

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 15.106A and of 2014 Iowa Acts, Senate File 2359, section 20, the Economic Development Authority hereby gives Notice of Intended Action to adopt new Chapter 118, “Strategic Infrastructure Program,” Iowa Administrative Code.

In 2014 Iowa Acts, Senate File 2359, the General Assembly authorized the Authority to implement a new Strategic Infrastructure Program. The rules establish a program to provide such assistance and describe the manner in which the Authority intends to implement and administer the program.

The Economic Development Authority Board approved this amendment on September 19, 2014, at the Board’s monthly meeting.

Any interested person may make written suggestions or comments on this proposed amendment on or before November 18, 2014. Paper materials with suggestions and comments may be directed to Timothy J. Whipple, Legal Counsel, 200 East Grand Avenue, Des Moines, Iowa 50309. Electronic submissions may be sent to tim.whipple@iowa.gov.

After analysis and review of this rule making, the Authority finds that the new program is likely to create jobs and to substantially benefit the Iowa economy by helping develop commonly utilized assets that provide an advantage to one or more private sector entities or that create necessary physical infrastructure in the state. Such projects will include vertical improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized property or other assets. Each project funded will attract additional public or private sector investment and will result in broad-based prosperity in the state.

These rules are intended to implement 2014 Iowa Acts, Senate File 2359.

The following amendment is proposed.

Adopt the following **new** 261—Chapter 118:

CHAPTER 118
STRATEGIC INFRASTRUCTURE PROGRAM

261—118.1(15) Authority. The authority for adopting rules establishing a strategic infrastructure program is provided in Iowa Code section 15.313 and in Iowa Code section 15.106A.

261—118.2(15) Purpose. The purpose of the strategic infrastructure program is to assist projects that develop commonly utilized assets that provide an advantage to one or more private sector entities or that create necessary physical infrastructure in the state, and such projects are not adequately provided by the public or private sectors.

261—118.3(15) Definitions.

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Board*” means the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

“*Council*” means the Iowa innovation council established pursuant to Iowa Code section 15.117A, or any panel or committee composed of members of the council.

“*Director*” means the director of the economic development authority.

“*Eligible project*” means a project meeting the requirements of rule 261—118.5(15).

“*Financial assistance*” means the same as defined in Iowa Code section 15.102.

“*Program*” means the strategic infrastructure program established in this chapter.

“*Strategic infrastructure*” means projects that develop commonly utilized assets that provide an advantage to one or more private sector entities or that create necessary physical infrastructure in the state, and such projects are not adequately provided by the public or private sectors. Such projects may include vertical improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized property or other assets, provided that each project is intended to attract additional public or private sector investment and result in broad-based prosperity in this state.

“*Vertical improvement*” means the same as defined in Iowa Code section 15J.2.

261—118.4(15) Program description, disbursement of funds, and contract administration.

118.4(1) Program description. The program established in this chapter provides financial assistance to certain strategic infrastructure projects. The board, after considering the recommendations made by the council, will determine which projects to fund and how much should be awarded to each project. The director and staff of the authority will collect and process applications from applicants, advise the council and the board as to the available program funding, and help evaluate whether a proposed project meets the requirements of the program. The council will review applications meeting the program requirements, score them according to the criteria described in rule 261—118.7(15), and make recommendations to the board as to the completeness of applications and as to which projects to fund, how much to award to each project, and the type of financial assistance to be provided. While the council’s recommendations are advisory and are not binding upon the board, the board will not take final action on an award unless the council has first considered the project, scored it, and made a recommendation. The board may approve an award for a project, decline to award a project, or refer a project back to the council for further review and recommendation.

118.4(2) Disbursement of funds. The authority will disburse funds to a project only after a complete application has been received, an award has been recommended by the council and approved by the board, a contract has been executed between the applicant and the authority, and all applicable conditions for disbursement have been met, including the submission of documentation pertaining to the eligible expenditures. Disbursement of funds under the contract will be on a reimbursement basis for expenses incurred by the applicant as provided under the contract.

118.4(3) Contract administration. The authority will prepare a contract for each project receiving an award from the board. The contract will reflect the terms of the award and may include other terms and conditions reasonably necessary for implementation of the program pursuant to this chapter. Substantial amendments to a contract must be approved by the board. The board may refer substantial amendments to the council for review and recommendation. Substantial amendments include the amount of financial assistance, the length of the contract, whether to terminate the contract, and the terms of a settlement following an event of default. Other changes or amendments to the contract may be negotiated by the authority with the approval of the director.

261—118.5(15) Program eligibility and application requirements. To be eligible for financial assistance under the program, an applicant shall meet all of the following requirements:

118.5(1) The applicant must describe in detail the nature, scope, design, and goals of the project, including the relationships of the entities and individuals involved, and in addition, the applicant must explain how the project fulfills the requirements of each of the subrules in this rule. The council and the board will use the description for purposes of scoring the project pursuant to rule 261—118.7(15).

118.5(2) The applicant must propose to develop a commonly utilized asset that either benefits one or more private sector entities or that creates necessary physical infrastructure in the state.

118.5(3) The applicant must propose to develop a project that is not adequately provided by the public or private sectors.

118.5(4) The applicant must propose a project that includes vertical infrastructure improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized

property or other assets and must describe how and to what extent the project will attract additional public or private sector investment and how the project will result in broad-based prosperity in the state.

118.5(5) The applicant must describe the project's proposed financing structure, including the sources of funds and the proposed uses of the funds, and must propose the manner in which any financial assistance received under the program will be used.

261—118.6(15) Application submittal and review process.

118.6(1) The authority will develop a standardized application process and make information on applying available to applicants with eligible projects. To apply for assistance under the program, an applicant shall submit an application to the authority. Applications may be sent to the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. Required forms and instructions are available by contacting the authority at that address. Other information may also be found on the authority's Internet site at www.iowaeconomicdevelopment.com.

118.6(2) The board has final decision-making authority on requests for financial assistance for this program. Applications will be accepted and processed by authority staff and reviewed and scored by the council. Applications will be reviewed in the order received by the authority. The authority and the board will consider applications on a continuing basis. The board will take final action on all applications for financial assistance; however, the authority may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds. The council will score applications according to the criteria specified in rule 261—118.7(15). There is no minimum score required for funding under the program; however, a lower score indicates that the council views the project less favorably than a project with a higher score.

261—118.7(15) Application scoring criteria. When applications for financial assistance under the program are reviewed, the criteria below will be considered and the application scored as described. When scoring the application according to each of the criteria below, to the extent that a proposed project involves multiple public and private sector entities, for-profit and nonprofit organizations, and economic development and educational institutions, the council will review such partnerships as indicating that a commonly utilized asset is being proposed and therefore may award more points under each criterion. The criteria under which each application will be scored are:

118.7(1) The overall quality of the project, especially as reflected in the description and explanation submitted pursuant to subrule 118.5(1): 20 points.

For purposes of this subrule, the council will consider a project's estimated economic impact and the extent to which it contributes to the overall quality of the project. The council will also consider the structure of the proposed project and the nature of the partnerships proposed to be formed as part of the proposed project.

118.7(2) The extent to which the commonly utilized asset proposed by the project benefits one or more private sector entities and the extent to which the commonly utilized asset creates necessary physical infrastructure in the state: 20 points.

For purposes of this subrule, more points will be awarded to projects demonstrating greater benefits or benefits to more entities and to projects demonstrating more critical necessary physical infrastructure.

118.7(3) The extent to which the proposed project provides benefits that are not adequately provided by the public or private sectors: 20 points.

118.7(4) The importance of the vertical infrastructure improvement developments, facilities and equipment upgrades, or the redevelopment or repurposing of underutilized property or other assets that are proposed, the extent to which the proposed project will attract additional public or private sector investment, and the likelihood that the project will result in broad-based prosperity in the state: 20 points.

118.7(5) The sufficiency of the proposed project's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds: 20 points.

For purposes of this subrule, the council will consider a proposed project's overall financing gap and the total amount of funds leveraged from other sources.

261—118.8(15) Notice of award and reporting.

118.8(1) *Notice of award.* Successful applicants will be notified in writing of an award of financial assistance, including any conditions and terms of the award.

118.8(2) *Reporting.* An applicant receiving assistance under the program shall submit any information reasonably requested by the authority in sufficient detail to permit the authority to prepare any reports required by the authority, the board, the general assembly or the governor's office.

These rules are intended to implement Iowa Code section 15.313 as amended by 2014 Iowa Acts, Senate File 2359.