

CHAPTER 163  
RISE PROGRAM

[Prior to 6/3/87, Transportation Department[820]—(06,Q) Ch 4]

**761—163.1(315) Definitions.** When used in this chapter, unless the context otherwise requires:

*“Brownfield site”* means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination.

*“Commission”* means the state transportation commission.

*“Department”* means the Iowa department of transportation.

*“Direct jobs created”* refers to jobs new to the state in firms, developments, or sites specifically assisted by a RISE project.

*“Direct jobs retained”* refers to existing Iowa jobs that would otherwise be lost in firms, developments, or sites specifically assisted by a RISE project.

*“Economic development”* means private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost. For the purposes of this program, economic development shall be viewed from a statewide perspective rather than a local or substate, regional perspective and shall result in a net gain to the state.

*“Funding commitment”* means commission approval of the use of RISE funds for a project.

*“Grant”* means funds received for a RISE project with no provision for applicant repayment of principal.

*“Immediate opportunity project,”* one of the two types of RISE projects, is a roadway project that needs a funding commitment within a short time period and meets the threshold criteria in subrule 163.10(6). The project primarily provides improved access to a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction.

*“Import substitution”* means replacing inputs, products or services from out-of-state firms or locations with Iowa inputs, products or services.

*“Jurisdiction”* means the state, county, or city having legal authority over a road or street.

*“Loan”* means funds received for a RISE project with provision for applicant repayment of principal. A loan may or may not involve the payment of interest charges.

*“Local development project,”* one of the two types of RISE projects, is a roadway project which is programmed through a semiannual competitive rating procedure. The project primarily provides improved access to either a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction, or to a portion of a metropolitan area.

*“Project”* means an eligible activity or cost or set of eligible activities or costs funded with RISE program funds. The two types of projects which may be funded under the RISE program are immediate opportunity projects and local development projects.

*“RISE”* means revitalize Iowa’s sound economy.

*“RISE fund”* means the fund created in Iowa Code section 315.2.

*“Total capital investment”* means the economic value of all permanent purchases, donations, or improvements directly associated with an economic development activity but not funded with RISE moneys, including land; improvements to land; buildings; equipment; furnishings; electric, gas, telephone, and other utilities; sanitary sewer and storm sewer extensions and hookups; and railroad spurs, access roads, parking lots, and other transportation facilities.

*“Transportation justification”* means the reasons given for a project from a transportation planning and engineering standpoint. The justification should address the current condition of existing roadways or bridges, the relationship of the project to connecting roads, anticipated total traffic, anticipated large truck traffic, proposed major design features, roadway function, and the reasons the proposed alternative was selected over other available alternatives.

*“Value-adding activities”* means activities which, through the employment of knowledge or labor, add value to a product, process or service that results in the creation of new wealth to the state.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

**761—163.2(315) Information and forms.** Information, instructions and application forms may be obtained from the Office of Systems Planning, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1664; or through the department's Web site at [www.iowadot.gov](http://www.iowadot.gov).

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

**761—163.3(315) Purpose of RISE program.** The purpose of the RISE program is to promote economic development in Iowa through the establishment, construction, improvement, and maintenance of roads and streets. The RISE program shall be targeted toward value-adding activities to provide maximum economic impact to the state. Value-adding activities feed new dollars into the economy. As these dollars are circulated, the state experiences economic growth. Tourism activities that result in the attraction of out-of-state dollars to the state economy may also be targeted by the program. Residential development, local government facilities, local public schools, locally oriented business services and personal services are generally not value-adding activities and will rarely meet the intent of the program.

The RISE program shall also be administered to encourage economic diversification, new business opportunities, small business development, exporting, import substitution and tourism in Iowa.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

**761—163.4(315) Administration of RISE program.**

**163.4(1)** The RISE program shall be administered by the department as a statewide program, with projects evaluated primarily on the basis of economic development criteria rather than solely on the basis of transportation criteria. In carrying out its program responsibilities, the department shall:

*a.* Involve local officials in program development and periodic program review and evaluation, including evaluation of the accomplishments and effectiveness of the RISE program. However, all project funding decisions shall be the responsibility of the commission.

*b.* Simplify application processes and administrative procedures to the maximum practicable extent.

*c.* Design the RISE program administrative procedures so that they are flexible enough to meet county and city needs.

*d.* Ensure neutrality and fairness in the treatment of all applications submitted for funding under the RISE program.

*e.* Promote intergovernmental cooperation on economic development.

*f.* Promote the use of innovative financing mechanisms for RISE projects.

**163.4(2)** The commission shall be responsible for all RISE project funding commitments. All project funding commitments are made subject to the availability of RISE funds.

**163.4(3)** The department shall annually prepare a written report indicating the amount and percentage of funds expended during the previous year on primary roads, secondary roads, city streets, state park roads and county conservation parkways.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

**761—163.5(315) Source, allocation, and use of RISE funds.**

**163.5(1) Source.** The RISE program is funded with dedicated state motor fuel and special fuel tax revenues as set out in Iowa Code section 312.2 and chapter 315.

**163.5(2) Allocation and use.**

*a. Allocation among roadway jurisdictions.* The RISE fund shall be allocated as specified in Iowa Code section 315.4.

*b. Funding restricted to public roads.* The use of RISE funds is restricted to construction or improvement of primary roads, secondary roads, city streets, state park roads and county conservation parkways presently open to public use or ones which will be dedicated and open to public use in the future. RISE funds may not be used for private road projects or for any other private purpose. Project activities which may and may not be funded under the RISE program are listed in rule 163.7(315).

*c. Use of county or city RISE funds on primary road projects.* Counties or cities may at their option make application to the department to apply RISE funds allocated for use on secondary road or city street

projects toward primary road projects. Use of county or city RISE funds on primary road projects shall be approved by the commission.

*d. Type of projects.* The two types of projects which may be funded under the RISE program are immediate opportunity projects and local development projects. The requirements and procedures specifically applicable to the two project types are located in the following rules of this chapter:

(1) Immediate opportunity projects: Rule 761—163.10(315).

(2) Local development projects: Rule 761—163.11(315).

*e. Relationship of project.* The demonstrated relationship of a project to economic development shall generally be the main criterion employed in determining the priority for funding. The department is required to assign the lowest priority to a project if it involves a business with wages substantially below other area businesses or with a consistent record of law violations. In terms of project type, an immediate opportunity project shall have first priority for all available RISE funds.

*f. Use of repaid funds.* RISE funds repaid to the department for any reason may be used for other projects or carried over to the next programming cycle. RISE funds repaid shall be credited to the share of the fund from which the project was originally funded.

*g. Carryover of funds.* The commission need not commit the spending of all RISE funds available during a programming cycle. Uncommitted funds may be carried over to the next programming cycle or used for immediate opportunity projects. On June 30 of each year, all uncommitted county funds shall be credited to the secondary road fund.

*h. Reserve for future needs and contingencies.* The commission shall monitor RISE fund commitments and expected RISE fund cash flow and take actions necessary to ensure that funds remain available for anticipated present and future immediate opportunity project needs and other contingencies. Such actions may include placing a moratorium on the receipt and award of local development RISE applications, placing a limit on RISE dollars awarded to each project, or taking other actions at the discretion of the commission.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

#### **761—163.6(315) Project financing and funding shares.**

**163.6(1) Financing.** Applicants may choose to propose grant financing for any RISE project. Applicants are encouraged but not required to propose below market rate interest loan, no interest loan, or partial principal payback rather than grant financing for RISE projects. The extent to which a project will return moneys to the RISE fund shall be considered in project evaluation processes. Final financial terms for all RISE projects are subject to negotiation between the department and the applicant and approval by the commission.

**163.6(2) Funding shares.** Applicants may propose the proportions and sources of RISE and non-RISE funds to be used for a project. Use of RISE funds is subject to commission approval.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

#### **761—163.7(315) Eligibility of applicants and joint applications.**

**163.7(1) Applicant eligibility.** All incorporated cities and all counties in the state of Iowa are eligible to apply for and receive funds under the RISE program. The department is also eligible to initiate projects and receive funds under this program but need not formally apply for funds. Private firms or developers or other agencies may not apply directly for funds but are encouraged to work with county or city governments in seeking funding for projects. In any case, all projects must be let by the applicant or through the department's office of contracts and in accordance with all applicable laws and rules.

**163.7(2) Joint applications.** Joint applications from two or more counties or cities are encouraged when mutual action is required to support economic development. Joint applications shall designate a lead county or city to serve as a principal contact point for the department.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

**761—163.8(315) Project activities eligible and ineligible for RISE funds.**

**163.8(1) *Eligible activities.*** Project activities or costs eligible for RISE funding, and which may be counted as part of the non-RISE participation in immediate opportunity and local development roadway projects, include only the following:

- a.* Roadway resurfacing, rehabilitation, modernization, upgrading, reconstruction or initial construction, including grading and drainage, paving, erosion control, pavement overlays, and shoulder widening and stabilization.
- b.* Bridge and culvert repair, modernization, replacement or initial construction.
- c.* Roadway intersection and interchange improvements including warranted traffic signalization when it is integral to the improvement.
- d.* Public transportation system improvements, including but not limited to bus shelters, bus turnouts, and passenger information signage, when they are integral to the roadway improvement.
- e.* Bicycle and pedestrian infrastructure improvements, including but not limited to sidewalks, at-grade pedestrian crossings, bike lanes, and separated bike lanes, when they are integral to the roadway improvement.
- f.* Right-of-way acquisition costs, including but not limited to appraisals, negotiation, compensation, and cultural resources surveys necessary to comply with applicable local, state and federal laws, rules and regulations.
- g.* Construction or improvement of motorist rest areas, welcome centers, and information centers.
- h.* Design engineering costs leading to construction plan development and construction inspection costs associated with RISE-financed projects.
- i.* County and city bond principal and interest payments associated with RISE projects. No financing expenses incurred prior to funding commitment shall be eligible.
- j.* Storm drainage and storm sewer costs to the extent needed for draining the roadway.
- k.* Reconstruction or adjustment of utilities, including but not limited to water, sanitary sewer, electric, telephone, and natural gas, when utilities are located on private property and require replacement or relocation due to project construction; or said utilities are located in the public right-of-way and the utility is not required to relocate at its own expense.
- l.* Costs associated with the acquisition of local, state and federal permits required for roadway construction.

**163.8(2) *Ineligible activities.*** Activities or costs ineligible for RISE funding, and which may not be counted as part of the non-RISE participation in immediate opportunity or local development roadway projects, include but are not limited to the following:

- a.* Any and all costs incurred prior to a funding commitment by the commission notwithstanding rule 761—163.9(315).
- b.* Routine roadway, bridge and culvert maintenance, including but not limited to pothole filling, crack sealing, seal coating, patching, shoulder maintenance, gravel or earth roadway maintenance, and bridge painting.
- c.* Winter roadway and bridge maintenance, including but not limited to snow plowing, sanding, and salting.
- d.* Overhead and operating costs associated with eligible project activities, including auditing.
- e.* Expenses associated with the preparation and submission of applications for RISE funding.
- f.* Predesign engineering, feasibility or alignment studies, and other planning expenses.
- g.* Traffic signalization, except as an integral part of a roadway project.
- h.* Pavement marking and traffic signs, except as an integral part of a roadway project.
- i.* Utility construction, reconstruction or adjustment except for those activities or costs described in subrule 163.8(1).
- j.* Safety appurtenances, except as an integral part of a roadway project.
- k.* Lighting, except as an integral part of a roadway project.
- l.* Lighting energy and maintenance costs.
- m.* Sidewalks, bicycle paths, and railroad-highway crossings, except when replacing those facilities in service and affected by the project, or as an integral part of a roadway project.

- n.* Parking expenditures, including those for structures, lots, meters, paving, and marking whether for on-street or off-street parking.
  - o.* Nonroadway transportation expenditures, including those for railway, aviation, public transportation, and inland waterway facilities and equipment.
  - p.* Purchase of furnishings, construction equipment, and personal property.
  - q.* General government expenses and expenses associated with the provision of any public service which are not eligible for RISE program assistance.
  - r.* Donated right-of-way.
- [ARC 3299C, IAB 8/30/17, effective 10/4/17]

**761—163.9(315) Advance eligibility of land acquisition and preliminary design costs incurred prior to funding commitment by commission.**

**163.9(1) *Need for advance eligibility.*** If there is extreme urgency involving land acquisition or preliminary design and a necessity to protect or preserve a project corridor or to proceed with the preparation of project construction plans prior to a RISE funding commitment, a potential applicant may submit a written request to the department for a determination of advance eligibility to incur costs for land acquisition or preliminary design immediately. A determination of advance eligibility by the department will allow specified costs incurred prior to a funding commitment by the commission to be eligible for reimbursement with RISE funding without jeopardizing the project's eligibility for funding approval, but does not imply or guarantee that the commission will commit RISE funding to a subsequent application.

**163.9(2) *Request, justification and review.*** The request must be received by the department prior to the expenditure and must include justification regarding the extreme urgency and necessity to incur costs prior to a RISE funding commitment. A request for land acquisition must also include a description of the land to be acquired, a summary of the estimated costs, and a map showing the parcels to be acquired. Preliminary design requests must include a description of the project scope, location map, and proposed cross section. If the request will include consultant design costs, a draft agreement between the jurisdiction and the consultant must be submitted which includes the scope of services to be rendered. Costs for RISE application preparation and submission or project feasibility, route alignment studies or other planning expenses as cited in paragraphs 163.8(2) "e" and "f" remain ineligible for RISE funding and shall not be included in a request for determination of advance eligibility. The department will review the submittal. If the requirements of this rule are met, the department will provide written confirmation of the determination of advance eligibility.

**163.9(3) *Requirements.*** Any cost incurred before the request is received by the department will be ineligible for reimbursement. Costs receiving a determination of advance eligibility must be noted in the subsequent RISE funding application submitted to the department. Land acquired or design work completed following a determination of advance eligibility will not be eligible for reimbursement with RISE funds if the property acquired or design work completed is not necessary to construct the proposed RISE project included in the subsequent application. Design costs receiving a determination of advance eligibility may not exceed 10 percent of the total construction costs for the project. An application for funding which includes the expenditure must be received by the department within two years following the determination of advance eligibility, or the costs may become ineligible for RISE funding.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

**761—163.10(315) Immediate opportunity projects.**

**163.10(1) *General provisions.*** The following provisions are applicable to immediate opportunity projects:

- a.* Immediate opportunity projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.
- b.* There is no restriction on the number of applications per county or city that will be considered for RISE funding.
- c.* Counties and cities may apply for single-year or multiyear funding. Multiyear funding shall be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. There must be an adequate transportation justification for the roadway project. The proposed improvement need not be designed prior to project application, but the concept must generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

**163.10(2) Contents of applications.** Each application for an immediate opportunity project must contain the following:

a. General information, including applicant name, contact person, mailing address, telephone number, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost, and funding source) must be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of jobs being displaced elsewhere in the state shall not be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant shall provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant shall certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including a location map, a sketch plan and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution shall state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project. The resolution must also certify that the project meets the threshold criteria cited in paragraph 163.10(6) "a."

g. Documentation showing that the threshold criteria of subrule 163.10(6) have been met.

**163.10(3) Submission of applications.** An original and one copy of each completed application shall be submitted to the department. Applications may be submitted at any time.

Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

**163.10(4) Incomplete applications.** An applicant must satisfy the application requirements outlined in this chapter and must fully complete the official application form before the application will be considered by the commission.

**163.10(5) Verification of application materials.** Complete applications shall be reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application

based on the correct information. If an applicant loses funding through this process, the commission shall have complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

**163.10(6) *Threshold criteria.*** Funding commitment decisions for immediate opportunity projects shall be made on an individual basis. There is no competitive ranking of project applications. In order to gain a funding commitment, an application must meet all of the following threshold criteria:

*a.* The project must be related to an immediate, nonspeculative opportunity for permanent job creation or retention. The applicant county or city (or its agent) should be in the process of negotiating a location or retention decision with a developer or firm.

*b.* The applicant must demonstrate that an immediate funding commitment is essential to influence the job location or retention decision.

*c.* The applicant must demonstrate that necessary arrangements have been made for nonroadway factors (e.g., labor force training, zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed job creation or job retention activity.

*d.* There must be at least 20 percent non-RISE financial participation in the roadway project, except the commission may approve a participation amount that is less than 20 percent if it determines that the applicant city or county is economically distressed.

*e.* There must be a strong likelihood that the total development, including the roadway project, can be completed in a timely manner. It is up to the applicant to identify a time schedule and maintain it. This time schedule may be adjusted for such reasons including but not limited to the project involves unusually complex engineering studies, extensive real estate negotiations, extensive analysis for environmental clearances, or unusually complex planning for associated development. The commission may withdraw funding if time schedules have been misrepresented or have not been maintained.

**163.10(7) *Review and funding of applications.***

*a.* The staff of the department shall review complete immediate opportunity project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff shall evaluate the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. This review shall be performed within a reasonable period of time after receipt of the application. Following this review, complete applications meeting the threshold criteria of subrule 163.10(6) shall be forwarded to the commission for action at its next meeting.

*b.* The commission may fund all or any part of an application and may make a conditional funding commitment. In making its decision, the commission will consider the amount of total capital investment per RISE dollar requested, and the amount of RISE dollars requested per job created or retained.

*c.* The commission may deny funding for projects which will not result in net job creation or job retention from a statewide point of view, for instance, projects which simply involve the relocation of jobs or other economic activity within Iowa.

*d.* Immediate opportunity project applications may, at the discretion of the commission, be considered as applications for local development projects. These applications shall be included in the current round of local development project programming, regardless of the deadlines stated in subrule 163.11(3). However, immediate opportunity project applications submitted solely to circumvent the deadlines for local development project applications shall not be considered in this manner.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

#### **761—163.11(315) Local development projects.**

**163.11(1) *General provisions.*** The following provisions are applicable to local development projects:

*a.* Local development projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.

b. There is no restriction on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single-year or multiyear funding. Multiyear funding shall be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. There must be an adequate transportation justification for the roadway project. The proposed improvement need not be designed prior to project application, but the concept must generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

**163.11(2) Contents of applications.** Each application for a local development project must contain the following:

a. General information, including applicant name, contact person, mailing address, telephone number, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost and funding source) must be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of jobs being displaced elsewhere in the state shall not be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant shall provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant shall certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including a location map, a sketch plan and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution shall state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project.

**163.11(3) Submission of applications.** An original and one copy of each completed application shall be submitted to the department.

a. Applications may be submitted at any time. However, in order to be considered in the current round of programming, complete applications must be received by the department or postmarked no later than February 1 or September 1.

b. Once an application has been submitted, no further information concerning that application shall be accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications shall be dated accordingly.

**163.11(4) *Incomplete applications.*** An applicant must satisfy the application requirements outlined in this chapter and must fully complete the official application form before the application will be considered by the commission. An applicant shall be notified if an application is incomplete.

**163.11(5) *Verification of application materials.*** Complete applications shall be reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application based on the correct information. If an applicant loses funding through this process, the commission shall have complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

**163.11(6) *Rating factors.*** The following factors and potential rating points shall be used in assessing applications for local development projects. Assessment of these factors shall be the responsibility of the department.

*a. Development potential.* This factor measures the degree of certainty involved in the economic development activity to be supported by the proposed RISE project and the potential for future job growth. Maximum points: 35.

*b. Economic impact.* This factor measures the economic impact of the development activity to be supported by the proposed RISE project, including the number of direct jobs assisted, investment leveraging, the percentage of out-of-state sales and in-state suppliers, the impact on competition and diversification, and the quality of job factors. Maximum points: 20.

*c. Local commitment and initiative.* This factor measures the level of effort being put forth by the applicant to attract economic development and the adequacy of the supporting infrastructure. Maximum points: 35 (includes 5 points for the remediation or redevelopment of a brownfield site).

*d. Transportation need.* This factor measures the condition and quality of existing road or street service. Maximum points: 4.

*e. Area economic need.* This factor measures the economic condition of the area. Maximum points: 6.

**163.11(7) *Review and funding of applications.***

*a.* The staff of the department shall review and rate complete local development project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff shall evaluate the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. Complete applications shall be forwarded to the commission for a funding commitment action within a reasonable period of time after the application deadline. An application considered but not funded in one programming cycle must be resubmitted by the applicant if it is to be considered in a subsequent cycle.

*b.* The commission may fund all or any part of an application and may make a funding commitment conditional upon adherence to a specific time schedule, realization of a development prospect, or fulfillment of other agreements.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

#### **761—163.12(315) Project administration.**

**163.12(1) *Agreement.*** After a funding commitment has been made for a project, the department shall enter into a project agreement with the applicant. The agreement shall delineate responsibilities for project planning, design, right-of-way, contracting, construction and materials inspection, and documentation. The agreement shall require that a business assisted by the project which acquires or merges with an Iowa corporation within three years following the RISE application shall make a good-faith effort to hire the workers of the merged or acquired company. The agreement shall require the applicant to comply with all local, state, and federal laws, rules and regulations that may apply to the project.

**163.12(2) *Project payments.*** Payments from the RISE fund to counties or cities shall be made on a cost reimbursement basis, and financial participation shall be limited to the maximum percentage

allowed by the funding commitment. The non-RISE financial participation shall include only those items listed as eligible for RISE funding and may be in the form of cash, the value of design engineering and construction inspection services, or the cost of eligible advance right-of-way acquisitions or preliminary design pursuant to rule 761—163.9(315). Grants from other state agencies or programs may also contribute to the non-RISE financial participation if their laws and rules allow. The applicant shall provide documentation to the department supporting the value of any noncash contribution to the project. The department has the sole authority to determine the value of noncash contributions. Contributions made by a third party may be allowed.

**163.12(3)** *Project expenditures incurred prior to agreement.* Project expenditures incurred after the commission has made a funding commitment, but before execution of the agreement, are eligible for reimbursement if a project agreement is subsequently executed. However, under no circumstances shall any reimbursement be paid until the agreement has been executed.

**163.12(4)** *Remedies for noncompliance with project agreement.* The commission may revoke funding commitments, require repayment of RISE funds loaned or granted, or take both actions when the county or city has not fulfilled the terms of the project agreement.

**163.12(5)** *Cost overruns.* RISE funds committed for projects are for a maximum dollar amount. Cost overruns shall be the responsibility of the administering jurisdiction.

**163.12(6)** *Audit.* The department may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution. All force account work performed by a county or city on the project shall be audited.

[ARC 3299C, IAB 8/30/17, effective 10/4/17]

These rules are intended to implement Iowa Code section 312.2 and chapter 315.

[Filed emergency 10/10/85—published 11/6/85, effective 10/11/85]

[Filed 1/22/86, Notice 11/6/85—published 2/12/86, effective 3/19/86]

[Filed 10/10/86, Notice 8/13/86—published 11/5/86, effective 12/10/86]

[Filed 5/11/87, Notice 3/11/87—published 6/3/87, effective 7/8/87]

[Filed 10/20/88, Notice 9/7/88—published 11/16/88, effective 12/21/88]

[Filed 1/9/91, Notice 11/28/90—published 2/6/91, effective 3/13/91]

[Filed 1/15/92, Notice 12/11/91—published 2/5/92, effective 3/11/92]

[Filed emergency 7/18/01 after Notice 5/16/01—published 8/8/01, effective 7/20/01]

[Filed 12/17/02, Notice 10/16/02—published 1/8/03, effective 2/12/03]

[Filed ARC 3299C (Notice ARC 3131C, IAB 6/21/17), IAB 8/30/17, effective 10/4/17]