

CHAPTER 175
APPLICATION REVIEW AND APPROVAL PROCEDURES

261—175.1(15,83GA,SF344) Applicability. This chapter shall apply to the programs listed in rule 261—173.1(15,15G,83GA,SF344) and to other state and federal programs identified in this chapter. 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.

[ARC 7970B, IAB 7/15/09, effective 7/1/09]

261—175.2(15,83GA,SF344) Application procedures for programs administered by the department.

175.2(1) IVF(2009). Effective July 1, 2009, pursuant to 2009 Iowa Acts, Senate File 344, the grow Iowa values fund was updated, streamlined and simplified, preexisting state financial assistance programs were repealed and previous funding for these programs was transferred to IVF(2009). The fund is administered by the department, and the board has final decision-making authority for IVF(2009) financial assistance awards and other activities.

175.2(2) IVF (2005). Rescinded IAB 7/15/09, effective 7/1/09.

175.2(3) Projects funded by program funds (“old money”). Rescinded IAB 7/15/09, effective 7/1/09.

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) Federal programs. The department administers federal programs including, but not limited to, the HOME program and the CDBG program. EDSA is the job creation component of the CDBG program. 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(6) Other state programs. In addition to the programs described herein, the department administers other state programs. 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(7) 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, as applicable, the wage and benefit requirements for that program and its funding source. Application forms and directions for completing the forms are available online 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.

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261—175.3(15,83GA,SF344) Standard program requirements. In addition to the eligibility requirements of the individual programs applicable to the financial assistance sought, an applicant shall be subject to all of the following requirements:

175.3(1) Environmental and worker safety. The applicant shall submit to the department with its application for financial assistance a report describing all violations of environmental law or worker safety law within the last five years. If, upon review of the application, the board finds that a business has a record of violations of the law, statutes, rules, or regulations that tends to show a consistent pattern, the board shall not make an award of financial assistance to the business unless the board finds either that the violations did not seriously affect public health, public safety, or the environment or, if such violations did seriously affect public health, public safety, or the environment, that mitigating circumstances were present.

175.3(2) Sustained operations. The applicant shall not have closed or substantially reduced operations in one area of this state and relocated substantially the same operations in a community in another area of this state. However, this subrule shall not be construed to prohibit a business from expanding its operations in a community if existing operations of a similar nature in this state are not closed or substantially reduced.

175.3(3) Competition. The proposed project shall not negatively impact other businesses in competition with the business being considered for assistance. The department shall make a good faith effort to identify existing Iowa businesses within an industry in competition with the business being considered for financial assistance. The department shall make a good faith effort to determine the probability that the proposed financial assistance will displace employees of the existing businesses. In determining the impact on businesses in competition with the business being considered for financial assistance, jobs created or retained as a result of other jobs being displaced elsewhere in the state shall not be considered direct jobs created or retained.

175.3(4) Legally authorized employment. The applicant shall only employ individuals legally authorized to work in this state. In addition to any and all other applicable penalties provided by current law, all or a portion of the assistance received by a business which has received financial assistance under the program and is found to knowingly employ individuals not legally authorized to work in this state is subject to recapture by the department.

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261—175.4(15,83GA,SF344) Review and approval of applications.

175.4(1) Staff review for eligibility. 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.

175.4(2) Additional review factors. In addition to reviewing an application for eligibility, the department and the board may consider additional factors. Upon review of these additional factors, the board may determine that the applicant is ineligible to receive assistance until such time as the pending resolution of any outstanding issues identified by the board. Additional factors to be considered include:

a. 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).

b. Results of due diligence review. This review will include, but is not limited to, lien searches, reports of violations, lawsuits and other relevant information about the applicant.

c. Report on environmental law compliance. This report is required by rule 261—172.1(15A) and applicable program statutes.

d. Report on violations of law. This report is required by rule 261—172.2(15A) and applicable program statutes.

175.4(3) 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.

175.4(4) Approval procedures.

a. Approval. Application approval procedures shall comply with statutory requirements for the program or funding source and applicable program rules. The board shall take final action on all applications or activities funded through IVF(2009), HQJP, EZ and other programs as described in the following paragraphs. The director shall take action on all other applications or activities that are not identified as requiring board action. Paragraphs "b" to "e" describe the review and approval processes, by funding source and program.

Key to tables:

APAC – Agricultural policy advisory committee established in Iowa Code section 15.203 as amended by 2009 Iowa Acts, Senate File 344, section 23.

BRN – Brownfield redevelopment advisory council as established in Iowa Code section 15.294.

CWD – Community and workforce development committee created by the board.

DDC – Due diligence committee established by the board pursuant to Iowa Code section 15.103(6).

LCG – Loan and credit guarantee committee established in Iowa Code section 15.103(6) as amended by 2009 Iowa Acts, Senate File 344, section 18.

TSB – Targeted small business advisory council established in Iowa Code section 15.247(8).

TCC – Technology commercialization committee established in Iowa Code section 15.116 as amended by 2009 Iowa Acts, Senate File 344, section 22.

b. Advisory committee recommendations and final action—state financial assistance programs. The approval process for applications for financial assistance and any other request for funding from the department’s direct financial assistance programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Grow Iowa Values Financial Assistance Program:									
130% wage component				•				•	
100% wage component				•				•	
Entrepreneurial component				•				•	
Infrastructure component				•				•	
Value-added agriculture component	•							•	
Disaster recovery component				•				•	
Loan and Credit Guarantee Program					•				
Other Iowa Values Fund (2009) activities:									
Marketing								•	
Labor shed study								•	
Technical assistance and information technology								•	
Opportunities and threats								•	
All other IVF assistance								•	
Innovation and Commercialization Fund:									
Demonstration Fund							•	•	
Information Technology Training Program							•	•	
Targeted Industries Internship Program							•	•	
Community College Equipment and Training Fund							•	•	

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
Targeted Industries Networking Fund							•	•	
Targeted Industries Student Competition Fund							•	•	
Targeted Industries Career Awareness Fund							•	•	
Lean Manufacturing Institute Program							•	•	
Supplier Capacity and Product Database Program							•	•	
Management Talent Recruitment Program							•	•	

c. *Advisory committee recommendations and final action—tax credit programs.* The approval process for applications for financial assistance and any other request for funding from the department’s tax credit programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
High Quality Jobs				•				•	
Enterprise Zone									
Business				•				•	
Housing									•
Film, Television, and Video Project Promotion									•
Assistive Device Tax Credits									•

d. *Advisory committee recommendations and final action—federal programs.* The approval process for applications for financial assistance and any other request for funding from the department’s federal programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TSB	TCC	Board	Director
HOME									•
CDBG									
EDSA				•				•	
All other CDBG assistance									•
Neighborhood Stabilization Program									•

e. *Advisory committee recommendations and final action—other department-administered programs.* The approval process for applications for financial assistance and any other request for funding from other department-administered programs is as follows:

PROGRAM	RECOMMENDATION BY:							FINAL DECISION BY:	
	APAC	BRN	CWD	DDC	LCG	TCC	TSB	Board	Director
Brownfield Redevelopment Program		•							•
Targeted Small Business Financial Assistance Program							•		•
Export Trade Assistance Program									•
Accelerated Career Education Program			•					•	
Targeted Jobs Withholding Tax Credit Program									•

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261—175.5(15,15G,83GA,SF344) Procedures for waiver of wage and other program requirements.

175.5(1) General information. Within the parameters described in this rule, the board may, for good cause shown, waive qualifying wage threshold requirements. 2009 Iowa Acts, Senate File 344, section 3, permits applicants to apply to the board for a waiver of the qualifying wage threshold for the 130 percent wage component of the grow Iowa values financial assistance program. Iowa Code section 15.335A(3) as amended by 2009 Iowa Acts, Senate File 344, section 16, allows a community to apply to the board for a project-specific waiver from the qualifying wage threshold requirement provided in the HQJP in order to seek tax incentives for an eligible business.

175.5(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 threshold equal to or greater than 100 percent of the 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.

175.5(3) Request to waive HQJP qualifying wage threshold requirement.

a. Iowa Code section 15.335A(3) as amended by 2009 Iowa Acts, Senate File 344, section 16, authorizes a community to request a project-specific waiver from the qualifying wage threshold requirement in order to seek tax incentives for an eligible business.

b. Upon a showing of good cause as defined in subrule 175.5(2), the board may grant a project-specific waiver from the county or regional wage calculations for the remainder of a calendar

year based on county wage or regional wage calculations brought forth by the applicant county including, but not limited to, any of the following:

- (1) The county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.
- (2) The regional wage calculated without wage data from up to two adjacent counties.
- (3) The 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.

175.5(4) *Request to waive qualifying wage threshold for the 130 percent wage component of the grow Iowa values financial assistance program.*

a. 2009 Iowa Acts, Senate File 344, section 3, allows applicants to apply to the board for a waiver of the 130 percent wage component of the grow Iowa values financial assistance program.

b. Upon a showing of good cause as defined in subrule 175.5(2), the board may grant a project-specific waiver of the qualifying wage threshold for the 130 percent wage component of the grow Iowa values financial assistance program. The board may grant a waiver from the county wage calculations based on county or regional wage calculations brought forth by the applicant including, but not limited to, any of the following:

- (1) The county wage calculated without wage data from the business in the county employing the greatest number of full-time employees.
- (2) The regional wage calculated without wage data from up to two adjacent counties.
- (3) The county wage calculated without wage data from the largest city in the county.
- (4) A qualifying wage threshold 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.

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These rules are intended to implement Iowa Code chapters 15, 15E and 15G as amended by 2009 Iowa Acts, Senate File 344.

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