**Section 570.70 Administrative Requirements**

a) Direct Funding

1) Loan Recipients

A) Loan Terms – Loans for real estate normally will be repaid over a period of up to 10 to 25 years; loans primarily utilized for machinery and equipment will generally vary from 5 to 10 years. Loans not secured by a lien on tangible assets generally require personal guarantees. Loans primarily intended for short term working capital needs will normally be repaid over a period of 3 months to 5 years. These loans will generally require personal guarantees from all individuals/entities owning or controlling 20 percent or more of the applicant company, or any lower amount as determined by the Department. For small companies without major identifiable principals (e.g., no one owns 20% or more of the company), the amount of the loan may be limited to 80% of the value of the fixed asset securing the loan. Periodic installments shall be due and payable to the Department in the method and time(s) specified in the loan agreement. All payments shall be applied first to interest and then to principal on all simple interest loans. All payments on amortized loans will be applied to the amortization schedule as stated.

B) Reporting – The Recipient (applicant receiving loan funds) will provide, at least annually, information and reports required by the Department (e.g., reports on job creation/retention; financial statement of assets, liabilities, and net worth).

C) Monitoring and Evaluation – Recipients must permit any agent authorized by the Department, upon presentation of credentials, to have full access to and the right to examine any documents, papers, and records of the Recipient involving transactions related to a loan from the Department.

D) Recipients shall keep detailed records of the project and the use of loan proceeds. Recipients of loans of more than $100,000 shall furnish to the Department, with the submission of financial statements (see Section 570.70(a)(1)(E)) following the expenditure of project funds, a written audit of the project and the use of loan proceeds. The audit shall be conducted by certified public accountants licensed by the State of Illinois in accordance with the Illinois Public Accounting Act (Ill. Rev. Stat. 1991, ch. 111, pars. 5500-5536) [225 ILCS 450] unless for good cause, the Department allows the audit to be conducted by an accountant certified by the proper authorities of another state and shall be in accordance with generally accepted auditing standards adopted by the American Institute of Certified Public Accountants (AICPA) (1991, with no later amendments or editions). The address of the AICPA is: 1211 Avenue of the Americas, New York NY 10036-8775. For Recipients of loans equal to or less than $100,000 the Department or its designee will conduct one or more inspections of the project and the use of loan proceeds records to verify the use of project funds.

E) Financial Statements – The Recipient shall provide as often as requested by the Department, an unaudited financial statement of the Recipient as at the end of the quarter of the Recipient's fiscal year then elapsed, certified by the Recipient's principal financial officer (e.g., controller, treasurer, chief financial officer) and prepared in accordance with generally accepted accounting principles (issued by the Financial Accounting Standards Board (FASB) (1991, no later amendments or editions) located at 401 Merritt Seven, P.O. Box 5116, Norwalk CT 06856) and fairly presenting the financial position and results of all operations of the Recipient for such quarter. The Recipient shall furnish to the Department:

i) if the original amount of the loan is less than or equal to $100,000, as soon as available, but not later than 120 days after the end of each fiscal year of the Recipient, a true and correct copy of the Recipient's federal income tax return for such year just ended; provided, however, that if the Recipient provides the Department with a copy of a request for automatic extension filed by the Recipient with the Internal Revenue Service, the required date of delivery shall automatically be extended for four months if the Recipient is an individual and six months if the Recipient is a corporation;

ii) if the original amount of the loan is greater than $100,000 but less than or equal to $250,000, as soon as available, but not later than 120 days after the end of each fiscal year of the Recipient, financial statements of the Recipient as at the end of such year (reviewed by certified public accountants, licensed by the State of Illinois or any other state and satisfactory to the Department) containing a certificate of the aforesaid public accountants certifying to the Department that they are not aware of the occurrence or existence of any condition or event which constitutes a default; or

iii) if the original amount of the loan is greater than $250,000, as soon as available, but not later than 120 days after the end of each fiscal year of the Recipient, financial statements of the Recipient as at the end of such year examined by certified public accountants (licensed by the State of Illinois or any other state and satisfactory to the Department) containing the unqualified opinion of such public accountants with respect to the financial statements and a certificate of the aforesaid public accountants certifying to the Department that they are not aware of the occurrence or existence of any condition or event which constitutes a default.

iv) if a Recipient has complied with Section 570.70(a)(1)(D) and has submitted financial statements in accordance with Section 570(a)(1)(E)(ii) or (iii) covering the fiscal year ending after the date of funding, the Department may, for good cause (i.e., financial hardship, merger, change of fiscal year end, etc.), accept:

for a loan with an original amount of at least $100,000, but less than $250,000, a copy of the Recipient's federal tax return and compiled financial statements, or

for a loan with an original amount of $250,00, or more, reviewed financial statements.

2) Development Corporation Grant Recipients

A) Financial Assistance Agreement – During formal negotiations and discussions held with the Department, the Department and the applicant will agree to the scope of work of the agreement and the period of the agreement.

B) Financial Statements – The Development Corporation will provide, at least annually, information and reports required by the Department, including the Corporation's balance sheet, profit and loss statement, and other financial reports due within 45 calendar days after the end of the State fiscal year.

C) Progress Reports – Progress reports, pertaining to and describing the progress toward the project goals, shall be submitted to the Department by the recipient as specified in the grant agreement.

D) Method of Compensation – Payments pursuant to Financial Assistance Award are subject to the availability of funds appropriated to the Department by the Illinois General Assembly. Payments to the Development Corporation are subject to the initiation of an invoice voucher. Financial assistance must be obligated, vouchered and liquidated within the period of the agreement or some period of time as determined by the Department.

E) Record Review and Monitoring – Development Corporations and their subcontractors, if any, must permit any agent authorized by the Department, upon presentation of credentials, to have full access to and the right to examine, any documents, papers and records of the Development Corporation involving transactions related to a Financial Assistance Award under this program, for three (3) years from the date of submission of the final progress report or until audit findings have been resolved, whichever is later.

F) Audits

i) The Development Corporation shall be responsible for securing an audit of all loan records and such audit must be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit must be conducted in accordance with generally accepted auditing standards adopted by the American Institute of Certified Public Accounting (AICPA).

ii) The Development Corporation shall work cooperatively with the audit firm selected; actively work with both the audit firm and the Department to resolve any and all audit findings; and work cooperatively with the Department's staff in preparing for, conducting, and resolving audits.

iii) The Department reserves the right to conduct special audits, including but not limited to an agency-wide audit, at any time during normal working hours, of funds expended under Department grants.

iv) Any independent public accounting firm that provides consultant services to a Development Corporation is prohibited from conducting an audit of that Development Corporation for the period during which services were rendered.

3) Technical Assistance Grant Recipients

A) Financial Assistance Agreement – During formal negotiation and discussions, the Department and the applicant will agree to the scope of work and the period of the grant agreement.

B) Expenditure Summary – The recipient shall maintain appropriate records of actual grant related costs and leverage expended by the recipient. These grant related costs and leverage expenditures shall be reported to the Department as specified in the grant agreement.

C) Progress Reports – Progress reports, pertaining to and describing the progress toward the project goals, shall be submitted to the Department by the recipient as specified in the grant agreement.

D) Department Monitoring and Evaluation – A recipient must permit any agent authorized by the Department, upon presentation of credentials, to have full access to and the right to examine any document, papers and records of the recipient involving transactions related to financial assistance from the Department.

E) Method of Compensation – Payments under this program shall be reimbursements of eligible costs. Payments pursuant to a grant are subject to the availability of funds appropriated to the Department by the Illinois General Assembly. Payments to the recipient are subject to receipt of invoice vouchers and conformance with the terms of the approved grant agreement.

b) Indirect Funding

1) For the Participation Loan Program, financial statements of the recipients required by the financial intermediary shall be submitted to the Department by the financial intermediary, in accordance with and as stated in the Agreements established and approved by the Department and executed by the recipient and the financial intermediary. Other reporting (e.g., employment impact, modernization effectiveness or competitive improvement), as deemed necessary by the Department, shall be obtained from the recipient.

2) For the Loan Reserve Program, the administrative requirements will be established by the financial intermediary.

3) For the Development Corporation Participation Loan Program, financial statements of the recipients required by the financial intermediary shall be submitted to the Department by the financial intermediary, in accordance with and as stated in the Agreements established and approved by the Department and executed by the recipient and the financial intermediary. Other reporting (e.g., employment impact, modernization effectiveness or competitive improvement), as deemed necessary by the Department, shall be obtained from the recipient.

(Source: Amended at 18 Ill. Reg. 6119, effective April 11, 1994)