**Section 365.930 Financial Capability**

a) The loan applicant shall demonstrate to the Agency that it has the necessary legal, financial, managerial and institutional capability to:

1) Construct, operate and maintain the project for the life of the facility;

2) Retire the loan in accordance with the schedule to be contained in the loan agreement, including the execution of any necessary intergovernmental agreements, enactment of a system of user charges and any legislative enactments necessary to recover adequate capital costs to repay the loan; and

3) Meet any covenants and requirements in the loan agreement.

b) To demonstrate financial, managerial and institutional capability, the loan applicant shall, at a minimum, show that:

1) It is empowered under law to own, operate and maintain the facility to be constructed under the loan;

2) It has the necessary easements, titles, permits and intergovernmental agreements for loan project implementation, as identified in the facilities plan; and

3) It has or will have the necessary qualified personnel to operate and maintain the facility.

c) The financial capability demonstration shall be submitted to the Agency for approval and shall contain detailed project costs, existing and proposed operation, maintenance and replacement costs, existing and proposed local capital costs and, upon request of the Agency, historical information over the past 3 years consisting of audited annual financial statements, bond ratings, numbers of users and tax rate levies.

d) The Agency may suggest mitigative measures to improve the loan applicant's financial capability to undertake the project, including, but not limited to, acquisition of grant funding, reduction of project costs, additional or different sources of dedicated revenues, efforts to reduce the number of delinquent users, and changes to existing financial practices that may threaten generation of adequate revenues.

e) The Agency may require a loan term of less than the 20 year maximum. In evaluating the appropriateness of alternative loan terms, the Agency shall consider such factors as the scope of the proposed project, the impacts of alternative loan terms on user fees, and the overall cost of the project.

(Source: Amended at 34 Ill. Reg. 17582, effective November 8, 2010)