

261—68.2(15) Eligibility requirements.

68.2(1) *Community approval and local match.* Community approval of the project by ordinance or resolution is required as specified in Iowa Code section 15.329(1)“a.” Local match may be required from the community or other relevant entity pursuant to criteria established by the board. The board will periodically approve such criteria to reflect meaningful types and amounts of local match that may be provided. The criteria established by the board may include but not be limited to when local match is required, entities that may provide local match, and acceptable amounts and forms of local match.

68.2(2) *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 15.329(1)“b.”

68.2(3) *Retail or service businesses.* For the purposes of determining whether a business is an ineligible retail business pursuant to Iowa Code section 15.329(1)“f,” “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.

68.2(4) *Created and retained jobs.* The jobs created or retained by a business shall pay the applicable wages as established in Iowa Code section 15.329(1)“c” or 15.335C.

68.2(5) *Determination of sufficient benefits.* The business shall offer a sufficient package of benefits to each full-time equivalent position included in the business’s base employment level and to each full-time equivalent position at the project location until the maintenance period completion date. The benefits package provided 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.

68.2(6) *Sufficient fiscal impact.* The business shall demonstrate a sufficient fiscal impact as described in Iowa Code section 15.329(1)“e.”

68.2(7) *Violations of law.* If the authority finds that a business has a record of violations of law, including but not limited to environmental and worker safety laws, over a period of time that tends to show a consistent pattern as described in Iowa Code section 15.329(2)“a,” the business shall not qualify for the program.

68.2(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.

68.2(9) *Results of due diligence review.* The authority will complete a due diligence review, including but not limited to lien searches, reports of violations, pending or resolved litigation, and other relevant information about the applicant. A business may be ineligible based on the results of the review.

68.2(10) *Other factors.* The authority shall consider any applicable additional factors pursuant to Iowa Code section 15.329(3).

68.2(11) *Ineligible projects.*

a. If a project is creating or retaining jobs, but none are high quality jobs, then the project is not eligible for the program.

b. A project representing solely acquisition of a business as a going concern that does not include creation or retention of jobs and capital 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.

68.2(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.

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