

Purpose and Summary

Pursuant to Executive Order 10, the Authority proposes to rescind Chapter 305 and adopt a new chapter in lieu thereof. The chapter provides operating framework of the Iowa Arts Council within the Authority and operating and granting policies for arts programs administered by the Authority.

The new chapter implements consolidation of arts appropriations and programs in 2025 Iowa Acts, House File 975. The legislation authorized creation of an Arts and Culture Enhancement Fund, which will be utilized for broad purposes related to the arts. The policies in the chapter will apply to the fund as described in the chapter. For clarity, the new chapter will be titled “Arts and Culture Operating and Granting Policies.”

Analysis of Impact

1. Persons affected by the proposed rulemaking:

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

The proposed rulemaking does not impose any costs.

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

Persons interested in the operating and granting policies for arts programs may benefit from the improved clarity of the chapter.

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:**

The proposed rulemaking does not impose any costs.

- **Qualitative description of impact:**

Persons interested in the operating and granting policies for arts programs may benefit from the improved clarity of the chapter.

3. Costs to the State:

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

Authority staff time is required to administer the programs covered in the chapter.

- **Anticipated effect on State revenues:**

The proposed rulemaking has no anticipated impact on State revenues. In addition to moneys available in the Arts and Culture Enhancement Fund established pursuant to Iowa Code section 15.436, funding from the National Endowment for the Arts may also be used for the purposes described in the chapter.

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

The proposed rulemaking has no anticipated effect on State revenues.

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 or less intrusive methods.

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 rulemaking does not have a substantial impact on small business.

Text of Proposed Rulemaking

ITEM 1. Rescind 261—Chapter 305 and adopt the following **new** chapter in lieu thereof:

CHAPTER 305

ARTS AND CULTURE OPERATING AND GRANTING POLICIES

261—305.1(15) Definitions.

“Advisory panel” means a group of citizens appointed by the authority to assist in any aspect of authority programs or services.

“Applicant” means an eligible entity or individual applying for assistance under a program administered by the authority.

“Application” means a formal request, using authority forms, for assistance from an eligible applicant.

“Artist” means an individual who spends a substantial amount of the individual’s time creating, practicing, performing, or producing an art form and regularly presents or is compensated for work in the individual’s art form or both.

“Authority” means the Iowa economic development authority created pursuant to Iowa Code section 15.105.

“Border city” means a municipality with boundaries directly adjacent to one or more borders of the state of Iowa.

“Council” means the Iowa arts council created pursuant to Iowa code section 15.465.

“Deaccession” means the act of removing a work of art from the authority’s or council’s collection or inventory.

“Domicile” means the same as defined in rule 701—300.17(422).

“Director” means the director of the authority.

“Permanent place of abode” means the same as defined in rule 701—300.17(422).

“Project” means an eligible activity for which an organization or individual has submitted an application for grant funds for authority approval.

“Project partner” means an organization that meets the definition of “applicant”; plays an active, substantial, and ongoing role in the planning, implementation, or oversight of the project; and is not serving solely as a pass-through entity or administrator of grant funds.

“Recipient” means any applicant receiving funds from the authority.

“Work of art” means original or limited-edition tangible creative work that is created primarily for aesthetic, cultural, or expressive purposes and that has recognized artistic, historical, or educational value.

261—305.2(15) Location of council. The office of the council is located at the Iowa Economic Development Authority, 1963 Bell Avenue, Suite 200, Des Moines, Iowa 50315. Regular office hours are 8 a.m. to 4:30 p.m., Monday through Friday, state holidays excepted.

261—305.3(15) Council statement on freedom of expression. The council adopts the following mission statement regarding freedom of expression:

“The mission of the Iowa arts council is to advance the arts in Iowa for the benefit of all. Support of free speech is the centerpiece of this mission. The council is an advocate for and defender of the right of free speech by all citizens under the First Amendment of the Constitution of the United States.

“The council recognizes the need for public support of the arts and understands the responsibilities that accompany the allocation of public funds. The council seeks the advice of qualified Iowans through the use of advisory panels for funding recommendations. The

council is committed to uphold and maintain the highest artistic standards and to encourage excellence in the arts.

“The council respects the integrity of an artist’s personal vision and right to freedom of expression. The council rejects all attempts to control or censor the arts. Recognizing the diversity of viewpoints represented by Iowa communities, the council supports freedom of choice and access to the arts by all citizens.”

261—305.4(15) Funding policies. The following policies apply to arts programs administered by the authority except where otherwise noted in program-specific rules:

305.4(1) A nonprofit organization that has not yet achieved federal tax-exempt status may apply through a project partner.

305.4(2) A tax-exempt, nonprofit organization located in a border city shall be eligible to apply to the authority for projects that serve Iowa audiences.

305.4(3) An individual applying for and receiving grant funds shall be 18 years of age or older; be a United States citizen, possess a Permanent Resident Card, or be in the process of obtaining a Permanent Resident Card; and be a full-time Iowa resident domiciled in Iowa or maintaining a permanent place of abode in Iowa.

305.4(4) An application from an individual must support a project designed solely to benefit the individual and must not be a project of an organization with which the individual applicant has a formal affiliation such as employment or continued volunteer service.

305.4(5) No authority funds shall be used by a recipient to meet the recipient’s obligation to provide matching funds for any other authority grants or programs.

305.4(6) The authority shall not consider an application for funding a previous year’s deficit.

305.4(7) A recipient shall not utilize authority funds for any lobbying purpose.

305.4(8) Applicants that have received grants, loans, or other incentives through an authority program that are not in compliance with reporting or other requirements in connection therewith are not eligible to apply for new funds.

305.4(9) The authority may find an applicant ineligible for funding if the applicant has a record of violations of the law that over a period of time tends to show a consistent pattern or that establishes intentional, criminal, or reckless conduct in violation of such laws.

261—305.5(15) Review and selection process. The following subrules apply to arts programs administered by the authority except where otherwise noted in program-specific rules:

305.5(1) Submitted applications will be reviewed by authority staff for completeness and eligibility. Applications or applicants determined to be incomplete or ineligible will not advance to further review.

305.5(2) Applications determined to be eligible and complete will be referred for review by an advisory panel. Applications will be evaluated, scored, and ranked in accordance with published review criteria or scoring rubric.

305.5(3) Applications recommended by an advisory panel for funding consideration will be submitted to the director for consideration and approval. Recommendations by an advisory panel are advisory, and final funding authority rests with the director or the director's designee.

261—305.6(15) Deaccession. The following policies apply to deaccession of all works of art in the authority's or council's collection or inventory, including works of art acquired through purchase, donation, commission, grant-funded acquisition, or transfer from a government agency.

305.6(1) *Criteria.* A work of art may be deaccessioned if one or more of the following criteria is met:

- a. It is outside the scope of the authority's or council's mission or statutory authority.
- b. It is damaged, deteriorated, or no longer capable of being reasonably preserved.
- c. It is duplicative and the additional copy has no unique historical, artistic, or interpretive value.
- d. It poses a risk to persons, other works of art, or facilities.
- e. Its retention would violate donor restrictions or applicable law.
- f. It has minimal cultural, artistic, or educational value relative to stewardship costs.

305.6(2) *Methods of disposal.* Following deaccession, disposal may occur by any of the following methods:

- a. Donation or transfer to, or exchange with, an organization that has a recognized mission, capacity, and legal authority to accept and care for works of art in a responsible manner.
- b. Sale, including public auction or negotiated sale, in compliance with applicable Iowa law.
- c. Destruction, when the work of art has no monetary, cultural, or educational value or poses a safety or preservation risk.

305.6(3) *Proposal.* Deaccession shall be initiated by a written proposal prepared by authority staff and submitted to the director. The proposal shall include:

- a. Description and provenance of the work of art.
- b. Reasons for deaccession.
- c. Any donor restrictions.
- d. Recommended method of disposal.
- e. Assessment of public, historical, or cultural impact.

305.6(4) *Director approval.* Deaccession may only occur with written approval by the director. The director may approve, deny, or require modification of the staff's proposal.

305.6(5) *Public notice.* Prior to final disposal, the authority shall provide public notice by posting on the authority's website for not less than 30 days.

305.6(6) *Recordkeeping.* In accordance with Iowa law, the authority shall maintain records of:

- a.* Deaccessioned items.
- b.* Approval documentation.
- c.* Method of disposal.
- d.* Any restrictions on use of proceeds.

305.6(7) *Limitations.* Ownership of deaccessioned works of art shall not be transferred to or benefit any employee, officer, or board member of the authority or any immediate family member thereof.

305.6(8) *Use of proceeds.* Proceeds derived from the disposal of deaccessioned works of art shall be deposited in the state of Iowa treasury or otherwise handled as required by applicable Iowa law.

These rules are intended to implement Iowa Code sections 15.436 and 15.465 through 15.467.