

<b>Department: Programs</b>	<b>Opportunity Enterprise Revolving Fund Commercial Development Program Policies</b>	<b>Original Effective Date: June 22, 2023</b>
		<b>Last Revision: February 26, 2026</b>
		<b>Review Schedule: Two Years</b>



## **Opportunity Enterprise Revolving Fund Commercial Development Program Policies**

*These revised Opportunity Enterprise Revolving Fund Commercial Development Program Policies (“Policies”) were adopted on February 26, 2026, by the Board of Directors of the New Mexico Finance Authority (“NMFA”), a public body politic and corporate, separate and apart from the State of New Mexico constituting a governmental instrumentality, created by the New Mexico Finance Authority Act, Section 6-21-1 et. seq., NMSA 1978.*

### **I. PURPOSE**

#### **A. Purpose Statement**

On March 9, 2022, Governor Michelle Lujan Grisham signed into law the Opportunity Enterprise Act, as amended and subsequently renamed the Opportunity Enterprise and Housing Development Act, NMSA 1978, Section 6-34-1, et seq. (the “Act”), to provide enterprise assistance to advance economic development opportunities in the State. The purpose of the Act is to provide a funding program to support communities in building and investing in commercial or entrepreneurial space to directly support local economic development initiatives. The Act creates the Opportunity Enterprise Revolving Fund (“Fund”) within the New Mexico Finance Authority (“NMFA”) and authorizes the NMFA to establish rules, administer the Fund, and recover from the Fund such costs of administering the Fund and originating opportunity enterprise assistance.

Pursuant to the Act, the New Mexico Economic Development Department (“Department”) in partnership with the NMFA evaluates applications submitted by potential opportunity enterprise partners for enterprise development projects and formulates recommendations to the Opportunity Enterprise and Housing Development Review Board (“OE Board”) regarding suitability for enterprise assistance. Pursuant to Rules and the Opportunity Enterprise Evaluation and Prioritization Policy adopted by the OE Board, the OE Board ranks and prioritizes applications for enterprise assistance. The Opportunity Enterprise Evaluation and Prioritization Policy provides a systematic approach to scoring projects according to mission criterion of the program including community impact and support, job creation and employment, applicant need, and sector and geographic diversification. The OE Board approves and recommends a prioritized list of enterprise development projects to the NMFA for consideration, including underwriting, for potential enterprise assistance awards from the Fund.

Pursuant to the Act, the NMFA Board adopted Rules approved by the NMFA Oversight Committee that govern the implementation and administration of enterprise assistance in the form of Opportunity Enterprise Loans under the Opportunity Enterprise Loan Program as authorized by NMSA 1978, Section 6-34-3 (2022). These Policies provide additional guidance to potential opportunity enterprise development partners and NMFA staff regarding program objectives, general considerations, project eligibility, application requirements, loan structuring parameters and monitoring requirements. These Policies do not apply to other programs established by the NMFA.

## **B. Implementation**

These Policies shall be implemented by the NMFA Board, pursuant to the authority of the Act, as amended and supplemented from time to time, and may, at times, be waived or revised, if the NMFA Board determines a deviation or revision is appropriate. Any waiver of these Policies will be reflected in the minutes of the public meeting at which the waiver or revision is to be considered. Any revisions to these Policies will be reflected in a new documented version of these Policies, dated as of the Board approval of the revisions. No waiver or revision may conflict with the provisions of the Act.

## **II. DEFINITIONS**

**A. “Act”** means the Opportunity Enterprise and Housing Development Act, Sections 6-34-1 through 6-34-15, NMSA 1978, as may be amended and supplemented.

**B. “Application”** means a completed written document filed with the NMFA for Loan assistance for the purpose of evaluating proposed Enterprise Development Projects pursuant to the Program.

**C. “Chief Executive Officer” or “CEO”** means the Chief Executive Officer of the NMFA or designee.

**D. “Credit Committee”** means a committee of NMFA staff appointed by the CEO.

**E. “Department”** means the New Mexico Economic Development Department.

**F. “Economic Development Committee”** means a committee, appointed by the chair of the NMFA Board, comprised from the members of the NMFA Board.

**G. “Economic Development Opportunities”** means the advancement of an environmentally sustainable economic development goal of the state as determined by the NMFA, in coordination with the Department, and includes the creation of jobs, the provision of needed services and commodities to diverse communities across the state and the increase of tax and other revenue collections resulting from the Enterprise Development Project.

**H. “Eligible Applicant”** means an Opportunity Enterprise Partner recommended by the OE Board to NMFA after the eligible applicant has submitted an Application to NMFA for Enterprise Assistance from the Fund.

**I. “Enterprise Assistance”** means opportunity financing, an opportunity enterprise lease or an opportunity enterprise loan pursuant to NMSA 1978, Section 6-34-2E.

**J. “Enterprise Development Project”** means a commercial real estate development project primarily occupied by businesses unrelated to the opportunity enterprise partner that involves, but is not limited to the following elements: the purchase, planning, designing, constructing or building, surveying, improving, operating, furnishing, equipping or maintaining of land, buildings and related infrastructure to create or expand economic development opportunities within the State.

**K. “Fund”** means the Opportunity Enterprise Revolving Fund created pursuant to NMSA 1978, Section 6-34-12 of the Act.

**L. “Loan”** means an Opportunity Enterprise Loan from the Fund provided by the NMFA to Applicants pursuant to the Rules and these Program Policies adopted by the NMFA, as amended and supplemented from time to time.

**M. “OE Board”** means the Opportunity Enterprise and Housing Development Review Board created pursuant to NMSA 1978, Section 6-34-5, as amended.

**N. “Opportunity Enterprise Partner”** means a domestic corporation, a general partnership, a limited liability company, a limited partnership, a public benefit corporation, a nonprofit entity or other private business entity or combination thereof that the OE Board determines is or will be engaged in an Enterprise Development Project that creates or expands economic development opportunities within the State and is eligible for Enterprise Assistance in the form of a Loan pursuant to the Act.

**O. “NMFA”** means the New Mexico Finance Authority.

**P. “Oversight Committee”** means the joint interim legislative committee established pursuant to the New Mexico Finance Authority Act, NMSA 1978, Section 6-21-30 (1992), as amended and supplemented from time to time.

**Q. “Program”** means the Opportunity Enterprise Loan Program as authorized by NMSA 1978, Section 6-34-3 (2022) and further described by these Policies.

**R. “Program Policies”** means the policies adopted by the NMFA to provide guidance to potential Eligible Applicants and NMFA staff regarding Opportunity Enterprise Loan terms, including Program eligibility, Application requirements, general considerations, Loan structuring parameters and monitoring requirements.

**S. “Project Application”** means a written document made publicly available by and filed with the NMFA for Enterprise Assistance for the purpose of evaluating, in consultation with the Department, the applicant’s qualifications and proposed project or projects for Enterprise Assistance which may be provided by the Authority under the Act.

**T. “Rural”** means any area not considered as Urban.

**U. “State”** means the State of New Mexico.

**V. “Urban”** means a contiguous built-up area with a population of 60,000 or more. Urban areas may include one or more municipalities or census designated places.

**W. “Unrelated – Ownership and/or Control”** means that the Opportunity Enterprise Partner” (or “Partner”) means that the business ownership and/or control relationship between the Partner and the tenant(s) is limited. The Opportunity Enterprise Partner, including its affiliates, will not have control over, or significant ownership of the tenant(s). Control will be determined by an assessment of governance documents between the Partner and the tenant(s). As to common ownership, a Partner should not, directly or via the Partner’s affiliates, and or related family members own or control more than a thirty percent (30% ) economic interest of the tenant(s).

**X. “Unrelated – Percentage of Occupancy”** means that the Partner should not intend to lease more than thirty percent (30% ) of the available leasable space of the Enterprise Development Project. The terms of any such Partner lease must be at comparable market rates and terms.

### **III. GENERAL CONSIDERATIONS**

#### **A. Economic Development Objectives**

The vision contained in the State’s 20-year comprehensive statewide strategic plan is “New Mexico will have a diverse and robust economy that engages local talent, cultivates innovation, and delivers prosperity for all New Mexicans.” Consistent with this goal, the Opportunity Enterprise Revolving Fund Commercial Development Program (or the “Program”) seeks to make Loans to Enterprise Development Projects advancing:

- a diversified, resilient and inclusive economy
- high-paying jobs across New Mexico
- private-sector investment and growth in targeted industries
- community well-being and benefit

This Program seeks to invest in Enterprise Development Projects attracting private investment in local economies, expanding economic opportunities in diverse communities, and revitalizing areas experiencing economic decline. Types of projects expected to align with the economic development objectives of the Program include site-ready industrial spaces, manufacturing hubs, commercial kitchens, makerspaces, speculative development, mixed-use development, adaptive reuse, redevelopment of vacant facilities, infill development and

reconstruction of blighted properties.

## **B. OE Board Evaluation and Prioritization Criterion**

The Department and NMFA, subject to the OE Board's review and consent, will score and rank Enterprise Development Projects according to the following categories and as detailed further in the OE Board Evaluation and Prioritization Policy:

- *Location of Developer.* Developer of project headquartered in New Mexico will receive more points than a "National" developer headquartered outside of the State.
- *Community Impact and Support:* a Project's ability to improve the quality of life for the residents in close and direct proximity to the Project will receive priority. Applicants will be required to submit evidence of strong community benefit and support, including a description of the benefits of the project such as environmental impact, square footage of Project, job creating by tenants-including anticipated training and apprenticeship opportunities, and re-development impact.
- *Project Location and Building/Tenant Business Type.* Projects located in Rural communities receive greater points based on the belief that investments and related jobs and economic activity in a Rural community will likely have a greater economic impact than if the Project is located in an Urban community. Building and tenant business type involves evaluating the type of business activity of prospective tenants. Tenants involved in manufacturing, office, commercial or retail activities all play important roles in the economy, while possessing different levels of impacts based on types of jobs created, as well as the taxable levels of the capital assets created and revenues subject to gross receipts taxes.
- *Applicant Need, Readiness and Feasibility.* Availability and evidence of Project private capital and market and competitive analyses required to establish likelihood of success will be assessed. The ability to demonstrate and validate the Project is led by a Qualified Development Team is crucial. Priority will be given to Projects that can establish a "shovel ready" or comparable level of planning, design, budgeting, bondable contractor bids, committed private capital, market studies for speculative projects and conditional leases, especially for build to suit Projects, and debt service coverage from tenant(s) revenues.

## **C. OE Board Fund Concentration Limits**

To ensure equitable distribution of Enterprise Assistance to diverse Projects and communities, the OE Board incorporated geographic, industry and Project concentration limits in the OE Board Evaluation and Prioritization Policy:

- No more than \$17,500,000 may be awarded to a single Project
- No more than twenty-five percent (25%) of the Fund, determined cumulatively

based on funded and/or committed Loans, may be Loaned in one county

- Opportunity Enterprise Partners may only participate in one Application per round and may not receive Enterprise Assistance awards for more than one Project in any calendar year

NMFA cannot accept and review Applications for Enterprise Assistance that would cause a breach in the concentration limits contained in the OE Board Policy.

#### **IV. APPLICATION REQUIREMENTS FOR ENTERPRISE ASSISTANCE**

**A.** Applications for Loans for Enterprise Development Projects will be made available to Eligible Applicants recommended by the OE Board and referred for evaluation for financing under the Program.

**B.** A complete Application for a Loan includes information relating to the proposed use of financial assistance proceeds, evidence of the Applicant's creditworthiness, and any other matters the NMFA may consider appropriate, which may include, but is not limited to, any of the following:

1. Certification from Opportunity Enterprise Partner that Loan proceeds will be used for an Enterprise Development Project;
2. Information regarding ownership, control, and Partner intended Project lease space and terms of the Eligible Applicant and the Project tenant(s) (NOTE: for each owner or control party, detailing name, address, role, percentage ownership, and other relevant information);
3. Eligible Applicant legal entity type and all entity formation documents, including a certificate of good standing from the New Mexico Secretary of State, if applicable;
4. Sources and uses of Project budget, including the Enterprise Assistance (detailed schedules);
5. Project planning documents including site and design plans, project budget and phases and timelines, third party bondable contractor bids, and other relevant data;
6. Copy of any license, zoning, permitting or other regulatory requirements, as applicable;
7. Project business plan, including competitive and market analysis, and five (5) year proforma financial statements;
8. Complete list of outstanding loan(s) to the Eligible Applicant, member, partner or stockholder of the Eligible Applicant;

9. Authorization to obtain a credit report of the Eligible Applicant and the control parties and/or guarantor(s), as applicable;

10. Current balance sheet and year-to-date profit and loss statement for the Eligible Applicant, dated not more than ninety (90) days prior to the date of Application; as well as audited, reviewed or compiled financials (balance sheet, profit and loss statements, and statements of cash flows) for the prior three (3) years, as applicable;

11. Federal income tax returns for the prior two (2) years for all of the Eligible Applicant's affiliates and control parties, and all guarantors and co-borrowers, as applicable;

12. Copies of the Eligible Applicant's federal income tax returns for the prior three (3) years if the balance sheets and profit and loss statements are not audited by an independent certified public accountant;

13. Sufficient evidence of a good faith effort to secure other means of financing the proposed Project, which have proven such funds are unavailable or insufficient;

14. If the Eligible Applicant is a newly created entity formed for the sole purpose of developing or operating the proposed Enterprise Development Project, the Applicant shall provide the required financial information for the Eligible Applicant's currently existing entities, or entities existing within the most recent five (5) years, if any; and

15. Any other information reasonably requested by the NMFA to assist in its evaluation of the Application. Prioritization of Enterprise Assistance from the Fund

The OE Board Project Review Committee reviews scoring of Eligible Applications from the Department and NMFA, and recommends rankings to the OE Board, which in turn recommends a prioritized list of Enterprise Development Projects to the NMFA for further underwriting, consideration, review and approval or rejection.

## **V. LOAN STRUCTURING PARAMETERS**

**A. Loan Amounts.** Loan amounts are not to exceed \$17,500,000.

**B. Use of Proceeds.** Loan proceeds may be used to finance the acquisition and construction of commercial real estate, including but not limited to land, buildings, equipment and labor, as well as Project related soft costs such as planning and design.

**C. Maximum Loan Amortization.** Loans will be structured with an interest-only period and a rent or lease stabilization period that combined is not to exceed three (3) years, with such period to be included in the Loan maturity date. Loan term amortizations must fully amortize the Loan, with NMFA having a preference for a term of twenty (20) years, while giving consideration to a maximum term of thirty (30) years.

**D. Prepayment Penalty.** There is no penalty or premium for prepayment of the Loan balance.

**E. Debt Service Coverage Requirement.** At the time of underwriting NMFA requires a debt service coverage ratio of 1.10x as of the end of the stabilization period, and at a seventy-five percent (75%) occupancy rate.

**F. Interest Rates.** Loans will be structured with fixed interest rates set at sixty percent (60%) of the prevailing prime rate at the time of the NMFA loan approval, with interest rates being no lower than three percent (3%) per annum.

**G. Collateral; Loan-to-Value Requirement; Bonding.** Loans must be secured by all legally acceptable collateral including but not limited to real property via a deed of trust and mortgage, UCC filings on all PP&E and an assignment of rents/leases. Loans will be underwritten with loan-to-value ratios of up to eighty-five percent (85%). Applicants should provide an appraisal of a Project's fair market value prepared by an independent, qualified appraiser. NMFA requires security interests in collateral to be perfected and will require post-filing lien searches that document the approved lien.

NMFA reserves the right, exercised on a case-by-case basis, to require all Commercial Development Projects and the related contractors to be secured by commercially acceptable third-party insurers or sureties who issue performance and payment coverage in such amounts and against such risks as are acceptable to NMFA. Such evaluations shall be made on the basis of project complexity and project amount.

**H. Equity Requirement.** Applicants are required to contribute a minimum of ten percent (10%) of the total loan amount, in the form of owner contributions, cash or in-kind, or down payments.

**I. Personal and Corporate Guaranties.** All loans will require personal guaranties from one or more of the following persons:

- All material (those with 10% or more ownership) partners, members, shareholders of persons or entities exercising control of the Eligible Applicant.
- Any joint ventures with the Eligible Applicant.
- Any and all material equity owners (those with 10% or more ownership) of the Eligible Applicant.
- The parent corporation or a material partner, member, or stockholder (those with ten percent (10%) or more ownership) of the parent corporation if the Eligible Applicant is a subsidiary.
- A corporate guaranty may be required if the borrower is a related company.

**J. Credit History.** Eligible Applicants and all guarantors are required to authorize the NMFA to obtain credit reports, both at the time of Eligible Application and yearly if approved for a Loan.

## **VI. MONITORING AND REPORTING**

Borrowers are required to submit semi-annual internally prepared financial statements, and a detailed reporting package that includes:

- Latest annual third party audited or reviewed financial statements.
- During construction business performance report and updates including:
  - Brief narrative on project completion status
  - Project budget (during construction phase only)
- Beginning once the project is complete and operational:
  - Business performance including occupancy data and rent rolls, (as applicable), and
  - Economic impact including job creation metrics
- Annual Certification that all representations, warranties and covenants in the Loan documents remain true and correct.
- Annual Certification that there has been no change in business ownership or change in control.

The NMFA reserves the right to request additional information for monitoring purposes.

## **VII. REFERENCES**

- NMSA 1978 Section 6-21-1, et. seq.
- NMSA 1978, Section 6-34-1, et seq.