

ECONOMIC DEVELOPMENT, IOWA DEPARTMENT OF[261]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code sections 15.104 and 15.106, the Iowa Department of Economic Development adopts amendments to Chapter 78, “Small Business Disaster Recovery Financial Assistance Program,” Iowa Administrative Code.

These amendments revise the rules for a new program adopted by the Iowa Economic Development Board on September 18, 2008 and published in the Iowa Administrative Bulletin on October 8, 2008 as ARC 7235B. The program provides financial assistance to businesses that sustained physical damage or economic loss due to the 2008 natural disasters. After the September 18, 2008 effective date of the rules the Department held multiple meetings to inform the public about the assistance available through this program. As a result of the public comments and suggestions received the Department determined that the rules needed to be amended to clarify program requirements.

These amendments include:

(1) The adoption of a definition of “business” to clarify that both for profit and non- profit businesses are eligible to apply for assistance. The amendments further clarify that a “business” includes a commercial landlord.

(2) The adoption of a definition of “eligible lender” to expand the list of allowable lenders to include a rural electric or telephone cooperative with an established Economic Development Administration (EDA) or U.S. Department of Agriculture (USDA) based revolving loan fund program or intermediary re-lending program.

(3) Increasing the maximum amount available to an eligible business from \$50,000 to \$55,000. Of this total amount, a maximum amount of \$5,000 is available for energy-efficient purchases and installation.

(4) Clarifying that the amount eligible for reimbursement for energy-efficient purchases is the purchase price less any utility rebates received and the allowable reimbursement amount includes installation costs.

(5) Requiring that an eligible business have executed loan documents from an eligible lender in order to qualify for assistance from this program.

(6) Making minor technical corrections.

The Iowa Economic Development Board adopted these amendments on September 26, 2008.

In compliance with Iowa Code section 17A.4(2), the Department finds that notice and public participation are impracticable and contrary to the public interest because there is an immediate need to provide funding to eligible businesses in the areas of the state that suffered damage due to this year's natural disasters. The public interest in having a program in effect to distribute needed state funds outweighs the benefit of a comment period.

The Department finds, pursuant to Iowa Code section 17A.5(2)“b”(2), that the normal effective date of the amendments should be waived and the rules be made effective upon filing with the Administrative Rules Coordinator on September 26, 2008. These amendments confer a benefit on the public by clarifying program requirements for potential applicants in need of financial assistance for help with disaster recovery efforts.

These amendments became effective on September 26, 2008.

These amendments are intended to implement Iowa Code section 15.109.

The following amendments are adopted.

Amend 261 — Chapter 78 as follows:

CHAPTER 78

SMALL BUSINESS DISASTER RECOVERY FINANCIAL ASSISTANCE PROGRAM

261 — 78.1(15) Purpose. The purpose of the small business disaster recovery financial assistance program is to provide financial assistance to businesses that sustained physical damage or economic loss due to the 2008 natural disasters. Financial assistance in the form of working capital to help ensure businesses' survival and capital for acquisition of energy-efficient equipment is available to businesses that suffered physical damage or economic loss due to the 2008 natural disasters.

261 — 78.2(15) Definitions.

“Administrative entity” means (1) selected cities that administer local disaster recovery programs, and (2) councils of government (COGs) established by Iowa Code chapter 28H.

“Business” means a corporation, a professional corporation, a limited liability company, a partnership, a sole proprietor or a nonprofit corporation. A “business” includes a commercial landlord.

“Department” or “IDED” means the Iowa department of economic development.

“Eligible lender” means any of the following entities that provide disaster recovery loans to businesses: the SBA; a financial institution; an economic development organization; a rural electric or telephone cooperative with an established Economic Development Administration (EDA) or U.S. Department of Agriculture (USDA) based revolving loan

fund program or intermediary re-lending program.

~~“Economic development corporation” means a local economic development corporation that provides disaster recovery loans to businesses.~~

“Financial institution” means a state bank as defined in Iowa Code section 524.103, subsection 33; a state bank chartered under the laws of any other state; a national banking association; a trust company; a federally chartered savings and loan association; an out-of-state state-chartered savings bank; a financial institution chartered by the federal home loan bank board; a non-Iowa chartered savings and loan association; an association incorporated or authorized to do business under Iowa Code chapter 534; a production credit association; a credit union; or such other financial institution as defined by the department for purposes of this chapter.

“SBA” means the U.S. Small Business Administration.

261 — 78.3(15) Distribution of funds to administrative entities.

78.3(1) Allocation of funds. IDEED will disburse funds in the form of a grant to administrative entities. The grant shall be used to provide financial assistance to eligible businesses in the form of forgivable loans and reimbursement for acquisition of energy-efficient equipment. Funds will be allocated to administrative entities on the basis of the percentage of SBA disaster loans awarded to businesses located within the city’s ~~or COG’s~~ jurisdiction or the disaster recovery area as defined by IDEED.

78.3(2) Application process. To apply for funding, an administrative entity shall submit a letter to IDEED stating its interest in receiving an allocation from the small business disaster recovery financial assistance program. Letters shall be sent to: Business Finance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.

78.3(3) Redistribution of unobligated funds. By April 30, 2009, if a

local administrative entity has not obligated funds to eligible businesses for allowable activities, the department will reallocate funds to administrative entities that have demonstrated additional unmet need for financial assistance. Funds for this program shall be available through June 30, 2009.

261—78.4(15) Eligible business. An eligible business is one that meets the following requirements:

78.4(1) The business has sustained physical damage or economic loss due to the 2008 disasters, and

78.4(2) The business has ~~received~~ executed loan documents for a disaster loan from SBA, a financial institution, an economic development an eligible lender.

261—78.5(15) Eligible program activities; maximum amount of assistance.

78.5(1) Program funds available for working capital. An eligible business may apply for funding for working capital to ensure the business's survival. The maximum amount of program funds available for working capital to ensure the business's survival is 25 percent of the business's ~~SBA~~ loan from an eligible lender up to a maximum of \$50,000.

78.5(2) Program funds available for energy-efficient purchases.

a. Up to \$5,000 additional assistance available for energy-efficient purchases and installation. In addition to the assistance available under subrule 78.5(1), ~~The~~ the amount of \$5,000 per eligible business is available to reimburse the business for the full cost of purchasing energy-efficient equipment, including but not limited to, furnaces and boilers, appliances, air conditioners, hot water heaters, windows, and insulation. The cost that is eligible for reimbursement is the amount of the purchase price and installation less any utility rebates received.

b. Must meet OEI standards. To be eligible for reimbursement,

documentation shall be provided to verify that the energy-efficient equipment meets the standards established by the Iowa office of energy independence (OEI).

78.5(3) Total program assistance capped at ~~\$50,000~~ \$55,000. An eligible business shall not receive more than ~~\$50,000~~ \$55,000, including the program funds available for energy-efficient purchases (maximum of \$5,000) through this small business disaster recovery financial assistance program.

261—78.6(15) Allowable types of assistance to eligible businesses. An administrative entity shall provide financial assistance from this program to eligible businesses in compliance with the terms and conditions described in this rule. An administrative entity may award funds in the form of a forgivable loan to businesses that have received a disaster loan from ~~the SBA, a financial institution, or an economic development corporation~~ an eligible lender. A forgivable loan is a loan that will be forgiven if the business reopens within 12 months of the award date and, if applicable, upon receipt of documentation that the business has purchased and installed the energy-efficient equipment.

261—78.7(15) Program administration and reporting. Each local administrative entity shall enter into a contract with an eligible business to provide assistance under this program. The contract shall include terms and conditions that meet the requirements of these rules as well as provisions to require repayment if funds are not used in compliance with the program. Each local administrative entity shall provide oversight and contract administration to ensure that the recipients of program funds are meeting contract requirements. Each local administrative entity shall collect data and submit reports to IDED about the program in the form and content

required by IDEED.

These rules are intended to implement Iowa Code section 15.109.

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