

CHAPTER 173
STANDARD DEFINITIONS

[IAB 7/4/07, 261—Ch 173 renumbered as 261—Ch 199]

[Prior to 7/4/07, see 261—Ch 168, div V]

261—173.1(15) Applicability.

173.1(1) Current programs. Effective July 1, 2014, this chapter shall apply to the following programs and funding sources:

a. Rescinded IAB 6/24/15, effective 7/29/15.

b. EZ (enterprise zone) program (261—Chapter 59). Effective as of July 1, 2014, the EZ program was repealed. See 2014 Iowa Acts, House File 2448. The rules adopted in 261—Chapter 59 continue to apply to agreements entered into prior to that date. All amendments to this chapter made on or after July 1, 2014, shall not apply to agreements entered into under the EZ program prior to that date.

c. HQJP (high quality jobs program) (261—Chapter 68).

173.1(2) Prior programs—transition provision. The programs listed in paragraphs “a” to “f” were repealed by 2009 Iowa Acts, Senate File 344, effective July 1, 2009. The rules in effect on June 30, 2009, under this chapter shall apply to the following prior programs until such time as the contracts for these prior programs are closed by the authority:

a. VAAPFAP (value-added agricultural products and processes financial assistance program) (261—Chapter 57).

b. CEBA (community economic betterment account) program (261—Chapter 53).

c. EVA (entrepreneurial ventures assistance) program (261—Chapter 60).

d. TSBFAP (targeted small business financial assistance program) (261—Chapter 55).

e. PIAP (physical infrastructure assistance program) (261—Chapter 61).

f. LCG (loan and credit guarantee) program (261—Chapter 69).

173.1(3) Grow Iowa values fund (IVF(2009))—transition provision. The grow Iowa values fund and financial assistance program as amended by 2009 Iowa Acts, Senate File 344, was repealed by 2011 Iowa Acts, chapter 133. The repeal took effect on June 30, 2012. The rules pertaining to the grow Iowa values fund and financial assistance program that were in effect upon the repeal of the program shall apply to all awards made and all contracts entered into under the program after July 1, 2009, and on or before June 30, 2012, and shall continue to apply until such time as all such contracts, including all amendments to such contracts, reach the end of their effective contract periods and are closed by the authority.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 1801C, IAB 12/24/14, effective 1/28/15; ARC 2038C, IAB 6/24/15, effective 7/29/15]

261—173.2(15) Definitions. As used in these rules unless the context otherwise requires:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Award date*” means the date the board or the director approved an application for project completion assistance, other direct financial assistance, or tax incentives.

“*Base employment level*” means the number of full-time equivalent positions at a business, as established by the authority and a business using the business’s payroll records, as of the date a business applies for tax incentives or project completion assistance. The number of jobs the business has pledged to create and retain shall be in addition to the base employment level.

“*Benefits*” means nonwage compensation provided to an employee. Benefits include medical and dental insurance plans, pension, retirement, and profit-sharing plans, child care services, life insurance coverage, vision insurance coverage, and disability insurance coverage. Benefits may include other nonwage compensation as determined by the board.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Brownfield site*” means the same as defined in Iowa Code section 15.291.

“*Business*” means a sole proprietorship, partnership, corporation, or other business entity organized for profit or not for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“*Created job*” means a new, permanent, full-time equivalent (FTE) position added to a business’s payroll in excess of the base employment level at the time of application for tax incentives or project completion assistance.

“*Director*” means the director of the authority.

“*Due diligence committee*” or “*DDC*” means the due diligence committee organized by the board pursuant to 261—Chapter 1.

“*Employee*” means:

1. An individual filling a full-time position that is part of the payroll of the business receiving financial assistance from any of the programs identified in rule 261—173.1(15).

2. A business’s leased or contract employee, provided all of the following elements are satisfied:

- The business receiving the tax incentives or project completion assistance has a legally binding contract with a third-party provider to provide the leased or contract employee.

- The contract between the third-party provider and the business specifically requires the third-party provider to pay the wages and benefits at the levels required and for the time period required by the authority as conditions of the award to the business.

- The contract between the third-party provider and the business specifically requires the third-party provider to submit payroll records to the authority, in form and content and at the frequency found acceptable to the authority, for purposes of verifying that the business’s job creation/retention and benefit requirements are being met.

- The contract between the third-party provider and the business specifically authorizes the authority, or its authorized representatives, to access records related to the funded project.

- The business receiving the tax incentives or project completion assistance agrees to be contractually liable to the authority for the performance or nonperformance of the third-party provider.

“*Equity investment*” means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, partnership interests in partnerships, or near equity. Equity is limited to securities or interests acquired only for cash and does not include securities or interests acquired at any time for services, contributions of property other than cash, or any other non-cash consideration.

“*Equity-like assistance*” means assistance provided in such a manner that the potential return on investment to the provider varies according to the profitability of the company assisted. Equity-like assistance includes but is not limited to: royalty arrangements; success payments; warrant arrangements; or other similar forms of investments. Equity-like assistance does not include equity investments.

“*Financial assistance*” means assistance provided only from the funds, rights, and assets legally available to the authority. Financial assistance includes assistance provided in the form of grants, loans, forgivable loans, float loans, equity-like assistance, and royalty payments and other forms of assistance deemed appropriate by the board, consistent with Iowa law.

“*Fiscal impact ratio*” or “*FIR*” means a ratio calculated by estimating the amount of taxes to be received by the state from a business and dividing the estimate by the estimated cost to the state of providing certain project completion assistance and tax incentives to the business, reflecting a ten-year period of taxation and incentives and expressed in terms of current dollars. “Fiscal impact ratio” does not include taxes received by political subdivisions.

“*Full-time equivalent job*” or “*full-time*” means the employment of one person:

1. For 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or

2. The number of hours or days per week, including paid holidays, vacations and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year including paid holidays, vacations, and other paid leave.

For purposes of this definition, “employment of one person” means the employment of one natural person and does not include “job sharing” or any other means of aggregation or combination of hours worked by more than one natural person.

“*Grant*” means an award of assistance with the expectation that, with the fulfillment of the conditions, terms and obligations of the contract with the authority for the project, repayment of funds is not required.

“*Grayfield site*” means the same as defined in Iowa Code section 15.291.

“*Greenfield site*” means a site that does not meet the definition of a brownfield site or grayfield site. A project proposed at a site located on previously undeveloped or agricultural land shall be presumed to be a greenfield site.

“*ICF*” means the innovation and commercialization fund created in Iowa Code section 15.412.

“*IVF(2009)*” means the grow Iowa values fund and financial assistance program established by Iowa Code section 15G.111 as amended by 2009 Iowa Acts, Senate File 344, section 2, and as repealed by 2011 Iowa Code Supplement section 15G.107. IVF(2009) does not include programs funded under the grow Iowa values fund prior to 2009. Rule 261—173.1(15) applies in determining which rules apply to which programs.

“*Laborshed area*” means the geographic area surrounding an employment center from which the employment center draws its commuting workers. The Iowa department of workforce development (IWD) determines the employment centers and defines the boundaries of each laborshed area. IWD defines laborshed areas by surveying commuters within the various zip codes surrounding an employment center, combining the zip codes into as many as three zones, and determining how many people commute from a zip code to the employment center from each zone. The zones reflect the fact that as the distance from an employment center increases, the number of people willing to commute to the employment center decreases. When determining the applicable laborshed wage, the authority will use the closest laborshed area, as determined by road distance between the employment center and the zip code of the project location.

“*Laborshed wage*” means the same as defined in Iowa Code section 15.327. The authority will calculate the laborshed wage as follows:

1. The most current covered wage and employment data available from IWD will be used.
2. The wage will be computed as a mean wage figure and represented in terms of an hourly wage rate.
3. Only the wages paid by employers for jobs performed within the first two zones of a laborshed area will be included.
4. The wages paid by employers in the following categories will be excluded from the calculation: government, retail trade, health care and social assistance, and accommodations and food service. The wages paid by employers in all other categories will be included in the calculation.
5. To the extent that a laborshed area includes zip codes from states other than Iowa, the wages paid by employers in those zip codes may be included if IWD has finalized a data-sharing agreement with the state in question and has received the required data.
6. Only those wages within two standard deviations from the mean wage will be included.

“*Loan*” means an award of assistance with the requirement that the award be repaid with term, interest rate, and other conditions specified as part of the conditions of the award. “*Loan*” includes deferred loans, forgivable loans, and float loans. A “*deferred loan*” is one for which the payment for principal, interest, or both, is not required for some specified period. A “*forgivable loan*” is one for which repayment is eliminated in part or entirely if the borrower satisfies specified conditions. A “*float loan*” means a short-term loan (not to exceed 30 months) made from obligated but unexpended moneys.

“*Maintenance period*” means the period of time between the project completion date and the maintenance period completion date.

“*Maintenance period completion date*” means the date on which the maintenance period ends. The specific date on which the maintenance period ends will be established by contract between the authority and the business. The maintenance period completion date will be a date on or after the project completion date and will be used to establish the period of time during which the project, the created jobs, and the retained jobs must be maintained. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project” means an activity or set of activities directly related to the start-up, location, modernization, or expansion of a business, and proposed in an application by a business, that will result in the accomplishment of the goals of the program.

“Project completion,” in the case of the EZ program and HQJP, for purposes of reporting to the Iowa department of revenue that a project has been completed, means:

1. For new manufacturing facilities, the first date upon which the average annualized production of finished product for the preceding 90-day period at the manufacturing facility is at least 50 percent of the initial design capacity of the facility.

2. For all other projects, the date of completion of all improvements necessary for the start-up, location, expansion or modernization of a business.

“Project completion assistance” means financial assistance or technical assistance provided to an eligible business in order to facilitate the start-up, location, modernization, or expansion of the business in this state and provided in an expedient manner to ensure the successful completion of the start-up, location, modernization, or expansion project.

“Project completion date” means the date by which a recipient of incentives or assistance has agreed to meet all the terms and obligations contained in an agreement with the authority. The specific date on which the project completion period ends will be established by contract between the authority and the business. The project completion date will be a date on which the project must be completed, all incented jobs must be created or retained, and all other applicable requirements must be met. Rule 261—187.3(15) provides standard durations for project completion and maintenance periods.

“Project completion period” means the period of time between the date financial assistance is awarded (the “award date”) and the project completion date.

“Project initiation” means, for all programs and funding sources except EDSA, any one of the following:

1. The start of construction of new or expanded buildings;
2. The start of rehabilitation of existing buildings;
3. The purchase or leasing of existing buildings; or
4. The installation of new machinery and equipment or new computers to be used in the operation of the business’s project.

The purchase of land or signing an option to purchase land or earth moving or other site development activities not involving actual building construction, expansion or rehabilitation shall not constitute project initiation. The costs of any land purchase and site development work incurred prior to the award are not eligible qualifying investment expenses.

“Qualifying wage threshold” means the laborshed wage for an eligible business. The qualifying wage thresholds for the authority’s programs are described in 261—Chapter 174.

“Retained job” means a full-time equivalent permanent position in existence at the time an employer applies for financial assistance which remains continuously filled or authorized to be filled as soon as possible and which is at risk of elimination if the project for which the employer is seeking assistance does not proceed. The authority may require a business to verify that a job is at risk. Such verification may include the signed statement of an officer of the business, documentation that the business is actively exploring other sites for the project, or any other information the authority may reasonably require during the application review process to establish that a job is at risk.

“Sufficient benefits” means that the employer applying for financial assistance offers to each full-time equivalent permanent position a benefits package that meets one of the following:

1. The employer pays 80 percent of the premium costs for a standard medical and dental plan for single employee coverage with a \$750 maximum deductible; or
2. The employer pays 50 percent of the premium costs for a standard medical and dental plan for employee family coverage with a \$1,500 maximum deductible; or
3. The employer provides medical coverage and pays the monetary equivalent of paragraph “1” or “2” above in supplemental employee benefits. Benefits counted toward monetary equivalent could include medical coverage, dental coverage, vision insurance, life insurance, pension, retirement (401k),

profit sharing, disability insurance, child care services, and other nonwage compensation approved by the board.

“Technology commercialization committee” means the committee organized by the board pursuant to 261—Chapter 1.

[ARC 7970B, IAB 7/15/09, effective 7/1/09; ARC 8145B, IAB 9/23/09, effective 10/28/09; ARC 0442C, IAB 11/14/12, effective 12/19/12; ARC 1801C, IAB 12/24/14, effective 1/28/15]

These rules are intended to implement Iowa Code chapters 15 and 17A and 2011 Iowa Code Supplement chapter 15G, subchapter I.

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