

## MFA's Affordable Housing Ordinance and/or Regulations Review Checklist

1. Must contain a provision stating that the ordinance shall be submitted to MFA for review, along with any other necessary documentation (such as an application and other supporting documents provided for in Rule 5.3, if applicable).
2. Must authorize the type of contribution.
3. Must state that the contribution complies with the affordable housing plan or housing elements in the general plan
4. Must state the purpose and requirements, including the income level(s) and other qualifications of the Qualifying Grantees, and purpose of the intended contribution.
  - a. Qualifying Grantees may include only the following: individuals, regional housing authorities, tribal governments, tribal housing agencies, governmental agencies, for-profit organizations, and nonprofit organizations.
  - b. Eligible nonprofit organizations must:
    - have the provision of housing or housing related services to low or moderate income persons as their primary mission;
    - receive 501(c)(3) designation prior to submitting application;
    - have no part of net earnings inuring to benefit of any member, founder, contributor, or individual.
  - c. Eligible non-individual applicant must:
    - be organized under state, local, or tribal laws and have proof of such organization;
    - have functioning accounting system operated in accordance with generally accepted accounting principles or has designated entity that will maintain such accounting system;
    - have among its purposes significant activities related to providing housing or services to persons of low or moderate income;
    - evidence or certification that applicant has no significant outstanding or unresolved monitoring findings from the Governmental Entity or the MFA, or its most recent independent financial audit, or if it has such findings, it has certified letter from Governmental entity, MFA, or auditor stating that findings in process of being resolved.
5. Must contain a provision authorizing the transfer or disbursement to the recipient of a contribution only after a budget is submitted to and approved by the governing body of the county or municipality.

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6. Must require proof that the contribution will reduce the housing costs to persons of low or moderate income. .
7. Must require an evaluation process by the governmental entity that includes: a cost-benefit analysis of a proposed project; evaluation of the benefits to the community of a proposed project; the type or amount of assistance to be provided, and the scope of the affordable housing project.
8. May provide for matching funds or using local, private or federal funds.
9. Must contain provisions defining low and moderate income, and setting out requirements for verification of income levels.
10. May permit pre-qualification of applicants as Qualifying Grantees, as follows:
  - a. Governmental Entity may review information submitted by eligible applicant and certify in writing that applicant is a “Potential Qualifying Grantee” (“PQG”)
  - b. Governmental Entity must then provide copy of certification to MFA, upon its request;
  - c. Governmental Entity’s certification shall be valid for up to one year, subject to:
    - ability of PQG to certify in writing at time of application or response to RFP that there have been no material changes in any of the information or documentation provided by, or representations made by PQG to Governmental Entity and upon which Governmental Entity based its decision to certify the applicant as a PQG;
  - d. Notwithstanding the foregoing, certification as PQG does not mean that the PQG will be chosen by Governmental Entity as a Qualifying Grantee, or that MFA will determine that PQG is a Qualifying Grantee, or that any application submitted by PQG is complete or otherwise in compliance with the Act or Rules, or that PQG will be awarded any Affordable Housing Funds or Housing Assistance Grants
- 11.. May permit the issuance of one or more request for proposals (“RFPs”) to solicit applications from applicants deemed eligible to apply for Affordable Housing Funds or assistance, in order to identify Qualifying Grantees.
12. If an RFP process is permitted, must specify an application process, including requirements for the contents, submission, review by the Governmental Entity, certification to the MFA, and notification to the applicant, that are in accordance with the Rules. Must attach application and application shall include:
  - a. One original application, with all required schedules, documents, or other such information that may be required by Governmental Entity and/or the

- MFA or in any RFP which may have been issued by the Governmental Entity, must be included in application;
- b. A proposal describing nature and scope of Affordable Housing Project proposed by applicant and for which applicant is applying for funds or a grant under the Act, and which describes the type and/or amount of assistance which applicant proposes to provide to persons of low or moderate income;
  - c. Executive Summary and Project Narrative(s) that address evaluation criteria set forth in any RFP issued by Governmental Entity for the Affordable Housing Funds or assistance grant for which applicant is applying;
  - d. For nonprofit organization, proof of 501(c)(3) tax status and documentation confirming that no part of its net earnings inures to the benefit of any member, founder, contributor, or individual;
  - e. Current annual budget for applicant, including all sources and uses of funds – not just those related to relevant programs, and/or a current annual budget only for program for which applicant is applying for housing assistance grant, or as otherwise may be required by Governmental Entity in its discretion;
  - f. A proposed budget for Affordable Housing Project for which applicant is applying for Affordable Housing Funds or for housing assistance grant;
  - g. Approved mission statement that has among its purposes significant activities related to providing housing or housing-related services to persons of low or moderate income;
  - h. List of current board members, including designated homeless participation, where required by the Governmental Entity;
  - i. Current independent financial audit;
  - j. Evidence (or a certification as allowed by Governmental Entity) that applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principals, or has a designated entity that will maintain such an accounting system;
  - k. Evidence or a certification that applicant has no significant outstanding or unresolved monitoring findings from Governmental Entity or MFA, or its most recent financial audit; or, if it has significant outstanding or unresolved monitoring findings from the Governmental Entity or MFA, or its most recent independent financial audit, it has a certified letter from the Governmental Entity, MFA , or the auditor stating that the findings are in process of being resolved;
  - l. Organizational chart, including job titles and qualifications for applicant's employees or as otherwise may be required by Governmental Entity, and job descriptions may be submitted;
  - m. Documentation that applicant is duly organized in accordance with the State or local law and is in good standing with any state authorities such as the Public Regulation Commission (e.g., Articles, Bylaws, and Certificate of Good Standing for a Corporation; Articles, Operating Agreement, and Certificate of Good Standing for a Limited Liability Company; partnership agreement and certificate of limited partnership for a partnership);
  - n. Certifications as may be required by the Governmental Entity signed by Chief Executive Officer, Board President or authorized official of the applicant;

- o. Information as may be required by the Governmental Entity in order for it to determine the financial and management stability of the applicant;
- p. Information as may be required by the Governmental Entity in order for it to determine the demonstrated commitment of the Applicant to the community;
- q. Adequate information, as required by the Governmental Entity, regarding applicant's proposed Affordable Housing Project. The information provided must clearly evidence the need for the subsidy, that the value of the housing assistance grant reduces the housing costs to persons of low or moderate income, and that there is or will be a direct benefit from the project proposed by the applicant to the community and/or to the purported beneficiaries of the project, consistent with the provisions of the Act;
- r. Information supporting the benefits to the community of the Affordable Housing Project proposed by the applicant;
- s. The Governmental Entity may require that the applicant provide proof of substantive or matching funds or contributions and/or in-kind donations to the proposed Affordable Housing Project in connection with the application for funds under the Act. Nothing contained herein shall prevent or preclude an Applicant from matching or using local, private, or federal funds in connection with a specific Housing Assistance Grant or a grant of Affordable Housing Funds under the Act;
- t. Any certifications or other proof which Governmental Entity may require in order for the Governmental Entity and/or the MFA to confirm that the Applicant is in compliance with all applicable federal, state and local laws, rules and ordinances;
- u. Applications submitted in connection with a Multi-Family Housing Project, the following additional information shall also be required to be submitted by the applicant to the Governmental Entity:
  - (a) A verified certificate that, among other things:
    - (i) identifies every Multi-Family Housing Program, including every assisted or insured project of HUD, RHS, FHA and any other state or local government housing finance agency in which such applicant has been or is a principal;
    - (ii) except as shown on such certificate, states that:
      - (I) no mortgage on a project listed on such certificate has ever been in default, assigned to the United States government or foreclosed, nor has any mortgage relief by the mortgagee been given;
      - (II) there has not been a suspension or termination of payments under any HUD assistance contract in which the Applicant has had a legal or beneficial interest;
      - (III) such Applicant has not been suspended, debarred or otherwise restricted by any department or agency of the federal government or any state government from doing business with such department or agency because of misconduct or alleged misconduct; and (IV) the Applicant has not defaulted on an obligation covered by a surety or performance bond. If such Applicant cannot certify to each of the above, such Applicant shall

submit a signed statement to explain the facts and circumstances which such Applicant believes will explain the lack of certification. The Governmental Entity and/or the MFA may then determine if such Applicant is or is not qualified.

(b) The experience of the Applicant in developing, financing and managing Multiple-Family Housing Projects.

(c) Whether the Applicant has been found by the United States Equal Employment Opportunity Commission or the New Mexico Human Rights Commission to be in noncompliance with any applicable civil rights laws.

v. If the Applicant is a Mortgage Lender, the Governmental Entity shall consider, among other things:

(a) The financial condition of the Applicant;

(b) The terms and conditions of any loans to be made;

(c) The aggregate principal balances of any loans to be made to each Applicant compared with the aggregate principal balances of the loans to be made to all other Applicants;

(d) The Governmental Entity and/or the MFA's assessment of the ability of the Applicant or its designated servicer to act as originator and servicer of mortgage Loans for any Multi-Family Housing Programs or other programs to be financed; and

(e) Previous participation by the Applicant in the MFA's programs and HUD, FHA, or RHS programs.

w. All applications shall contain a verification signed by the applicant before a notary public that the information provided, upon penalty of perjury, is true and correct to the best of the applicant's information, knowledge, and belief.

13. Must provide for long-term affordability and for compliance oversight throughout the period of affordability.

14. Must require that the recipient of a contribution enter into a contract with the Governmental Entity, that said contract include remedies and default provisions in case of unsatisfactory performance, and that said contract subject the recipient of a contribution to the jurisdiction of the New Mexico courts to enforce compliance with the Act, the Rules, and any agreement(s) between the recipient and the Governmental Entity.

15. Must require the recipient of a contribution to execute documents to secure against the loss of public funds or property in the event of default, and imposing reimbursement by the recipient of attorney fees and costs for efforts by the Governmental Entity to enforce the Rules, the Act, and any agreements created pursuant to the ordinance.

16. Must require contract to include requirement that Qualifying Grantee abide by a reasonable performance schedule and performance criteria, which Governmental Entity may establish, in its discretion.

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17. Contract must require Qualifying Grantee to open its books and records, and provide information requested, as Governmental Entity and/or MFA deem necessary to determine compliance with the Act, Rules, and any applicable contracts; and may require Qualifying Grantee to pay costs of such examinations.
18. Must require that a grant for a state or local housing project impose a contractual obligation on the recipient of the contribution that the housing units be occupied by low or moderate income households.
19. Must be in compliance with the Act and the Rules, as amended, and require compliance with the Act and the Rules in the provision of all contributions and by the recipients of contributions.
20. Must require, as a condition of grant approval, proof of compliance with all applicable state and local laws, rules and ordinances.
21. Must contain provision stating that the contribution authorized by the ordinance is consistent with the existing housing plan or housing elements in general plan.
22. Must contain a provision stating that it goes into effect subject to local ordinance requirements for publication and filing.
23. Must contain a provision that any proposed amendment to the ordinance and/or regulations shall be submitted to MFA for review.