

15.329 Eligible business.

1. To be eligible to receive incentives or assistance under this part, a business shall meet all of the following requirements:

a. If the qualifying investment is ten million dollars or more, the community has approved by ordinance or resolution the start-up, location, or expansion of the business for the purpose of receiving the benefits of this part.

b. (1) The business shall not be solely relocating operations from one area of the state while seeking state or local incentives. A project that does not create new jobs or involve a substantial amount of new capital investment shall be presumed to be a relocation. In determining whether a business is solely relocating operations for purposes of this subparagraph, the authority shall consider a letter of support for the move from the affected local community.

(2) The business shall not be in the process of reducing operations in one community while simultaneously applying for assistance under the program. For purposes of this subparagraph, a reduction in operations within twelve months before or after an application for assistance is submitted to the authority shall be presumed to be a reduction in operations while simultaneously applying for assistance under the program.

(3) This paragraph shall not be construed to prohibit a business from expanding its operation in a community if existing operations of a similar nature in this state are not closed or substantially reduced.

c. The business shall create or retain jobs as part of a project, and the jobs created or retained shall meet one of the following qualifying wage thresholds:

(1) If the business is creating jobs, the business shall demonstrate that the jobs will pay at least one hundred percent of the qualifying wage threshold at the start of the project completion period, at least one hundred twenty percent of the qualifying wage threshold by the project completion date, and at least one hundred twenty percent of the qualifying wage threshold until the maintenance period completion date.

(2) If the business is retaining jobs, the business shall demonstrate that the jobs retained will pay at least one hundred twenty percent of the qualifying wage threshold throughout both the project completion period and the maintenance period.

d. The business shall provide a sufficient package of benefits to each employee holding a created or retained job. The board, at the recommendation of the authority, shall adopt rules determining what constitutes a sufficient package of benefits.

e. The business shall demonstrate that the jobs created or retained will have a sufficient impact on state and local government revenues as determined by the authority after calculating the fiscal impact ratio of the project.

f. The business shall not be a retail business or a business where entrance is limited by a cover charge or membership requirement.

g. Notwithstanding the qualifying wage threshold requirements in paragraph "c", if a business is also the recipient of financial assistance under another program administered by the authority, and the other program requires the payment of higher wages than the wages required under this subsection, the business shall be required to pay the higher wages.

2. a. If the authority finds that a business has a record of violations of the law, including but not limited to antitrust, environmental, and worker safety statutes, rules, and regulations, that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws, the business shall not qualify for economic development assistance under this part, except as provided in paragraph "b".

b. If the authority finds that the violations described in paragraph "a" did not seriously affect public health, public safety, or the environment, or if the authority finds that there were mitigating circumstances involved, the business may qualify for economic development assistance under this part, notwithstanding paragraph "a".

c. In making the findings and determinations regarding violations, mitigating circumstances, and whether the business is disqualified for economic development assistance under this part, the authority shall be exempt from chapter 17A.

3. The authority shall also consider a variety of factors including but not limited to the following in determining the eligibility of a business to participate in the program:

a. The quality of the jobs to be created or retained. In rating the quality of the jobs, the authority shall place greater emphasis on those jobs that have a higher wage scale, have a lower turnover rate, are full-time or career-type positions, provide comprehensive health benefits, or have other related factors which could be considered to be higher in quality, than to other jobs. Businesses that have wage scales substantially below that of existing Iowa businesses in that area should be rated as providing the lowest quality of jobs and should therefore be given the lowest ranking for providing such assistance.

b. The impact of the proposed project on other businesses in competition with the business being considered for assistance. The authority shall make a good-faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for assistance. The authority shall make a good-faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for assistance, jobs created or retained as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created or retained.

c. The economic impact to this state of the proposed project. In measuring the economic impact, the authority shall place greater emphasis on projects which can demonstrate the existence of one or more of the following conditions:

- (1) A business with a greater percentage of sales out-of-state or of import substitution.
- (2) A business with a higher proportion of in-state suppliers.
- (3) A project which would provide greater diversification of the state economy.
- (4) A business with fewer in-state competitors.
- (5) A potential for future job growth.
- (6) A project which is not a retail operation.

4. The authority may waive any of the requirements of this section for good cause shown. 94 Acts, ch 1008, §6; 99 Acts, ch 192, §33; 2005 Acts, ch 150, §44, 68, 69; 2008 Acts, ch 1032, §201; 2009 Acts, ch 82, §14; 2009 Acts, ch 123, §12; 2009 Acts, ch 184, §32; 2011 Acts, ch 118, §87, 89; 2012 Acts, ch 1110, §4; 2012 Acts, ch 1126, §3 – 6; 2013 Acts, ch 34, §2

Referred to in §15.119, 15.327, 15.330, 15.335B, 15.335C

[P] For aggregate limitations on amount of tax credits, see §15.119

[T] Subsection 2 amended