

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 761—Chapter 163
“RISE Program”

Iowa Code section(s) or chapter(s) authorizing rulemaking: 315.10

State or federal law(s) implemented by the rulemaking: Iowa Code section 312.2 and chapter 315

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 2, 2024
11 to 11:30 a.m.

[Microsoft Teams Link](#)
Or call: 515.817.6093
Conference ID: 385 044 72

Public Comment

Any interested person may submit written comments concerning this Regulatory Analysis. Written comments in response to this Regulatory Analysis must be received by the Department of Transportation no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Debra Arp
800 Lincoln Way
Ames, Iowa 50010
Email: Debra.Arp@iowadot.us

Purpose and Summary

The proposed rules implement a grant program utilizing the Revitalize Iowa’s Sound Economy (RISE) fund as described in Iowa Code chapter 315. The purpose of the RISE program is to promote economic development in Iowa through the establishment, construction, improvement, and maintenance of roads and streets. The RISE program is targeted toward value-adding activities to provide maximum economic impact to the state. Value-adding activities feed new dollars into the economy. As these dollars are circulated, the state experiences economic growth. Tourism activities that result in the attraction of out-of-state dollars to the state economy may also be targeted by the program. Residential development, local government facilities, local public schools, locally oriented business services and personal services are generally not value-adding activities and will rarely meet the intent of the program.

The RISE program is also administered to encourage economic diversification, new business opportunities, small business development, exporting, import substitution and tourism in Iowa.

Analysis of Impact

1. Persons affected by the proposed rulemaking:
 - Classes of persons that will bear the costs of the proposed rulemaking:
Local public agencies that apply for RISE funds will bear the costs of the proposed rules.
 - Classes of persons that will benefit from the proposed rulemaking:
Local public agencies that apply for and are approved for RISE funding will benefit from the rules.
Businesses that will locate along roadways constructed with RISE funds will also benefit from the rules.

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:

Local public agencies interested in applying for RISE funding will require staff time to complete an application. The cost of this staff time will vary depending on the compensation of such staff.

- Qualitative description of impact:

Beyond the direct benefit of RISE funding to local public agencies toward the completion of roadway improvements, employees of businesses that locate along the improved roadways and local residents who travel along the roadways will also benefit from implementation of these rules.

3. Costs to the State:

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

Department staff maintains the application form and processes for the RISE program and performs project monitoring. Staff also reviews and prepares funding recommendations for Iowa Transportation Commission consideration.

- Anticipated effect on state revenues:

The rules have no anticipated fiscal impacts.

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

The Department will not be able to carry out its administrative duties for the RISE program without prescribing the form and manner of application submittal, review, award, and expected project performance. The only parties that bear the costs of the rules are those that will potentially benefit from the program.

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

None were considered. Iowa Code chapter 315 requires the Department to administer this program.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Topics included in this chapter could be incorporated into a single published guidance document. For example, the Department administers the federal Transportation Alternatives Set-Aside program for similar types of projects. No administrative rules are promulgated for this program, but guidance is published on the program website at www.iowadot.gov/systems_planning/pdf/IJA-TAP-Guidance.pdf. If this chapter were rescinded, the Department would publish a similar document to the RISE program website.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The alternative method was deemed inconsistent with existing statutory rulemaking authority included in Iowa Code chapter 315.

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 chapter does not directly impact small business; therefore, the impact to small businesses is neutral.

Text of Proposed Rulemaking

ITEM 1. Rescind 761—Chapter 163 and adopt the following **new** chapter in lieu thereof:

CHAPTER 163
RISE PROGRAM

761—163.1(315) General.

163.1(1) Definitions.

“*Brownfield site*” means an abandoned, idled, or underutilized industrial or commercial facility where expansion or redevelopment is complicated by real or perceived environmental contamination.

“*Commission*” means the state transportation commission.

“*Direct jobs created*” refers to jobs new to the state in firms, developments, or sites specifically assisted by a RISE project.

“*Direct jobs retained*” refers to existing Iowa jobs that would otherwise be lost in firms, developments, or sites specifically assisted by a RISE project.

“*Economic development*” means private investment involving the creation of new jobs and income or the retention of existing jobs and income that would otherwise be lost. For the purposes of this program, economic development is viewed from a statewide perspective rather than a local or substate, regional perspective and results in a net gain to the state.

“*Funding commitment*” means commission approval of the use of RISE funds for a project.

“*Grant*” means funds received for a RISE project with no provision for applicant repayment of principal.

“*Immediate opportunity project,*” one of the two types of RISE projects, is a roadway project that needs a funding commitment within a short time period and meets the threshold criteria in subrule 163.10(6). The project primarily provides improved access to a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction.

“*Import substitution*” means replacing inputs, products or services from out-of-state firms or locations with Iowa inputs, products or services.

“*Jurisdiction*” means the state, county, or city having legal authority over a road or street.

“*Loan*” means funds received for a RISE project with provision for applicant repayment of principal. A loan may involve the payment of interest charges.

“*Local development project,*” one of the two types of RISE projects, is a roadway project which is programmed through a semiannual competitive rating procedure. The project primarily provides improved access to either a single economic unit, such as a county, a city, an industrial park, a plant or other business, a development site or a tourist attraction, or to a portion of a metropolitan area.

“*Project*” means an eligible activity or cost or set of eligible activities or costs funded with RISE program funds. The two types of projects which may be funded under the RISE program are immediate opportunity projects and local development projects.

“*RISE*” means revitalize Iowa’s sound economy.

“*Total capital investment*” means the economic value of all permanent purchases, donations, or improvements directly associated with an economic development activity but not funded with RISE moneys, including land; improvements to land; buildings; equipment; furnishings; electric, gas,

telephone, and other utilities; sanitary sewer and storm sewer extensions and hookups; and railroad spurs, access roads, parking lots, and other transportation facilities.

“*Traffic impact analysis*” means an analysis identifying system and immediate impacts associated with a proposed development to allow an assessment of the existing and future highway system’s safety, performance, maintenance, and capacity needs and includes all necessary information as requested by the department.

“*Transportation justification*” means the reasons given for a project from a transportation planning and engineering standpoint. The justification should address the current condition of existing roadways or bridges, the relationship of the project to connecting roads, anticipated total traffic, anticipated large truck traffic, proposed major design features, roadway function, and the reasons the proposed alternative was selected over other available alternatives.

“*Value-adding activities*” means activities which, through the employment of knowledge or labor, add value to a product, process or service that results in the creation of new wealth to the state.

163.1(2) Information and forms. Information, instructions and application forms may be obtained from the Local Systems Bureau, Iowa Department of Transportation, 800 Lincoln Way, Ames, Iowa 50010; by telephone at 515.239.1738; or through the department’s website at www.iowadot.gov/systems_planning/Grant-Programs/Revitalize-Iowas-Sound-Economy-RISE-Program.

761—163.2(315) Administration of RISE program.

163.2(1) Purpose. The purpose of the RISE program is to promote economic development in Iowa through the establishment, construction, improvement, and maintenance of roads and streets. The RISE program is targeted toward value-adding activities to provide maximum economic impact to the state. Value-adding activities feed new dollars into the economy. As these dollars are circulated, the state experiences economic growth. Tourism activities that result in the attraction of out-of-state dollars to the state economy may also be targeted by the program. Residential development, local government facilities, local public schools, locally oriented business services and personal services are generally not value-adding activities and will rarely meet the intent of the program.

The RISE program is also administered to encourage economic diversification, new business opportunities, small business development, exporting, import substitution and tourism in Iowa.

163.2(2) The RISE program is administered by the department as a statewide program, with projects evaluated primarily on the basis of economic development criteria rather than solely on the basis of transportation criteria. In carrying out its program responsibilities, the department:

a. Involves local officials in program development and periodic program review and evaluation, including evaluation of the accomplishments and effectiveness of the RISE program. However, all project funding decisions are the responsibility of the commission.

b. Simplifies application processes and administrative procedures to the maximum practicable extent.

c. Designs the RISE program administrative procedures so that they are flexible enough to meet county and city needs.

d. Ensures neutrality and fairness in the treatment of all applications submitted for funding under the RISE program.

e. Promotes intergovernmental cooperation on economic development.

f. Promotes the use of innovative financing mechanisms for RISE projects.

163.2(3) The commission will be responsible for all RISE project funding commitments. All project funding commitments are made subject to the availability of RISE funds.

163.2(4) The department will annually prepare a written report indicating the amount and percentage of funds committed during the previous year on primary roads, secondary roads, city streets, state park roads and county conservation parkways.

761—163.3(312,315) Allocation and use of RISE funds.**163.3(1) Allocation and use.**

a. Allocation among roadway jurisdictions. The RISE fund is allocated for use on primary, city, and county roads.

b. Funding limited to public roads. The use of RISE funds is limited to construction or improvement of primary roads, secondary roads, city streets, state park roads and county conservation parkways presently open to public use or ones that will be dedicated and open to public use in the future. RISE funds are not to be used for private road projects or for any other private purpose. Project activities eligible for funding under the RISE program are listed in rule 761—163.6(315).

c. Use of county or city RISE funds on primary road projects. Counties or cities may at their option make application to the department to apply RISE funds allocated for use on secondary road or city street projects toward primary road projects. Use of county or city RISE funds on primary road projects is to be approved by the commission.

d. Type of projects. The two types of projects that may be funded under the RISE program are immediate opportunity projects and local development projects as described in the following rules of this chapter:

(1) Immediate opportunity projects: Rule 761—163.8(315).

(2) Local development projects: Rule 761—163.9(315).

e. Relationship of project. The demonstrated relationship of a project to economic development is generally the main criterion employed in determining the priority for funding. The department will assign the lowest priority to a project if it involves a business with wages substantially below other area businesses or with a consistent record of law violations. In terms of project type, immediate opportunity projects are prioritized for all available RISE funds.

f. Use of repaid funds. RISE funds repaid to the department for any reason may be used for other projects or carried over to the next programming cycle. RISE funds repaid are to be credited to the share of the fund from which the project was originally funded.

g. Carryover of funds. The commission need not commit the spending of all RISE funds available during a programming cycle. Uncommitted city funds may be carried over to the next programming cycle or used for immediate opportunity projects. On June 30 of each year, all uncommitted county funds are to be credited to the secondary road fund.

h. Reserve for future needs and contingencies. The commission will monitor RISE fund commitments and expected RISE fund cash flow and take actions necessary to ensure that funds remain available for anticipated present and future immediate opportunity project needs and other contingencies. Such actions may include placing a moratorium on the receipt and award of local development RISE applications, placing a limit on RISE dollars awarded to each project, or taking other actions at the discretion of the commission.

163.3(2) Reserved.**761—163.4(315) Project financing and funding shares.**

163.4(1) Financing. Applicants may choose to propose grant financing for any RISE project. Applicants are encouraged to propose below-market rate interest loans, no interest loans, or partial principal payback rather than grant financing for RISE projects. The extent to which a project will return moneys to the RISE fund is to be considered in project evaluation processes. Final financial terms for all RISE projects are subject to negotiation between the department and the applicant and approval by the commission.

163.4(2) Funding shares. Applicants may propose the proportions and sources of RISE and non-RISE funds to be used for a project. Use of RISE funds are subject to commission approval.

761—163.5(315) Eligibility of applicants and joint applications.

163.5(1) Applicant eligibility. All incorporated cities and all counties in the state of Iowa are eligible to apply for and receive funds under the RISE program. The department is also eligible to

initiate projects and receive funds under this program but need not formally apply for funds. Private firms or developers or other agencies are not eligible to apply directly for funds but are encouraged to work with county or city governments in seeking funding for projects. In any case, all projects are to be let by the applicant or through the department's contracts and specifications bureau and in accordance with all applicable laws and rules.

163.5(2) *Joint applications.* Joint applications from two or more counties or cities are encouraged when mutual action supports economic development. Joint applications are to designate a lead county or city to serve as a principal contact point for the department.

761—163.6(315) Project activities eligible and ineligible for RISE funds.

163.6(1) *Eligible activities.* Project activities or costs eligible for RISE funding and that may be counted as part of the non-RISE participation in immediate opportunity and local development roadway projects include only the following:

a. Roadway resurfacing, rehabilitation, modernization, upgrading, reconstruction or initial construction, including grading and drainage, paving, erosion control, pavement overlays, and shoulder widening and stabilization.

b. Bridge and culvert repair, modernization, replacement or initial construction.

c. Roadway intersection and interchange improvements including warranted traffic signalization when it is integral to the improvement.

d. Public transportation system improvements, including but not limited to bus shelters, bus turnouts, and passenger information signage, when they are integral to the roadway improvement.

e. Bicycle and pedestrian infrastructure improvements, including but not limited to sidewalks, at-grade pedestrian crossings, bike lanes, and separated bike lanes, when they are integral to the roadway improvement.

f. Right-of-way acquisition costs, including but not limited to appraisals, negotiation, compensation, and cultural resources surveys necessary to comply with applicable local, state and federal laws, rules and regulations.

g. Construction or improvement of motorist rest areas, welcome centers, and information centers.

h. Design engineering costs leading to construction plan development and construction inspection costs associated with RISE-financed projects.

i. County and city bond principal and interest payments associated only with RISE projects. No financing expenses incurred prior to funding commitment are eligible, and no administrative or legal expenses may be reimbursed. The bond term is limited to the expected useful life of the roadway.

j. Storm drainage and storm sewer costs to the extent needed for draining the roadway.

k. Reconstruction or adjustment of utilities, including but not limited to water, sanitary sewer, electric, telephone, and natural gas, when utilities are located on private property and replacement or relocation due to project construction is necessary; or said utilities are located in the public right-of-way and agreements in place allow for compensation to the utility if relocation is necessary.

l. Costs associated with the acquisition of local, state and federal permits are limited to those directly related to the roadway construction.

m. Costs of modifications to railroad facilities are limited to those necessary to construct the RISE roadway, including but not limited to construction, hiring flaggers, and engineering performed by the railroad or the railroad's contractor, that are consistent with an executed agreement between the railroad and the roadway jurisdiction.

163.6(2) *Ineligible activities.* Activities or costs ineligible for RISE funding and that are excluded from the non-RISE participation in immediate opportunity or local development roadway projects include but are not limited to the following:

a. Any and all costs incurred prior to a funding commitment by the commission notwithstanding rule 761—163.7(315).

- b.* Routine roadway, bridge and culvert maintenance, including but not limited to pothole filling, crack sealing, seal coating, patching, shoulder maintenance, gravel or earth roadway maintenance, and bridge painting.
- c.* Winter roadway and bridge maintenance, including but not limited to snow plowing, sanding, and salting.
- d.* Overhead and operating costs associated with eligible project activities, including auditing.
- e.* Expenses associated with the preparation and submission of applications for RISE funding.
- f.* Predesign engineering, feasibility or alignment studies, and other planning expenses.
- g.* Traffic signalization, except as an integral part of a roadway project.
- h.* Pavement marking and traffic signs, except as an integral part of a roadway project.
- i.* Utility construction, reconstruction or adjustment except for those activities or costs described in subrule 163.6(1).
- j.* Safety appurtenances, except as an integral part of a roadway project.
- k.* Lighting, except as an integral part of a roadway project.
- l.* Lighting energy and maintenance costs.
- m.* Sidewalks, bicycle paths, and railroad-highway crossings, except when replacing those facilities in service and affected by the project, or as an integral part of a roadway project.
- n.* Parking expenditures, including those for structures, lots, meters, paving, and marking whether for on-street or off-street parking.
- o.* Nonroadway transportation expenditures, including those for railway, aviation, public transportation, and inland waterway facilities and equipment.
- p.* Purchase of furnishings, construction equipment, and personal property.
- q.* General government expenses and expenses associated with the provision of any public service which are not eligible for RISE program assistance.
- r.* Donated right-of-way.

761—163.7(315) Advance eligibility of land acquisition and preliminary design costs incurred prior to funding commitment by commission.

163.7(1) *Need for advance eligibility.* If there is extreme urgency involving land acquisition or preliminary design and a necessity to protect or preserve a project corridor or to proceed with the preparation of project construction plans prior to a RISE funding commitment, a potential applicant may submit a written request to the department for a determination of advance eligibility to incur costs for land acquisition or preliminary design immediately. A determination of advance eligibility by the department will allow specified costs incurred prior to a funding commitment by the commission to be eligible for reimbursement with RISE funding without jeopardizing the project's eligibility for funding approval but does not imply or guarantee that the commission will commit RISE funding to a subsequent application.

163.7(2) *Request, justification and review.* The request is to be received by the department prior to the expenditure and is to include justification regarding the extreme urgency and necessity to incur costs prior to a RISE funding commitment. A request for land acquisition is to also include a description of the land to be acquired, a summary of the estimated costs, and a map showing the parcels to be acquired. Preliminary design requests are to include a description of the project scope, location map, and proposed cross section. If the request will include consultant design costs, a draft agreement between the jurisdiction and the consultant is to be submitted that includes the scope of services to be rendered. Costs for RISE application preparation and submission or project feasibility, route alignment studies or other planning expenses as cited in paragraphs 163.6(2) "e" and "f" remain ineligible for RISE funding and are not to be included in a request for determination of advance eligibility. The department will review the submittal and provide written confirmation of the determination of advance eligibility following receipt of a request consistent with this rule.

163.7(3) *Eligibility of costs for reimbursement.* Any cost incurred before the request is received by the department will be ineligible for reimbursement. Costs receiving a determination of advance

eligibility are to be noted in the subsequent RISE funding application submitted to the department. Land acquired or design work completed following a determination of advance eligibility will not be eligible for reimbursement with RISE funds if the property acquired or design work completed is not necessary to construct the proposed RISE project included in the subsequent application. Design costs receiving a determination of advance eligibility are not to exceed 10 percent of the total construction costs for the project. An application for funding that includes the expenditure is to be received by the department within two years following the determination of advance eligibility, or the costs may become ineligible for RISE funding.

761—163.8(315) Immediate opportunity projects.

163.8(1) *General provisions.* The following provisions are applicable to immediate opportunity projects:

a. Immediate opportunity projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.

b. There is no limit on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single-year or multiyear funding. Multiyear funding is to be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. An adequate transportation justification for the roadway project is to be provided. The proposed improvement need not be designed prior to project application, but the concept is to generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

163.8(2) *Contents of applications.* Each application for an immediate opportunity project is to contain the following:

a. General information, including the applicant's name, contact person, mailing address, telephone number, local economic development area and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost, and funding source) are to be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or direct jobs retained. Jobs created as a result of jobs being displaced elsewhere in the state are not to be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant is to provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant is to certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including maps showing site characteristics, such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a

simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. The department may request completion of a traffic impact analysis to supplement the transportation justification before it is reviewed.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution is to state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.2(315). The resolution is to also certify that the project meets the threshold criteria cited in paragraph 163.8(6) “a” and that any business assisted by the project that acquires or merges with an Iowa corporation within three years following the RISE application intends to make a good-faith effort to hire the workers of the merged or acquired company.

g. Documentation showing that the threshold criteria of subrule 163.8(6) have been met.

163.8(3) *Submission of applications.* Applications are to be submitted on a form provided by the department and may be submitted at any time. Once an application has been submitted, no further information concerning that application is accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications are to be dated accordingly.

163.8(4) *Incomplete applications.* An applicant is to fully complete the official application form and provide all other information identified in this chapter before the application will be considered by the commission.

163.8(5) *Verification of application materials.* Complete applications are reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application based on the correct information. If an applicant loses funding through this process, the commission has complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

163.8(6) *Threshold criteria.* Funding commitment decisions for immediate opportunity projects are made on an individual basis. There is no competitive ranking of project applications. In order to gain a funding commitment, an application is to meet all of the following threshold criteria:

a. The project is to be related to an immediate, nonspeculative opportunity for permanent job creation or retention. The applicant county or city (or its agent) should be in the process of negotiating a location or retention decision with a developer or firm.

b. The applicant is to demonstrate that an immediate funding commitment is essential to influence the job location or retention decision.

c. The applicant is to demonstrate that necessary arrangements have been made for nonroadway factors (e.g., labor force training, zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed job creation or job retention activity.

d. The applicant is to commit to providing at least 20 percent non-RISE financial participation in the roadway project, except the commission may approve a participation amount that is less than 20 percent if it determines that the applicant city or county is economically distressed.

e. There is to be a strong likelihood that the total development, including the roadway project, can be completed in a timely manner. It is up to the applicant to identify a time schedule and maintain it. This time schedule may be adjusted for such reasons, including but not limited to the project

involves unusually complex engineering studies, extensive real estate negotiations, extensive analysis for environmental clearances, or unusually complex planning for associated development. The commission may withdraw funding if time schedules have been misrepresented or have not been maintained.

163.8(7) *Review and funding of applications.*

a. Department staff reviews complete immediate opportunity project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff evaluates the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. This review is to be performed within a reasonable period of time after receipt of the application. Following this review, complete applications meeting the threshold criteria of subrule 163.8(6) are to be forwarded to the commission for action at its next meeting.

b. The commission may fund all or any part of an application and may make a conditional funding commitment. In making its decision, the commission will consider the amount of total capital investment per RISE dollar requested, and the amount of RISE dollars requested per job created or retained.

c. The commission may deny funding for projects that will not result in net job creation or job retention from a statewide point of view, for instance, projects that simply involve the relocation of jobs or other economic activity within Iowa.

d. Immediate opportunity project applications may, at the discretion of the commission, be considered as applications for local development projects and included in the current round of local development project programming, regardless of the deadlines stated in subrule 163.9(3). However, immediate opportunity project applications submitted solely to circumvent the deadlines for local development project applications are not to be considered in this manner.

761—163.9(315) Local development projects.

163.9(1) *General provisions.* The following provisions are applicable to local development projects:

a. Local development projects may be located on primary roads, secondary roads, city streets, state park roads or county conservation parkways.

b. There is no limit on the number of applications per county or city that will be considered for RISE funding.

c. Counties and cities may apply for single-year or multiyear funding. Multiyear funding is to be limited to funding commitments from no more than three program years' allocations.

d. Applicants may use staff from other counties or cities, areawide planning organizations, areawide economic development organizations, or other jurisdictions to prepare application materials or administer projects.

e. An adequate transportation justification for the roadway project is to be provided. The proposed improvement need not be designed prior to project application, but the concept is to generally be reasonable from a transportation planning and engineering standpoint and detailed enough to enable project cost estimates to be developed.

163.9(2) *Contents of applications.* Each application for a local development project is to contain the following:

a. General information, including the applicant's name, contact person, mailing address, telephone number, local economic development program and history of efforts in the area, and other information of a general nature about the project proposal and the associated economic development activity.

b. Cost information, including the estimated total capital investment involved with the associated economic development activity, the estimated total cost of the roadway project, the amount

of RISE funds requested for the roadway project, and the amount of non-RISE funds to be used to match or supplement RISE funding. Itemized breakdowns (showing the item, cost and funding source) are to be included for the total capital investment, the total roadway project cost, the RISE funds requested, and the non-RISE funds to be used to match or supplement RISE funding.

c. Data showing the impact of the associated economic development activity, including the number of direct jobs created or retained. Jobs created as a result of jobs being displaced elsewhere in the state are not to be considered direct jobs created for the purpose of evaluating the application.

(1) To expedite the review, the applicant is to provide the following data for each business included in the project justification: a list of in-state competitors; a list of in-state suppliers; the percentage of out-of-state sales; the effect on import substitution; long-range growth potential; and a list of all current and anticipated employment positions, both full- and part-time, the hourly wage for each, and the turnover rate.

(2) The applicant is to certify that each business will give hiring preference to residents of the state or local area, except for out-of-state employees offered a transfer to Iowa.

d. A preliminary project concept statement for the roadway project, including maps showing site characteristics such as zoning, platting, subdivision boundaries, and corporate limits; a sketch plan; and a justification for the transportation improvement. In most cases, a sketch plan should include a simple plan and profile defining the horizontal and vertical geometrics and a typical roadway cross section defining pavement, shoulders, foreslope, and backslope or border treatment. The transportation justification should address topics such as the current condition of existing roadways or bridges, the relationship of the project to connecting roads, and ingress to and egress from the site, as well as the current flow of traffic on the development site, anticipated total traffic and large truck traffic, proposed major design features of the proposed improvement, the intended roadway function, how the proposed improvement is consistent with other local plans, and the reason the proposed alternative was selected over other alternatives. The department may request completion of a traffic impact analysis to supplement the transportation justification before it is reviewed.

e. A time schedule for the total development, including the roadway project and the associated economic development activity.

f. A formal resolution passed by the governing body of the jurisdiction responsible or to be responsible for the road or street to be constructed or improved. The resolution is to state that the project will be adequately maintained and dedicated to public use for a minimum of 20 years after completion of the project and that land provided access by the proposed improvement will be developed according to rule 761—163.2(315). The resolution is to also certify that any business assisted by the project that acquires or merges with an Iowa corporation within three years following the RISE application intends to make a good-faith effort to hire the workers of the merged or acquired company.

g. A summary showing that necessary arrangements have been made for nonroadway factors (e.g., zoning, sewer, water, police and fire protection, financing, and permits) essential for the proposed economic development activity.

163.9(3) *Submission of applications.* Applications are to be submitted on a form provided by the department.

a. Applications may be submitted at any time. However, in order to be considered in the current round of programming, complete applications are to be received by the department or postmarked no later than February 1 or September 1.

b. Once an application has been submitted, no further information concerning that application is accepted by the department from the applicant unless specifically requested by the department. Applications may be withdrawn by the applicant and resubmitted at any time. Resubmitted applications are to be dated accordingly.

163.9(4) *Incomplete applications.* An applicant is to fully complete the official application form and provide all other information identified in this chapter before the application will be considered by the commission. An applicant is to be notified if an application is incomplete.

163.9(5) *Verification of application materials.* Complete applications are reviewed to verify the figures or statements in the applications. This may include site visits. If inaccuracies, omissions, or errors are found, the commission may rescind the commitment of funds or reevaluate the application based on the correct information. If an applicant loses funding through this process, the commission has complete discretion concerning the disposition of those funds, including awarding them to other applicants or carrying them over to the next programming cycle.

163.9(6) *Rating factors.* The following factors and potential rating points are to be used in assessing applications for local development projects. Assessment of these factors is to be the responsibility of the department.

a. Development potential. This factor measures the degree of certainty involved in the economic development activity to be supported by the proposed RISE project and the potential for future job growth. Maximum points: 35.

b. Economic impact. This factor measures the economic impact of the development activity to be supported by the proposed RISE project, including the number of direct jobs assisted, investment leveraging, the percentage of out-of-state sales and in-state suppliers, the impact on competition and diversification, and the quality of job factors. Maximum points: 20.

c. Local commitment and initiative. This factor measures the level of effort being put forth by the applicant to attract economic development and the adequacy of the supporting infrastructure. Maximum points: 35 (includes 5 points for the remediation or redevelopment of a brownfield site).

d. Transportation need. This factor measures the condition and quality of existing road or street service. Maximum points: 4.

e. Area economic need. This factor measures the economic condition of the area. Maximum points: 6.

163.9(7) *Review and funding of applications.*

a. The staff of the department reviews and rates complete local development project applications and may consult with other organizations with economic development responsibilities. As part of the review, the staff evaluates the effect of the proposed project on the state economy using the following factors: consistency with the state economic development plan; diversification of the state economy; the impact on in-state suppliers, competitors, and import substitution; percentage of out-of-state sales; the quality of employment positions; and the record of law violations. Complete applications are to be forwarded to the commission for a funding commitment action within a reasonable period of time after the application deadline. An application considered but not funded in one programming cycle is not to be considered in a subsequent cycle without resubmittal by the applicant.

b. The commission may fund all or any part of an application and may make a funding commitment conditional upon adherence to a specific time schedule, realization of a development prospect, or fulfillment of other agreements.

761—163.10(315) Project administration.

163.10(1) *Agreement.* After a funding commitment has been made for a project, the department enters into a project agreement with the applicant. The agreement is to delineate responsibilities for project planning, design, right-of-way, contracting, construction and materials inspection, and documentation. The agreement is to identify any additional stipulations regarding the project relating to specific jobs to be created or retained and land development contingencies consistent with rule 761—163.2(315). Procedures for documenting compliance with the agreement terms will also be identified in the agreement. By executing the agreement, the applicant agrees to comply with all local, state, and federal laws, and rules and regulations that may apply to the project.

163.10(2) *Project payments.* Payments from the RISE fund to counties or cities are to be made on a cost reimbursement basis, and financial participation is to be limited to the maximum percentage allowed by the funding commitment. The non-RISE financial participation is to include only those items listed as eligible for RISE funding and may be in the form of cash, the value of design

engineering and construction inspection services, or the cost of eligible advance right-of-way acquisitions or preliminary design pursuant to rule 761—163.7(315). Grants from other state agencies or programs may also contribute to the non-RISE financial participation if their laws and rules allow. The applicant is to provide documentation to the department supporting the value of any noncash contribution to the project. The department has the sole authority to determine the value of noncash contributions. Contributions made by a third party may be allowed.

163.10(3) *Project expenditures incurred prior to agreement.* Project expenditures incurred after the commission has made a funding commitment, but before execution of the agreement, are eligible for reimbursement if a project agreement is subsequently executed. Reimbursement is to be paid following execution of the agreement.

163.10(4) *Remedies for noncompliance with project agreement.* The commission may revoke funding commitments, demand repayment of RISE funds loaned or granted or take both actions when the county or city has not fulfilled the terms of the project agreement.

163.10(5) *Cost overruns.* RISE funds committed for projects are for a maximum dollar amount. Cost overruns are the responsibility of the administering jurisdiction.

163.10(6) *Audit.* The department may audit all project costs incurred for compliance with the agreement, including costs that are part of the matching contribution. All force account work performed by a county or city on the project is to be audited.

These rules are intended to implement Iowa Code section 312.2 and chapter 315.