

Purpose and Summary

Pursuant to Executive Order 10 (January 10, 2023), the Authority proposes to rescind Chapter 118 and adopt a new chapter in lieu thereof. The chapter describes the policies and procedures applicable to the Strategic Infrastructure Program. The program assists 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.

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 assistance through the program will bear the costs of the rulemaking.

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

Persons interested in applying for or receiving assistance through the program 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. Recipients may similarly incur costs to comply with reporting and monitoring requirements of the program. 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:

The program supports the development of 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.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

Authority staff time is required to review and approve applications, draft and execute program contracts, disburse funds, review reports, and communicate with program applicants and recipients.

- Anticipated effect on state revenues:

The proposed rules have no anticipated impact on state revenues. The Authority is directed to administer the program by Iowa Code section 15.313. Financial assistance is provided from the fund created pursuant to Iowa Code section 15.313(1)“a.”

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

Only the entities that will potentially benefit from financial assistance bear the costs of the proposed rulemaking. The costs to the State to administer the program are proportional to the activities supported by financial assistance.

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 proposed rules do not have a substantial impact on small business. The application, contracting, and monitoring requirements related to the program are no more than necessary to administer the statutory requirements of the program. The rules do not establish design or operational standards.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 118 and adopt the following **new** chapter in lieu thereof:

CHAPTER 118

STRATEGIC INFRASTRUCTURE PROGRAM

261—118.1(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 of Iowa, and such projects are not adequately provided by the public or private sectors.

261—118.2(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, any panel or committee composed of members of the council, or a committee appointed pursuant to Iowa Code section 15.117A(7) as enacted by 2024 Iowa Acts, Senate File 2385.

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

“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 the same as defined in Iowa Code section 15.313.

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

261—118.3(15) Program eligibility and application requirements. To be eligible for financial assistance under the program, an applicant shall do all of the following:

118.3(1) The applicant must propose to invest in strategic infrastructure and describe how each element in Iowa Code section 15.313(4) “b” is satisfied.

118.3(2) The applicant must describe in detail the nature, scope, design, and goals of the proposed strategic infrastructure project, including the relationships of the entities and individuals involved.

118.3(3) The applicant must describe the proposed strategic infrastructure project’s proposed financing structure, including the sources of funds and the proposed uses of the funds.

261—118.4(15) Application submittal and review process.

118.4(1) The authority will develop a standardized application process and invite applicants with strategic infrastructure projects that may be eligible for the program to apply. To apply for assistance under the program, an applicant shall submit an application to the authority in the form and manner prescribed by the authority.

118.4(2) Applications will be accepted on a continuing basis and processed by authority staff. Applications will be reviewed in the order received by the authority.

118.4(3) The authority may refuse to accept incomplete applications or may refuse to accept applications because of insufficient funds.

118.4(4) The council will score applications according to the criteria specified in rule 261—118.7(15) and make recommendations to the board pursuant to Iowa Code section 15.313(3). The board will take final action on all applications for financial assistance.

261—118.5(15) Application scoring criteria. The criteria under which each application will be scored are:

118.5(1) The overall quality of the proposed strategic infrastructure project, including the project’s estimated economic impact. The council will consider the structure of the proposed strategic infrastructure project and the partnerships proposed to be formed.

118.5(2) The extent to which the commonly utilized asset proposed by applicant benefits one or more private sector entities and the extent to which the commonly utilized asset creates necessary physical

infrastructure in the state. More points will be awarded to proposed strategic infrastructure projects demonstrating greater benefits or benefits to more entities and to proposed strategic infrastructure projects demonstrating more critical necessary physical infrastructure.

118.5(3) The extent to which the proposed strategic infrastructure project provides benefits that are not adequately provided by the public or private sectors.

118.5(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 strategic infrastructure project will attract additional public or private sector investment, and the likelihood that the proposed strategic infrastructure project will result in broad-based prosperity in the state of Iowa.

118.5(5) The sufficiency of the proposed strategic infrastructure project's financing structure, the feasibility of the sources of funds, and the appropriateness of the proposed uses of the funds. The council will consider a proposed strategic infrastructure project's overall financing gap and the total amount of funds leveraged from other sources.

261—118.6(15) Award administration and reporting.

118.6(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.

118.6(2) *Contract administration and amendments.* The authority will prepare a contract for each award approved by 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. Substantial amendments include the amount of financial assistance, the length of 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.

118.6(3) *Disbursement of funds.* The authority will disburse funds to a strategic infrastructure 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.

118.6(4) *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.