



NEW MEXICO
FINANCE AUTHORITY

1

Presentation to the
New Mexico Finance Authority Oversight Committee

Update on the Opportunity Enterprise and Housing Development Review Board and Overview of Proposed Rules

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Opportunity Enterprise and Housing Development Review Board



2

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 - ❑ **Vacant** Two Commercial Development Members
- ◆ Created in 2022, the Opportunity Enterprise Act (the “Act”) provides a partnership and funding program to support local communities in building and investing in commercial spaces to directly support their economic development initiatives.
 - ◆ In 2024, the Act was expanded to include a new fund that finances housing development projects, which includes construction of workforce housing and infrastructure for affordable housing.
 - ◆ The expanded Act created a 14-member Board comprised of industry experts that solicits, reviews and selects projects for recommendation to NMFA:
 - ❑ Six members are appointed by Legislative Council
 - ❑ Two are appointed by the Governor, and
 - ❑ Six are Ex-Officio members
 - ◆ The Act created in NMFA two funds:
 - ❑ Opportunity Enterprise Revolving Fund
 - ❑ Housing Development Revolving Fund
 - ❑ NMFA must determine that other means of financing are unavailable or insufficient before making a loan from either fund.

- ◆ House Bill 195, which expanded the Act, became effective on May 15, 2024.
- ◆ On July 31st amended rules governing the Opportunity Enterprise and Housing Development Review Board (“OE Board”) became effective. The amendments incorporate changes made in House Bill 195 to the commercial development program and to include the Housing Development Revolving Fund.
- ◆ On July 11th, the OE Board approved two sets of Project Evaluation and Selection Policies that contain prioritization criteria.
 - Commercial development policies incorporate changes made by HB 195 and
 - Housing development policies and prioritization criteria are new
- ◆ The Act also provides that NMFA may establish its own rules for each of the funds, subject to the approval of the NMFAOC. NMFA is also establishing loan structuring policies for each fund.
 - The Act requires that the OE Board be consulted in the development of NMFA’s rules. OE Board reviewed the proposed rules and policies at its August 8th meeting.
 - NMFA Oversight Committee is being asked to approve rules at its August meeting so that applications can be opened in early September
 - Amended and Restated Rules Governing the Opportunity Enterprise Revolving Fund
 - Rules Governing the Housing Development Revolving Funds

- ◆ To date, NMFA has opened two competitive application rounds for the OERF. The first application round, which was limited to \$17.5 million, received 33 complete applications totaling \$136.2 million.
 - A team of 3 NMFA and 3 NMEDD staff members reviewed and ranked all 33 applications
 - Seven projects scored high enough to move onto the financial application, however, the highest ranked project requested the entire amount of funding allotted to the first cycle
 - Ultimately the timing of the first project was such that it was ultimately by-passed and will pursue NMFA funding when it is ready to proceed
 - One other project was funded by another NMFA program
 - One financing application was incomplete, two others withdrew from consideration
 - Two projects did not meet the underwriting standards set by the NMFA
- ◆ Following adjustments made to policy to bolster applications from rural communities, the NMFA opened a second application cycle. 12 complete applications were received.
 - Consistent with HB 195, applications from owner-occupied facilities were not accepted
 - Seven projects were prioritized for consider from NMFA, two of which are currently moving through the NMFA underwriting process
- ◆ NMFA has revised the application to address concerns that the process is taking t oo long. The Project and Financing applications will now be collected simultaneously.

◆ Highlights of the amended Commercial Development policies prioritizes projects in four areas:

□ Community Impact (up to 35 points)

- Community Support
- Environmental Impact
- Total Square Footage of Project (new)
- Training and Apprenticeship
- Re-Development



□ Location and Building Type (up to 25 points)

- Project Location
- Total Investment (new)
- Building/Intended Business Type (new)



□ Applicant Need and Readiness (up to 30 points)

- Qualified Development Team
- Leveraging of Private Capital
- Project Readiness



□ Project Designation (up to 10 points)

- Target Industry
- Economic Diversification



What changed?

- Added definition of Unrelated Opportunity of Enterprise Partner and percentage of occupancy that a related business may occupy
- Job creation (by the developer and the expected future business occupant) replaced with size of project, total investment, and permitted zoning
- Preference given to NM developers
- Removed the points given to Frontier communities keeping in priority for projects in Rural communities
- Additional points given to leveraging of private capital and project readiness
- Provided clarifying language for training and apprenticeship

Opportunity Enterprise Fund Key Financing Terms



6

- ◆ Fund Concentrations (unchanged)
 - No more than 25% to any single County
 - No more than 50% to a single industry as defined by the two-digit North American Industry Classification System (NAICS)
- ◆ Statutory Requirements (unchanged)
 - Other means of funding are insufficient or unavailable
 - The project will create or expand economic development opportunities within the state
- ◆ NMFA Loan Terms (virtually unchanged)
 - Loan Amount: Maximum of \$17,500,000.
 - Interest Rate: Fixed rate at 60% of the WSJ prime rate, but no less than 3%
 - Loan Terms: up to 30 years (eliminating prior minimum term of 15 years). Up to three years of interest only period during construction and stabilization. The loan may be paid off in advance with no pre-payment penalty.
 - Collateral: Minimum loan-to-value of 80%. The loan may be subordinated to a loan made to the project by a federally insured financial institution.
 - Minimum equity contribution of 10%.
 - Guarantees required.

Key New Definitions

- ◆ Opportunity Enterprise Revolving Fund (aka commercial development fund)
 - “**Enterprise Development Project** means a commercial real estate development project primarily occupied by businesses unrelated to the opportunity partner that involves the purchase, planning, designing, building, surveying, improving, operating, furnishing, equipping, or maintaining of land, buildings or infrastructure to create or expand economic development opportunities within the state.”
 - “**Unrelated Opportunity Enterprise Partner** means that the business ownership relationship between the developer and the tenant is limited. The developer or a third-party will not have control/ownership of the tenant. A Partner (Developer) should not have more than 30% affiliation with the tenant.
 - “**Unrelated Percentage of Occupancy** means that the project developer/partner should not have more than 30% ownership of intended tenant or 30% occupancy of the proposed project.”
 - “**Urban** means a continuously built-up area with a population of 60,000 or more. Urban areas may include one or more municipalities or census designated places.”
 - “**Rural**” means any area not considered Urban.”

- ◆ Housing Development Revolving Fund
 - “**Middle Income Workers** means families with incomes that fall between the lesser of a local jurisdiction’s upper limit for housing assistance by relevant housing type or by the MFA’s upper limit for housing development assistance and 300% of the US Housing and Urban Development Area Median Income for the county.”
 - Urban and Rural (same as above)
 - Other definitions align with Mortgage Finance Authority’s definitions as much as possible.

- ◆ Goal of prioritization policies is to catalyze below-market housing production across the state.
- ◆ OE Board articulated a goal of closing project funding gaps of ready projects rather than “lender of last resort” projects.
- ◆ Public review and input resulted in the addition of several definitions and clarifying language.
- ◆ Statewide data on housing needs not readily available. As a result, prioritization policies do not differentiate by type of housing development project (affordable infrastructure v workforce development), type of housing (multi-family v single family), type of development (Greenfield v redevelopment), type of borrower (for-profit v non-profit), nor location of project (rural v urban). Highlights of the adopted policies for the HDRF prioritizes projects in four areas:
 - Community Need and Alignment (up to 40 points – increased from 35 points)
 - Project’s ability to meet known demand (from a Market Study)
 - Location: Projects in rural communities are awarded points
 - Location proximity to amenities, including public transportation
 - Re-Development (infill, adaptive reuse, rehabilitation or redevelopment of vacant properties)
 - Local Preference: projects developed and contracted by a NM business
 - Projects with contractors that participate in approved apprentice and training program (**new**)
 - Universal Design

□ Fund Efficiency (up to 25 points – reduced from 30 points)

- Fund leverage
- Funds requested per dwelling unit
- Duration of assistance



□ Applicant Need and Readiness (up to 15 points)

- Financial Soundness
- Qualified Development Team
- Project Readiness



□ Supportive Land Use policies/practices of the jurisdiction where project is located (up to 20 points)

- Incentives
- Zoning
- Land Use Approvals
- Allowance for Varied Housing Types

What changed?

- Reduced maximum loan size from \$20 million to \$15 million
- Included pre-development costs in the Total Project Cost calculation
- Clarified that donated property or other local government contributions can be considered in the leverage calculation
- Gives preference to NM developers
- Added prioritization points for contractors that participate in approved training and apprenticeship programs
- Clarified that schematic sets of construction plans are acceptable in lieu of completed architect and engineering plans

Opportunity Enterprise Fund Key Financing Terms



10

◆ Proposed NMFA Loan Terms

- Loan Amount: Maximum of \$15,00,000.
- Interest Rate: Fixed rate at 60% of the WSJ prime rate, but no less than 3.5%
- Loan Terms: up to 40 years, with preference for terms not exceeding 20 years. The loan may be paid off in advance with no pre-payment penalty.
- Debt Service Coverage Ratio: 1.35x at the time of underwriting
- Collateral: Minimum loan-to-value of 80%. The loan may be subordinated to a loan made to the project by a federally insured financial institution.
- Minimum equity contribution of 10%.
- Guarantees required.
- Limitation on Fees paid to Developers
 - Developer fees limited to 12% of Total Project Costs and 5% of total acquisition costs
 - Developer fees will be disbursed throughout the project life cycle after meeting key milestones
 - Limits on developers being reimbursed from loan proceeds for prior land acquisitions

- ◆ At its August 8th meeting, the OE Board approved an application schedule for both programs. Three competitive application cycles will be opened in FY 2025
 - September 4th – October 16th, 2024 (six weeks)
 - Public outreach and webinars will be held prior to the opening of the application
 - Housing awards will be limited to \$30 million for the first round
 - No limits on the commercial development fund
 - The OE Board will review the policies and prioritization and adjust as appropriate prior to the opening of the second application round
 - January 8th – February 25th , 2025 (five weeks)
 - No limits on funding that will be provided
 - April 30th – May 28th, 2025 (four weeks)
 - If funding is available

Overview of Proposed Loan Program Rules



12

- ◆ Amended and Restated Rules Governing the Administration of the Opportunity Enterprise Revolving Fund
 - Changes incorporate statute changes
 - Definition of Enterprise Development Project amended to limit the occupancy of the projects to unrelated businesses.
 - Eliminates the minimum 15 year loan term
 - Other changes conform the rules to the OE Board's process and adds clarifying definitions and language throughout
- ◆ Rules Governing the Administration of the Housing Development Revolving Fund
 - Very similar to the Opportunity Enterprise Revolving Fund Rules
 - Rules require:
 - Applicants evidence that they have the experience to monitor affordable housing compliance
 - Housing Development loans for workforce development housing project contain deed restrictions during repayment of the loan, with a minimum duration of ten years
 - Housing Development loans will include limits on developer fees
 - Housing Development loans will limit the reimbursement of developer loan purchases
 - Terms otherwise mirror those provided in the Act and the OE Board's rules

Overview of Proposed Loan Program Rules



13

- ◆ Eligible Applicant / “Housing Development Partner:”
 - As provided in the Act: a domestic corporation, a general partnership, a limited liability company, a limited partnership, a public benefit corporation, a nonprofit entity, or any other private business entity or combination thereof that the authority determines is or will be engaged in a project that creates or expands housing within the State and is eligible for assistance pursuant to the Act
- ◆ Eligible Uses / “Housing Development Project:”
 - As provided in the Act: an affordable housing infrastructure project or a workforce development housing project
- ◆ Other definitions consistent with OE Board’s rules and policies
- ◆ Rules:
 - Establish that NMFA will require recommended projects to complete a financial application that contains the information needed to underwrite a loan;
 - Provide that the applications shall be reviewed in the priority established by the OE Board;
 - Lay-out the application process and necessary documentation for financial assistance;
 - Outline evaluation of applications and underwriting requirements;
 - Require all NMFA Board of Directors approve all Housing Development Loans commitments
 - Allow NMFA to collect reasonable administrative fees for administration of the Housing Development Revolving Fund;

Overview of Proposed Loan Program Rules



14

- ◆ Loan Terms:
 - ❑ Individual loans may not exceed \$15 million
 - ❑ Maximum term of 40 years (as provided in the Act)
 - ❑ Interest rate: Determined in policy, but shall be no less than 0% (as provided in the Act)
 - ❑ No penalty for prepayment of the loan (as provided in the Act)
- ◆ Fully collateralized loans
 - ❑ Collateral includes all legally available collateral including real estate.
 - ❑ Provides that NMFA will secure the loan with collateral at the highest lien level attainable to accomplish a successful financing, provided that NMFA may only be subordinate to a loan made by a federally insured financial institution
- ◆ Loan-to-Value: At least 100%, subject to additional restrictions established in policy
- ◆ Equity Contribution: Required, in an amount determined by policy
- ◆ Guarantees: Loans shall require a personal guarantee for repayment to be provided from one or more of the following persons: any partner, member, joint venturer, or stockholder of the Applicant and/or the parent corporation or a partner, member, or stockholder of the parent corporation if the Applicant is a subsidiary
- ◆ Reporting: Semi-annual reporting after the loan is fully disbursed