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| Lending Department | New Markets Tax Credit Program Policies and Procedures | Original Effective Date: 5/28/2008 |
| | | Latest Revision Date: 2/24/2022 |



**NEW MEXICO
FINANCE AUTHORITY**

**NEW MARKETS TAX CREDIT PROGRAM
POLICIES AND PROCEDURES**

This Policy was adopted on May 28, 2008 by the Board of Directors of the New Mexico Finance Authority, 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.

Pursuant to amendments made to Statewide Economic Development Finance Act (“SWEDFA”) in 2006, the NMFA formed Finance New Mexico, LLC (“Finance New Mexico” or “FNM”), a qualified Community Development Entity (“CDE”) for the purpose of operating a New Markets Tax Credit (“NMTC”) Program. The NMFA, as the governing body for Finance New Mexico, will use this participation in the NMTC program and the capital derived from its allocation of NMTC to make below-market rate loans as authorized under the NMTC guidelines

B. Objectives.

The goal of these NMTC Program Policies and Procedures is to provide guidance to NMFA staff, the Finance New Mexico Advisory Board and potential borrowers regarding the roles and responsibilities of various program participants, the application requirements for NMTC participation, and compliance with the CDFI Allocation Agreements and applicable federal regulations. Goals Specific to the Program Policies and Procedures include:

- ◆ Determine the roles and responsibilities for administering the NMTC program;
- ◆ Outlines NMTC matters that require approval of the NMFA Board and matters delegated to NMFA officers and staff;
- ◆ Sale of Qualified Equity Investments;
- ◆ Application Procedures;
- ◆ Project Eligibility;
- ◆ Compliance and reporting;
- ◆ Sets forth confidentiality provisions of the program; and
- ◆ Use of funds on hand at the end of the seven-year period.

C. Implementation.

These Program Policies and Procedures shall be implemented by the New Mexico Finance Authority Board (the “Board”) as the manager of Finance New Mexico and its subsidiary CDEs, and may, at times, be waived by the Board if the Board determines that a deviation from its adopted policies is necessary. Such waiver will be reflected in the minutes of the public meeting at which the waiver is considered.

II. NMTC PROGRAM DEFINITIONS

- A. “Act” means the Statewide Economic Development Finance Act Section 6-25-6.1 NMSA 1978, as amended.
- B. “Advisory Board” means a group of individuals appointed by the NMFA Board of Directors collectively acting as a board that meets periodically to review CDE activities and provides advice to the NMFA Board on the CDE’s achievement of its mission.
- C. “Board” means the New Mexico Finance Authority Board of Directors.
- D. “CDFI” means the Community Development Financial Institution division of the US Department of the Treasury.
- E. “Community Development Entity” or “CDE” means any domestic corporation or partnership if:
 - 1. The primary mission of the entity is serving or providing investment capital for Low-Income Communities or Low-Income Persons;
 - 2. The entity maintains accountability to residents of Low-Income Communities through their representation on any governing board of the entity or on any advisory board to the entity, and
 - 3. The entity is certified by the Fund as a CDE.
- F. “Designated Areas of Higher Distress” are defined as:
 - 1. Poverty rates greater than 30%;
 - 2. Areas with a median family income of less than 60% of the area median family income;
 - 3. Unemployment rates at least 1.5 times the national average as set by CDFI Fund;

4. Federally designated Empowerment Zones, Enterprise Communities, or Renewal Communities;
 5. SBA designated Historically Underutilized Business Zones (“HUB” zones), to the extent that the investment will support businesses that received certification;
 6. Federally designated brownfields redevelopment areas;
 7. Federally designated Native American or Alaskan Native areas or redevelopment areas by the appropriate tribal or other authority;
 8. Colonias areas designated by the US Department of Housing and Urban Development;
 9. Federally designated medically underserved areas, to the extent that the investment will result in the support of health-related services;
 10. High Migration Rural Counties;
 11. State or local Tax Increment Finance districts, enterprise zone programs or other similar state/local programs targeted toward particularly economically distressed communities.
- G. “Fund” means the Community Development Financial Institutions Fund.
- H. “High Migration Rural Counties” means any county which, during the 20-year period ending with the year in which the most recent census was conducted, has a net out migration of inhabitants from the county of at least 10% percent of the population of the county at the beginning of such period.
- I. “Low-Income Community” or “LIC” means any population census tract with a poverty rate of at least 20%, or:
1. In the case of a tract located within a metropolitan area, the median family income for the tract does not exceed 80% of the greater of the statewide median family income or the metropolitan area median family income;
 2. In the case that a tract is not located within a metropolitan area, the median family income for such tract does not exceed 80 % of statewide median family income;
 3. In the case that a tract is located within a High Migration Rural County, the median family income for such tract does not exceed 85% of the statewide median family income.
- J. “NMFA” means the New Mexico Finance Authority.

- K. “NMTC” means the New Markets Tax Credit program.
- L. “Qualified Active Low-Income Community Business” or “QALICB” means any corporation (including a nonprofit corporation) or partnership (if for such year includes trades or businesses which would qualify as a QALICB if such trades or businesses were separately incorporated) where:
1. At least 50% of the total gross income of such entity is derived from the active conduct of a qualified business within a Low-Income Community;
 2. A substantial portion of the use of the tangible property of such entity (owned or leased) is within any Low-Income Community;
 3. An entity which is reasonably anticipated to generate income within thirty-six (36) months of funding;
 4. A substantial portion of the services performed for such entity by its employees are performed;
 5. Less than 5% of the average of the aggregate unadjusted bases of the property of such entity is attributable to collectibles that are held primarily for sale to customers in the ordinary course of such business;
 6. Less than 5% of the average of the aggregate unadjusted bases of the property of the business is attributable to nonqualified financial property.
- M. “Qualified Equity Investments or “QEI” means any equity investment in a CDE if:
1. Such investment is acquired by the investor at its original issue solely in exchange for cash;
 2. “Substantially All” of such cash is used by the CDE to make Qualified Low-Income Community Investments; and
 3. The investment is designated by the CDE as a QEI.
- N. “Qualified Low-Income Community Investment” or “QLICI” means:
1. Any capital or equity investment in, or loan to, any QALICB;
 2. The purchase of a loan from another CDE if the loan is a QLICI;
 3. Financial Counseling and Other Services to businesses located in, or residents of, LICs; and
 4. Any equity investment in, or loan to, any CDE.

- O. “SWEDFA” means the Statewide Economic Development Finance Act.
- P. “Substantially All” means 97% of the QEI deployed within 12 months of receipt, 85% of which must stay deployed until the seventh year when 75% of the QEI must be deployed.

III. FINANCE NEW MEXICO, ITS SUBSIDIARY CDES AND THE NMFA

A. Advisory Board of Finance New Mexico, LLC.

As part of Finance New Mexico’s original and ongoing certification, Finance New Mexico and its subsidiary CDEs must meet criteria related to mission and accountability:

1. The Primary Mission criteria provide that the CDE must serve or provide investment capital for Low-Income Communities or Low-Income Persons; and
2. The Accountability criteria require the CDE to maintain accountability to residents of Low-Income Communities through at least 20% representation on advisory board to the CDE and any of its subsidiary CDEs.

B. Ownership of Finance New Mexico.

Using the authority granted by SWEDFA, the NMFA formed Finance New Mexico, LLC, a for-profit New Mexico Limited Liability Company, to act as a qualified CDE under the NMTC Program. Finance New Mexico is a partnership made up the NMFA which holds a 99% interest and New Mexico Community Capital (“NMCC”), a New Mexico non-profit corporation, which holds the remaining 1% interest.

C. Operating Agreement.

The Board approved Finance New Mexico’s Restated Operating Agreement on August 24, 2006 and subsequently amended September 10, 2008, which sets forth the legal management and operational rules of Finance New Mexico. The NMFA is the sole manager of Finance New Mexico. The NMFA in this role as manager controls and is responsible for all matters of Finance New Mexico.

D. Subsidiary CDEs.

The NMFA’s NMTC Program business model is established with Finance New Mexico serving as a parent entity, which will form and manage subsidiary CDEs created on a transactional basis to manage the specific deals. The subsidiary CDEs will be formed as partnerships classified as a limited liability companies, the articles of organization and operating agreements of which will name Finance New Mexico as sole manager of the subsidiary CDE. Through the NMFA’s sole manager role of Finance New Mexico, the

NMFA will effectively control the management and operations of the subsidiary CDEs through Finance New Mexico and its role as sole manager of the subsidiary CDEs.

Finance New Mexico may apportion QEIs through multiple layers of CDEs. These subsidiary CDEs will be certified by CDFI as qualified. Pursuant to the September 2008 amendments to the Amended and Restated Operating Agreements, the Finance New Mexico Advisory Board will serve as the Advisory Board to each of the subsidiary CDEs and will continue to require that twenty percent of these members be representatives from Low-Income Communities or represent low-income persons statewide.

Once an eligible applicant for a QLICI has been selected, Finance New Mexico will apportion part of the allocation to a subsidiary CDE to manage the transaction. The subsidiary CDE will then be added as a party to the Allocation Agreements with the CDFI.

IV. ROLES AND RESPONSIBILITIES

A. Role of Finance New Mexico, LLC, Advisory Board.

As required under the NMTC guidelines, the Finance New Mexico Advisory Board will ensure that Finance New Mexico's participation in the NMTC program will benefit New Mexico's Low-Income Communities and persons. Comprised of members appointed by the Board with representatives from Low-Income Communities in New Mexico, the Advisory Board will review policies and application procedures and report to the Board on whether the program is meeting its mission.

Additionally, as required under the Board-approved Economic Impact Policies, the Advisory Board will review the specific Economic or Community Impact Recommendations proposed for each project and provide feedback to the NMFA Board about such Recommendation.

B. Role of New Mexico Economic Development Department.

1. Shall determine that each project serves as economic development purpose as required under SWEDFA;
2. Shall serve on the review team that evaluates the applications; and
3. May provide the NMFA with an economic impact analysis of each application.

C. Role of NMFA Staff.

1. Working in consultation with the New Mexico Economic Development Department, review and prioritize applications using criteria established in the

Economic Impact Policies and provide findings to the Finance New Mexico Advisory Board and the NMFA Economic Development Committee;

2. Structure the proposed terms and conditions of each proposed NMTC transaction including; including interest rates, security, dividends and terms of the tax credits based on the size and terms of the investment, the CDE and underlying borrower.

The analysis will take into consideration:

- a. Type of investment, investors, project location and project impact;
 - b. Investment requirements: including dividends, exit fees, balloon payments, tax credits and additional incentives needed to attract the investment;
 - c. Debt requirements including interest rates and collateral requirements, including acceptable collateral, collateral value determination, loan to value limitations and lien position; amortization periods; cash flow requirements.
3. Loan servicing including authorizing disbursements, tracking loan payments and asset management in addition to monitoring and compliance of the portfolio; and
 4. Monitoring and compliance of businesses receiving NMTC funds throughout the NMTC compliance period.

D. Role of the NMFA Economic Development Committee.

1. Consider recommendations from the Finance New Mexico Advisory Board, NMFA staff and consultants and make recommendation to the NMFA Board regarding allocations, including structuring terms and conditions. This approval and recommendation will include sufficient information about the NMTC transaction to allow independent deliberation and decision making by the NMFA Board, while protecting the confidentiality of the applicant, as required by law. The recommendation will be accompanied by all relevant supporting information deemed to be public, or confidential information for which a waiver has been obtained.
2. Oversees the monitoring of all loans or other qualified investments.

E. Matters Requiring Approval of the NMFA Board.

1. Reviews and considers the input of Finance New Mexico Advisory Board related to the establishment or amendment of any NMTC policies;
2. Approves policies governing the NMTC program;

3. Reviews the recommendation and findings of the Finance New Mexico Advisory Board and the NMFA Economic Development Committee. The NMFA Board may approve all or part of a recommendation or refer all or part of the recommendation back to the Economic Development Committee, if the NMFA Board determines that sufficient information has not been made available on which to base a decision;
4. Approves all allocations and the specific terms of each transaction.

F. Matters Delegated to the NMFA Officers and Staff.

1. As sole manager of Finance New Mexico, NMFA controls and is responsible for all matters of Finance New Mexico, including day-to-day management of the Limited Liability Company and its subsidiaries which shall be delegated to NMFA's Chief Executive Officer.
2. In approving each project, the NMFA Board may delegate to staff certain authority to finalize and execute transaction documents and to manage certain elements of the transaction. Any material change in the information submitted between the time of Board approval and closing will be presented to the Economic Development Committee and the Board for approval.

IV. SALE OF QUALIFIED EQUITY INVESTMENTS

A. Overview.

Through the NMTC program, Finance New Mexico is able to attract private capital by offering investors credits against their federal income taxes over a seven-year period. The NMFA, on behalf of Finance New Mexico, will deliver this capital to qualified borrowers in Low-Income Communities under terms described in the NMFA's NMTC Lending and Credit Policies and in accordance with the terms of Finance New Mexico's Allocation Agreements with the CDFI.

B. Selection of Investor.

The NMFA, on behalf of Finance New Mexico, will ensure selection of investors that meet the goals of the Finance New Mexico and will limit or exclude investors who seek unwarranted compensation for their participation. Specifically, NMFA and its consultants will ensure that investors are not receiving excessive rates of return on investments, including and exit fees or loan forgiveness requirements, that would infringe on Finance New Mexico's desired return to the state and creation of a revolving loan fund.

C. Investor Concentration.

In an effort to control costs, NMFA will seek to standardize, to the greatest extent possible, its closing documents and reporting requirements and expects that it will limit its investor pool to a small number of investors to gain certain economies of scale in pricing.

V. APPLICATION AND APPROVAL POLICY

A. Distribution of Allocation.

In its Allocation Agreements with CDFI, Finance New Mexico must meet certain dates to deploy its NMTC credits. Given the limited availability of NMTCs and the expected demand for the credits, the NMFA, on behalf of Finance New Mexico, intends to solicit applications on a competitive basis to ensure businesses have equal access to funding. Specifically, while allocation exists, NMFA will conduct its application solicitations in the following manner:

1. Not less than quarterly, and at the discretion of the NMFA Board, the NMFA will offer competitive application rounds for projects located in urban communities with the expectation that not more than two projects will be selected in each competitive round. Applications for projects located in Non-Metropolitan Counties, as determined by the CDFI, will be accepted on a first come, first-serve basis;
2. NMFA will administer an outreach program to notify businesses statewide of the application deadlines and requirements. Notices for each competitive round will be prominently displayed in the NMFA website;
3. The NMFA, on behalf of Finance New Mexico, will prioritize applications using the evaluation criteria outlined in the Economic Impact Policies excluding the Small Loan Pool. Applications will be reviewed for financial analysis and NMTC due diligence in the order in which they are prioritized. A high Economic Impact prioritization is not a guarantee that the project will receive funding. Projects will be provided with ninety (90) days to negotiate a final NMTC term sheet with Finance New Mexico and then sixty (60) days thereafter to complete the documentation for the transaction, provided that projects whose final NMTC term sheets are negotiated prior to the 90-day deadline will still be provided with one hundred fifty (150) days from NMFA Board Preliminary Approval to complete the documentation for the transaction. Projects not able to meet either of these deadlines will be by-passed for the next project on the priority list.
4. The applicant will be required to provide adequate information at each review stage to enable Finance New Mexico, and the NMFA Board to make responsible decisions about the merits of the investment;

5. Applicants participating in the competitive process will be required to limit their requests and communication on the project to the written format provided by the NMFA. All information regarding projects submitted by applicants must be directed to the designated NMTC Application Manager(s) in writing, and except as part of any interview that may be conducted as part of the evaluation process, until the Board has approved an application, no employee, agent, or representative of an Applicant shall discuss the project with an officer, member, employee, agent, or representative of the NMFA or Finance New Mexico Advisory Board, other than the NMTC Application Manager(s).

B. Required Applicant Proposals.

A complete proposal must be received in order to be considered and must include the following details:

1. Project Overview and Description;
2. Description of Public Goals to be achieved;
3. Sources and Uses Statement;
4. Proforma financial statement (7 year);
5. Accounts Receivable/Accounts payable schedules;
6. Evidence of property ownership or control;
7. Current Financial Statements;
8. The most recent three years of financials, if available, tax returns and other evidence of financial performance acceptable to the NMFA;
9. Status of Financing Commitments;
10. Personal Financial Statements for principals with greater than 20% interest in the company and any guarantor;
11. Resumes of all key employees, principals and any guarantors;
12. Concept/Schematic Architectural Plans;
13. Cost Estimate;
14. Permit Status;

15. Project Schedule; and
16. Other documents deemed necessary by the NMFA.

C. Project Approvals.

Financing commitments shall be approved by the NMFA Board and shall be valid for a term of one hundred fifty (150) days as described in Section V.A.3 above, unless otherwise specifically authorized by the Board.

VI. PROJECT ELIGIBILITY

A. Qualified Low-Income Communities.

NMTC regulations are very specific in defining a project's eligibility based upon its location in qualified Low-Income Community. The NMFA, on behalf of Finance New Mexico, will help potential applicants in determining a project's eligibility based upon its location and will not place any additional restrictions on eligibility with respect to a project's location, so long as NMFA is able to ensure a fair geographic distribution of projects as outlined in its Economic Impact Policy.

1. If an area is not a designated census tract, the equivalent county divisions (as defined by the Bureau of the Census for purposes of defining poverty areas) shall be used for purposes of determining poverty rates and median family income;
2. If a project is not located in a low-income census tract it must meet one of the other "targeted populations" of eligibility as determined by CDFI. Targeted populations were to give CDEs flexibility in making investments that serve individuals and groups that reside or work in communities that might not otherwise fall under the NMTC program's geographically based definition of a Low-Income Community;
3. Individuals or an identifiable group of individuals must meet tests to qualify as Low-Income Communities and the businesses or entities receiving the investments also meet certain criteria;
4. Tracts with low population. A population census tract with a population of less than 2,000 shall be treated as a Low-Income Community if it is within an empowerment zone or is contiguous to one or more Low-Income Communities;
5. A qualifying business for a targeted low-income population is any corporation (including non-profit corporations) or partnership that meets one of the following three tests:

- a. At least 50% of the entity's gross income is derived from sales, rentals, service or other transactions with individuals who are low-income persons;
- b. At least 40% of the entity's employees are low-income individuals; or
- c. At least 50% of the entity is owned by low-income individuals.

B. Project Readiness.

Given the limited timeframe in which Finance New Mexico must deploy its NMTC allocations, proposed projects must demonstrate at application an ability to move forward and show the ability to close within 3-6 months to qualify for advancing funds and must demonstrate the need for NMTC subsidy.

C. Eligible Uses.

As outlined in the Economic Impact Policies, Finance New Mexico has targeted operating companies as the primary beneficiaries of its participation in the NMTC program. Consistent with its application to CDFI for an NMTC Allocation and federally allowed uses, the NMFA will offer NMTC credits to the following purposes:

- 1. Loans or investments to businesses located in low-income census tracts; and
- 2. Development of commercial, industrial and retail real estate projects (including community facilities) in low-income census tracts.

D. Uses specifically excluded by IRC Section 45D.

- 1. Residential rental property; e.g., buildings or structures which derive 80% or more of its gross rental income from renting dwelling units;
- 2. Private or commercial golf courses;
- 3. Country Clubs;
- 4. Massage parlors, hot tub facilities, suntan facilities;
- 5. Race tracks and other gambling facilities;
- 6. Stores where the principal business is the sale of alcoholic beverages for consumption off premises; and
- 7. Farming businesses if the aggregate unadjusted bases of assets (owned or leased) at the close of the taxable year exceeds \$500,000.

VII. COMPLIANCE AND REPORTING PROCEDURES

In addition to the compliance and reporting mandated by Finance New Mexico's Allocation Agreements with CDFI, investors in Finance New Mexico and its subsidiary CDEs will require certain reporting for its portfolio monitoring purposes. The NMFA, on behalf of Finance New Mexico, will ensure all applicable reports are timely filed and will report to the NMFA audit committee periodically on the status of such reports.

A. Tax Compliance and Recapture Risk.

The NMFA and its consultants, on behalf of Finance New Mexico, will closely monitor all activities of the subsidiary CDEs and those of Finance New Mexico to prevent recapture events from occurring. Such monitoring will include reviews by independent contractors specializing in the NMTC Program and periodic reports will be made to the NMFA Audit Committee regarding the findings.

1. NMTC's funds may be recaptured from investors during the 7-year credit period if:
 - a. The QEI fails the "Substantially All" requirement;
 - b. The CDE redeems the investment; or
 - c. The CDE ceases to qualify as a CDE.
2. To continue to be "certified" by the CDFI, Finance New Mexico must ensure that:
 - a. 60% of its activities must be directed to Low Income Persons or Communities;
 - b. It remains accountable to Low-Income Communities through the Advisory Board's representation of Low-Income Persons or Communities; and
 - c. Terms of the Allocation Agreements are met.

B. Investor Reporting.

Within sixty (60) days of making a QEI, Finance New Mexico or its subsidiary CDE will provide a notice to the investor that such investment has been designated as a QEI. Such notice will take the form of the IRS Form 8874-A Notice of QEI for New Markets Tax Credit.

Annually, Finance New Mexico or its subsidiary CDE will provide audited financial statements to the investor regarding its QEI in the NMTC Program. On an ongoing basis and when requested by an investor, but not more than quarterly, Finance New Mexico or its subsidiary will provide information to the investor which the investor may require to ensure that its investment is in compliance with IRS regulations.

C. Community Development Financial Institutions Fund Reporting.

Finance New Mexico and its subsidiary CDEs will be required to report on its compliance with the requirements of the NMTC Program and its Allocation Agreements to the Fund electronically using the Fund's Community Investment Impact System (CIIS) and Allocation Tracking System. The submission of annually audited financial statements of Finance New Mexico and its subsidiary CDEs are exempt from this electronic reporting requirement. The following are the reports which are required to be submitted electronically to the Fund:

1. Notice of Receipt of Qualified Equity Investment. Within sixty (60) days after an investor makes an investment in Finance New Mexico or its subsidiary CDE which has been designated as a Qualified Equity Investment, Finance New Mexico will notify the Fund utilizing the Fund's electronic Allocation Tracking System.
2. Institutional-Level Report: The institutional-level report shall be submitted annually through CIIS and will include organizational, financial, portfolio and impact information for Finance New Mexico and its subsidiary CDEs. This reporting will also include a certification for each QEI that the requirements of Section 45D of the IRS Code have been met and that no recapture event has occurred. This reporting must be completed no later than one hundred eighty (180) days after the end of Finance New Mexico's fiscal year;
3. Transaction-Level Report: Transaction-level reporting will be submitted at least annually through CIIS detailing out specific data elements of each of Finance New Mexico's and its subsidiary CDE's Qualified Low-Income Community Investments ("QLICI"). This information must be submitted no later than one hundred eighty (180) days after the end of Finance New Mexico's fiscal year;
4. Audited Financial Statements: Pursuant to federal regulations, the NMFA, on behalf of Finance of New Mexico and its subsidiaries, shall deliver to CDFI audited financial statements for Finance New Mexico and its subsidiary CDEs, no later than one hundred eighty (180) days after their respective year ends;
5. Advise the Fund of Certain Material Events: Finance New Mexico and its subsidiary CDEs shall advise the Fund in writing in reasonable detail of the occurrence of any of the following events:
 - a. Any proceeding instituted against Finance New Mexico or its subsidiary CDEs which proceeding or its outcome could reasonably be expected to have a material adverse effect upon the financial condition or business operation of Finance New Mexico or its subsidiary;
 - b. Any material adverse change in the condition, financial or otherwise, or operations of Finance New Mexico or its subsidiary CDE which would

impair Finance New Mexico's or its subsidiary CDE's ability to carry out the authorized use of the NMTC Program Allocation;

- c. The occurrence of any Event of Default by Finance New Mexico or its subsidiary CDEs (any false representation of any material respect to the Allocation Application and/or Allocation Agreements; failure to comply with any of the covenants of Section 45D of the IRS Code, the Allocation Agreements or any instrument delivered to the Fund in connection with the Allocation Agreements; failure to conduct business in the usual and ordinary course);
- d. The occurrence of any event that may be considered a recapture event;
- e. The merger or acquisition of Finance New Mexico;
- f. NMFA no longer having any ownership or management interest in the Finance New Mexico and/or no longer having control over the day-to-day management and operations of Finance New Mexico;
- g. The replacement of any key management officials that had been named in the Allocation Agreements;
- h. Such other events that may be determined by the Fund, in its sole discretion, to be material events, and for which the fund issues related guidance.

D. Internal Revenue Service Reporting.

Within sixty (60) days of receipt designated as a QEI under the NMTC Program, Form 8874-A, Notice of QEI, must be filed with the IRS.

By the April 15th of each year, Form 1065, U.S. Return of Partnership Income, must be filed with the IRS by Finance New Mexico and its subsidiary CDEs. This return will be completed for each year that Finance New Mexico or its subsidiary CDEs are operational (e.g., the partnership is not dissolved).

VIII. SWEDFA CONFIDENTIALITY PROVISIONS FOR NMTC APPLICANTS

Information obtained from NMTC applicants or prospective applicants which is considered proprietary business or investor related shall be held in confidence in accordance with the confidentiality provisions of the Statewide Economic Development Finance Act ("SWEDFA). Any violation of the SWEDFA provisions as it relates to proprietary information and confidentiality can lead to disciplinary procedures including being charged with a misdemeanor.

IX. USE OF FUNDS EARNED BY THE NMFA IN MANAGING THE NMTC PROGRAM

Pursuant to the Restated Operating Agreement, the funds earned and received by Finance New Mexico for its role as managing partner for the NMTC Program will, to the extent not retained in Finance New Mexico or one its subsidiaries, be distributed to the NMFA and New Mexico Community Capital as the two limited liability company members (i.e., owners) of Finance New Mexico.

At the time of formation of Finance New Mexico, the NMFA held a 99% interest and New Mexico Community Capital held a 1% interest. Under the Restated Operating Agreement, distributions to the members will be made based on the ownership percentages in Finance New Mexico in place at the time of distribution. The NMFA will use its pro-rata share of the distributions in the following manner:

- A. First, to reimburse the NMFA for any and all of its costs incurred on behalf of Finance New Mexico (e.g., costs of consultants, staff time, and any direct and indirect costs associated with the managing of the NMTC Program);
- B. Second, to NMFA for other economic development programs or purposes.

XI. USE OF FUNDS ON HAND AT THE END OF 7-YEAR CREDIT PERIOD

The NMFA's creation of Finance New Mexico and its subsequent participation in the NMTC program was intended to provide additional investment capital for Low-Income Communities in New Mexico. As such, NMFA intends to use the remaining capital in Finance New Mexico and its subsidiary CDEs after the respective compliance periods for all of the transactions have expired, to invest into additional economic development projects in New Mexico thereby spreading the benefits of Finance New Mexico's participation in the NMTC beyond the initial select companies.

Finance New Mexico, LLC is an Equal Opportunity Provider