

INFRASTRUCTURE AND TRANSPORTATION

NEW MEXICO FINANCE AUTHORITY
PUBLIC PROJECT REVOLVING FUND
LOAN MANAGEMENT POLICIES

A. PURPOSE

The statutory mission of New Mexico Finance Authority is to provide a necessary central mechanism to coordinate the planning and financing of public projects, and to provide financing for public projects in a manner that will not impair the capacity of the Public Project Revolving Fund to provide future financing to qualified entities for public projects. In the context of that mission, these Loan Management Policies set forth the criteria by which the NMFA may make Public Project Revolving Fund (“PPRF”) loans to qualified entities.

B. GOALS

The goal of these Loan Management Policies is to provide guidance to NMFA staff and borrowers regarding acceptable levels of risk, pricing and securitization of individual loans, and structuring enhancements within the PPRF program.

C. IMPLEMENTATION

These Loan Management Policies shall be implemented by the New Mexico Finance Authority Board 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 meeting at which the waiver is considered.

SECTION 1. APPLICATION PROCEDURES POLICY

Section 1.1 Overview:

The Applications Procedures Policy provides guidance to the NMFA and its Applicants on the information to be included in an application and determined to constitute a complete application.

Section 1.2 General Considerations.

The NMFA staff, based on the type of Applicant, the public project being proposed and the specific revenue stream being pledged, shall evaluate applications utilizing the process set forth below. Such evaluation will include, to the extent applicable, an evaluation of project feasibility, administrative capacity, financial position, debt management and economic and demographic factors.

A. Application Forms

1. The Authority will provide applications to its borrowers based upon the type of project seeking financial assistance.

B. Requirements for Complete Applications

1. PPRF borrowers shall submit applications provided by NMFA to apply for funding for specific Public Projects. NMFA staff shall deem an application complete if it:
 - i) is signed by the highest elected official or authorized officer of the entity;
 - ii) cites a specific loan amount being sought and a description of the proposed use or uses of the loan;
 - iii) identifies a specific, legally permissible source of funds for repayment of the proposed loan;
 - iv) lists all of the outstanding senior, parity or subordinate indebtedness secured by the proposed revenue stream, including bonds, lease purchase agreements and other loans, by name and principal amount (both the original principal amount and the currently outstanding amount) and the debt service schedule associated with each indebtedness;
 - v) contains a description of the Public Project or Public Projects to be financed or refinanced, including:
 - (a) description of the scope of work of the Public Project;

- (b) estimated cost of the Public Project; and
- (c) target date for the initiation of the Public Project and the estimated completion date;
- vi) includes the Applicant's audited financial reports for the most recent three years for which such reports are available or, where the Applicant is not subject to the State Audit Act or required by the State Auditor, internally prepared financial statements; and
- vii) includes additional information requested by staff based upon the type of Applicant and public project.

C. Evaluation of Application

1. Financial Position. Financial performance is a key factor in the evaluation of an Applicant. The evaluation process may differ by Applicant; credit evaluation factors will generally include some or all of the following:

- (i) review of total property tax collections (including delinquencies) compared to the levy for the past three years;
- (ii) current year property tax collections compared to the levy for that year;
- (iii) gross receipts and other tax collection trends and performance for the past three years;
- (iv) proportion of external revenues (such as state and federal grants) to total revenues; and
- (v) other user fees or revenues for the past three years.

2. Debt Management. The Applicant's debt management history and the credit-worthiness of any pledged funds will be examined. All debt obligations secured by the funds pledged to the financial assistance will be analyzed. To assess an Applicant's debt position, the following factors may be evaluated:

- (i) gross direct and overlapping debt to full assessed value of property within the Applicant's boundaries;
- (ii) all senior, parity and subordinate lien indebtedness to determine all applicable additional bonds tests and other covenants of the outstanding debt;
- (iii) all internal reserve funds to determine whether the Applicant has sufficient resources to cover unexpected costs;

- (iv) any applicable rate structure and the timing of all receivables to determine the predictability of cash flow; and
- (v) user fees that will be used to repay the loans will be analyzed to determine affordability of the Public Project and the level of flexibility that exists relative to future rate increases which may be needed for repayment or other uses of the fees.

3. Economic and Demographic Factors. Each Applicant will be examined on the basis of underlying economic and demographic factors including total property value per capita, growth in property valuation, growth in gross receipts tax revenues, growth in population, taxpayer mix, unemployment rate, and median household income. Each of these factors is intended to provide an indication of economic vitality in general, rather than the Applicant's financial condition.

Adopted: October 2005

SECTION 2. INTEREST RATE POLICY

Section 2.1 Overview:

The Interest Rate Policy guides NMFA in its setting of interest rates in a manner that is sensitive to the needs of the PPRF borrowers while protecting the long-term health and longevity of the PPRF by limiting the amount of time between the establishment of an interest rate on a loan and the establishment of the interest rate on the bonds issued by the NMFA to reimburse the PPRF for moneys advanced to originate that loan.

Section 2.2 General Considerations:

The goal of this Interest Rate Policy are: (1) to define the process under which NMFA sets market interest rates for its PPRF loans in a manner that will allow staff and PPRF loan Applicants to assess accurately Applicants' ability to undertake debt and to aid in the marketing of the program; (2) to set interest rates on all loans in a manner which tracks as closely as practical the interest rates paid by the NMFA for its bonds issued to reimburse PPRF loans.

A. Determination of Market Interest Rates

For fixed rate loan applications of \$5 million or less, the NMFA will set the market rate portion of the interest rate at the time of final loan adoption in the following manner:

1. The NMFA staff will set interest rates for market rate loans on a weekly basis. These Weekly Rates will approximate, as closely as practical, the rates that would be obtained if reimbursement bonds were to be issued the same week. The rates will be published on the NMFA's website each week.
2. The then-current Weekly Rate and a Maximum Rate will be stated in the materials presented to the Board and its Committees for their approval of the loan. The Maximum Rate will consist of the then applicable Weekly Rate plus a margin to provide for potential increases in rates by the time of loan closing. Staff will use the Maximum Rate for the purpose of determining whether coverage ratios for loan applications comply with the PPRF Debt Service Coverage and Additional Bonds Test Policies (Section 4 of these Loan Management Policies).
3. Following Board approval of a loan, the Maximum Rate will be "locked" for 90 days while the NMFA and borrower work together to close the loan. A Final Rate will be determined and communicated to the borrower five (5) days before the borrower's adoption of the ordinance or resolution authorizing the borrowing. The Final Rate the borrower will receive will be the Maximum Rate or the Weekly Rate then in effect, whichever is lower.

4. Any loan that does not close within the 90-day period may have its Maximum Rate reset at the discretion of the Chief Executive Officer.
5. The Investment Committee of the Board will monitor the Weekly Rates set by staff since the previous Board meeting. In addition, as soon as practical after the closing of each reimbursement bond issue, staff will prepare and the Investment Committee will review a report comparing the Final Rates set for each loan reimbursed by the bond sale with the actual rates obtained in the bond sale.
6. In certain instances in which an applicant is seeking to maximize the net loan proceeds available from a dedicated revenue stream and the Final Rate set on the loan is lower than the maximum interest rate used by staff to determine debt service coverage, the Board delegates to the Chief Executive Officer the authority to increase the market rate portion of the loan under the following conditions:
 - a. The staff must have specifically identified in its loan recommendation those instances in which this loan maximization might occur;
 - b. The Chief Executive Officer may not increase the loan amount by more than 10% of the Board's approval; and
 - c. The debt service coverage must be within the minimum requirements set by the Board.

B. Determination of Bond Rate Loans

For fixed rate loan applications of \$5 million or more, the NMFA will set the interest rate in the following manner:

1. The loans will be designated as "Bond Rate Loans."
2. The interest rate on Bond Rate Loans will be the same rate of interest received on the bonds issued to reimburse the Bond Rate Loans.
3. The NMFA and the borrower will close Bond Rate Loans after the NMFA Board approves the sale of the bonds issued to reimburse the loan and prior to or simultaneously with the closing of the bonds issued by the NMFA to reimburse the loan.
4. Compliance with the Debt Service Coverage and Additional Bonds Test Policy (Section 4 of these Loan Management Policies) will be determined during the marketing of the bonds and in no instance will the loan's debt service coverage drop below the amount set by the Board.

As provided for Market Rate Loans in Section 2.3 A 7 above, the Chief Executive Officer may increase the Bond Rate portion of the loan subject to the same conditions provided for Market Rate loans.

C. Determination of “Disadvantaged Entity” Interest Rates

As provided under the Rules and Regulations of the Public Project Revolving Fund, the NMFA may provide certain “Disadvantaged Qualified Entities” with up to \$200,000 per fiscal year in below-market interest rate loans. To maximize the benefit provided by this “Disadvantaged Entity” interest rate benefit, the NMFA may limit these reduced interest rates to loans of \$2 million or less. “Disadvantaged Qualified Entity” assistance will be determined as follows:

1. Up to \$200,000 per infrastructure loan or \$75,000 per equipment loan may be provided at a fixed 3% interest rate if the applicant’s Median Household Income, as determined by the NMFA, is greater than 75% but less than 90% of the State’s Median Household Income, as most recently determined by the US Bureau of the Census.
2. Up to \$200,000 per infrastructure loan or \$75,000 per equipment loan may be provided at a fixed 0% interest rate if the applicant’s Median Household Income, as determined by the NMFA, is 75% or less of the State’s Median Household Income, as most recently determined by the US Bureau of the Census.

D. Bond Reimbursements

1. The proactive, regular and frequent issuance of PPRF reimbursement bonds mitigates interest rate risk in the PPRF. The NMFA will issue senior and/or subordinate lien reimbursement bonds approximately 3 to 4 times per year, so long as the par amount of the reimbursed loans provides for an efficient pricing and structuring of the reimbursement bond.

Adopted: October 2005
1st Revision Date: July 2006
2nd Revision Date: January 2008
3rd Revision Date: October 2008

SECTION 3 STRUCTURING POLICY

Section 3.1 Overview

The NMFA recognizes Applicants have different borrowing needs and abilities and provides various structuring enhancements to its borrowers. This Structuring Policy identifies parameters under which NMFA staff may structure its PPRF loans.

Section 3.2 General Considerations.

In order to mitigate risk in the PPRF while maintaining a diverse pool of borrowers, the NMFA will take the following steps in structuring a transaction:

- A. Generally, the NMFA will require that its loans be on no less than a parity lien with all other lenders. Under certain circumstances, the NMFA may agree to accept a security pledge that is subordinate to the payment of another debt:
 - i) If the identified revenue pledge has a strong, positive historical trend and the overall coverage adheres to the debt service coverage and additional bonds test requirements outlined in Section 4.2 of the NMFA's Loan Management Policies; and
 - ii) If the identified subordinate revenue pledge is an additional revenue pledge required solely to achieve minimum debt service coverage and is not projected to be needed to make debt service payments; or
 - iii) If the senior lien debt is held by NMFA.
- B. Monthly receipt of loan payments from borrowers provides the NMFA with early detection of potential loan defaults. Generally, when such revenue stream is available, the NMFA will require its loans be paid monthly. Under certain circumstances, the NMFA may allow its borrowers to pay less frequently:
 - i) The loan is paid annually in advance of the year's principal and interest payments (e.g., State Fire Protection Funds or State Law Enforcement Funds);
 - ii) The requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments and the loan is structured with one of the following:
 - (a) a debt service reserve fund;
 - (b) insurance or surety policy; or

- (c) one of the three nationally recognized municipal bond rating agencies has assigned an underlying rating of at least a “AA” on the entity’s pledged revenue.
 - iii) For loans secured by a revenue stream that is not interceptable but has received at least an “A” rating from one of the three nationally recognized municipal bond rating agencies, the NMFA may agree to semi-annual payments, provided:
 - (a) the applicant agrees to automated payments through the Automated Clearing House; and
 - (b) the loan is structured with a reasonably required Debt Service Reserve Fund as outlined in Section 3.2 C of these Loan Management Policies.
 - iv) The requesting entity has created general obligation debt, secured by its taxing power and full faith and credit, whereby the entity is required by law to adjust the property tax levy sufficient to meet principal and interest payments due on all outstanding debt within the next year.
- C. To guard against any precipitous revenue declines affecting the ability of the entity to make its scheduled principal and interest payments on PPRF loans, NMFA will fund with loan proceeds, a reasonably required debt service reserve fund for all PPRF loans unless any one of the following conditions exist:
 - 1. The loan is less than \$100,000;
 - 2. The entity has created general obligation debt secured by its taxing power and full faith and credit, whereby the entity is required by law to adjust the property tax levy sufficient to meet principal and interest due on bonds within the next year;
 - 3. The requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments for a loan secured by a revenue with an underlying rating of at least a “AA-/Aa3” from one of the three nationally recognized rating agencies;
 - 4. The entity has agreed to purchase a surety policy to enhance the loan, in the type and manner acceptable to the NMFA; or
 - 5. The loan is secured by State Fire Protection Funds or State Law Enforcement Funds and has a minimum coverage of 2.0x.
- D. In lieu of a bond-funded debt service reserve fund, the NMFA may allow an entity to build its debt service reserve fund over a maximum of three years with excess revenues, provided:

1. The requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments; and
 2. It is determined that the use of excess revenue collections to build the debt service reserve fund will not impair the entity's ability to provide governmental services.
- E. In lieu of a bond-funded debt service reserve fund, the NMFA may allow an applicant that has secured at least a 'A/A2' rating from one of the three nationally recognized municipal bond rating agencies to structure into its loan a "Springing Reserve" which provides for the borrower to build a Reasonably Required Debt Service Reserve Fund over a maximum of two years if the coverage on its loan falls below 2x coverage.
- F. All loans will be structured utilizing an executed intercept agreement if the NMFA is statutorily allowed to intercept the pledged revenue (e.g., Gross Receipts Taxes, State Fire Protection Funds, State Law Enforcement Funds), however:
1. The NMFA may agree to hold an executed intercept agreement in abeyance while the borrower makes monthly principal and interest payments on its loan. If the borrower fails to make these agreed upon payments in a timely manner, the NMFA will immediately begin to intercept the pledged revenues pursuant to the intercept agreement for the duration of the loan.
 2. This "contingent" or "suspended" intercept arrangement will be made only to borrowers that have demonstrated ability to meet prior debt obligations and have sufficient staffing to manage timely loan payments.
- G. All loans approved by the Board except those specifically identified as equity loans, will be structured with the expected "pre-payment" or "call" options of the bonds anticipated to be issued to reimburse the PPRF.
- H. All NMFA-PPRF loans will require payment at closing by the borrower of a processing fee equal to 1.5% of the principal amount of the loan up to \$5 million. The borrower has the option of making the payment by paying cash or capitalizing the fee into the loan. If the borrower elects to capitalize the fee, the fee must be added to the total loan amount.
- I. The NMFA may structure a loan with mandatory loan pre-payments or "super-sinker" options, if:
1. The requesting entity is pledging a revenue stream that cannot be used for any other purpose or which expires at some point in the future;
 2. The requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments;
 3. It is determined that the use of excess revenue collections for pre-payments will not impair the entity's ability to provide governmental services;

4. It is determined that the structure or use of a “super sinker” doesn’t affect the tax status of the bonds;
5. All revenues collected in excess of the loan payment will be applied to mandatory pre-payments unless explicitly approved by the NMFA Board;
6. All pre-payments will be applied to the principal due on of the loan at the discretion of the NMFA and NMFA will continue to apply excess revenue collections as monies become available until the loan is fully discharged; and
7. NMFA assumes a maximum of a 1% per annum rate of return on funds it may hold for future debt service pre-payments.

J. Pursuant to the General Indenture of Trust or the Subordinated Indenture of Trust, the NMFA shall manage all program and debt service accounts. Under certain instances, the NMFA may allow its borrowers to manage or direct the investment of program funds:

1. Any entity requesting to manage or invest loan proceeds pending their use must covenant in its debt agreements with NMFA that it will adhere to the General Indenture of Trust or the Subordinated Indenture of Trust as appropriate and will provide all information and reports necessary for the NMFA’s tax filings; and
2. If the requesting entity has demonstrated ability to meet prior debt obligations and has sufficient expertise either on staff or available through its trustee or financial advisor contracts to manage the investment of program funds.

K. The NMFA may require bond insurance or some additional form of security for a loan, including additional reserves, springing reserves, letters of credit or collateral if legally available, if the NMFA determines that the primary revenue pledge:

1. Is insufficient to meet the proposed debt service over the life of the loan; or
2. Is subject to appropriation risk, unless the project has an underlying rating of at least a ‘AA-/Aa3’ by one of the three nationally recognized municipal bond rating agencies.

Adopted: October 2005
1st Revision Date: January 2008
2nd Revision Date: October 2008

SECTION 4. DEBT SERVICE COVERAGE & ADDITIONAL BONDS TEST POLICY

Section 4.1 Overview

The Debt Service Coverage & Additional Bonds Test Policy establishes minimum levels of excess revenue coverage requirements for different revenues pledged to secure the loans or bonds held within the PPRF and establishes tests under which borrowers are able to issue additional debt secured by revenues pledged to a PPRF loan.

Section 4.2 General Considerations

The goal of this Coverage and Additional Bonds Test Policy is to identify minimum coverage requirements for loans based on the underlying revenue pledge.

A. Coverage Policy

The NMFA structures its PPRF loans to allow for some decline of the pledged revenue without affecting the entity's ability to pay debt service. Based upon certain factors such as appropriation risk, revenue stability, management history or essentiality of public project, the NMFA may require higher coverage requirements and additional bonds tests.

1. The NMFA will structure its loans so that at a minimum, historical revenues will exceed the maximum annual debt service (MADS) due during the life of the loan by the following percentages:

i)	Governmental Gross Receipts Tax	120% of MADS (1.2x)
ii)	Fire Protection Funds	125% of MADS (1.25x)
iii)	Law Enforcement Funds	125% of MADS (1.25x)
	Gross Receipts Tax	125% of MADS (1.25x)
iv)	Lodger's Tax	125% of MADS (1.25x)
v)	Mil Levy	125% of MADS (1.25x)
vi)	Net System Revenues	130% of MADS (1.30x)
vii)	General Obligations	100% of Annual Debt Service (1x)
2. In the senior lien of the PPRF, the NMFA will not consider projected growth in revenue streams to determine minimum loan coverage percentages.

3. In the subordinate lien of the PPRF, the NMFA will structure its loans so that at a minimum, the historical revenues will exceed the maximum annual debt service (MADS) due during the life of the loan in the following percentages:

i)	Governmental Gross Receipts Tax	120% MADS (1.20x)
ii)	Fire Protection Funds	125% of MADS (1.25x)
iii)	Law Enforcement Funds	125% of MADS (1.25x)
iv)	Gross Receipts Tax	125% of MADS (1.25x)
v)	Mil Levy	125% of MADS (1.25x)
vi)	Lodger's Tax	125% of MADS (1.25x)
vii)	Net System Revenues	130% of MADS (1.30x)
viii)	General Obligations	100% of Annual Debt Service (1x)

4. In the subordinate lien of the PPRF, the NMFA may consider estimated or projected revenues to determine minimum coverage requirements if a three-year historical average is either not available or if circumstances have changed significantly within the last three years that would justify the forecasting of revenue growth to achieve minimum coverage requirements. For example, an entity may have imposed a tax or rate increase that has not been reflected in financial statements. Under these circumstances, the NMFA will structure its loans so that at a minimum the projected revenues will exceed the maximum annual debt service (MADS) due during the life of the loan in the following percentages:

i)	Fire Protection Funds	150% of MADS (1.50x)
ii)	Law Enforcement Funds	150% of MADS (1.50x)
iii)	Gross Receipts Tax	150% of MADS (1.50x)
iv)	Lodger's Tax	150% of MADS (1.50x)
v)	Mil Levy	150% of MADS (1.50x)
vi)	Net System Revenues	200% of MADS (2.00x)

B. Additional Bonds Test

NMFA recognizes that public entities must utilize all legally available revenue streams to fund their governmental services and secure funding for their public projects.

1. The NMFA will allow entities to secure additional parity debt utilizing a security pledged to a PPRF loan, so long as the entity has collected in any 12 consecutive month period during the past 24 months, sufficient revenue to pay all Maximum Annual Debt Service (MADS) on the existing and proposed debt with the minimum following coverage levels:

- | | | |
|-------|---|-------------------------------------|
| i) | Governmental Gross Receipts Tax | 120% of MADS (1.2x) |
| ii) | Fire Protection Funds | |
| (a) | 125% of MADS (1.25x) if the NMFA loan is less than \$100,000 or is secured with a reasonably required debt service reserve fund | |
| (b) | 200% of MADS (2.00x) if the NMFA loan is greater than \$100,000 and does not have a debt service reserve fund | |
| iii) | Law Enforcement Funds | |
| (a) | 125% of MADS (1.25x) if the NMFA loan is less than \$100,000 or is secured with a reasonably required debt service reserve fund | |
| (b) | 200% of MADS (2.00x) if the NMFA loan is greater than \$100,000 and does not have a debt service reserve fund | |
| iv) | Gross Receipts Tax | 125% of MADS (1.25x) |
| v) | Lodger's Tax | 125% of MADS (1.25x) |
| vi) | Mil Levy | 125% of MADS (1.25x) |
| vii) | Net System Revenues | 130% of MADS (1.30x) |
| viii) | General Obligation Bonds | 100% of Annual Debt Service (1.00x) |

C. Rate Covenants

The NMFA requires borrowers with loans secured by net system revenues to agree to increase their rates should they fall below the minimum required coverage as outlined in Section 4.2 B 1(ix) of these Loan Management Policies.

Adopted: October 2005
Revised: October 2008

SECTION 5. PORTFOLIO DIVERSITY POLICY

Section 5.1 Overview:

The Portfolio Diversity Policy provides guidance to protect the PPRF by maintaining a diverse pool within the program that limits the amount of concentration risk to which the NMFA may be exposed to by any one borrower or pledge type, at the senior and subordinate liens of the program.

Section 5.2 General Considerations

In order to protect the PPRF and maintain a diverse pool of borrowers, the NMFA will abide by the following internal limits which shall be applied separately to the senior and subordinate liens:

- A. No single borrower may constitute more than 20% of the aggregate pledged revenues collected in any single year, regardless of the pledge of the borrower, unless the underlying borrower has a bond rating of “A-/A3” from one of the three nationally recognized rating agencies, at which time it may not constitute more than 25%, or a bond rating of at least a “AA-/Aa3” from one of these rating agencies at which time it may not constitute more than 30%.
- B. No single borrower may constitute more than 25% of the aggregate debt service due in the next year on PPRF bonds, unless the underlying borrower has a bond rating of at least an “A-/A3” from one of the three nationally recognized bond rating agencies at which time it may not constitute more than 35%, or a bond rating of at least a “AA-/Aa3” from one of these rating agencies at which time it may not constitute more than 45%.
- C. No single pledge type shall constitute more than 50% of the aggregate pledged revenues collected in any single year.

Section 5.3 Annual Compliance Testing

The NMFA shall prepare an analysis of the pledged revenues as part of the NMFA’s annual audit to assure compliance with this Portfolio Diversity Policy.

Adopted: October 2005

SECTION 6. LOAN REFINANCING POLICY

Section 6.1 Overview:

The Loan Refinancing Policy provides guidance to NMFA staff and its Applicants regarding the use of the PPRF to refinance existing loans, bonds or other debt obligations in a manner that is responsive to the needs of the PPRF borrowers while protecting the long-term financial health and capacity of the PPRF.

Section 6.2 General Considerations:

The PPRF provides significant subsidy to its clients through a variety of loan structuring enhancements and disadvantaged funding. The loans made by the PPRF achieve an interest rate that is among the best available in the marketplace. To protect the PPRF while addressing the refinancing needs of New Mexico's communities, the NMFA will follow these guidelines when providing the extension of a new loan to refinance an existing debt:

A. Refinancing PPRF Loans:

1. An existing PPRF loan may not be refinanced utilizing a new PPRF loan solely to reduce the interest rate or improve upon the original terms of the PPRF loan unless done so in connection with a PPRF bond issue in which the prior bonds will be paid or defeased.
2. An existing PPRF loan may be refinanced utilizing a new PPRF loan if the intent is to restructure the loan terms to prevent a default. In this instance, the NMFA will not seek to reimburse itself for the "refinancing" loan and will use the funds derived from the refinancing of the original loan to relend to other borrowers.

B. Refinancing Non-PPRF Obligations:

1. A non-PPRF obligation may be refinanced utilizing a PPRF loan if:
 - i) The maximum term of the "refinancing" loan does not exceed the useful life remaining on the asset(s) originally financed;
 - ii) The minimum net present value savings on obligations refinanced solely for economic savings must be at least 3%;
 - iii) Obligations refinanced for technical reasons may not be required to realize a minimum net present value savings on the refunded loan; and

- iv) Disadvantaged Funding and NMFA Costs of Issuance Assistance will not be extended on the refinancing loan in either PPRF or non-PPRF loan refinancing.

Adopted: October 2005
Revised: October 2008

NEW MEXICO FINANCE AUTHORITY
PUBLIC PROJECT REVOLVING FUND
DEBT MANAGEMENT POLICY

A. PURPOSE

The statutory mission of New Mexico Finance Authority is to provide a necessary central state mechanism to coordinate the planning and financing of public projects for qualified entities, and to provide financing for public projects in a manner that will not impair the capacity of the Public Project Revolving Fund ("PPRF"). In the context of that mission, this Debt Management Policy (the "Debt Management Policy") sets forth the parameters for issuing debt and managing the outstanding Public Project Revolving Fund debt portfolio. The PPRF debt portfolio currently includes bonds issued under a General Indenture of Trust and Pledge (the "Senior Lien PPRF Program") and bonds issued under a Subordinated General Indenture of Trust and Pledge (the "Subordinate Lien PPRF Program"). The purpose of the Debt Management Policy is to provide guidance to decision makers regarding the purposes for which debt may be issued, the types and amounts of debt permitted, the timing and methods of sale that may be used, and structural features that should be considered under different circumstances. Adherence to the Debt Management Policy will help to ensure that the NMFA creates and maintains a sound debt position for the PPRF and that the credit quality of the PPRF Program and the outstanding PPRF debt will be protected.

This Debt Management Policy also provides guidance to decision makers with respect to the issuance of variable rate debt instruments in a manner that complies with the Public Securities Short-Term Interest Rate Act, Sections 6-18-16, NMSA 1978, and furthers the statutory mission of the NMFA.

This Debt Management Policy supersedes the debt management policy adopted by the NMFA's Board of Directors on May 26, 2005 and last revised on April 27, 2006.

The specific purposes of this Debt Management Policy are to:

- ◆ Institute debt management guidelines for the PPRF Program,
- ◆ Ensure high quality debt management decisions, including full and timely repayment of all borrowings and achievement of lowest possible cost of capital within established risk parameters,
- ◆ Impose order and discipline in the debt issuance process, while maintaining responsiveness to qualified borrowers,
- ◆ Promote consistency and continuity in the decision making process,

- ◆ Comply with and obtain the benefits of the Public Securities Short-Term Interest Rate Act by achieving savings in interest cost to the NMFA and other debt management benefits that may be achieved through the use of variable rate debt instruments,

- ◆ Demonstrate a commitment to long-term financial planning objectives, and

- ◆ Ensure that the debt management decisions are viewed positively by rating agencies and the investment community.

B. DEBT MANAGEMENT GOALS

The goals of this Debt Management Policy are to maintain and enhance future borrowing capacity for the PPRF Program through (i) planned, periodic issuances of PPRF bonds to reimburse the PPRF for loans previously originated, focusing on reimbursement at advantageous rates, where practicable; (ii) the financing of loans that have special credit risk concerns, with bonds that have corresponding features, secured with a subordinate lien under the Subordinate Lien Indenture, in order to contain the specific financing costs of such loans and avoid spreading such costs to the overall PPRF Program; and (iii) the selective refunding of outstanding PPRF bonds at advantageous rates.

C. IMPLEMENTATION

This Debt Management Policy shall be implemented by a Debt Management Committee, which shall utilize comprehensive debt management techniques to accomplish the following objectives:

- ◆ Full and timely payment of principal and interest on all outstanding PPRF debt;

- ◆ Debt shall be incurred only for those purposes provided by statutes establishing the PPRF, statutes authorizing issuance of debt by the NMFA and as otherwise permitted by law;

- ◆ Principal retirement schedules (other than for variable rate PPRF debt) shall be structured to: (1) match loan repayment revenues for loans being financed or reimbursed, (2) achieve a low borrowing cost for PPRF debt, and (3) respond to market demand;

- ◆ Debt shall generally be limited to obligations with serial and term maturities but may be sold in the form of capital appreciation bonds or other structures if circumstances warrant;

- ◆ The NMFA shall communicate periodically with bond rating agencies (Moody's, Standard & Poor's and Fitch) to ensure complete and clear understanding of the credit worthiness of the PPRF Program; and

- ◆ Financial reports and bond offering documents shall provide full, complete and accurate disclosure of financial conditions and results. All reports shall conform to the disclosure needs of rating agencies, underwriters and investors.

D. DEBT MANAGEMENT COMMITTEE RESPONSIBILITIES UNDER THE DEBT MANAGEMENT POLICY

1. Purpose of Debt Management Committee

The purpose of the Debt Management Committee is to implement and maintain this Debt Management Policy and to review and recommend to the Chief Executive Officer of the NMFA and the NMFA Board of Directors, the structuring plans for all debt offerings related to the PPRF Program and, to the extent necessary, for refunding and restructuring outstanding PPRF Bond debt.

2. Responsibilities

The responsibilities of the Debt Management Committee shall be to:

(a) Implement and maintain debt management techniques in accordance with this Debt Management Policy;

(b) Review and evaluate results of PPRF debt financing operations including, but not limited to:

> Issuance of long-term and short-term debt obligations,

> Selection of bond type, structure, methods of sale and marketing of bonds, establishing benchmarking where appropriate, and

> Investor and rating agency communications;

(c) Review and evaluate services provided by Financial Advisors, Bond Counsel, Disclosure Counsel, Tax Counsel, Underwriters, Trustees, Remarketing Agents, Auction Agents and other service providers in bond and related financial transactions for effectiveness and quality of service, as needed;

(d) In connection with outstanding variable rate debt, review and evaluate the information set forth in Section G(2) of this Debt Management Policy on a monthly basis, and prepare a report to the NMFA concerning that information for each NMFA Board or relevant committee meeting;

(e) Annually review and, if necessary, suggest revisions to this Debt Management Policy based upon the Committee's review of operations and market conditions;

(f) Prepare an annual report to the NMFA on the following:

> Outcomes of previous year's financings,

- > All bond financings in progress or anticipated for the subsequent fiscal year,
 - > Balance of the Contingent Liquidity Account and recommendations for annual contributions and targeted CLA balance goals; and
 - > Any proposed changes to this Debt Management Policy.
- (g) In connection with Variable Rate and Credit Enhancement Products:
- > develop and recommend to the Board methods of procuring such products;
 - > develop and recommend to the Board appropriate disclosure practices with respect to such products;
 - > develop and recommend to the Board contingency plans for addressing a rising interest rate environment, including setting aside reserves; and
 - > develop and recommend to the Board methods of evaluation of the total costs of use of such products, including fees under expected and adverse scenarios
 - > develop and recommend to the Board amendments to the Debt Management Policy

3. Membership and Meetings.

The NMFA's Chief Executive Officer (or designee), the Chief Financial Officer, Chief Operating Officer, Chief of Programs, Chief Investment Officer, Chief Financial Advisor and General Counsel are appointed as the Debt Management Committee. In addition, the Board of Directors may appoint one or more Board members to the Debt Management Committee. The Committee shall meet monthly concerning the information to be reviewed and evaluated pursuant to Section G(2) of this Policy.

E. CREDIT RATINGS

The NMFA plans to carry out the following actions and otherwise to actively manage the outstanding debt in order to maintain or improve the ratings on Bonds issued under the PPRF Program.

1. The NMFA shall make every reasonable effort to maintain or improve the underlying high quality long-term ratings on outstanding PPRF debt;

2. The NMFA shall continue to apply for ratings on PPRF bonds which have been rated by one or more of the rating agencies in the past;

3. The NMFA shall maintain a line of communications with Moody's, Standard & Poor's and Fitch or such other agencies that provide credit ratings from time to time for the outstanding PPRF debt (the "Bond Rating Agencies") and all entities providing credit enhancement from time to time in connection with the outstanding PPRF debt (the "Credit Enhancement Providers"), informing them of major financial events affecting the outstanding PPRF debt and borrowers who have outstanding PPRF loans as such events occur. All communications, both oral and written, in response to requests for information shall be made by the NMFA Chief Executive Officer or his designee;

4. The NMFA shall report annually all financial information, including its comprehensive annual financial report after acceptance by the NMFA Board of Directors to the Bond Rating Agencies and Credit Enhancement Providers;

5. The NMFA shall provide full disclosure of operations to the Bond Rating Agencies and Credit Enhancement Providers. The NMFA staff, with the assistance of underwriters, financial advisors, swap advisors, disclosure counsel, bond counsel, issuer's counsel and/or tax counsel, shall prepare the necessary materials for presentations to the Bond Rating Agencies and the Credit Enhancement Providers; and

6. The NMFA shall notify the Bond Rating Agencies by telephone or through written correspondence when the NMFA begins preparation for an issue of PPRF Bonds. After the initial contact, the draft of the preliminary official statement relating to the bond sale to the Bond Rating Agencies will be delivered. A personal meeting with the Bond Rating Agencies should be scheduled at least once every year as well as whenever a new type of financing is initiated.

F. FIXED VS. ADJUSTABLE RATE DEBT MIX

The NMFA's PPRF Program currently offers fixed rate loans which are reimbursed using fixed rate revenue bonds. Given the nature of the PPRF's current reimbursement structure, the NMFA will not issue adjustable rate bonds to reimburse fixed rate loans.

NMFA believes that for certain large and sophisticated borrowers some amount of variable rate debt in their overall debt mix may be prudent and conservative. The NMFA may consider variable rate loans to those borrowers, subject to approval by the NMFA Board of Directors. Based on the current debt ratings and the Bond Rating Agencies views on adjustable rate debt, the NMFA will not have unhedged adjustable rate debt in excess of 20% of the aggregate outstanding principal amount of debt issued under the PPRF Program. The NMFA will also evaluate the total amount of PPRF moneys available for investment in short term instruments, to determine the appropriate fixed vs. adjustable rate debt mix. The limitation on the amount of unhedged adjustable rate debt will be reviewed periodically and adjusted with the approval of the NMFA Board, based upon input from rating agencies.

G. MANAGEMENT OF RISK IN THE PPRF PROGRAM

1. General Considerations. In order to provide for a regular and proactive plan for reimbursement bond issues, more streamlined approval process, and closer timing of loan and bond closings and matching of interest rates of loans and reimbursement bonds, the NMFA will take the following steps:

(a) Develop schedule for issuing PPRF reimbursement bonds approximately each quarter over the next 12-24 months

> The Board may adopt periodic intent resolutions authorizing staff and consultants to bring bond transactions to the Board for approval, specifying the purposes and approximate amounts of bonds to be approved by the Board in a subsequent bond resolution. Such intent resolutions are expected to be adopted on approximately a quarterly basis

> Intent resolutions will include authority to prepare disclosure documentation as needed prior to each sale

> The Board will approve an authorizing resolution for each series approximately one month prior to bond pricing. Each authorizing resolution should be accompanied by a near-final Preliminary Official Statement or other disclosure documentation for review and comment by the Board

> The Board may adopt a sale resolution for each series of bonds prior to closing, which could occur approximately two to three weeks after adoption of each sale resolution.

(b) Implement short-term borrowing tools (e.g., bond anticipation note program, a commercial paper program, line of credit) to provide additional short-term borrowing capability for the PPRF, as an adjunct to regular bond issuance, to provide needed cash for the PPRF if market conditions or other factors militate against issuing bonds at a particular time. Short-term borrowing tools should be secured either by proceeds of periodic reimbursements bonds or by a subordinate lien on PPRF.

(c) Obtain cost modeling for regular or periodic use of short-term obligations and redemption with bonds.

(d) Where appropriate, use interest rate locks or interest rate cap agreements or other hedging devices to eliminate or reduce rate risk.

(e) Structure reimbursement bond series so that particular costs of loan features (e.g. variable rates, synthetic fixed rates with swaps) reflected in the interest rate on the reimbursement bonds are passed through, or in limited circumstances, shared with borrowers requesting those features.

> Loans providing right to prepay at any time may be reimbursed with variable rate bonds or fixed rate bonds allowing extraordinary redemption upon loan prepayment;

> Variable interest rate loans may be offered to sophisticated borrowers and may be reimbursed with variable rate bond series, the terms, risks and costs of which may be passed along to the borrowers requesting variable rate loans.

> Benefits of a swap from variable to synthetic fixed rate bonds may be offered to sophisticated borrowers who agree to be liable for all termination payments, basis risk, and other risks associated with such financial options.

> Provide structuring enhancement on loans for projects with state-wide impact

> Provide structuring enhancement to borrowers with unmet needs (equipment financings, borrowers with limited access to capital markets, difficult multi-borrower/regional projects)

2. Periodic Evaluation of Specific Information in Conjunction with Variable Rate Debt. The Debt Management Committee will meet at least monthly regarding the action items below and will provide periodic reports concerning those items at NMFA Board Meetings.

(a) Review the weekly floating rates;

(b) Review cash balances versus total adjustable exposure outstanding to analyze internal hedging. If total investment assets of 2-years or shorter are less than the total actual floating rate exposure, review additional risk management tools to reduce floating rate exposure;

(c) Review risk management opportunities for outstanding debt portfolio;

(d) Review additional educational opportunities regarding risk management tools.

H. CONTINGENT LIQUIDITY ACCOUNT

1. General Considerations. In order to provide a diverse mix of product structures, the NMFA may establish a Contingent Liquidity Account to be held outside of the General and Subordinated Indentures of Trust that will be available for a variety of purposes.

2. The Contingent Liquidity Account Funding Level

- (a) Beginning in fiscal year 2007, the Contingent Liquidity Account shall be funded at a level of \$20 million, growing annually by at least 25% of the prior year's Governmental Gross Receipts Tax distribution.
- (b) The amount of funds in the PPRF at any given point, including the Contingent Liquidity Account, may decline below the established Contingent Liquidity Account level as long as the NMFA reasonably expects to reimburse the draw on the Contingent Liquidity Account.

3. Uses of the Contingent Liquidity Account. The Contingent Liquidity Account will be available to the NMFA for the following general uses within the PPRF:

- (a) Debt service shortfalls
- (b) Replenishment of draws on debt service reserves or reserve sureties
- (c) Termination payments associated with termination of contractual payments associated with swap transactions.
- (d) Interest payments on variable rate debt when:
 - > Underlying borrower loans do not have the same payment schedule as the variable rate bond issued to fund or reimburse it; or
 - > Variable payments received, either from an underlying borrower or from a counterparty, are insufficient to cover the interest payments owed on the variable rate bonds

I. PARAMETERS AND CONSIDERATIONS FOR MANAGEMENT OF OUTSTANDING PPRF DEBT AND BONDS ISSUED UNDER THE PPRF PROGRAM

1. Determination of Lien Level. The NMFA will determine at which lien level to place PPRF loans based on several objectives, including:

- (a) Increasing the portfolio diversity of each of the PPRF lien level
- (b) Enhancing security of the PPRF program through non-reimbursed, or equity, loans
- (c) Achieving the highest ratings possible, while retaining sufficient program flexibility to continue meeting the PPRF programs lending objectives; and
- (d) Structural features associated with the underlying loan (e.g. all variable rate debt will, by necessity, be sold through the subordinate lien)

2. The Debt Management Committee shall report to the Board at least semi-annually on the major credits in each lien level and on the progress of diversity and equity goals in the program.

3. Long-Term Debt

(a) The term of debt may not exceed the term of the loans being financed or reimbursed

(b) Long-term debt may be issued on senior or subordinate lien

4. Variable Rate Debt

(a) All variable rate debt will be issued with terms on the loan matched to the terms on the bonds

(b) Variable rate will be issued on subordinate lien level

(c) Outstanding unhedged variable rate exposure will not exceed 20% of the aggregate outstanding principal amount of senior and subordinate lien debt

(d) Probability of occurrence analysis will be used by the Debt Management Committee in considering the impact of contingent variable rate exposure on the 20% unhedged variable rate limitation

(e) Acceptable variable rate products:

> Multi-modal variable rate demand bonds

> Auction rate securities

> Commercial paper

> Put bonds

(f) Factors to consider when considering variable rate debt:

> Balance in Contingent Liquidity Account

> Cash flow risk

> Balance sheet asset mix

> Rating agency considerations

> Liquidity Risk

- > Tax risk
 - > Financial sophistication of the underlying borrower on whose behalf variable rate debt is issued
- (g) Authorized Debt Instruments:
- > Current interest bonds
 - > Zero coupon and capital appreciation bonds
 - > Derivative Products, including interest rate swaps and hedging instruments (e.g. caps/ floors/ collars) provided the use and structure of the products are in accordance with the Board's adopted Derivatives Policy.

Adopted May 26, 2005
Revision Date: April 27, 2006
Third Revision Date March 2008

**Tax Compliance Policies
For Tax-Exempt Governmental Bonds
and Build America Bonds**

Purpose

Issuers of tax-exempt “governmental bonds” and taxable Build America Bonds (“BABs”) must comply with federal tax rules pertaining to expenditure of proceeds for qualified costs, rate of expenditure, use of bond financed property, investment of proceeds in compliance with arbitrage rules, and retention of records. The following policies are intended to establish compliance with these rules.

Expenditure of Proceeds for Qualified Costs

Expenditure of bond proceeds will be reviewed by NMFA’s Controllor.

- Bond proceeds will be disbursed pursuant to an approved form of requisition stating the date, amount and purpose of the disbursement.
- Requisitions must identify the financed property in conformity with the tax certificate executed by the issuer at closing, including any certifications as to the character and average economic life of the bond-financed property.
- Requisitions for costs that were paid prior to the issuance of the bonds are, in general, limited to costs paid subsequent to, or not more than 60 days prior to, the date a “declaration of intent” to reimburse the costs was adopted by the bond issuer. If proceeds are used for reimbursement, a copy of the declaration will be obtained and included in the records for the issue if not already part of the transcript.
- Requisitions will be summarized in a "final allocation" of proceeds to uses not later than 18 months after the in-service date of the financed property (and in any event not later than 5 years and 60 days after the issuance of the bonds).

Rate of Expenditure

- Expenditure of proceeds will be monitored against the tax certificate expectation to spend or commit 5% of net sale proceeds within 6 months, to spend 85% of net sale proceeds within 3 years, and to proceed with due diligence to complete the project and fully spend the net sale proceeds. Reasons for failure to meet the expected schedule will be documented and retained in the records for the issue.
- Expenditure of "available construction proceeds" will be monitored against the following schedule for the arbitrage rebate exception for construction issues if applicable:

10% within 6 months

45% within 12 months

75% within 18 months

100% within 24 months

Additional Requirements for Expenditure of Proceeds of Direct Payment BABs

Direct Payment BABs, which are taxable bonds for which the IRS pays the issuer a subsidy amount equal to 35% of the issuer's interest cost, are subject to all of the above policies on expenditures for qualifying costs plus additional policies as follows:

- Proceeds of Direct Payment BABs may be used only for capital expenditures, such as costs incurred to acquire, construct, or improve buildings, equipment, and land, together with limited amounts for costs of issuance and reserve funds. Interest earnings on Direct Payment BABs must also be used for capital expenditures. Proceeds of Direct Payment BABs cannot be used for operating expenses or other "working capital" costs. Requisitions for costs of a project financed with BABs will accordingly be monitored to confirm that they are for capital costs of the project.
- No more than 2% of the proceeds of Direct Payment BABs can be spent for costs of issuance ("COI"). Compliance with this rule will be established by recording COI paid from bond proceeds in a special account that will be measured against the 2% limit.
- Reserve funds cannot exceed the least of 10% of bond proceeds, maximum annual debt service, or 125% of average annual debt service. The initial funding of any reserve fund will be measured against this limit.
- In addition to new money capital expenditures, proceeds of Direct Payment BABs may be used (1) to reimburse prior capital expenditures under the general reimbursement rules (see prior section of this policy) and (2) to refinance temporary short-term obligation issued after February 17, 2009, to finance capital expenditures paid or incurred after that date.
- Direct Payment BABs may not be issued at more than a de minimis premium as defined. Compliance with this rule should be established at closing and would not normally require subsequent compliance activity.
- Tax Credit BABs, which are taxable bonds for which the IRS allows the bondholder a federal income tax credit equal to 35% of the bond interest, are not subject to these additional requirements and therefore can be issued for any purpose or project that could be financed with tax-exempt governmental bonds.
- Similarly to Direct Payment BABs, Tax Credit BABs may not be issued at more than a de minimis premium as defined.

Use of Bond-Financed Property

Use of bond-financed property when completed and placed in service will be reviewed by NMFA's Controller.

- Average nonexempt use of bond-financed property over the life of the issue cannot exceed 10% of the proceeds or in certain circumstances 5%.
- Agreements with business users for lease, management, sponsored research, or any other potential nonexempt use of bond-financed property will be reviewed prior to execution for compliance with the 10% limit, as set forth in the tax certificate for the issue.
- No item of bond-financed property will be sold or transferred to a nonexempt party without advance arrangement of a "remedial action" under the applicable Treasury regulations.

Investments

Investment of bond proceeds in compliance with the arbitrage bond rules and rebate of arbitrage will be supervised by NMFA's Investment Officer.

- Guaranteed investment contracts ("GIC") will be purchased only using the three-bid "safe harbor" of applicable Treasury regulations, in compliance with fee limitations on GIC brokers in the regulations.
- Other investments will be purchased only in market transactions.
- Calculations of rebate liability will be performed annually by outside consultants.
- Rebate payments will be made with Form 8038-T no later than 60 days after (a) each fifth anniversary of the date of issuance and (b) the final retirement of the issue. Compliance with rebate requirements will be reported to the bond trustee and the issuer.
- Identify date for first rebate payment at time of issuance. Enter in records for the issue.

Filings with Internal Revenue Service

Filings with the Internal Revenue Service will be the responsibility of the Trustee.

- For BABs issued after February 2010, Form 8038-B must be filed not later than the 15th day of the 2nd calendar month following the quarter in which the bonds were issued. Filing Form 8038-B will be confirmed with bond counsel.

- If the bond issue consists of both tax-exempt bonds and BABs, the issuer must report the tax-exempt portion on Form 8038-G and the BAB portion on Form 8038-B.

Additional Filing Requirements for Direct Payment BABs

- Form 8038-B must include a debt service schedule as set forth in the instructions to that form. See also Notice 2009-26 for more information. Compliance will be confirmed with bond counsel.
- Payment of the Direct Payment subsidy amount must be requested on Form 8038-CP as follows:
 - For fixed rate BABs, Form 8038-CP should be filed not less than 45 days (and not more than 90 days) prior to the applicable semiannual interest payment date.
 - For variable rate BABs, Form 8038-CP should be filed not more than 45 days after the last interest payment date within the quarterly period for which the subsidy payment is requested.
- The Form 8038-B associated with a Form 8038-CP filing must be filed at least 30 days prior to the submission of the first Form 8038-CP of the bond issue.

Additional filing requirements for Tax Credit BABs

- Form 8038-B must meet requirements for Tax Credit BABs under Notice 2009-26.
- No supplemental filings on Form 8038-CP are required for Tax Credit Bonds.

Records

Management and retention of records related to tax exempt bond issues will be supervised by NMFA's Controller.

- Records will be retained for the life of the bonds plus any refunding bonds plus three years. Records may be in the form of documents or electronic copies of documents, appropriately indexed to specific bond issues and compliance functions.
- Retainable records pertaining to bond issuance include transcript of documents executed in connection with the issuance of the bonds (including bond indenture, official statement, 8038-B, and tax certificate with election to issue bonds as Direct Payment BABs or Tax Credit BABs if applicable) and any amendments, copies of Form 8038-CP if applicable, and copies of rebate calculations and records of payments including Forms 8038-T.

- Retainable records pertaining to expenditures of bond proceeds include requisitions, trustee statements and final allocation of proceeds.
- Retainable records pertaining to use of property include all agreements reviewed for nonexempt use and any reviewed documents relating to unrelated business activity.
- Retainable records pertaining to investments include GIC documents under the Treasury regulations, records of purchase and sale of other investments, and records of investment activity sufficient to permit calculation of arbitrage rebate or demonstration that no rebate is due.

Overall Responsibility

Overall administration and coordination of this policy is the responsibility of NMFA's Chief Financial Officer.

Date

NEW MEXICO FINANCE AUTHORITY
PRIVATE PLACEMENT BOND POLICY

A. PURPOSE

The statutory mission of New Mexico Finance Authority is to provide a necessary central state mechanism to coordinate the planning and financing of public projects. To provide guidance in carrying out that statutory mission, this Private Placement Bond Policy sets forth the parameters for all non-public offerings of bond issues.

B. GOALS

The goal of this Private Placement Bond Policy is to provide guidance to NMFA staff and consultants regarding acceptable parameters under which any NMFA issued bond may be placed privately rather than sold publicly through a competitive or negotiated offering.

C. IMPLEMENTATION

This Policy shall be implemented by the New Mexico Finance Authority PPRF Debt Management Committee which will make recommendations to the Board regarding its effectiveness. This policy may be waived by the Board if it determines that a deviation from its adopted policies is warranted. Such waiver will be reflected in the minutes of the meeting that considers such waiver.

D. GENERAL CONSIDERATIONS

The Authority issues bonds of all sizes and varying credit levels and requires flexibility in the manner in which it offers its bonds so as to provide the most advantageous structure and interest rate for the Authority.

A. Though NMFA typically offers its bonds through public sales, the NMFA recognizes that the private placement of bonds may be more advantageous due to one or more of the following circumstances:

1. The Bonds issued are less than \$5 million;
2. The Bonds are secured with a low-rated revenue stream;
3. The Bonds are structured with minimal coverage requirements that require the careful examination of a sophisticated investor or lender.

B. The Authority recognizes that a small bond issue may have interest by both bond investors and lenders. As such, the Authority will have discretion as to how to direct the placement of the bonds within the following limits:

1. The Authority requires that when the bonds are purchased as investments:
 - a) that request for bids be accompanied by a limited offering memorandum;
 - b) be sold only to accredited investors as defined by the SEC;
 - c) be in minimum denominations of \$100,000; and
 - d) the investor agrees to not sell the bonds without the prior written consent of the Authority.
2. The Authority requires that when the bonds are purchased and held as taxable or tax-exempt loans:
 - a) that the request for bids be accompanied with sufficient credit information to allow the purchaser to reach its own credit decisions; and
 - b) be sold only to regulated lenders.

C. It is the intent of the Authority to provide investment opportunities within New Mexico. As such, the Authority will give priority in selecting lenders, purchasers or other security institutions based in New Mexico.

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 - a. The Bonds issued are less than \$5 million principal amount;
 - b. The Bonds are secured with a low-rated revenue stream; or
 - c. The Bonds are structured with minimal coverage requirements that require the careful examination of a sophisticated investor or lender.

2. The Authority recognizes that a small bond issue may attract interest from both bond investors and lenders. As such, the Authority will have discretion as to how to direct the placement of the bonds within the following limits:

- a. The Authority requires that when the bonds are purchased as investments by accredited investors that are not financial institutions:
 - i) that request for bids be accompanied by a limited offering memorandum;
 - ii) be sold only to accredited investors as defined by the SEC;
 - iii) be in minimum denominations of \$100,000; and
 - iv) the accredited investor agrees to not sell the bonds without the prior written consent of the Authority.
- b. The Authority requires that when the bonds are purchased by institutional investors or financial institutions:
 - i) that the request for bids be accompanied with sufficient credit information to allow the purchaser to reach its own credit decisions; and
 - ii) be sold only to institutional investors or financial institutions capable of reaching their own credit decisions.

3. It is the intent of the Authority to provide investment opportunities within New Mexico. As such, the Authority will give priority to purchasers or other investors based on significant financial operations in New Mexico. NMFA staff will provide to the NMFA Board at the time of selection, a list of firms from whom the NMFA solicited bids.

4. In order to assure full disclosure, the Purchaser of the bonds will be required to provide written certification that no other payments or considerations were made or received in connection with the purchase of the bonds.

Adopted: January 20, 2006

NEW MEXICO FINANCE AUTHORITY
PUBLIC PROJECT REVOLVING FUND
DERIVATIVES POLICY

A. PURPOSE

The statutory mission of New Mexico Finance Authority under the New Mexico Finance Authority Act, NMSA 1978, Section 6-21-1 through 31, is to provide a necessary central state mechanism to coordinate the planning and financing of public projects, and to provide financing for public projects in a manner that will not impair the capacity of the Public Project Revolving Fund (“PPRF”) to provide future financing to qualified entities for public projects. The Public Securities Short-Term Interest Rate Act, 1978 NMSA Sections 6-18-1 through 6-18-16, authorizes public bodies to structure public securities to take advantage of potentially lower interest rates. This Derivatives Policy (the "Derivatives Policy") supplements the Authority’s PPRF Debt Management Policy, and sets forth the parameters for the use of derivative products in a manner that complies with the Public Securities Short-Term Interest Rate Act and furthers the statutory mission of the NMFA PPRF debt portfolio. The PPRF debt portfolio currently includes bonds issued under a General Indenture of Trust and Pledge (the "Senior Lien PPRF Program") and bonds issued under a Subordinated General Indenture of Trust and Pledge (the "Subordinate Lien PPRF Program") (and collectively with the Senior Lien PPRF Program, the “PPRF Program”).

The general purpose of this Derivatives Policy is to provide guidance to decision makers regarding the types and amounts of derivative debt permitted, the timing and methods of sale that may be used, the structural features that should be considered under different circumstances, and the appropriate and judicious use of synthetic financial products. Adherence to the Derivatives Policy will help to ensure that the NMFA creates and maintains a sound debt position for the PPRF and that the credit quality of the PPRF Program and the outstanding PPRF debt will be protected.

The specific purposes of this Derivatives Policy are to:

- Institute derivatives guidelines for the PPRF Program,
- Ensure high quality debt management decisions, including full and timely repayment of all borrowings and achievement of lowest possible cost of capital within established risk parameters,
- Promote consistency and continuity in the decision making and monitoring process,
- Comply with and obtain the benefits of the Public Securities Short-Term Interest Rate Act by achieving savings in interest cost to the NMFA and other debt management benefits that may be achieved through the use of derivative products, and

- Ensure that the use of derivative products is viewed positively by rating agencies and the investment community.

B. DERIVATIVES GOAL

The goal of this Derivatives Policy is to identify and mitigate risks associated with the use of derivative products in the PPRF Program and to determine the appropriate monitoring of the use of these products.

C. IMPLEMENTATION

The Debt Management Committee established pursuant to the Authority's PPRF Debt Management Policy shall be responsible for advising and assisting the NMFA Board in implementing this Derivatives Policy.

D. DEBT MANAGEMENT COMMITTEE RESPONSIBILITIES UNDER THE DERIVATIVES POLICY

In addition to the responsibilities outlined in the Authority's PPRF Debt Management Policy, the Debt Management Committee shall:

1. (a) Review and evaluate services provided by swap advisors and other service providers in bond and related financial transactions for effectiveness and quality of services, as needed;
- (b) In connection with derivative products, develop and recommend to the Board:
 - > methods of procuring such products;
 - > appropriate disclosure practices with respect to such products;
 - > methods of measuring, evaluating, monitoring and managing the Authority's obligations and risk, including the timing of the mark-to-market;
 - > contingency plans for addressing a rising interest rate environment, including setting aside reserves; and
 - > methods of evaluation of the total costs of use of such products, including fees under expected favorable and adverse scenarios.
- (c) Develop and recommend to the Board additions to and revisions of this Policy as may be necessary or advisable to accomplish the purpose of this Policy; and

(d) Perform additional responsibilities in connection with derivatives products that may be assigned to the Committee from time to time by the Board.

E. MANAGEMENT OF RISK IN THE PPRF PROGRAM;

1. General Considerations. In order to potentially achieve lower interest rates on its PPRF debt while mitigating any increase in risk to the PPRF Program, the NMFA may take the following steps:

(a) Where appropriate, use interest rate swaps, locks, caps, collars and floors or other hedging devices to mitigate variable interest rate risk.

(b) Offer benefits of swap to synthetic fixed rate on bonds to borrowers who agree to be liable for all or a portion of termination payments and basis risk.

(c) Structure certain reimbursement or refunding bonds utilizing derivative products to achieve potential interest rate savings that benefit the PPRF Program and add to its capacity and longevity.

2. Rate Management Tools. The NMFA will consider the use of rate management tools such as interest rate swaps, caps, floors, collars and rate locks in connection with PPRF debt. The NMFA will evaluate the use of rate management products by comparison to traditional financing vehicles and structures and will only use a rate management product if use of the product will meet the requirements of the Public Securities Short-Term Interest Rate Act and will produce significant quantifiable expected value or reduce the interest rate exposure in management of the debt portfolio. During the Debt Management Committee's periodic meetings, the Committee will review current market conditions for rate management products and will evaluate how current conditions affect existing and/or any proposed future rate management products.

3. Periodic Evaluation of Specific Information in Conjunction with Derivative Products. In addition to those items evaluated pursuant to the PPRF Debt Management Policy, the Debt Management Committee will report with respect to any outstanding derivative product agreement, the following as part of its monthly report to the NMFA Board to the extent that there has been any significant change from the prior reports:

(a) Review the weekly floating rates versus BMA or percent of LIBOR receipts from swap counterparties;

(b) Review the market value of each swap transaction, including termination costs, as calculated by the swap advisor or other third party service;

(c) Review from independent resources updated worst-case scenario analysis assuming all interest rate swaps default at different interest rate scenarios;

(d) Review cash balances versus total adjustable and contingent adjustable exposure outstanding to analyze internal hedging. If total investment assets of 2 years or shorter are less than the total actual and contingent floating rate exposure, review additional risk management tools to reduce floating rate exposure;

(e) Review the investment policy on available average cash balances to confirm the role of cash balances as an internal hedge against the outstanding natural and contingent floating rate debt obligations;

(f) Request and review updates from swap counterparties on rating actions, if any;

(g) Review collateral requirements with swap counterparties, if any and if additional collateral may be required to be posted;

(h) Review risk management opportunities for outstanding debt portfolio;

(i) Review information provided by swap advisors, available websites, and other resources for detailed information regarding the BMA and LIBOR swap market; and

(j) Review of the additional educational opportunities regarding risk management tools.

4. Policy Considerations Specific to Swaps.

(a) Interest rate swaps may be used by the NMFA to lower interest expense, manage financial risk and to create a risk profile not otherwise achievable through traditional debt or investment instruments

(b) Risk factors that will be evaluated when considering interest rate swaps:

- > Interest rate risk
- > Termination risk
- > Counterparty risk
- > Basis risk
- > Rating agency considerations
- > Liquidity risk

- > Tax risk
- > Ability to receive independent third party fair market valuation

(c) Criteria for selecting counterparties:

Counterparties shall be rated at least "Aa3/AA-/AA-," respectively by at least two of the three following nationally recognized rating agencies -- Moody's, Standard & Poor's or Fitch -- or the obligations of the Counterparty are guaranteed by an entity with such rating or the obligations of the Counterparty are at least 100% collateralized by obligations with such rating, all as required by New Mexico law and State Board of Finance regulations.

(d) Limitations on interest rate swaps:

Interest rate swaps may not exceed 25% of aggregate outstanding principal amount of PPRF debt. The limitation on the amount of interest rate swaps will be reviewed periodically and, adjusted with the approval of the NMFA Board, based upon input from rating agencies.

(e) Limitation on counterparty exposure shall not exceed \$50 million per any single counterparty.

5. Requirements Concerning Swap Documents:

(a) Swap resolutions shall approve, as to form, the operative agreements, contracts and other documents to be used in the swap transaction.

(b) A swap transaction shall not contain terms that restrict the ability of the NMFA to comply with additional bonds tests or anti-dilution tests and shall not create cross default to NMFA debt below the prescribed threshold amounts.

(c) Mechanics for determining termination values at various times and upon various occurrences must be explicit in documents of a swap transaction.

(d) NMFA shall have the right to optionally terminate a swap transaction at any time over the term of the swap transaction (elective termination right) at the then-prevailing market value of the swap.

(e) NMFA's swap advisor and the Counterparty shall each provide a disclosure memorandum that shall include an analysis of the risks and benefits of the transaction, with amounts quantified. This analysis shall include, among other things, a matrix of maximum termination values over the life of the swap transaction.

(f) Each interest rate swap transaction shall contain terms and conditions as set forth in the International Swap Dealers Association, inc. (“ISDA”) Master Agreement and such other terms and conditions included in any schedules, confirmations and credit support annexes as approved in accordance with NMFA’s swap resolution pertaining to the swap transaction.

Adopted: October, 2005

NEW MEXICO FINANCE AUTHORITY
LOCAL TRANSPORTATION INFRASTRUCTURE FUND
PROJECT MANAGEMENT POLICIES

A. PURPOSE

The purpose of the Local Transportation Infrastructure Fund is to provide necessary gap financing of local road projects not eligible for federal funding and prioritized by the Department of Transportation.

B. GOALS

The goal of these local transportation project policies is to provide guidance to NMFA staff and applicants regarding how NMFA will determine the structure of the financing assistance.

C. IMPLEMENTATION

These transportation project policies shall be implemented by the New Mexico Finance Authority Board and may, at times, be waived by the Board if it is determined that a deviation from its adopted policies is necessary. Any waiver will be reflected in the minutes of the meeting at which the waiver is considered.

SECTION 1. DETERMINATION OF FINANCIAL ASSISTANCE

Section 1.1 Overview

The Local Transportation Infrastructure Fund was established to make grants and loans to projects that have been determined to be priority local road projects. These Local Transportation Infrastructure Fund Project Management Policies will define the terms and conditions under which the Authority will fund projects.

Section 1.2 General Considerations

The NMFA supports the goal of quality roads statewide and has determined that projects funded from the Local Transportation Infrastructure Fund will be determined through the following means:

A. Prioritization of Projects

In accordance with Local Transportation Infrastructure Fund Act and the Rules implemented to govern the Fund, the NMFA must fund the projects in the order in which

they were prioritized by the Department Secretary using the Department's Metropolitan and Regional Planning Organizations.

B. Reliance on Outside Expertise

The Authority or its staff may request and rely on the assistance of other state agencies, particularly the Department of Transportation in project management and oversight. Specifically, the NMFA will rely on the Department of Transportation to help determine the amount of the local transportation project that cannot be funded from available financial resources such as funding from the Local Government Transportation Fund or unrestricted cash balances.

C. Funding Conditions

All NMFA funding agreements shall reflect the following conditions:

- 1) The NMFA shall be the last monies used to fund a project;
- 2) The maximum amount of NMFA grant funding shall be \$500,000 and shall not exceed 25% of the total project costs; and
- 3) The NMFA may rely on the certifications and determinations made by the Department in determining adequate local assistance in the form of in-kind contributions.

Section 1.3 Funding Structure

The New Mexico Finance Authority recognizes that the amount of funding available through the Local Infrastructure Transportation Fund is limited and the determination of structure should be based upon need as determined by the Department and the Legislature.

A. Determination of Grant.

The NMFA shall offer grants to only those projects that been prioritized by both the Legislature and the Department. The conditions and the amount of grant funds shall be governed by Section 1.2 (C) of these Local Transportation Policies.

B. Determination of Loans.

Projects seeking loans from the Local Transportation Infrastructure Fund shall be directed to the Public Project Revolving Fund for low-cost funding.

Adopted: July 26, 2007

WATER AND WASTEWATER PROGRAMS

NEW MEXICO FINANCE AUTHORITY
DRINKING WATER REVOLVING LOAN FUND
LOAN MANAGEMENT POLICIES

A. PURPOSE

The New Mexico Drinking Water State Revolving Loan Fund Act was created to provide local authorities with low-cost financial assistance in the construction and rehabilitation of necessary drinking water facilities through the creation of a self-sustaining revolving loan program so as to improve and protect drinking water quality and public health. Subject to the provisions of the 40 CFR parts 9 and 35, Interim Final Rule and Safe Drinking Water Act, Section 1452, the NMFA may structure loans to ensure that communities most in need of improvements are able to finance them. These Loan Management Policies set forth the criteria by which the NMFA may structure Drinking Water Revolving Loan Fund (“DWRLF”) loans to qualified entities.

B. GOALS

The goal of these Loan Management Policies is to provide guidance to NMFA staff and borrowers regarding acceptable levels of risk, pricing and securitization of individual loans, and structuring enhancements within the DWRLF program.

C. IMPLEMENTATION

These Loan Management Policies shall be implemented by the New Mexico Finance Authority Board 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 meeting at which the waiver is considered and must not conflict with federal regulations and the approved State’s Environmental Review Process document.

SECTION 1 STRUCTURING POLICY

Section 1.1 Overview

The NMFA recognizes Applicants have different borrowing needs and abilities, and therefore provides various structuring enhancements to its borrowers. This Structuring Policy identifies parameters under which NMFA staff may structure its DWRLF loans.

Section 1.2 General Considerations.

In order to mitigate risk in the DWRLF while maintaining a diverse pool of borrowers, the NMFA will take the following steps in structuring a transaction:

- A. Generally, the NMFA will require that its loans be on a parity lien with all other lenders. The NMFA may agree to accept a security pledge that is subordinate to the payment of another debt if the identified revenue pledge has a strong, positive historical trend and the overall coverage adheres to the debt service coverage and additional bonds test requirements outlined in Section 2.2 of the NMFA's DWRLF Loan Management Policies.
- B. Monthly receipt of loan payments from borrowers provides the NMFA with early detection of potential loan defaults. Generally, when such revenue stream is available, the NMFA will require its loans be paid monthly. The NMFA may allow its borrowers to pay no less frequently than semi-annually if the requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments.
- C. All loans will be structured utilizing an executed intercept agreement if the NMFA is statutorily allowed to intercept the pledged revenue (e.g., Gross Receipts Taxes) however:
 1. The NMFA may agree to hold an executed intercept agreement in abeyance while the borrower makes monthly principal and interest payments on its loan. If the borrower fails to make these agreed upon payments in a timely manner, the NMFA will immediately begin to intercept the pledged revenues pursuant to the intercept agreement for the duration of the loan.
 2. This "contingent" or "suspended" intercept arrangement shall be made only to borrowers that have demonstrated ability to meet prior debt obligations and have sufficient staffing to manage timely loan payments.
- D. All DWLRF loans will be structured with one-year optional "pre-payment" provisions without any penalty or additional cost.

- E. DWRLF funds may be used only for the project whose environmental effects were assessed. To ensure that NMFA does not over-fund a loan, the NMFA will allow close on a Construction Loan not to exceed the amount approved by the Board after adequate notice to the public has been made regarding the environmental findings.
1. Funds drawn during this interim period will be charged interest only on a monthly basis.
 2. Entities will generally have up to two years to complete the construction phase and certify to the NMFA on the amounts needed to complete the project. The Board may approve a longer interim loan period if the project's construction estimates indicate a longer construction phase. This approval will be noted in the minutes of the loan approval.
 3. The interim loan will be converted to a permanent loan and a final debt service schedule showing monthly principal and interest payments. This conversion to will occur:
 - i) at or near project completion to reflect the actual costs of the project;
 - ii) permanent loan conversion must begin no later than one year after project completion, meaning the initiation of operation.
- F. In order to adequately fund all services needed for legal services, construction monitoring and engineering and environmental review, the NMFA will incorporate into the principal amount of the loan a cost of issuance fee totaling 1% of the project costs which will be collected on a per-draw basis. In accordance with federal regulations, this fund will be held outside of the Fund and used only for purposes allowed by law.

Adopted: April 27, 2006

SECTION 2. DEBT SERVICE COVERAGE & ADDITIONAL BONDS TEST POLICY

Section 2.1 Overview

The Debt Service Coverage & Additional Bonds Test Policy establishes minimum levels of excess revenue coverage requirements for different revenues pledged to secure DWRLF loans and establishes tests under which borrowers are able to issue additional debt secured by revenues pledged to a DWRLF loan.

Section 2.2 General Considerations

The goal of this Coverage and Additional Bonds Test Policy is to identify minimum coverage requirements for loans based on the underlying revenue pledge.

A. Coverage Policy

The NMFA structures its DWRLF loans to allow for some decline of the pledged revenue without affecting the entity’s ability to pay debt service. Based upon certain factors such as revenue stability and management history, the NMFA may require higher coverage requirements and additional bonds tests.

1. The NMFA will structure its DWRLF loans so that at a minimum, historical revenues will exceed the maximum annual debt service (MADS) due during the life of the loan by the following percentages:

i)	Gross Receipts Tax	115% of MADS (1.15x)
ii)	Mil Levy	115% of MADS (1.15x)
iii)	Net System Revenues	120% of MADS (1.20x)
iv)	General Obligations	100% of Annual Debt Service (1x)

2. The NMFA may consider estimated or projected revenues to determine minimum coverage requirements if a three-year historical average is either not available or if circumstances have changed significantly within the last three years that would justify the forecasting of revenue growth to achieve minimum coverage requirements. For example, an entity may have imposed increases in its user rates that is not reflected in financial statements. Under these circumstances, the NMFA will structure its loans so that at a minimum the projected revenues will exceed the maximum annual debt service (MADS) due during the life of the loan in the following percentages:

i)	Gross Receipts Tax	125% of MADS (1.25x)
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ii)	Mil Levy	125% of MADS (1.25x)
iii)	Net System Revenues	130% of MADS (1.30x)

B. Additional Bonds Test

NMFA recognizes that public entities must utilize all legally available revenue streams to fund their governmental services and secure funding for their public projects.

1. The NMFA will allow entities to secure additional parity debt utilizing a security pledged to a DWRLF loan, so long as the entity has collected in any 12 consecutive month period during the past 24 months, sufficient revenue to pay all Maximum Annual Debt Service (MADS) on the existing and proposed debt with the minimum following coverage levels:

i)	Gross Receipts Tax	115% of MADS (1.15x)
ii)	Mil Levy	115% of MADS (1.15x)
iii)	Net System Revenues	120% of MADS (1.20x)
iv)	General Obligation Bonds	100% of Annual Debt Service (1.00x)

Adopted: April 27, 2006

SECTION 3. LOAN REFINANCING POLICY

Section 3.1 Overview:

The Loan Refinancing Policy provides guidance to NMFA staff and its Applicants regarding the use of the DWRLF to refinance existing debt obligations in a manner that is responsive to the needs of the DWRLF borrowers while protecting the long-term financial health and capacity of the DWRLF.

Section 3.2 General Considerations:

Certain high cost debt can hinder essential new water improvement projects. By law, the low-cost loans offered through the DWRLF are available to refinance existing loans under very limited circumstances.

- A. The NMFA is able to refinance existing loans if:
 - 1. The refinancing occurs in connection with a “new money” project;
 - 2. The loan proposed for refinancing must have been originated no earlier than 1993;
 - 3. The project financed by the original loan must have undergone a public review process that is consistent with the SERP, including concurrence by all requisite state and federal consulting agencies;
 - 4. The environmental effects of the project must have been analyzed and studied in a manner consistent with the SERP; and
 - 5. The project financed by the original loan must have been used for a purpose consistent with the eligible purposes defined by federal regulation and must have complied with all applicable state and federal regulations.

- B. Private entities are not eligible for loan refinancing.

Adopted: April 27, 2006

New Mexico Finance Authority
Drinking Water Revolving Loan Fund
Loan Management Policies
For American Recovery and Reinvestment Act of 2009 Funds

A. PURPOSE

The New Mexico Drinking Water State Revolving Loan Fund Act (the “Act”) was created to provide local authorities with low-cost financial assistance in the construction and rehabilitation of necessary drinking water facilities through the creation of a revolving loan program so as to improve and protect drinking water quality and public health. On February 17, 2009, President Obama signed into law the American Recovery and Reinvestment Act of 2009 (“ARRA”) which provides a special \$19.5 million capitalization grant to New Mexico’s Drinking Water State Revolving Fund. These funds will be held in an account separate and apart from the regular DWRLF program. The objectives of the ARRA, as they relate to the State Revolving Fund Capitalization Grants, are clear:

- ◆ Preserve and create jobs and promote economic recovery;
- ◆ Assist those most impacted by the recession;
- ◆ Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
- ◆ Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and
- ◆ Stabilize state and local government budgets, in order to minimize reductions in essential services and counterproductive state and local tax increases.

Consistent with provisions of the 40 CFR parts 9 and 35, Interim Final Rule and the Safe Drinking Water Act, Section 1452, the NMFA may use these ARRA funds to structure loans that assist communities most in need of improvements in financing them. These Loan Management Policies set forth the criteria by which the NMFA may structure ARRA Drinking Water Revolving Loan Fund (“A-DWRLF”) loans to qualified entities.

B. GOALS

The federal guidelines require that in addition to making below-market rate loans, capitalization grant recipients must deliver at least 50% of funds as “additional subsidization” which is defined as grants, negative interest rate loans, or loans with principal forgiveness. Currently, the only form of additional subsidy allowed under the Act is principal forgiveness. The goal of these Loan Management Policies is to provide guidance to NMFA staff and borrowers regarding acceptable levels of federal subsidy and structuring enhancements within the A-DWRLF program while balancing risk of the individual loans.

C. IMPLEMENTATION

These Loan Management Policies shall be implemented by the New Mexico Finance Authority Board and may 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 meeting at which the waiver is considered and the waiver must not conflict with federal regulations, promulgated State Intended Use Plan for ARRA Drinking Water State Revolving Funds or the US Environmental Protection Agency (EPA)-approved State Environmental Review Process document.

SECTION 1. USE OF ARRA LOAN FUNDS

Section 1.1 Overview

NMFA recognizes that the goal of the ARRA is to expeditiously fund eligible projects that simultaneously create jobs, promote economic recovery and generate long-term benefits from infrastructure investment.

Section 1.2 General Considerations.

NMFA seeks to balance the need to fund projects that might not otherwise be able to move forward without the ARRA assistance while ensuring that all ARRA funds are under contract for construction by February 17, 2010. Each project approved by the NMFA for A-DWRLF funds will be subject to the following:

- A. Priority List: Projects funded by the A-DWRLF funds must appear on the ARRA Priority list as determined and promulgated by the Drinking Water Bureau of the New Mexico Environment Department with the assistance of the NMFA. Pursuant to CFR, a system receiving funding from the DWRLF program must demonstrate managerial, technical and financial capacity to undertake the proposed water project. Projects that cure imminent health and safety concerns will be given priority. Additionally, consistent with the intent of the ARRA legislation, the ARRA priority list will take into consideration a project's job creation and project timing.
- B. Concentration: Consistent with the leveraging plan in place for the regular DWRLF program, the NMFA will limit the ARRA funds so that no single borrower is able to receive more than 20% of the loan fund established through the ARRA Capitalization Grant.
- C. Compliance with the State Environmental Review Process: As with its regular DWRLF program, projects funded with A-DWRLF funds may be used only for a project whose environmental effects were assessed pursuant to NMFA's State Environmental Review Process approved by the US Environmental Protection Agency. This review process ensures that adequate notice to the public has been made regarding the environmental findings prior to providing financing.
- D. Green Project Reserve: Consistent with the targets of the ARRA legislation, the NMFA will set-aside up to 20% of the ARRA capitalization grant for projects that consider green infrastructure, water or energy efficiency improvements or other environmentally innovative activities.
- E. Davis-Bacon Wage Act: Projects funded with ARRA are subject to prevailing wages as defined in the Davis-Bacon Act wage rules.
- F. Buy American: Section 1605 of the ARRA requires that the construction, alteration, maintenance or repair of a public project utilize iron, steel and manufactured goods produced in the United States.

Section 1.3 Loan Refinancing:

Because the intent of the ARRA funds is to stimulate the economy through new investment and activity, the NMFA will not use its A-DWRLF funds for loan refinancing.

Section 1.4 Ineligible Uses:

In addition to uses prohibited by the provisions of the 40 CFR parts 9 and 35, Interim Final Rule and the Safe Drinking Water Act, Section 1452, ARRA law also prohibits ARRA funds from being used to finance a casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

SECTION 2 STRUCTURING POLICY

Section 2.1 Overview

The NMFA recognizes applicants have different borrowing needs and abilities and therefore provides various structuring enhancements to its borrowers. This Structuring Policy identifies parameters under which NMFA staff may structure its ARRA-DWRLF loans.

Section 2.2 General Considerations.

In order to mitigate risk in the DWRLF while maintaining a diverse pool of borrowers, the NMFA will take the following steps in structuring a transaction:

- A. Lien Position: Generally, the NMFA will require that its loans be on a parity lien with all other lenders. The NMFA may agree to accept a security pledge that is subordinate to the payment of another debt if the identified revenue pledge has a strong, positive historical trend and the overall coverage adheres to the debt service coverage and additional bonds test requirements outlined in Section 3.2 of these Loan Management Policies.
- B. Intercepts: All Gross Receipts Tax backed loans will be structured utilizing an executed intercept agreement. For entities that have demonstrated ability to meet prior debt obligations and have sufficient staffing to manage timely loan payments, the NMFA may agree to hold an executed intercept agreement in abeyance while the borrower makes monthly principal and interest payments on its loan. If the borrower fails to make these agreed upon payments in a timely manner, the NMFA will immediately begin to intercept the pledged revenues pursuant to the intercept agreement for the duration of the loan.

Section 2.3 Additional Subsidization

Additional guidance provided by Congress further states that the capitalization grant recipients are expected to target, as much as possible, additional subsidized monies to communities that could not otherwise afford an SRF loan. NMFA will provide additional subsidization in the form of principal forgiveness for projects using the following guidelines:

- A. Each applicant will receive 40% in principal forgiveness for compliance with the Buy American provisions of ARRA;
- B. Each applicant will receive 10% subsidy for compliance with Davis Bacon Wage Act as described in Section 1.2 E of these Loan Management Policies;
- C. NMFA will provide additional subsidy to systems with a Median Household Income (MHI), as determined by the NMFA, of no more than 90% of the state's MHI and

based on the established Affordability Ratio which is calculated from the projected ratio of average annual user charges to the MHI of the water system service area.

1. Systems with an affordability ratio of between .01 and no more than .015 qualify under the “Disadvantaged Community” and are provided 20% principal forgiveness;
 2. Systems with an affordability ratio greater than .015 qualify as “Severely Disadvantaged Community” and are provided with 40% principal forgiveness;
- D. “Green Projects” as described in Section 1.2D of these Loan Management Policies will be provided with an additional 20% of principal forgiveness; and
- E. No project shall receive more than 80% in total principal forgiveness.

Section 2.4 Loan Terms

- A. Maturities: Consistent with the spirit of the ARRA legislation and within the confines of that legislation, the NMFA will endeavor to recycle these funds as often as possible by matching the maximum amortization of the loan to the debt service ability of the borrower. The NMFA will seek to minimize the amortization period without stressing the cash-flows of the systems. Consistent with federal guidelines, NMFA will not provide loan terms of more than 20 years, unless the system meets the criteria for “disadvantaged systems” as described in Section 2.3 C of these Loan Management policies, at which point it will not allow terms of more than 30 years.
- B. Payment Frequency: Monthly receipt of loan payments from borrowers provides the NMFA with early detection of potential loan defaults. Generally, when such revenue stream is available, the NMFA will require its loans be paid monthly. The NMFA may allow its borrowers to pay no less frequently than semi-annually if the requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments.
- C. Pre-Payments: All A-DWLRF loans will be structured with one-year optional “pre-payment” provisions without any penalty or additional cost.
- D. Construction Period: To ensure that NMFA does not over-fund a loan for a project, the NMFA will close each loan as a construction loan for the maximum amount approved by the Board and will allow the borrower to draw for eligible reimbursement expenses subject to the following:
1. Funds drawn during the construction period will be charged interest only on a monthly basis.
 2. Entities will generally have up to two years to complete the construction phase and certify to the NMFA on the amounts needed to complete the project. The Board may approve a longer construction loan period if the project’s

construction estimates indicate a longer construction phase. Any construction period greater than two years must be explicitly approved by the NMFA Board.

- a. The construction loan will be converted to a permanent loan and a final debt service schedule showing monthly principal and interest payments will be established. This conversion to will occur:
 - i) At project completion to reflect the actual costs of the project; and
 - ii) Permanent loan conversion must begin no later than one year after project completion, meaning the initiation of operation.
- E. Interest Rates: Consistent with the intent of the ARRA funds, NMFA will offer its A-DWRLF at 1% -- well below market rates to encourage new investment. This interest rate has a .25% administrative component imbedded in the interest rate and will be used fund administrative costs associated with loan servicing over the life of the loan. In accordance with federal regulations, these funds will be held outside of the Fund and used only for purposes allowed by law.
- F. Cost of Issuance Fees: In order to adequately fund all services needed for legal services, construction monitoring and engineering and environmental review, the NMFA will incorporate into the principal amount of the loan a cost of issuance fee totaling 1% of the project costs which will be collected on a per-draw basis. In accordance with federal regulations, these funds will be held outside of the Fund and used only for purposes allowed by law.

SECTION 3. DEBT SERVICE COVERAGE & ADDITIONAL BONDS TEST POLICY

Section 3.1 Overview

The Debt Service Coverage & Additional Bonds Test Policy establishes minimum levels of excess revenue coverage requirements for different revenues pledged to secure A-DWRLF loans and establishes tests under which borrowers are able to issue additional debt secured by revenues pledged to A-DWRLF loans.

Section 3.2 General Considerations

The goal of this Coverage and Additional Bonds Test Policy is to identify minimum coverage requirements for A-DWRLF loans based on the underlying revenue pledge.

A. Coverage Policy

The NMFA will structure its A-DWRLF loans to allow for some decline of the pledged revenue without affecting the entity's ability to pay debt service. Based upon certain factors such as revenue stability and management history, the NMFA may require higher coverage requirements and additional bonds tests. The Maximum Annual Debt Service will be calculated after applying the principal forgiveness described in Section 2.3 of these Loan Management Policies.

1. The NMFA will structure its A-DWRLF loans so that at a minimum, historical revenues will exceed the maximum annual debt service (MADS) due during the life of the loan by the following percentages:
 - i) Gross Receipts Tax 115% of MADS (1.15x)
 - ii) Mil Levy 115% of MADS (1.15x)
 - iii) Net System Revenues 120% of MADS (1.20x)
 - iv) General Obligation Bonds 100% of Annual Debt Service (1.00x)

2. The NMFA may consider projected revenues to determine minimum coverage requirements if a three-year historical average is either not available or if circumstances have changed significantly within the last three years that would justify the forecasting of revenue growth to achieve minimum coverage requirements. For example, an entity may have imposed increases in its user rates that are not reflected in financial statements. Under these circumstances, the NMFA will structure its loans so that at a minimum the projected revenues will exceed the maximum annual debt service (MADS) due during the life of the loan in the following percentages:
 - i) Mil Levy 125% of MADS (1.25x)
 - ii) Net System Revenues 130% of MADS (1.30x)

B. Additional Bonds Test

NMFA recognizes that public entities must utilize all legally available revenue streams to fund their governmental services and secure funding for their public projects.

1. The NMFA will allow entities to secure additional parity debt utilizing a security pledged to a DWRLF loan, so long as the entity has collected in any 12 consecutive month period during the past 24 months, sufficient revenue to pay all Maximum Annual Debt Service (MADS) on the existing and proposed debt with the minimum following coverage levels:
 - v) Gross Receipts Tax 115% of MADS (1.15x)
 - vi) Mil Levy 115% of MADS (1.15x)
 - vii) Net System Revenues 120% of MADS (1.20x)
 - viii) General Obligation Bonds 100% of Annual Debt Service (1.00x)

Adopted: March 26, 2009
Revision Date: May 28, 2009

WATER TRUST BOARD WATER PROJECT FUND PROJECT MANAGEMENT POLICIES

I. PURPOSE

The statutory purpose of the Water Trust Board is to provide for water use efficiency, resource conservation and protection, and the fair distribution and allocation of New Mexico's scarce water resources for beneficial purposes of use within the state.

The statutory charge of the Water Trust Board is to prioritize projects for recommendation to the Legislature for financing from the Water Project Fund. The Water Trust Board was created with broad representation of water interests in New Mexico. Recommendations to the Legislature come from a consensus among this broad stakeholder group on how best to address New Mexico's water needs into the future and how best to allocate precious resources.

The Water Trust Board plays an important role in ensuring that the state's populace, wildlife and economies are supported by safe and adequate water resources through the development of appropriate infrastructure for flood prevention, water delivery, water conservation and watershed management as well as for providing funds critical to restoring the habitats of endangered species.

Working in concert with the Water Project Fund Rules, these Project Management Policies set forth the criteria by which the Water Trust Board will prioritize water projects for recommendation to the Legislature for financial assistance from the Water Project Fund.

II. GOALS

The goals of these Project Management Policies are to:

- Devise and implement a systematic, integrated approach to selecting projects that are fiscally sustainable and natural-resource responsible;
- Foster a coordinated, strategic, long-range approach to water management;
- Encourage participation in regional efforts to collaborate on long-term solutions with other community water systems in an appropriate geographic region;
- Promote conservation and highly efficient use of the state's limited water supplies;
- Set standards for funding based on sound business practices, conservation and efficiency;

- Support the public health and economic vitality of New Mexico through comprehensive planning and investment in infrastructure;
- Create water delivery systems that are hydrologically and fiscally sustainable and meet state and federal statutory and regulatory requirements; and
- Protect New Mexico’s investment in water by requiring accountability and stability, thereby decreasing the future demand for state funding.
- Promote restoration and management of watersheds, including water quality improvements, riparian ecosystem restoration, Endangered Species Act protection and healthy forest initiatives.

In developing this comprehensive framework for project prioritization and readiness, the Water Trust Board provides guidance to agency staff and applicants regarding suitability for financial assistance from the Water Project Fund.

III. IMPLEMENTATION

These Project Management Policies will be implemented by the Water Trust Board as supported by agency staff and may, at times, be waived by the Board if the Board determines in a public meeting 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 approved.

SECTION 1. PROJECT PRIORITIZATION

Section 1.1 Overview

In creating the Water Trust Board, the Legislature sought assistance from a diverse group of stakeholders in evaluating a variety of water projects and recommending projects for scarce state funds. The Project Prioritization Policy provides guidance to the Water Trust Board and its applicants on how the projects will be prioritized for recommendation to the Legislature.

Section 1.2 General Considerations

The Water Trust Board seeks to strategically prioritize and package water projects that make the best use of state dollars and ensures it meets its statutory charge to “provide for water use efficiency, resource conservation and protection and fair distribution and allocation of New Mexico’s scarce water resources for beneficial purposes within the state.”

Section 1.3 Prioritization and Funding Factors (Financial Policy Statement)

As directed by the Water Project Finance Act, the Water Trust Board will consider the following factors in prioritizing and funding projects:

- A. Projects that have been identified by a regional water plan that has been accepted by the Interstate Stream Commission;
- B. Local Contribution and Leveraging of Funds; and
- C. Projects with urgent needs. For purposes of these policies, the Water Trust Board defines “urgent needs” as:
 - 1. Public Health Threats including waterborne disease outbreak and inadequate water supply so long as the proposed project addresses the existing or imminent threats.
 - 2. Safe Drinking Water Act Compliance for projects with the following conditions:
 - (a) Acute and chronic risk contaminants and treatment technique requirements will be considered for systems that have three violations in the past year and if the proposed project addresses the existing or imminent threats; or
 - (b) Anticipated federal regulations will be considered if the system has a certified operator and the proposed project will enable the system to comply new federal regulations.
 - 3. Wildfire Public Safety projects including watershed projects that modify or break up fuels in such a way as to lessen catastrophic fire and its threat to public safety, and damage to property.
 - 4. Dam Safety projects that restore to a safe condition impending failures in dam structures.
 - 5. The Water Trust Board may accept lesser levels of organizational readiness and application standards for projects determined to be urgent.
- D. Recommendation to Legislature. Projects that have not been recommended by the Water Trust Board to the Legislature will not be considered for funding unless the project is determined to have an “urgent need.”

Section 1.4 Dedicated Annual Percentages to Project Types (Water Policy Statement)

The Water Trust Board promotes water conservation and equitable distribution and allocation of New Mexico’s scarce water resources by providing support for the state’s diverse communities and ecosystems through dedicated percentages that reflect geographic differences, balance between rural and urban uses of water, and different scales of projects. Suggested categories for dedicated annual percentages are as follow:

<u>Project Type</u>	<u>Suggested Range</u>
Water Conveyance	60% - 75%
Conservation	15% - 30%
Watershed Management	5% - 15%
Endangered Species Act	Up to 10%
Flood Prevention	Up to 10%

Section 1.5 Regionalization of Water Resources (Water Policy Statement)

The Water Trust Board identifies, prioritizes and funds water-related infrastructure and management projects that protect New Mexico’s water resources for New Mexico uses.

- A. The Water Trust Board defines regionalization as a process through which multiple communities or existing water systems collaborate to consolidate physical infrastructure and/or management and operations, including other shared resources to achieve efficiency and economies of scale.
 - 1. This definition includes regionalization that occurs at different scales depending on the geographic context.
 - 2. The Water Trust Board recognizes that regionalization is not universally feasible for eligible water projects and therefore does not preclude consideration of funding water systems unable to regionalize.
- B. The Water Trust Board encourages regional projects to collaborate in order to self-prioritize the timing sequence of their federal and state funding requests and support state and federal authorizing legislation for multi-phase projects.

Section 1.6 Threatened and Endangered Species Sensitivity and Conservation (Water Policy Statement)

The Water Trust Board supports implementation of river riparian and watershed restoration projects that aid in the recovery of listed or potentially listed species, satisfy water demands for the species, or reduce the likelihood of additional listings. Furthermore, the Water Trust Board supports projects that will not have an adverse impact on the state’s ecological resources.

Section 1.7 Watershed Projects (Water Policy Statement)

The Water Trust Board seeks to promote watershed and riparian restoration that focuses on protection of water supply, improvements to water quality, compliance with the federal Endangered Species Act of 1973, promoting ecological health and function, healthy forests, and other consequent benefits.

- A. The Water Trust Board supports and funds watershed projects with a demonstrated ability to improve water quality and watershed and ecosystem health.
- B. The Water Trust Board supports and funds watershed projects such as river riparian restoration, healthy forest initiatives, and other watershed activities for the benefit of humans, aquatic species, and wildlife throughout the state.

Section 1.8 Project Design and Implementation (Financial Policy Statement)

The Water Trust Board supports well-designed projects that will be ready for implementation upon award and will prioritize applications based upon the following:

- A. Applicants that best demonstrate Financial, Managerial and Technical Capacity as outlined in Section Three of these Project Managerial Policies.
- B. Applicants that evidence project readiness as outlined in Section Four of these Project Management Policies.

Section 1.9 Project Continuations (Financial Policy Statement)

- A. To encourage timely completion of projects and to maximize participation, the Water Trust Board requires applicants that have received prior Water Project Fund awards to certify completion of all projects prior to submission of any new application for funding, unless:
 - 1. The new application will cure a condition considered urgent; or
 - 2. The new application is part of a state-sponsored regional infrastructure project.
- B. As a project progresses into additional phases, the Water Trust Board may require greater levels of organizational management and contributions toward the project.

SECTION 2 LOCAL SUPPORT POLICY

Section 2.1 Overview

The Water Trust Board seeks to ensure that the funds are disbursed throughout all regions of the state and across all eligible projects types. The Board also expects that for the foreseeable future, the demand for water funding will outpace supply. The Water Trust Board must ensure that funds are awarded to those entities with demonstrated strong local support and financial commitment. The Local Support Policy provides guidance to the Water Trust Board and its applicants on the definitions of and minimum requirements for local support and contribution.

Section 2.2 General Considerations (Financial Policy Statement)

In furtherance of its legislative directive to leverage state funding, the Water Trust Board may require leveraging of funds, multi-agency collaboration and local participation for all water projects through a requisite match percentage dependent upon the appropriate scale of the project and project type.

Section 2.3 Public Participation

The Water Trust Board requires applicants to submit evidence that their proposed projects and applications for financial assistance received adequate public participation and complete disclosure, including where applicable:

- A. Demonstration of Adequate Public Notice, including:
 - 1. Open Meetings Resolution;
 - 2. Public Hearing Notice;
 - 3. Minutes of Public Hearing;
 - 4. Application Resolution; and
 - 5. Minutes from meeting where Resolution was approved.
- B. Proper determination of public benefit for projects located on private lands.
- C. Environmental Information Document or previously issued Environmental Assessment or Environmental Impact Statement that demonstrates public participation.
- D. Joint Powers Agreements or Memoranda of Understanding

Section 2.4 Financial Assistance Policy (Financial Policy Statement)

A separate Financial Structuring Policy governing the structure of Water Trust Board funding shall be established jointly between the Water Trust Board and the New Mexico Finance Authority. This policy is intended to ensure the long-term solvency of the Water Project Fund and to ensure a fair allocation of funding for all qualified entities.

- A. In addition to the local contribution funding match requirements outlined in section 2.5 of these Project Management Policies, the Water Trust Board financial assistance shall contain a loan component of between 10% and 20% with the remainder delivered as a grant. The terms of the loan, the criteria used to determine the size of the loan and conditions for financial hardship waivers shall be outlined in the jointly established Financial Structuring Policy.
- B. Projects implemented by state governments may be excepted from the loan component.
- C. The Water Trust Board and New Mexico Finance Authority shall provide options to the loan component for water projects implemented by tribal applicants, as delineated in Section 6.3 of these Project Management Policies, and for qualified entities that are not supported by rate-paying constituents.

- D. Small systems that establish managerial, technical and financial policies and procedures consistent with Section 3 of these Project Management Policies may be eligible for loan forgiveness as further delineated in jointly established Financial Assistance Policy.
- E. The Water Trust Board will continue to explore funding strategies that help to ensure the long-term solvency of the Water Project Fund.

Section 2.5 Funding Match Obligation (Financial Policy Statement)

Local support and contribution are vital to the success of any water project. In addition to any required loan component the Water Trust Board and the New Mexico Finance Authority may jointly determine from time to time, the Water Trust Board may require applicants to demonstrate project commitment in the form of minimum local matches based upon project type and size.

- A. The Water Trust Board may consider the type and scale of a project as outlined below in determining the appropriate local match that an entity must verify prior to funding a project:

Project Type	Scale of Project (in thousands)	Match Required
Water Conveyance	\$1,000 or larger	20%
Water Conveyance	\$500 to \$999	15%
Water Conveyance	Less than \$500	10%
Water Conservation	\$1,000 or larger	20%
Water Conservation	\$500 to \$999	15%
Water Conservation	Less than \$500	10%
Watershed Management	\$500 or larger	15%
Watershed Management	Less than \$500	10%
Endangered Species Act	\$500 or larger	15%
Endangered Species Act	Less than \$500	10%
Flood Prevention	\$500 or larger	15%
Flood Prevention	Less than \$500	10%

- B. Definition of local match:

- 1 The Water Trust Board recognizes a “hard” match of actual dollars expended on the project other than Water Trust Board funds for the specified scope of work. The “hard” match may be provided in the form of non-Water Trust Board loans, local cash contributions, private donations or federal funds.

- 2 The Water Trust Board recognizes a soft match as labor and/or equipment donated for the scope of work on the proposed project at fair market rates as determined local within the state.
 - (a) The value of labor costs may not be greater than the schedules provided by the state department of labor for costs of services.
 - (b) The value of equipment may not be greater than fair market value as determined by the Water Trust Board.
 - (c) The Water Trust Board may allow up to half of the designated match obligation, as outlined in Section 2.4A, as a “soft” match.

- C. Additional applicant contributions may be considered by the Water Trust Board in determining project prioritization as outlined in Section 1.3 of these Project Management Policies.

SECTION 3 FINANCIAL, MANAGERIAL AND TECHNICAL CAPACITY (Financial Policy Statement)

Section 3.1 Overview

The Water Trust Board is the guardian of limited state water project funds and will ensure that the selected entities have the capacity to take on the prioritized projects. This Financial, Managerial and Technical Capacity Policy provides guidance to the Water Trust Board and its applicants on the information required to reach a determination regarding completeness and readiness of Water Trust Board applications.

Section 3.2 General Considerations

As part of its fiduciary responsibility, the Water Trust Board must ensure that the entities receiving funding are able to plan, complete and maintain the project to allow for a useful life of at least 20 years. To aid in that determination, the Water Trust Board will require entities to demonstrate financial and managerial readiness prior to undertaking the project. For watershed projects, this demonstration will be made through the project’s commitment to long-term maintenance, monitoring and repair as necessary to ensure that the project has a useful life of at least 20 years.

Section 3.3 Project Governance

The Water Trust Board must ensure that recipients of Water Project Funds have adequate governance structures in place prior to undertaking projects. The Water Trust Board will require its applicants to demonstrate that they have in place as part of a complete application:

- A. Planning sufficient to support project development and ensure reliable operation of the project over the intended life of the project;

- B. Fully functioning governing body capable of managing, directing and overseeing the proposed project and ensuring that the applicant and its projects meet all applicable state laws and regulations, including as applicable:
1. Up-to-date articles, by-laws and other governance documents that have been filed with appropriate regulatory agencies;
 2. Adequate legal representation;
 3. Regular board meetings of the governing body that are held in compliance with the Open Meetings, the Inspection of Public Records Acts and other law or policy applicable to the governing body; and
 4. Selection of members of the governing body by election or other procedures applicable to the body and evidence of management with training sufficient to oversee the project.
- C. Managerial capacity to manage the project over the long term, as appropriate for the type of project proposed:
1. Adequate business management tools for ongoing financial planning, water accounting, asset management, that have been established and are reviewed and updated regularly;
 2. Personnel policies and procedures are in place and appropriately certified water system operator(s) are employed;
 3. Audit requirements have been met according to State Auditor; and
 4. Policies and procedures are in place to assure successful fiscal and operational management including:
 - (a) Internal controls (dual check signatory authority; budget adoption procedures, expenditure decisions; audits); and
 - (b) Billing; new service connection charges; failure to pay policy; etc.

Section 3.4 Financial Planning for Water Systems

The Water Trust Board will use its funding to encourage water systems to establish and maintain financial planning that ensure the systems' abilities to operate reliably their water projects while maintaining the other functions and assets of their systems. Towards that goal, the Water Trust Board will require water systems to put in place a financial plan with the following elements:

- A. Revenues, including service revenues (with a maximum of 5% uncollected fees for service), lease payments, new service connection charges, etc;

- B. Operations and maintenance budget, including
 - 1. Management/personnel costs and benefits;
 - 2. Debt service on any existing loans as well as any Water Project Fund loans that may be required; and
 - 3. Administration and operations costs including billing, accounting, insurance, utilities, general supplies, treatment supplies, professional services, etc.; and
- C. Payments into reserve funds for emergencies, operating, anticipated repairs/replacement, and capital improvements, etc
- D. The Plan should be a rolling five-year plan presented in an auditable format with annual updates approved by the Board. Applicants with urgent projects may be allowed to submit plans that cover fewer years.

Section 3.5 Adequate Rate Structures for Water Systems

Water is a scarce resource that should be valued and appropriately priced. To ensure that an applicant is financially able to reliably operate the project and maintain the infrastructure for maximum lifespan, the Water Trust Board will examine the rate structures of its water system applicants to determine if the rate structures support sustainability. The Water Trust Board supports projects that are supported by rate structures that are reviewed annually and include the following elements:

- A. A tiered structure that rewards conservation;
- B. Funding for all fixed and variable operations and maintenance costs, including full compliance with all state and federal laws and regulations;
- C. Funding for cash contributions to reserve funds for operations, emergencies, contingencies, and anticipated repairs and replacement of assets including meters; and
- D. Contributions to a Capital Improvement Fund to cover the cost of anticipated system replacement and upgrades as required by the Asset Management Plan

Section 3.6 Asset Management Plan

An asset management plan allows water systems to operate, maintain, rehabilitate and replace infrastructure in the most cost effective manner to ensure a sustained level of service at the lowest life cycle cost. Additionally, an effective asset management plan provides the basis for a financial plan, operational plan and an appropriate rate structure.

To ensure that the Water Trust Board's infrastructure investments are protected and maintained for optimum longevity, water system applicants may be required to submit asset management plans that include the following established and regularly updated elements:

- A. Required metering of all diversions and users;
- B. Asset inventory, noting current condition, mapped locations, anticipated useful life and value;
- C. Defined level of service required to meet state and federal regulations and customer demands;
- D. Risk analysis of asset performance based on likelihood of failure and level of consequence;
- E. Operations and maintenance strategic plan and a Capital Improvement Plan that addresses all costs for managing the asset over time; and
- F. Funding strategy for inclusion in Financial Plan.

Section 3.7 Water Accounting System with Full Metering

The Water Trust Board encourages the implementation of a full water accounting system to ensure water system efficiency, minimize non-revenue (unaccounted) water delivery and thereby decrease treatment costs, and to extend the lifetime of the resource as well as minimize the need for acquisition of additional water rights.

Additional benefits of water accounting systems include the identification of demand management opportunities that target conservation initiatives to different water user groups and to individual users, as well as to support leak detection, repair and maintenance programs and capital improvement planning. The Water Trust Board will look for the following elements in water system applicants' water accounting systems:

- A. A perpetual system for accurately quantifying the system's input, output, authorized use and water losses;
- B. A methodology to quantify:
 - 1. Authorized use, e.g., what is billed and what is not billed?
 - 2. Unauthorized use, e.g., where it is occurring and how to eliminate it?
 - 3. Water losses: percentage due to leakage and overflows or metering inaccuracies, etc.
 - 4. Usage by different user categories, e.g., residential, commercial/industrial, etc.
- C. Supply and Demand projections; and

- D. A conservation plan with specific goals for user categories.

SECTION 4 PROJECT READINESS

Section 4.1 Overview

The Water Trust Board recognizes that the cost of infrastructure has risen dramatically in the past several years and that the piecemeal approach to funding is lessening the state's buying power. This Project Readiness Policy provides guidance to the Water Trust Board and its applicants on the information required to reach a determination regarding completeness of application and project readiness.

Section 4.2 General Considerations

It is the goal of Water Trust Board to quickly implement project funding while ensuring that selected projects get completed and are able to be fully utilized by the benefiting communities.

Section 4.3 Application Standards

- A. The Water Trust Board requires the following elements as part of the application evidencing project readiness, including:

1. Determination of Qualified Entity & Qualified Project
 - (a) Evidence of good standing; and
 - (b) Verification of Complete Project Description
2. Description and analysis of Project Benefit
 - (a) Extent of people, service area, watershed or ecosystem benefited;
 - (b) Overall degree of benefit;
 - (c) Attention to human health and safety concerns;
 - (d) Attention to wildlife, environmental and ecological compatibility and completion of analysis when required by law; and
 - (e) Technical demonstration to support stated water quality and water conservation improvements
3. Reliable Project Costs,
 - (a) Estimated final construction, engineering and other costs, provided by an engineer or other qualified expert, as applicable.

- (b) Estimated final equipment costs, including demonstration that a minimum of three cost estimates were obtained; and
 - (c) Breakdown of all other expenses for the project, including, as appropriate:
 - i. land costs;
 - ii. easements and rights of way;
 - iii. environmental and archeological surveys;
 - iv. special engineering services;
 - v. legal fees; and
 - vi. fiscal agent fees;
- 4. Right of Way Acquisition Documentation, including
 - (a) Public Domain Documentation;
 - (b) Verification of Land Ownership; and
 - (c) Map of Service Area, Area Map and/or Site Map denoting easements
- 5. Applicable Permits & Licenses, including but not limited to water rights sufficient to support the project or current phase of the project.
- 6. Financial health
 - (a) Three most recent years of audits or other financial statements;
 - (b) Current Financials (unaudited), including current aging report; and
 - (c) Current Fiscal Year Budget
- 7. Evidence of existing debt
 - (a) Debt Documents, including Loan agreements;
 - (b) Debt Default Summary; and
 - (c) Pending Litigation Summary
- 8. Verification of Other Funding Sources

- (a) Local or federal matching funds including any private donations; and
 - (b) Award of other Grant or Special Legislative Appropriation
- B. Exceptions to the application requirements may be allowed for projects that are determined to be urgent.
- C. An application not meeting these thresholds may be directed to state-sponsored technical assistance, funded for a smaller planning project that helps the entity develop its planning for future applications, or directed to another funding source. Staff will report back to the Water Trust Board on the status of all applications not meeting the application criteria.

SECTION 5 COMPLIANCE

Section 5.1 Overview

The Water Trust Board recognizes that water is key to protecting public health and economic vitality in New Mexico and supports projects that demonstrate compliance with environmental and water quality protection.

Section 5.2 General Considerations

The Water Trust Board seeks to support water projects that are hydrologically sustainable and meet state and federal statutory and regulatory requirements. The Water Trust Board requires entities to substantiate their compliance with all federal and state laws and regulations, including verification of adequate water rights.

Section 5.3 Water Rights Policy (Water Policy Statement)

The Water Trust Board supports the State Engineer's "readiness to proceed" criteria that require the proposed project's water rights are in good standing and if necessary, the water rights transfer process will provide for timely and efficient transfer of water between uses without lessening protections for the customs, culture, environment, and economic health and stability of the state's communities. The Water Trust Board will require verification of water rights at the time of application.

Section 5.4 Regulatory Compliance

Public health is paramount in determining suitability for water system project funding.

- A. The Water Trust Board accepts applications from water system projects that are in full compliance with the Safe Drinking Water Act and all New Mexico Environment Department regulatory requirements.
- B. The Water Trust Board may accept an application from an entity seeking to cure a regulatory deficiency with the proposed water system project. The Water Trust

Board requires verification from New Mexico Environment Department that the proposed project will cure the deficiency.

SECTION 6 ELIGIBILITY

Section 6.1 Overview

The Water Trust Board recognizes that it cannot be the sole source of funding for water projects in New Mexico and that it must direct funds to projects as incentive to adopt certain management practices, to regionalize or to reach other state goals. The Eligibility Policy provides guidance to the Water Trust Board and its applicants on the eligibility of certain projects and expenses.

Section 6.2 General Considerations

The Water Project Finance Act has authorized the Water Trust Fund to provide funding to five broad categories of water projects and also outlines eligible expenses from the Water Project Fund. These policies supplement the Water Project Finance Act and the rules and regulations governing the Water Project Fund.

Section 6.3 Tribal Considerations (Water Policy and Financial Policy Statement)

The Water Trust Board respects New Mexico's Indian Nations, Tribes and Pueblos and their traditional, cultural, and religious values and uses of water.

- A. The Water Trust Board may include for funding consideration and prioritization, water related infrastructure and management projects submitted by New Mexico's Indian Nations, Tribes and Pueblos.
- B. In concert with the Governor Richardson's Executive Order EO-05-004 (Adoption of Pilot Tribal Consultation Plans), the Water Trust Board will collaborate with the Governments of Indian Nations, Tribes and Pueblos in funding water projects.
- C. Applications from Indian Nations, Tribes and Pueblos will be prioritized utilizing the same criteria as all other Water Trust Board applications and may allow for a "soft" and/or "hard" match for any required loan component, as determined jointly by the New Mexico Finance Authority and the Water Trust Board.

Section 6.4 Watershed Qualifications (Water Policy Statement)

In consideration of the Board duties as specified by the Act to restore and manage watersheds, the following policy will be followed by the Water Trust Board:

- A. Watershed projects should consult the State Water Policy and Plan; the New Mexico Non-Native Phreatophyte and Watershed Management Plan (NNPP); New Mexico Forest and Watershed Health Plan; the Comprehensive Wildlife Conservation Strategy for New Mexico; and other watershed or forest planning documents, as appropriate. Projects shall follow or comply with requirements of those plans, as applicable (i.e., Non-Native Phreatophyte Projects would be required to comply with the Templates and Protocols found in the NNPP.)

- B. In addition to other considerations discussed in this document, watershed projects should include stakeholder and community support and a commitment from partners to assist in implementation.
- C. In situations where an applicant was funded previously by the Water Trust Board for a similar project, technical documentation that the previously implemented project met or is meeting its intended goals and objectives should be provided.

Section 6.5 Eligibility of Wastewater Projects (Water Policy Statement)

In consideration of the purpose of the Act to provide for water use efficiency and resource conservation and the inclusion by the Legislature of water conservation as a qualifying project, the following policy will be followed by the Water Trust Board:

- A. Applications for funding that include wastewater facilities must clearly demonstrate that water conservation is an integral part of the project to be funded with Water Project Fund money. For the purpose of this policy, water conservation is defined as a post-project net decrease in water usage.
 - 1. The applicant must detail the water conservation goals and how the project will contribute to those goals as well as how much water will be saved for the money invested.
 - 2. The project must target existing facilities rather than speculate about potential future water savings and potential conservation projects. An example of the latter would be the construction of a new golf course to provide an outlet for reclaimed water where none presently exists with a net increase in water usage.
 - 3. Having demonstrated the conservation purpose, all elements within the wastewater treatment plant that contribute to treatment and reuse are eligible for funding.
- B. All treatment, conveyance, and storage elements of direct and indirect reuse projects are eligible for Water Project Funds.
- C. Wastewater collection and conveyance systems are not eligible for Water Project Funds.
- D. Treated wastewater conveyance systems that contribute to water conservation are eligible for Water Projects Funds.

Section 6.6 Design Life Definition for Non-structural Projects (Water Policy Statement)

Watershed health is a public health and safety issue and watershed restoration encompasses a suite of activities from forest thinning to riparian restoration projects to consideration of soil and substrate conditions.

- A. The Water Trust Board supports design life definitions for funding of non-structural projects such as watershed restoration and management that will address long-term maintenance and overarching watershed restoration goals.
- B. Projects will be reviewed for long-term monitoring and maintenance that provide mechanisms to evaluate benefits accrued over the life of the project and that address how long-term maintenance will be accomplished.

Section 6.7 Quantifying Support Data for Project Reports (Water Policy Statement)

Funding Agreements require Water Project Fund recipients to submit quarterly project reports to the Water Trust Board for review by staff and the Board to determine if the project is proceeding as expected. The reports should include:

- A. A description of the status of the Project, including a financial comparison of actual and anticipated costs;
- B. A description of completion of Project tasks; and
- C. A timeline of Project milestones relating to the design life and operations and management.

Section 6.8 Legal and Fiscal Agent Fees (Financial Policy Statement)

- A. Legal Fees. The Water Trust Board recognizes that adequate legal representation is an important component of managerial capacity and sets the following guidelines for funding from the Water Project Fund Financial Assistance under the following guidance:
 - 1. The Water Trust Board defines legal fees as those services rendered by legal counsel on behalf of the entity for the transaction of the project and not for adjudication services; and
 - 2. No more than 10% of the Water Project Fund financial assistance may be used for legal services.
- B. Fiscal Agent Fees. The Water Trust Board defines a fiscal agent as an eligible entity that administers the fiscal aspects of a project on behalf of one or more eligible entities. The fees incurred in the administration of funds, including the collection and reporting of project information as required by the Water Project Fund financial assistance agreements are considered appropriate fiscal agent fees and is considered an eligible cost under the following conditions:
 - 1. That fiscal agent fees comprise no more than 5% of a project's costs; and

2. That appropriate documentation of hours spent reporting be submitted with funding requisitions.
- C. The total amount of the combined fiscal agent and legal fees may not exceed 10% of the total Water Project Fund financial assistance.

Section 6.9 Acequia Project Fund (Water Policy Statement)

“The State recognizes the value of the acequias’ historical, cultural, ecological and economic contributions to the State and, therefore, promotes the continued viability of acequias.” (State Water Plan, p. 9)

Pursuant to the Water Project Finance Act, Section 72-4A-3.C NMSA 1978 and the Acequia Project Fund 72-4A-9.1, the Water Trust Board implemented the statutory guidance within the Act through separately adopted policies and rules to establish the Acequia Project Fund.

**NEW MEXICO FINANCE AUTHORITY
ACEQUIA PROJECT FUND POLICIES**

Adopted by the Board of Directors of the New Mexico Finance Authority
on January 22, 2009,
upon the Recommendation of
the New Mexico Water Trust Board on October 22, 2008.

I. PURPOSE

The purpose of the Acequia Project Fund is to provide financial assistance in the form of a grant to acequias for eligible projects. The New Mexico Finance Authority and the Water Trust Board seek to strategically prioritize Acequia projects that make best use of scarce financial resources. Section 72-4A-9.1, NMSA 1978, authorizes the New Mexico Finance Authority to adopt procedures and establish rules to administer the Acequia Project Fund. The Acequia Project Fund projects are prioritized by the Water Trust Board for recommendation for authorization by the Legislature and funding by the New Mexico Finance Authority.

These Acequia Project Fund Policies along with the Acequia Project Fund Rules outline the criteria by which the Water Trust Board will prioritize acequia projects for recommendation to the Legislature by the New Mexico Finance Authority for financial assistance from the Acequia Project Fund.

II. GOALS

The goal of these Acequia Project Fund Policies is to outline the requirements and processes of application for eligible acequia projects to be reviewed and prioritized.

III. IMPLEMENTATION

These Acequia Project Fund Policies will be implemented by the Water Trust Board as supported by New Mexico Finance Authority staff and may, at times, be waived by agreement of the New Mexico Finance Authority and the Water Trust Board if the Water Trust Board and the Board of Directors of the New Mexico Finance Authority determine in public meetings that a deviation from these adopted policies is necessary. Such waiver will be reflected in the minutes of the public meetings at which the waiver is approved.

IV. DETERMINATION OF FINANCIAL ASSISTANCE

Section 4.1 Overview

The Acequia Project Fund was established to make grants to acequia projects that have been determined to be a priority by the Water Trust Board and the Legislature.

Section 4.2 General Considerations:

The New Mexico Finance Authority (“NMFA”) and the Water Trust Board seek to strategically prioritize and fund acequia projects that make the best use of scarce financial resources and ensure that they meet the statutory charge to “provide for water use efficiency, resource conservation and protection and fair distribution and allocation of New Mexico’s scarce water resources for beneficial purposes within the state.”

A. Prioritization of Projects

In accordance with the Water Project Finance Act and the Rules implemented to govern the Fund, the NMFA will recommend for funding the projects which are prioritized by the Water Trust Board in cooperation with the Interstate Stream Commission, and will fund the projects upon legislative authorization.

B. Funding Conditions

All NMFA funding agreements shall reflect the following conditions:

- 1) The NMFA and the Water Trust Board may rely on the certifications and determinations made by the New Mexico Interstate Stream Commission in determining adequate governance of the acequias or community ditch associations;
- 2) The maximum amount of grant funding from the Acequia Project Fund for any individual project shall be \$20,000 and shall not exceed 20% of the total project costs;
- 3) The NMFA and the Water Trust Board may rely on the New Mexico Interstate Stream Commission for further consideration of construction of any projects funded providing an opportunity for construction funding consideration through any appropriate acequia or community ditch funding programs as evidenced in a Letter of Construction Consideration; and
- 4) Funds applied for any eligible costs as contracted through an approved New Mexico Interstate Stream Commission Engineering Services Contractor List.

C. Project Costs

The NMFA and the Water Trust Board recognize the immediate need of the acequias and ditch communities for financial assistance associated with planning and design. It is the goal of the NMFA and the Water Trust Board to quickly implement project funding while ensuring that selected projects get completed and are able to be fully utilized by the benefiting communities.

- 1) Project expenses payable from the Acequia Project Fund may include, as appropriate:
 - a. contracted planning;
 - b. contracted engineering design;
 - c. engineering feasibility reports;
 - d. special engineering surveys;
 - e. environmental or archeological surveys; and
 - f. matching requirements for federal and local cost shares.

D. Reliance on Outside Expertise

The NMFA or its staff may request and rely on the assistance of other state agencies, particularly the New Mexico Interstate Stream Commission, in project management and oversight.

Section 4.3 Project Continuations

- A. To encourage timely completion of projects and to maximize participation, the NMFA and the Water Trust Board require applicants that have received prior Acequia Project Fund awards to certify completion of previously funded projects prior to submission of any new application for funding.
- B. As a project progresses into additional phases, the NMFA and the Water Trust Board may require greater levels of organizational management and contributions toward the project.

Section 4.4 Funding Structure

The NMFA shall offer grants to only those project that have been prioritized by the Water Trust Board in cooperation with the New Mexico Interstate Stream Commission and authorized by the Legislature. The conditions and the amount of grant funds shall be recommended by the Water Trust Board to the New Mexico Finance Authority and shall be dependent upon receiving legislative authorization and availability of sufficient moneys in the Acequia Projects Fund.

Section 4.5 Public Participation

The NMFA and the Water Trust Board will require applicants to submit evidence that their proposed projects and applications for financial assistance received adequate public participation and complete disclosure, including where applicable:

- A. Demonstration of Adequate Public Notice will include, as and the extent appropriate:
1. open meetings resolution;
 2. public hearing notice;
 3. minutes of public hearing;
 4. application resolution; and
 5. minutes from meeting where resolution was approved.
- B. Proper determination of public benefit for projects located on private lands;
- C. Bylaws of the Acequia or Ditch Community;
- D. Joint Powers Agreements or Memoranda of Understanding.

NEW MEXICO FINANCE AUTHORITY
WATER AND WASTEWATER GRANT FUND
PROJECT MANAGEMENT POLICIES

A. PURPOSE

The statutory mission of New Mexico Finance Authority is to provide a necessary central mechanism to coordinate the planning and financing of public projects. The purpose of the Water and Wastewater Grant Fund is to help entities least able to help themselves in funding vital water and wastewater projects. In the context of that mission, and in concert with the Water and Wastewater Grant Fund Rules, these Project Management Policies set forth the criteria by which the NMFA may make Water and Wastewater Grant Fund (“WWWGF”) grants to qualified entities.

B. GOALS

The goal of these Project Management Policies is to provide guidance to NMFA staff and applicants regarding readiness for grant funds.

C. IMPLEMENTATION

These Grant Management Policies shall be implemented by the New Mexico Finance Authority Board 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 meeting at which the waiver is considered.

SECTION 1. PROJECT READINESS POLICY

Section 1.1 Overview:

The NMFA is the guardian of precious grant funds and will ensure that the project will be properly planned, procured, completed and maintained. The Project Readiness Policy provides guidance to the NMFA and its Applicants on the information required to reach a determination regarding completeness of application and project readiness.

Section 1.2 General Considerations:

As part of its fiduciary responsibility, NMFA must ensure that the entities receiving funding are able to plan, complete and maintain the project to allow for a useful life of 20 years. To aid in that determination, NMFA requires documentation that measures organizational, financial and project readiness.

A. Organization Readiness

The NMFA shall take all steps necessary to determine the public entity submitted the application with complete public disclosure, including where applicable:

- 1) Demonstration of Adequate Public Notice
 - i. Open Meetings Resolution
 - ii. Public Hearing Notice
 - iii. Minutes of Public Hearing
 - iv. Application Resolution
 - v. Minutes from meeting where Resolution was approved
- 2) Organization Governance Documents:
 - i. Formally Adopted By-Laws
 - ii. Articles of Incorporation
 - iii. Written Rules & Regulations
 - iv. Regular Board Meetings Schedule
- 3) Joint Powers Agreement

B. Financial Capacity

The Water and Wastewater Grant program requires that NMFA measure the financial ability of an entity to contribute towards the completion of the proposed project. To help

reach that determination, NMFA will require the following documents be submitted as part of its application:

- 1) Financial health
 - i. 3 years of historical financial information
 - ii. Current Financials (unaudited), including current aging report
 - iii. Current Fiscal Year Budget

- 2) Evidence of existing debt
 - i. Debt Documents, including Loan agreements
 - ii. Debt Default Summary
 - iii. Pending Litigation Summary

- 2) Verification of Other Funding Sources
 - i. Local matching funds
 - ii. Award of other Grant or Special Legislative Appropriation
 - iii. NMFA funded loans

C. Application Completeness

As the state's fiduciary agent in these projects, the NMFA will ensure that there is adequate protection that the project will be properly planned, procured, completed and maintained. NMFA will require the following information prior to seeking board approval:

- 1) Completed Water and Wastewater Grant Application, including water rates charged by entity and any applicable information enumerated in Section 1.2 A and B in this Water and Wastewater Project Management Policy;
- 2) Determination of Qualified Entity & Qualified Project;
- 3) Verification of Complete Project Description;
- 4) Determination of Legislative Authority for project; and
- 5) Map of Service Area, Area Map and/or Site Map

D. Project Readiness

It is the goal of NMFA to quickly implement project funding while ensuring that the approved project gets completed and is able to be fully utilized by the benefiting

community. As such, the NMFA will require as a condition of closing, evidence of project readiness, including:

- 1) Preliminary Engineering Report, acceptable to the NMFA, for regional projects or if the NMFA grant is greater than \$400,000
- 2) Certified, Final Technical Information
- 3) Final Project Costs
 - i. Final Certified Cost Breakdowns
 - ii. Equipment Cost Breakdown
- 4) Right of Way Acquisition Docs
 - i. Public Domain Documentation
 - ii. Verification of Land Ownership
- 5) Applicable Permits & Licenses ~~including Verification of Adequate Water Rights~~

E. Water Rights

As fiduciary agent for these grants, the NMFA Board requires that systems comply with all laws governing water systems, including assuring that systems are not over-diverting their allocations of water. However, NMFA also recognizes that systems seeking to alleviate public health threats may not have the resources to make system improvements and to cure the water rights shortages.

- 1) For projects expanding the delivery of water service, the NMFA will require as a condition of water and wastewater grant funding that entities provide verification of adequate water rights for the proposed project.
- 2) In certain instances, the NMFA will release water and wastewater grant funds to entities unable to demonstrate adequate water rights if the projects:
 - i. are not related to the expansion of a water system, such as water meters, replacement of water tanks, etc.; or
 - ii. effect the health, safety and welfare of the communities on the condition that the water systems will actively work with the Office of the State Engineer to remedy their over-diversions.

Adopted: _____ April 27, 2006

NEW MEXICO FINANCE AUTHORITY
LOCAL GOVERNMENT PLANNING FUND
PROJECT MANAGEMENT POLICIES

A. PURPOSE

The purpose of the Local Government Planning Fund is to provide up-front capital necessary to allow for proper planning of vital public projects, including water and wastewater preliminary engineering reports, water and wastewater master plans, water conservation plans and comprehensive economic development plans.

B. GOALS

The goal of these planning document policies is to provide guidance to NMFA staff and applicants regarding prioritization of planning grant documents and determination of need for economic development plans.

C. IMPLEMENTATION

These Planning document policies shall be implemented by the New Mexico Finance Authority Board and may, at times, be waived by the Board if it is determined that a deviation from its adopted policies is necessary. Any waiver will be reflected in the minutes of the meeting at which the waiver is considered.

SECTION 1. ECONOMIC DEVELOPMENT PLAN NEED DETERMINATION

Section 1.1 Overview

Funding for the planning fund is appropriated to make grants to qualified entities to evaluate and to estimate the costs of implementing the most feasible alternative for meeting water and wastewater and local economic development project needs. The Planning Document Policies will 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.

Section 1.2 General Considerations

Proper planning of public projects is vital to their success. The NMFA will adhere to the rules and regulations that state funding may be made available only for the portion of a Planning Document that the entity cannot cash fund. To help determine an entity's relative ability to fund economic development plans, the NMFA shall analyze the following

The NMFA shall take all steps necessary to determine the priority of the project the amount of funding the entity qualifies for and determining the entities ability to cash fund their planning document

A. Determination of Need of Localities

In accordance with Local Government Planning Fund Rules, the NMFA will determine the amount of a planning document that cannot be funded from available financial resources such as unrestricted cash balances.

Using figures available from the latest census, an entity's relative economic need will be based upon two measures which are computed for the applicant and then compared to the state:

- 1) Are there sufficient jobs available given the working age population? To determine jobs available in relation to working age population (age 16 and above) :

$$\frac{(\text{Employed Persons } 16^{+}_{\text{qualified entity}} / \text{Population } 16^{+}_{\text{qualified entity}})}{(\text{Employed Persons } 16^{+}_{\text{statewide}} / \text{Population } 16^{+}_{\text{statewide}})}$$

- 2) Do these jobs pay a sufficient wage? This is determined solely by the median earnings of those workers

$$\frac{\text{Median earnings of Employed Persons within the Qualified Entity}}{\text{Median earnings of Employed Persons Statewide}}$$

- 3) For a “substantial economic need” to exist, the qualified entity must have either:
 - i) a smaller percentage of its working age population employed than that percentage for the state as a whole; and/or
 - ii) lower median earnings among those employed than the statewide median.
 - iii) An entity’s shortcoming in these areas may be used to prioritize projects for funding.

B. Determination of Need for Projects with Statewide Impact

The Authority or its staff may request and rely on the assistance of other state agencies, e.g. the Department of Finance and Administration or the New Mexico Environment Department in determining the need for economic development projects with statewide impact.

C. Reliance on Outside Expertise

The Authority or its staff may request and rely on 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 1.3 Additional Considerations

A. Project Prioritization

As established in rule, the NMFA may give priority in awarding planning grants to:

- 1) those entities that have not previously received Planning Grant funding,
- 2) those entities that have legally imposed deadlines to adopt a Water Conservation Plan; or
- 3) those entities that have historically not directly benefited from economic development programs within the respective community.

B. Regionalization

For Water and Wastewater public projects, Water Conservation Plans and Long Term Master Plans a discussion of regionalization must be included as a solution for findings covered in the document itself.

Adopted: April 27, 2006

PRIVATE LENDING PROGRAMS

NEW MEXICO FINANCE AUTHORITY
PRIMARY CARE CAPITAL FUND
LOAN MANAGEMENT POLICIES

A. PURPOSE

The statutory purpose of the Primary Care Capital Funding Act is to provide vital funding for capital projects to eligible entities in order to increase health care services in rural and other health care underserved areas in the state.

B. GOALS

The goal of these Loan Management Policies is to provide guidance to NMFA staff and applicants regarding acceptable levels of risk, pricing and securitization of individual loans within the PCCF program.

C. IMPLEMENTATION

These Loan Management Policies shall be implemented by the New Mexico Finance Authority Board 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 meeting at which the waiver is considered.

SECTION 1. STRUCTURING POLICY

Section 1.1 Overview:

NMFA considers the purpose of the funds in determining appropriate loan structures that will both respect and support rural primary care clinics while fulfilling the requirements of the state's fiduciary agent in the program. The NMFA has balanced administrative capacity and fiscal prudence with legislative intent in developing these lending policies.

Section 1.2 General Considerations:

In order sensitive to the needs of the PCCF borrowers while protecting the long-term health and longevity of the PCCF, the NMFA will take the following steps in structuring a PCCF loan:

A. Interest Rates

NMFA shall charge 3% interest on all PCCF loans, from which NMFA will subtract its administrative fee of .25%.

B. Debt Service Coverage Requirements

The Debt Service Coverage Tests establish minimum levels of excess revenue coverage requirements for PCCF loans. The NMFA will examine three areas of financial performance to determine financial eligibility under for PCCF loans.

- 1) Cash Flow Test (1x coverage required): NMFA staff will analyze cash flow to determine earnings before depreciation and amortization to determine the cash-flow earned from current operations and the applicant's ability to cover the existing and proposed debt service. Revenues net of depreciation and amortization needs to be sufficient in the most recent year and at least one of the two prior years to cover existing and proposed debt service. NMFA will undertake a full cash flow analysis to determine if, on a three-year historical basis, the Applicant can undertake the loan with adequate net cash-flow, without consideration to the potential for a forgiveness of principal and interest for the provision of contract-for-services.
- 2) Current Liquidity Test (1.5x): Based upon its analysis of the most recent three years of audited financial statements, NMFA will determine that the Applicant's current assets divided by its current liabilities are at least 1.5 times for two of the past three years

- 3) Long-term debt as a percentage of assets. This measure helps determine if the applicant is approaching its leverage capacity. All PCCF applicants, debt-to-total assets must be 125% or less.

C. Additional Bonds Test

NMFA recognizes that non-profit primary health care providers must utilize all available revenue to fund their services and secure funding for their vital health projects. The NMFA will allow entities to secure additional parity debt utilizing a security pledged to a PCCF loan, so long as

- 1) the entity has collected in any 12 consecutive month period during the past 24 months, sufficient revenue to meet or exceed the minimum debt service coverage tests for all existing and proposed debt as outlined in section 3.2B of the PCCF Loan Management Policies; and
- 2) The Department of Health has concurred with the need for the project.

D. Collateral

As the state's fiduciary agent in these loans, the NMFA will ensure that there is adequate protection, including loan guarantees, real property liens, title insurance, security interests in or pledges of accounts and other assets, loan covenants and warranties or restrictions on other encumbrances and pledges for the state funds extended for the loan. Specific collateral requirements will vary in each circumstance, but at a minimum, the NMFA will ensure the state's interest in any capital project by the filing of a lien equal to the total of the state's financial participation in the project.

E. Collections

The NMFA recognizes that maintaining a relationship with its borrowers is key to timely loan repayments.

- 1) NMFA will structure its loan with monthly payments of principal and interest as it provides NMFA with early detection of potential loan defaults.
- 2) PCCF loans will be structured with a pre-payment provision to allow borrowers to pre-pay the loan at any time.
- 3) NMFA shall immediately make telephone contact with the borrower when a monthly payment is late. NMFA or Dept. of Health staff will increase site visits if a borrower is more than 30 days past due in its loan payments.

- 4) The NMFA will verify submission of required annual audited financial statements within 90 days of fiscal year end during the terms of the loan.

F. Contract-For-Services

To ensure that the entity is earning the abatement provided for in its 20% contract-for-services, NMFA will require Department of Health to make certify each borrower is providing care to indigent patients at free or reduced costs as required. NMFA will actively monitor these quarterly reports prior to providing the 20% forgiveness.

Adopted: April 27, 2006

NEW MEXICO FINANCE AUTHORITY
BEHAVIORAL HEALTH CAPITAL FUND
LOAN MANAGEMENT POLICIES

A. PURPOSE

The purpose of the Behavioral Health Capital Funding Act is to provide vital funding for capital projects to eligible non-profit clinics in order to increase behavioral health care services to sick and indigent patients.

B. GOALS

The goal of these Loan Management Policies is to provide guidance to NMFA staff and applicants regarding acceptable levels of risk, pricing and securitization of individual loans within the BHCF program.

C. IMPLEMENTATION

These Loan Management Policies shall be implemented by the New Mexico Finance Authority Board 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 meeting at which the waiver is considered.

SECTION 1. STRUCTURING POLICY

Section 1.1 Overview:

NMFA considers the purpose of the funds in determining appropriate loan structures that will both respect and support behavioral health care clinics throughout the state while fulfilling the requirements of the state's fiduciary agent in the program. The NMFA has balanced administrative capacity and fiscal prudence with legislative intent in developing these lending policies.

Section 1.2 General Considerations:

In order to be sensitive to the needs of the BHCF borrowers while protecting the long-term health and longevity of the BHCF, the NMFA will take the following steps in structuring a BHCF loan:

A. Interest Rates

NMFA shall charge 3% interest on all BHCF loans, from which NMFA will subtract its administrative fee of .25%.

B. Debt Service Coverage Requirements

The Debt Service Coverage Tests establish minimum levels of excess revenue coverage requirements for BHCF loans. The NMFA will examine three areas of financial performance to determine financial eligibility under for BHCF loans.

- 1) Cash Flow Test (1x coverage required): NMFA staff will analyze cash flow to determine earnings before depreciation and amortization to determine the cash-flow earned from current operations and the applicant's ability to cover the existing and proposed debt service. Revenues net of depreciation and amortization needs to be sufficient in the most recent year and at least one of the two prior years to cover existing and proposed debt service. NMFA will undertake a full cash flow analysis to determine if, on a three-year historical basis, the Applicant can undertake the loan with adequate net cash-flow, without consideration to the potential for a forgiveness of principal and interest for the provision of contract-for-services.
- 2) Current Liquidity Test (1.5x): Based upon its analysis of the most recent three years of audited financial statements, NMFA will determine that the Applicant's current assets divided by its current liabilities are at least 1.5 times for two of the past three years

- 3) Long-term debt as a percentage of assets. This measure helps determine if the applicant is approaching its leverage capacity. For all BHCF applicants, debt-to-total assets must be 125% or less.

C. Additional Bonds Test

NMFA recognizes that behavioral health care providers must utilize all available revenue to fund their services and secure funding for their vital health projects. The NMFA will allow entities to secure additional parity debt utilizing a security pledged to a BHCF loan, so long as

- 1) the entity has collected in any 12 consecutive month period during the past 24 months, sufficient revenue to meet or exceed the minimum debt service coverage tests for all existing and proposed debt as outlined in section 3.2B of the BHCF Loan Management Policies; and
- 2) The Department of Health has concurred with the need for the project.

D. Collateral

As the state's fiduciary agent in these loans, the NMFA will ensure that there is adequate protection, including loan guarantees, real property liens, title insurance, security interests in or pledges of accounts and other assets, loan covenants and warranties or restrictions on other encumbrances and pledges for the state funds extended for the loan. Specific collateral requirements will vary in each circumstance, but at a minimum, the NMFA will ensure the state's interest in any capital project by the filing of a lien equal to the total value of the state's financial participation in the project.

E. Collections

The NMFA recognizes that maintaining a relationship with its borrowers is key to timely loan repayments.

- 1) NMFA will structure its loan with monthly payments of principal and interest as it provides NMFA with early detection of potential loan defaults.
- 2) BHCF loans will be structured with a pre-payment provision to allow borrowers to pre-pay the loan at any time.
- 3) NMFA shall immediately make telephone contact with the borrower when a monthly payment is late. NMFA or Dept. of Health staff will increase site visits if a borrower is more than 30 days past due in its loan payments.

- 4) The NMFA will verify submission of required annual audited financial statements within 90 days of fiscal year end during the terms of the loan.

F. Contract-For-Services

To ensure that the entity is earning the abatement provided for in its 20% contract-for-services, NMFA will require Department of Health to make certify each borrower is providing care to indigent patients at free or reduced costs as required. NMFA will actively monitor these quarterly reports prior to providing the 20% forgiveness.

Adopted: April 27, 2006

**NEW MEXICO FINANCE AUTHORITY
CHILD CARE FACILITY LOAN FUND
LENDING POLICIES**

Adopted December 15, 2005

MISSION

Governor Richardson signed the Child Care Facility Loan Act (the “Act”) into law on April 8, 2003. The mission of the Act is to ensure statewide availability of healthy and safe teaching environments by providing low-interest, long-term loans to licensed child care providers. The Act partners the programmatic expertise of the Children, Youth and Families Department (“CYFD”) with the lending skills of the New Mexico Finance Authority to administer this small loan program efficiently while respecting and adhering to the legislative intent of the Fund.

PURPOSE

The Authority has balanced administrative capacity and fiscal prudence with legislative intent in developing these lending policies. The policies shall apply to all Child Care Facility loans. However, the Authority may, in its discretion, waive any aspect of the policies in furtherance of the state’s child care goals.

ELIGIBILITY AND STRUCTURING POLICIES:

Collateral

Applicants are expected to demonstrate a strong commitment to their business. The NMFA will require all Child Care Facility loan borrowers to secure loans with business collateral and will require personal guarantees from all principals with greater than 10% interest in the business. Specific collateral requirements will vary in each circumstance, but at a minimum, the NMFA will file blanket security liens (Uniform Commercial Code filing statements) at the highest lien priority available. In no instance will the NMFA decline a loan solely for the lack of collateral.

Credit

The NMFA will order and analyze personal credit reports on all principal owners of the business. Applicants must demonstrate responsible behavior according to their individual credit reports. Recent bankruptcy, numerous collection items and lateness, liens, and/or judgments will not be accepted and may be reason alone for not extending credit.

Cash Flow Coverage

NMFA will undertake a full cash flow analysis to determine if, on a historical basis, the Applicant can undertake the loan with adequate net cash-flow of 1.3x coverage. As part of this analysis, NMFA will request three years of historic financial statements and up to five years of projected cash flow statements. If the Applicant is unable to meet this historic cash-flow test, the NMFA may consider pro-forma financial information with a net coverage requirement of 1.5x.

Equity and Management

The NMFA considers the use of one's own capital as commitment to the business and as a positive indication of business stability. As such, equity contributions will be viewed favorably by NMFA and may allow applications with borderline deficiencies in personal credit to be extended a loan. This equity contribution, particularly when coupled with long-term commitment to the business, may override all but recent (within past two years) bankruptcies, collections, late payments and liens.

Loan Terms and Conditions

Loans made under this program shall be made under the following terms and conditions:

- ◆ Loans in amounts not to exceed \$50,000.
- ◆ Fixed 3% interest rate.
- ◆ Fully amortized term loans with no penalty for early repayment; "balloon" structures will not be allowed.
- ◆ Final maturities of loans shall not exceed the useful life of the assets financed.
- ◆ If the place of business is leased, there must be a minimum of one year beyond the loan term requested remaining on the lease or an option for renewal with similar terms. The rent payment must be current.
- ◆ If the premise is owned, the mortgage and property taxes must be current.
- ◆ In any loan of greater than \$20,000, a complete and accurate business plan will be essential to the assessment of the applicant's and the business's credit-worthiness.

Collections

The NMFA recognizes that maintaining a relationship with its borrowers is crucial receiving timely loan repayments. NMFA, through its contractual relationship with CYFD, shall incorporate periodic site visits into the management of each loan. These calls and site visits will increase if a borrower is more than 30 days past due in its payments on the loan. Submission of annual financial statements will be required during the terms of the loan.

NEW MEXICO FINANCE AUTHORITY
STATEWIDE ECONOMIC DEVELOPMENT FINANCE ACT
LOAN PARTICIPATION PROGRAM
LENDING AND CREDIT POLICY

SECTION 1. MISSION AND GOALS

The statutory mission of the Statewide Economic Development Finance Act (“the Act”) under the New Mexico Finance Authority Act, NMSA 1978, Section 6-25-1 through 16 is to:

- ◆ Stimulate economic development with needed programs in the public interest that serve necessary and valid public purposes; and
- ◆ Provide one method of implementing the economic development assistance provisions of Subsection D of Article 9, Section 14 of the constitution of New Mexico.

The goals of this lending and credit policy are to:

- ◆ Define the criteria that will ensure high quality lending decisions, including full and timely repayment of all borrowings;
- ◆ Achieve the lowest possible interest rate within established risk parameters; and
- ◆ Promote consistency and continuity in the decision making and monitoring process.

The general purpose of this lending and credit policy is to provide guidance to decision makers regarding the acceptable levels of risk, pricing, security and structuring permitted under the Smart Money loan participation program rules and regulations. Adherence to the lending and credit policy will help to ensure that the NMFA creates and maintains sound lending practices within the Economic Development Loan Fund and that the credit quality of the EDLF portfolio and outstanding debt will be maintained, creating and ensuring the continuation of the revolving loan fund.

Purposes specific to this lending and credit policy are:

- ◆ Determine programmatic priority for loan participation applicants;
- ◆ Define NMFA’s desirable, undesirable or prohibited loans;
- ◆ Determine interest rate policy and risk policy;
- ◆ Define collateral requirements;
- ◆ Determine of acceptable lien position;
- ◆ Define loan administration roles and loan monitoring guidelines.

SECTION 2. LOAN PARTICIPATION POLICY

The combination of the constitutional and statutory requirements for the protection of public funds and the statutory requirement for the confidentiality of certain proprietary business information requires a multi-tiered approach to implement this lending and credit policy. This policy creates unique requirements for the originating lender, the NMFA staff and consultants, the NMFA Finance and Loan Committee and the NMFA Board of Directors.

Section 2.1. Originating Partner Bank

- ◆ Accepts and approves a loan application from a qualified entity;
- ◆ Collect and/or produce all information required to convert the loan application into a loan participation application and submits it to the NMFA staff;
- ◆ Draft loan participation agreement.

Section 2.2. NMFA Staff

- ◆ Reviews the application for completeness;
- ◆ Structures the proposed terms and conditions of the NMFA's portion of the loan participation with interest rate and collateral based on the credit quality of the borrower and the project will take into consideration the following:
 - type of loan requested;
 - interest rate based on risk analysis of the borrower and the specific transaction;
 - amortization period based on useful life of assets being financed;
 - cash flow coverage requirement;
 - loan collateral requirements, including acceptable collateral, collateral value determination, loan to value limitations and lien position; and
 - reviews the loan participation agreement.
- ◆ obtains waivers of confidentiality required for public consideration of loan participation application by NMFA Board.
- ◆ prepares a recommendation to the NMFA Finance and Loan Committee.

Section 2.3. NMFA Economic Analysis and Loan Review Consultants

- ◆ Provide independent third-party review of entire project evaluation and loan structuring prior to proposal to Finance and loan Committee.
 - Proposed project's quantifiable benefits to the state
 - Loan terms and conditions, including interest rate, amortization, debt service coverage, collateral valuation and coverage, and provisions of the loan participation agreement.

Section 2.4. NMFA Finance and Loan Committee

- ◆ Reviews proposal submitted by NMFA staff, including all information submitted with the application relevant to making a lending decision.
- ◆ Makes a final approval for recommendation to NMFA Board.
- ◆ This approval recommendation will be include sufficient detail on the loan participation to allow independent deliberation and decision making by the 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. Specific waivers will be required from the applicants for all information released to the Board.

Section 2.5. NMFA Board of Directors

- ◆ Deliberates and rules on the recommendation submitted by the Finance and Loan Committee.
- ◆ The recommendation will be sufficient in detail and accompanied by relevant supporting information to allow independent deliberations by the Board.
- ◆ The Board may approve all or part of a recommendation or refer all or part of the recommendation back to the Finance and Loan Committee, if the Board determines that sufficient information has not been made available on which to base a decision.

SECTION 3. APPLICATION PROCEDURES POLICY

Section 3.1. Overview

The application procedures policy provides guidance to the NMFA, its Smart partners and the applicant on information required in order for an application to be considered complete.

Section 3.2. General Considerations

The NMFA staff, shall evaluate each loan participation application utilizing the process set forth below. Such evaluation will include, to the extent applicable: proposed use of the loan proceeds, the applicant's creditworthiness and any other matters the originator or NMFA may consider appropriate.

A. Application Forms. The Authority will provide the Economic Impact Application to the Smart Partner Bank as needed.

B. Application Process. The private lender will submit to NMFA its complete loan analysis as presented and approved by its credit committee or board along with the structure, a proposed commitment letter and the economic impact analysis application provided.

To the extent available and applicable, a complete application will include the following:

- (a) a letter of transmittal;
- (b) a loan summary, including evidence of originator approval at the required level and all supporting documentation;
- (c) a list of all outstanding loan(s) to the applicant or to any member, partner or stockholder of the applicant along with the bank's statement that each loan is current and that no other loans exist and a description of any other incentives to be supplied to the applicant in connection with the project;
- (d) for the applicant and any co-borrowers: a current credit report, three most recent years' financial statements and federal income tax returns as well as signed, current year-to-date financial statements, including balance sheet, profit and loss statement and federal income tax return. Depending on the complexity of the statements, the NMFA may require audited financial statements;
- (e) for any guarantor: a current credit report, a signed current balance sheet and federal income tax returns for the prior two years;
- (f) if available, copies of the earnest money receipt and the option or contract to purchase land;
- (g) a contractor's estimates for improvements to real property or the contract or detailed estimates for the purchase of tangible personal property related to the project;

- (h) a copy of any lease for land, building and improvements related to the project, including copies of leases or agreements to lease or renew a lease between the applicant and project tenants, including a list of tenants, lease rates, terms and options;
- (i) for projects where NMFA is participating in the interim construction loan, copies of contractor resumes and detailed time budget, including estimated construction costs satisfactory to the Authority;
- (j) an estimate of the number of jobs to be created or retained by this project and the wages associated with those jobs;
- (k) a description of the benefits an applicant will contract to provide, such as local hiring quotas, job training commitments and installation of public facilities or infrastructure, in connection with the proposed loan or with any economic development incentives available to the applicant from any other source;
- (l) for land and building, a written appraisal report for any real property securing a loan prepared by a certified appraiser;
- (m) on equipment loans where NMFA has a subordinate interest in the collateral, an appraisal in a format acceptable to and prepared by an appraiser acceptable to the Authority; and
- (n) any additional information requested by the Authority to evaluate an applicant.

Section 3.3. Exemption from the Inspection of Public Records Act

Information submitted to the NMFA with the application representing the applicant's business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential, as required by law.

Section 3.4. Board Approval

NMFA's Board of Directors may grant their approval for projects contingent on the approval of the Legislature, provided there is no material change in the information submitted between the time of Board Approval and Legislative approval.

Projects approved by the legislature in advance of Board action are considered pending. A pending project may not be prioritized for funding until it has received final approval from the NMFA's board.

SECTION 4. DETERMINATION OF PROJECT ELIGIBILITY

Section 4.1. Eligible Project

The following costs qualify for financing from the proceeds of Smart Money loan participations:

A. Land and Infrastructure Costs. Land costs must be directly associated with the purchase, renovation or new construction of a building or production facility. Land and infrastructure costs may include, but are not limited to:

- ◆ acquisition,
- ◆ site preparation and testing,
- ◆ utilities,
- ◆ site mapping,
- ◆ landscaping,
- ◆ Legal and other related costs.

B. Building Costs: may include, but are not limited to building acquisition, construction, rehabilitation and engineering, architectural, legal and other related costs.

C. Machinery and Equipment Costs: may include, but are not limited to costs of acquisition, delivery and installation. Costs are eligible if the applicant has newly purchased, even if the machinery has previously been in service. Costs of mobile equipment are eligible if and only if, such equipment is titled or registered for highway use.

D. Working Capital: used by an applicant for operations, including without limitation, personnel and training costs.

SECTION 4.2. Ineligible Costs

The following activities may not be funded with Smart Money loan participations.

- ◆ Buyouts
- ◆ Speculation
- ◆ Extraordinary payments
- ◆ Related party transactions
- ◆ Ongoing projects and
- ◆ Refinancing

NOTE: Refinancing any portion of the total project cost, except for short-term “bridge” financing where the bridge financing is being promptly replaced by the proceeds of the loan. Bridge Financing must be disclosed to the private lender in connection with its review of the loan. Converting a construction loan to a permanent loan will not be considered refinancing.

SECTION 5. PRIORITY POLICY

The goal of the priority policy is to define to the process under which NMFA determines the priority of applications while adhering to the goal of the loan participation program to stimulate economic development in New Mexico.

Priority in awarding financial assistance will be given to businesses which make New Mexico their headquarters and increase the economic development impact of their loan.

Section 5.1. Determination of “quantifiable benefits” to the State.

The New Mexico Economic Development Department and the NMFA will award financial assistance in the order that complete applications are received to businesses meeting the quantifiable benefits to the State requirements.

Quantifiable benefits take into consideration direct benefits to the state. The most direct benefit to the state in this loan participation program is the market rate of interest that the NMFA receives on its portion of the loan.

Additionally the NMFA will use an economic impact analysis model from *Impact DataSource, Inc.* to determine the direct and indirect impact of a proposed project so that a net return to the State can be calculated:

- ◆ New Mexico job creation,
- ◆ Additional personal income,
- ◆ Additional tax revenues, and
- ◆ Increased demand for government services.

These calculations will be used to demonstrate the fulfillment of New Mexico Constitutional requirements to quantify and demonstrate the adequacy of benefits the financing assistance will provided.

Section 5.2. Project Eligibility and Priority

The New Mexico Economic Development Department is required by statute to determine the criteria used to determine eligibility of funding based on the economic impact of a project. The New Mexico Finance Authority will apply the standards used in the Job Training Incentive Program to determine the economic benefits of a project and priority in awarding financial assistance.

- ◆ **High wage jobs:** Businesses creating jobs paying above the state or local median wage and offering workers health care coverage;
- ◆ **Economic/Export Base Companies:** A company that derives most of its revenue from outside New Mexico, either directly or as a supplier to a company doing business outside the State;
- ◆ **Projects with High Impact on New Mexico Economy:** Any project that creates more than one job per \$50,000 of Smart Money Program investment;
- ◆ **Location:** Businesses located in a rural or economically distressed area, as determined by the New Mexico Economic Development Department; and
- ◆ **New Capital Investment:** Businesses building a new facility or making substantial improvements to an existing facility.

Section 5.3. Commitment to Meet Economic Development Requirements

Failure to meet any of the requirements or representations under which a loan was granted will be considered a technical default and may result in an acceleration of the loan by the originating bank and/or an increase in the loan interest rate, unless it is determined by NMFA that failure was due to circumstances beyond the control of the business.

SECTION 6. LOAN CATEGORIES: DESIRABLE, UNDESIRABLE OR PROHIBITED

The NMFA will examine each loan to determine if it meets the NMFA's overall lending policies and goals. However, certain loans may be generally classified as desirable, undesirable or prohibited.

Section 6.1. Desirable Loans

The NMFA considers business loans of the following type desirable, provided each meets the tests of a sound, prudent loan, there is a clearly understood source of funds and scheduled plan for repayment and all government regulations are observed:

- ◆ Short-term secured and unsecured working capital loans to established businesses based on a review of satisfactory financial statements and a credit investigation as to character, capacity and prospects of the borrower;
- ◆ Loans secured by readily marketable collateral (i.e., stocks and bonds) with adequate margins for market fluctuations;
- ◆ Short-term unsecured loans to borrowers with good character, sufficient income, liquidity and satisfactory credit record, and when the purpose of the loan represents a clear benefit to the borrower;
- ◆ Real estate loans secured by first liens on improved real estate for commercial purposes;
- ◆ Term loans to businesses for the purchase of and secured by, equipment that has a resale market; and
- ◆ Short-term loans with good primary sources of repayment that are secured by equity in real estate.

Section 6.2. Undesirable Loans

The NMFA considers loans of the following type undesirable and will normally decline these loans, unless specifically approved by the NMFA board for reasons that the board believes warrant a departure from our normal lending policy:

- ◆ Working capital loans to new businesses if the repayment of the loan is dependent solely upon the profitable operation of the enterprise;
- ◆ Working capital loans to a business when the loan can be repaid within a reasonable period of time only by obtaining new invested capital, borrowing elsewhere or liquidating the business;
- ◆ Loans secured by stock that is closely held and not readily marketable;
- ◆ Loans secured by speculative bonds (i.e., rated "B" or lower);

- ◆ “Accommodation loans” to poor credits based on the strength of a good endorser. It is urged that, if the loan cannot be justified on its own merits, the loan should be made to the endorser, who then may loan the proceeds to the party he or she wishes to accommodate;
- ◆ Loans secured by collateral if the prospects of repayment are poor and liquidation of collateral is the primary source of repayment;
- ◆ Interim construction loans without known and reliable sources of permanent financing;
- ◆ Speculative loans not secured by readily marketable collateral; and
- ◆ Loans to borrowers who have previously declared bankruptcy.

Section 6.3. Prohibited Loans

The following types of loans are prohibited by policy and will not be approved under any circumstances:

- ◆ Loans secured by restricted stock;
- ◆ Loans secured by shares of the originating banks stock;
- ◆ Loans secured by property held in trust for a minor or incompetent person;
- ◆ Loans to people whose honesty is questionable;
- ◆ Loans for purposes that may not be legal;
- ◆ Loans for the purpose of enabling the borrower to speculate in the futures market for either securities or commodities;
- ◆ Single-payment loans with maturities longer than one year; and
- ◆ Loans secured by household goods, jewelry or works of art.

SECTION 7. INTEREST RATE POLICIES

Section 7.1. Overview

Since the NMFA does not take into consideration cost of funds and return to shareholders when setting the interest rate, the primary goal of the interest rate policy is to define the sliding scale risk premium that will adequately compensate the NMFA and the fund for risk taken.

Pricing the loan ensures that the NMFA will be adequately compensated for the risk of the deal. The following variables will affect the pricing of NMFA’s loan participation:

- ◆ Company specific variables;
- ◆ Marketplace the bank operates in;
- ◆ General economic conditions and commitment to meet economic development goals; and
- ◆ Matching the pricing and maturity of the Smart partner loan terms relative to the risk that the NMFA will have.

Section 7.2. Interest rate calculation

The interest rate on the NMFA portion of any loan participation can be either fixed or variable: the base rate of interest is adjusted for risk.

A. NMFA’s Base Rate. These rates are most desirable because they provide a substantial subsidy, are widely published and understood and provide an “adequate” market rate of return to the EDRF.

- ◆ **Fixed base rate.** Is determined by U.S. Treasury Bills, Notes or Bonds (“Treasuries”) of like maturity.
- ◆ **Variable base rate.** Is adjusted up, starting at 2% below Prime, with a floor of Treasuries of like maturity.

B. NMFA’s Interest Rate Risk Adjustment. Risk ratings are a major component of interest rate determination. The base rate will be adjusted upward based on risk.

- ◆ The risk adjustment is determined by analyzing the borrower’s risk and transactional risk. A rating or category is assigned to both components that rank the loan categorically for levels of risk.
- ◆ The risk analysis is taken directly from eMentor™ rating services offered by the Risk Management Association (RMA) which is designed to help lenders evaluate and score risk based on a sliding scale for each component of a loan for a particular borrower.
- ◆ In understanding risk the NMFA must identify the risk, analyze the risk, quantify the risk, mitigate the risk, monitor the risk and anticipate unidentified risks.

SECTION 8. RISK MANAGEMENT POLICY

The goal of this risk policy for the loan participation program is to provide staff, the originator and applicant with a frame work to quantify risk factors and judge how a particular risk compares to other loans within the portfolio.

Section 8.1. Borrower's Risk Rating

The borrowers risk rating is determined by rating the risk related to the borrowers ability to repay debt, compared to transactional risk which relates to the risk of a particular loan structure.

*Please Note: Rating categories are explained in detail as Exhibit A

Section 8.2. Analyzing Non-financial Risk

Industry, business and management risks are an important part of the underwriting process. The point of looking at risk is not to eliminate it but to understand how it affects a client's ability to repay.

- A. Industry Risk Analysis.** The goal when looking at an industry is to review the characteristics and composition of different industries. Understanding each industry's special problems/challenges and credit needs allows a rating based on One through Ten. The RMA provides up to date analysis of industries and products which can be used to derive a relative industry risk component.
- B. Business Risk Analysis.** The goal in establishing business risk criteria is to look at risks that are specific to a particular client and unique due to the operating strategy of the company. This information will be provided as part of the borrower's business plan submitted by the bank as part of the application. Business risk analysis looks at risks associated with a company's operating cycle and business strategies;
- C. Management Risk.** The goal of analyzing Management risk is to look at what is required to run a company efficiently and profitably and how management style characteristics can either compound or allay risk.
- D. Environmental Risk Analysis.** The goal when analyzing environmental risk is to identify sources of environmental contamination and ways to insulate the applicant from environment risks.

SECTION 8.3. Analyzing Financial Risk

The reason for borrowing provides you with insights into the company's ability to repay. The goal of the financial analysis is to gain a complete understanding of the applicants' historical and projected financial performance.

- A. Balance Sheet Analysis.** Financial ratios calculated from a company's balance sheet measure the profitability, liquidity and leverage of a company in its normal operating cycle. The RMA categories measure a prospective borrower's ability to convert its current assets to cover its current liabilities and the extent to which the borrower utilizes debt to fund its assets. The borrower's balance sheet measures can be scored against companies in the same industry and of comparable size in the annual statement studies database to give a relative risk score and a relative probability of default.
- B. Income Statement Analysis.** The goal of income statement analysis is to evaluate the operating performance of the borrower. cash repays debt. The income statement and beginning and ending balance sheets for a period provide the information necessary to calculate cash flow. Income statement analysis looks at the stability and predictability of revenues and expenses. When looking at cash flow it is important to make distinctions between profit and cash flow.
- C. Financial Statement Credibility.** A highly rated auditor should provide independent judgment and utility to the financial statements. It is this independent judgment, in conjunction with appropriate accounting standards and procedures, which provides the credibility and reliability of the numbers

Section 8.4. Composite Borrower Risk Rating

The NMFA will use the composite risk rating methodology provided by RMA (Attached as Exhibit A) to convert the individual risk components above into a composite score of 1 – 10. Scores of 1 through 3 will qualify for the lowest interest rate or a risk premium of zero. Loans with scores of 8 or above will generally be judged as too risky to be made. Scores between 4 and 7 will be used to assign a risk premium to a base interest rate.

Section 8.5. Transactional risk analysis

Transactional risk analysis relates to the structure of the credit and is determined by the following factors:

- ◆ Borrower's Risk Rating the analysis listed above;
- ◆ Term of the loan;
- ◆ Collateral;
- ◆ Guarantees or other third party support; and
- ◆ Covenants and other conditions associated with the loan transaction.

Transactional risk may differ from the borrower risk rating because of the existence of collateral, guarantees, unusual terms and other types of structuring variations. Specific terms of the loan impact the risk rating of the borrower.

- ◆ Collateral quality and control;
- ◆ Guaranties/Third party support;
- ◆ Tenor;
- ◆ Terms and Documentation.

SECTION 9. STRUCTURING POLICY

Loan structure depends on the nature of the applicant's collateral as well as the applicant's business. The loan structure clearly defines the boundaries within which the customer can operate.

Section 9.1. Overview

The structuring policy establishes methods for the NMFA's control over its commitments and the remedies available in the event of a problem.

Section 9.2. Maximum Loan Amortization . The maximum amortization period is bound by the useful life of the asset being financed.

- ◆ Real Estate. Loan participations used for real estate have a maximum amortization period of up to 25 years;
- ◆ Machinery and Equipment. Loan participations used for used for machinery and equipment have a maximum amortization period of up to 15 years; and
- ◆ Working Capital. Loan participations used for working capital have a maximum amortization period of up to 18 months unsecured and up to 3 years secured. Seasonal lines of credit have a maximum amortization period of up to 5 years with an annual renewable clause.
- ◆ Multiple Uses. In projects where two or more uses of EDRF funds are planned, loan terms may be blended.

Section 9.3. Balloon Payment

The amortization of NMFA loan participation may differ from the private bank's portion of the loan. The term must match that of the bank with a balloon payment on NMFA's portion of the loan.

SECTION 10. SECURITY POLICY

Section 10.1 Overview

The security policy defines the NMFA’s collateral value requirements. Collateral provisions in the loan provide that in the event of default the NMFA has right to take the collateral in satisfaction of the debt or to sell it and use the proceeds to pay off the debt.

Most loans made by the NMFA will be secured by collateral. Collateral will not, however, be a substitute for the borrower’s ability to repay from cash flow. Cash flow will be the primary source of repayment with collateral providing a secondary or tertiary source of repayment.

The quality and liquidity of collateral are important and must be confirmed by an appraisal before the bank makes the loan. Secured loans should be margined so that money received from the collateral under foreclosure conditions will repay the loan.

Section 10.2. Collateral Coverage Requirement

Collateral coverage is ratio of net available collateral after applying standard liquidation factors and subtracting liens, to the amount of the proposed loan.

In implementing risk management programs it is important to define collateral coverage limits that identify, measure , monitor and control the inherent risks that assist staff, originators and the applicant portfolio, management considerations, underwriting standards and credit administration.

The loan to value ratio is based on the lesser of reasonable project costs (including architecture, engineering and capitalized interest) or a market value appraisal. Loans to be secured by real estate or equipment or securities are generally not to exceed the following loan-to-value guidelines:

Loan Category	Loan-to-Value Limits %		
	“Typical” Community	Bank’s Regulatory	NMFA*
	<u>Bank</u>	<u>Limit</u>	
Raw land	50%	65%	50%-70%
Land development	75%	75%	75%-80%
Construction	80%	80%	80%-95%
Commercial Property	80%	85%	80%-90%
Machinery and Equipment	75%, lesser of purchase price or current market value	80%	75%-85%
Inventory:	50%-, based on durability	50%	50%-60%
Accounts Receivable	75% of 90- day old	75%	75%
Stocks	80% of mkt. value	80%	80%
Bonds	90% of mkt. value	90%	90%

*NMFA collateral coverage ratio will exceeds bank limits only when based on independent verification of collateral value, priority of project, quantifiable benefit to the state and only when necessary to accomplish project financing.

Section 10.4. Collateral Value Determination

In accordance with standardized banking procedures appraised or evaluated parcels at acquisition must provide an estimate of the property's fair market value prepared by an independent, qualified appraiser. NMFA may obtain an independent evaluation or appraisal.

Section 10.5. Parity Loan Participation

The primary focus of the loan participation program will be on loans for which NMFA and the private lender have a parity lien on revenue available for debt service and collateral.

- ◆ The parity loan participation is the lowest interest rate product, because the EDRF purchases a portion of a bank-originated loan and shares in all collateral on a *pari passu* position with the bank.
- ◆ The NMFA can participate in up to 49% of the total project, with a dollar cap of \$2,000,000. An applicant can qualify for an additional amount of funding provided that they create a minimum of 1 job per \$20,000 of loan funds. The maximum amount and jobs per dollars of funding is determined by policy and will vary depending on the total fund size and the desired project size.

Section 10.6. Subordinated Loan Participations

The NMFA may consider on a case by case basis taking a lien position on collateral subordinate to that of the private lender, if that is required to accomplish financing that generates a great deal of economic development and does not require the NMFA to undertake unacceptable risk.

- ◆ The NMFA may increase the loan interest rate to reflect the increased risk inherent in subordinated loan participations. The NMFA's rate may be substantially above the primary lender's rate. The primary lender's interest rate will be negotiated between the borrower and the lender, but should be a market rate.
- ◆ The NMFA can purchase a subordinate participation in up to 30 % of the total loan, with a dollar cap of \$1,000,000.
- ◆ The debt service repayment schedule on the NMFA's portion of the loan should be closely linked to the cash flows of the company, showing sufficient cash flow and/or collateral to provide coverage at the industry standard for both the first and second lien debt.

Section 10.7. Securitizing a loan

The NMFA will require that the originator perfect the security interest as quickly as possible in order to obtain the desired priority position agreed upon. NMFA will require post filing lien searches that document the approved lien position. This will be provided for in the participation agreement.

SECTION 11. ADMINISTRATION AND LOAN MONITORING POLICY

Loans must be made in partnership with a private source or sources of debt financing for the eligible costs incurred. The primary benefits of this relationship are risk sharing, leveraging of available state funds, advantage in utilizing bank's credit analysis, loan servicing and loan monitoring and loan enforcement provisions. The NMFA purchases a portion of the Smart partner's loan and becomes a third party to the credit agreement. This assignment agreement creates a direct contractual relationship between the assignee and the borrower.

Section 11.1. Loan Participation Agreement

Determination of Fees:

- ◆ The board may require an application fee in connection with the filing of an application, a commitment fee payable upon issuance and reasonable fee for the extension of any commitments;
- ◆ The board may establish other charges, premiums fee and penalties as necessary for the administration of the loan participation program;
- ◆ In the interest of creating the loan participation this program and to provide benefit and incentive to the bank to utilize this funding mechanism no fees have been established at this time, however the NMFA board may change this policy at any time; or
- ◆ In consideration of the lender making a loan to a borrower and our participation in this loan the bank may retain .25% of our interest rate by subtracting the fee from our portion of the payment due on a monthly basis.

Section 11.2. Loan Servicing

The originating bank is responsible for applying repayments by the borrower:

- ◆ The originating bank and the NMFA shall each share in all principal and interest payments and/or collections under the loan proportionate to their respective percentage of ownership interest in the Loan. If NMFA's participation is subordinate to that of the originating banks, they will act as NMFA's agent for collection and servicing.
- ◆ The originating bank may not, without prior consent and concurrence of the NMFA, make or consent to any amendments in the terms and conditions of the loan.
- ◆ Knowledge of any material change, technical default in the financial condition of the borrower or other factors affecting the loan requires that the participating bank promptly notify the NMFA.
- ◆ In the event of a loan default the NMFA and originating bank will consult and establish a mutually agreed upon course of action to be pursued by the originating

bank in order to collect the amounts then owed under the loan. The originating bank and the NMFA will share in subsequent principal or interest payments and/or collections in the priority and portion of their loan participation.

- ◆ NMFA will work as stated in the participation agreement with the originating bank to monitor the creditworthiness and collateral of borrowers so that they can detect as early as possible any credit or collateral deterioration.

SECTION 12. MONITORING GUIDELINES

Periodic reviews, ratings and audits alleviate degrees of risk. The business must maintain the quality of its fundamentals used in the analysis and structuring of the loan.

Section 12.1. Monitoring the Loan Portfolio

The goal of a portfolio policy is to provide guidance to staff and the NMFA Board in identifying loans that have the potential to turn into problem loans. Making sure that our lending procedures are in compliance with the lending and credit policy.

Section 12.2. Credit Files

The credit files provide us with the details about the business and the financial institution and provide information to create a history and financial trend that can be reviewed and monitored on a regular basis. Good credit files can improve credit quality and minimize loss.

Section 12.3. Reporting Requirements

The goal of required reporting is to provide others with information they can analyze and review in order to make credit decisions regarding individual loans and review the loan funds portfolio.

A. The NMFA will require that the originating bank provide copies of inspections, updated financials and reports as they receive the information provided to them, in addition to no less than annual reporting for individual loan participations:

- ◆ Document results of an interview, site visit reports should be submitted to the NMFA as they occur;
- ◆ Record additional requests for an increase in a line of credit;
- ◆ An analysis of financial problems, renewals and plant visits or the appearance of symptoms indicating future problems;
- ◆ Periodic summaries of performance plans and financial health of the business
- ◆ Analysis of the risks and earnings of the borrower;

B. Credit Review and Monitoring. The NMFA will regularly review and monitor all credits to:

- ◆ Continuously determine credit quality and assess ultimate collect ability of the loan portfolio.
- ◆ Evaluate the adequacy of the loan loss reserve through consideration of historical loan loss and recovery experience, projected loan losses and recoveries, review of specific problem loans, overall portfolio quality, and current and anticipated economic conditions.
- ◆ Project trends and determine potential problem areas or unique opportunities through examination of such factors as the quality of loan administration and personnel, credit concentrations, vulnerability to economic conditions, etc.
- ◆ Identify potential problems, recommend corrective action and monitor implementation for both specific loans and the loan administration process.
- ◆ Assess adherence to laws, regulations and this loan policy; periodically evaluate the loan policy to determine those areas in which additional staff training is required and recommend changes in those areas where this loan policy is inadequate and/or unrealistic.
- ◆ Assess the quality of loan administration and effectiveness of lending personnel and recommend methods of improvement.

Section 12.4. Loan Audit Requirements

Audits of the loan portfolio will be conducted by an NMFA staff committee comprised of the Chief Operating Officer, Chief Financial Officer, Chief Financial Advisor and the Chief of Programs and reported to the Chief Executive Officer. This report indicates the overall portfolio quality and effectiveness of this lending and credit policy, including actual direct quantifiable benefits achieved through the program, and will be submitted annually along with any needed remedial actions.

12.5. Loan Servicing Rights

The NMFA reserves the right to assume loan servicing in the event of a bank sale, merger or FDIC take over

SECTION 13. ECONOMIC DEVELOPMENT & OTHER LOAN COVENANTS

The goal of covenants in a loan agreement is to outline certain acts that are to be performed (affirmative covenants) and other acts that must be refrained from (negative covenants) designed to protect the bank's and NMFA's interest.

Section 13.1. Economic Development Covenant

The NMFA will require an economic development covenant in agreement with the borrower that clearly defines the projected economic impact of the project. On a case by case basis, the NMFA's board will determine the time requirements that a business must meet based on underlying circumstances of their project. In reviewing the loan participation agreement the NMFA staff will make sure that they agree to other covenants enacted by the participating lender.

Remedies for failure to meet the economic development covenant may include:

- ◆ An acceleration of the loan;
- ◆ An increase in the interest rate on the NMFA portion to that of the primary lender;
- ◆ Granting a temporary or permanent waiver in the event that not meeting economic development impact is outside the control of the borrower;
- ◆ Renegotiate the deal; and/or
- ◆ Foreclose on collateral or require additional collateral.

EXHIBIT A

	RISK CATEGORY	INDUSTRY	BUSINESS	MANAGEMENT	FINANCIAL CREDIBILITY
1	Minimal Risk	<ul style="list-style-type: none"> ♦ Minimal industry cyclicity and vulnerability to sudden economic or technological change; ♦ Modest capital intensiveness and operating leverage; ♦ Highly favorable regulatory, legal, and labor environments and a positive long-term outlook. 	<ul style="list-style-type: none"> ♦ Leader with significant share in stable industry ♦ Pricing leader and low-cost producer ♦ Performance ratios among the best in industry 	<ul style="list-style-type: none"> ♦ World-class organization ♦ Highly experienced management team with continuity and depth ♦ Excellent internal controls and reporting 	<ul style="list-style-type: none"> ♦ Clean audit with no qualifications from major accounting firm
2	Modest Risk	<ul style="list-style-type: none"> ♦ Industry not overly cyclical or vulnerable to sudden economic or technological change; ♦ Modest capital intensiveness and operating leverage; ♦ Favorable regulatory, legal, and labor environments with a reasonably positive long-term outlook. 	<ul style="list-style-type: none"> ♦ Reasonable market share nationally or strong regional presence ♦ May dominate in local market ♦ Competitive pricing with good operating margins ♦ Performance ratios consistently better than peers 	<ul style="list-style-type: none"> ♦ Broad industry experience with good continuity ♦ Depth in key positions ♦ High level of internal controls with quality reporting 	<ul style="list-style-type: none"> ♦ Clean audit with no qualifications from major accounting firm or substantial local/regional firm
3	Better than average risk	<ul style="list-style-type: none"> ♦ Moderately linked to business cycle ♦ Somewhat vulnerable to sudden economic or technological changes 	<ul style="list-style-type: none"> ♦ Well-positioned regionally/leader in local market ♦ Performance ratios generally better than peers 	<ul style="list-style-type: none"> ♦ Acceptable industry, experience in most areas, adequate depth ♦ Excellent reputation in industry, market, and/or community 	<ul style="list-style-type: none"> ♦ Audit with qualifications of nominal impact from major firm High caliber accountant's audit or

EXHIBIT A

	RISK CATEGORY	INDUSTRY	BUSINESS	MANAGEMENT	FINANCIAL CREDIBILITY
5	Acceptable Risk	<ul style="list-style-type: none"> ♦ Intensely competitive industry with cyclical swings or sudden deterioration due to technological or economic factors; ♦ Market niche increasingly competitive; ♦ Legal, labor or regulatory environment demanding; ♦ Outlook may be uncertain and barriers to entry declining. 	<ul style="list-style-type: none"> ♦ Position within industry may be deteriorating; ♦ Maintenance of market share requires exhaustive use of resources, expansion rate may be unfavorable; ♦ Customer and supplier relations are primarily price driven with few alternative sources of supply; ♦ Increasing reliance on untested products; ♦ Performance ratios below peer group average; ♦ Smaller company with average position in local market. 	<ul style="list-style-type: none"> ♦ Limited industry experience with little depth; ♦ Actual or potential friction between owners and/or executive managers; ♦ Acceptable character and perceived ability to deal with adversity ♦ No basis for questions ♦ Above average litigiousness potential ♦ High compensation levels relative to revenues and earnings; ♦ Internal controls marginally satisfactory; ♦ Substantial manual recordkeeping 	<ul style="list-style-type: none"> ♦ Audit contains qualifications that could potentially have a negative impact; ♦ Un-audited statements may not be reliable; ♦ Review-quality statements supported by inadequate or inconsistent scope, frequency, and timeliness; ♦ Other financial information not always reliable with regard to quality and/or timeliness.
6	Special Mention (potential weakness)	<ul style="list-style-type: none"> ♦ Industry may be in start-up or long-term decline and have above average exposure to economic or technological change; ♦ Regulatory, legal, labor or environment may be problematic; ♦ Outlook may be unfavorable. 	<ul style="list-style-type: none"> ♦ Market share and performance ratios well below industry average and trends moving in negative direction; ♦ Smaller borrower. Relatively new to local market. 	<ul style="list-style-type: none"> ♦ Inexperienced management team with no depth; ♦ Smaller borrower with inadequate succession plans and/or ownership issues; ♦ Internal controls need improvement. 	<ul style="list-style-type: none"> ♦ Timeliness an issue. Capabilities of accounting firm responsible for audit/review suspect; ♦ Audit contains significant disclaimers.

EXHIBIT A

	RISK CATEGORY	INDUSTRY	BUSINESS	MANAGEMENT	FINANCIAL CREDIBILITY
	Better than average risk (continued)	<ul style="list-style-type: none"> ♦ Neutral legal, labor and regulatory environments ♦ Neutral long-term outlook 	<ul style="list-style-type: none"> ♦ Not a price leader but margins provide for pricing flexibility 	<ul style="list-style-type: none"> ♦ Unquestioned character demonstrated by repeated performance ♦ Complete financial controls and good reporting 	review from reputable firm
4	Average Risk	<ul style="list-style-type: none"> ♦ Susceptible to unfavorable change in the economy, some cyclicalities exist; ♦ Unlikely serious deterioration in industry; ♦ Favorable regulatory, legal, and labor environments with a reasonably positive long-term outlook. ♦ Neutral legal, labor and regulatory environments and neutral long-term outlook; and ♦ Legislative issues create some vulnerability but significant potential impact on borrower not likely. 	<ul style="list-style-type: none"> ♦ Tends to be price follower with average market share and reasonable growth rate in relation to local competitors; ♦ Financial ratios in second tier of peer group; ♦ Demand for product line is stable. Not transitory or “fad” related; ♦ Well established customer relations and loyalty. 	<ul style="list-style-type: none"> ♦ Reasonable industry experience with modest depth in key positions; ♦ Proven character with demonstrated ability to deal with adversity; ♦ Principals demonstrate ability and willingness to inject capital; ♦ Good labor relations; ♦ Low litigiousness potential; ♦ Internal controls must be of average quality. 	<ul style="list-style-type: none"> ♦ Audit with qualifications of nominal impact; ♦ Accountant’s review from reputable firm; ♦ Principal’s personal financial statements and other financial information timely, comprehensive and accurate; ♦ Budget variances and projection data available in timely fashion.

EXHIBIT A

	RISK CATEGORY	INDUSTRY	BUSINESS	MANAGEMENT	FINANCIAL CREDIBILITY
7	Substandard (definite weakness-loss possible)	<ul style="list-style-type: none"> ♦ Industry has significant problems that adversely affect a high percentage of participants; ♦ Problems may be cyclical or longer term; ♦ Borrower ranks in bottom tier of industry. 	<ul style="list-style-type: none"> ♦ Industry has significant problems that adversely affect high percentage of participants; ♦ Problems may be cyclical or longer term; ♦ Borrower ranks in bottom tier of industry. 	<ul style="list-style-type: none"> ♦ High management turnover or inexperienced management; ♦ Management/owners have history of debt repudiation or unethical business practices; ♦ Very weak internal controls. 	<ul style="list-style-type: none"> ♦ Unacceptable financial reporting.
8	Doubtful (partial loss probable)	<ul style="list-style-type: none"> ♦ Industry has major longer-term problems that adversely affect majority of participants; ♦ Borrower ranks in bottom of industry. 	<ul style="list-style-type: none"> ♦ Industry has major longer-term problems that adversely affect majority of participants; ♦ Borrower ranks in bottom of industry. 	<ul style="list-style-type: none"> ♦ Excessive degree of risk; ♦ Financial and management deficiencies well defined and make improbable borrower's ability to pay out from anticipated sources under existing terms and conditions; ♦ Full collection highly improbable; ♦ Timing of loss uncertain. 	<ul style="list-style-type: none"> ♦ Unacceptable financial reporting.
9	Definite Loss	<ul style="list-style-type: none"> ♦ Severe permanent industry problems exist that adversely affect virtually all participants. 	<ul style="list-style-type: none"> ♦ Severe permanent industry problems exist that adversely affect virtually all participants. 	<ul style="list-style-type: none"> ♦ Severe permanent industry problems exist that adversely affect virtually all participants. 	<ul style="list-style-type: none"> ♦ Unacceptable or no financial reporting.

ATTACHMENT B

		Collateral Quality And Control	Guaranties/ Third Party Support	Tenor	Terms/ Documentation
1	Strongly Improves impact on borrowers grade	<ul style="list-style-type: none"> ◆ Cash, cash equivalents, government securities, or properly margined highly diversified, readily available marketable securities, traded on major exchanges, held by bank in vault; ◆ Highest quality or highly diversified accounts receivable; and ◆ Highly conveyable multiuse fixed assets. 	<ul style="list-style-type: none"> ◆ Guarantor rating significantly better than borrower grade; ◆ Unconditional coverage in full on any and all obligor's indebtedness; and ◆ Covers all economic and political risks, if applicable. 	<ul style="list-style-type: none"> ◆ Overnight loans— 30 days 	Triggers effectively reduce loan tenor
2	Improves impact on borrowers grade	<ul style="list-style-type: none"> ◆ Value ascertainable with moderate volatility, provides margin over supported obligation; ◆ Collateral of average liquidity, accounts receivable with good turnover and modest considerations; ◆ Raw materials or finished inventory with average industry turnover; 	<ul style="list-style-type: none"> ◆ Guarantor rating better than borrower grade; and ◆ Coverage conditional, yet intended to cover all obligor's indebtedness under all economic and political risks. 	<ul style="list-style-type: none"> ◆ Covenants require action before problems are substantial; and ◆ All needed documents, sustainable, perfected and uncontestable. 	<ul style="list-style-type: none"> ◆ Covenants require action before problems are substantial; and ◆ All needed documents, sustainable, perfected and uncontestable.

ATTACHMENT B

		Collateral Quality And Control	Guaranties/ Third Party Support	Tenor	Terms/ Documentation
2	Improves impact on borrowers grade (continued)	<ul style="list-style-type: none"> ◆ Attractively located real estate with multiple uses; ◆ Useful life of collateral reasonable and well-matched to tenor of borrowings; and ◆ Filings made on specific assets 			
3	Neutral impact on borrower's grade	<ul style="list-style-type: none"> ◆ Value highly difficult to ascertain or highly volatile; ◆ Value provides a minimal margin over supported obligation; ◆ Collateral with poor liquidity where liquidation erodes value; ◆ Real estate with specialized use or poor location; ◆ Useful life of collateral only partially matched to tenor of secured borrowings. 	<ul style="list-style-type: none"> ◆ Guarantor rating same or worse than borrower grade; ◆ Coverage very conditional and does not cover obligor's indebtedness under all economic and political risks; and ◆ Guarantor vulnerable to decline in performance. 	◆ 1-3 years fully amortizing	<ul style="list-style-type: none"> ◆ Loan agreement workable and covenants appropriate; and ◆ Reasonable covenants for advance notice of potential problems.

ATTACHMENT B

		Collateral Quality And Control	Guaranties/ Third Party Support	Tenor	Terms/ Documentation
4	Detracts from borrowers grade	<ul style="list-style-type: none"> ◆ Collateral does not detract from borrower grade; and ◆ Guarantor or owner with some financial weakness. 	◆ Guarantor or owner with some financial weakness.	◆ 4-7 years fully amortizing	<ul style="list-style-type: none"> ◆ Weak loan agreements without proper covenants or triggers; and ◆ Significant assets pledged to other creditors effectively subordinating bank's position.
5	Strongly detracts from borrowers grade	◆ Collateral does not detract from borrower grade.	◆ Guarantor or owner with substantial financial weakness.	◆ 8 years and beyond	◆ Bank subordinate to other creditor claims, highly generalized documents make perfection of bank's claims highly questionable.

NEW MEXICO FINANCE AUTHORITY
STATEWIDE ECONOMIC DEVELOPMENT FINANCE ACT
ECONOMIC DEVELOPMENT BOND MANAGEMENT POLICIES

SECTION 1: MISSION AND GOALS

Section 1.1 Mission

The statutory mission of the Statewide Economic Development Finance Act (“the Act” or “SWEDFA”), NMSA 1978, Section 6-25-1 through 29 is to stimulate economic development with needed finance programs in the public interest that serve necessary and valid public purposes and to provide one method of implementing the economic development assistance provisions of Subsection D of Article 9, Section 14 of the constitution of New Mexico.

The purpose of these Economic Development Bond Management Policies is to implement financing mechanisms authorized by federal and state law, including the American Recovery and Reinvestment Act of 2009 (“ARRA”), that encourage new investment in manufacturing and other facilities and the purchase of equipment thereby stimulating economic development. Additionally, ARRA created a new category of tax-exempt bonds entitled Recovery Zone Facility Bonds. A goal of these Economic Development Bond Management Policies (the “Policies”) is also to provide for the issuance and purchase by the Authority of Recovery Zone Facility Bonds and other ARRA bond programs.

Section 1.2. Implementation of the Economic Development Bond program:

For a business to access certain incentives such as to finance capital investment and/or to temporarily hold the financed property off the tax rolls, bonds must be issued on its behalf by a governmental entity exempt from taxation. SWEDFA establishes the New Mexico Finance Authority (“the Authority”) as the conduit bond issuer and New Mexico Economic Development Department (the “Department”) as the governmental entity authorized to hold property.

In its capacity as an issuer of conduit bonds, whereby the Authority issues bond on behalf of a qualified for-profit or not-for-profit company, the Authority does not undertake financial risk because the bonds issued are repaid solely by the revenues of the underlying project. The bonds are not general obligations of the Authority nor the State of New Mexico and all payment obligation remains with the Applicant. However, any defaults suffered may indirectly impact the Authority’s reputation in the bond market.

Therefore, the general purpose of the Economic Development Bond Management Policies is to set forth the parameters for issuing bonds and monitoring the outstanding bond portfolio. It is established to provide guidance to decision makers regarding the purposes for which bonds may be issued, the type and amounts of bonds permitted, the timing methods of sale that may be used, and structural features that should be considered.

These Policies are intended to supplement the rules and regulations governing the Economic Development Bond Program and provide Applicants with a better understanding of the process and the requirements of issuing bonds through the Authority.

The Authority is authorized under the Act to purchase project revenue bonds at subsidized rates into the Economic Development Revolving Fund (the “Fund”) established by SWEDFA and capitalized by the Legislature. The interest rates, terms and conditions of conduit bond purchases from the fund will be governed by the parameters established in the Smart Money Loan Participation Credit and Lending Policy.

Section 1.3. Objectives of the Economic Development Bond Management Policies:

- a) Establish the Authority’s uniform process for the issuance of Authority bonds and specify the Authority’s application and approval process, which requires a thorough analysis of the qualifications of each project;
- b) Establish qualifications for eligible entities to obtain tax-exempt financing and project tax abatements in full compliance with federal and state law; and establish terms and conditions for financing assistance; and
- c) Establish the process and criteria required by the Authority to lower borrowing costs further through the purchase of the project revenue bonds into the Economic Development Revolving Fund.

SECTION 2: ECONOMIC DEVELOPMENT BOND MANAGEMENT POLICY PARAMETERS

Section 2.1. Roles of Authority under Statewide Economic Development Finance Act

In order to encourage economic development in rural and underserved areas of the state, the Authority may issue project revenue bonds on behalf of eligible private entities. This may qualify the Applicant, depending on compliance with applicable federal and state laws, to benefit from lower rates on the project debt due to the following:

- a) An exemption of interest on the bonds from federal income tax;
- b) An exemption of interest on the bonds from New Mexico income tax;
- c) An exemption from state or local property or gross receipts tax for bond-financed facilities.
- d) Subsidized interest rates on bonds purchased into the Economic Development Revolving Fund.

The Authority, as the issuer of economic development bonds:

- a) Takes no financial risk in issuing the bonds, while providing access to tax-exempt financing;
- b) Pledges neither the credit of the Authority nor the State;
- c) Is responsible for determining that the eligible entity and the project meet all federal and State legal requirements;
- d) May provide access to the credit market on either a single-issue or pooled issue basis;
- e) Ensures adequate return to the state as a condition of financing as necessary.

The Authority, as the purchaser of economic development bonds:

- a) Assumes the role of investor in the project and bears the risk of default;
- b) Purchases the conduit bonds at a rate of interest below that of a typical investor in order to increase the investment incentive to the Applicant;
- c) Ensures that the Applicant provides sufficient economic development return to the state to warrant the additional subsidy;
- d) Determines that the Applicant has sufficient revenue and collateral to secure the bonds;

Section 2.2. Governing Laws and Regulations

In addition to these Bond Management Policies, the Authority, in its issuance and management of bonds, is required to comply with the state constitution and with all other legal requirements imposed by federal, state and local rules and regulations, including:

- a) Statewide Economic Development Finance Act;
- b) New Mexico Private Activity Bond Act (this Act applies to certain tax exempt bonds that may be issued and purchased pursuant to these Policies);
- c) The Rules and Regulations Governing the Economic Development Bond Program as approved by the New Mexico Finance Authority Board of Directors and the New Mexico Finance Authority Legislative Oversight Committee;
- d) The New Mexico Economic Development Department Rules and Regulations which govern the administration of the Opt-in Agreements and the abatement of Compensating and/or Gross Receipts Tax (“GRT”) and property taxes;
- e) The Authority shall issue and manage tax exempt debt in accordance with the limitations and constraints imposed by federal rules and regulations, including Internal Revenue

Code of 1986, as amended; the Treasury Department regulations there under; Taxable and tax exempt debt shall be issued and in compliance with the Securities Acts of 1933 and 1934;

- f) The Authority shall issue and manage debt in accordance with the limitations and constraints imposed by local rules and regulations, including land use ordinances; and
- g) Recovery Zone Facility Bonds shall be issued and managed as provided by the ARRA

SECTION 3: ECONOMIC DEVELOPMENT BOND ISSUANCE TIMELINE

Applications received under the Economic Development Bond program will generally proceed under the following timeline.

- a) The Applicant submits a complete application and any relevant fee. To ensure compliance with applicable laws, the Applicant is expected to have consulted an experienced Bond Counsel prior to submitting its application and project description;
- b) The Authority and NMEDD review the application to determine eligibility;
- c) The Authority staff performs an independent analysis and financial feasibility of the project and may, at the sole discretion of the Authority, refer the Application to a third party reviewer for additional analysis;
- d) The Authority staff forwards its written recommendation to the Economic Development Committee for its review and recommendation;
- e) The Economic Development Committee forwards its recommendation for financing to the Board for its consideration;
- f) Board Approval and Adoption of Preliminary (Inducement) Resolution: If the Board approves an Applicant's request, project financing will advance in accordance with the terms of the Preliminary Resolution, which is drafted based on the application and the Economic Development Committee's recommendation, and all limitations imposed by current federal and state law, including the availability of sufficient volume cap under the New Mexico Private Activity Bond Act, and, where applicable, the allocation of Recovery Zone Bond capacity. To ensure compliance with applicable laws, the Applicant is expected to have consulted an experienced Bond Counsel prior to submitting its application and project description.
- g) Staff and the Applicant will work together to confirm the award of volume cap or the allocation of Recovery Zone Bond capacity, if applicable.

- h) Prior to the consideration of a Final Bond Resolution each Applicant must satisfy the public notice and hearing requirements of the Tax Equity and Fiscal Responsibility Act of 1984 (“TEFRA”);
- i) Board Approval of Final Resolution: The Applicant must inform the Authority at least six weeks prior to the adoption date of the Board’s adoption of the Final Bond Resolution. Before the Board’s final consideration of a project, copies of all financing documents, including the loan agreement, the trust indenture, the official statement (or other disclosure document), the bond purchase agreement and the Final Bond Resolution must be delivered to the Authority. The Closing dates and the final bond issuance date are set as part of Final Resolution approval;

SECTION 4: APPLICATION FOR ECONOMIC DEVELOPMENT BOND ISSUANCE

The Application Process provides guidance to the Authority and its Applicants about the information that must be included in an application and what is determined to constitute a complete application.

Section 4.1. The Application

The bond issuance process commences when an Applicant files a complete application with the Authority.

- a) The Authority, based on the type of Applicant, the project being proposed and the specific revenues designated to repay the bonds, will evaluate applications utilizing the process set forth below. Such evaluation will include, to the extent applicable, an evaluation of project feasibility, administrative capacity, financial position, debt management and economic and demographic factors.
- b) The Applicant must deliver a completed application and any relevant fees no later than five (5) weeks prior to the date of the Board meeting at which it is to be considered. Applications received after this period may be brought forward at the sole discretion of the Authority. Otherwise, it will be considered at the next regular scheduled meeting of the Board.
- c) The Authority will provide a written application form to prospective as requested. Each complete application will be reviewed and evaluated within 20 days of receipt.

Section 4.2. Authority Fees

Upon submission of an application, an Applicant must pay any application fees. The Authority’s current fee schedule, which is subject to change by the Authority’s Board at its sole discretion, can be obtained by contacting the Authority. The application fee will be deducted from the issuance fee at the time of bond closing. The Authority’s closing fee and its Issuer’s Counsel Fee are payable at the bond closing. In the event that a project, approved by the Authority’s Board,

does not close, the Applicant will not have to pay the Authority's closing fee; however, the Applicant shall be liable for and shall pay any and all costs associated with the Authority's retention of outside professionals, including but not limited to Issuer's Counsel, in connection with the project.

Section 4.3. The Application Requirements:

Applicants are responsible for notifying the Authority as soon as possible of subsequent material changes in the nature or descriptions of the project or the financing.

The Authority may deem an application complete if it:

- a) Cites a specific loan amount being sought and a description of the proposed use or uses of the funds;
- b) Identifies a specific, legally permissible source of revenue as repayment of the proposed debt;
- c) Lists all of the outstanding senior, parity or subordinate indebtedness secured by the proposed revenue stream, including bonds, lease purchase agreements and other loans, by name and principal amount (both the original principal amount and the currently outstanding amount) and the debt service schedule associated with each indebtedness;
- d) Contains a description of the project or projects to be financed or refinanced, including:
 - 1) Description of the scope of work of the project;
 - 2) Estimated cost; and
 - 3) Target dates for the initiation and completion of the project (Note: Applicants are responsible for notifying the Authority as soon as possible of subsequent material changes in the nature or descriptions of the project or the financing.)
- e) Includes the Applicant's financial reports for the most recent three years;
- f) Describes the benefits an applicant will contract to provide, such as local hiring quotas, job training commitments and installation of public facilities or infrastructure, in connection with the requested tax abatements or with any economic development incentives available to the applicant from any other source;
- g) An estimate of the number of jobs to be created or retained by this project and the wages associated with those jobs;

- h) A written appraisal report, prepared by a certified appraiser, for any real or personal property securing a loan;
- i) A letter of intent from the proposed letter of credit provider, credit enhancer, underwriter, the bond purchaser or other guarantors;
- j) For projects seeking tax-exempt financing, sufficient project detail to determine whether ARRA Recovery Zone Facility Bond “Small manufacturer”, exempt facility or allowable 501 (c) 3 non-profit requirements are being met;
- k) A completed Economic Disclosure Statement provided by the Authority; and
- l) Any additional information requested by staff and referenced in the rules based upon the type of Applicant and the project being financed.

Section 4.4 Exemption from the Inspection of Public Records Act

- a) Pursuant to SWEDFA, certain information submitted to the Authority with the application representing the applicant’s business plan, financial position, financial projections, personal financial statements and background checks will be kept confidential, to the extent allowed by law.
- b) A signed transmittal letter and application are stamped with the date received and marked confidential before being scanned into the electronic records system.

Section 4.5: Authority Indemnification

The Act expressly permits the Authority to issue bonds in accordance with Economic Development Bond Rules and Regulations approved by the Legislative Oversight Committee and the Authority Board. In order to foster the Authority’s statutory role and to enable the Authority to provide Applicants with discretion relative to their financing and their financing teams, all issues must provide for indemnification of the Authority.

- a) Compliance with the indemnification requirements of the Authority is essential to securing the Authority’s Board approval of the proposed bond financing, and the Authority will not participate in a bond financing if its indemnification requirements are not met. The Authority will not take any responsibility for due diligence investigations or disclosure, and the Authority’s Issuer’s Counsel specifically disclaims any responsibility for such disclosure in its opinion.
- b) The existence of credit enhancement does not obviate the obligation to indemnify the Authority. Credit enhancement does not release the underwriter, placement agent, remarketing agent or comparable entity of the obligation to abide by covenants in the bond documents.

- c) A clear statement of the indemnification of the Authority must appear in all relevant Bond Documents (Loan Agreement, Bond Purchase Agreement etc.). Inconsistency with indemnification provisions in bond documents may thwart their protective purposes. In addition, the Official Statement, Offering Memorandum and other disclosure documents must clearly state that the Authority has only reviewed or approved particular information relating to the Authority, under specific headings. Furthermore, the Bond Purchase Agreement must articulate the Authority's non-participation in the preparation of the offering document, except for the information relating to the Authority under specific headings.

SECTION 5. APPLICATION REVIEW PROCESS:

Section 5.1. Authority Review and Credit Analysis

The Authority staff, using the application and supporting information, will review the application for completeness and will analyze the financial viability of the project. The Authority staff in making its recommendation to the Economic Development Committee will undertake the following:

1. Debt Management The Authority will examine the Applicant's debt management history and the credit-worthiness of any pledged revenue will be examined. All debt obligations secured by the revenues pledged will be analyzed. To assess an Applicant's debt position, the following factors may be evaluated:
 - a) The total dollar amount of the debt owed by the Applicant, including the project revenue bonds being requested;
 - b) Interest rate based on risk assumptions relative to perceived risk;
 - c) Amortization period based on useful life of assets being financed;
 - d) Cash flow coverage;
 - e) Loan collateral requirements, including collateral value, loan to value and lien position; and
 - f) Proposed bond closing documents and agreements.
2. Credit Analysis Authority staff will review the bondholder security offered by the Applicant and the analyze the credit quality of the Applicant, taking into consideration:
 - a) Educational and work history of the officers, managers, members or partners of the applicant;

- b) The Applicant's experience and position in the industry and in managing similar projects;
 - c) Assets and liabilities of the Applicant;
 - d) Existence of liens or encumbrances on the Applicant's assets; and
 - e) Debt to equity or other applicable ratios.
3. Financial Position Financial performance and liquidity is a key factor in the evaluation of any Applicant and the Authority's evaluation will include the following:
- a) All internal reserve funds to determine whether the Applicant has sufficient resources to cover unexpected costs;
 - b) Applicable revenue projections and the timing of all receivables to determine the ability of the Applicant to service debt; and
 - c) Predictability of cash flow; and
 - d) Revenues that will be used to repay the bonds will be analyzed to determine affordability of the project and the level of flexibility that exists.

Section 5.2. Application Review Process

In addition to performing a financial analysis as described in Section 5.2 above, the Authority staff will be responsible for ensuring the Application meets all federal and state laws, the Rules and Regulations of the Economic Development Bond Program and these Bond Management Policies which generally include, but is not limited to, the following duties:

- a) Preliminary determination of tax-exempt status of the Bonds based upon qualifications of project revenue bonds and their interest for exemption from federal income taxation and state income taxation, including whether an allocation of the State's private activity bond volume cap is required. Final determination will be made by a nationally recognized Bond Counsel who must render an opinion at or before closing that the bonds are exempt from federal taxation.
- b) For those projects seeking GRT and/or property tax abatements, confirm that the required Opt-In Agreements by and between the Department and local governments where project is located have been executed;
- c) Determine eligibility of State or Local Tax Abatements;
- d) For those projects seeking a GRT or property tax abatement, ensure that an Economic Impact analysis has been performed and that the project being financed provides sufficient economic development benefits to warrant the financing assistance;

- e) Execute all waivers of confidentiality required for public consideration of the economic development bond issuance application by the Authority Board;
- f) Provide the applicant with written confirmation the structure and readiness to proceed requirements following Authority Board approval;
- g) Review all bond closing documents and agreements, facilitate the final bond documents, and obtain the signature of the Authorized Officers of the Authority once all conditions have been met; and
- h) After bond closing, authorize disbursements, track bond payments and monitor the Economic Development Loan Covenants and quarterly financial reports.

Section 5.3. Third Party and Review

The Authority, at its sole discretion, may require an independent third-party review of the entire project evaluation and bond issue structuring prior to making a recommendation the Economic Development Committee.

Section 5.4. Economic Impact Analysis:

For projects seeking GRT and property tax exemptions, an economic impact analysis will be undertaken to determine the direct and indirect impact of a proposed project so that quantifiable benefits resulting in a net return to the State can be calculated.

Section 5.5 The role of the Economic Development Committee:

- a) Reviews proposal recommended for approval by Authority staff, including information submitted with the application that relevant to reaching a lending decision.
- b) Forwards to the Authority Board its recommendation for project approval.

Section 5.6 Authority Board of Director Review and Approval

In considering applications, the Board will use its independent judgment and may take into consideration the recommendations for approval by the Authority staff and the Authority's Economic Development Committee. The 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 Board determines that sufficient information has not been made available on which to base a decision.

For applications requesting that the bonds be purchased by the Economic Development Revolving Fund, the Board of Directors may grant its approval for projects contingent on the approval of the legislature, provided there is no material change in the information submitted between the time of Board approval and legislative approval.

SECTION 6: DETERMINATION OF PROJECT ELIGIBILITY AND PRIORITY

The New Mexico Economic Development Department is required by statute to determine the criteria used to determine eligibility of funding based on the economic impact of a project. For an entity to be eligible for financing, state law requires that the New Mexico Economic Development Department determine that the entity is engaged in an enterprise that serves an economic development goal and is suitable for financing. A determination letter, submitted by the NMEDD Secretary, must be on file before consideration by the Economic Development Committee.

The New Mexico Finance Authority may apply the standards below to determine the economic benefits of a project and priority in awarding financial assistance.

- a) **High wage jobs:** Businesses creating jobs paying above the state or local median wage and offering workers health care coverage;
- b) **Economic/Export Base Companies:** A company that derives most of its revenue from outside New Mexico, either directly or as a supplier to any company doing business outside the State;
- c) **Projects with High Impact on New Mexico Economy:** Any project that creates more than one job per \$50,000 investment;
- d) **Location:** Businesses located in a rural or economically distressed area, as determined by the New Mexico Economic Development Department; and
- e) **New Capital Investment:** Businesses building a new facility or making substantial improvements to an existing facility.

SECTION 7: FAILURE TO MEET ECONOMIC DEVELOPMENT REQUIREMENTS

Bond documents for projects seeking GRT or property tax abatements submitted to the Board for approval will include a performance agreement that includes all requirements and representations regarding the jobs, wages and other economic development impacts of the project being financed. Failure to meet any of the requirements or representations under which bonds were issued may be considered a technical default and result in a re-payment of tax abatement incentives by the Borrower to the state and local government unless it is determined by Authority that failure was due to circumstances beyond the control of the business.

Claw back Provisions

The Authority will include Performance Agreements, also known as “claw backs” in the Bond Purchase Agreement or other appropriate document.

Facility Closure Claw backs:

In the event that a facility financed with conduit bonds issued by the Authority ceases operation within five years of bond issuance claw backs provide for a pro-rata repayment of the abated property, GRT and compensating taxes, depending upon the amount of time elapsed from date of issuance to date of closure of the project. Claw back provisions, may be adjusted to account for the unique circumstances of a particular issue. Staff will determine whether unique circumstances exist with respect to claw backs and will make such recommendations when the project is recommended for approval.

Performance Claw backs:

If employment numbers, sales volumes, or other economic benefits projected in the Performance Agreement are not achieved (for example, an applicant may forecast 100 jobs, but only achieve 80) a claw back, in the form of a payment in lieu of taxes may be implemented. The contingent payment in lieu of taxes provisions will be outlined in the Performance Agreement. Performance will be measured annually and compared to projections and provisions of the Bond Purchase Agreement by the Authority, Department or a third-party independent contractor.

In the event the reviewer determines there is a substantial shortfall of actual versus projected performance, then the Department may exercise a claw back of the taxes abated. In the event the recipient subsequently cures that shortfall, then abatement may be restored on a ratable basis.

The Authority acknowledges that the purpose of this condition is not to penalize the Borrower for business conditions or events that are outside the control of the company

SECTION 8: DETERMINATION OF PROJECT ELIGIBILITY FOR TAX-EXEMPT FINANCING

All economic development bonds issued by the Authority under SWEDFA are exempt from State taxation on interest, regardless of their exemption from federal taxation. The determination of federal tax-exemption is dependent upon receipt by the Authority of an opinion of nationally recognized bond counsel that interest on the bonds is exempt from federal income taxation.

SECTION 9: FINANCING MECHANICS, THE ISSUANCE OF ECONOMIC DEVELOPMENT BONDS

Section 9.1. Preliminary (Inducement) Resolution

Once the Economic Development Committee makes its recommendation, the Authority Board holds discretionary power to approve the recommendation. If the Board approves an application, project financing will advance in accordance with the terms of the Preliminary Resolution, which is drafted based on the Applicant's application, the Board's review and approval thereof, and all limitations imposed by current Federal and State law, including without limitation and where

applicable, the availability of sufficient volume cap or Recovery Zone Facility Bond allocation, if applicable at the time of the bond issuance.

For these reasons, Applicant's full disclosure of the uses of bond proceeds, including the use of bond proceeds to reimburse the Applicant for expenditures made prior to the issuance of bonds, and the project's description are essential. To ensure compliance with all applicable laws, the Applicant is expected to have consulted counsel prior to submitting its application and project description. Bond Counsel shall draft a project's Preliminary Bond Resolution, and deliver an electronic version thereof, in Word format, to the Authority's General Counsel no later than 9:00 am 10 days before the scheduled Board meeting.

Subsequent changes to a bond issue amount and /or material changes to the project description or use of bond proceeds must be reported to the Authority and may necessitate additional approval of the Board. Bond Counsel must notify the Authority of any such changes, in writing, no less than seven (7) business days in advance of the applicable Board Meeting; however, compliance with this notification requirement does not guarantee approval of the requested change.

Once adopted, a Preliminary Resolution will expire two years after its adoption, unless an earlier date is specified in the Resolution. A one-year extension of a Preliminary Resolution may be granted, for cause, at the sole discretion of the Board. Bond Counsel should contact the Authority's General Counsel to request an extension and to arrange for an extension submission to the Board.

The Authority understands that in certain instances an Applicant may have no need for a Preliminary Resolution, and the Applicant may wish to proceed directly to a Final Bond Resolution. The Authority will make all reasonable efforts to accommodate such a request. The Applicant should contact the Authority to discuss such a request as soon as possible, preferably at the time the Applicant files its application. The Authority's ability to grant such a request will, in substantial part, depend upon the nature and complexity of the proposed financing and the time constraints then confronting the Authority

Section 9.2. Preliminary and Final Official Statements

The Authority requires that all participants comply with any and all applicable Federal and State securities laws, including, but not limited to, those requiring full and complete disclosure of all material facts to potential investors. Responsibility falls on the participants to determine the appropriate investigations, material facts and required disclosure to prospective purchasers of bonds. The Authority will not take any responsibility for such investigations, material facts and disclosure; the Authority's Issuer's Counsel specifically disclaims any such disclosures in its opinion. The Authority expects that the due diligence process undertaken for Authority financings must meet the following standards.

- a) Underwriter's Counsel, who must be well experienced in securities law matters, is expected to take responsibility for due diligence investigations and official statement preparation and distribution.

- b) Underwriter's Counsel is expected to issue an opinion in connection with the transaction and the adequacy of disclosure in the Official Statement. The opinion must comply with the usual "10B-5" form, without any exceptions considered material by the Authority's Issuer's Counsel or General Counsel. (The Authority considers financial and statistical information and financial statements as permissible exceptions.)

Prior to Official Statement circulation, the Authority and its Issuer's Counsel must have a meaningful opportunity to review all portions of the Official Statement. Comments relating to the Authority and all other material comments of the Authority and its Issuer's Counsel should be incorporated in the Official Statement that is presented to bondholders. As a general matter, the Authority expects not to execute an Official Statement, Offering Memorandum or other disclosure documents. Applicants must execute all such documentation.

Section 9.3. Final Bond Resolution

To have an action considered by the Board, Bond Counsel and /or the Applicant must inform the Authority as early as possible but in no event less than six (6) weeks prior to the anticipated adoption date of the Final Bond Resolution of the schedule for final document preparation and execution. Prior to final Board consideration of a project, copies of all major financing documents, including, without limitation, the Loan Agreement, the Trust Indenture, the Official Statement (or other disclosure document), the Bond Purchase Agreement, and the Final Bond Resolution must be delivered to the Authority's General Counsel in substantially final form satisfactory to the Authority and its Issuer's Counsel no later than 9:00 am on the 10-days prior to the Board Meeting. The Authority understands that the Tax Agreement, escrow documents and closing certificate may not be in final form at the time. Once received, the Authority's General Counsel will review the submitted materials. If this review finds that the materials are insufficient, the Authority reserves the right to remove the financing from the meeting agenda. An insufficient review consists of, but is not limited to, the following:

- a) The structure or material terms of the financing remain unsettled,
- b) A lack of a committed bond purchaser,
- c) Documents are not in substantially final form,
- d) The adoption of a final resolution is otherwise not appropriate.

For those documents to which the Authority is not a party, such as bank documents in a credit enhanced financing, Bond Counsel should provide the Chief Executive Officer or the Authority's General Counsel with a report, via e-mail or letter, on the status of such documents no later than 12:00pm on the Friday prior to the Board meeting.

Section 9.4. Private Placement Disclosure Compliance

A bond issue constitutes a private placement if:

- a) It is offered to a limited number of accredited or institutional investors, as defined by the Securities and Exchange Commission (the “SEC”);
- b) The bond issue transcript includes a certificate or letter from each bond purchaser. Under certain circumstances, a certificate or letter from the underwriter or placement agent for the bonds satisfactory to the Authority; however, this matter must be discussed with and approved by the Authority’s General Counsel prior to the adoption of the Final Bond Resolution authorizing the bonds.
- c) The decision to accept under such a certificate or letter rests solely with the Authority. The Authority and its Issuer’s Counsel assume that any purchaser in a private placement transaction will insist on receiving from the other parties to the transaction the information that the purchasers deem necessary to finalize their investment decisions.

Section 9.5. Public Offering Disclosure Requirement

All other offerings which do not meet the private placement requirements described above are considered public offerings. Upon request, the Authority will, in its Final Bond Resolution, authorize or ratify the distribution of a disclosure document in the form of an Official Statement, Offering Memorandum or the like. In the Authority’s Certificate, however, the Authority will only certify to those portions of the Official Statement or Memorandum describing the Authority and material litigation pending or threatened against the Authority.

Section 9.6. Secondary Market

As a conduit issuer, the Authority typically does not provide secondary market disclosure. At the time of sale of the bonds, the Authority requires the Applicant and/or other participants to provide secondary market disclosure of financial information, operational data and other material information, as required by law. If applicable given the particulars of the financing, the Official Statement or Memorandum must contain language stating that the Authority does not provide secondary market disclosure, either at closing or on an on-going basis.

Section 9.7. Bond Denominations

- a) **Rated Bonds.** The Authority will issue bonds in denominations of \$5,000 upon satisfaction of specific credit rating requirements. To qualify for a \$5,000 denomination, the Applicant must obtain a rating on the bonds at least equal to that of the next to the lowest investment grade rating. As of the date hereof, the minimum rating accepted by the Authority for issuance of \$5,000 denominations are Moody’s/S&P/Fitch rating of Baa2/BBB/BBB. The pertinent rating used shall be the rating(s) applied to or issued in connection with the subject bond issuance (s). Bonds rated Baa3/BBB- /BBB-, shall follow the same denomination structure as non-enhanced or unrated bonds described below.
- b) **Unenhanced and Unrated Bonds.** Due to greater risk, non-enhanced and unrated bonds have a higher interest rate than other investments. These high risk and high yield

investments generally require a greater level of investor sophistication and securities expertise. Except as noted below, the Authority requires that all non-enhanced or unrated bonds be sold only to accredited investors (as defined by the SEC) or in minimum denominations of at least \$100,000, or if the total par amount of the bonds is less than \$100,000, then one accredited investor must purchase all of the bonds. An Applicant wishing to issue non-enhanced or unrated bonds should contact the Authority as early in the process as possible to discuss the appropriate minimum bond denomination amount for the particular issue.

Adopted: May 27, 2010

**NEW MEXICO FINANCE AUTHORITY
NEW MARKETS TAX CREDIT PROGRAM
POLICIES AND PROCEDURES**

A. PURPOSE

The New Mexico Finance Authority (“NMFA”) is granted broad authority to finance projects that stimulate economic development through the Statewide Economic Development Finance Act (“SWEDFA”). Amendments to SWEDFA in 2006 provided the NMFA with the power to form, operate, own or co-own one or more qualified Community Development Entities (“CDEs”) for the purpose of participating in the New Markets Tax Credit (“NMTC”) Program.

In 2006, the NMFA formed Finance New Mexico, LLC (“Finance New Mexico”), a qualified CDE, and in 2007, Finance New Mexico was awarded an allocation of New Markets Tax Credits which will enable Finance New Mexico, and its related subsidiaries, to sell up to \$110 million in investments to private investors in return for which they will receive a 39% credit against Federal income taxes over a period of seven years. 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.

The NMFA, on behalf of Finance New Mexico, executed an Allocation Agreement with the Community Development Financial Institutions (“CDFI”) Fund division of the US Department of Treasury on February 15, 2008 which outlines the terms and conditions under which Finance New Mexico may operate its NMTC program and in which it agreed to strict adherence to with all federal program guidelines as set forth in Internal Revenue Code, Section 45D and IRS Rules and Regulations, 26 CRF parts 1 and 602.

The NMFA will operate the NMTC program on behalf of Finance New Mexico and will utilize these New Markets Tax Credit Program Policies and Procedures and separately adopted Economic Impact Policies and Lending and Credit Policies to guide the operations of the program.

B. PROGRAM AND POLICY GOALS

In its NMTC Allocation Application to the CDFI, the NMFA, on behalf of Finance New Mexico, identified operating businesses that create jobs for New Mexicans, particularly in rural New Mexico, as its targeted population. Specifically NMFA committed to providing at least 40% of the credits to businesses in rural New Mexico, which for the purposes of this policy include all tribal lands and colonias. The NMFA stated its intent to use the remaining 60% in New Mexico’s urban areas, first to job-creating businesses then to redevelopment projects that revitalize dilapidated areas. Further, Finance New Mexico expects to target the benefit of the credits to businesses in areas of higher economic distress by investing 75% of its allocation in these areas. The NMTC Economic Impact Policies incorporate these goals and establish the application review criteria that will be used to determine the benefits to the communities.

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 Agreement 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 meeting at which the waiver is considered.

D. NMTC PROGRAM DEFINITIONS

1. "Act" means the Statewide Economic Development Finance Act Section 6-25-6.1 NMSA 1978, as amended;
2. "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 provide advice to the NMFA Board on the CDE's achievement of its mission.
3. "Authority" means the New Mexico Finance Authority;
4. "Board" means the New Mexico Finance Authority Board of Directors;
5. "CDFI" means the Community Development Financial Institution division of the US Department of the Treasury;
6. Community Development Entity or "CDE" means any domestic corporation or partnership if:

- a. The primary mission of the entity is serving or providing investment capital for Low-Income Communities or Low-Income Persons;
 - b. 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
 - c. The entity is certified by the Fund as a CDE;
7. “Designated areas of Higher Distress” are defined as:
- a. Poverty rates greater than 30%;
 - b. Areas with a median family income of less than 60% of the area median family income;
 - c. Unemployment rates at least 1.5 times the national average;
 - d. Federally designated Empowerment Zones, Enterprise Communities, or Renewal Communities;
 - e. SBA designated-Historically Underutilized Business Zones (“HUB” zones), to the extent that the investment will support businesses that received certification;
 - f. Federally designated brownfields redevelopment areas;
 - g. Federally designated Native American or Alaskan Native areas or redevelopment areas by the appropriate tribal or other authority;
 - h. Colonias areas designated by the US Department of Housing and Urban Development;
 - i. Federally designated medically underserved areas, to the extent that the investment will result in the support of health-related services;
 - j. High Migration Rural Counties;
 - k. State or local Tax Increment Finance districts, enterprise zone programs or other similar state/local programs targeted toward particularly economically distressed communities;
8. “Fund” means the Community Development Financial Institutions Fund;
9. “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;

10. Low Income Community or “**LIC**” means any population census tract with a poverty rate of at least 20%, or:
 - a. 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;
 - b. 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;
 - c. 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;
11. “**NMTC**” means the New Markets Tax Credit program;
12. 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:
 - a. 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;
 - b. A substantial portion of the use of the tangible property of such entity (owned or leased) is within any Low-Income Community;
 - c. A substantial portion of the services performed for such entity by its employees are performed;
 - d. 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;
 - e. Less than 5% of the average of the aggregate unadjusted bases of the property of the business is attributable to nonqualified financial property;
13. Qualified Equity Investments or “**QEI**” means any equity investment in a CDE if
 - a. Such investment is acquired by the investor at its original issue solely in exchange for cash;

- b. “Substantially All” of such cash is used by the CDE to make Qualified Low-Income Community Investments; and
 - c. The investment is designated by the CDE as a QEI;
14. Qualified Low-Income Community Investment or “**QLICI**” means:
- a. Any capital or equity investment in, or loan to, any QALICB;
 - b. The purchase of a loan from another CDE if the loan is a QLICI;
 - c. Financial Counseling and Other Services to businesses located in, or residents of, LICs; and
 - d. Any equity investment in, or loan to, any CDE;
15. “**SWEDFA**” means the Statewide Economic Development Finance Act;
16. “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.

E. FINANCE NEW MEXICO, ITS SUBSIDIARY CDEs AND THE NMFA

1. 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:

- a. The Primary Mission criteria provide that the CDE must serve or provide investment capital for Low-Income Communities or Low-Income Persons; and
- b. 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.

2. 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.

3. Operating Agreement

The NMFA Board of Directors approved Finance New Mexico's Restated Operating Agreement on August 24, 2006 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.

4. 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 Authority's sole manager role of Finance New Mexico, the Authority 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 and are required to have their individual advisory board comprised of five members. Twenty percent of these members must be representative of members 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 \$110 million allocation to a subsidiary CDE to manage the transaction. The subsidiary CDE will then be added as a party to the Allocation Agreement with the CDFI.

F. ROLES AND RESPONSIBILITIES

1. 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 NMFA Board of Directors with representatives from Low-Income Communities in New Mexico, the Advisory Board will review policies and application procedures and report to the NMFA Board of Directors on whether the program is meeting its mission.

2. Role of New Mexico Economic Development Department

- a. Shall determine that each project serves as economic development purpose as required under SWEDFA;
- b. May provide the NMFA with an economic impact analysis of each application.

3. Role of NMFA Staff

- a. 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 Economic Development Committee;
- b. 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:

- i. Type of investment, investors, project location and project impact;
 - ii. Investment requirements: including dividends, exit fees, balloon payments, tax credits and additional incentives needed to attract the investment;
 - iii. 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.
- c. Loan servicing including authorizing disbursements, tracking loan payments and asset management in addition to monitoring and compliance of the portfolio;
 - d. Monitoring and compliance of businesses receiving NMTC funds throughout the NMTC compliance period.

4. Role of the NMFA Economic Development Committee

- a. Consider recommendations from NMFA staff and consultants and make recommendation to the NMFA Board of Directors 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 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.
- b. Oversees the monitoring of all loans or other qualified investments.

5. Matters Requiring Approval of the NMFA Board of Directors

- a. Reviews and considers the input of Finance New Mexico Advisory Board related to the establishment or amendment of any NMTC policies;
- b. Approves policies governing the NMTC program;
- c. Reviews the recommendation and findings of the Economic Development Committee. The 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 Board determines that sufficient information has not been made available on which to base a decision;
- d. Approves all allocations and the specific terms of each transaction.

6. Matters Delegated to the NMFA Officers and Staff

- a. 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;
- b. In approving each project, the 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.

G. SALE OF QUALIFIED EQUITY INVESTMENTS

1. 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 Agreement with the CDFI.

2. 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.

3. 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.

H. APPLICATION AND APPROVAL POLICY

1. Distribution of Allocation

In its Allocation Agreement with CDFI, Finance New Mexico must deploy its NMTC credits by September 2010. 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, NMFA will conduct its application solicitations in the following manner:

- a. All of the credits directed towards projects in urban areas will occur through three competitive application rounds of \$20 million each with the expectation that two or more projects will be selected in each competitive round. Urban competitive rounds are expected to be offered in June 2008, November 2008 and April 2009. Unused allocation set aside for projects in urban areas will be offered through additional competitive rounds established by the NMFA Board of Directors;
- b. Half of the credits directed towards rural businesses will be offered competitively beginning in November 2008 with the remaining \$20 million set aside for a rural competitive round now expected in April 2009. Unused allocation set aside for projects in rural areas will be offered through additional competitive rounds established by the NMFA Board of Directors
- c. An allocation of \$10 million will be set-aside for projects that can demonstrate substantial economic impact, but whose timing and financing needs cannot wait until the next competitive round.
- d. NMFA and the New Mexico Economic Development Department will administer an outreach program to notify businesses statewide of the application deadlines and requirements. Notices for each competitive round will be published in three newspapers across the state and will be prominently displayed in the NMFA website;

- e. The NMFA, on behalf of Finance New Mexico, will prioritize applications using the evaluation criteria outlined in the Economic Impact Policy. 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 90 days to negotiate a final NMTC term sheet with Finance New Mexico and then 60 days thereafter 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.
- f. The applicant will be required to provide adequate information at each review stage to enable Finance New Mexico, and the Board to make responsible decisions about the merits of the investment;
- g. 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 Authority or Finance New Mexico Advisory Board, other than the NMTC Application Manager(s).

2. Required Applicant proposals

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

- a. Project Overview and Description;
- b. Description of Public Goals to be achieved;
- c. Completed Economic Development Impact Questionnaire;
- d. Sources and Uses Statement;
- e. Proforma financial statement (7 year);
- f. Accounts Receivable/Accounts payable schedules;
- g. Evidence of property ownership or control;
- h. Current Financial Statements;

- i. The most recent three years of audits, tax returns and other evidence of financial performance acceptable to the NMFA;
- j. Status of Financing Commitments;
- k. Personal Financial Statements for principals with greater than 20% interest in the company and any guarantor;
- l. Resumes of all key employees, principals and any guarantors;
- m. Concept/Schematic Architectural Plans;
- n. Cost Estimate;
- o. Permit Status;
- p. Project Schedule; and
- q. Other documents deemed necessary by the NMFA.

3. Project Approvals

Financing commitments shall be approved by the NMFA Board of Directors and shall be valid for a term of 150 days as described in Section H1e above, unless otherwise specifically authorized by the Board.

I. PROJECT ELIGIBILITY

1. 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.

- a. 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;
- b. 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;

- c. 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;
- d. 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;
- e. 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:
 - i. 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;
 - ii. At least 40% of the entity's employees are low-income individuals; or
 - iii. At least 50% of the entity is owned by low income individuals.

2. 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.

3. 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:

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

4. Uses specifically excluded by IRC Section 45D

- a. Residential rental property; eg, buildings or structures which derive 80% or more of its gross rental income from renting dwelling units;

- b. Private or commercial golf courses;
- c. Country Clubs;
- d. Massage parlors, hot tub facilities, suntan facilities;
- e. Race tracks and other gambling facilities;
- f. Stores where the principal business is the sale of alcoholic beverages for consumption off premises; and
- g. Farming businesses if the aggregate unadjusted bases of assets (owned or leased) at the close of the taxable year exceeds \$500,000.

J. COMPLIANCE AND REPORTING PROCEDURES

In addition to the compliance and reporting mandated by Finance New Mexico's Allocation Agreement 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.

1. 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.

NMTC's 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.

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 Agreement are met.

2. 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.

3. Community Development Financial Institutions Fund (“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 Agreement 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:

- a. Notice of Receipt of Qualified Equity Investment. Within 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.
- b. 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 180 days after the end of Finance New Mexico’s fiscal year;
- c. 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 and its subsidiary CDE’s Qualified Low-Income Community

Investments (“QLICI”). This information must be submitted no later than 180 days after the end of Finance New Mexico’s fiscal year;

- d. 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 180 days after their respective year ends;
- e. Advise the Fund of Certain Material Events: Finance New Mexico and its subsidiary CDE’s shall advise the Fund in writing in reasonable detail of the occurrence of any of the following events
 - i. Any proceeding instituted against Finance New Mexico or its subsidiary CDE’s 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;
 - ii. 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 or its subsidiary CDE’s ability to carry out the authorized use of the NMTC Program Allocation;
 - iii. The occurrence of any Event of Default by Finance New Mexico or its subsidiary CDE’s (any false representation of any material respect to the Allocation Application and/or Allocation Agreement; failure to comply with any of the covenants of Section 45D of the IRS Code, the Allocation Agreement or any instrument delivered to the Fund in connection with the Allocation Agreement; failure to conduct business in the usual and ordinary course);
 - iv. The occurrence of any event that may be considered a recapture event;
 - v. The merger or acquisition of Finance New Mexico;
 - vi. 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;
 - vii. The replacement of any key management officials that had been named in the Allocation Agreement;
 - viii. 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.

4. Internal Revenue Service Reporting

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

By the April 15th of each year, a Form 1065 US 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).

K. 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.

L. 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. The NMFA expects capital contributions to Finance New Mexico will occur on a non pro-rata basis by the members and that NMFA will make the majority of the capital contributions to Finance New Mexico. These capital contributions will take the form of transfers of cash and other property to Finance New Mexico, services provided to Finance New Mexico and costs incurred on behalf of or advanced for Finance New Mexico (e.g., costs to the NMFA of consultants, staff time and direct and indirect costs of the NMFA associated with managing the NMTC program). As a result, NMFA expects its ownership interest in Finance New Mexico will grow.

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:

1. 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);
2. Second, to NMFA for other economic development programs or purposes.

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

The NMFA's creation of the 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.

Adopted: May 28, 2008

First Revision Date: February 19, 2009

Second Revision Date: November 19, 2009

NEW MEXICO FINANCE AUTHORITY NEW MARKETS TAX CREDIT PROGRAM ECONOMIC IMPACT POLICIES

A. PURPOSE

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

Pursuant to its Allocation Agreement with the Community Development Financial Institutions (“CDFI”) Fund at the US Department of the Treasury, the New Mexico Finance Authority, on behalf of Finance New Mexico has targeted goals for:

- ◆ Community Impact and Support
- ◆ Geographic Diversity
- ◆ Filling Infrastructure Gaps in Rural and underserved areas of New Mexico
- ◆ Increased Wages and Job Creation
- ◆ Wealth Creation and Capital Investment
- ◆ Environmentally Sustainable Outcomes

The general purpose of these Economic Impact Policies is to design and implement a systematic, transparent approach to prioritizing projects that meet the over-arching goals of economic development statewide for financial evaluation and structuring. These policies will provide guidance to decision makers regarding project impact qualifications, application review criteria, and concentration policies for financing based on the Allocation Agreement with the CDFI Fund, federal rules and regulations, and the goals of EDD.

Together with NMFA-approved New Markets Tax Credit Program Policies and the New Markets Tax Credit Lending and Credit Policies, these Economic Impact Policies set forth the criteria by which the NMFA may make NMTC loans to qualified businesses in qualified low-income communities.

B IMPLEMENTATION

These Economic Impact Policies shall be implemented by the New Mexico Finance Authority Board (“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 meeting at which the waiver is considered.

SECTION 1.0 APPLICATION AND APPROVAL POLICY

Applications will be evaluated using a competitive process that will be standardized and transparent. The applicant will be required to provide adequate information at each review stage to enable Finance New Mexico and the Board to make responsible decisions about the merits of the investment.

Section 1.1 Overview

In order to be considered for funding, a qualified business will submit an application to the NMFA as outlined in the NMTC Program Policies and Procedures. NMFA's staff and consultants will prioritize each application utilizing the process set forth in these policies and will structure transactions in accordance with the separately adopted NMTC Credit and Lending Policies. Such evaluation will include to the extent applicable: proposed use of the loan proceeds, the project's financial feasibility, economic impact and any other matters the NMFA may consider appropriate. This set of review criteria will be used to prioritize applications and is in no way a guarantee that a project will receive NMTC funding.

Section 1.2 Economic Development Department and NMFA

The NMFA and New Mexico Economic Development Department ("EDD") have developed goals for economic impact for projects receiving NMTC subsidy. Finance New Mexico has targeted its credits for loans to companies creating and retaining jobs for New Mexicans and those in the state's targeted industries. Under SWEDFA, the EDD must determine that the applicant serves an economic development purpose and may utilize an economic model to determine the eligibility and impact of each project to ensure that the preferred industries, types of companies, jobs created, and projected wages are in concert with program goals and objectives.

Section 1.3 Economic Development Priorities

Priority in awarding financial assistance will be given to businesses which make New Mexico their headquarters and increase the economic development impact of their loans in the following manner:

- ◆ Make positive impact or reduces a negative impact
- ◆ Increase availability and wealth of the community
- ◆ Increase health and/or safety of community

Decisions about which businesses will be selected and awarded priority for NMTC investment will be determined by the NMFA Board of Directors and driven by the targets committed to in Finance New Mexico's Allocation application and Agreement with CDFI and in consultation with EDD.

SECTION 2.0 PORTFOLIO CONCENTRATION

The NMTC Program promotes investment in projects and communities with the aim of attracting private capital, creating economic opportunity, revitalization and re-development of blighted

areas or areas experiencing economic decline. The goal in establishing the concentration policy is to equitably distribute and allocate Finance New Mexico's limited tax credit allocation and ensure geographic, industry and project diversity. Finance New Mexico does not expect to concentrate loans and investments in excess of the following targets:

1. Project: Any one project may be limited to using no more than 15% of the total allocation.
2. Location: Finance New Mexico does not expect to concentrate more than 20% in any one census tract. However, investments in excess of this percentage may be considered on a case by case basis so long as the project meets geographic and impact goals as outlined in these policies and/ or can demonstrate substantial benefits to any particular location.

SECTION 3.0 APPLICATION REVIEW CRITERIA

Section 3.1 Overview

Finance New Mexico will use a competitive process to determine which projects will use NMTCs in their financing structures as described in the NMTC Program Policies and Procedures. The Application Review Criteria identifies desired community and economic development returns and outlines how these will be measured and accounted for over the life of the project.

Section 3.2 Evaluation and Review Criteria

Finance New Mexico will balance the need to deliver the tax credits in an expeditious manner with the expected impact the project will have on New Mexico. The areas of impact have been assigned points that evaluate an applicant's impact based on the priorities and targets of the program.

1. In the review criteria, an applicant's Readiness to Proceed will be a priority in evaluating any application to determine its overall impact.
2. Job Creation: a project that meets targets in these areas will be considered to have a high impact on New Mexico's economy. Businesses creating secondary and tertiary jobs, high wage jobs and offering employee benefits will be awarded additional points.
3. Business Location: an applicant must meet the federal and state requirements in determining whether its location qualifies as a low-income community. Applicants that are located in areas of higher distress will be awarded additional points.
4. Businesses that derive most of their revenues from outside New Mexico will be considered a priority.
5. Businesses with new capital investment will be prioritized.

6. **Community Impact and Support:** a project's ability to improve the quality of life for the areas in close and direct proximity to the project will receive priority. Projects that result in job retention and will stave off economic decline within their respective communities will be given priority. Businesses will be required to submit evidence of strong community benefit and support. Along with a description of the benefits an applicant will provide, such as targeted industry, environmental impact, downtown redevelopment, installation of public facilities or infrastructure, and services that will be provided in communities much needed assistance in areas such as health care, day care, art and culture, education.

Section 3.3 Financial Review of Applications

The economic development aspect of the application will be reviewed first and used to determine the economic impact of a project. Staff, in consultation with the EDD, will evaluate the applications for those projects determined by the EDD to serve an economic development purpose. The prioritization list will be presented to the Economic Development Committee for its approval. Based upon the priority recommended by the Economic Development Committee and approved by the NMFA Board of Directors, staff will complete a comprehensive financial due diligence of each application in order of its priority to determine an applicant's ability to proceed with a NMTC transaction. Pursuant to the NMTC Policies and Procedures, the applicant will have 90 days to meet all major readiness thresholds identified and an additional 60 days to close the transaction. A deposit for legal fees will be required at the execution of the term sheet. NMFA staff shall present its financial evaluation and propose a preliminary structure to the NMFA Economic Development Committee. The Economic Development Committee will consider the recommendation and may confer with outside parties as necessary to obtain more information on the feasibility of the applicant's project and the creditworthiness of the applicant. The Economic Development Committee will make a recommendation to the NMFA Board of Directors who may approve or disapprove any or all of the recommended project. A final approval of the project is required by the NMFA Board of Directors once all documents are in substantially final form.

Community Impact and Support	40
A project’s ability to improve the quality of life for the residents in areas that are in close and direct proximity to the NMTC project. Businesses will be required to submit evidence of strong community benefit and support. Along with a description of the benefits an applicant will provide, such as targeted industry, environmental impact, downtown re-development, installation of public facilities or infrastructure, and services that will be provided in communities much needed assistance in areas such as health care, day care, art and culture, education.	10
Job Retention: Job creation and employment opportunity evaluation will take into consideration Wages, Employee Benefits, Net New Jobs, Types of Jobs and Location. Projects that meet targets in these areas will be considered to have a high impact on New Mexico’s economy. Jobs created for New Mexicans will be taken into consideration under the job creation criteria.	10
Environmental Impact- Demonstration of sustainable results will be included in the overall impact evaluation of a project, and will take into consideration: <ul style="list-style-type: none"> ◆ Energy efficiency ◆ Water Conservation ◆ Waste Reduction ◆ Adds to existing power grid in rural & colonias areas ◆ Increases New Mexico’s overall transmission capacity ◆ Projects that participate in environmental rating systems ◆ Projects that are LEED certified 	10
Target Industry- Target businesses that will create good, sustainable jobs for New Mexico, in key industry sectors: <ul style="list-style-type: none"> ◆ Aviation ◆ Clean Energy ◆ Film ◆ High tech ◆ Rural economic development ◆ Value Added Agriculture 	5
Downtown Re-Development:	5
Job Creation	25
Job creation and employment opportunity evaluation will take into consideration Wages, Employee Benefits, Net New Jobs, Types of Jobs and Location. Projects that meet targets in these areas will be considered to have a high impact on New Mexico’s economy. Jobs created for New Mexicans will be taken into consideration under the job creation criteria.	10

Secondary and Tertiary Jobs: will take into consideration construction jobs, indirect jobs, and job retention in calculating the impact of a project.	5
High Wage Job Creation: Businesses creating jobs paying 6.3% higher than the local area median wage.	5
Employee Benefits: Companies create jobs that provide employee benefits including health care and retirement savings may receive bonus points.	5
Applicant Readiness to Proceed	20
Financial Soundness of Proposal The proposed project must demonstrate the potential for success based on financial feasibility and leveraging of private funds.	5
“But For Test” -A project must demonstrate that “but for” the subsidy provided by the New Markets Tax Credit resource it would be unable to proceed or attract additional capital necessary to complete its financing structure.	5
Project Readiness Proposed project’s must demonstrate readiness to move forward and be financially feasible with an ability to close within 3-6 months in order to be considered for any round of applications.	5
Qualified Management Team The proposed project should demonstrate a strong and qualified management team.	5
Business Location	5
Qualified Census Tract: Businesses must be in a qualified census tract or meet the other criteria for Qualified Low Income Communities set forth in the federal program guidelines. Businesses located in rural or economically distressed areas must meet the Standard Metropolitan Statistical Area (“SMSA”) requirements and the project location eligibility as outlined by CDFI for the New Markets Tax Credit Program.	
Areas of Higher Distress -Projects that are located in areas of higher distress may receive additional or bonus points.	5
Economic/Export Base Companies	5
A company that derives most of its revenue from outside New Mexico, either directly or as a supplier to any company doing business outside the State.	5
New Capital Investment	5
Businesses building a new facility or making substantial improvements to an existing facility.	5

Adopted May 28, 2008
Revised November 19, 2009

**NEW MEXICO FINANCE AUTHORITY
NEW MARKETS TAX CREDIT PROGRAM
LENDING AND CREDIT POLICIES**

A. PURPOSE

The New Mexico Finance Authority (“NMFA”) is granted broad authority to finance projects that stimulate economic development through the Statewide Economic Development Finance Act (“SWEDFA”). Pursuant to amendments made to SWEDFA in 2006, the NMFA formed Finance New Mexico, LLC (“Finance New Mexico”), 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.

Pursuant to its Allocation Agreement with the Community Development Financial Institutions (“CDFI”) Fund at the US Department of the Treasury, the New Mexico Finance Authority, on behalf of Finance New Mexico, must provide:

- ◆ Equity or equity-equivalent financing;
- ◆ Interest rates that are 50% lower than either the prevailing market rates for the particular product or lower than NMFA’s current offering for the particular product; or
- ◆ Provide at least 5 forms of flexible or non-traditional lending rates and terms.

Together with NMFA-approved New Markets Tax Credit Program Policies and the New Markets Tax Credit Economic Impact Policies, these Lending and Credit Policies set forth the criteria by which the NMFA may make NMTC loans or investments to qualified businesses in qualified low-income communities.

B. POLICY GOAL

The goal of these Lending and Credit Policies is to provide guidance to NMFA staff, Finance New Mexico Advisory Board and potential borrowers regarding acceptable risk parameters, pricing and securitization of qualified investments as permitted under federal and state laws, and structuring enhancements available within the NMTC program. Through these policies, the NMFA Board shall determine:

- ◆ Collateral requirements, including acceptable loan to value and lien positions;
- ◆ Methods of determining below-market interest rates and fees;
- ◆ Acceptable loan and investment structures, including interest-only periods and convertible debt features; and
- ◆ Borrower credit standards and acceptable levels of loan loss reserves.

C. IMPLEMENTATION

These Lending and Credit Policies 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 meeting at which the waiver is considered.

SECTION 1. TYPES OF FINANCING PRODUCTS

Section 1.1 Overview

The New Markets Tax Credit program is designed to stimulate the flow of new investment capital into qualified areas by filling financings gaps with affordable capital.

Section 1.2 General Considerations

In keeping with the spirit of the legislation and pursuant to Finance New Mexico’s application for a New Markets Tax Credit Allocation, the majority of Finance New Mexico’s investments into qualified businesses will take the form of non-traditional finance packages that offer flexible, advantageous loan terms. Pursuant to its Allocation Agreement with CDFI, Finance New Mexico may also provide investments in the form of equity, equity equivalents, and debt with equity-like features as outlined in these Lending and Credit Policies.

Section 1.3 Equity, Equity Equivalent and Debt with Equity-Like Features:

NMFA’s experience is as a lender, not an equity provider and as such, Finance New Mexico will provide the majority of its investments in the form of debt. However, in circumstances where equity is required to make the transaction possible or where it provides favorable tax implications for the qualifying business, the NMFA may consider allowing Finance New Mexico to make an equity investment in lieu of debt for qualified low-income community business under conditions outlined below.

1. Equity

The NMFA, on behalf of Finance New Mexico, will require each investment to have an exit fee that totals at least the amount it would have been required to repay if the investment had been structured as a loan and will carry the same personal guarantees as an NMTC Proceeds Loan would have carried.

2. Equity-Equivalent Financing

Equity-Equivalent Financing will not be considered by Finance New Mexico at this time.

3. Debt with Equity-Like Features

Finance New Mexico may provide its qualified businesses with a variety of debt structures that may be convertible to equity under certain conditions, including

promissory note that converts all or a portion of the outstanding principal to preferred or common stock or preferred stock that converts to debt at certain coupons. Additionally, Finance New Mexico may require companies to provide royalties or warrants in exchange for certain structuring flexibilities as described in Sections 2 and 3 of these Lending and Credit Policies.

Section 1.4 Loans

NMFA expects that the majority of the investments made in qualified businesses will be funded by a combination of loans from Leverage lenders and flexible, low-interest loans made by Finance New Mexico with capital provided through the sale of tax credits.

1. **Leverage Loans:** Finance New Mexico will make loans to qualified businesses using funds from non-recourse loans provided to Finance New Mexico by conventional lenders, private investors or an affiliate of the borrower. Typically, these loans will have the following characteristics:
 - a. They will be structured on the same terms and conditions of the bank loan pursuant to security interests held by Finance New Mexico and as further described in Section 4.6 of these Lending and Credit Policies;
 - b. They will impose a refinancing at the end of seven years; and
 - c. They may have independent servicing agents as described in Section 4.6 (2).
2. **NMTC Proceeds Loans:** Finance New Mexico will make loans to qualified businesses from capital provided by a private investor. These loans may:
 - a. Be structured with flexible lending criteria as outlined in Section 3 of these Lending and Credit Policies;
 - b. Be subject to a buy-out of the loan by the borrower at a discount at the end of the seven-year compliance period, under the following conditions:
 - i. The discount applied will be determined by the Board on a case-by-case basis with the following parameters:
 - ii.
 1. up to 20% based upon timely reporting;
 2. up to 50% based upon the economic impact of a project and other factors determined by the Board. Such criteria will be approved by the NMFA Board as that project's Economic Development Threshold;
 3. 5% to be discounted if the project is located in an NMTC-qualified "non-metropolitan" census tract;

4. 5% to be discounted for Tribal Projects; and
 5. in no instance shall the discount exceed 80% of the NMTC Proceeds Loan.
- iii. Additionally, the NMFA may allow for the NMTC transaction and legal costs paid from NMTC Proceeds Loans to be deducted from that portion of the loan required to be repaid at the end of the Compliance Period.

SECTION 2: INTEREST RATE SETTING POLICY

Section 2.1 Overview

Pursuant to its Allocation Agreement with the CDFI, Finance New Mexico will strive to lower the interest rates by 100 to 300 basis points per transaction. It is anticipated that businesses will benefit from interest rate reductions of between 100 and 300 basis points below typical local market rates.

Section 2.2 General Considerations

The NMFA will take into consideration its “cost of funds” when setting the interest rates on its loans to qualified businesses. The primary goal of the interest rate policy is to set an interest rate sufficient to cover the operating costs of Finance New Mexico, LLC, on a break-even basis.

Section 2.3 Interest Rates:

Finance New Mexico will provide fixed interest rates which will be set commensurate with its costs of funds and risk on the transaction:

1. **Leverage Loans** will carry interest rates and terms as set by the Leverage lender with no additional fees assessed by Finance New Mexico.
2. **NMTC Proceeds Loans** will carry a maximum fixed interest rate of 2% unless the NMFA Board of Directors determines that the interest rate shall be less.

Section 2.4 Fees:

Finance New Mexico has established the following fee structure for the program that takes into account the operating costs and implementation of the fund on a break-even basis as well as the market discount of the per credit price of the tax credits.

1. Sponsor Fee shall be calculated on the total NMTC investment. The Sponsor Fee shall be equal to 300 basis.
2. Any extraordinary costs associated with a particular transaction will be passed along to the borrower at cost.

SECTION 3 LOAN STRUCTURING POLICY

Section 3.1 Overview

The goal of the New Markets Tax Credit program is to provide flexible financing to qualified businesses located in low-income communities that have historically lacked access to credit offered at advantageous terms. This loan structuring policy provides the framework for NMFA staff and consultants to provide flexible loan structures to the Finance New Mexico borrowers.

Section 3.2 General Considerations

Consistent with its Allocation Agreement, Finance New Mexico will offer a variety of non-traditional lending terms to its borrowers, subject to specific approval by the NMFA Board. Finance New Mexico may consider an array of non-traditional lending terms which will be tailored to fit the characteristics of each transaction.

Section 3.3. Maximum Loan Amortization

Finance New Mexico recognizes that structuring flexible amortization schedules is the key to accomplishing successful NMTC transactions. NMFA staff and consultants, on behalf of Finance New Mexico, expect to build upon the flexibility ingrained in the Smart Money program to the benefit of qualified businesses in low-income areas by offering the following flexibility in structuring loan amortizations on its NMTC Proceeds Loans:

1. Buildings and Real Estate: Loans used to purchase real estate and/or construct buildings may have an amortization period of up to 40 years.
2. Machinery and Equipment: Loans used to purchase machinery and equipment may not exceed 15 years and typically will not exceed the useful life of the equipment.
3. Working Capital: Loans for working capital may be made only for qualified expenditures within a low-income community and all expenditures will be subject to monitoring and tracing of working capital uses.
4. Finance New Mexico may offer interest-only periods of up to seven years on the NMTC Proceeds Loans.
5. NMFA will require a mandatory payment of the NMTC Proceeds loans following the end of the seven-year compliance period.

Section 3.4 Pre-Payment

Given the tax considerations arising from unexpected loan repayments, Finance New Mexico will not allow companies to prepay only a portion of its loans with Finance New Mexico. Though highly discouraged, all full prepayments of loans whether voluntary or involuntary prior to the seventh anniversary date will be subject to a pre-payment penalty equal to 10% of then current principal balance.

SECTION 4 SECURITY POLICY

Section 4.1 Overview

The goal of the New Markets Tax Credit program is to make economically marginal transactions feasible by providing flexible financing to qualified businesses located in low-income communities. This security policy defines the acceptable levels of security for all Finance New Mexico loans and will be implemented by NMFA staff and consultants.

Section 4.2 General Considerations

Finance New Mexico will structure its loans so as to achieve the greatest security without impacting the operations, growth and cash-flows of the qualified borrowers. All Finance New Mexico loans will be fully secured and Finance New Mexico will consider the quality and liquidity value of collateral securing each loan. Under no circumstances will collateral value substitute for a borrower's ability to repay the loans from cash flow. Cash flow will be the primary source of repayment, with collateral and guarantees providing the secondary and tertiary sources of repayment.

Section 4.3 Collateral Lien Level

Finance New Mexico will strive to achieve the highest lien level possible in structuring its loans, but expects that the majority of its loan structures will subordinate NMTC Proceeds Loans to Leverage Loans. The NMFA staff and consultants, on behalf of Finance New Mexico, will not undertake undue economic risk to accomplish the financing and all transactions are subject to specific approval by the NMFA Board of Directors.

Section 4.4. Collateral Value Determination

Finance New Mexico will strive to meet the mission of the NMTC program by structuring its loans in a manner that maximizes the leverage of the assets available for security by offering its NMTC Proceeds Loans with higher than standard loan-to-value ratios as outlined below.

Asset Category	Loan-to-Value Limits %		NMTC Program
	<u>Bank's Regulatory</u> Limit	<u>NMFA Smart Money</u> Limits	
Raw land	65%	50%-70%	65%-90%
Land development	75%	75%-80%	75%-90%
Construction	80%	80%-95%	80%-95%
Commercial Property	85%	80%-90%	85%-95%
Machinery and Equipment	80%	75%-80%	80%-95%
Inventory: based on durability	50%	50%-60%	50%-80%
Accounts Receivable (90 day)	75%	75%	90%

1. In accordance with standard banking procedures, applicants must provide an estimate of an asset's fair market value prepared by an independent, qualified appraiser acceptable to the NMFA.

2. Finance New Mexico will seek the commitment of its borrowers toward the project through minimum owner contributions or down-payments:
 - a. 5% for total investment requests of less than \$8,000,000
 - b. 10% for total investment requests \$8,000,000 or greater

Section 4.5. Loan Security

1. The NMFA will require that security interests be perfected in order to obtain the desired lien positions agreed upon and will require post-filing lien searches that document the approved lien positions.
2. Finance New Mexico will perfect and hold the security interests set forth by the Leverage Lenders for loans made from their funds.
3. As outlined in the New Markets Tax Credit Program Policies, borrowers will be subject to regular reporting on economic development benefits of their projects in addition to loan monitoring requests by Finance New Mexico or its servicing agent. Leverage lenders wishing to mitigate their risk in NMTC loan transactions may act as servicing agent.

Section 4.6 Non-traditional forms of collateral

Finance New Mexico may securitize its loans to qualified borrowers with non-traditional forms of collateral such as intellectual property, including patents.

Section 4.7 Personal and Corporate Guaranties

All NMTC Proceeds Loans made to private companies by Finance New Mexico will require personal guarantees of all owners with more than 20% ownership of the business and/or property. Exceptions may be considered on a case-by case basis. Corporate guarantee of the operating company is required if borrower is a Limited Liability Company or a Limited Partnership.

Section 4.9 Character and Credit History:

Finance New Mexico will consider the character and credit history of its applicants prior to extending credit and will extend credit to companies whose principals and guarantors have demonstrated responsible behavior. Credit reports and background checks will be required for all guarantors and principals with at least a 20% ownership interest. Recent bankruptcies and felony convictions of any guarantor or principal will disqualify a company from NMTC program participation. Lesser criminal convictions and credit record blemishes will be considered on a case-by-case basis.

Adopted May 28, 2008
Revised November 19, 2009
Second Revision December 17, 2009

ORGANIZATION DOCUMENTS



New Mexico Finance Authority Investment Policy

SECTIONS:

- 1.01 GENERAL PROVISIONS
- 1.02 INVESTMENT PRINCIPLES AND OBJECTIVES
- 1.03 RESPONSIBILITY
- 1.04 STANDARD OF PRUDENCE
- 1.05 INTERNAL CONTROLS AND PROCEDURES
- 1.06 INVESTMENT GUIDELINES AND PERMITTED INVESTMENTS
- 1.07 DIVERSIFICATION
- 1.08 PROHIBITED INVESTMENTS
- 1.09 COMPETITIVE SELECTION OF INVESTMENT INSTRUMENTS
- 1.10 SELLING SECURITIES
- 1.11 SAFEKEEPING AND CUSTODY
- 1.12 PERFORMANCE BENCHMARKS
- 1.13 SELECTION OF DEPOSITORIES AND SECURITIES BROKER – DEALERS AND INVESTMENT AGREEMENT BIDDING AGENTS
- 1.14 EFFECTIVE DATE – HISTORY

1.01 GENERAL PROVISIONS

I. APPLICABILITY

- A. This policy applies to the investment of all of the Authority's funds; including funds the Authority may manage for other entities, except for those funds where trust indentures, bond resolutions, or other documents or agreements control the investment of the funds.
- B. This policy is the Authority master investment policy and may be amended or supplemented as applied to specific categories of funds of the Authority by adoption of addenda by the Board applicable to specific categories of the Authority funds.

II. DEFINITIONS

- A. "Authority" shall mean the New Mexico Finance Authority Board of Directors.
- B. "Benchmark" shall mean an unmanaged investment index that consists of a predetermined set of Securities whose performance can be easily tracked and compared to a similar actively managed portfolio.
- C. "Competitive Bid" means the selection of securities through a formal solicitation or review and evaluation of online offerings from various broker/dealers.
- D. "Committee" shall mean the Investment Committee of the Authority and is comprised of Authority members whom are appointed by the Authority Chairperson and approved by the Authority.

- E. "Custodian" shall mean a bank or other financial institution that provides custodial services pertaining to all or any portion of the deposits or investments of the Authority pursuant to a written agreement.
- F. "Chief Executive Officer" shall mean the chief employed management official appointed by the Authority.
- G. "Investment Consultant" shall mean any individual or organization contracted to provide advisory services, including advice on investment objectives and/or asset allocation, and performance monitoring; to provide investment advice to the Committee and the Authority; and to represent the interests of the Authority in managing and monitoring the work and performance of Investment Manager(s).
- H. "Investment Manager(s)" shall mean an individual, group or firm possessing appropriate experience, credentials, resources and infrastructure and who are engaged professionally in directly managing (buying, selling, holding) a portfolio of Securities.
- I. "Chief Investment Officer" shall mean the chief employed investment official of the Authority designated by the Chief Executive Officer.
- J. "New Mexico Finance Authority" Act or Act shall mean Sections 6-21-1 et seq. NMFA 1978, as amended from time to time.
- K. "Policy" shall mean this Investment Policy.
- L. "Rating Agencies" shall mean Moody's Investor Services, Inc., Standard and Poor's, Fitch, or their respective successors and any other nationally recognized rating service designated by the Authority.
- M. "Securities" shall mean marketable investment securities.
- N. "State" shall mean the State of New Mexico.

III. PURPOSE

The purpose of this Policy is to establish requirements and guidelines applicable to management of the money of the Authority to which it applies. It is intended to be sufficiently specific to be meaningful, yet flexible enough to be practical.

IV. INTERPRETATION AND CHANGE

The Committee shall interpret and construe this Policy in a manner to allow the investment program of the Authority to adopt and respond to opportunities in the Securities markets, as well as changes in the Authority's financial requirements. This Policy may be changed or revised only by action of the Authority.

1.02 INVESTMENT PRINCIPLES AND OBJECTIVES

I. Pooling of Funds

Except where prohibited by statute, trust indenture, or other controlling authority, the Authority will consolidate cash and reserve balances from all funds to maximize investment earnings and to increase efficiencies with regard to investment pricing, safekeeping and administration. Investment income will be allocated to the various funds based on their respective participation and in accordance with generally accepted accounting principles.

II. General Objectives

The primary objectives, in priority order, of investment activities shall be safety, liquidity and yield.

A. Safety

Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation and protection of principal in the overall portfolio. The objective will be to mitigate credit risk and interest rate risk.

1. Credit Risk

The Authority will minimize credit risk, which is the risk of loss due to the failure of the Securities issuer or backer, by:

- a. Limiting investments to the types of Securities listed in Section 1.06 of this Investment Policy.
- b. Pre-qualifying the financial institutions, broker/dealers, intermediaries, and advisors with which the Authority will do business in accordance with Section 1.13.
- c. Diversifying the investment portfolio so that the impact of potential losses from any one type of security or from any one individual issuer or from any one money market fund will be minimized.

2. Interest Rate Risk

The Authority will minimize interest rate risk, which is the risk that the market value of securities in the portfolio will fall due to changes in market interest rates, by:

- a. Structuring the investment portfolio so that securities mature to meet cash requirements for ongoing operations, thereby avoiding the need to sell securities on the open market prior to maturity.
- b. Investing operating funds primarily in shorter-term securities, money market mutual funds, or similar investment pools and limiting the average maturity of the portfolio in accordance with this Policy.

B. Liquidity

The investment portfolio shall remain sufficiently liquid to meet all operating requirements that may be reasonably anticipated. This is accomplished by structuring the portfolio so that Securities mature concurrent with cash needs to meet anticipated demands (static liquidity). Furthermore, since all possible cash demands cannot be anticipated, the portfolio should consist largely of Securities with active secondary or resale markets (dynamic liquidity). Alternatively, a portion of the portfolio may be placed in money market mutual funds or local government investment pools which offer same-day liquidity for short-term funds.

C. Yield

The investment portfolio shall be designed with the objective of attaining a market rate of return throughout budgetary and economic cycles, taking into account the investment risk constraints and liquidity needs. Return on investment is of secondary importance compared to the safety and liquidity objectives described above. The core investments are limited to relatively low risk securities in anticipation of earning a fair return relative to the risk being assumed. Securities shall generally be held until maturity with the following exceptions:

1. A security with declining credit may be sold early to minimize loss of principal.
2. A security swap would improve the quality, yield, or target duration in the portfolio.
3. If liquidity needs of the portfolio require that the security is sold.

1.03 RESPONSIBILITY

I. RETENTION OF CONSULTANTS, MANAGERS AND CUSTODIANS

- A. Investment Consultants. An Investment Consultant shall be retained by the Authority under a written agreement. Such Investment Consultant shall, at minimum, be registered with the Securities Exchange Commission ("SEC") as a

Registered Investment Advisor under the Investment Advisors Act of 1940 and qualified to do business in the State. The Investment Consultant shall be independent of any Investment Manager, depository, safekeeping agent, trustee, or accounting or auditing firm that provides services to the Authority. The Investment Consultant will review the Authority's portfolio on a at least a quarterly basis and will provide a written report directly to the Investment Committee concerning its assessment of the performance of the portfolio, its opinion as the Authority's compliance with the provisions of the Policy, and its observations and recommendations concerning the investment strategies and procedures employed by the Authority's staff.

- B. Investment Managers. Investment Manager(s) may be retained by the Authority under a written agreement. Any Investment Manager shall, at minimum, be registered with the Securities Exchange Commission ("SEC") as a Registered Investment Advisor under the Investment Advisors act of 1940 and qualified to do business in the State. Any Investment Manager shall be independent of any Investment Consultant, depository, safekeeping agent, trustee, or accounting or auditing firm that provides services to the Authority.
- C. Custodians. As provided in Section 1.11 of this Policy, the Authority shall employ safekeeping agents and Custodian(s) under written agreements who will directly (or through agreement with a sub-custodian) maintain actual possession of securities owned or held as collateral by the Authority, who will open Authority accounts, collect dividend and interest payments, redeem maturing Securities, and effect receipt and delivery following purchases and sales, all on behalf of the Authority. A custodian may also perform regular reporting of all investments and deposits owned, purchased, or sold as well as movement of assets into and out of the Authority's accounts.
- D. Fees and Expenses. Fees and expenses paid to an Investment Manager, Investment Consultant or Custodian must be customary, appropriate and reasonable.

II. ASSIGNMENT OF RESPONSIBILITY

- A. Responsibility of the Committee. The Committee will meet at least quarterly with the Chief Investment Officer in attendance as requested, and will be charged with the following responsibilities:

1. Reviewing and recommending to the Authority changes to this Policy at least annually.
 2. Reviewing the investment reports prepared by the Chief Investment Officer.
 3. Recommending to the Authority when appropriate, qualified investment professionals to provide services as an Investment Consultant or Investment Manger.
 4. Regularly evaluating the performance of the Investment Consultant(s) and Investment Manager(s) compliance with this Policy, contractual provisions and investment guidelines.
 5. Reviewing and recommending to the Authority and staff as appropriate management procedures, financial reporting requirements and internal control measures.
 6. Making provisions for financial and other reviews of the investment program.
- B. Responsibility of the Chief Executive Officer. The Chief Executive Officer shall oversee the implementation and administration of this Policy. The Chief Executive Officer may execute agreements or documents necessary to effectively administer the investment program and may delegate responsibility for implementation and administration of this Policy and execution of agreements or documents to the Chief Investment Officer, provided however, that such delegation is in writing.
- C. Responsibility of the Chief Investment Officer. The Chief Investment Officer shall have the following responsibilities:
1. Attend Committee meetings, as requested.
 2. Make recommendations, in conjunction with Investment Consultants, as appropriate, to the Committee and/or the Authority as to the nature and amount of investments to be made with any Investment Manager(s).
 3. Provide oversight to the placing of buy and sell orders in accordance with this Policy and any directives the Committee or the Authority.
 4. Prepare reports as required by this Policy and the Committee or as otherwise appropriate, including investment reports which shall include:
 - (a) a listing of the existing portfolio in terms of investment securities, balances, maturities, yield, and other features deemed relevant;
 - (b) the book and market value of all holdings;
 - (c) the investment earnings for the reporting period;
 - (d) report of holdings of variable rate and structured notes;
 - (e) performance of investments in relationship to

Benchmarks established by the Committee as provided in Section 1.12 of this Policy; and (f) any areas of policy concerning warranting possible revisions of this Policy.

5. Retain required records pertaining to competitive bids.
6. Monitor the investment portfolio and recommend adjustments as necessary in conjunction with any Investment Consultants.
7. Monitor creditworthiness of Authority depositories.
8. Recommend for approval by the Committee and the Authority depositories, Custodians, broker-dealers and investment agreement bidding agents.
9. Develop and recommend for approval by the committee and the Board additional management, financial reporting and control measures necessary or convenient for the implementation and administration of this Policy.

1.04 STANDARD OF PRUDENCE

The standard of prudence to be applied to the investment of the Authority's assets shall be the "Prudent Investor" rule, which states:

"Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital, as well as the probable income to be derived."

The Chief Executive Officer, Chief Investment Officer, Authority staff, the Committee, and the Authority, while acting in accordance with this standard of prudence and the provisions of this Investment Policy, shall have no personal responsibility for an individual security's risk or market price changes.

1.05 INVESTMENT PROCEDURES AND INTERNAL CONTROLS

The Chief Investment Officer shall establish and document a detailed set of procedures relating to day-to-day investment-related duties. The Chief Investment Officer will create and maintain records of all investment transactions of the Authority. These records shall include supporting documentation of the competitive offers and bids received for Securities purchases and sales. The records shall be sufficiently detailed and in a format

that will permit the Authority's independent auditors to efficiently audit investment balances and transactions.

The Authority's Chief Financial Officer shall be responsible for establishing and maintaining internal controls over investment transactions. Broker/Dealers, Trustees, Custodians and others with whom the Authority enters into investment transactions shall be required to send original confirmations, statement, and other documents to the Chief Financial Officer or his designee with copies to the Chief Investment Officer or his designee.

1.06 INVESTMENT GUIDELINES AND PERMITTED INVESTMENTS

I. GENERAL GUIDELINE

Authority funds may be invested in any investment permitted by law at the time of the investment, subject to the provisions of this Policy.

II. MONEY PLEDGED FOR OR SECURING PAYMENT OF BONDS ISSUED BY THE AUTHORITY

As provided in Sections 6-21-6 and 6-21-2 of the Act, money pledged for or securing payment of bonds issued by the Authority shall be deposited and invested as provided in the bond resolution, trust indenture or other instrument under which the bonds were issued.

III. PERMITTED INVESTMENTS

As provided in Sections 6-21-6 and 6-21-21 of the Act, money in the public project revolving fund and other money held by the Authority not needed for immediate disbursement, including money held in reserve, may be deposited with the State Treasurer for short-term investment pursuant to Section 6-10-10.1 NMSA 1978; may be invested in direct and general obligations of or obligations fully and unconditionally guaranteed by the United States, obligations issued by agencies of the United States, obligations of the State or any political subdivision of the State, interest-bearing time deposits, commercial paper issued by corporations organized and operating in the United States and rated "prime" quality by a national rating service or other investments permitted by Section 6-10-10 NMSA 1978; or may be invested in any other investment which, at the time the investment is made, is permitted by law as an investment of money of the Authority, including but not

limited to money market funds, repurchase agreements and guaranteed investment contracts.

IV. ADDITIONAL REQUIREMENTS APPLICABLE TO DEPOSIT AND INVESTMENT OF AUTHORITY MONEY

- A. General Requirements. In addition the requirements set forth in subsection III of this Section 1.06, deposits and investments of money of the Authority shall meet the requirements of this subsection IV and the collateralization and mutual fund concentration requirements of subsection V of this Section 1.06.
- B. Money Market Funds. Any deposit or investment in a money market fund shall be in shares of an open-ended diversified investment company that:
- i. made only in a money market fund rated “AAA” by Standard & Poor’s or “Aaa” by Moody’s.
 - ii. Registered with the United States Securities and Exchange Commission;
 - iii. Complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States Securities and Exchange Commission applicable to money market mutual funds;
 - iv. Assesses no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges.
- C. Guaranteed Investment Contracts and Repurchase Agreements. Any investment in a guaranteed investment contract or repurchase agreement shall be with providers that are Primary Dealers with a credit rating of A or better from S&P or Moody’s, or other financial institutions rated “AA” by S& P or “Aa” by Moody’s. Repurchase agreements shall include overnight and open repurchase agreements to be priced daily as well as flexible repurchase agreements (“flex repos”). The maturities of Guaranteed Investment Contracts and Repurchase Agreements shall correspond to the Authority’s requirements for the expenditure of the invested funds.
- D. Investment Allocation Ranges. The following table indicates the maximum level of investment by category of investment, provided that each investment shall meet the requirements of Section 6-10-10 NMSA 1978, as it may be amended from time to time, applicable to the investment and any other legal requirements that are applicable to the type of investment at the time of the investment.

Investment Instrument	Max % of Authority Funds
Direct and General U.S. Government Obligations (Treasuries, Treasury Bills, Treasury Notes, Treasury Bonds)	100
U.S. Government Agencies (any federal agency or instrumentality notes, bonds, debentures, guaranteed by the full faith and credit of the United States of America).	75
U.S. Government Agencies (non full faith and credit)	75
Money Market Funds	100
Certificates of Deposit (“CD”)	10
Commercial Paper	15
Bonds or Notes Issued by any the State or any Municipality, County or School District of the State.	10
Overnight Repurchase Agreements	25
Investment Contracts (Guaranteed Investment Contracts (GICs) and flexible Repurchase Agreements):	NA
State Treasurer’s Short-Term Investment Fund	50

E. Investment of Bond Proceeds. All or any portion of the proceeds of bonds or other obligations of the Authority may be invested in a GIC or flexible repurchase agreement without regard to the Investment allocation Ranges set forth in section III and IV of this section, if the GIC or repurchase agreement provides for disbursement upon the request of the Authority in amounts necessary to meet expenditure requirements for the bonds or other obligations. Such investments of bond proceeds shall be subject to the issuer credit ratings and collateralization requirements, if any, set forth in other sections of this policy.

F. Investment Downgrades. In the event that any investment is downgraded by one or more rating Agencies below the minimum rating required by this Policy, the Chief Investment Officer shall immediately inform the Chief Executive

Officer, or in his or her absence, their designee of the downgrade and shall recommend whether the security should be sold, retained in the portfolio, or some other action should be taken. The Chief Executive Officer or designee shall determine what action will be taken. The Chief Investment Officer will report the downgrade and the action taken to the Investment Committee at its next meeting.

V. COLLATERALIZATION OF DEPOSITS AND MONEY MARKET MUTUAL FUND CONCENTRATION

- A. All deposits and investments of money of the Authority shall be secured or collateralized to the same or higher extent required by applicable law for deposits and investments of the money of the State.
- B. Deposits of Authority money shall be either secured with a surety bond or by collateral security as provided in Sections 6-10-15 and 6-10-16 NMSA as they may be amended from time to time or as otherwise authorized by State law, or as otherwise authorized by law for the deposit of money of the State. The amount of security for deposits of Authority money and the custodial and safekeeping requirements for such deposits shall be as provided in Section 6-10-17 NMSA 1978 as it may be amended from time to time, or as otherwise authorized by law for deposit of money of the State.
- C. The NMFA shall require collateralization of each investment in a GIC or Repurchase Agreement. Collateral shall be United States Treasury or Agency Securities unless otherwise authorized by law at the time the investment is made. The minimum required percentage of market value held by the Custodian to secure the principal of the investment shall be 102% or as may otherwise be required by law in effect at the time the investment is made. Collateral shall be valued and adjusted, if required, on no less than a weekly basis.
- D. The Authority's investment in a money market mutual fund, with the exception of funds where trust indentures, bond resolutions, or other documents or agreements control the investment of the funds shall not exceed 5% of the total assets of the fund.

1.07 DIVERSIFICATION

It is the policy of the Authority to diversify its investment portfolios to the extent practical. Assets shall be diversified to reduce the risk of loss resulting from an over-concentration of assets in a specific maturity, a specific issuer or a specific class of securities. Portfolio maturities may be laddered to avoid undue concentration of assets in a specific maturity sector and to reflect cash flow requirements.

1.08 PROHIBITED INVESTMENTS

Any investment not authorized by this Policy is prohibited.

1.09 COMPETITIVE SELECTION OF INVESTMENTS – DISCLOSURE OF COMPENSATION

1. Excluding Money Market Funds, it will be the policy of the Authority to transact all securities purchases or sales only through a formal and competitive process that obtains at least three offers or bids whenever possible. When purchasing a security, the Chief Investment Officer or designee will accept the offer which provides (a) the highest rate of return within the maturity required and considering the credit quality of the investment; and (b) optimizes the investment objectives of the overall portfolio. When selling a security, the Chief Investment Officer or its designee will select the bid, which generates the highest sale price. Electronic bidding is the preferred option for the purchase or sale of investment instruments or through the institutional trading desks of qualified Broker/Dealers

2. Offers or bids may be received from approved broker/dealers or issuers of qualified securities as defined in Section 1.06 by any of the following means:

- a. by phone;
- b. by email or other form of electronic communication;
- c. through an electronic trading platform;
- d. from inventory listings supplied by approved broker/dealers; and
- e. directly from issuers

3. If electronic bidding is not a viable option, the Chief Investment Officer or designee may seek offers or bids using the approved broker dealer list. In this case, the Chief Investment Officer or designee shall:

- a. determines a fair market price for the security being purchased or sold;
- b. use a straight rotation – starting with the first dealer on the list and moving through the list, calling every dealer to obtain bids or offers; a minimum of three bids or offers shall be obtained;
- c. select the most competitive bid or offer of those obtained; and
- d. makes every effort to execute each trade within thirty (30) minutes.

4. It will be the responsibility of the personnel involved with each purchase/sale to produce and retain written records of each transaction including the name of the financial institutions offering or bidding on securities, rate or price quoted description of the security, investment or bid selected, and any special considerations that had an impact on the decision. If the lowest priced security (highest yield) was not selected for purchase or the highest bid was not selected for sale, an explanation describing the investment objective prompting the investment/sale will be included in this record.

5. New issue agency offerings may be purchased from approved broker/dealers or directly from the issuing agency auction. It will be the responsibility of the personnel involved with each purchase to produce and retain written records of each transaction when competitive solicitation is not followed.

6. The Chief Investment Officer or designee shall authorize all investment transactions. Executed trade documents shall be reviewed for compliance and signed by the Chief Investment Officer or a designee.

7. Whenever an order is placed to buy the same instrument for more than one portfolio, the order sheet must reflect the allocation (by amount or percentage) to each portfolio before the order sheet is time stamped, and no such allocations may be changed without the written approval of the Chief Investment Officer. All such approved changes to original allocations shall be reported to the investment committee at its next regular meeting.

8. All trade fails or compliance violations are to be documented in an error report on the day that they are discovered and shall disclose the reason for each error. Errors shall be summarized in a report to the investment committee even if corrected by the broker/dealer.

9. All securities purchases will be settled on a delivery vs. payment basis. All securities sales will be settled on a payment vs. delivery basis

10. All investment managers and bidding agents shall provide to the Authority full and continuous written disclosure of any compensation received outside of the contract by the manager or bidding agent related to investments provided to and sales made on behalf of the Authority. This disclosure requirement does not apply to broker dealers taking part in a competitive bidding process.

11. The Trustee, at the direction of the Authority, shall transact trades in the trust accounts.

1.10 SELLING SECURITIES

1. The Chief Investment officer shall monitor the contents of the portfolio, the available markets and the relative values of competing instruments, and adjust the portfolio accordingly to achieve the investment objectives.

2. The primary investment objective should be to buy and hold securities to maturity. However, under unforeseen circumstances, the Chief Investment Officer may need to sell securities before the final maturity date.

a. It will be acceptable for the Chief Investment Officer to take advantage of temporary aberrations in the market by trading securities of comparable quality to further improve the overall rate of return on the portfolio. It is understood that this trading activity may cause a book loss on the sale of the owned investment.

b. It is the policy of the Chief Investment Officer to charge any book losses against the interest income account during the current accounting period as prescribed by the governmental accounting standards board.

c. All such trades shall be pre-approved in writing by the Chief Executive Officer or designee the expected benefit to the portfolio, and reported to the investment committee.

3. All trades will be competitively bid following the competitive selection procedures described in Section 1.09

4. No cross trades between portfolios are permitted, either directly or indirectly.

1.11 SAFEKEEPING AND CUSTODY

All Securities purchased by the Authority or held as collateral for deposits and investments shall be held in third-party safekeeping at a bank designated as Custodian, pursuant to a written agreement. The bank designated as Custodian will be considered to be a third party for purposes of safekeeping of Securities. All Securities held for an Authority account will be held free and clear of any lien and all transactions will be conducted on a contemporaneous transfer and next day settlement basis. Any Custodian shall receive the security or collateral in the account at the same time payment is made to the delivering financial institution. On a monthly basis, the Custodian(s) will provide reports which list all transactions that occurred during the month and all Securities held for the Authority at month-end including the book and market value of holdings.

1.12 PERFORMANCE BENCHMARKS

The Committee shall establish benchmarks suitable for the evaluation of the Authority's portfolio and review the performance of the portfolio regularly to assess the degree to which the Authority is obtaining a market rate of return consistent with the safety, liquidity, and yield objectives stated in section 1.02 II.

1.13 SELECTION OF DEPOSITORIES, SECURITIES BROKER-DEALERS AND INVESTMENT AGREEMENT BIDDING AGENTS.

- A. Depositories and Custodians. In selecting financial institutions for the deposit of Authority money or collateral, the Committee will consider the creditworthiness of the institutions. The Chief Investment Officer will monitor the financial institutions' credit characteristics and financial history throughout the period in which Authority funds or collateral are deposited and will report the results of such monitoring to the Committee, as appropriate. Each depository will be required at all times to collateralize Authority deposits and investments in compliance with this Policy.

- B. Authorized Broker/Dealers. A list will be maintained of financial institutions and depositories authorized to provide investment services, including the Trustee. In addition, a list will be maintained of approved broker/dealers. The Chief Investment Officer shall recommend to the Investment Committee firms to be added or deleted from the lists. Recommendations for additions to or changes in the lists shall be made by the Chief Investment Officer and approved by the committee no less than annually.

All financial institutions and broker/dealers who desire to become qualified for investment transactions must supply the following information as appropriate:

1. The firm and assigned broker must be a registered dealer pursuant to the Securities Act of New Mexico, Section 58-13-15 NMSA 1978.
2. The firm must be registered as a dealer under the Securities Exchange Act of 1934.
3. The firm and assigned broker must be registered with the Financial Industry Regulatory Authority (FINRA).
4. The firm and assigned broker must have been engaged in the fixed income security business for at least the past five (5) consecutive years.
5. The assigned broker must have a current FINRA Series 7 License.
6. Certification of having read and understood and agreeing to comply with the Authority's investment policy.
7. Evidence of adequate insurance coverage.
8. Audited financial statements demonstrating compliance with state and federal capital adequacy guidelines.

The Chief Investment Officer shall conduct a background check on each individual broker for criminal activity, regulatory actions by government agencies, and/or revocations or suspensions.

An annual review of the financial condition and registration of all qualified financial institutions and broker/dealers will be conducted by the Chief Investment Officer.

C. Investment Agreement Bidding Agents. The Authority shall establish a list of approved Investment Agreement Bidding Agents. In selecting Bidding Agents, the following characteristics will be considered:

1. The history and experience of the firm.
2. The degree of transparency of the firm's bidding process.
3. The level of documentation of the bidding process the firm provides.
4. The ability provided for the Authority to monitor the bidding process on a real-time basis.

1.14 EFFECTIVE DATE – HISTORY

This Policy was adopted by the Authority on March 26, 2008 and is effective as of that date. This Policy supersedes the Statements of Investment Policies, Objectives and Guidelines adopted by the Board of Directors on April 30, 2004, December 15, 2005 and November 9, 2006 any other previous policy regarding investment management practices adopted by the Board of Directors.

PROCUREMENT, CONTRACT AND REIMBURSEMENT POLICIES

Final as Adopted by NMFA Board on April 27, 2006, Amending Sections 1 and VII, New Mexico Finance Authority Procurement Policies adopted by the Board on April 27, 2006, with the effective amendment date of March 26, 2009.

SECTION I NEW MEXICO FINANCE AUTHORITY PROCUREMENT POLICIES

GENERAL

The New Mexico Finance Authority (NMFA) wishes to conduct all its business, including the purchase of goods and services, in as open and competitive manner as possible.

The NMFA is a state instrumentality not governed by New Mexico State Procurement Code (Section 13-1-28 et seq., NMSA 1978) in its purchases of goods and services and the NMFA desires to accomplish its purchases of goods and services in a manner which reflects the spirit of openness and fairness of the State Procurement Code.

This procurement policy is adopted to meet the unique needs of the NMFA and covers those purchases approved by the NMFA Board as presented to the Board in the NMFA budget document.

The NMFA, therefore, adopts the following policies related to the purchasing of goods and services.

A. POLICIES AND PURPOSES

The New Mexico Finance Authority (Article 21, NMSA 1978) is committed to providing the State of New Mexico and its local governments with an efficient and cost-effective mechanism for planning and financing of capital projects across the state. To that end, all property, services and professional services subject to these policies will be procured in a manner which promotes free competition among potential contractors and encourages the participation of women-owned firms, minority-owned firms, small firms and firms based in New Mexico. These procurement policies are designed to reflect the general intent of the State Procurement Code, while giving the NMFA the flexibility to accomplish most efficiently its unique mandate.

B. APPLICATION

These Procurement Policies apply to all personal property, services and professional services purchased in the performance of any function of the NMFA, including, purchases to support all internal operations.

C. EXCEPTIONS

This section relates to the purchase of tangible property, services, professional services, emergency procurement, sole source procurement and existing contract procurement. Within this section, and in conjunction with making purchases for a federal program, the value threshold maybe lowered in order to comply with any federal requirements.

- 1. Small Purchases of Property or Services.** A small purchase of property or services is a purchase of tangible personal property or services with a value of less than \$50,000. Purchases of between \$1,000 and \$5,000 require quotes from at least three (3) potential providers, unless the Chief Executive Officer makes a written determination that there are not at least three (3) potential providers, in which case there shall be quotes from the number of available potential providers. These quotes must be summarized in written form by the person who is acting on behalf of the NMFA in making the purchase. A memorandum must accompany the purchase outlining the quotes. Purchases of tangible personal property or services for an amount greater than \$5,000 but less than \$50,000 require written quotations from at least three potential suppliers, unless the Chief Executive Officer makes a written determination that there are not at least three (3) potential suppliers, in which case there shall be written quotations from the number of available potential suppliers. A copy of the Chief Executive Officer's written determination will be maintained in the procurement file. Purchases of tangible personal property or services for an amount of \$50,000 or more must follow the procedures set forth in these NMFA Procurement Policies. Services include, but not limited to, the furnishing of labor, time or effort by a contractor. Tangible personal property includes, but not limited to, tangible property other than real property which includes supplies, equipment, materials and printed materials.
- 2. Small Purchase of Professional Services.** A small purchase of professional services is a purchase of services with a value of less than \$50,000. The procedure of obtaining three quotes (as outlined in #1 above) must also be followed for the purchases of professional services under the \$50,000 limit. Purchases of professional services for an amount of \$50,000 or more must follow the procedures set forth in these NMFA Procurement Policies. Professional services include, but not limited to, the services of architects, archeologists, engineers, surveyors, scientists, management and systems analysts, certified public accountants, lawyers, planners, researchers and other persons which may be designated as such by a determination by the Chief Executive Officer.

3. **Emergency Procurement.** An emergency procurement is when procurement is made under certain conditions which are deemed to create an immediate threat to the functioning of the NMFA or to the success of an NMFA program or bond issuance. The Chief Executive Officer or the Chief Operating Officer will make a written determination that an emergency exists and will approve making an emergency procurement. The written determination of the need for an emergency procurement shall be maintained in the procurement file. Any emergency procurement will be reported to the Contracts Committee.
4. **Sole Source Procurement.** A sole source procurement is a procurement without competitive bids or competitive sealed proposals regardless of the estimated cost for which the Chief Executive Officer or the Chief Operating Officer makes a written determination, after a good faith review of the NMFA's requirements and the readily available resources that could satisfy such requirements, that there is only one source for the required service or item of tangible personal property. The written determination shall be maintained in the procurement file. Any sole source procurement will be reported to the Contracts Committee.
5. **Existing Contract.** An existing contract procurement is a procurement at a price equal to or less than the contractor's current federal supply contract price (GSA), provided that the contractor has indicated in writing a willingness to extend such contract pricing, terms and conditions to the NMFA and the contract relied upon is adequately identified in the NMFA's files; a procurement with a business which has a current exclusive or non-exclusive price agreement with the state purchasing agent for the required item of tangible personal property or services; or a procurement under a current contract or an extension or renewal thereof, with the NMFA which meets the requirements of the new purchase. NMFA shall maintain in the procurement file copies of each existing contract (or a reference to where such copies can be obtained) relied upon to make a purchase without seeking competitive proposals.

D. PROCEDURE

This section pertains to the procurement of services, tangible property, or professional services of \$50,000 or more. Please see Exhibit A for a flow chart representation.

Procurement of tangible property, services and professional services not subject to the exceptions in C above will be accomplished by NMFA management and the NMFA Contracts Committee through a competitive sealed proposal procedure as follows:

1. **Request.** Competitive sealed proposals will be solicited by the NMFA through a request for proposal (RFP). The RFP will include:

- a. A description of the tangible personal property, services or professional services sought by the NMFA.
 - b. The terms and conditions applicable to the procurement.
 - c. The relative weight to be given to the factors used in evaluating the proposals.
 - d. The date, time and location where the proposals are to be received by the NMFA.
 - e. The date, time and place where proposals are to be opened and reviewed.
2. **Public Notice.** The invitation for proposals or notice thereof shall be published by the NMFA not less than ten calendar days prior to the date set forth for the receipt of proposals. The notice shall be published in at least three newspapers of general circulation in this state and such other notice as is deemed to be commercially reasonable in the sole discretion of the NMFA.
 3. **Sealed Proposals.** The NMFA will date-stamp and note the time of receipt of each sealed proposal. Proposals will be opened and review will begin after the deadline established for receipt of proposals. Proposals will not be opened publicly and will not be open to public inspection until after the award of the contract. No proposal will be accepted after the established deadline.
 4. **Evaluation Committee.** Proposals will be evaluated by an evaluation committee, comprised of NMFA staff and any consultants deemed necessary or appropriate by the NMFA, in its sole discretion. Evaluations of proposals will be conducted in accordance with the evaluation criteria stated within the applicable RFP, and any amendments thereto. The evaluation committee will make a recommendation to the NMFA Contracts Committee. The Contracts Committee will make the final decision and present its decision to the full NMFA Board of Directors, subject to provisions of paragraph 13 of this Subsection D.
 5. **Negotiations After Submission of Proposals.** Respondents submitting proposals may, in the sole discretion of the NMFA or its representative, be afforded an opportunity for discussion and revision of proposals. Revisions may be permitted after submissions of proposals and prior to award for the purpose of obtaining best and final offers. Negotiations may be conducted with respondents who submit proposals deemed by the Contracts Committee to be reasonably likely to be selected for award.
 6. **Award.** Contracts will be awarded to the respondent or respondents whose proposals (1) conform in all material respects to the requirements set forth in the request for proposals, and (2) are determined to be the most advantageous to the NMFA, taking into consideration the evaluation factors set forth in the request for proposals and the purpose of the RFP. See item 13 under this section regarding the final approval of a contract.

7. **Rejection or Cancellation of Requests for Proposals.** At any time prior to the execution of a contract to purchase tangible personal property, services or professional services, a request for proposals may be canceled or any or all proposals may be rejected in whole or in part when it is determined by the NMFA, in its sole discretion, to be in the best interests of the NMFA. A written determination containing the reasons for cancellation or rejection of the requests for proposals or the proposals shall be maintained in the procurement file.
8. **Irregularities in Proposals.** The NMFA or its designated representative may waive technical irregularities in the form of a proposal which do not alter the price, quality or quantity of the services, professional services or tangible personal property offered to the NMFA.
9. **Performance Bonds and Additional Requirements.** Performance bonds or other security may be required for contracts involving items of tangible personal property, services or professional services, if the NMFA deems it necessary to protect the interests of the NMFA.
10. **Terms of Contracts.** The terms of contracts will be a period that is mutually agreed upon by the NMFA and the contractor. No contract entered into by the NMFA can exceed a period of four (4) years.
11. **Protest.**
 - a. Any bidder who is aggrieved in connection with the award of a contract by the NMFA may protest the award of the contract. The protest must be submitted in writing to the NMFA Contracts Committee within 15 calendar days of an award. The written protest shall state with particularity the basis for the protest and the facts upon which the protestant relies in protesting the award.
 - b. The NMFA will not proceed further with the procurement until review and resolution of the protest has been completed, unless the Chief Executive Officer of the NMFA or the Chief Operating Officer determines in writing that the award is necessary to protect substantial interests of the NMFA.
 - c. The Contracts Committee shall have the authority to take any action it deems reasonably necessary to resolve a protest, pursuant to such procedures as may be established by the NMFA Board, but not including the authority to award money damages or attorney's fees to any party to the protest.
 - d. The Contracts Committee will issue a notice of determination relating to the protest within a reasonable time after receipt of the protest and the determination by the Contracts Committee will be final. The notice of determination shall state the Contracts Committee's findings and reasons for any actions taken.

e. If after the execution and approval of a contract by all parties the NMFA determines that the award of the contract was in violation of the law or the procedures set forth in these Procurement Policies and if it is determined that the entity awarded the contract did not act fraudulently or in bad faith, the contract may be ratified, affirmed and revised to comply with the law, provided that the NMFA determines such action to be in the best interests of the NMFA. Alternatively, the NMFA may elect to terminate the contract.

12. Cooperative Procurement Authorized. The NMFA may participate in a cooperative procurement agreement for the procurement of services, professional services or items of tangible personal property with a state agency or local public body, to the extent not otherwise prohibited by law, in accordance with an agreement entered into and approved by the governing authority of each governmental unit involved. The NMFA's participation in the cooperative procurement shall be in compliance with these NMFA Procurement Policies.

13. Approval of Contracts. Contracts under \$50,000 will be approved by the Chief Executive Officer of the NMFA. Contracts over \$50,000 that cover purchases for services, professional services or tangible personal property budgeted for by the NMFA will be approved by the Contracts Committee. Contracts in excess of \$50,000 for items **not** budgeted by the NMFA will require full Board approval.

14. Approval of Memorandums of Understanding and Joint Powers Agreements. The Chief Executive Officer shall have the authority to approve Memorandums of Understanding related to implementation of the NMFA programs that have a value of less than \$50,000. Memorandums of Understanding that have a value of \$50,000 or more will go before the NMFA Contracts Committee for approval. The Contracts Committee will report any actions taken to the NMFA Board. The Board shall approve Joint Powers Agreements unless authority to approve a Joint Powers Agreement is delegated to the Chief Executive Officer by the Board.

E. PROCUREMENT FILE.

The NMFA shall maintain for a minimum of 6 years a file for each procurement for which requests for proposals were solicited and for those procurements for which requests for proposals were not required pursuant to an exception in Subsection C of the NMFA Procurement Policies. In addition to any other requirements of Subsection C, the procurement file shall contain the contractor's name and address; the amount and term of the contract; the request for proposals, proposals received, publication notices, a general description of the services, professional services, or items of tangible personal property procured under the contract; a copy of the executed contract, scoring records used in selecting the contractor and the justification for the procurement method used.