

265—44.4 (16) Beginning farmer loan program.

44.4(1) *Individual agricultural development bond program description.* This program is intended to allow BFLP eligible applicants to obtain lower interest rate loans for qualified purposes by obtaining loan funds from the proceeds of a tax-exempt bond issued by the authority and purchased by the bond purchaser. The authority will enter into a loan agreement with the BFLP eligible applicant and assign that BFLP loan to the bond purchaser. At the same time, the authority will issue a tax-exempt bond in the amount of the BFLP loan, and the bond purchaser will purchase that bond, which is used to fund the BFLP loan assigned to the bond purchaser. The bond which is issued by the authority and purchased by the bond purchaser is a nonrecourse obligation. The only security for the bond purchaser is the underlying security on the assigned BFLP loan.

44.4(2) *Application procedures.* The BFLP eligible applicant may apply for a BFLP loan with any bond purchaser. Any BFLP loan approved will be assigned to that bond purchaser. BFLP loan eligibility is determined by the requirements of the Act and the rules of the authority.

a. If a BFLP eligible applicant meets the BFLP loan eligibility requirements, the decision on whether to enter into the loan agreement is between the BFLP eligible applicant and the bond purchaser. The BFLP eligible applicant and bond purchaser must agree on the terms of the loan, such as interest rates, length of loan, down payment, service fees, origination charges and repayment schedule. The terms may not be more onerous than terms charged to similar customers for similar loans, taking into account the tax-exempt nature of interest on the BFLP loan.

b. Following completion of the BFLP loan application by the BFLP eligible applicant and approval by the bond purchaser, the BFLP loan application must be submitted to the authority for its review and approval.

c. The authority's review will include, but not be limited to, whether:

- (1) The BFLP loan applicant is a BFLP eligible applicant;
- (2) The BFLP loan proceeds will be used for a qualified purpose under the Act, rules of the authority, and the Internal Revenue Code and IRS regulations relating to private activity bonds;
- (3) The terms of the BFLP loan comply with these rules; and
- (4) The bond purchaser meets the definition of a lender or bond purchaser.

d. The authority may require that the bond purchaser furnish any information which the authority deems necessary to determine whether the bond purchaser qualifies as either a lender or bond purchaser. If the authority determines that the bond purchaser does not qualify as either a lender or bond purchaser, it may deny the application.

e. The authority may charge fees as needed to defray its costs for processing the BFLP loan and bond.

44.4(3) *Issuance of bond.* All bonds issued by the authority will conform to all applicable requirements of the United States Internal Revenue Code of 1986 as amended, and its regulations.

a. Public hearings may be held by a staff member, board member of the IADD, an appointee or employee of the authority, or other qualified hearing officer.

b. Following approval of the BFLP loan by the authority, and upon completion of a public hearing and approval of the bond issuance by the governor or another elected state official designated by the governor, the authority will issue a bond, to be purchased by the bond purchaser, in the amount and fitting the terms of the BFLP loan to the BFLP eligible applicant. The principal and interest on the bond are a limited obligation payable solely out of the revenues derived from the BFLP loan to the BFLP eligible applicant and the underlying collateral or other security furnished by or on behalf of the BFLP eligible applicant. The bond purchaser shall have no other recourse against the authority. The principal and interest on the bond do not constitute an indebtedness of the authority or a charge against its general credit or general fund.

44.4(4) *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.

44.4(5) *Procedures following bond issuance.* No bond proceeds may be used for a nonqualified purpose or by a nonqualified user. Following disbursement of the bond proceeds, the bond purchaser and BFLP eligible applicant may be required to certify to the authority that the proceeds were used by the BFLP eligible applicant for a qualified purpose.

44.4(6) *Assignment of BFLP loans by bond purchasers.* A bond purchaser may assign a BFLP loan in whole or in part to any person, as defined in Iowa Code section 4.1(20). Servicing of the BFLP loan may also be assigned. The authority must be notified in writing prior to assignment of the BFLP loan.

44.4(7) *Assumption of BFLP loans, substitution of collateral and transfer of property.* BFLP loans may not be assumed without the prior approval of the authority, and then only if the purchaser of the property is a BFLP eligible applicant for a BFLP loan. Equipment and other depreciable property may be exchanged or traded for similar property, and other property such as breeding livestock may be added or substituted as collateral at the discretion of the bond purchaser without the prior approval of the authority.

44.4(8) *Right to audit.* The authority shall have at any time the right to audit the records of the bond purchaser and the BFLP eligible applicant relating to the BFLP loan and bond to ensure that bond proceeds were used for a qualified purpose by a qualified user.

[**ARC 1112C**, IAB 10/16/13, effective 9/26/13; **ARC 1400C**, IAB 4/2/14, effective 5/7/14; **ARC 2009C**, IAB 5/27/15, effective 7/1/15; **ARC 2226C**, IAB 10/28/15, effective 12/2/15]