

CHAPTER 822
RAILROAD REVOLVING LOAN AND GRANT FUND PROGRAM
[Prior to 7/1/09, see 765—Ch 5]

761—822.1(327H) Introduction and purpose. The railroad revolving loan and grant fund program provides funding in the form of loans and grants for railroad-related improvement projects. The purpose of the program is to spur economic development and job growth and provide benefits to Iowa through economic benefits derived from railroad transportation system or service improvements. The railroad revolving loan and grant fund is established in Iowa Code section 327H.20A and is under the control of the department.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.2(327H) Definitions.

“*Rail facilities*” includes railroad main lines, branch lines, switching yards, sidings, rail connections, transload yards, intermodal yards, highway grade separations, railroad bridges, railroad scales and other railroad infrastructure.

“*Rail port*” means a commercial or industrial development that has the potential to provide rail service to multiple users through shared rail infrastructure, including transload or intermodal yards.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.3(327H) Information. Program information and application forms are available on the department’s website at www.iowadot.gov. Completed applications shall be submitted as directed in the application materials. Assistance may be obtained at the following address: Office of Rail Transportation, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; telephone (515)239-1066.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.4(327H) Purpose of program. Rescinded ARC 3883C, IAB 7/4/18, effective 8/8/18.

761—822.5(327H) Funding.

822.5(1) The transportation commission is responsible for determining the projects to be funded and the amount of funding for each project.

822.5(2) The minimum amount of matching funds required of an applicant is 20 percent of the project cost.

822.5(3) Rescinded IAB 7/1/09, effective 7/1/09.

[ARC 7909B, IAB 7/1/09, effective 7/1/09]

761—822.6(327H) Project criteria. Rescinded ARC 3883C, IAB 7/4/18, effective 8/8/18.

761—822.7(327H) Applicant eligibility. A railroad company, railroad user, city, county, metropolitan planning organization, regional planning affiliation, or any other entity with an interest in a rail transportation improvement is eligible to apply for funding. The applicant shall be fiscally responsible for any awarded loans or grants. Joint applications are allowed and encouraged, but joint applications shall designate one entity that shall be fiscally responsible for any awarded loans or grants.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.8(327H) Eligible and ineligible project costs.

822.8(1) Eligible costs. Activities or items eligible for funding include, but are not limited to, the following:

- a. Modernization, upgrading or reconstruction of existing rail facilities or rail ports.
- b. Construction of new rail facilities or rail ports.
- c. Railroad bridge and culvert modernization, replacement or removal.
- d. Right-of-way acquisition costs.
- e. Feasibility studies or planning studies for proposed projects that are otherwise eligible.

f. Loan development costs that a Class II or III railroad may have in obtaining a loan for a project that would have otherwise qualified under this chapter.

822.8(2) Ineligible costs.

a. The following activities or items are ineligible for funding:

- (1) Contract administration.
- (2) Freight car or locomotive lease, purchase or repair.
- (3) Refinancing of a completed project that would have otherwise qualified under this chapter.
- (4) Facilities solely used for historical or tourist railroad activities.
- (5) Capital or operating costs associated with passenger rail, commuter rail or public transit.
- (6) Acquisition or capital costs associated with recreational trails.

b. The following costs are ineligible unless the costs are part of a larger construction award under this program:

- (1) Design and engineering.
- (2) Environmental studies.
- (3) At-grade crossing surface repair or replacement.
- (4) Signals, gates or other crossing protection.

822.8(3) Advance eligibility exemption. No part of a project may be under construction prior to a signed and executed agreement. Certain preliminary costs may be eligible for an advance eligibility exemption, if the exemption is requested in writing and granted by the department in writing. If granted, an exemption will permit a specified expenditure by the applicant without jeopardizing the project's eligibility for future funding approval. Granting an exemption shall not imply or guarantee that the department will fund a subsequent application. An advance eligibility exemption must be requested and approved prior to the expenditure; any cost incurred before a written exemption is granted will be ineligible for reimbursement.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.9 Reserved.

761—822.10(327H) Project application.

822.10(1) Submission. Applications may be submitted at any time and will be held until the next evaluation cycle.

a. A notice of funding availability will be published on the department's website when funding is available. The notice will include the approximate amount of funding available and a deadline for consideration of applications.

b. An applicant shall submit the appropriate application on the prescribed forms either electronically to the email address included in the application or to the address in rule 761—822.3(327H).

c. If an application is incomplete, department staff shall return the application to the applicant to be resubmitted when it is complete.

d. An application may be withdrawn at any time after submission.

822.10(2) Contents of application. Each application shall contain the following:

a. The applicant's name, address, telephone number, facsimile number and email address (if available) and the name of a designated contact person for the project.

b. A detailed description of the project proposed for funding, including a location map and a project plan or drawing.

c. The justification for the project, including the following information:

- (1) The need for and purpose of the project.
- (2) Specific information demonstrating that the proposed project will provide benefits to Iowa in terms of direct economic development and job growth or retention or through economic transportation or other benefits derived from railroad transportation system or service improvements. Benefits are to be quantified whenever possible.

d. An itemized estimate of all project or planning study costs and the proposed match or cost sharing based on the requested funding. A detailed financial plan to explain the funding for the entire project should be included, along with any associated development costs.

e. A time schedule for the completion of the project.

f. The total amount of loan and grant funds requested.

g. If loan funds are requested, a detailed description of the applicant's ability to repay the loan. Department staff may require the applicant to provide audited financial statements for the past two years plus a current balance sheet and profit/loss statement for the entity that is to repay the loan. If the entity that is to repay the loan is a new entity, the applicant shall, instead, provide a pro forma balance sheet and pro forma profit/loss statement.

h. If requested by department staff, endorsement of the project by a local government(s) that will be affected by the project and a description of how the project will impact the local government's transportation and economic development plans.

i. If the project is a new or expanded development, a letter from the serving railroad(s) indicating that the railroad(s) will serve the planned development.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.11(327H) Project evaluation and approval.

822.11(1) Staff review. Department staff shall review the contents of each application and request any additional information necessary to understand the scope and benefits of a project. Projects involving job creation which do not meet 100 percent of the annual laborshed wage rate for their area will not be considered. Department staff may visit the project site and may require the applicant to verify the information in the application. After department staff determines that the application is complete, the staff shall develop a funding recommendation and shall schedule the project for submission to the transportation commission for approval.

822.11(2) Commission evaluation. The transportation commission shall be responsible for selecting and determining the funding for each project, subject to the availability of railroad revolving loan and grant funds. The transportation commission may fund all or part of a project and may make funding dependent upon the applicant's adherence to a time schedule or fulfillment of specified conditions, including job creation commitments.

822.11(3) Commission approval. In making its decision to fund a project, the transportation commission may consider the railroad transportation service benefits of the project, the economic development benefits of the project, the applicant's total capital investment, the number of direct and indirect jobs to be created or retained by the project, the financing requested, an analysis of public benefits versus public costs, and other potential impacts or benefits of the project.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.12(327H) Award acceptance. After the transportation commission approves the project, department staff shall notify the applicant of the amount of the award. The applicant shall either accept or reject the award in writing within 45 days.

[ARC 3883C, IAB 7/4/18, effective 8/8/18]

761—822.13(327H) Project agreement and administration.

822.13(1) Agreement. After the applicant has accepted the award for a project, department staff shall negotiate and execute an agreement with the applicant. Department staff shall administer the agreement.

a. The agreement shall specify the scope of the project, the approved funding level, and other conditions for project funding.

b. As applicable, the agreement shall address responsibilities for consultant selection, project design, right-of-way acquisition, contracting, construction and materials inspection; documentation required for reimbursement of project costs; loan repayment terms; audit requirements; and maintenance of the completed project.

c. The applicant shall execute the agreement within 180 days following the acceptance of the award. The applicant may request an extension, and department staff may approve an extension for

good cause. Failure to execute an agreement within the specified time may result in forfeiture of the award.

822.13(2) Reimbursement. The applicant will be reimbursed for eligible project costs in accordance with the agreement.

822.13(3) Audits.

a. Prior to execution of the agreement, department staff may perform a preaudit evaluation of the applicant or others as defined in the agreement. A preaudit evaluation typically includes an examination of accounting methods to determine the applicant's ability to segregate and accumulate costs to be charged against the project, and an analysis of costs factors to ensure their propriety and allowability.

b. Department staff may conduct a final audit of all project costs.

822.13(4) Remedies for noncompliance with project agreement. The commission may revoke a funding commitment, require repayment of funds loaned or granted or take both actions when the applicant has not fulfilled the terms of the project agreement.

[ARC 7909B, IAB 7/1/09, effective 7/1/09; ARC 3883C, IAB 7/4/18, effective 8/8/18]

These rules are intended to implement Iowa Code section 327H.20A.

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[Filed Emergency ARC 7909B, IAB 7/1/09, effective 7/1/09]

[Filed ARC 3883C (Notice ARC 3759C, IAB 4/25/18), IAB 7/4/18, effective 8/8/18]