(15F) Eligible infrastructure projects. Eligible projects must actively and directly support sporting events for accredited colleges and universities, professional sporting events, and other sporting events in the area served by an eligible applicant as defined in rule 261—216.2(15F). Only projects that support sporting events occurring in Iowa are eligible for assistance.

216.3(1) An eligible applicant may apply for and receive financial assistance for more than one project. The board may require additional information to substantiate the financial need for awarding more than one project in any fiscal year.

216.3(2) An eligible applicant may apply for financial assistance for a project that spans two fiscal years. If financial assistance is approved for two fiscal years, financial assistance will only be provided for the second fiscal year if all applicable contractual requirements are met. When considering whether to award financial assistance for two fiscal years, the board shall evaluate metrics including the amount

of revenue generated by ticket sales, the estimated economic impact, and the number of overnight stays at hotels in the city or county where the sporting event is being held. For example, economic impact may be calculated as total estimated attendance multiplied by daily attendee spending multiplied by average length of stay. If an eligible applicant wishes to supply an alternative formula for calculating economic impact, the applicant must supply a credible source for using an alternative formula. The authority may include such metrics and estimates in a program agreement executed pursuant to Iowa Code section 15F.401.

216.3(3) A convention and visitors bureau shall not in the same fiscal year receive financial assistance under the program created in this chapter and financial assistance as part of a district created pursuant to 261—Chapter 38.

216.3(4) An eligible applicant shall demonstrate the availability of matching funds for financing the sports tourism infrastructure project in the form of a private and public partnership with financing from city, county, and private sources in order to receive financial assistance pursuant to this rule. The amount of matching funds that may be required shall be at the board's discretion. An applicant under the program shall not receive financial assistance in an amount exceeding 50 percent of the total cost of the project.

216.3(5) A city, county, or public organization may use financial assistance received under the program for infrastructure that actively and directly supports a sporting event. Whether an activity or individual cost item is related to the sporting event shall be within the discretion of the authority.

216.3(6) A city, county, or public organization shall not use financial assistance received under the program as reimbursement for completed projects or for costs incurred prior to approval of financial assistance.

216.3(7) Financial assistance shall be provided for sports tourism infrastructure projects that draw a national and international audience and attract a significant number of visitors from outside the state. Factors the authority will consider in determining whether a project is qualified under this subrule include, but are not limited to, whether the likelihood of a national or international audience is validated by any available data about the anticipated audiences for the event, whether the event is nationally or internationally televised, and projected visitor information or visitor information for similar events held in the state.

216.3(8) Financial assistance shall not be provided for sports tourism infrastructure projects located in reinvestment districts as defined and approved by the authority pursuant to Iowa Code section 15J.4 or to applicants that have received a rebate of sales tax imposed and collected by retailers pursuant to Iowa Code section 423.4(5).

261—216.4(15F) Eligible and ineligible infrastructure expenses.

216.4(1) *Eligible expenses.* Examples of eligible expenses include, but are not limited to:

- a. Land acquisition;
- b. Construction;
- c. Major renovation of buildings;
- d. Site development;
- e. Permanent or temporary structures; and
- f. Purchase or long-term lease of equipment.

216.4(2) *Ineligible expenses.* Expenses that are not directly related to sporting events or are not considered infrastructure will be ineligible for reimbursement under the program. Examples of ineligible expenses include, but are not limited to:

- a. Bid fees, rights fees, solicitation efforts, or lobbying fees;
- b. Travel costs or compensation of applicant staff;
- c. Expenses eligible for financial assistance from the sports tourism marketing fund pursuant to 261—subrule 215.4(1) or other costs associated with marketing or promotion;
- d. Ongoing operational costs not specifically related to sporting events; and
- e. Other costs that the board determines to be ineligible.

261—216.5(15F) Threshold application requirements. To be considered for funding under the program, an application must meet the following threshold application requirements:

216.5(1) There must be demonstrated local support for the proposed activity.

216.5(2) The application must contain a detailed description of the project, outlining the sporting event(s) and the infrastructure expenses necessary to support it.

216.5(3) The proposed project budget must be spent on infrastructure that actively and directly supports the sporting event(s).

216.5(4) The application must contain detailed information and projections sufficient to enable the authority to accurately assess the economic impact of the sporting event(s) described in the application. Such information shall include the estimated number of spectators and estimated quality and quantity of advertising and media coverage the sporting event(s) will generate. If the applicant has previously held substantially similar events, the information shall include actual attendance figures from past events and a summary of the advertising and media coverage generated.

261—216.6(15F) Application process.

216.6(1) Applications for assistance under the program shall be submitted to the authority. For those applications that meet the threshold application requirements and the eligibility criteria, the authority shall forward the applications to the board and provide a staff review analysis and evaluation to the sports tourism program review committee and to the board.

216.6(2) When reviewing the applications, the review committee and the authority shall consider, at a minimum, all of the following:

- a. Impact of the project on the local, regional, and state economies.
- b. Amount of positive advertising or media coverage the project generates in national and international markets.
- c. Quality, size, and scope of the project.
- d. The extent to which the project would generate additional recreational and cultural attractions or tourism opportunities.
- e. The extent to which the sporting event to be supported by the infrastructure project is unique, innovative, or diverse.

216.6(3) Upon review of the recommendations of the review committee, the board shall make final funding decisions on each application. The board may approve, defer, deny, or modify applications for financial assistance under the program, in its discretion, in order to fund as many projects with the moneys available as possible. The board and the authority may negotiate with applicants regarding the details of projects and the amount and terms of any award. In making final funding decisions pursuant to this subrule, the board and the authority are exempt from Iowa Code chapter 17A.

261—216.7(15F) Administration.

216.7(1) *Administration of awards.*

a. Each applicant receiving an award of financial assistance from the board shall enter into an agreement with the authority. The agreement shall contain such terms and conditions as the board may place on the award or the authority may deem necessary for the efficient administration of the program established in this chapter. The agreement will also include the terms and conditions under which financial assistance must be repaid or penalties incurred in the event the applicant does not fulfill all obligations under the agreement.

b. These rules and applicable state laws shall be part of the agreement.

c. The applicant must execute and return the contract to the board within 90 days of the transmittal of the final contract from the board. Failure to do so may be cause for the board to terminate the award.

d. Financial assistance shall not be provided until all financing for the sports tourism infrastructure project is secured and documented to the satisfaction of the authority.

e. Awards may be conditioned upon authority receipt and board approval of an implementation plan for the funded project.

216.7(2) Reports. An applicant receiving financial assistance shall provide an annual report to the authority for years in which the applicant receives financial assistance under this rule. The report shall include the information the authority deems relevant. The report shall be submitted in the manner and on forms prescribed by the authority. The authority may perform any reviews or site visits necessary to ensure performance by the applicant.

216.7(3) Requests for funds. Recipients shall submit requests for funds in the manner and on forms prescribed by the authority. 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.

216.7(4) Record keeping and retention. The recipient shall retain all financial records, supporting documents, and other records pertinent to the sports tourism award for three years after contract closeout. Representatives of the authority shall have access to all recipient records that pertain to sports tourism funds.

216.7(5) Amendments to contracts. Any substantive change to a contract shall be considered an amendment. Substantive changes include time extensions, budget revisions, and significant alterations of the funded project that change the scope, location, objectives, or scale of the approved project. Amendments must be approved by the board. The authority may execute nonsubstantive or ministerial changes to the contract without board approval.

216.7(6) Project closeout. Upon expiration of the agreement, the authority shall initiate project closeout procedures.

216.7(7) Compliance. If the board finds that an applicant is not in compliance with the requirements of this program or the terms and conditions of the agreement, the board may find the applicant noncompliant. Remedies for noncompliance may include penalties up to and including the return of program funds to the board. Reasons for a finding of noncompliance include but are not limited to the applicant's use of funds for activities not described in the contract, the applicant's failure to complete funded projects in a timely manner, the applicant's failure to comply with applicable state or local rules, or the lack of a continuing capacity of the applicant to carry out the approved project in a timely manner.

These rules are intended to implement Iowa Code sections 15F.401, 15F.402, and 15F.404 and 2022 Iowa Acts, House File 2579.

[Filed 10/7/22, effective 12/7/22]

[Published 11/2/22]

EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 11/2/22.