



MEMORANDUM

To: New Mexico Finance Authority Oversight Committee
From: Marquita Russel, NMFA CEO
Date: August 29, 2025
Re: Approval of Amended and Restated Public Project Revolving Fund Rules

Item:

Approval of Amended and Restated Rules Governing the Public Project Revolving Fund (“PPRF”) Program.

Background:

Pursuant to Section 6-21-5(C) of the Act, the NMFA may adopt Rules subject to the review and approval of the NMFA Oversight Committee. In August 2024 the PPRF Rules were amended to make conforming changes arising from the passage of SB 216 (2024 Reg. Sess.), which amended Sections 6-21-3 and 6-21-6.4 NMSA 1978 (together with Sections 6-21-1 *et seq.*, the “NMFA Act”) by expanding the use of the PPRF to add Non-profit housing developers to the definition of “Qualified Entities” and to explicitly provide that housing is a qualified Public Project pursuant to the New Mexico Finance Authority Act (the “Act”). Amendments to the Rules also conformed to the comprehensive changes in the PPRF Loan Management Policies and incorporated the reality of the capital banking environment, our borrowers’ capital access needs, and updated operating procedures.

Senate Bill 170 (2025 Reg. Sess.) in part amended Section 6-21-3 to add rural electric cooperatives pursuant to the Rural Electric Cooperative Act as “Qualified Entities” for purposes of the PPRF. SB 170 also provided a temporary suspension of the requirement that NMFA receive prior legislative authorization before making a PPRF loan of \$1 million or greater. The temporary provision is in place until June 30, 2028.

Draft Rules were reviewed by the NMFA Oversight Committee at its August 11th meeting and based upon the Committee’s feedback, NMFA added back many requirements contained in Section 9 (Financing Approval Requirements) that staff had initially believed to be redundant. Staff eliminated the subsections that required the NMFA Board to give priority to certain projects, that required the Board to consider the applicant’s ability to secure financing from another source, and a provision related to charter school financing that conflicted with other state law.

The final Rules approved by the NMFA Board at its August 28, 2025 Board Meeting also included one item that was not in the Rules reviewed by the NMFA Oversight Committee.

- Section 8, subsection B(2), adds that payments made on prior Disadvantaged Funding loans, if not needed to pay debt service on bonds, shall be available for new Disadvantaged loans.

Otherwise, the amendments simplify language throughout, eliminate redundancy, conform terms in the Rules to language in the NMFA Act, and clarify the intent of certain provisions. Additionally, the amendments make the following changes:

- In Section 3, subsection S: the definition of Public Project is amended to explicitly provide that “planning and design that is a phase of an entire undertaking” is an eligible Public Project;
- In Section 3, subsection U: the definition of Qualified Entity is amended to add rural electric cooperative pursuant to the Rural Electric Cooperative Act to the list of qualifying entities
- In Section 4, caveats that the procedures outlined in Request for Legislative Authorization are in place only during time in which legislative authorization of Public Projects is required.

Recommendation:

NMFA staff recommends approval of the Amended and Restated PPRF Rules.

**AMENDED AND RESTATED
RULES GOVERNING THE
PUBLIC PROJECT REVOLVING FUND PROGRAM
AS ADOPTED**

AUGUST 29[DATE], 2024-2025

**BY THE BOARD OF DIRECTORS OF THE
NEW MEXICO FINANCE AUTHORITY
AND APPROVED BY THE
NEW MEXICO FINANCE AUTHORITY
OVERSIGHT COMMITTEE**

AUGUST 12[DATE], 2024-2025

SECTION 1. AUTHORITY

The New Mexico Finance Authority (“NMFA”) Public Project Revolving Fund (“PPRF”) Program Rules (“Rules”) are adopted by the NMFA pursuant to the NMFA Act, §§ 6-21-1 to 6-21-31 NMSA 1978, as amended. Section 6-21-5(C) NMSA 1978 provides that the NMFA has the power to adopt such ~~regulations-rules~~ as are necessary and appropriate to implement the provisions of the NMFA Act, subject to the review and approval of the NMFA Oversight Committee, as hereinafter defined. Section 6-21-6(A) NMSA 1978 creates the “Public Project Revolving Fund” within the NMFA and authorizes the NMFA to establish procedures and ~~regulations-adopt rules~~ as required to administer the PPRF ~~subject to the review and approval of the NMFA Oversight Committee as required by 6-21-5(C) NMSA 1978.~~

SECTION 2. PURPOSE OF RULES

Section 6-21-7 NMSA 1978 ~~authorizes-directs~~ the NMFA to develop and administer a program to assist qualified entities individually or jointly in financing public projects, establish a process and procedures for review and assessment of public project needs in New Mexico, and cooperate with and exchange services and information with federal, state and local government agencies. The purpose of these Amended and Restated Rules (“Rules”) is to provide a framework for the implementation and administration of the ~~PPRF~~-Program authorized by ~~§§ 6-21-6(A) and 6-21-7 NMSA 1978~~the NMFA Act. Specific details of the ~~PPRF~~-Program, including Application ~~(as hereinafter defined)~~, contents, establishment of interest rates, coverage requirements, reserve requirements, portfolio diversification and other lending criteria shall be established in the NMFA’s ~~Loan Management~~ Policies. These Rules do not apply to other programs established by the NMFA ~~and do not apply to projects funded from the PPRF pursuant to the provisions of Section 6-21-6.1 NMSA 1978.~~

SECTION 3. DEFINITIONS

- A. “Act” means the NMFA Act, §§ 6-21-1 to 6-21-31 NMSA 1978, as amended.
- B. “Applicant” means a Qualified Entity which has filed a request for Financial Assistance from the Program with the NMFA, except when the Qualified Entity is a locally chartered charter school, and not a state-chartered charter school, in which case the Applicant shall be the chartering authority, as defined in the Charter Schools Act, on behalf of the locally chartered charter school, or the charter school itself, acting with the authority of the charter school’s Board of Directors;
- C. “Application” means a written document filed with the NMFA by an Applicant for the purpose of obtaining Financial Assistance; an Application may include a form prescribed by the NMFA, written responses to requests for information by the NMFA, or other format as determined by the NMFA;

- D. “Authorized Representative” means one or more individuals duly authorized by the governing body of a Qualified Entity to act on behalf of the Qualified Entity in connection with its Application, to the extent provided by law;
- E. “Board” means the NMFA Board created by the Act;
- F. “Bond” means any bond, note, certificate of participation, loan agreement or other evidence of indebtedness;
- G. “Disadvantaged Funding” means the provision of Financial Assistance at fixed interest rates of zero percent (0%) or two percent (2%) to a Disadvantaged Qualified Entity, as determined by the NMFA pursuant to these Rules and NMFA’s Loan Management Policies.
- H. “Disadvantaged Qualified Entity” means a Qualified Entity with a median household income, as determined by the Board based on the most recent 5-year average of Statewide Median Household Income from census data or through a survey acceptable to the NMFA, of less than one hundred percent (100%) of the Statewide Median Household Income;
- I. “Financial Assistance” means a loan to a Qualified Entity made by the NMFA, the purchase by the NMFA of securities issued by a Qualified Entity, Lease-Purchase Agreements, and any other type of assistance authorized by the Act, or a combination thereof, provided by the NMFA to a Qualified Entity under the Program for the financing or refinancing of a Public Project and which may include the provision of Disadvantaged Funding;
- J. “General Indenture” means the General Indenture of Trust and Pledge dated as of June 1, 1995, by and between the NMFA and BOKF, N.A., as successor ~~trustee~~Trustee, as supplemented and amended.
- K. “Junior Indenture” means the Junior Lien General Indenture of Trust and Pledge dated as of April 1, 2024, by and between the NMFA and BOKF, N.A., as Trustee, as supplemented and amended.
- ~~L. “Lease-Purchase Agreement” has the meaning set forth in the Public School Lease Purchase Act, Section 22-26A-3(A), as amended and supplemented from time to time.~~
- ~~M.~~
- ~~N. “Loan Management Policies” means the specific details governing the Program, including Application contents, establishment of interest rates, coverage requirements, reserve requirements, portfolio diversification and other lending criteria.~~
- ~~L.~~
- O.M. “NMFA” means the New Mexico Finance Authority.

N. “Oversight Committee” means the joint interim legislative committee established pursuant to § 6-21-30 NMSA 1978;

P.O. “Policies” means the NMFA’s PPRF Loan Management Policies, as amended and restated from time to time.

Q.P. “Program” means the PPRF Program authorized by the Act;

R.Q. “Project Account” means a fund designated exclusively for receipt of Program funds;

S.R. “Public Lending Committee” means a committee appointed by the Board Chair and confirmed by the Board consisting of members of the Board.

T.S. “Public Project” means the acquisition, construction, improvement, alteration or reconstruction of assets of a long-term capital nature by a Qualified Entity, including land, buildings, water rights, water, sewerage and waste disposal systems, streets, housing, airports, municipal utilities, public recreational facilities, public transportation systems, parking facilities, and machinery, furniture and equipment. “Public project” includes all proposed expenditures related to the entire undertaking, including planning and design that is a phase of an entire undertaking. “Public project” also includes the acquisition, construction or improvement of real property, buildings, facilities and other assets by the ~~Authority~~-NMFA for the purpose of leasing the property.

U.T. “PPRF” means the Public Project Revolving Fund created by Section 6-21-6(A) NMSA 1978.

V.U. “Qualified Entity” means the state or any agency or institution of the state or any county, municipality, school district, two-year public post-secondary educational institution, charter school, land grant corporation, acequia association, public improvement district, federally chartered college located in New Mexico, intercommunity water or natural gas supply association or corporation, special water, drainage, irrigation or conservancy district or other special district created pursuant to law, rural electric cooperative pursuant to the Rural Electric Cooperative Act, nonprofit foundation or other support organization affiliated with a public university, college or other higher educational institution located in New Mexico, including a university research park corporation, a nonprofit housing developer, an Indian nation, tribe or pueblo located wholly or partially in New Mexico, including a political subdivision or a wholly owned enterprise of an Indian nation, tribe or pueblo or a consortium of those Indian entities or a consortium of any two or more qualified entities created pursuant to law.

W.V. “Security” or “Securities,” unless the context indicates otherwise, means bonds, notes or other evidence of indebtedness issued by a Qualified Entity or leases or certificates or other evidence of participation in the lessor’s interest in and rights under a lease with a Qualified Entity and that are payable from taxes, revenues, rates, charges, assessments or user fees, or from the proceeds of funding or refunding bonds, notes or other evidences of indebtedness of a

Qualified Entity or from certificates or evidence of participation in a lease with a Qualified Entity.

~~X.W.~~ “Statewide Median Household Income” means the median household income for the state of New Mexico as most recently determined by the United States Bureau of the Census.

~~Y.X.~~ “Subordinated Indenture” means the Subordinated General Indenture of Trust and Pledge dated as of March 1, 2005, by and between the NMFA and BOKF, N.A., as Trustee as supplemented and amended.

SECTION 4. REQUEST FOR LEGISLATIVE AUTHORIZATION

A. ~~The~~ For all times in which legislative approval of Public Projects is required, the NMFA will develop an outreach program for Applicants in order to identify Public Projects to present to the Oversight Committee no later than the Oversight Committee’s last interim meeting of the calendar year to be included in the list of proposed Public Projects for which authorization by law is requested, each request shall include the following:

- (1) identification of the Qualified Entity on behalf of which the request is made;
- (2) type of Public Project for which the request is made;
- (3) certification of the request by an Authorized Representative of the Qualified Entity on behalf of which the request is made.

B. ~~The~~ For those Public Projects for which legislative authorization is required by law, the NMFA will provide notice to Qualified Entities which have received legislative authorization for a Public Project and to invite Applications for Public Projects authorized by law, as provided in Section 5 of these Rules.

SECTION 5. APPLICATION PROCEDURES FOR FINANCIAL ASSISTANCE

A. The NMFA will conduct outreach to notify Qualified Entities that it will accept Applications for financing of new Public Projects or refinancing of existing Public Projects.

B. The NMFA will provide a form of Application and/or guidelines for use by Qualified Entities. The ~~NMFA’s Loan Management~~ Policies shall contain provisions which (i) identify the specific information to be included in an Application, based on the type of Applicant and Public Project, and (ii) establish the standard for determining that an Application is complete and can be acted upon by the Board.

~~C.~~ Only completed Applications, as determined by Staff pursuant to the ~~NMFA’s Loan~~ D.C. Management Policies, will be eligible for consideration by the Board for approval of Financial Assistance. In addition to satisfying any other requirements established by the NMFA’s Loan

Management Policies, an Application must be signed by an Authorized Representative of the Qualified Entity and must include the following:

- (1) the amount of Financial Assistance being sought and description of the proposed use or uses of the Financial Assistance;
- (2) a description of the Public Project or Public Projects to be financed or refinanced, including:
 - (a) a description of the scope of work of the Public Project;
 - (b) an estimated cost of the Public Project;
 - (c) the target date for the initiation of the Public Project and the estimated completion date;
- (3) identification of all indebtedness of the Applicant presently outstanding secured by the proposed pledged revenues stream, including, without limitation, bonds, lease purchase agreements and other loans by name and principal amount (both the original principal amount and the currently outstanding principal amount) and the debt service schedule associated with each indebtedness;
- (4) identification of the source of funds for repayment of the Financial Assistance;
- (5) the Applicant's audited financial reports for the most recent three (3) years for which such reports are available or, where the Applicant is not subject to the State Audit Act, internally prepared financial statements in a form acceptable to the NMFA;

B. The NMFA may waive, in its sole discretion, disclosure of certain financial information in connection with Applications submitted by Indian Nations, tribes or ~~pueblos~~Pueblos, as provided by lending policies applicable to such entities. Such Applications will be approved only upon a demonstration that the repayment of Financial Assistance is fully secured by collateral acceptable to and readily accessible by the NMFA, pursuant to the ~~NMFA's Loan Management~~ Policies.

C. Staff will evaluate Applications for compliance with the Act, these Rules, ~~and applicable NMFA policies and procedures and the Policies~~. Staff will forward Applications determined to be complete and recommended for approval to the Public Lending Committee. Staff will notify an Applicant if an Application is incomplete and shall describe the additional information needed to complete the Application. Staff will provide written notice to an Applicant of its decision not to recommend a completed Application for consideration by the Public Lending Committee within five (5) business days following the Public Lending Committee meeting at which the Application would otherwise be considered. The written notice shall include an explanation of the reasons for the decision

not to recommend the Application for consideration by the Public Lending Committee. An Applicant may appeal the decision not to recommend the Application as provided in Section 10 of these Rules.

D. The Public Lending committee will consider the Application and staff’s recommendation and may confer with outside parties as necessary to obtain more information on the feasibility, merit, and priority of the Application and the proposed Public Project. The Public Lending Committee will forward to the Board those Applications recommended for approval. Staff will provide notice to an Applicant of the Public Lending Committee’s decision not to recommend a completed Application to the Board for consideration. Such notice shall be made within five (5) business days following the Board meeting at which the Application would have otherwise been considered and shall include an explanation of the reasons cited by the Public Lending Committee. An Applicant may appeal to the Board the decision of the Public Lending Committee not to recommend the Application as provided in Section 10 of these Rules. If the Application was timely received for consideration, Staff may recommend an Application to the Board for approval at the next scheduled Board meeting without prior consideration by the Public Lending Committee if the Public Lending Committee will not meet prior to that Board meeting.

E. Following receipt of a recommendation on the Application by the Public Lending Committee, the Board will consider the Application no later than the earlier of:

- (1) the next regular Board meeting at which such item may be properly considered, or
- (2) sixty (60) days after Public Lending Committee action, whichever comes first.

The Board may approve all or part of the application as recommended by the Public Lending Committee. Board approval may specify, at the Board’s discretion, terms and conditions of the Financial Assistance as necessary to ensure repayment, ~~including but not limited to, maximum loan term and maximum annual payments.~~

F. The NMFA will notify the Applicant of the approval or disapproval of its application by email within seven (7) working days of Board action.

G. All communications regarding an Application or qualification for Financial Assistance shall be directed to the NMFA’s Chief of Programs or Managing Director, Lending.

SECTION 6. EVALUATION OF APPLICATION AND PUBLIC PROJECT

NMFA staff will complete an evaluation of the Application and the proposed Public Project to determine project feasibility, the Applicant’s capacity to administer the Public Project, the Applicant’s financial position, and economic and demographic factors.

A. Project Feasibility. The NMFA will analyze each Public Project to determine whether the project ~~is feasible~~ meets the requirements of the Policies as proposed.

B. Administrative Capacity. The NMFA will evaluate the Applicant's administrative capacity to carry out and operate the Public Project and to meet its payment obligations on the requested Financial Assistance.

C. Financial Position. The NMFA will evaluate each Applicant's financial position to assess the Applicant's ability to meet its payment obligations on the requested Financial Assistance as provided in the NMFA's Loan Management Policies.

D. Debt Management. The Applicant's debt management history and the credit worthiness of any pledged funds will be examined as provided in the NMFA's Loan Management Policies.

SECTION 7. ELIGIBLE PUBLIC PROJECTS AND COSTS

The NMFA provides Financial Assistance under the Program to Qualified Entities for Public Projects. Costs which may be financed under the Program include all or any portion of the cost of Public Projects; the refinancing of any outstanding obligations, mortgages or advances made, issued or given for financing costs of such projects; bond or loan issuance costs associated with eligible Public Project financings or refinancings, and all other proposed expenditures related to the entire undertaking of the Public Project.

SECTION 8. PUBLIC PROJECT FINANCING

-The NMFA may structure Financial Assistance packages that include bond purchases, loans, Lease-Purchase Agreements, Disadvantaged Funding, and any other type of assistance authorized by the Act. Financial Assistance transactions will be structured, to the extent practicable, to enable the NMFA to issue PPRF Bonds or bond anticipation notes, or to draw on lines of credit, to replenish the PPRF for moneys advanced from the PPRF to originate those transactions, through the pledge of all or a portion of the debt service obligations payable under the Financial Assistance for the benefit of PPRF bond owners. The NMFA reserves the right to pledge loans to, and securities purchased from, Qualified Entities as assets under either the General Indenture, the Subordinated Indenture, or the Junior Indenture and to structure Financial Assistance as it deems necessary or appropriate for the placement of assets under either the General Indenture, the Subordinated Indenture, or the Junior Indenture.

-The Board may only approve Applications for Financial Assistance that comply with the Policies; unless a specific waiver is granted by the Board. The structure, terms and conditions of the Financial Assistance, including requirements for debt service reserves, revenue intercepts, and monthly-regular scheduled payments, will be determined approved by the Board on a case-by-case basis depending on the credit of the borrower, cash available in the PPRF, the pledge of the Financial Assistance as an asset under the General Indenture, the Subordinated Indenture, or the Junior Indenture and as further provided in the ~~NMFA's Loan Management~~ Policies. Financial Assistance for Public Projects may be pooled, at the discretion of the NMFA.

A. Financial Assistance package may consist of a loan to, or the purchase of bonds or securities issued by, a Qualified Entity for a Public Project, which may be funded from proceeds of PPRF Bonds or bond anticipation notes, lines of credit, or available moneys in the PPRF at interest rates determined by the NMFA pursuant to its ~~Loan Management~~ Policies. The NMFA may require, in providing a loan to or purchasing securities from a Qualified Entity:

- (1) That financing may include payment of the NMFA's costs of origination or issuance of PPRF Bonds, bond anticipation notes or credit lines used to originate the Financial Assistance, as provided in the ~~NMFA's Loan Management~~ Policies.
- (2) That the interest rates applicable to the loan or securities include an administrative fee component of the interest rate as determined by the Board and as provided in the ~~NMFA's Loan Management~~ Policies.

B. The NMFA may offer ~~Financial Assistance~~ Disadvantaged Funding to Disadvantaged Qualified Entities subject to the provisions outlined in this subsection:

- (1) The ~~Financial Assistance~~ Disadvantaged Funding to Disadvantaged Qualified Entities is limited to Public Projects the Board determines affect the ability of the entity to provide governmental services necessary to public health, safety or welfare.
- (2) Up to twenty percent (20%) of the governmental gross receipts tax proceeds distributed to the PPRF in the preceding fiscal year is available for ~~Financial Assistance to Disadvantaged Qualified Entities~~ Disadvantaged Funding unless otherwise designated by the Board ~~by resolution~~. Payments made on prior Disadvantaged Funding loans, if not needed for debt service on bonds, may be available for new Disadvantaged Funding loans. Funds so designated, that are unused at the end of a fiscal year, may be carried forward into the next fiscal year. ~~Disadvantaged funds~~ Funding will be earmarked for a specific Public Project upon final approval of that Public Project by the Board.
- (3) ~~Financial Assistance~~ Disadvantaged Funding to Disadvantaged Qualified Entities is limited to one hundred fifty thousand dollars (\$150,000) per equipment project and five hundred thousand dollars (\$500,000) per infrastructure project. No single Disadvantaged Qualified Entity shall receive more than five hundred thousand dollars (\$500,000) in any fiscal year. Financial Assistance in excess of this cap shall be available at the rates and terms offered other Qualified Entities.
- ~~(4)~~ (4) A Disadvantaged Qualified Entity may qualify for ~~lower interest rate~~ Financial Assistance Disadvantaged Funding based on a comparison of the median household income for the entity compared to the Statewide Median Household Income ("Median Household Income Percentage") or the applicable census tract encompassing the entity, as determined by the Board, to that of the State as a whole as follows:

- (a) A Disadvantaged Qualified Entity with a Median Household Income Percentage of less than one hundred percent (100%) but greater than eighty percent (80%) of the Statewide Median Household Income may qualify for ~~Financial Assistance~~ Disadvantaged Funding of up to five hundred thousand dollars (\$500,000) per fiscal year at a fixed interest rate of two percent (2%), provided all other requirements for Financial Assistance approval are met. NMFA Administrative fees, if any, are included in the two percent (2%) interest rate.
 - (b) A Disadvantaged Qualified Entity with a Median Household Income Percentage of eighty percent (80%) or less of the Statewide Median Household Income may qualify for ~~Financial Assistance~~ Disadvantaged Funding of up to five hundred thousand dollars (\$500,000) per fiscal year at a fixed interest rate of zero percent (0%), provided all other requirements for Financial Assistance approval are met. NMFA Administrative fees, if any, will be added to the zero percent (0%) rate.
- C. The NMFA may offer Financial Assistance to qualified charter schools subject to the provisions outlined in this subsection:
- (1) For locally chartered charter schools, ~~t~~The NMFA may acquire the Public Project and enter into a lease-purchase agreement pursuant to the Public School Lease Purchase Act with a chartering authority, which in turn will sublease the Public Project to the charter school. The lease-purchase payments ~~will~~ ould be special obligations secured by a first lien on the sublease payments to the chartering authority for Public Project and by charter school revenues described in Subsection 9(F) of these Rules. The term of such Financial Assistance shall not exceed thirty (30) years.
 - (2) The total amount of Financial Assistance shall not exceed the lesser of the value of the Public Project or the cash flow coverage of the assets pledged pursuant to these Rules.
 - (3) The NMFA shall require that the charter school or Applicant contribute to a Repair and Replacement Fund, as provided in the ~~NMFA's Loan Management~~ Policies.
 - (4) The NMFA shall require that the charter school meet accountability standards.
 - (5) The NMFA shall require that the charter school notify the NMFA immediately of any adverse action taken by the public education department or chartering authority.
- D. Grants. Pursuant to Section 6-21-5(I), grants will not be made from the PPRF.

SECTION 9. FINANCING APPROVAL REQUIREMENTS ~~FINANCING APPROVAL REQUIREMENTS~~

Based on the evaluation factors set forth in Section 5 of these Rules, the Board may award Financial Assistance to the Applicant provided the following requirements are satisfied:

~~A. —~~

~~B. — In approving an Application for Financial Assistance, the Board must find that the~~

~~C. — Public Project is important to the overall capital needs of the citizens of the state. The Board will give priority to those Public Projects which directly enhance the health and safety of the citizens of the state, (or which promote economic development,) within the state.~~

~~D. —~~

~~E. — In determining the qualifications for Financial Assistance, the Board may consider the ability of the Qualified Entity to secure financing from other sources and the costs of the Financial Assistance.~~

~~F. —~~

~~G. — Financial Assistance will only be made to Public Projects whose useful life will meet or exceed the average maturity of loans made or bonds purchased or issued by the Board. In approving an Application for Financial Assistance, the Board must find that the average useful life of the Public Project will meet or exceed the average maturity of loans made or bonds purchased or issued by the Board and must meet standards for reasonable costs set by the Board.~~

~~A. —~~

~~H.B. — In approving an Application, the Board must find that the Applicant has must show they have the ability to repay the loan extended or bonds issued, and that the proposed Financial Assistance is within parameters established in the NMFA's Loan Management Policies.~~

~~I. — In connection with an Application for Financial Assistance submitted by an Indian Nation, tribe or pueblo, the NMFA may approve Financial Assistance based upon the NMFA's determination that repayment is adequately secured ~~secured as detailed in the NMFA's Loan Management Policies.~~~~

~~J. —~~

~~C. — In approving such Applications, the NMFA will require as conditions of either application approval or closing of the Financial Assistance transaction, waivers of sovereign immunity and exhaustion of tribal remedies, and other assurances of the availability of state court remedies satisfactory to the NMFA, in NMFA's sole discretion.~~

~~K. — In connection with an Application for Financial Assistance submitted by a charter school, the NMFA may approve Financial Assistance based upon the NMFA's determination that repayment is adequately secured by a first mortgage on the Public Project and as provided in the NMFA's Loan Management Policies.~~

~~L. As further provided in the NMFA's Loan Management Policies, agreements~~
Agreements for

M.D. Financial Assistance shall include appropriate provisions for maintenance of separate project accounts in accordance with applicable accounting principles, delivery of annual audit information relating to the Public Project, insurance, title or legal occupancy arrangements, prohibitions against discrimination in contracts and subcontracts, posting of performance bonds, and other measures necessary or appropriate to assure compliance with the Act, these Rules, applicable policies of the NMFA, and other applicable laws and regulations.

SECTION 10. SECTION 10. APPEALS

A. An Applicant may appeal to the NMFA Chief Executive Officer ("CEO") the Staff's decision not to recommend its Application for consideration by the Public Lending Committee by notifying the NMFA CEO in writing of the appeal within thirty (30) days following the receipt of written notice of the decision not to recommend the Application. The notice of appeal shall include any reasons and documentation supporting the position that the Application satisfies the requirements of these Rules and the applicable provisions of the NMFA's Loan Management Policies. An Applicant's appeal will be considered by the NMFA CEO within ten (10) days after the notice of appeal is received.

B. Following consideration of a timely filed appeal, the NMFA CEO shall either consider the Application as provided in Section 5(E) of these Rules or reject the appeal. The NMFA CEO shall provide to the Applicant written notice of the rejection of an appeal within five (5) business days following such rejection.

C. An Applicant may appeal the NMFA CEO's decision not to recommend its Application by submitting a notice of appeal to the Board within ten (10) business days following receipt of the notice of that decision, which notice of appeal shall include any reasons and documentation supporting the position that the Application satisfies the requirements of these Rules and the applicable provisions of the ~~NMFA's Loan Management~~ Policies. An Applicant's appeal to the Board will be considered by the Board at its first scheduled meeting occurring ten (10) days or more after the notice of appeal is received.

SECTION 11. FINANCIAL ASSISTANCE AGREEMENT

A. The NMFA will provide Financial Assistance only pursuant to an agreement establishing the terms and conditions of Financial Assistance that satisfies the requirements of the Act, these Rules, the ~~NMFA's Loan Management~~ Policies and other applicable requirements. At a minimum, the agreement will include the terms of repayment and remedies available to the NMFA in the event of a default. ~~t.~~ The NMFA will monitor terms of the agreement and enforce all terms and conditions thereof, including prompt notice and collection. The NMFA will take actions as necessary

to ensure loan repayment and compliance with the Act, these Rules, and the ~~NMFA's Loan Management~~ Policies.

B. The interest rate on Financial Assistance shall be determined by the Board as outlined in Section 8 above, and in accordance with the ~~NMFA's Loan Management~~ Policies.

SECTION 12. ADMINISTRATIVE FEES AND COST OF ISSUANCE ASSISTANCE

A. The NMFA may impose and collect a reasonable application fee in connection with the filing of an Application for Financial Assistance with the NMFA. The NMFA also may impose and collect an administrative fee from each Qualified Entity that receives Financial Assistance from the Program as compensation for the cost of administering the Financial Assistance for each recipient. Administrative fees may be imposed as a percentage of the principal amount of the Financial Assistance provided to the Qualified Entity on a one-time basis to be withheld from the principal amount of the Financial Assistance and retained by the NMFA, or as an annual fee equal to a percentage of the outstanding principal amount of a loan, not to exceed 0.75 percent of the outstanding principal amount of the loan, as further provided in the ~~NMFA's Loan Management~~ Policies.

B. The NMFA may provide costs of issuance assistance to Qualified Entities. Costs of issuance include the costs of originating Financial Assistance and the funding of Financial Assistance from proceeds of bonds (whether through reimbursement of the PPRF for moneys loaned from that fund, direct funding of Financial Assistance from bond proceeds, or other methods).

- (1) The aggregate amount of cost of issuance assistance paid from the PPRF for a single Qualified Entity in any one fiscal year shall not exceed two hundred thousand dollars (\$200,000).
- (2) The aggregate amount of costs of issuance assistance paid from the PPRF in any fiscal year shall not exceed three hundred fifty thousand dollars (\$350,000) without prior approval of the Board.

C. The NMFA may establish such other charges, premiums, fees and penalties as it shall deem necessary for the administration of the Program, as provided in its ~~Loan Management~~ Policies.

SECTION 13. AMENDMENT OF RULES

-These Rules may be amended or repealed at any time by the NMFA, with the prior approval of the Oversight Committee.