

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.

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