

<b>NMFA Programs</b>	<b>Housing Development Revolving Fund Loan Policies</b>	<b>Original Effective Date: 8/29/2024</b>
		<b>Last Revision: 9/26/2024</b>



**Housing Development Revolving Fund Loan Policies**

*These Housing Development Revolving Fund Loan Policies (“Housing Fund Loan Policies”) were adopted on September 26, 2024, 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. SUMMARY**

**A. Purpose Statement**

On March 9, 2022, Governor Michelle Lujan Grisham signed into law the Opportunity Enterprise Act (“Act”), NMSA 1978, Section 6-34-1, et seq., to provide enterprise assistance to advance economic development opportunities in the State. Effective May 15, 2024, the Act was amended to create the Housing Development Revolving Fund (“Housing Fund”) within the New Mexico Finance Authority (“NMFA”) and authorizes the NMFA to establish rules, administer the Housing Fund, and recover from the Housing Fund such costs of administering the Housing Fund and originating housing development assistance for workforce development housing projects and affordable housing infrastructure projects.

Pursuant to the Act, the Economic Development Department (“Department”) and the Opportunity Enterprise and Housing Development Review Board (“OE Board”) shall coordinate to evaluate housing development partners and eligible housing development projects for suitability for housing development assistance. Pursuant to Rules adopted by the OE Board, the OE Board shall establish procedures to select and prioritize applications for housing assistance and recommend to the NMFA potential housing development projects for housing development assistance from the Housing Fund.

Pursuant to the Act, the NMFA Board adopted Rules approved by the NMFA Oversight Committee that govern the implementation and administration of housing development assistance in the form of loans for housing development projects as authorized by Section 6-34-13.2 of the Act. These Housing Fund Loan Policies provide additional guidance to potential housing development partners and NMFA staff regarding program objectives, general considerations, project eligibility, application requirements, loan structuring parameters and monitoring requirements, and do not apply to other programs established by the NMFA.

## **B. Implementation**

These Housing Fund Loan 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 will be reflected in the minutes of the public meeting at which the waiver is to be considered, and any revisions will be reflected in a new documented version, dated as of the Board approval of the revisions. Any waiver or revision must not 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.** “Affordable Housing” means residential housing primarily for persons or households of low or moderate income as defined in a local housing plan or by programs managed by the MFA.

**C.** “Affordable Housing Infrastructure Project” means infrastructure projects needed to support affordable housing.

**D.** “Applicant” means a housing development partner.

**E.** “Application” means a written document made publicly available by the NMFA and filed with the NMFA for the purpose of evaluating the Applicant’s qualifications and proposed housing development projects for housing development assistance which may be provided by the NMFA under the Act.

**F.** “Bylaws” means the amended and restated bylaws of the OE Board adopted on May 2, 2024, as may be further amended and supplemented from time to time.

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

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

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

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

**K.** “Housing Development Assistance” means a loan for workforce development housing projects or affordable housing infrastructure projects.

**L.** “Housing Development Committee” means a standing committee, appointed by the chairman of the OE Board from the members of the OE Board pursuant to the bylaws to review proposed housing development projects to be recommended for funding from the Housing Fund.

**M.** “Housing Development Loan” means a housing development loan from the Housing Fund provided by the NMFA pursuant to these Rules and the Housing Fund Loan Policies adopted by the NMFA, as amended and supplemented from time to time.

**N.** “Housing Development Partner” means a domestic corporation, a general partnership, a limited liability company, a limited partnership, a public benefit corporation, a nonprofit entity or any other private business entity or combination thereof that the authority determines is or will be engaged in a project that creates or expands housing within the state and is eligible for housing development assistance pursuant to the act.

**O.** “Housing Development Project” means an affordable housing infrastructure project or a workforce development housing project.

**P.** “Housing Fund” means the Housing Development Revolving Fund created pursuant to Section 6-34-13.3 of the Act.

**Q.** “Housing Fund Loan Policies” means these policies adopted by the NMFA Board governing the Housing Development Revolving Fund.

**R.** “Infrastructure” means improvements tied to or enabling the development of housing, including: (i) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge; (ii) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge; (iii) water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal; (iv) areas for motor vehicle use for road access, ingress, egress and parking; (v) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for access, ingress, egress and parking; (vi) parks, recreational facilities and open space areas to be used by residents for entertainment, assembly and recreation; (vii) landscaping, including earthworks, structures, plants, trees and related water delivery systems; (viii) electrical transmission and distribution facilities, including renewable energy infrastructure; (ix) natural gas distribution facilities; (x) lighting systems; (xi) cable or other telecommunications lines and related equipment; and (xii) traffic control systems and devices, including signals, controls, markings and signs.

**S.** “Market Study” means a project description and analysis of geographic conditions, demographic trends, and competitive market conditions that will impact the success of the project, including absorption estimates for the subject property. Market Studies must be dated within the last six months and must meet the content parameters established by the MFA.

**T.** “MFA” means the New Mexico Mortgage Finance Authority.

**U.** “Middle income workers” means families with incomes that fall between the lesser of a local jurisdiction’s upper limit for housing assistance by relevant housing type or by the New Mexico Mortgage Finance Authority’s upper limit for housing development assistance, and three hundred percent of the US Housing and Urban Development Area Median Income for the county.

V. “NMFA” means the New Mexico Finance Authority.

W. “Nonurban Community” means a municipality with a population of less than sixty thousand according to the most recent federal decennial census or the unincorporated area of a county.

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

Y. “Total Project Cost” means the total of all costs incurred or to be incurred by the Housing Development Partner in planning, designing acquiring, constructing, renovating, rehabilitating, and financing a Housing Development Project, including predevelopment costs and Market Studies. Total Project Costs will be adjusted to exclude any construction costs associated with affordable housing, market rate housing, and commercial space.

Z. “Rules” means the Rules governing housing development assistance under the Opportunity Enterprise and Housing Development Act as adopted by the NMFA Board of Directors and approved by the New Mexico Finance Authority Oversight Committee, as may be amended and supplemented.

AA. “State” means the State of New Mexico.

BB. “Workforce Development Housing” means below-market housing addressing demand for workforce housing for middle income workers in proximity to employment centers as determined by policies of the OE Board.

CC. “Workforce Development Housing Project” means a residential real estate development project that involves the purchase, planning, designing, building, surveying, improving, operating, furnishing, equipping or maintaining of land, buildings or infrastructure that provides housing, including housing that provides the option of home ownership.

DD. “Zoning Reforms” means policies, procedures and regulations implemented by political subdivisions intended to decrease the costs and timing of constructing affordable housing and workforce housing, including expedited permitting, high density zoning, and other criteria as determined by policies of the OE Board.

### III. LOAN STRUCTURING PARAMETERS

A. **Review of Market Study:** The study should have been completed in the past six months and meet the content parameters of the MFA<sup>1</sup>, including:

- Scope of Work
- Project Description

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<sup>1</sup> Detailed information is available at <https://housingnm.org/developers/developer-resources/market-study-requirements>

- Location
- Market Area Definition
- Employment and Economy
- Demographic Characteristics
- Competitive Environment
- Affordability Analysis, Demand Analysis, Capture Rates and Penetration Rates
- Local Perspective of Rental Housing Market and Housing Alternatives
- Analysis/Conclusions

**B. Loan Amounts.** Loan amounts are not to exceed \$15,000,000 per project.

**C. Use of Proceeds.** Loan proceeds may be used to finance infrastructure projects for Affordable Housing Infrastructure Projects and Workforce Development Housing Projects.

1. Proceeds for Affordable Housing Infrastructure Projects may be used for Project Costs related solely to the development and construction of infrastructure for affordable housing.

2. Proceeds for Workforce Development Housing Projects may be used for Project Costs related to the development and construction of workforce development housing.

Deed restrictions will be determined for Workforce Development Housing Projects by NMFA. The minimum term for deed restrictions is ten (10) years.

**D. Limitation on Fees paid to Developers**

1. Developer fees on Affordable Housing Infrastructure Projects will match the developer fees allowed by the construction lender, subject to the limitations listed in Section III.D.2.

2. Developer fees will be limited based on the percentage of Total Project Costs for the following items:

a. Up to fifteen percent (15%) of Total Project Costs for infrastructure, construction and development projects;

b. Up to five percent (5%) for acquisition only projects.

3. Developer fees will be disbursed as follows:

a. One-third may be paid at the close of all construction loans;

b. One-third may be paid with progress payments during construction;

and

c. One-third may be paid at ninety percent (90%) occupancy by or at

ninety percent (90%) sales to eligible individuals.

4. Reimbursement of Developer fees will be made at the sole discretion of the NMFA.

**E. Maximum Loan Term.**

1. Workforce Development Housing loans will be structured with an interest-only period is not to exceed three (3) years, with a maximum loan term of thirty (30) years:

2. Infrastructure loans for Affordable Housing or Workforce Development Housing will be structured with an interest-only periods not to exceed three (3) years, with a maximum loan term of thirty (30) years .

3. Affordable Housing Infrastructure Projects utilizing HUD or FHA financing may be structured with a maximum term of forty (40) year.

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

**G. Debt Service Coverage Requirement.** At the time of underwriting NMFA requires a debt service coverage ratio of 1.15x.

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

Interest rates on loans for Affordable Housing Infrastructure Projects will match the interest rates of the federal program.

**I. Collateral; Loan-to-Value Requirement.** Loans must be secured by all legally acceptable collateral including, but not limited to real property and related improvements.

Unless waived by the NMFA, the Applicant shall obtain insurance coverage on all property securing the housing development assistance loan from responsible companies in such amounts and against such risks as is satisfactory to NMFA.

Loans will be underwritten with loan-to-value ratios of up to eighty percent (80%). Applicants should provide a fair market value appraisal (as appropriate) and 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.

**J. 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 documented in-kind, including a documentable reduction in developer fees. Affordable Housing Infrastructure Projects supporting Low-Income Housing Tax Credits may be excepted from this equity requirement.

**K. Personal and/or Corporate Guaranties.** All loans will require personal and or corporate guarantees from one or more of the following persons/entities:

- a partner, or member of the Eligible Applicant
- a joint venture with the Eligible Applicant
- any stockholder of the Eligible Applicant
- the parent corporation or a partner, member, or stockholder of the parent corporation if the Eligible Applicant is a subsidiary.

**L. Credit History.** Eligible applicants are required to authorize the NMFA to obtain credit reports on all owners and guarantors.

#### **IV. MONITORING AND REPORTING**

Borrowers are required to submit quarterly financial statements, and a detailed reporting package that includes:

**A.** Latest complete accountant reviewed financial statements or audited financial statements.

**B.** Business performance report including:

1. Brief narrative on project completion status.
2. Status of project budget and project timeline.
3. Total expenditures relative to project cost categories.

**C.** Impact objectives including:

1. Total number of affordable housing units and workforce development housing units supported by the housing development assistance;
2. Occupancy data and rent rolls, as applicable; and
3. Job creation metrics

**D.** Certification that all representations, warranties and covenants remain true and correct; and

**E.** Certification that there has been no change in business ownership/change in control.

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

## V. REFERENCES

- New Mexico Finance Authority Act, Section 6-21-1 *et seq.*, NMSA 1978
- Opportunity Enterprise and Housing Development Act, Section 6-34-1 *et seq.*, NMSA 1978
- Opportunity Enterprise and Housing Development Review Board Rules, Title 2, Chapter 93 (2.93.1 *et seq.*, NMAC)
- New Mexico Finance Authority Rules Governing Housing Development Assistance Under the Opportunity Enterprise and Housing Development Act