

# ECONOMIC DEVELOPMENT AUTHORITY[261]

## Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 261—Chapter 404  
“Iowa Energy Center Grant Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 15.120  
State or federal law(s) implemented by the rulemaking: Iowa Code section 15.120

### Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

February 27, 2024  
1:15 to 1:30 p.m.

1963 Bell Avenue  
Des Moines, Iowa

### Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Economic Development Authority (IEDA) no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Lisa Connell  
Iowa Economic Development Authority  
1963 Bell Avenue, Suite 200  
Des Moines, Iowa 50315  
Email: [lisa.connell@iowaeda.com](mailto:lisa.connell@iowaeda.com)

### Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), IEDA proposes to rescind Chapter 404 relating to the Iowa Energy Center grant program and adopt a new chapter in lieu thereof. The new chapter eliminates language that is duplicative of statutory language. Additionally, the following changes to the chapter are proposed:

- Rule 261—404.1(15) would be updated to eliminate unnecessary definitions and to be more concise.
- Rule 261—404.2(15) would be updated to be more concise. Additionally, paragraph 404.3(6)“d” would be updated so that private asset development is an eligible project. Such projects would be subject to limitations imposed by the rewritten paragraph (which excludes projects that entail improvements to existing buildings) and changes to other rules as described in this analysis.
- Rule 261—404.3(15) would be updated for clarity.
- Rule 261—404.4(15) would be updated to be more concise and to address equipment purchases.
- Rule 261—404.5(15) would be updated to allow for use of application websites other than [iowagrants.gov](http://iowagrants.gov) and to correct IEDA’s website. The review criteria would be updated to reflect evaluation of project sustainability in addition to dissemination of project results. The updated rule would allow the IEDA to require applicants to submit a preapplication but will no longer mandate that the IEDA utilize a preapplication process. The updated rule also would eliminate the necessity for the Iowa Energy Board (Board) to deny or defer applications that are not approved for awards.
- Rule 261—404.6(15) would be updated to be more concise and to increase the minimum dollar amount for disbursement requests from \$500 to \$1,000.

### Analysis of Impact

1. Persons affected by the proposed rulemaking:
  - Classes of persons that will bear the costs of the proposed rulemaking:  
The proposed rulemaking does not impose any meaningful additional costs on applicants for or recipients of grants available through the program compared to the existing Chapter 404.
  - Classes of persons that will benefit from the proposed rulemaking:

Eligible entities that apply for and are approved for grants through the program will benefit from clarity of the rules and elimination of the preapplication requirement. The updated policies regarding private asset development will make it more likely that for-profit entities can benefit from the program.

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 the program may require staff time to complete an application to receive a grant. Award recipients may similarly incur costs to comply with reporting and monitoring requirements of the program. Some applicants and recipients may choose to rely on an external service provider to complete these tasks, such as a consultant or accountant. The amount of the costs will vary, depending on the compensation of staff or service providers involved. The application and required reports require minimal time to complete.

- Qualitative description of impact:

The proposed rulemaking benefits persons interested in understanding the application process and requirements of the program.

3. Costs to the State:

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

IEDA staff time is required to review and prepare applications for approval by the Board, draft and execute program contracts, disburse funds, review reports, and communicate with program applicants and recipients.

- Anticipated effect on state revenues:

The chapter has no anticipated fiscal impact. Funds were remitted to the Iowa Energy Center pursuant to Iowa Code section 476.10A until June 30, 2022.

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

The Iowa Energy Center is directed to administer a grant program by Iowa Code section 15.120. The documentation and procedures outlined in the chapter are no more than necessary to fulfill the obligation to administer grants. The proposed Chapter 404 does not impose any meaningful additional costs on applicants for or recipients of the program compared to the current chapter. Elimination of a preapplication process will likely reduce time required for entities to apply for the program. The only entities that bear the costs of the rules are those that will potentially benefit from the program.

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

IEDA 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:

IEDA did not consider any other methods.

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

IEDA did not consider any other 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 relating to the program are no more than necessary to administer the program. The rules do not establish design or operational standards.

### Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 404 and adopt the following **new** chapter in lieu thereof:

## 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.

“*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, reporting, availability of funds and instructions on applying for the grant.

“*Iowa energy center*” or “*IEC*” means the Iowa energy center established by 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.

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

### **261—404.2(15) Eligibility.**

**404.2(1)** Eligible applicants are identified in Iowa Code section 15.120(3)“*a.*”

**404.2(2)** Any eligible applicant may submit an application that includes one or more subrecipients. The board may limit the amount of an award that a subrecipient can receive.

**404.2(3)** Any eligible applicant may apply individually or jointly with another eligible applicant or other eligible applicants.

**404.2(4)** 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 one additional application submitted for the same funding announcement.

**404.2(5)** 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.

**404.2(6)** The following types of projects are ineligible:

- a.* Relocation of a business.
- b.* Expansion of a business.
- c.* Funding for existing training programs.
- d.* Improvements to existing buildings, including energy efficiency or energy generation projects.
- e.* Pipeline, transmission line, and distribution line construction.
- f.* First generation ethanol.
- g.* Cellulosic ethanol.

### **261—404.3(15) Funding and award terms.**

**404.3(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.

**404.3(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.

**404.3(3)** The board may reallocate any recaptured funds to a different grant activity.

**404.3(4)** The maximum grant award is \$1 million per application. The minimum grant award is \$10,000 per application.

**404.3(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 will not be granted.

#### **261—404.4(15) Project budget.**

**404.4(1)** Only expenditures directly related to the implementation of the funded grant activity will be reimbursed. Vehicle and equipment purchases are eligible only when the purchase is an integral part of the funded grant activity and must be approved by the board at the time the award is made.

**404.4(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.

**404.4(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 and equipment purchases or other expenses relating to vehicles or equipment 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 or equipment purchase is an integral part of a grant activity but a recipient fails to obtain board approval prior to the purchase, then the purchase is ineligible.

#### **261—404.5(15) Application process and review.**

**404.5(1)** The board will issue funding announcements for grant applications at least once per fiscal year, provided funds are available.

**404.5(2)** Application forms will be available at [iowagrants.gov](http://iowagrants.gov) or other website as identified by the authority.

**404.5(3)** Applications will only be accepted during the established application period, as identified at [www.iowaeda.com](http://www.iowaeda.com).

**404.5(4)** Review criteria may include but are not limited to:

- a.* The proposed project demonstrates a need for further research, development, training or pilot projects.
- 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 plan for the dissemination of project results or to sustain the project after the grant period ends.

**404.5(5)** The authority may require applicants to submit a preapplication to determine eligibility and competitiveness for the program.

**404.5(6)** 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 staff recommendations, score applications, and make recommendations to the board. Upon review of the recommendations of the grant committee, the board may approve grant awards.

#### **261—404.6(15) Administration.**

**404.6(1) Notice of approval and agreement execution.** The authority will notify successful applicants in writing of an approved request for funding. After notifying the recipient of an award, the authority will prepare an agreement that reflects the terms of the award. The recipient must execute and return the agreement to the authority within 60 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.

**404.6(2) 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 \$1,000 per request, except for the final draw of funds.

**404.6(3) 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.

**404.6(4) Performance reports and reviews.** Recipients shall submit performance reports to the authority as described in the agreement executed pursuant to subrule 404.6(1). The authority may perform project reviews and site inspections as necessary to ensure program compliance.

**404.6(5) 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 404.6(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 404.3(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.

**404.6(6) Agreement closeout.** Upon agreement expiration or project completion, the authority will initiate project closeout procedures.

**404.6(7) Compliance with state and local laws and rules.** Recipients shall comply with these rules, with any applicable provisions of the Iowa Code, and with any applicable local rules.

**404.6(8) 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.