

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), the Authority proposes to rescind Chapter 55 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures by which the Authority provides financial assistance to targeted small businesses (TSBs).

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Persons interested in applying for or receiving financial assistance will bear the costs of the rulemaking.

- Classes of persons that will benefit from the proposed rulemaking:

Persons interested in applying for or receiving financial assistance will benefit from the rulemaking.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

Entities interested in applying for financial assistance may require staff time to complete an application for financial assistance. Some applicants may choose to rely on an external service provider to complete these tasks. The amount of the costs will vary depending on the compensation of staff or service providers involved.

- Qualitative description of impact:

Certified TSBs are eligible for technical and financial assistance from the Authority. Certified TSBs are also entitled to early access to contracting opportunities and are utilized by various entities subject

to the Targeted Small Business Procurement Act (Iowa Code chapter 73, subchapter III) to meet TSB procurement goals.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency: IEDA staff time is required to review applications for financial assistance.
- Anticipated effect on state revenues:

The rules have no anticipated impact on state revenues. Loans are provided from a fund under the control of the Authority pursuant to Iowa Code section 15.106A(1)“o.”

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

Only the businesses that will potentially benefit from financial assistance bear the costs of the rulemaking.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

The Authority has not identified any less costly methods or less intrusive methods for administering the program.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency: The Authority did not consider any other methods.
- Reasons why alternative methods were rejected in favor of the proposed

rulemaking: The Authority did not consider any other methods.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.
- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The rulemaking impacts only small businesses seeking financial assistance. The proposed rules regarding compliance and reporting requirements ensure businesses benefiting from their status as certified TSBs remain eligible for certification. The rules do not establish schedules or deadlines. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 55 and adopt the following **new** chapter in lieu thereof:

CHAPTER 55

TARGETED SMALL BUSINESS FINANCIAL ASSISTANCE PROGRAM

261—55.1(15) Targeted small business financial assistance program. The purpose of the targeted small business financial assistance program is to assist women, minorities, persons with disabilities and low-income individuals to establish or expand small business ventures in Iowa.

261—55.2(15) Definitions. As used in this chapter, unless the context otherwise requires:

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

“*Place of abode*” means a place of stay, permanent or for some time, for which consideration is paid.

“*Program*” means the targeted small business financial assistance program established pursuant to this chapter.

“*Review committee*” means a committee established by the authority to review program applications pursuant to subrule 55.3(8).

“*Targeted small business*” or “*TSB*” means the same as defined in Iowa Code section 15.102.

261—55.3(15) Application and approval.

55.3(1) *Application procedures.* Application materials may be obtained from the authority.

55.3(2) *Maximum funding.* The maximum loan amount is \$50,000. The interest rate charged shall not exceed 5 percent per annum or be less than 0 percent per annum. A targeted small business shall not receive a loan under the program that provides more than 90 percent of the funding for a project. All applicants must invest at least 10 percent of the total project budget in cash.

55.3(3) *Term.* The term of a loan shall not exceed five years.

55.3(4) *Eligible uses of funds.* Program funds shall be used for legitimate business expenses, including but not limited to purchase of equipment and furnishings, inventory, purchase of and improvements to land and buildings and specific operating expenses.

55.3(5) *Ineligible uses of funds.* Program funds shall not be used to refinance existing debt. For the purposes of this subrule, existing debt does not include interim financing for allowable program purposes intended as a bridge loan obtained after the date a program loan is approved. Program funds shall not be used to facilitate financing of a project that would consist solely of relocation of an existing business within Iowa.

55.3(6) *Threshold criteria.* Applicants for funds under the program must meet the following minimum criteria before their applications will be considered complete and eligible for evaluation:

a. The business must be eligible for certification as a targeted small business pursuant to 261—Chapter 52 at the time of application. The authority will educate applicants about the benefits of such certification and encourage applicants to seek certification.

b. An applicant must be a resident of Iowa for at least six months to be eligible to apply for assistance. Applicants may be asked to provide necessary documentation to prove legal residency. An

applicant who has not established a permanent place of abode in Iowa or who has not abandoned a permanent place of abode in another state shall be presumed to not be a resident of Iowa. A place of abode that is leased or rented shall be deemed permanent if leased or rented for a period of at least one year.

c. All applicants shall make a report regarding violations of law and address generation of solid or hazardous waste consistent with the requirements of Iowa Code section 15A.1(3).

55.3(7) Submittal. Applicants shall submit an application to the authority in the form and content prescribed by the authority.

55.3(8) Review.

a. Applications are reviewed for completeness. If additional information is required, the authority will notify the applicant. If the requested information is not provided by the deadline indicated in the notice, the application may be considered incomplete or ineligible.

b. The authority will establish a committee of at least three individuals to review all applications.

55.3(9) Evaluation. Applications are evaluated according to the following criteria:

a. Applicant credit score and outstanding liabilities.

b. Source(s) of the applicant's income.

c. Debt service coverage ratio.

55.3(10) Negotiations.

a. The authority reserves the right to negotiate the amount, term, interest rate, and other conditions of the loan prior to or after award.

b. The authority may decline to award funds to a business if there is a negative credit report (e.g., bankruptcy, foreclosure, tax liens, or unpaid or past due child support).

55.3(11) Award decision. If an application is approved by the review committee, the applicant business will receive an award letter that states the amount of the award, conditions of the award, any required security agreements, and the amount of monthly loan repayments. If an application is denied by

the review committee, the applicant will receive a denial letter stating the reasons for denial.

55.3(12) *Reapplication.* An applicant whose application is denied by the review committee cannot resubmit an application for the program for 90 days (three months) from the date of the denial letter.

261—55.4(15) Monitoring.

55.4(1) The authority will monitor the recipient's records to ensure compliance with the terms of the award. The authority may request information on the condition of the business at any time during the life of the loan to determine the status of the project.

55.4(2) The authority may require a program recipient to consult with designated small business service providers for assistance with various aspects of the management and operation of the business.

55.4(3) If the authority determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties; negotiate alternative payment schedules; initiate, suspend or discontinue collection efforts; and take other action as the authority deems necessary.

261—55.5(15) Disbursement of funds. An approved applicant shall acknowledge and agree to the terms proposed by the authority prior to disbursement of funds. Requests for disbursement and loan documents shall be in the form and content specified by the authority.

These rules are intended to implement Iowa Code section 15.108 and 2013 Iowa Acts, House File 324.