**Section 365.350 Loan Application and Other Documentation**

Before the Agency will issue a loan agreement, the loan applicant must submit the following documents:

a) An application, on forms prescribed by the Agency, which must include the following documents:

1) Loan Program Certifications;

2) Certification Regarding Debarment, Suspension, and Other Responsibility Matters;

3) Certification of Intent Regarding National Flood Insurance;

4) Certification Regarding Project Site, Rights-of-Way, Easements, and Permits;

5) Authorization of a Representative to Sign Loan Documents;

6) An Engineering Service Procurement Report that certifies whether the contracts for program management, construction management, feasibility studies, preliminary engineering, design, engineering, surveying, mapping, or architectural related services were negotiated in the same manner as a contract for architectural and engineering services under 40 U.S.C. 1101 et seq.;

7) For a treatment works proposed for repair, replacement, or expansion, and eligible for assistance under Section 365.130(a), the public loan recipient shall certify in writing that the public loan recipient will develop and implement a fiscal sustainability plan that includes:

A) an inventory of critical assets that are a part of the treatment works;

B) an evaluation of the condition and performance of inventoried assets or asset groupings;

C) a certification that the recipient has evaluated and will be implementing water and energy conservation efforts as part of the plan; and

D) a plan for maintaining, repairing, and, as necessary, replacing the treatment works and a plan for funding the activities;

8) Any other executed legal agreements, including, but not limited to, intergovernmental agreements necessary for project implementation;

9) Proof of authority to incur debt for:

A) Public loan applicants: a certified copy of the enacted ordinance authorizing the bonds, notes or other evidence of indebtedness to be delivered to the Agency, and proof the ordinance was adopted in accordance with State law, including publication and notice requirements when applicable; or

B) Loan applicants that are not public loan applicants: documents such as, but not limited to, a copy of board resolutions to incur the debt, Articles of Incorporation, By-laws, Partnership Agreements, or a legal opinion stating that the loan applicant has the authority to incur debt;

10) Documentation to support the loan applicant's ability to repay all principal and interest of the loan:

A) A financial capability demonstration shall be submitted to the Agency for approval and shall contain:

i) detailed project costs;

ii) 5-year projected estimates of revenues;

iii) 5-year projected estimates of operation and maintenance costs;

iv) 5-year projected estimates of local capital costs; and

v) the most recent completed annual audited financial statements of the loan applicant;

B) A user charge system, when a user charge system is the dedicated source of revenue, shall be submitted to the Agency and shall:

i) be enacted and enforceable before the first loan disbursement (when applicable, approval of the rate increase by the Illinois Commerce Commission will be required);

ii) generate sufficient revenue to offset the cost for operation, maintenance and replacement required to be provided by the loan recipient for all projects authorized under this Part;

iii) be incorporated in one or more municipal legislative enactments or other appropriate authorizations. If the project is for a regional treatment works accepting wastewaters from treatment works owned by others, then the subscribers receiving wastewater treatment services from the loan recipient shall have adopted user charge systems. The user charge systems shall also be incorporated in the appropriate municipal legislative enactments, intergovernmental or service agreements or other appropriate authorizations; and

iv) provide the average monthly cost of service for a residential customer based upon the average monthly water usage for a residential customer, or the appropriate average monthly residential cost of service based upon the methodology established within the loan applicant's system of user charges. If the loan applicant has substantial industrial and/or commercial customers, the loan applicant must provide similar monthly user charge information for the customers within those rate classes. In addition, provide the number of billed residential and industrial or commercial accounts;

C) A dedicated source of revenue adequate to make loan repayments for the term of the loan. If the dedicated source of revenue is pledged in a subordinate position, the loan applicant must establish a reserve account that provides the Agency with the equivalent coverage and reserves as the senior lien holders. At a minimum, the reserve account shall be equal to the annual principal and interest payment funded within 2 years after the loan award;

D) For nonpublic loan applicants, appropriate legal documents will be provided to enable the Agency to perfect its security interest in the revenues of the loan applicant and other personal properties offered as security by filing the necessary information under the Uniform Commercial Code [810 ILCS 5];

E) For nonpublic loan applicants, approval from the Illinois Commerce Commission to incur debt, if applicable;

F) Upon request by the Agency, any other documentation necessary to demonstrate the loan applicant's ability to repay all principal and interest of the loan including, but not limited to, a credit report;

11) A legal opinion from the loan applicant's legal counsel with respect to the validity and enforceability of the loan applicant's obligations and the absence of conflicts with other agreements, bonds or ordinances;

12) A Tax Exemption Certificate and Agreement;

13) A project completion schedule;

14) An active Data Universal Number System Identification (DUNS No.) registered in the federal System for Award Management Systems; and

15) Certification that the loan applicant will comply with the American iron and steel requirements as required by USEPA.

16) Certification that the loan applicant will comply with the requirements of the Build America Buy America Act (BABA Act) at Public Law 117-58, Sections 70901 through 70952 (41 U.S.C. 8301 note), as applicable.

b) Any contract or contract amendments for personal or professional services in accordance with Section 365.630 if financing is being requested for these specific costs.

c) A construction permit or "authorization to construct" from the Agency, pursuant to 35 Ill. Adm. Code 309.154 and 309.202, whichever is applicable, whenever such permit is necessary to comply with the Act.

d) Pre-bidding plans and specifications with certification form prescribed by the Agency, which includes a draft of all documents required by Section 365.620.

e) After the bids are opened and evaluated by the loan applicant, a bidding evaluation and certification, on forms prescribed by the Agency, including documentation showing compliance with Section 365.620.

(Source: Amended at 48 Ill. Reg. 3751, effective February 27, 2024)