

CHAPTER 405
ALTERNATE ENERGY REVOLVING LOAN PROGRAM

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

261—405.1(15) Definitions.

“*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).

“*Iowa energy center*” or “*IEC*” means the Iowa energy center created within the economic development authority pursuant to Iowa Code section 15.120.

“*Project*” means an alternate energy production facility as defined in Iowa Code section 476.42 or a small hydro facility as defined in Iowa Code section 476.42.

[ARC 4263C, IAB 1/30/19, effective 3/6/19]

261—405.2(15) Loan amounts and terms.

405.2(1) The minimum loan amount is \$25,000 per project.

405.2(2) The board shall not lend more than 50 percent of eligible project costs as defined in rule 261—405.5(15).

405.2(3) A project shall be eligible for not more than \$1 million in loans outstanding at any time under this program.

405.2(4) A borrower shall be eligible for not more than \$1 million in loans outstanding at any time under this program.

405.2(5) The board shall not issue a loan that exceeds the value of the collateral provided.

405.2(6) Security for loans. The board will accept security for a loan. The following forms of collateral will be accepted:

- a. Real property;
- b. Dedicated certificate of deposit;
- c. Irrevocable letter of credit;
- d. Corporate guarantee;
- e. Other forms of collateral if approved by the board, and only if the forms of collateral listed in paragraphs 405.2(6) “a” to “d” are inadequate.

405.2(7) Term. The duration of the loan shall be for 20 years, the estimated useful life of the project that is financed by the loan, the terms of any other loans used to finance the project, or the estimated return on investment for the project, whichever is shortest.

[ARC 4263C, IAB 1/30/19, effective 3/6/19]

261—405.3(15) Borrowers.

405.3(1) *Eligible borrowers.* The project shall be wholly owned by the borrower. Eligible borrowers include:

- a. Persons whose primary residence is in Iowa.
- b. Businesses registered and domiciled in Iowa. For businesses organized as limited liability companies, each member of the limited liability company must be domiciled in Iowa and be an eligible borrower.
- c. Water and wastewater utilities subject to Iowa Code chapter 388, rural water districts subject to Iowa Code chapters 357A and 504, and sanitary districts subject to Iowa Code chapter 358.

405.3(2) *Ineligible borrowers.* Ineligible borrowers include:

- a. An organization that is lending to a project and also owns the project or is a member of an organization that owns the project.
- b. An individual or an organization with a history of defaulted loans or compliance violations with other state programs or rules.
- c. Regents institutions.

- d. Community colleges.
- e. State agencies.
- f. Cities, but not water or wastewater utilities subject to Iowa Code chapter 388.
- g. Counties.
- h. School districts.
- i. Nonprofit organizations.
- j. Gas and electric utilities subject to Iowa Code chapter 388 or rural electric cooperatives subject to Iowa Code chapter 476.

[ARC 4263C, IAB 1/30/19, effective 3/6/19]

261—405.4(15) Eligible projects. A proposed project must meet the following criteria to be eligible for a loan under this program:

405.4(1) The project shall be located in Iowa.

405.4(2) The project shall be an alternate energy production facility as defined in Iowa Code section 476.42 or a small hydro facility as defined in Iowa Code section 476.42.

405.4(3) The project shall be wholly owned by the borrower.

405.4(4) The borrower shall be the owner, contract purchaser or lessee of the real property where the project is located.

[ARC 4263C, IAB 1/30/19, effective 3/6/19]

261—405.5(15) Eligible and ineligible costs.

405.5(1) *Eligible costs.* Examples of eligible costs include:

- a. Real and personal property comprising a project;
- b. Materials and equipment required for necessary site preparation, construction and installation of a project;
- c. Labor for site preparation, construction and installation of a project. Only labor that is performed by a third party such as an independent contractor will be considered an eligible cost.

405.5(2) *Ineligible costs.* Examples of ineligible costs include:

- a. Feasibility studies;
- b. Permits;
- c. Administrative costs not associated with site preparation, construction and installation of a project;
- d. Costs incurred prior to the board's approval of a loan;
- e. Interconnection costs;
- f. Costs associated with maintenance, operation or repair of a project; and
- g. Other costs that the board determines to be ineligible.

[ARC 4263C, IAB 1/30/19, effective 3/6/19]

261—405.6(15) Application process. Rescinded ARC 5994C, IAB 10/20/21, effective 9/30/21.

261—405.7(15) Administration.

405.7(1) *Notice of approval.* The authority will notify successful applicants in writing of an approved request for funding. Such a notification may include the terms or conditions under which approval is granted.

405.7(2) *Contract.* After notifying the borrower of an award, the authority will offer a contract to the borrower. The contract shall be between the Iowa energy center and the borrower. An award shall not constitute a binding contract.

405.7(3) *Transmittal.* The borrower must execute and return the contract to the authority within 45 days of the transmittal of the final contract from the authority. Failure to do so may be cause for the board to terminate the award.

405.7(4) *Disbursement of funds.* Borrowers shall submit requests for disbursement of funds on the forms provided by the authority.

405.7(5) *Amendment.* Any substantive change to a project shall require an amendment to the contract. A substantive change to a project includes but is not limited to a change in the loan amount, loan term, or

scope of work. The borrower shall request the amendment 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.

405.7(6) *Closeout.* Upon contract expiration or project completion, the authority shall initiate project closeout procedures.

405.7(7) *Record keeping and retention.* Borrowers shall retain all financial records, supporting documents and all other records pertinent to the loan for three years after the contract is closed or the loan is put in default and is not cured.

405.7(8) *Reporting and compliance.* A start-up report is due to the authority within 30 days of the date that the project is placed in service. The report shall include but is not limited to documentation of installed costs of the project, one or more photographs, a sample invoice, and a description of any unexpected problems encountered during construction or installation of the project. The authority reserves the right to conduct a site visit of all awarded projects to ensure the projects were built as proposed and to provide verification of ongoing operation. The authority will monitor all loans to ensure that loan proceeds have been spent as identified in the contract and that all other sources of financing have been committed to the project. Borrowers shall be required to notify the authority of any change in ownership. Any loan made pursuant to this program shall become due for payment upon sale of the project for which the loan was made.

405.7(9) *Default.*

a. At any time during the construction of a project or the repayment of the loan, the authority may find that a borrower is in default under the terms of the loan contract. The authority will take prompt, appropriate, and aggressive debt collection action to recover any funds misspent by borrowers.

b. If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties as authorized pursuant to Iowa Code section 476.46, negotiate alternative payment schedules, suspend or discontinue collection efforts and take other action as the authority deems necessary.

c. The authority shall attempt to collect the amount owed. Any negotiated settlement, write-off, or discontinuance of collection efforts is subject to final review by and approval of the board.

d. If the authority refers a defaulted contract to outside counsel for debt collection, then the terms of the contract between the authority and the outside counsel regarding the scope of counsel's authorization to accept settlements shall apply.

[ARC 4263C, IAB 1/30/19, effective 3/6/19]

261—405.8(15) Applicability after June 30, 2021.

405.8(1) Pursuant to 2021 Iowa Acts, Senate File 619, the authority shall not initiate any new loans under the alternate energy revolving loan program after June 30, 2021.

405.8(2) To the extent allowed by other provisions of law, the rules adopted in this chapter shall continue to apply to agreements entered into on or before June 30, 2021.

[ARC 5994C, IAB 10/20/21, effective 9/30/21]

These rules are intended to implement Iowa Code sections 15.120 and 476.46.

[Filed ARC 4263C (Notice ARC 4148C, IAB 12/5/18), IAB 1/30/19, effective 3/6/19]

[Filed Emergency After Notice ARC 5994C (Notice ARC 5878C, IAB 8/25/21), IAB 10/20/21, effective 9/30/21]