

CHAPTER 175
APPLICATION REVIEW AND APPROVAL PROCEDURES

261—175.1(15) Applicability. This chapter shall apply to the programs listed in rule 261—173.1(15). This chapter describes the application review and approval procedures and the role of the advisory groups or board committees and identifies the final decision maker for each program.

261—175.2(15) Application procedures for programs administered by the department.

175.2(1) IVF(FES). Beginning July 1, 2003, the grow Iowa values board approved direct funding for projects from the IVF(FES) and allocated IVF(FES) moneys to existing department programs (CEBA, VAAPFAP, EVA, TSBFAP). After June 16, 2004, IVF(FES) was no longer a separate program administered by the department; it became a funding source for existing department-administered programs. Moneys from IVF(FES) are used to provide financial assistance to the programs described in rule 261—173.1(15). If a project will be funded by IVF(FES), the department will review an application to ensure that the project meets the requirements for the programs through which an applicant is applying.

175.2(2) IVF (2005). IVF (2005) is not a separate program administered by the department; it is a funding source for existing department-administered programs. Moneys from IVF (2005) are used to provide financial assistance to the programs described in rule 261—173.1(15). If a project will be funded by IVF (2005), the department will first review the application to ensure that the IVF (2005) wage requirement is met. The department will then review the application to ensure that the project also meets all the requirements for the programs through which the applicant is applying.

175.2(3) Projects funded by program funds (“old money”). Prior to July 1, 2003, direct financial assistance programs administered by the department were funded through state appropriations. After the creation of IVF(FES) and IVF (2005), these programs no longer received separate state appropriations. The department’s financial assistance programs identified in rule 261—173.1(15) were funded with IVF(FES) and IVF (2005) moneys. Moneys remaining, recaptured or repaid to these program funds remain available for awarding to projects. If a project will be funded by program funds, the department will review an application to ensure that it meets the requirements for the programs through which an applicant is applying.

175.2(4) Tax credit programs. The department administers tax credit programs that provide tax incentives for approved projects. The department will review an application to ensure that the project meets the requirements for the tax credit programs through which an applicant is applying.

175.2(5) EDSA programs. The department administers the federal CDBG program. EDSA is the job creation component of this federal funding source. The department will review an application to ensure that the project meets the requirements for the tax credit programs through which an applicant is applying.

175.2(6) Application required. A business or community seeking financial assistance or tax credit benefits from a department program shall submit an application to the department. The applicant shall comply with the department’s application procedures, processes, rules, and wage and benefit requirements for that program and its funding source. Application forms and directions for completing the forms are available on line at the department’s Web site at www.iowalifechanging.com or at the department’s offices located at 200 East Grand Avenue, Des Moines, Iowa 50309.

175.2(7) Additional consideration for projects funded with IVF (2005) moneys. In reviewing applications for financial assistance, the board, the department and the due diligence committee shall consider providing assistance to projects that increase value-added income to individuals or organizations involved in agricultural business or biotechnology projects. Such projects need not create jobs specific to the project site; however, these projects must foster the knowledge and creativity necessary to promote the state’s agricultural economy and to increase employment in urban and rural areas as a result. In providing financial assistance from the fund, the board shall, whenever possible, coordinate the assistance with other department programs.

175.2(8) Applicant's past or current performance. If an applicant has received a prior award(s) from the department, the department and board will take into consideration the applicant's past or current performance under the prior award(s).

261—175.3(15) Review and approval of applications.

175.3(1) Staff review. Applications received by the department will be reviewed by program staff to ensure that documentation of minimum program eligibility requirements has been submitted by the applicant. Complete applications will be forwarded to the appropriate decision maker for action.

175.3(2) Negotiations. Department staff may negotiate with the applicant concerning dollar amounts, terms, collateral requirements, conditions of award, or any other elements of the project. The board or director may offer an award in a lesser amount or that is structured in a manner different from that requested. Meeting minimum eligibility requirements does not guarantee that assistance will be offered or provided in the manner sought by the applicant.

175.3(3) Approval procedures. Application approval procedures shall comply with statutory requirements for the program or funding source and applicable program rules. The board shall approve all projects or activities funded through IVF (2005), CEBA projects, large HQJC projects (over 50 jobs and a \$10 million investment), and brownfield projects. The director shall approve all other projects or activities. The following paragraphs describe the review and approval processes, by funding source and program.

a. Award approval procedures—IVF (2005). The approval process for projects that are funded with IVF (2005) moneys is as follows:

Funding Source: <u>IVF (2005)</u>		Role of Advisory Group	Final Decision Maker
CEBA:	Small business gap financing component	Due Diligence Committee recommendation	Iowa Economic Development Board
	New business opportunities and new product development components	Due Diligence Committee recommendation	Iowa Economic Development Board
	Venture project component	Due Diligence Committee recommendation	Iowa Economic Development Board
	Modernization project component	Due Diligence Committee recommendation	Iowa Economic Development Board
	Case management and entrepreneurial assistance	Due Diligence Committee recommendation	Iowa Economic Development Board
VAAPFAP		APAC recommendation, then Due Diligence Committee recommendation	Iowa Economic Development Board
PIAP		Due Diligence Committee recommendation	Iowa Economic Development Board
EVA		Due Diligence Committee recommendation	Iowa Economic Development Board
LCG		Loan & Credit Guarantee Committee recommendation	Iowa Economic Development Board
TSBFAP		TSB Financial Assistance Board recommendation, then Due Diligence Committee recommendation	Iowa Economic Development Board

b. Award approval procedures—IVF(FES) or program funds ("old money"). The approval process for projects that are funded with IVF(FES) through the following programs or directly from available program fund moneys is as follows:

Funding Source: <u>IVF(FES) or Program Funds ("old money")</u>		Role of Advisory Group	Final Decision Maker
CEBA:	Small business gap financing component	Due Diligence Committee recommendation	Iowa Economic Development Board
	New business opportunities and new product development components	Due Diligence Committee recommendation	Iowa Economic Development Board
	Venture project component (over \$100,000)	Due Diligence Committee recommendation	Iowa Economic Development Board
	Venture project component (up to \$100,000)		IDED Director
	Modernization project component (over \$250,000)	Due Diligence Committee recommendation	Iowa Economic Development Board
	Modernization project component (up to \$250,000)		IDED Director
	Case management and entrepreneurial assistance (over \$25,000)		IDED Director
	Case management and entrepreneurial assistance (up to \$25,000)		IDED Division Administrator, Business Development Division
VAAPFAP		APAC recommendation	IDED Director
PIAP:	Up to \$1M award		IDED Director
	Over \$1M	IDED Director to consult with Iowa Economic Development Board	IDED Director
EVA			IDED Director
Brownfields		Brownfield Advisory Council recommendation	Iowa Economic Development Board
TSBFAP		Targeted Small Business Advisory Committee recommendation	IDED Director

c. *Award approval procedures—EDSA.* The approval process for projects that are funded with EDSA moneys is as follows:

Program Source: <u>CDBG</u>	Role of Advisory Group	Final Decision Maker
EDSA		IDED Director

d. *Award approval procedures—EZ and HQJC.* The approval process for tax credit projects is as follows:

Tax Credit Programs	Role of Advisory Group	Final Decision Maker
EZ		IDED Director
HQJC (if less than 50 jobs and \$10M investment)		IDED Director
HQJC (if more than 50 jobs and \$10M investment)	Due Diligence Committee recommendation	Iowa Economic Development Board

261—175.4(15) Procedures for waiver of wage and other program requirements.

175.4(1) General information. Within the parameters described in this rule, the board may, for good cause shown, waive qualifying wage requirements and some nonstatutory CEBA program requirements. Iowa Code section 15G.112 permits applicants to apply to the board for a waiver of the IVF (2005) qualifying wage requirement (130 percent of the average county wage). Iowa Code section 15.335A(3) allows a community to apply to the board for a project-specific waiver from the average county wage calculations provided in the HQJC program in order for an eligible business to receive tax incentives. This rule also establishes a process for applicants to apply for a waiver of certain nonstatutory program requirements that the department has established by rule for the CEBA program. The waiver of CEBA nonstatutory program requirements is available only if the funding for the CEBA project is from program funds (“old money”). The meaning of “program funds (‘old money’)” is as described in subrule 175.2(3).

175.4(2) Definition of “good cause.” For purposes of this rule, “good cause” can include, but is not limited to, documentation of any of the following:

a. Economic distress. An applicant can establish good cause by demonstrating that the proposed project is located or plans to locate in an area that has experienced economic distress. Data that can be used to establish economic distress may be based on a combination of factors including, but not limited to:

- (1) A county family poverty rate significantly higher than the state average.
- (2) A county unemployment rate significantly higher than the state average.
- (3) A unique opportunity to use existing unutilized facilities in the community.
- (4) A significant downsizing or closure by one of the community’s major employers.
- (5) An immediate threat posed to the community’s workforce due to the downsizing or closure of a business.

b. Targeted industry project. An applicant can establish good cause by demonstrating that the proposed project meets all of the following criteria:

- (1) The business is in one of the state’s targeted industry clusters: life sciences, information solutions, and advanced manufacturing.
- (2) All jobs created as a result of the project have a qualifying wage, not including benefits, equal to or greater than 100 percent of the average county wage.
- (3) The business is headquartered in Iowa or, as a result of the proposed project, will be headquartered in Iowa. In lieu of the business’s being headquartered in Iowa, the proposed project has unique aspects which will assist the department in meeting one or more of its strategic objectives.

c. Natural disaster—limited to presidentially declared disaster areas. An applicant can establish good cause by demonstrating that the proposed project is located or plans to locate in a presidentially declared disaster area. To qualify for a waiver on the basis of a natural disaster in a presidentially declared disaster area, an applicant shall meet all of the following criteria:

- (1) The business must be located in a presidentially declared disaster area.
- (2) The business must apply for a waiver within 12 months of the date of the presidential disaster declaration.
- (3) The business must document that it has sustained substantial physical damage related to the natural disaster. For purposes of this criterion, “substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (4) The business must commit to bringing its employment level up, within six months of the award date, to at least 90 percent of its base employment prior to the closure of the business due to the natural disaster in a presidentially declared disaster area. The business shall submit payroll records to establish the business’s employment base prior to the date of the presidential disaster declaration.
- (5) The business must commit to paying wages, within six months of the award date, that are no less than the wages paid prior to the closure of the business due to the natural disaster in a presidentially declared disaster area. The business shall submit payroll records to establish the wages that were paid prior to the date of the presidential disaster declaration.

175.4(3) Request to waive HQJC average county wage calculation.

a. Iowa Code section 15.335A(3) authorizes a community to request a project-specific waiver from the average county wage calculations in order for an eligible business to receive tax incentives.

b. Upon a showing of good cause as defined in subrule 175.4(2), the board may grant a project-specific waiver from the average county wage calculations for the remainder of the calendar year based on average county or regional wage calculations brought forth by the applicant county including, but not limited to, any of the following:

(1) The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

(2) The average regional wage calculated without wage data from up to two adjacent counties.

(3) The average county wage calculated without wage data from the largest city in the county.

(4) A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.

(5) The annualized, average hourly wage paid by all businesses in the county located outside the largest city of the county.

(6) The annualized, average hourly wage paid by all businesses other than the largest employer in the entire county.

175.4(4) Request to waive IVF (2005) qualifying wage requirement.

a. Iowa Code section 15G.112 allows applicants to apply to the board for a waiver of the IVF (2005) qualifying wage requirement.

b. Upon a showing of good cause as defined in subrule 175.4(2), the board may grant a project-specific waiver of the IVF (2005) qualifying wage requirement. The board may grant a waiver from the average county wage calculations based on average county or regional wage calculations brought forth by the applicant including, but not limited to, any of the following:

(1) The average county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.

(2) The average regional wage calculated without wage data from up to two adjacent counties.

(3) The average county wage calculated without wage data from the largest city in the county.

(4) A qualifying wage guideline for a specific project based upon unusual economic circumstances present in the city or county.

(5) The annualized, average hourly wage paid by all businesses in the county located outside the largest city of the county.

(6) The annualized, average hourly wage paid by all businesses other than the largest employer in the entire county.

c. The board will give extra consideration to wage waiver requests when the request is for a VAAPFAP project or for a project located in an economic enterprise area. "Economic enterprise area" means an area that shall consist of at least one county containing no city with a population of more than 23,500 and that shall meet at least three of the following criteria:

(1) A per-capita income of 80 percent or less than the national average.

(2) A household median income of 80 percent or less than the national average.

(3) Twenty-five percent or more of the population of the economic enterprise area with an income level of 150 percent or less of the United States poverty level as defined by the most recently revised poverty income guidelines published by the U.S. Department of Health and Human Services.

(4) A population density in the economic enterprise area of less than ten people per square mile.

(5) A loss of population as shown by the 2000 certified federal census when compared with the 1990 certified federal census.

(6) An unemployment rate greater than the national rate of unemployment.

(7) More than 20 percent of the population of the economic enterprise area consists of people over the age of 65.

175.4(5) *Request to waive CEBA requirements for CEBA projects funded with program funds (“old money”).*

a. CEBA projects may be funded by program funds (“old money”), IVF(FES) or IVF (2005). The definitions of IVF(FES) and IVF (2005) are located in 261—Chapter 173, “Standard Definitions.” The meaning of “program funds (“old money”)” is found in subrule 175.2(3).

b. The waiver provisions described in this rule are available only to CEBA projects funded with program funds (“old money”).

c. An applicant may apply to the board to waive the CEBA qualifying wage requirement or any other nonstatutory program requirement that the department has established by rule for the CEBA program.

d. Upon a showing of good cause as defined in subrule 175.4(2), the board may grant a project-specific waiver of the CEBA qualifying wage requirement or any other nonstatutory program requirement established by IDEB by rule. Examples of nonstatutory CEBA program requirements include requirements governing local match, the limitation on funding projects that have started (project initiation), and the \$500,000 limitation for forgivable loan awards.

175.4(6) *Waiver procedures and board action.*

a. Waiver requests shall be submitted in writing to the department when the business’s application is submitted. The request shall include documentation of good cause as defined in subrule 175.4(2).

b. Waiver requests shall include all necessary documentation, including documentation from other sources confirming any statistical data cited in the request.

c. Waiver requests will be reviewed as part of the application review process and acted upon by the board. If a request for a waiver is approved, the board will proceed with a final decision on the application.

d. The board may approve, deny, or defer action on waiver requests. The board reserves the right to condition its approval upon terms and conditions the board deems appropriate for the specific project.
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