

RULES
GOVERNING THE
LOCAL GOVERNMENT PLANNING FUND
AS ADOPTED ON
DECEMBER 15, 2005
BY THE BOARD OF DIRECTORS
OF THE
NEW MEXICO FINANCE AUTHORITY
AND APPROVED BY THE
NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE
ON
NOVEMBER 2, 2005

SECTION 1. AUTHORITY FOR AND PURPOSE OF RULES

The Local Government Planning Fund (the "Fund"), originally called the Water and Wastewater Planning Fund, was created by Laws 2002, Chapter 26, as amended by Chapter 180 (the "Act"). Pursuant to the Act, the Authority is required to establish rules necessary to administer the Fund. The purpose of these Rules, which may be supplemented by Authority Board policies as provided herein, is to define the terms and conditions under which the Authority will make grants available from the Fund and to govern the implementation and administration of the Fund. These Rules do not apply to other programs established by the Authority.

SECTION 2. DEFINITIONS

- A. "Applicant" means a Qualified Entity which has filed a request for a Planning Grant from the Authority;
- B. "Application" means a written document filed with the Authority by an Applicant for the purpose of obtaining a Planning Grant to evaluate and to estimate the costs of implementing the most feasible alternatives for meeting Water and Wastewater Public Project needs or to develop Water Conservation Plans, Long-Term Master Plans or Economic Development Plans; an Application may include a form prescribed by the Authority, written responses to requests for information by the Authority, or other format as determined by the Authority;
- C. "Authority" means the New Mexico Finance Authority;
- D. "Board" means the New Mexico Finance Authority Board of Directors created by the New Mexico Finance Authority Act;
- E. "Economic Development Plan" means a proposed economic development project, as defined under the Local Economic Development Act, Sections 5-10-1 to 5-10-13, NMSA 1978, or feasibility study designed to determine the viability, need and impact of a proposed economic development opportunity;
- F. "Fund" means the Local Government Planning Fund;
- G. "GGRT" means the portion of the Governmental Gross Receipts Tax received by the Authority pursuant to Section 7-1-6.38, NMSA 1978, as amended.
- H. "Local Average Annual Residential Rate" means the amount, on an annualized basis, a residential customer of a Planning Grant Qualified Entity would pay for 6,000 gallons of water or wastewater service per month;

- I. "Local Median Household Income" means the median household income, as determined by the Board, for the relevant service area of the Planning Grant Qualified Entity;
- J. "Long-Term Master Plans" means a plan that evaluates the infrastructure needs of a Qualified Entity that is anticipated to exist for a period of at least 5 years, and methods of addressing such needs;
- K. "Oversight Committee" means the joint interim legislative committee established pursuant to § 6-21-30 NMSA 1978;
- L. "Planning Grant" means financial assistance from the Authority in the form of a grant pursuant to Laws 2005, Chapter 180, and these Rules for the purpose of financing a Planning Document;
- M. "Planning Grant Agreement" means an agreement between the Authority and an Applicant for a Planning Grant providing for the terms and conditions of the use and reimbursement of the Planning Grant;
- N. "Planning Grant Qualified Entity" means a Qualified Entity excluding water or wastewater systems to whom a grant would constitute an impermissible donation within the meaning of Section 14, Article IX of the Constitution of the State of New Mexico;
- O. "Planning Document" means a project to evaluate and to estimate the costs of implementing the most feasible alternatives for meeting water and wastewater public project needs or to develop a Water Conservation Plan, Long-Term Master Plan or Economic Development Plan for the Planning Grant Qualified Entity;
- P. "Qualified Entity" means the state or any agency or institution of the state or any county, municipality, school district, special district, community water association or 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;
- Q. "Rules" means these Rules Governing the Local Government Planning Fund;
- R. "State Average Residential Rate for Water or Wastewater" means the average residential rate for water or wastewater service within the State as determined by the Authority.
- S. "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;

- T.. “Unmet Need” means the maximum amount of planning grant funding that an entity may receive for its project limited by the lesser of the planning grant limit or local match requirement;
- U.. "Water and Wastewater Public Project" means the acquisition, construction, improvement, alteration or reconstruction of assets of a long-term capital nature by a Planning Grant Qualified Entity for its water or wastewater system;
- V.. "Water Conservation Plan" means a comprehensive program, including training, change in maintenance practices or facilities, or landscape alteration, designed to reduce water consumption or operating costs through the implementation of conservation measures.

SECTION 3. PROJECT FUNDING AVAILABLE AND ELIGIBLE PROJECTS

Funding may be available for grants via the issuance of bonds in an amount not to exceed one million dollars (\$1,000,000) payable from an amount of GGRT not to exceed thirty-five percent (35%) of the GGRT deposited in the PPRF, which net proceeds of the bonds shall be deposited in the Fund and used for purposes of the Fund. Funding may also be made available from money appropriated by the legislature to the Fund or from any other public or private money dedicated to the Fund.

Because of the relatively small amount of Planning Grant funding that this stream of revenue will support, the total amount of Planning Grant funding available per 24 month period may not exceed \$50,000 unless the Board waives the requirement due to additional availability of funds or critical need. The Board shall have discretion to give priority to Planning Grant Qualified Entities that have not previously received Planning Grant funding, that have legally imposed deadlines to adopt a Water Conservation Plan, or that have historically not directly benefited from economic development programs within the respective community. Planning Grant funding may be made available only for the portion of a Planning Document that the Planning Grant Qualified Entity cannot cash fund, as determined by the Authority.

Any Planning Grant Qualified Entity that receives a Planning Grant from the Fund shall be required under a Planning Grant Agreement to reimburse the Fund for the amount of the Planning Grant when the entity receives financing from any source, unless the project funding is provided through the Authority or the Planning Document does not contemplate or require a subsequent project that requires additional funding. Pursuant to a Planning Grant Agreement, each Planning Grant Qualified Entity that receives a Planning Grant from the Fund shall be required to report annually to the Authority on the status of the project financing, if applicable.

Grants from the Fund may be made to Planning Grant Qualified Entities without specific authorization by law as required in Section 6-21-6 and 6-21-8, NMSA 1978.

SECTION 4. EVALUATION OF APPLICANT AND PROJECT

To be considered for a Planning Grant, a Planning Grant Qualified Entity must submit an Application to the Authority for financial assistance for a Planning Document. The Authority will analyze the Application to determine if the Planning Grant Qualified Entity has the financial capacity to fund the Planning Document completely from its available financial resources. The amount of the Planning Document that cannot be funded from available financial resources, such as unrestricted cash balances, will be considered to be the Planning Grant Qualified Entity's unmet need for that project. The maximum amount of a Planning Grant award that the Authority will provide for the Planning Document is the lesser of the Planning Grant Qualified Entity's unmet need or the Planning Grant limit of \$50,000 per entity per 24-month period.

All final Planning Documents must be in a form acceptable to the Authority.

SECTION 5. DETERMINATION OF QUALIFIED ENTITIES FINANCIAL NEED

5.1 Water and Wastewater Public Projects, Water Conservation Plans, and Long-Term Master Plans

To determine the amount of any Planning Grant award for an Applicant (except as provided in Section 5.2 of these Rules in connection with a Planning Document for an Economic Development Plan), the Authority will evaluate two criteria: Local Median Household Income and Local Burden Ratio. First, each Planning Grant Qualified Entity is placed in a Planning Grant category, as described below in Section 5.1, based on its Local Median Household Income. Second, the Authority will calculate the Local Burden Ratio of the Planning Grant Qualified Entity, as described in Section 5.2, to determine if the Planning Grant Qualified Entity is eligible to qualify for an additional Planning Grant award. These two calculations taken together provide the total Planning Grant award, if any.

(A) Local Median Household Income.

Based on the Planning Grant Qualified Entity's Local Median Household Income, the Authority will classify each Planning Grant Qualified Entity into one of the following three categories:

Category I - Planning Grant Qualified Entities with Local Median Household Incomes of less than ninety percent (90%) but greater than seventy-five percent (75%) of the State Median Household Income. Planning Grant Qualified Entities in this category may be eligible for a Planning Grant of twenty-five percent (25%) of their Planning Document cost, not to exceed the amount of the Planning Grant Qualified Entity's unmet need or the Planning Grant limit.

Category II - Planning Grant Qualified Entities with Local Median Household Incomes of less than or equal to seventy-five percent (75%) but greater than fifty percent (50%) of the State Median Household Income. Planning Grant Qualified Entities in this category may be eligible for a Planning Grant of fifty percent (50%) of their Planning Document cost, not to

exceed the amount of the Planning Grant Qualified Entity's unmet need or the Planning Grant limit.

Category III - Planning Grant Qualified Entities with Local Median Household Incomes of less than or equal to fifty percent (50%) of the State Median Household Income. Entities in this category maybe eligible for a Planning Grant of seventy-five percent (75 %) of their Planning Document cost, not to exceed the Planning Grant Qualified Entity's unmet need or the Planning Grant limit.

(B) Local Burden Ratio.

In addition to taking Local Median Household Income into consideration, the Authority will also consider the Planning Grant Qualified Entity's efforts to generate revenue streams sufficient to cash fund the Planning Document.

In evaluating local effort, the Authority will determine the Planning Grant Qualified Entity's local water or wastewater rate burden. The Authority will then compare the local rate burden with the state average rate burden as follows:

$$\text{Local Burden Ratio} = \frac{\frac{\text{Local Average Annual Residential Rate for Water or Wastewater}}{\text{Local Median Household Income}}}{\frac{\text{State Average Residential Rate for Water or Wastewater}}{\text{State Median Household Income}}}$$

If the Local Burden Ratio for the Planning Grant Qualified Entity is greater than or equal to 1.0 but less than 1.5, then the Planning Grant Qualified Entity may be eligible to receive an additional twenty-five percent (25%) of its Planning Document in the form of a Grant, not to exceed the Planning Grant Qualified Entity's unmet need or the Planning Grant limit.

If the Local Burden Ration for the Planning Grant Qualified Entity is greater than or equal to 1.5 but less than 2.5, then the Planning Grant Qualified Entity may be eligible to receive an additional fifty percent (50%) of its Planning Document in the form of a Grant, not to exceed the Planning Grant Qualified Entity's unmet need or the Planning Grant limit.

If the Local Burden Ratio for the Planning Grant Qualified Entity is greater than or equal to 2.5, then the Planning Grant Qualified Entity may be eligible to receive an additional seventy-five percent (75%) of its Planning Document in the form of a Grant, not to exceed the Planning Grant Qualified Entity's unmet need or the Planning Grant limit.

Section 5.2 Economic Development Plan

To determine the amount of any Planning Grant award for an Applicant proposing an Economic Development Plan, the Authority may consider the following criteria in determining whether to provide a Planning Grant and the amount of the Planning Grant:

- (A) the unemployment rate within the community;
- (B) the median household income of the community;
- (C) the population of the community;
- (D) whether the community has taken steps to comply with the Local Economic Development Act, Sections 5-10-1 to 5-10-13, NMSA 1978 or has imposed an economic development gross receipts tax [citation]; and
- (E) the three-year trend of gross receipts tax collections within the community.

The Authority shall exercise its discretion, with the assistance of available resources, including the State Economic Development Department, in evaluating an Application for an Economic Development Plan consistent with the above-referenced criteria, which may be supplemented by policy of the Board, and shall approve Planning Grants to Qualified Entities based upon findings that such assistance will be effective in evaluating and addressing a substantial economic need of the Qualified Entity receiving the assistance.

SECTION 6. ADMINISTRATIVE FEES AND COSTS

Administrative fees and costs associated with any Planning Grant award under these Rules and Laws 2005, Chapter 180 will come from the Fund.

SECTION 7. PLANNING GRANT APPROVAL REQUIREMENTS

Based on Sections 4 and 5 above, the Board may award a Planning Grant to the Applicant provided the following requirements are satisfied.

- A. In approving a Planning Grant award, the Board must find that the Planning Grant Qualified Entity does not have the ability to cash fund the Planning Document with legally available funds.
- B. To be eligible for a Planning Grant, the Planning Grant Qualified Entity must agree to properly maintain separate project accounts in accordance with generally accepted accounting principles and to conduct an annual audit or review of the Applicant's financial records.
- C. In addition to the foregoing, the Planning Grant Qualified Entity must satisfy any other requirements as may be determined by the Authority.

SECTION 8. COOPERATION WITH STATE AGENCIES

The Authority or its staff may request the assistance of other state agencies, e.g. the Department of Finance and Administration, the New Mexico Environment Department, New

Mexico State Engineer or New Mexico Economic Development Department, in determining the sufficiency or adequacy of an applicant and/or application, as well as in evaluating the completed Planning Document.

SECTION 9. AMENDMENT OF RULES

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

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