

## TITLE 16 OFFICE OF THE LIEUTENANT GOVERNOR

### ARTICLE 1. ENERGY DEVELOPMENT BOARD

*NOTE: 16 IAC 1 was transferred from 55 IAC 2. Wherever in any promulgated text there appears a reference to 55 IAC 2, substitute 16 IAC 1.*

#### Rule 1. General Provisions

##### 16 IAC 1-1-1 Definitions

Authority: IC 4-23-5.5-6

Affected: IC 4-23-5.5

Sec.1. DEFINITIONS. As used in this instruction (55 IAC 2):

(1) "board" means the Indiana Energy Development Board,

(2) "department" means the Indiana Department of Commerce,

(3) "board staff" means the administrative and clerical personnel necessary for the functioning of the Energy Development Board.

*(Office of the Lieutenant Governor; 16 IAC 1-1-1; filed Aug 28, 1980, 11:00 am: 3 IR 1592; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-1) to the Office of the Lieutenant Governor (16 IAC 1-1-1) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

##### 16 IAC 1-1-2 Policy statement

Authority: IC 4-23-5.5-6

Affected: IC 4-23-5.5-6

Sec.2. POLICY. It is the policy of the board to conduct an ongoing assessment of the opportunities of and constraints upon the use and development of all sources of energy whose use is applicable to Indiana's needs. The board shall encourage the balanced use of all sources of energy with primary emphasis on:

(1) the utilization of Indiana's high sulfur coal including but not limited to programs promoting the development of Indiana's high sulfur coal so that it meets all pollution control requirements and is competitive with that of other states for export purposes; and

(2) the utilization of Indiana's agricultural and forest resources and products for the production of alcohol fuel and other forms of biomass energy including but not limited to programs for research and development of the use of alcohol fuels, and establishment of distilleries in the state.

The board shall seek to avoid total reliance on a single energy source and shall encourage research, development and utilization of solar and all other forms of energy. *(Office of the Lieutenant Governor; 16 IAC 1-1-2; filed Aug 28, 1980, 11:00 am: 3 IR 1592; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-2) to the Office of the Lieutenant Governor (16 IAC 1-1-2) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

##### 16 IAC 1-1-3 Applications for grants and loans

Authority: IC 4-23-5.5-6

Affected: IC 4-23-5.5-7; IC 4-23-5.5-9

Sec.3. APPLICANT ELIGIBILITY. The board is authorized to accept applications for matching grants, direct grants, loans and loan guarantees from individuals, corporations, partnerships, educational institutions, other private sector groups, and state and local governmental agencies. The board may also make and accept applications for matching grants to be made in conjunction with federal agencies. *(Office of the Lieutenant Governor; 16 IAC 1-1-3; filed Aug 28, 1980, 11:00 am: 3 IR 1592; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-3) to the Office of the Lieutenant Governor (16 IAC 1-1-3) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

##### 16 IAC 1-1-4 Filing and examination of applications; board meetings

Authority: IC 4-23-5.5-6

Affected: IC 4-23-5.5-9

Sec.4. APPLICATION PROCESS. (a) Applications shall be submitted to: Energy Development Board, 440 N. Meridian Street, Indianapolis, Indiana 46204. All applications shall be accompanied by two (2) copies and shall be in an appropriate form as determined by the board.

(b) The procedure for evaluation of applications to the board is the following:

- (1) The board staff shall review the application to determine whether it contains the necessary information;
- (2) In addition, the board staff shall evaluate the application based on the criteria as stated in 55 IAC 2-1-7 and in accordance with established administrative policy;
- (3) After technical review by the board staff, a report, along with any other technical reports, shall be made to the board;
- (4) Public notice of board meetings shall be posted prior to the meetings;
- (5) During the course of evaluation by the board, the applicant shall be allowed to make any written or oral presentations to the board meeting as the applicant shall desire;
- (6) The board may return any application to the board staff for further research and analysis by the board staff;
- (7) After consideration of the application for funding, the board will either accept, reject, modify, or table the application. The board may also return the application to the applicant for modification, and
- (8) Whenever the board takes final action on an application it shall send a written notice thereof.

(c) All board meetings are open to the public and shall include time for public comment. If possible, a written request should be sent to the board so that the person requesting time for public comment can be placed on the agenda. Time permitting, unscheduled public comment shall be allowed at board meetings at the discretion of the board. The board reserves the right to limit the time allocated for each individual. (*Office of the Lieutenant Governor; 16 IAC 1-1-4; filed Aug 28, 1980, 11:00 am: 3 IR 1592; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267*) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-4) to the Office of the Lieutenant Governor (16 IAC 1-1-4) by P.L.4-2005, SECTION 150, effective February 9, 2005.

**16 IAC 1-1-5 Re-examination of applications**

Authority: IC 4-23-5.5-6

Affected: IC 4-23-5.5-9

Sec.5. RE-EXAMINATIONS. (a) Any applicant who is aggrieved by the action of the board in granting or not granting applications shall have the right to request a re-examination of the application. Any applicant who wishes to request re-examination by the board must make a written request to the board. The applicant shall make the request for re-examination within thirty (30) days after the initial rejection by the board. In reviewing the request for re-examination, the board must vote by a two-thirds (2/3) majority in order for the re-examination to be held. No application which has been rejected by the board may be refiled with the board for a one (1) year period unless specifically approved by a two-thirds (2/3) majority of the board.

(b) Any applicant who is aggrieved by the action of the board staff may request a review by the board. (*Office of the Lieutenant Governor; 16 IAC 1-1-5; filed Aug 28, 1980, 11:00 am: 3 IR 1593; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267*) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-5) to the Office of the Lieutenant Governor (16 IAC 1-1-5) by P.L.4-2005, SECTION 150, effective February 9, 2005.

**16 IAC 1-1-6 Confidential information**

Authority: IC 4-23-5.5-6

Affected: IC 4-23-5.5

Sec.6. CONFIDENTIALITY OF APPLICATION INFORMATION. The board or board staff shall honor requests by applicants that identified data within the application be kept confidential (i.e., trade secrets or privileged or confidential commercial or financial information). All confidential data shall be specifically identified and marked by the applicant, and placed in an appendix to the application. The board or board staff shall only use such data for evaluation purposes. If the application does receive partial or full funding from the board, the board's or board staff's honoring of the confidentiality of identified data shall not limit its right to disclose the results of the project to the public. (*Office of the Lieutenant Governor; 16 IAC 1-1-6; filed Aug 28, 1980, 11:00 am: 3 IR 1593; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267*) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-6) to the Office of the Lieutenant Governor (16 IAC 1-1-6) by P.L.4-2005, SECTION 150, effective February 9, 2005.

**16 IAC 1-1-7 Evaluation criteria**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5-9

Sec.7. CRITERIA FOR APPLICATION EVALUATION. In allocating funds to qualified applicants, the board shall use as guidelines the following criteria including but not limited to:

- (1) the technical feasibility of the project,
- (2) the economic feasibility of the project,
- (3) the environmental impacts of the project,
- (4) the level of Indiana resources utilized,
- (5) the amount of funds requested, including any other grants and matching funds,
- (6) the financial responsibility of the applicant to perform the proposed project,
- (7) the capability of the applicant to perform the proposed project,
- (8) the market attractiveness of the project,
- (9) the existence of similar projects, and
- (10) the compatibility of the application with the board's current year's programs.

*(Office of the Lieutenant Governor; 16 IAC 1-1-7; filed Aug 28, 1980, 11:00 am: 3 IR 1593; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-7) to the Office of the Lieutenant Governor (16 IAC 1-1-7) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

**16 IAC 1-1-8 Eminent domain**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5-8

Sec.8. EMINENT DOMAIN. The board does not have the authority to exercise the power of eminent domain. *(Office of the Lieutenant Governor; 16 IAC 1-1-8; filed Aug 28, 1980, 11:00 am: 3 IR 1593; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-8) to the Office of the Lieutenant Governor (16 IAC 1-1-8) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

**16 IAC 1-1-9 Waiver of patents, royalties and copyrights**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5-9

Sec.9. PATENT RIGHTS; ROYALTIES; COPYRIGHTS. Indiana waives title to any invention, patent, or copyright which may result from a project partially or fully funded by the board. However, in no event shall Indiana pay a royalty for its use of materials or processes developed from projects partially or fully funded by the board. *(Office of the Lieutenant Governor; 16 IAC 1-1-9; filed Aug 28, 1980, 11:00 am: 3 IR 1593; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-9) to the Office of the Lieutenant Governor (16 IAC 1-1-9) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

**16 IAC 1-1-10 Acceptance of gifts and grants**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5-10

Sec.10. ACCEPTANCE OF GRANTS AND CONTRIBUTIONS BY THE BOARD. The board, on behalf of the state, may receive and accept grants, donation, or contributions from public agencies, including the federal government, and from private agencies and private sources. The board shall review the terms and stipulations of a grant, donation or contribution with a majority vote of the board being necessary before a grant, donation or contribution can be accepted by the board. *(Office of the Lieutenant Governor; 16 IAC 1-1-10; filed Aug 28, 1980, 11:00 am: 3 IR 1593; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-10) to the Office of the Lieutenant Governor (16 IAC 1-1-10) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

**16 IAC 1-1-11 Officers of board; manager's powers and duties**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5-4

Sec.11. BOARD OFFICERS; MANAGER'S FUNCTION. (a) The Governor shall appoint one (1) of the appointed members as chairman, and the board shall elect a vice-chairman and treasurer. The Executive Director of the department shall be the manager and secretary of the board. The secretary and treasurer shall be bonded as the board may direct.

(b) The manager shall be the chief administrative officer for the board and shall direct and supervise the administrative affairs and technical activities of the board. The manager may perform the following:

- (1) appoint, discipline, and dismiss such employees as the board may require and such agents or consultants as may be necessary for implementing this chapter [55 IAC 2] subsequent to the board's approval;
- (2) purchase any office equipment and material necessary for the functioning of the board and board staff; and
- (3) call at least quarterly meetings of the board upon ten (10) days written notification.

*(Office of the Lieutenant Governor; 16 IAC 1-1-11; filed Aug 28, 1980, 11:00 am: 3 IR 1594; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-11) to the Office of the Lieutenant Governor (16 IAC 1-1-11) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

**16 IAC 1-1-12 Quorum; representatives of members**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5-3

Sec.12. QUORUM. Six (6) members of the board shall constitute a quorum and the affirmative vote of a majority of the membership shall be necessary for any action taken by the board. A vacancy in the membership of the board does not impair the right of the quorum to act. Board members may send representatives in their place to view board meetings and participate in discussion; however, the representatives shall not be allowed to cast a proxy vote for that board member. *(Office of the Lieutenant Governor; 16 IAC 1-1-12; filed Aug 28, 1980, 11:00 am: 3 IR 1594; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-12) to the Office of the Lieutenant Governor (16 IAC 1-1-12) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

**16 IAC 1-1-13 Conflict of interest**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5-2

Sec.13. CONFLICT OF INTEREST. A member of the board must disclose to the board any interest in a project the board may be considering for action. The board shall determine whether that member shall be allowed to participate in activities related to that project. *(Office of the Lieutenant Governor; 16 IAC 1-1-13; filed Aug 28, 1980, 11:00 am: 3 IR 1594; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-13) to the Office of the Lieutenant Governor (16 IAC 1-1-13) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

**16 IAC 1-1-14 Performance and budget reports**

Authority: IC 4-23-5.5-6  
Affected: IC 4-23-5.5

Sec.14. PERFORMANCE REPORTS. All projects which are partially or fully funded by the board are required to submit to the board performance and budget reports as specified in the provisions of the agreement. These reports shall be in an appropriate form as determined by the board. A final report shall be made to the board at the completion of the project. Absence of such reports may cause suspension or termination of the grant, loan or loan guarantee as determined by the board. *(Office of the Lieutenant Governor; 16 IAC 1-1-14; filed Aug 28, 1980, 11:00 am: 3 IR 1594; readopted filed Dec 2, 2001, 12:30 p.m.: 25 IR 1267) NOTE: Transferred from the Department of Commerce (55 IAC 2-1-14) to the Office of the Lieutenant Governor (16 IAC 1-1-14) by P.L.4-2005, SECTION 150, effective February 9, 2005.*

\*