

261—116.3(15E) Certification of innovation funds.

116.3(1) An innovation fund shall provide to the authority information as a prerequisite to the issuance of any investment tax credits to investors in such innovation funds. The innovation fund must provide this information within 120 days from the first date on which the equity investments qualifying for the investment tax credit have been made (or, for investments made during the 2011 calendar year, by the later of 120 days from the first date on which the investments have been made or March 31, 2012).

116.3(2) Application forms setting forth the information required to certify the eligibility of an innovation fund may be obtained by contacting the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. The telephone number is (515)725-3000. Applications shall be submitted to the authority at the address identified above.

116.3(3) The authority will not issue a tax credit certificate until the board has certified that a fund meets all of the following criteria:

a. The innovation fund has submitted a copy of the innovation fund's certificate of limited partnership, limited partnership agreement, articles of organization or operating agreement certified by the chief executive officer of the innovation fund.

b. The innovation fund has submitted a signed statement, from an officer, director, manager, member or general partner of the fund, stating the following:

(1) That the innovation fund will make investments in promising early-stage companies which have a principal place of business in the state. For purposes of rule 261—116.3(15E), "having a principal place of business in the state" means (1) that the business has at least 50 percent of all of its employees in the state, (2) that the business pays at least 50 percent of the business's total payroll to employees residing in the state, or (3) that the headquarters of the business (defined as the home office for a substantial amount of executive employees) is in the state.

(2) That the innovation fund proposes to make investments in innovative businesses which have a principal place of business in the state.

(3) That the innovation fund seeks to secure private funding sources for investment in such businesses.

(4) That the innovation fund proposes to provide multiple rounds of funding and early-stage private sector funding to innovative businesses with a high growth potential, and proposes to focus such funding on innovative businesses that show a potential to produce commercially viable products or services within a reasonable period of time. In order to establish that this criterion is met, the innovation fund shall provide a detailed description of the framework the innovation fund will use to evaluate a business's growth potential and its ability to produce commercially viable products or services within a reasonable period of time. The description shall list and discuss the criteria and the attendant process that the innovation fund will use to evaluate businesses. The authority will consider requests submitted under Iowa Code section 15.118 or 22.7 to treat the evaluation framework as confidential.

(5) That the innovation fund proposes to evaluate all prospective innovative businesses using a rigorous approach and proposes to collaborate and coordinate with the authority and other state and local entities in an effort to achieve policy consistency. In order to establish that this criterion is met, an innovation fund shall provide a detailed description of the methods by which each business will be evaluated. An innovation fund shall also submit a plan describing the actions it will take in order to collaborate and coordinate with other state and local entities and the ways in which the innovation fund intends to ensure consistency with the policy goals of this chapter. Such a plan shall propose to create relationships that can be substantiated in writing, which may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the entities that will be involved in the collaborative and coordinating efforts or through a list and summary description of the dates and locations for meetings held between the innovation fund and the other entities which allowed for collaboration and coordination between the innovation fund and those entities in an effort to achieve policy consistency.

(6) That the innovation fund proposes to collaborate with the regents institutions of this state and to leverage relationships with such institutions in order to potentially commercialize research developed at those institutions. In order to establish that this criterion is met, an innovation fund shall provide

written confirmation of such relationships which may include, without limitation, contracts, memoranda of understanding, letters of support, affidavits, or joint press releases from or with the regents institutions of this state or a list and summary description of the dates and locations for meetings held between the innovation fund and the regents institutions, the names of representatives of regents institutions with whom the innovation fund has met, and a brief summary of the discussions at those meetings.

(7) That the innovation fund proposes to obtain at least \$15 million in binding investment commitments and to invest a minimum of \$15 million in companies that have a principal place of business in the state. In order to establish that this criterion is met, an innovation fund shall include provisions in the fund's governing documents that provide for the continued operations of the fund only if this minimum level of investment commitment is reached.

116.3(4) Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth herein, the authority shall, within a reasonable period of time, determine whether to certify the innovation fund. If the authority certifies the innovation fund, the authority shall register the fund on a registry that shall be maintained by the authority. The authority shall use the registry to authorize the issuance of further investment tax credits to taxpayers who make equity investments in the innovation funds registered with the authority. The authority shall issue written notification to the innovation fund that the fund has been registered as an innovation fund with the authority for the purpose of issuing investment tax credits. This written notification shall contain the following statement:

The Authority shall not be liable either for an innovation fund's failure to maintain compliance with the certification requirements nor for an investor's loss of tax credit certificates resulting from either a failure to maintain compliance or from a revocation.

116.3(5) On May 24, 2013, significant changes to the innovation fund tax credit program were enacted. (See 2013 Iowa Acts, House File 615.) The legislation includes changes to the criteria required for certification and also changes to the tax credits available to investors in certified funds. An innovation fund certified before May 24, 2013, that wishes to take advantage of the changes in 2013 Iowa Acts, House File 615, must resubmit an application to the board and demonstrate that the innovation fund meets all new requirements for certification as described in subrule 116.3(3).

[**ARC 0009C**, IAB 2/8/12, effective 3/14/12; **ARC 1098C**, IAB 10/16/13, effective 10/1/13; **ARC 4512C**, IAB 6/19/19, effective 7/24/19; **ARC 7492C**, IAB 1/10/24, effective 2/14/24]