

261—69.2(15) Eligibility requirements.

69.2(1) Community approval. Community approval of the project by ordinance or resolution is required as specified in Iowa Code section 15.504 as enacted by 2025 Iowa Acts, Senate File 657.

69.2(2) Eligible businesses.

a. For the purposes of determining whether a business is an eligible business type pursuant to Iowa Code section 15.504(1)“*b*” as enacted by 2025 Iowa Acts, Senate File 657, “retail business” means any business primarily 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). A business obligated to collect sales or use tax under Iowa Code chapter 423 may be an ineligible retail business.

b. 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.

c. A business shall provide evidence that the business’s primary operations are in a qualifying industry pursuant to Iowa Code section 15.504(1)“*b*” as enacted by 2025 Iowa Acts, Senate File 657. Such evidence may include but is not limited to whether the business has a North American industry classification system (NAICS) number aligned with the relevant industries as determined by the authority. Businesses with other NAICS numbers will be required to document to the authority’s satisfaction that the business is primarily engaged in an applicable industry identified in Iowa Code section 15.504(1)“*b*” as enacted by 2025 Iowa Acts, Senate File 657, based on factors including but not limited to sources of revenue and customer base.

d. A business shall demonstrate it is not a data center business that is ineligible for the program pursuant to Iowa Code section 15.504(1)“*b*” as enacted by 2025 Iowa Acts, Senate File 657.

e. A foreign business shall demonstrate that it is not associated with a foreign adversary or foreign adversary entity. For the purposes of this paragraph, the following definitions apply:

(1) “Foreign business” means the same as defined in Iowa Code section 91.1.

(2) “Foreign adversary” means a foreign government or foreign non-government person as determined in 15 CFR §7.4 or 15 CFR §791.4 at any time on March 4, 2024, and that is listed in 15 CFR §7.4(a) or 15 CFR §791.4(a) at any time from March 4, 2024.

(3) “Foreign adversary entity” means a foreign business subject to the jurisdiction of or organized under the laws of a foreign adversary or a foreign business owned, directed, or controlled by a foreign adversary.

69.2(3) 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 15.504(1)“*c*” as enacted by 2025 Iowa Acts, Senate File 657. For the purposes of this subrule, “reduction in operations” includes but is not limited to a layoff during the 12 months before an application is submitted to the authority.

69.2(4) 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 contract end 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.

69.2(5) Violations of law. The authority will address violations of law as described in Iowa Code section 15.504(1)“*e*” as enacted by 2025 Iowa Acts, Senate File 657.

69.2(6) Sufficient economic impact. The business shall demonstrate that the project has a sufficient economic impact as described in Iowa Code section 15.504(2)“*b*” as enacted by 2025 Iowa Acts, Senate File 657.

69.2(7) Created and retained jobs. The jobs created or retained by a business shall pay the applicable wages as established in rule 261—69.9(15).

69.2(8) *Applicant's past or current performance.* If an applicant received a prior award or other benefit through any program administered by the authority or any other state agency, the authority and board will consider the applicant's past or current performance under the prior award or benefit.

69.2(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. The authority will determine whether a business is ineligible due to the results of the review.

69.2(10) *Other factors.* The authority shall consider any applicable additional factors pursuant to Iowa Code section 15.504(2) as enacted by 2025 Iowa Acts, Senate File 657, to determine whether a business is an eligible business.

69.2(11) *Ineligible projects.*

a. The following activities are presumed by the authority to lack sufficient economic impact to accomplish the goals of the program and are not eligible for the program pursuant to Iowa Code section 15.504(2) "b" as enacted by 2025 Iowa Acts, Senate File 657.

- (1) Facility maintenance, and
- (2) Replacement or upgrades of equipment occurring in the normal course of business.

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

c. If the qualifying investment for a project includes long-term lease costs, the project is not eligible for the program unless the proposed lease is for a term of at least ten years.

69.2(12) *Project initiation.* An eligible business shall not initiate its project prior to board approval of the business's application for the program unless the business establishes that a delay in initiating the project would result in undue hardship or that extenuating circumstances necessitate initiating the project prior to approval of the business's application. 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 of 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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