**Section 1100.705 Rules and Guidelines Applicable to Bond Programs** **under this Subpart**

a) General Description of Programs. The bond programs are intended to allow farmers to obtain lower interest rate loans for qualified purposes by obtaining loan funds from the proceeds of a tax-free bond issued by the Authority. The Authority shall establish, from time to time, particular bond programs to implement the policies and purposes of the Act. The Authority may modify or discontinue any such program, in a manner consistent with this Part, if it determines that the public interest would be served by so doing.

b) Applicant Eligibility

1) Unless otherwise provided in this Part, the eligible applicant must be a permanent resident of Illinois at the time the bond is issued.

2) The land and improvements or depreciable farm property the applicant proposes to purchase will be located within Illinois.

3) The applicant must be at least 18 years of age at the time of application.

4) The applicant may be required to document to the satisfaction of the lender and the Authority, sufficient education, training or experience in the type of project for which the loan is sought.

5) If the loan is sought for the acquisition of land, the applicant may be required to document, to the satisfaction of the lender, that he will have access to adequate working capital, farm equipment, machinery or livestock. If the loan is sought for acquisition of depreciable agricultural property, the applicant should document access to adequate working capital or agricultural land.

6) The Authority may, from time to time, and through formal rulemaking procedures, establish rules requiring that a determination be made that the applicant is unable to secure financing from nongovernmental sources upon terms and conditions which the applicant reasonably could be expected to fulfill.

7) The land and improvements which are financed by the loan made by the Authority must be used by the applicant. Any improvements or depreciable property which is to become a fixture or an integral part of real estate may be financed by the Authority only if the applicant owns or leases the real estate on which it is to be located.

8) The applicant must state the particular program for which he or she is applying and must satisfy all the eligibility requirements of that program.

c) Qualified Purposes

1) Eligible loan activities under all programs consist of financing purchases of depreciable property or real estate, and powers granted in Article 830 of the Act.

2) Ineligible loan activities under all programs consist of the following:

A) Refinancing an existing debt incurred by the applicant.

B) Financing working capital to purchase feed, seed, fertilizer, fuel, feeder cattle, pigs, lambs, etc.

C) Financing the previously commenced acquisition or construction of any part of the project for which the loan is sought if such commencement by the applicant or any related person occurred more than 60 days prior to the Authority's action on the application and sale of bond to finance the loan. This prohibition includes, but is not limited to, entering into a contract or purchase agreement, installment or otherwise, in connection with the construction of the project or any part thereof, or off-site fabrication or acquisition of any portion of the project. This prohibition does not apply, however, if such contract or purchase order, for example, states that the purchase is subject to the approval of the Authority, the risk of loss remains with the seller and the Authority's approval is obtained prior to the applicant taking possession of the property.

d) Participating Lenders. Any bank, trust company, mortgage company, national banking association, savings and loan association, life insurance company, any State or federal governmental agency or instrumentality, or any other financial institution or entity authorized to make mortgage loans or secured loans in this State may be a participating lender. A financial institution may become a participating lender at any time.

e) Application Procedures and Review

1) The farmer may apply (on forms approved by the Authority) for an Authority loan with any participating lender. Any loan approved will be assigned to that Participating lender. Authority loan eligibility is determined by the requirements of the Act and this Part. If a farmer meets the loan eligibility requirements, the decision on whether to enter into the loan agreement is between the farmer and the participating lender. They must agree on terms of the loan such as interest rates, length of loan, down payment, service fees, origination charges, and repayment schedule, which may not be any more onerous than that charged to similar customers for similar loans, but taking into account the tax exempt nature of interest on the loan.

2) Following completion of the loan application by the farmer and approval by the participating lender, the loan application must be submitted to the Authority for its review and approval. The Authority's review will include, but not be limited to whether the loan applicant is an eligible farmer, the loan proceeds will be used for a qualified purpose under the Act and this Part and the Internal Revenue Code and IRS regulations relating to industrial development revenue bonds, and the terms of the loan comply with this Part.

3) When a loan application is submitted to the Authority, the Executive Director shall review the loan application to determine whether it is complete, and whether the criteria established by the Act and this Part have been satisfied.

A) If the Executive Director determines that the loan application is incomplete, he shall, within five days after such determination, inform the applicant and the participating lender of such determination, and shall detail the information or material which is necessary to complete the application. For the purposes of subsection (g) of this Section, no application shall be deemed complete until the applicant or participating lender has provided additional information or material as requested by the Executive Director.

B) When the Executive Director has completed his review of the loan application, he shall present the loan application, with a statement of recommended action, to the Board at its next regularly scheduled meeting.

4) The Board shall review each loan application presented by the Executive Director in accordance with the provisions of the Act and this Part, and the Board shall:

A) approve the loan and issue the bond, pursuant to the Act and this Part; or

B) deny the application and serve upon the applicant and participating lender a written statement of the grounds for the denial.

5) Within 21 days after of a denial, the applicant and the participating lender may file with the Authority a Request for Reconsideration, stating reasons why the Board should withdraw its denial of the application and approve the loan. The Request for Reconsideration may be accompanied by supporting documents and information not previously considered by the Board. The Board shall review the Request for Reconsideration within 45 days after receiving it, and shall either approve the loan and issue the bond, or deny the Request for Reconsideration. A denial of a Request for Reconsideration shall be final. While a Request for Reconsideration is pending, the application that is the subject of the Request for Reconsideration shall be deemed complete for the purposes of subsection (g) of this Section.

f) Source of Payment and Nature of Obligation. The principal and interest on the bond is a limited obligation payable solely out of the revenues derived from the loan to the farmer and the underlying collateral or other security furnished by or on behalf of the farmer. The participating lender shall have no other recourse against the Authority. The principal and interest on the bond does not constitute an indebtedness of the Authority or a charge against its general credit or general fund.

g) Priority of Applications. Applications shall be processed by the Authority on a first-come, first-served basis, based upon the receipt of all completed documents by the Authority. The Authority may deviate from the first-come, first-served rule to the extent necessary to comply with federal income tax laws and regulations, to fully utilize the proceeds of any series of bonds or allocations of bond proceeds to participating lenders, or to meet emergency needs of farmers as determined from time to time by appropriate resolution of the Authority.

h) Post Issuance Certification. No bond proceeds may be used for a nonqualified purpose or by a noneligible user. Following disbursement of the bond proceeds, the participating lender and farmer shall certify to the Authority that the proceeds were used by an eligible farmer for a qualified purpose.

i) Assumption of Loans, Substitution of Collateral and Transfer of Property. Loans may not be assumed without the prior approval of the Authority, and then only if the purchaser of the property is an eligible applicant for an Authority loan. Equipment and other depreciable property may be exchanged or traded in for similar property, and other property such as breeding livestock may be added or substituted as collateral at the discretion of the lender without the prior approval of the Authority. The benefits of the loan made at the tax-free rate from the proceeds of an Authority bond must remain with the qualified farmer, and no person to whom property is traded or otherwise transferred may obtain the benefits of the Authority loan.

j) Right to Audit. The Authority shall have at any time the right to audit the records of the participating lender and the farmer relating to this loan and bond and ensure that bond proceeds were used for qualified purpose by a qualified user.

(Source: Amended at 24 Ill. Reg. 16656, effective October 24, 2000; recodified from 8 Ill. Adm. Code 1400.130 at 31 Ill. Reg. 12104)