

CHAPTER 67
MAJOR ECONOMIC GROWTH ATTRACTION (MEGA) PROGRAM

261—67.1(15) Definitions. For purposes of this chapter, unless the context otherwise requires:

“*Agricultural land*” means the same as defined in Iowa Code section 15.491(1A) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Authority*” means the same as defined in Iowa Code section 15.102(1).

“*Award date*” means the date the board approved an application for program benefits.

“*Base employment level*” means the same as defined in Iowa Code section 15.491(2) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Benefit*” means the same as defined in Iowa Code section 15.491(3) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Board*” means the same as defined in Iowa Code section 15.102(4).

“*Business*” means a corporation or other business entity organized for profit under the laws of the state of Iowa or another state, under federal statutes, or under the laws of another country.

“*Certified site*” means the same as defined in Iowa Code section 15.491(4) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Community*” means the same as defined in Iowa Code section 15.491(5) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Created job*” or “*create jobs*” means the same as defined in Iowa Code section 15.491(8) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Eligible business*” means a business that meets the conditions of Iowa Code section 15.492 as enacted by 2024 Iowa Acts, Senate File 574, section 4.

“*Foreign business*” means the same as defined in Iowa Code section 9I.1.

“*Full-time equivalent position*” means the same as defined in Iowa Code section 15.491(12) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Maintenance period*” means the same as defined in Iowa Code section 15.491(13) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Maintenance period completion date*” means the same as defined in Iowa Code section 15.491(14) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Program*” means the same as defined in Iowa Code section 15.491(16) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Program benefits*” means tax incentives or an exemption to restrictions on agricultural land holdings authorized by the board pursuant to Iowa Code section 15.493(3) or 15.493(4) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Project*” means the same as defined in Iowa Code section 15.491(17) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Project completion date*” means the same as defined in Iowa Code section 15.491(18) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Project completion period*” means the same as defined in Iowa Code section 15.491(19) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Qualified jobs*” means created jobs that meet the applicable wage requirements established in Iowa Code section 15.492 as enacted by 2024 Iowa Acts, Senate File 574, section 4.

“*Qualifying investment*” means the same as defined in Iowa Code section 15.491(20) as enacted by 2024 Iowa Acts, Senate File 574, section 3. “Qualifying investment” includes machinery and equipment and infrastructure costs incurred by the business.

“*Qualifying wage threshold*” means the same as defined in Iowa Code section 15.491(21) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

“*Tax incentive*” means the same as defined in Iowa Code section 15.491(23) as enacted by 2024 Iowa Acts, Senate File 574, section 3.

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

261—67.2(15) Eligibility requirements.

67.2(1) *Project requirements.* The business' proposed project site and qualifying investment in the project must meet the requirements of Iowa Code section 15.492(1) "a" and "b" as enacted by 2024 Iowa Acts, Senate File 574, section 4. The authority will not accept an application from a business that proposes a project at a location that is not a certified site or that the business does not currently have a controlling interest in at the time of application. The authority may accept an application from a business that proposes a project on a certified site that is not currently greater than 250 acres if the process to certify additional acres has been initiated and the certified site will exceed 250 acres following certification of the additional acres. The authority will determine whether a site is suitable for a project based on the following factors:

- a. Community approval of the project as required by subrule 67.2(2).
- b. The impact of the project on surrounding businesses and residents.
- c. The availability of or proposed plans to develop the necessary infrastructure to support the project.

67.2(2) *Community approval and local match.* Community approval of the project by ordinance or resolution is required as specified in Iowa Code section 15.492(1) "c" as enacted by 2024 Iowa Acts, Senate File 574, section 4. Local match may be required from the community or other relevant entity.

67.2(3) *Business type.*

a. The business must be an eligible business type as identified in Iowa Code section 15.492(1) "d" as enacted by 2024 Iowa Acts, Senate File 574, section 4.

b. For the purposes of determining whether a business is an ineligible retail business pursuant to Iowa Code section 15.492(1) "d" as enacted by 2024 Iowa Acts, Senate File 574, section 4, "retail business" means any business engaged in the business of sale at retail of tangible personal property or taxable services in this state or online. "Sale at retail" means the same as defined in Iowa Code section 423.1(46). Any business obligated to collect sales or use tax under Iowa Code chapter 423 is an ineligible retail business. A service business is not eligible for the program unless a significant proportion of its sales, as determined by the authority, are outside this state.

67.2(4) *Relocations and reductions in operations.* The authority will determine whether a business is ineligible due to a relocation or reduction in operations pursuant to Iowa Code section 15.492(1) "e" as enacted by 2024 Iowa Acts, Senate File 574, section 4.

67.2(5) *Jobs.* A business must propose to create qualified jobs.

67.2(6) *Determination of comprehensive benefits.* The benefits package provided pursuant to Iowa Code section 15.492(1) "g" as enacted by 2024 Iowa Acts, Senate File 574, section 4, shall meet the criteria established by the board. The board will periodically approve such criteria to reflect the most current benefits package typically offered by employers. The criteria established by the board may include but not be limited to premium percentages to be paid by the business, deductible amounts, and other such criteria as determined necessary to the evaluation of benefits offered by a business. A business shall provide comprehensive benefits to all jobs included in the base employment level.

67.2(7) *Violations of law.* If the authority finds that a business has a record of violations of law over a period of time that tends to show a consistent pattern as described in Iowa Code section 15.492(1) "h" as enacted by 2024 Iowa Acts, Senate File 574, section 4, the business shall not qualify for the program.

67.2(8) *Applicant's past or current performance.* If an applicant received a prior award or other benefit through any program administered by the authority, the authority and board will consider the applicant's past or current performance under the prior award or benefit.

67.2(9) *Results of due diligence review.* The authority will complete a due diligence review, including but not limited to lien searches, reports of violations, lawsuits and other relevant information about the applicant. A business may be ineligible based on results of the review.

67.2(10) *Other factors.*

a. The authority shall consider any applicable additional factors pursuant to Iowa Code section 15.492(2) as enacted by 2024 Iowa Acts, Senate File 574, section 4, to determine whether a business or a business's project should be considered eligible or ineligible for the program.

b. In evaluating the economic impact of a project pursuant to Iowa Code section 15.492(2) "a"(3) as enacted by 2024 Iowa Acts, Senate File 574, section 4, the authority will primarily measure economic impact by an independent analysis conducted by a contractor chosen by the authority.

c. The following businesses may be considered ineligible for the program:

(1) Businesses that have not proposed a sufficient number of created jobs or qualified jobs to justify program benefits.

(2) Businesses that do not clearly identify ownership and affiliated businesses to the authority's satisfaction.

(3) Businesses that do not have significant market share or national recognition in their industry.

67.2(11) *Ineligible projects.* A project representing solely acquisition of a business as a going concern that does not include qualified jobs and qualifying investment at the acquired business facility is not eligible for the program. A qualified project that occurs following acquisition of a business as a going concern may be eligible for the program.

67.2(12) *Project initiation.* The authority will not accept applications for projects that have been initiated or will be initiated prior to board consideration of the business's application for the program unless the business establishes that not initiating the project prior to board consideration of the application would result in undue hardship or that extenuating circumstances necessitate initiating the project prior to board consideration of the business's application for the program. Whether an undue hardship or extenuating circumstance exists will be determined by the authority.

a. Any one of the following may indicate that a project has been initiated:

(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.

b. The following shall not indicate a project has been initiated:

(1) The purchase of land or signing an option to purchase land;

(2) Earthmoving or other site development activities not involving actual building construction, expansion or rehabilitation; or

(3) Acquisition of a business as a going concern.

c. Any costs incurred prior to the award date are not eligible qualifying investment expenses.

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

261—67.3(15) Application process and review.

67.3(1) *Application.*

a. Businesses may be invited to submit applications for the program to the authority. Businesses shall utilize a standardized application developed by the authority. A signature from an official authorized to represent the affected local community is required to indicate that the community supports the project. The application shall include an ordinance or resolution of the community's governing body approving the project.

b. An applicant shall provide any information requested by a contractor selected by the authority to evaluate the economic impact of the project pursuant to subrule 67.2(10). Such information will be held confidential by the authority to the extent allowed by Iowa Code sections 15.118 and 22.7 or other applicable laws.

c. During the application process, the authority will identify any assistance previously awarded for which an applicant would no longer be eligible pursuant to Iowa Code section 15.499(1) as enacted by 2024 Iowa Acts, Senate File 574, section 11. The authority may also identify assistance the applicant may be prohibited from receiving in the future pursuant to Iowa Code section 15.499(1) as enacted by 2024 Iowa Acts, Senate File 574, section 11, during the application process or may identify such prohibition at a later time.

67.3(2) *Fee.*

a. The application fee required by Iowa Code section 15.493 as enacted by 2024 Iowa Acts, Senate File 574, section 5, shall equal the sum of the following:

(1) The actual cost incurred by the authority to conduct an independent analysis of the economic impact of the project, not to exceed \$50,000; and

(2) One half of 1 percent of the amount of tax incentives approved.

b. The authority shall issue an invoice for the portion of the fee assessed pursuant to subparagraph 67.3(2)“a”(1) following completion of the independent analysis. Payment shall be due within 30 days after the date the invoice is issued or a later date identified in writing by the authority.

c. The authority shall issue an invoice for the portion of the fee assessed pursuant to subparagraph 67.3(2)“a”(2) following board approval of tax incentives. Payment shall be equally divided over the term of the contract entered into pursuant to Iowa Code section 15.494 as enacted by 2024 Iowa Acts, Senate File 574, section 6. Payments shall be due by the dates identified by the authority in the invoice or a later date identified in writing by the authority.

67.3(3) *Applicability of wage requirements.* The qualifying wage threshold applicable to a project is the threshold in effect on the date the fully completed project application is received by the authority. If such an application is received but not acted upon by the board before the qualifying wage thresholds are updated, the thresholds in effect on the date the application was received will remain in effect for a period of three months after the month the thresholds were updated. The authority shall have sole discretion to determine whether an application is fully completed. Qualifying wage thresholds will be calculated and applied as described in rule 261—67.8(15).

67.3(4) *Job requirements.* Job requirements applicable to a project, identified as described in rule 261—67.7(15), will be established at the time of application. Job requirements will be based on the base employment level as of the date the application was fully completed and submitted to the authority and eligible business’s job projections and will be utilized to determine eligibility and the amount of tax incentives.

67.3(5) *Investment requirements.* The investment requirements applicable to a project will be established at the time of application. Investment requirements are based on an eligible business’s estimates of project costs and will be utilized to determine eligibility and the amount of tax incentives.

67.3(6) *Negotiations.* Authority staff and the board may negotiate with an applicant concerning dollar amounts, terms, conditions of award, or any other elements of the proposed award. All program benefits available under the program are subject to negotiation. The board and the authority will attempt to treat similarly situated applicants similarly. However, the amount, type, and terms of program benefits are necessarily dependent on many factors, and awards shall be entirely at the discretion of the board. The board, in consultation with authority staff, will attempt to determine the appropriate program benefits, and the board will make a good-faith effort to provide only the amount of program benefits necessary to facilitate the project.

The authority shall consider all of the following factors in negotiating with the business:

a. *Level of need.* The authority will determine a project’s level of need based on the following factors:

(1) Whether the likely returns of the project are inadequate to motivate a company decision maker to proceed with the project in Iowa.

(2) Whether the business is deciding between an Iowa site and a site in another state for its project and the cost of completing the project at the out-of-state site is demonstrably lower, including if any form of incentives have been offered by another state or local government. Such a condition indicates that tax incentives may be needed to equalize the cost differential between the two sites. The authority will attempt to quantify the cost differential between the sites.

(3) The amount of state and local assistance available to the business from sources other than the program.

b. *Number of and quality of jobs.* The authority will determine the quality of jobs consistent with the factors listed in Iowa Code section 15.492(2)“a”(1) as enacted by 2024 Iowa Acts, Senate File 574, section 4.

c. *Percentage of created jobs that are qualified jobs.* The authority will consider the number of qualifying jobs in proportion to the total number of created jobs.

d. *Amount of investment.* The authority will consider the total amount of qualifying investment proposed by the business.

e. *Economic impact.* Economic impact will be primarily measured by an independent analysis conducted by a contractor chosen by the authority.

f. Effect on likely suppliers to the applicant business. The authority will consider whether a project increases demand for goods or services offered by other businesses in the state.

67.3(7) Board approval and notice.

a. Authority staff will review applications to ensure program eligibility requirements are satisfied. Authority staff may request additional information from the business or may use other resources to obtain the needed information.

Complete and eligible applications and supporting documentation will be submitted to the board for its consideration. Authority staff will generate and submit to the board a report that summarizes the project and provide a recommendation on the amount of tax incentives to be offered to the business and whether the business should be offered an exemption to restrictions on agricultural land holdings pursuant to Iowa Code section 15.498 as enacted by 2024 Iowa Acts, Senate File 574, section 10.

b. Staff may provide the board additional information or documentation as determined by staff. The board may offer an award in a lesser amount or that is structured in a manner different from that requested or recommended by authority staff. Meeting eligibility requirements does not guarantee that an award will be offered or provided in the form sought by the applicant.

c. The due diligence committee of the board established pursuant to 261—subrule 1.3(7) will review applications and make recommendations regarding the size, combination of program benefits, and conditions of awards. The board may accept or reject recommendations from the due diligence committee.

d. If the board approves an award, an applicant will be notified in writing, including any conditions and terms of the approval. If the board approves an application prior to certification of additional acres to qualify the project site pursuant to subrule 67.2(1), such approval shall be contingent upon certification of the additional acres.

67.3(8) Restrictions on board. The authority will reject any application received that would violate the restrictions on the board in Iowa Code section 15.501 as enacted by 2024 Iowa Acts, Senate File 574, section 13.

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

261—67.4(15) Tax incentives. The authority may approve a business to receive any combination of applicable tax incentives allowed through the program pursuant to Iowa Code section 15.495, 15.496, or 15.497 as enacted by 2024 Iowa Acts, Senate File 574. An approved business shall not claim a tax incentive in excess of the amount specified in an agreement entered into pursuant to Iowa Code section 15.494 as enacted by 2024 Iowa Acts, Senate File 574, section 6. No tax incentive may be utilized by an approved business until all conditions of such tax incentive established by the authority or the department of revenue have been satisfied.

67.4(1) Property tax exemption. If a community approves an exemption from taxation pursuant to Iowa Code section 15.500 as enacted by 2024 Iowa Acts, Senate File 574, section 12, the community shall provide the authority and the local assessor with a copy of the resolution adopted by the community's governing body that indicates the estimated value and duration of the authorized exemption.

67.4(2) Investment tax credit. An approved business shall provide adequate documentation to the authority to document that the conditions for issuance of a tax credit certificate in Iowa Code section 15.496 as enacted by 2024 Iowa Acts, Senate File 574, section 8, have been satisfied.

67.4(3) Maximum tax incentives available. The maximum amount of tax incentives for a business's project will be established based on the factors identified in subrule 67.3(6).

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

261—67.5(15) Acquisition of agricultural land by foreign businesses. The authority may authorize an exemption to restrictions on agricultural land holdings pursuant to Iowa Code sections 9I.3(3)“f” and 15.498 as enacted by 2024 Iowa Acts, Senate File 574. Whether to approve or deny a request for an exemption is solely within the board's discretion.

67.5(1) To be considered for an exemption, an applicant shall provide detailed documentation of ownership and affiliated businesses; evidence of compliance with Iowa Code chapter 9I as amended by 2024 Iowa Acts, Senate File 2204; and any other information requested by the authority to document the business's eligibility for the exemption to the authority's satisfaction. An applicant must demonstrate that

the number of acres for which an exemption is requested is necessary for the completion of the business's project. The number of acres for which an exemption is approved is subject to negotiation.

67.5(2) A request for an extension authorized pursuant to Iowa Code section 15.498(2) "b" as enacted by 2024 Iowa Acts, Senate File 574, section 10, must be made in writing and received by the authority at least 60 days prior to expiration of the applicable deadline imposed by Iowa Code section 9I.4 or as previously extended by the authority. The request shall include steps taken by the recipient to convert the land to a purpose other than farming, the estimated date by which the required conversion is expected to occur, and any other information required by the authority to determine whether an extension is warranted. Whether to approve or deny a request for an extension is solely within the board's discretion.

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

261—67.6(15) Agreements and compliance.

67.6(1) *Execution.* Successful applicants will be required to execute an agreement with the authority within 180 days of the award date. The time limit for execution may be extended by the authority director for an additional 180 days for good cause shown. Upon expiration of the time limit, including any extensions approved pursuant to this subrule, the board may approve additional extensions or rescind the award.

67.6(2) *Requirements.* An agreement shall meet all requirements of and be administered pursuant to Iowa Code section 15.494 as enacted by 2024 Iowa Acts, Senate File 574, section 6.

67.6(3) *Jobs.* An agreement will specify the number of created jobs the business has pledged to create in addition to the base employment level and the number of qualified jobs. Job obligations will be established and monitored pursuant to subrule 67.2(5) and rule 261—67.7(15).

67.6(4) *Investment.* An agreement will describe the project and specify the qualifying investment the business proposes to make.

67.6(5) *Project completion date.* An agreement will specify the project completion date. The project completion date will be the date on which a program recipient has agreed to meet all the terms and obligations contained in an agreement with the authority, including but not limited to completing the project and creating jobs. The project completion period will be at least three years. The project completion date is calculated by the authority from the end of the month during which an award is made. For example, if an award is made on June 13, 2024, the three-year project completion date will be calculated from June 30, 2024. The project completion date for this award would be June 30, 2027.

67.6(6) *Maintenance period completion date.* An agreement will specify the maintenance period completion date. The maintenance period completion date will be used to establish the period during which the project and the created jobs must be maintained. The total contract length, including the maintenance period, will be at least five years.

67.6(7) *Conditions to issuance of tax credit certificate.* An agreement will specify the conditions of issuance of a tax credit certificate, including but not limited to compliance with the requirements of Iowa Code section 15A.1(3) "b" regarding solid and hazardous waste and verification that the project completion and qualified job threshold specified in Iowa Code section 15.496 as enacted by 2024 Iowa Acts, Senate File 574, section 8, has been met, if applicable.

67.6(8) *Monitoring and reports.* The authority shall ensure that program recipients comply with contracts entered into pursuant to this rule. An agreement will specify the reports a program recipient must submit to the authority and due dates for such reports. Reports shall be provided in form and content acceptable to the authority.

a. Recipients shall report annually to the authority about the status of the funded project, including but not limited to employment, wages, benefits, project costs, qualifying investment, and compliance with the contract. The authority will use the data it collects in the authority's annual report to the general assembly.

b. Recipients shall submit a report to the authority following the project completion date and the maintenance period completion date to verify compliance with the agreement. On-site or remote monitoring may be conducted following the project completion date as deemed appropriate by the authority. On-site or remote monitoring may be conducted following the maintenance period completion date as deemed appropriate by the authority.

67.6(9) *Default.* An agreement will specify events of default and the remedies available to the authority.

a. Tax incentives. If the authority determines that a recipient is in default, the authority may seek recovery of all state tax incentives by notifying the department of revenue of the event of default and the required repayment amount. The repayment amount is subject to applicable interest and penalties as determined by the department of revenue. Negotiated settlements are subject to approval by the board. The department of revenue will undertake collection efforts. If the business is an entity that has elected pass-through taxation status for income tax purposes, the department of revenue may undertake collection efforts against members, individuals, or shareholders to whom the tax incentives were passed through. If the agreement provides for local tax incentives, the authority will notify the community that provided incentives.

b. Calculation of repayment due or reduction of tax incentives.

(1) **Job shortfall.** If a business does not meet its job requirements, the repayment amount or reduction of tax incentives shall be the same proportion as the amount of the job shortfall. For example, if the business creates 50 percent of the jobs required, the business shall repay 50 percent of the tax incentives received or incentives will be reduced by 50 percent.

(2) **Qualifying investment shortfall.** If a business does not meet the qualifying investment requirement, the repayment amount or reduction of tax incentives shall be the same proportion as the amount of the shortfall in required qualifying investment. For example, if the business meets 75 percent of the amount of required qualifying investment, the business shall repay 25 percent of the amount of the tax incentives received or incentives will be reduced by 25 percent.

(3) **Job and qualifying investment shortfalls.** If a business has a shortfall in both qualifying investment and job requirements, the repayment amount or reduction of tax incentives shall be the same proportion as the greater of the two shortfalls. For example, if a business creates 50 percent of the required jobs and meets 75 percent of the required qualifying investment, the business shall repay 50 percent of the amount of the tax incentives received or tax incentives will be reduced by 50 percent.

(4) **Benefits.** Notwithstanding any other provision in this subrule, if a business fails to comply with the benefit requirements of the agreement, the business shall repay all of the tax incentives received or tax incentives will be fully revoked.

(5) **Minimum eligibility.** Notwithstanding any other provision in this subrule, if a business fails to maintain eligibility for the program, the business shall repay all of the tax incentives received or tax incentives will be fully revoked.

c. Notification of default. The authority will notify a business and community of an event of default as described in the agreement.

67.6(10) *Amendments.* Agreement amendments must comply with Iowa Code sections 15.490 through 15.501 as enacted by 2024 Iowa Acts, Senate File 574, and this chapter. Recipients may submit requests for amendments to authority staff.

a. Except as provided in paragraph 67.6(10)“*b.*,” requests for amendments shall not be effective unless approved by the due diligence committee established pursuant to 261—subrule 1.3(7) and the board.

b. Authority staff may approve nonsubstantive changes, including but not limited to the following:

- (1) Recipient name, address and similar changes.
- (2) Line item budget changes that do not reduce overall total project costs.
- (3) Changes to tax credit amortization schedules.

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

261—67.7(15) Job counting.

67.7(1) *Overview.* The authority will count created jobs using a base employment analysis comparing the base employment level to employment at another date. The business’s base employment level will be established at the time of application for the program. The number of qualified jobs the business has pledged to create shall be in addition to the base employment level.

67.7(2) *Base employment level.*

a. Base employment level will include the number of full-time equivalent positions employed at the project location. If the project occurs at more than one physical location, the business’s base employment

level will include the total number of full-time equivalent positions working at the identified locations. Base employment level may include the business's full-time equivalent positions as identified by the authority that are employed in this state but are not employed at the project location.

b. The authority will collect payroll documents to calculate and verify the base employment level used in each award. Payroll documents must include a name or employee identification number and the hourly rate of pay for all full-time equivalent positions.

67.7(3) Verification. At the project completion date, during the maintenance period, and following the maintenance period completion date, payroll documents will be used to calculate and verify compliance with job obligations. The person who submits the documents must, under penalty of perjury, verify that the information contained in the documents is true and correct.

67.7(4) Full-time equivalent positions. Only a full-time equivalent position filled by an individual will be considered an employee of the business for the purpose of establishing the base employment level or created jobs. The authority will not consider "job sharing" or any other means of aggregation or combination of hours worked by more than one natural person in counting jobs. The authority will verify that full-time equivalent positions constitute the employment of one person for:

a. Eight hours per day for a five-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations and other paid leave; or

b. 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.

If employees at the facility do not typically work 40 hours per week, the business will be required to provide documentation outlining what the business considers a full-time workweek and how the business's interpretation fits within the norms of its industry standards. Whether to accept this interpretation is within the sole discretion of the authority.

67.7(5) Contract employees. A business's leased or contract employee may be included in the base employment level or as a created job only if the following requirements are met:

a. The business receiving the program benefits has a legally binding contract with a third-party provider to provide the leased or contract employee.

b. 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.

c. 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 as frequently as required by the authority, for purposes of verifying that the business's created job and benefit requirements are being met.

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

e. The business receiving the program benefits agrees to be contractually liable to the authority for the performance or nonperformance of the third-party provider.

67.7(6) Displaced employees. Pursuant to Iowa Code section 15.492(2)"a"(2) as enacted by 2024 Iowa Acts, Senate File 574, section 4, the authority shall reduce a business's job projections by the number of jobs displaced from competing businesses based on a good-faith estimate of such number of such displaced jobs when the authority determines the proposed number of created jobs applicable to a project. The authority shall have sole discretion to determine whether a job is displaced from a competing business.

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

261—67.8(15) Authority procedure for establishing wage requirements. Created jobs shall meet the qualifying wage threshold requirements as established pursuant to this rule and as indicated in an agreement entered into pursuant to Iowa Code section 15.494 as enacted by 2024 Iowa Acts, Senate File 574, section 6. Jobs that do not meet the qualifying wage threshold requirements will not be counted toward a business's job obligations.

67.8(1) For the purposes of establishing qualifying wage threshold as defined in Iowa Code section 15.491 as enacted by 2024 Iowa Acts, Senate File 574, section 3, “laborshed area” means the geographic area surrounding an employment center from which the employment center draws its commuting workers as defined by the department of workforce development.

67.8(2) The authority will update the qualifying wage thresholds annually each fiscal year. The thresholds will take effect on September 1 of each fiscal year and remain in effect until August 31 of the following fiscal year. If the authority determines that the laborshed wage of a laborshed area would increase by more than one dollar per hour, the authority will limit the increase to the qualifying wage threshold for that laborshed area for that annual update to one dollar per hour.

67.8(3) The authority will calculate the laborshed wage as follows:

a. The most current covered wage and employment data available from the department of workforce development will be used.

b. The wage will be computed as a mean wage figure and represented in terms of an hourly wage rate.

c. Only the wages paid by employers for jobs performed within the first two zones of a laborshed area will be included.

d. 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.

e. 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 the department of workforce development has finalized a data-sharing agreement with the state in question and has received the necessary data.

f. Only those wages within two standard deviations from the mean wage will be included.

67.8(4) To determine the wages paid to the employees of an eligible business, the authority will include only monetary compensation, represented in terms of an hourly rate, paid by an employer to an employee for work or services provided, typically on a weekly or biweekly basis. The wage will not include nonregular forms of compensation, such as bonuses, unusual overtime pay, commissions, stock options, pensions, retirement or death benefits, unemployment benefits, life or other insurance, or other fringe benefits.

[ARC 8196C, IAB 8/21/24, effective 7/26/24]

These rules are intended to implement Iowa Code sections 15.490 through 15.501 as enacted by 2024 Iowa Acts, Senate File 574, and Iowa Code section 15A.1.

[Filed Emergency After Notice ARC 8196C (Notice ARC 8047C, IAB 6/12/24), IAB 8/21/24, effective 7/26/24]