NEW MEXICO MORTGAGE FINANCE AUTHORITY
Board Meeting
344 4th St. SW, Albuquerque, NM
Wednesday, December 16, 2015 at 9:30 a.m.

Proposed Agenda

Chair Convenes Meeting
➢ Roll Call (Jay Czar)
➢ Approval of Agenda – Board Action
➢ Approval of 11/18/15 Board Meeting Minutes – Board Action

Board Action Items

Finance Committee
1 Selection of Offeror for Affordable Housing RFP – Eastern Plains Housing Development Corporation
   (Jacqueline Boudreaux & Marjorie Martin)      YES

Contracted Services /Credit Committee
2 Regional Housing Authority – 2015 Annual Report (Rose Baca-Quesada)    YES

Other
3 Proposed Changes to the MFA Rules and Regulations (Marjorie Martin)       YES
4 Proposed Changes to the Affordable Housing Act Rules (Marjorie Martin)    YES
5 Amendment to 2016 Low Income Housing Tax Credit Qualified Allocation Plan (Dan Puccetti)  YES

Other Board Items
6 (Staff is available for questions)
   ▪ Staff Action Requiring Notice to Board

Monthly Reports
7 (Staff is available for questions)
   ▪ 10/31/15 Financial Statements
   ▪ Communications Department Report

Announcements and Adjournment

Confirmation of Upcoming Board Meetings
➢ January 20, 2016 – Wednesday, 9:30 a.m. (Inn & Spa at Loretto, Santa Fe)
➢ February 17, 2016 – Wednesday, 9:30 a.m. (MFA)
➢ March 16, 2016 - Wednesday, 9:30 a.m. (MFA)
Minutes
Chair Dennis Burt convened the meeting on November 18, 2015 at 9:35 a.m. Secretary Jay Czar called the roll. Members present: Chair Dennis Burt, Lieutenant Governor John Sanchez, Treasurer Tim Eichenberg and Steven Smith. Board members present; participating via conference call Sally Malavé (Designee for Attorney Hector Balderas), Angel Reyes and Randy McMillan. Absent: none. Czar informed the Board that the meeting was being held in accordance with the New Mexico Open Meetings Act.

Chair Burt welcomed board meeting attendees and noted that the meeting was being webcast. He went over voting instructions with members participating telephonically.

**Approval of Agenda - Board Action.** Motion to approve the November 18, 2015 Board agenda as presented: Smith. Second: Eichenberg. Vote: 7-0.

**Approval of 10/21/15 Board Meeting Minutes – Board Action.** Motion to approve the October 21, 2015 Board Meeting Minutes as presented: Sanchez. Second: Eichenberg. Vote: 7-0.

**Finance Committee**

1. **Internal Audit Plan (Danny Martinez, REDW).** Martinez made reference to the audit plan located behind tab one, explaining that it summarizes planning and risk assessment procedures and describes the planned allocation of internal audit resources. He informed the Board that REDW also included additional audit areas found during the risk assessment that can be performed in future years at MFA’s discretion which are included as additional proposed audit areas. He further explained that as additional information is obtained throughout the years, REDW will reevaluate the risk areas and will adjust the audit plan as considered necessary upon approval by management and the Finance Committee. Martinez also discussed the Management Engagements that would be undertaken this year and would not result in an Audit Report to the Board. Martinez reviewed the following areas: Planning and Risk Assessment, Enterprise Risk Management Prioritization and Prior Audits, Estimated Allocation of Effort – FY’s 2016, 2017 & 2018, Management Engagements and Planned Procedures. Motion to approve REDW Internal Audit Plan as presented: Smith. Second: Eichenberg. Vote: 7-0. (See attachment A)

2. **9/30/15 – Quarterly Financial Statement Review (Gina Hickman).** Hickman began her presentation by presenting the new Financial Review narrative format. She informed the board that the new format was reviewed by both Board Committees and is the first time it is being utilized. It provides more transparency to the areas of focus that are important to MFA’s evolving business model over the last few years. There is also consolidation of information which should make it easier for review and discussion. She explained the format columns, and headings as well as color coding and legend. She then reviewed the year to date figures in the new format which included the following; production, balance sheet, income statement and Moody’s benchmarks. She reviewed payoff activity, total assets and deferred outflows of resources, and net position. Hickman also reviewed General Fund/Housing Program cash & securities and MFA’s General Fund and Housing Program budget performance. Hickman then reviewed the graphs which show the effect of GASB31 valuation adjustment and annual financial graphs which consist of Total Assets, YTD Excess Revenue over Expenses and Return on Average Earning Assets. She also reviewed information on the Housing Opportunity Fund (HOF). She made reference to the quarterly board report located behind tab 10, stating it would not be presented however staff is available for questions. She then reviewed the monthly financial graphs. She ended her presentation stating that MFA had a great year. Board members gave positive feedback regarding the new report format. Motion to approve the 9/30/15 Quarterly Unaudited Financial Statements as presented: Sanchez. Second: Eichenberg. Vote: 7-0. (See Attachment B)

- **9/30/15 Quarterly Investment Review (Kathy Keeler).** Keeler reviewed the Quarterly Investment Review packet behind tab two which will be included in the official board packet. She reviewed Graphs 1- 5 highlighting the different types of investments, balances, compliance with Investment Policy ranges and rates of return for the investments for General Fund investments. Keeler also
reviewed the Housing Trust Fund Balance which is invested in the SIC and the return on those investments. Keeler made reference to the articles provided with regards to multifamily apartments being turned into market rate apartments, stating that we are having these same discussions; some of the apartments in New Mexico are coming to the end of their affordability period. Keeler also reviewed the General Fund Cash Flows stating that 9/30/15 ending cash and securities were $84.1 mm and that ending cash and securities for the next two fiscal years is projected to range between $84.5 mm and $87.7 mm. Member Smith asked for an update on the Government portfolio investment advisors. Gina Hickman informed the board that some preliminary recommendations were made at the retreat regarding some potential changes to the investment policy. She further explained some changes to the reporting are also being considered. Member Sanchez asked about the trends with regards to the conversion of affordable housing apartments reaching maturity/expire is it something we see here. Dan Puccetti informed the board that there are five apartments totaling approximately 800 units requesting to be let out of the program. He explained the process, MFA options and next steps. He also explained what the IRS regulations require. Motion to approve the 9/30/15 Quarterly Investment Review as presented: Smith. Second: Sanchez. Vote: 7-0. (See attachment B)

Contracted Services / Credit Committee

3 Primero Loan Modification/Kristin Park/JL Gray (Michael Scott). Scott explained that Kristin Park is located in Las Vegas, NM. It is an acquisition and rehabilitation project which consists of 44 units and was presented and approved by the board May, 2014. Staff request approval to increase the existing Primero loan for Kristin Park Apartments from $600,000 to $1,100,000, in the amount of $500,000 to bridge the timing difference between the final payment on the construction contract that is ahead of schedule and the funding of next scheduled LIHTC investor equity installment. He reviewed the fees and terms of the agreements as located behind tab three. Motion to approve the Primero Loan Modification/Kristin Park/JL Gray as presented: Malavé. Second: Eichenberg. Vote: 7-0. (See attachment C)

4 PRLF Rental Award Summary - Pecos Apartments; JL Gray (Michael Scott) – Scott explained that Pecos Apartments are located in Dexter, NM. It is preservation and rehabilitation project which consist of 28 units. Staff is requesting approval of a $500,000 Preservation Revolving Loan Fund (PRLF) Rental Award. The request from Pecos LTD Apartments is to finance a moderate rehabilitation of the project so that it can be retained and preserved as affordable housing. The term of the loan is 26.5 years – 18 months construction and 25 years fully amortizing at a rate of 3.0% per annum. Motion to approve the PRLF Rental Award Summary - Pecos Apartments; JL Gray as presented: Sanchez. Second: Smith. Vote: 7-0. (See Attachment D)

5 Proposed Changes of Lead Attorney(s) of Housing Counsel Team for Housing Development and Multifamily Mortgage Services Contract (Marjorie Martin). Martin explained that Jean Moore, principal lead attorney on the Housing Counsel Team of the Housing Development and Multifamily Mortgage Servicing Legal Services Contract, is retiring on November 13, 2015. Her proposed replacement is Anne Browne. Upon Board approval the change of attorneys includes; Ann Browne, co-lead counsel, and current co-lead Andrew Simons would become principal lead attorney. Motion to approve Proposed Changes of Lead Attorney(s) of Housing Counsel Team for Housing Development and Multifamily Mortgage Services Contract as presented: Eichenberg. Second: Sanchez. Vote: 7-0. (See Attachment E)

Other

6 Inducement Resolution for Dona Ana Multifamily Partnership (Susan Biernacki). Biernacki informed the Board that MFA received an application for 4% low income housing tax credits and Tax Exempt Bond Cap in the amount of $9.5 million for the Dona Ana Multi-Family Partnership. The projects are located on six separate sites totaling 204 units and are set aside to serve low income families. They are located in the City of Sunland Park and Anthony, NM. They are known as Loma Del Norte Apartments, Meadow Vista I & II Apartments, Playa I & II Apartments and Vista Del Rey Apartments. Biernacki stated that the first official action required of MFA as the issuer is to adopt the inducement resolution which communicates intent to issue bonds for a specific activity. She explained that the primary purpose of the inducement resolution is to allow MFA and the developer to incur costs. Biernacki stated that approval of the inducement resolution will allow staff to pursue submitting an application to the State Board of Finance, stating that the inducement resolution is not an indication that staff recommends funding the project at this time it is just the initial part of the process. Staff
anticipates requesting private activity bond volume cap from the NM State Board of Finance at its January 2016 meeting. Thereafter, staff will return to the board and present a Bond Resolution which will authorize the issuance of tax exempt bonds for this project. Discussion ensued regarding non approval of tax credits by SBOF and what happens with the costs incurred. Motion to approve the Inducement Resolution for Dona Ana Multifamily Partnership as recommended: Smith. Second: Eichenberg. Vote: 7-0. (See Attachment F)

7 FY 2015 Strategic Plan Close Out (Izzy Hernandez & Gina Hickman) - Hickman stated the strategic plan performance dashboard provides important information as to how MFA is operating as an organization. Hernandez and Hickman reviewed the five specific goals and discussed the individual goal areas and related outcomes, which are Priority 1 – Operational Excellence, Priority 2 – New Resources, Priority 3 – Effective Partnerships, Priority 4 – Expanded Homeownership Opportunities and Priority 5 – Expanded Rental Opportunities. Motion to approve the FY 2015 Strategic Plan Close Out as presented: Sanchez. Second: Eichenberg. Vote: 7-0. (See Attachment G)

Other Board Items - Information Only
8 No questions were asked of staff.
   ▪ Staff Action Requiring Notice to Board

Monthly Reports - No Action Required
9 No questions were asked of staff
   ▪ Communications Department Report

Announcements and Adjournment - Confirmation of Upcoming Board Meetings. Chair Burt reminded everyone that next month’s meeting is on December 16, 2015 at the offices of the MFA. Lieutenant Governor Sanchez wished everyone a safe and happy Thanksgiving

There being no further business the meeting was adjourned at 11:12 p.m.

Approved: December 16, 2015

__________________________  __________________________
Chair, Dennis Burt                        Secretary, Jay Czar
Tab 1
# New Mexico Mortgage Finance Authority

**Finance/Operations Committee Meeting**  
**Tuesday, December 8, 2015 at 1:30 p.m.**  
To dial in to the conference call dial: MFA (Abbott Hall) all participant dial in  
(641) 715-3276 Participant Access Code: 561172#  MFA only/Host Access Code: 561172*

<table>
<thead>
<tr>
<th>Agenda Item</th>
<th>COMMITTEE RECOMMENDED</th>
<th>BOARD ACTION REQUIRED</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 9/30/15 External Audit Exit Conference - Amy Carter &amp; Kim Nunley, Moss Adams</td>
<td>3-0</td>
<td>YES</td>
</tr>
<tr>
<td>2 Selection of Offeror for Affordable Housing RFP – Eastern Plains Housing Development Corporation - Jacqueline Boudreaux &amp; Marjorie Martin</td>
<td>3-0</td>
<td>YES</td>
</tr>
</tbody>
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Committee Members present:  
Steven Smith, Chair  
Dennis Burt  
Lieutenant Governor John Sanchez  
or Proxy Mark Van Dyke or Vincent Torres

Secretary: [Signature]  
12/8/15
MEMORANDUM

TO: MFA Board of Directors

Through: Finance Committee – December 8, 2015

Through: Policy Committee – December 1, 2015

FROM: Jacqueline Boudreaux & Marjorie Martin

DATE: December 16, 2015

SUBJECT: Selection of Offeror for Affordable Housing RFP – Eastern Plains Housing Development Corporation

Recommendation:
Staff recommends approval of the selected Offeror.

Background:
In February, 2014 Eastern Plains Housing Development Corporation (EPHDC) became defunct and MFA became involved to ensure properties formerly owned by EPHDC continued to operate as affordable properties and be available for resident occupants. MFA has since worked to get a court appointed receiver, functioning as the Trustee for Receivership, for the assets in which MFA holds the mortgage. MFA has financially supported the ongoing operations of these assets where it was reasonable to do so; and we have confirmed to the courts at least two properties formerly owned by EPHDC will be transferred to a new owner through the selection of a person or entity as proposed purchaser of the affordable properties located in Roosevelt and Curry counties respectively. The properties include a Clovis project of five single-family homes, financed by HUD HOME funds provided on July 8, 2002; and a nine-unit multifamily rental property in Portales, financed by a MFA Primero loan that originated on August 29, 2002. To identify a qualified purchaser, MFA has engaged in an alternative (non-public) sale process through the instrumentality of an Affordable Housing Properties RFP approved by the Board on September 16, 2015.

The RFP solicited proposals for the purchase of Clovis Rental Properties and Portales Special Needs a.k.a. JK Lyons Apartments, in accordance with the New Mexico Mortgage Finance Authority Procurement Policy, from qualified person(s) or
entity Offerors which by reason of their financial stability and affordable housing experience are able to own and operate affordable housing properties. The RFP required the ability to payoff of a combined outstanding loan balance of $273,762 and other debt incurred by MFA totaling $65,133.

**Discussion:**
The proposal deadline was extended from 10/08/2015 to 11/20/2015. Two (2) responses were received by November 20, 2015 and both proposals were scored by the Review Committee. One received a high score and will meet minimum criteria through a brief cure period for two items (letter of support from Roosevelt County and confirmation of “Non-Profit Registration with NM Attorney General”); and the second received a low score and was not able to meet minimum criteria. For results, please refer to the following charts:

<table>
<thead>
<tr>
<th>Tierra Del Sol Housing Corporation</th>
<th>Points Awarded</th>
<th>Point Range</th>
<th>Maximum Points</th>
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<tbody>
<tr>
<td>Complete submission of all requirements under Part III, Owner and Management Experience and Commitment to Preserve Affordable Housing</td>
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<td></td>
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<tr>
<td>1. Inventory of property portfolio</td>
<td>15</td>
<td>0-15</td>
<td>15</td>
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<tr>
<td>2. Organizational chart and staff bios</td>
<td>10</td>
<td>0-10</td>
<td>10</td>
</tr>
<tr>
<td>3. Listing of staff credentials</td>
<td>11</td>
<td>0-15</td>
<td>15</td>
</tr>
<tr>
<td>4. Fair Housing and equal opportunity training</td>
<td>10</td>
<td>0-10</td>
<td>10</td>
</tr>
<tr>
<td>5. Operational Plan</td>
<td>15</td>
<td>0-15</td>
<td>15</td>
</tr>
<tr>
<td>6. Copies of monitoring reports</td>
<td>24</td>
<td>0-25</td>
<td>25</td>
</tr>
<tr>
<td>7. Letter of commitment</td>
<td>7</td>
<td>0-10</td>
<td>10</td>
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<tr>
<td><strong>MAXIMUM POINTS</strong></td>
<td><strong>92</strong></td>
<td></td>
<td><strong>100</strong></td>
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<th>Jonathan Reed &amp; Associates</th>
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<th>Point Range</th>
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</tr>
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<td>Complete submission of all requirements under Part III, Owner and Management Experience and Commitment to Preserve Affordable Housing</td>
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<td>6</td>
<td>0-10</td>
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After much discussion, the recommendation was to provide Tierra Del Sol Housing with a cure period, during which they must provide the two items missing from their proposal. Once those are addressed, MFA will report to the courts in Roosevelt and Curry Counties that we have selected an Offeror to purchase the properties and will enter into negotiations with that Offeror for sale and financing.

**Summary:**
MFA received two responses to the Affordable Housing RFP – Eastern Plains Housing Development Corporation. After review, staff determined that it is in the best interest of MFA to offer a cure period to Tierra Del Sol Housing Corporation, and if documentation is timely received, to thereafter enter into negotiations for the sale and financing for both properties. Staff recommends the Board’s approval of a recommendation to the courts in Roosevelt and Curry Counties that the properties be sold to Tierra Del Sol Housing Corporation.
Tab 2
NEW MEXICO MORTGAGE FINANCE AUTHORITY
Contracted Services/Credit Committee Meeting
Tuesday, December 8, 2015 @ 10:00 am
MFA – Albuquerque

To dial in to the conference call dial: MFA (Abbott Hall) all participant dial in
(641) 715-3276 Participant Access Code: 561172#  MFA only/Host Access Code: 561172*

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<td>1 Regional Housing Authority – 2015 Annual Report (Rose Baca-Quesada)</td>
<td>3-0</td>
<td>YES</td>
</tr>
</tbody>
</table>

Committee Members present:

- Angel Reyes, Chair
- Attorney General Hector Balderas or Sally Malavé
- Randy McMillan

☑ present  ☐ absent  ☑ conference call
☑ present  ☐ absent  ☑ conference call
☐ present  ☐ absent  ☑ conference call

Secretary: [Signature] 12/8/15
MEMORANDUM

TO: Board

Through: Contracted Services Committee – December 8, 2015

Through: Policy Committee – December 1, 2015

FROM: Rose Baca-Quesada

DATE: December 16, 2015

SUBJECT: Regional Housing Authority - 2015 Annual Report

Recommendation:
To approve the Regional Housing Authority – 2015 Annual Report.

Background:
The Legislature of the State of New Mexico, during the 2009 Legislative Session, enacted Senate Bill 20 (Laws of New Mexico 2009, Chapter 28) amending the Regional Housing Law 11-3A-20 NMSA 1978, to re-define the activities of the regional housing authorities and to mandate that MFA provide oversight of certain activities, to include submission of an Annual Report relative to their operations and fiscal elements to the Department of Finance & Administration (DFA), Legislative Oversight Committee (LOC), Legislative Finance Committee (LFC), and U.S. Department of Housing and Urban Development (HUD).

Discussion:
The attached pages reflect the annual operations and fiscal information for the three (3) New Mexico Regional Housing Authorities:

- Western Regional
- Eastern Regional
- Northern Regional

Also attached is the Regional Housing Authority Map and tables indicating RHA regional data.

Summary:
Staff recommends approval of the Regional Housing Authority 2015 Annual Report as mandated by the Regional Housing Act. The report includes operational and fiscal activities for Western, Eastern and Northern Regional Housing Authorities for the calendar year.
Western Regional Housing Authority (WRHA):

1. Submission of Audits to the State Auditor, MFA, LFC, DFA, and MFA-LOC
   a. Awaiting FY 2015 Financial Statements audit ending June 30, 2015. The FYE 6/30/15 audit was submitted to the Federal Audit Clearinghouse, however survey sites are temporarily offline for maintenance and testing because of their ongoing IT security investigation.

2. Report on new Regional Board Appointees to MFA & the Governor’s Office
   a. Currently, WRHA has a vacancy in Hidalgo and Luna Counties. On June 1, 2015 MFA submitted to the Governor’s office a candidate from Luna County; however the candidate requested to have her name withdrawn. The Executive Director has reached out to several business type individuals to draw awareness, unfortunately there has been little to no interest.

3. Report to MFA of new Executive Directors hired
   a. Cathy De Marco has been the Executive Director since June 2003.

4. Creation/dissolution of nonprofit entities of the Regional’s to MFA & State Board of Finance
   a. WRHA has not created or dissolved any non-profit entities.

5. Assets valued over $100K sold, transferred, or liquidated to MFA
   a. WRHA has not sold, transferred, or liquidated any properties.

6. Any contracts exceeding $100K to MFA
   a. WRHA has not entered into a contracts exceeding $100K.

7. Annual scores for Section Eight Management Assessment Program (SEMAP) to MFA
   a. HUD rated this agency as a “High Performer” with a score of 130 out of a possible 130 points.

8. Annual scores for Public Housing Assessment System (PHAS) to MFA
   a. WRHA was not assessed for PHAS in FYE 6/30/15 since they are categorized under the Small PHA Deregulation, they are only assessed every other year. FYE 6/30/14 PHAS score was 95 percent giving WRHA a “Higher Performer” status.

9. MFA Management Operation Review (MOR), where applicable, to MFA
   a. Not applicable as WRHA does not have Project Based Section 8 properties.

10. Operations Activity to include the following activities being reported:
    Annual units leased up versus annual HUD budget allocation for year
        ➢ 87 percent utilization.
    Number of people on waiting list and approximate waiting time
        ➢ 107 people with a 1-2 month wait time.
    Vacancy rate for Public Housing units
        ➢ 2 percent.
    Fraud Recovery Collections
        ➢ January ’14 – Oct ’14 = $13,642.
    5-year Capital Improvement Plan for HUD Public Housing units
        ➢ WRHA has a 5-year Capital Improvement Plan for Public Housing for years 2014-2018.
        ➢ A 3-5 year Asset Inventory Plan of all subsidized housing units has been approved by HUD.
WRHA reports its fixed assets through an electronic spreadsheet that includes various data and follows the State policy on disposition of properties and capital asset inventory.

Affordable Rental and Homeownership Development activities
➢ No development activities are under way at this time.

Non HUD program activity
➢ Linkages Permanent Supportive Housing Program is a state funded program designed to provide permanent supportive housing rental subsidies and supportive services to homeless individuals with serious mental illnesses including Native Americans living off reservations. Southwest New Mexico is one of five regions chosen to administer this Program. Hidalgo Medical Services provides the supportive services to the clients and Western Regional is the housing administrator. WRHA currently has 19 families receiving housing subsidy throughout Grant County.

➢ Rental Assistance Program (RAP) is designed to assist eligible homeless or precariously housed persons find and maintain safe, decent affordable rental housing. Eligible clients may receive assistance with Security and Utility Deposits, up to 11 months rental assistance, and delinquent rent and utility bills. Since January 2015, WRHA has assisted 39 families throughout their area.

Collaboration and Consolidation Efforts: An MOU between WRHA and El Camino Real Housing Authority (“ECRHA”) was created to assess current operations, program/project activities and to identify strong skill sets in both organizations. The MOU allows for certain goals and objectives indicating specific activities that each housing authority will be engaged in to provide increased services and programs in the two regions; to strengthen and improve the financial health and capacity, and to encourage long term beneficial collaborations between both entities.
Eastern Regional Housing Authority (ERHA):

1. Submission of Audits to the State Auditor, MFA, LFC, DFA, and MFA-LOC
   a. Awaiting approval of their FYE 2015 audit from the State Auditor’s Office, at which time it will be submitted to the Federal Audit Clearinghouse “FAC” and financial statements submitted to MFA.

2. Report on New Regional Board Appointees to MFA & the Governor’s Office
   a. Currently ERHA has four vacancies in Chavez, Roosevelt, Harding and Quay Counties. The Executive Director has contacted two potential candidates, one in Chavez and Roosevelt counties. Harding and Quay counties have been difficult to fill.

3. Report to MFA of new Executive Directors hired
   a. Chris Herbert has been the Executive Director since 2005.

4. Creation/dissolution of nonprofit entities of the Regional’s to MFA & State Board of Finance
   a. ERHA has not created or dissolved any non-profit entities.

5. Assets valued over $100K sold, transferred, or liquidated to MFA
   a. No sale or purchase of property in excess of $100K occurred since last report.

6. Any contracts exceeding $100K to MFA
   a. ERHA has not entered into any contracts exceeding $100K.

7. Annual scores for Section Eight Management Assessment Program (SEMAP) to MFA
   a. Annual scores for the SEMAP rate this agency as a “High Performer” with a score of 100 percent of 140 possible points.

8. Annual scores for Public Housing Assessment System (PHAS) to MFA
   a. Annual PHAS score of 86 percent of a possible 100 as a “Standard Performer”.

9. MFA Management Operation Review (MOR), where applicable to MFA
   a. Since MFA has not been the Project Based Contract Administrator for the past three years, MOR’s have not been conducted since March 2011.

10. Operations Activity to include the following activities being reported to MFA, LFC, DFA, MFA-LOC:
    Annual units leased up versus annual HUD budget allocation for year –
      ➢ 100 percent utilization of budget.
    Number of people on waiting list and approximate waiting time
      ➢ 526 people with a 60 day wait list.
    Vacancy rate for Public Housing units
      ➢ 2 percent vacancy rate for Public Housing.
    Fraud recovery Collections
      ➢ January ’14 through October ’14 = $20,726.
    5-year Capital Improvement Plan for HUD Public Housing units
      ➢ ERHA has a 5-year Capital Improvement Plan for Public Housing for years 2015-2019.
      ➢ A 3-5 year Asset Inventory Plan of all subsidized housing units, approved by HUD.
      ➢ ERHA reports its fixed assets through an electronic spreadsheet that includes various data and follows the State policy on disposition of properties and capital asset inventory.
    Affordable Rental and Homeownership Development
      ➢ ERHA is currently working on the development of a workforce project in Eunice, NM which will provide affordable housing using two sources of funding from MFA, and equal amount in
a grant from Lea County. The development consists of 16 units with a total budget slightly less than $2 million dollars.

Non HUD program activity:

- Linkages Permanent Supportive Housing Program is a state funded program designed to provide permanent supportive housing rental subsidies and supportive services to homeless individuals with serious mental illnesses including Native Americans living off reservations. Southeast New Mexico is one of five areas chosen to administer this Program. La Casa de Buena Salud provides the supportive services to the clients and ERHA is the housing administrator. To date, ERHA currently has 7 families receiving housing subsidy in Chaves County. Recently ERHA expanded their service areas to Lea and Eddy Counties where outreach efforts are being made.

**Collaboration/Consolidation Efforts:*** ERHA will successfully consolidate with Lovington Housing Authority; full assumption of the ACC will occur on January 1, 2016.
Northern Regional Housing Authority (NRHA):

1. Submission of Audits to the State Auditor, MFA, LFC, DFA, and MFA-LOC
   b. The FYE 2015 audit was approved by the NM State Auditor’s Office. Financial statements have been reviewed and approved by MFA. The audit was submitted to the Federal Audit Clearinghouse (“FAC”); however survey sites are temporarily offline for maintenance and testing because of their ongoing IT security investigation.

2. Report on New Regional Board Appointees to MFA & the Governor’s Office
   a. Currently NRHA has one vacancy in Mora County.

3. Report to MFA of new Executive Directors hired
   a. Smart, Inc. was selected through an RFP in January 2014. They effectively began day-to-day management on March 2014 to administer the fiscal, operational and overall management of the NRHA; Elizabeth Metoyer is the interim Executive Director.

4. Creation/dissolution of nonprofit entities of the Regional’s to MFA & State Board of Finance
   a. NRHA has not created or dissolved any non-profit entities.

5. Assets valued over $100K sold, transferred, or liquidated to MFA
   a. NRHA has not sold, transferred or liquidated any assets valued over $100K.

6. Any contracts exceeding $100K to MFA
   a. NRHA and Smart, Inc. entered into a contract on March 30, 2014 for fiscal, operational and overall management services in the amount of $316,274.00. On March 24, 2015 the NRHA board approved and extension for a three month period through June 30, 2015. The NRHA board approved a second year contract for $350K beginning July 1, 2015 through June 30, 2016 which is currently pending approval through HUD and MFA. NRHA is in the process of negotiating with HUD on Smart Inc.’s costs of “task orders” and initiatives” which were in excess of the original contract amount.

7. Annual scores for Section Eight Management Assessment Program (SEMAP) to MFA
   a. NRHA has not been under an Annual Contributions Contract for a full fiscal year – therefore a one year assessment has not been conducted by HUD.

8. Annual scores for Public Housing Assessment System (PHAS) to MFA
   a. NRHA has not been under an Annual Contributions Contract for a full fiscal year – therefore a one year assessment has not been conducted by HUD.

9. MFA Management Operation Review (MOR), where applicable, to MF
   a. Since MFA has not been the Project Based Contract Administrator for the past three years MOR’s have not been conducted since March 2011.

10. Operations Activity to include the following activities being reported to MFA, LFC, DFA, MFA-LOC:
    Annual units leased up versus annual HUD budget allocation for year
    ➢ 70 percent utilization.
    Number of people on waiting list and approximate waiting time
    ➢ 679 people with 6 months to one year wait.
    Vacancy rate for Public Housing units
7 percent vacancy rate.

Fraud recovery Collections
- As of October ‘15 = $4,229.

5-year Capital Improvement Plan for HUD Public Housing units
- NRHA has a 5-year Capital Improvement Plan for Public Housing for years 2015-2019.
- Status of implementation and reporting of a 3-5 year Asset Inventory Plan of all subsidized housing units.
- NRHA reports its fixed assets through an electronic spreadsheet that includes various data and follows the State policy on disposition of properties and capital asset inventory.

Affordable Rental and Homeownership Development activities:
- None to date.

Non HUD program activity:
- NRHA will begin providing the Linkages Permanent Supportive Housing Program on January 1, 2016. Their role will be the housing provider and Tri-County Health located in Taos will provide the supportive services. NRHA will initially provide housing subsidy for two households.

Collaboration/Consolidation Efforts:
NRHA is currently under a Management Agreement with Cimarron Housing Authority and is negotiating the same with Rio Arriba and Grants Housing Authorities.

It has been the intent of NRHA to search for an Executive Director during Smart, Inc.’s second year contract. The NRHA Board of Commissioners and Smart, Inc. are in receipt of 13 resumes for the NRHA Executive Director’s position. The resumes will be vetted through the board of commissioners in early December; they will select the top 5 candidates to interview the latter part of December with hopes of hiring in January 2016. Smart, Inc. will provide training and technical assistance as part of the transition and should be completed with their contract by the end of February 2016, with option for month-to-month extension.

MFA General Comments:
MFA once again responded to a Rural Communities Development Initiatives NOFA for a Training & Technical Assistance grant in the amount of $250,000.00. The purpose for this grant is to assist the regional housing authorities to build capacity and provide financial and technical assistance which includes three specific goals: establish the regionals as strong, effective organizations by improving their financial and operational capacity; enable the regionals expansions into new program areas to provide a full range of affordable housing opportunities in rural communities; and enable the regionals to readily consolidate with failing public housing authorities.

The NM Legislature appropriated $199,500 during the 2015 Legislative Session.

MFA’s Legislative Oversight Committee (“LOC”) approved its proposed 2016 Legislative Agenda on Nov. 23, 2015, which includes a Regional Housing Authority appropriation request for recurring funds in the amount of $300,000.
New Regional Housing Authority Regions

LEGEND
- Northern Region
- Eastern Region
- Western Region
- Urban Areas
Public Housing Authorities in New Mexico by Region

**Eastern Regional**
155 Low Rent Units, 1892 Section 8 vouchers
*Already consolidated: Eunice, Vaughn & Lovington*

<table>
<thead>
<tr>
<th>Public Housing Authority</th>
<th>Low-Rent Units</th>
<th>Section 8 Vouchers</th>
<th>Troubled/Sub-standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Alamogordo</td>
<td>221</td>
<td>0</td>
<td>✓</td>
</tr>
<tr>
<td>Artesia</td>
<td>138</td>
<td>0</td>
<td>✓</td>
</tr>
<tr>
<td>Clayton</td>
<td>50</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Clovis</td>
<td>132</td>
<td>608</td>
<td></td>
</tr>
<tr>
<td>Fort Sumner</td>
<td>47</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Tucumcari</td>
<td>90</td>
<td>140</td>
<td></td>
</tr>
</tbody>
</table>

**Western Regional**
54 Low Rent Units, 911 Section 8 vouchers
*No consolidations to date*

<table>
<thead>
<tr>
<th>Public Housing Authority</th>
<th>Low-Rent Units</th>
<th>Section 8 Vouchers</th>
<th>Troubled/Sub-standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bayard</td>
<td>70</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>El Camino Real</td>
<td>0</td>
<td>576</td>
<td></td>
</tr>
<tr>
<td>Lordsburg</td>
<td>100</td>
<td>0</td>
<td>✓</td>
</tr>
<tr>
<td>Santa Clara</td>
<td>32</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Truth or Consequences</td>
<td>100</td>
<td>190</td>
<td></td>
</tr>
</tbody>
</table>
Public Housing Authorities in New Mexico by Region

Northern Regional
169 Low Rent Units, 448 Section 8 Vouchers
*Consolidated with Taos, pending Cimarron Transfer, negotiating with Cuba, Grants, Rio Arriba, & Espanola*

<table>
<thead>
<tr>
<th>Public Housing Authority</th>
<th>Low-Rent Units</th>
<th>Section 8 Vouchers</th>
<th>Troubled/Sub-standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chama</td>
<td>38</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Cimarron</td>
<td>16</td>
<td>0</td>
<td>✓</td>
</tr>
<tr>
<td>Cuba</td>
<td>28</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Gallup</td>
<td>267</td>
<td>63</td>
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<tr>
<td>Grants</td>
<td>20</td>
<td>98</td>
<td>✓</td>
</tr>
<tr>
<td>Las Vegas</td>
<td>267</td>
<td>0</td>
<td>✓</td>
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<tr>
<td>Maxwell</td>
<td>22</td>
<td>0</td>
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</tr>
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</table>

<table>
<thead>
<tr>
<th>Public Housing Authority</th>
<th>Low-Rent Units</th>
<th>Section 8 Vouchers</th>
<th>Troubled/Sub-standard</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pecos</td>
<td>32</td>
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<tr>
<td>Raton</td>
<td>156</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Rio Arriba</td>
<td>53</td>
<td>25</td>
<td>✓</td>
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<tr>
<td>San Juan</td>
<td>0</td>
<td>320</td>
<td></td>
</tr>
<tr>
<td>San Miguel</td>
<td>0</td>
<td>177</td>
<td>✓</td>
</tr>
<tr>
<td>Springer</td>
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<td>0</td>
<td></td>
</tr>
<tr>
<td>Wagon Mound</td>
<td>19</td>
<td>0</td>
<td></td>
</tr>
</tbody>
</table>
Tab 3
MEMORANDUM

TO: MFA Board of Directors

Through: Policy Committee – 11/16/15
         Legislative Oversight Committee – November 23, 2015

FROM: Marjorie Martin and Erik Nore

DATE: December 16, 2015

SUBJECT: Proposed revisions to MFA Rules and Regulations

Recommendation:

MFA staff recommends the MFA Board of Directors’ adoption of the changes proposed herein to the MFA Rules and Regulations. These proposed revisions to the MFA Rules and Regulations have been reviewed and approved by MFA’s Legislative Oversight Committee.

Background:

Attached for your review is a redlined version of the MFA Rules and Regulations, indicating changes proposed for reasons of accuracy in respect to the current practices in the implementation of MFA programs, and consistency with the applicable regulatory schemes. Below please find a summary of the proposed changes, made pursuant to Section 58-18-8 NMSA 1978, Rules and Regulations of the authority:

A. The authority shall adopt and may from time to time modify or repeal, subject to prior approval by the Mortgage Finance Authority Act oversight committee, rules and regulations . . .
<table>
<thead>
<tr>
<th>Page</th>
<th>Section</th>
<th>Proposed Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Section 3. General Definitions</td>
<td>Deletion of the phrase “affordable housing” and addition of the word “MFA's” to clarify that the income level definitions provided are specifically for MFA-funded programs and may not be applicable to state funded or federally-funded programs.</td>
</tr>
<tr>
<td>4</td>
<td>Z. Persons of Very Low, Low or Moderate Income</td>
<td>Deletion of the phrase “and in certain circumstances Middle” after the word “Moderate” because middle income subsidy is not specifically authorized in the MFA Act, and this change was also made to be consistent with a prior revision to the Rules and Regulations that deleted a reference to middle income in another provision.</td>
</tr>
<tr>
<td>4</td>
<td>Z. Persons of Very Low, Low or Moderate Income</td>
<td>Revision of the definition of Moderate Income, to include the language “or up to 140% AMI, on a program by program basis, as determined by MFA, in light of the needs of the State and in accordance with the requirements of the Act.” This change is proposed to reflect actual MFA practices relevant to such MFA-funded programs (“Mortgage Revenue Bond Targeted Loans”) as the single family mortgage loan/down-payment assistance programs.</td>
</tr>
</tbody>
</table>

Discussion:
These proposed changes to the MFA Rules and Regulations are made to more accurately reflect MFA’s policies with regard to the determination of income eligibility for various MFA-funded programs, which includes Single Family mortgages and down-payment assistance. Additionally, the proposed changes seek to clarify that certain MFA determination policies to determine the income eligibility of low to moderate income persons/families/households apply specifically to MFA-funded programs, and may not be applicable to affordable housing programs financed with state funds, or to federally-funded housing-related programs implemented in New Mexico.

Summary:

MFA staff is proposing changes to certain sections of the MFA Rules and Regulations to more accurately reflect MFA policies relevant to income eligibility determinations for MFA-funded programs, and to clarify that the income eligibility guidance provided in the MFA Rules and Regulations is applicable specifically to MFA-funded programs. The proposed changes have been reviewed and approved by the MFA Legislative Oversight Committee.
NEW MEXICO MORTGAGE FINANCE AUTHORITY RULES AND REGULATIONS

SECTION 1. AUTHORITY. These Rules and Regulations are issued under and pursuant to the Mortgage Finance Authority Act, enacted as Chapter 303 of the Laws of 1975 of the State of New Mexico, as amended; Chapter 86 of the Laws of 1982 of the State of New Mexico, as amended (being Section 58-18-1 through 58-18-27, N.M.S.A. (1978); and Section 2-12-5, N.M.S.A. (1978), as amended (collectively, the “Act”). These Rules and Regulations supersede and replace all prior rules and regulations of the MFA and will become effective upon approval of the MFA Oversight Committee.

SECTION 2. PURPOSE AND OBJECTIVES. These Rules and Regulations are established to effectuate, and shall be applied so as to accomplish, the general purposes of the Act and the following specific objectives: (i) expanding the supply of funds in New Mexico available for new residential mortgages for persons and families of low or moderate income; (ii) alleviating the shortage of adequate housing, including multiple-family, transitional and congregate dwellings, in New Mexico for persons and families of low or moderate income; (iii) encouraging and providing the financing for the acquisition, construction, rehabilitation and improvement of residential housing, including multiple-family, transitional and congregate dwellings, in New Mexico for persons and families of low or moderate income; (iv) assisting in providing mortgage loans at below-market interest rates for private individuals, organizations and entities willing to undertake the acquisition, development and/or operation of multiple-family, transitional and congregate dwellings for persons and families of low or moderate income; and (v) obtaining the effective participation by lending institutions and others in the mortgage purchase program authorized by the Act, while restricting the financial return and benefit to such lending institutions to that necessary and reasonable to induce such participation. In carrying out its objectives and purposes, the New Mexico Mortgage Finance Authority, pursuant to the Act has the power to raise funds from private and public investors to make funds available for such purposes; to create and implement programs from time to time as may be necessary or appropriate to accomplish its purposes; and to assist, administer, finance or service housing programs and to contract for such services for or through private and nonprofit organizations and local, state, federal and tribal agencies or their instrumentalities.

SECTION 3. GENERAL DEFINITIONS. The following words and terms shall have the following meanings. A statutory change in the New Mexico Mortgage Finance Authority Act of any of the following definitions shall result in a corresponding change in the meaning of the same word or term within Section 3. of these Rules and Regulations.


B. “Affiliate” shall mean any entity controlling, controlled by or under the common control of another entity, person or common parent company; provided that an entity which is a...
Mortgage Lender, must meet the MFA’s requirements set forth in the Policies and Procedures of the MFA. For the purposes of this definition, “control” when used with respect to any specified entity, means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting securities, by contract, statute or otherwise. For purposes of this definition the terms “person” and entity” include non-profit corporation, other public entities, governmental agencies and instrumentalities, Mortgage Lenders, Sponsors, Builders, and Applicants.

C. “Affordable” shall mean consistent with minimum rent and/or income limitations set forth in the Act, and in guidelines established for specific programs administered by MFA.

D. “Applicant” shall mean a lending institution, non-profit corporation, public or tribal entity, governmental agency or instrumentality, Mortgage Lender, Builder, Sponsor, or Affiliate of any of the foregoing, or any other person or entity meeting the appropriate criteria of the MFA.

E. “Application” shall mean an application for MFA approval to participate in one or more programs of the MFA submitted by an Applicant to the MFA.

F. “Bonds” or “Notes” shall mean the bonds or bond anticipation notes, respectively issued by the MFA pursuant to the Act.

G. “Builder” shall mean a person or entity licensed as a general contractor to construct Residential Housing in the state which has been approved by the MFA to participate in an MFA program.


I. “Existing Mortgage Loan” shall mean a loan secured by a Mortgage made by a Mortgage Lender to: (i) a Person of Low or Moderate Income to finance the purchase of an owner-occupied single family residence in the state; or (ii) to a person or entity to finance multiple-family, transitional and congregate dwelling projects for persons and families of low or moderate income, which loan was made prior to the date of submission by the Mortgage Lender of its Application.

J. “Federal Government” shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

K. “FHA” shall mean the Federal Housing Administration or its successors.

L. “FHLMC” or “Freddie Mac” shall mean the Federal Home Loan Mortgage Corporation or its successors.

M. “FNMA” or “Fannie Mae” shall mean the Federal National Mortgage Association or its successors.
N. “GNMA” or “Ginnie Mae” shall mean the Government National Mortgage Association or its successors.

O. “Home Improvement Loan” shall mean a mortgage loan to finance such alterations, repairs and improvements on or in connection with an existing residence as the MFA may determine will substantially protect or improve the basic livability or energy efficiency of the residence, including without limitation the acquisition and installation of energy conservation building materials and solar energy equipment.

P. “HUD” shall mean the United States Department of Housing and Urban Development.

Q. “MFA” shall mean the New Mexico Mortgage Finance Authority.

R. “Mobile Home” shall mean a movable or portable housing structure, constructed to be towed on its own chassis and designed so as to be installed with or without a permanent foundation for human occupancy as a residence that may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity, or two or more units separately towable but designed to be joined into one integral unit, except that the definition does not include recreational vehicles or modular or remanufactured homes, built to Uniform Building Code standards, designed to be permanently affixed to real property.

S. “Mortgage” shall mean a mortgage, mortgage deed, deed of trust or other instrument creating a lien, subject only to title exceptions as may be acceptable to the MFA with a fee interest in real property located within the state, or with a leasehold interest that has a remaining term at the time of computation that exceeds the maturity date or is renewable at the option of the lessee after the maturity date, of the Mortgage Loan or the instrument creating a lien on a mobile home.

T. “Mortgage Credit Certificate” shall mean certificates issued by the MFA to Persons of Low or Moderate Income enabling them to claim a credit against federal income tax for a portion of interest paid by such persons on a Mortgage Loan.

U. “Mortgage Lender” shall mean any bank, trust company, mortgage company, mortgage banker, national banking association, credit union, building and loan association and any other lending institution; provided that the mortgage lender maintains an office in New Mexico, is authorized to make mortgage loans in the state and is approved by the MFA and either the FHA, VA, RHS, HUD’s Office of Native American Programs, FNMA (“Fannie Mae”), or FHLMC (“Freddie Mac”). ¹

V. “Mortgage Loan” shall mean a financial obligation secured by a Mortgage, including a Project Mortgage Loan.

¹ Definition of “Mortgage Lender” was amended (as italicized) per 1999 legislative action and was subsequently approved by the MFA Board of Directors and MFA Legislative Oversight Committee.
W. “Municipality” shall mean any county, city, town or village or the state.

X. “New Mortgage Loan” shall mean a Mortgage Loan, including a Home Improvement Loan, made by a Mortgage Lender to a Person of Low or Moderate Income to finance project costs, and containing such terms and conditions as the MFA may require.

Y. “Oversight Committee” shall mean the MFA’s Oversight Committee created by, and appointed in accordance with, the Act.

Z. “Persons of Very Low, Low, or Moderate Income” shall mean the categories of income levels attributed to persons and families for the determination of eligibility for MFA’s programs. Very Low, Low or Moderate, and in certain circumstances Middle Income persons and families within the state are those who are determined by the MFA to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary residential housing in their locality or in an area reasonably accessible to their locality and whose incomes are below the income levels established by the MFA to be in need of the assistance made available by the Act, taking into consideration, without limitation, such factors as defined under the Act. For purposes of this definition, the word “families” shall mean a group of persons consisting of, but not limited to, the head of a household; his or her spouse, if any; and children, if any, who are allowable as personal exemptions for Federal income tax purposes. Very Low Income persons or families are those with income at or below 50% of the Area Median Income (“AMI”). For Loans to persons and families on Indian Reservations, MFA will use the income basis determined under HUD’s Native American Housing and Self Determination Act (NAHASDA). Low Income persons or families are those with income between 50% and up to 80% of the AMI. Moderate Income persons or families are those with income above 80% and up to 120% of the AMI, or up to 140% AMI, on a program by program basis, as determined by MFA, in light of the needs throughout the State and in accordance with the requirements of the Act. AMI is defined as the point at which half the households in an area have lower incomes and half have higher incomes.

AA. “Policies and Procedures” shall mean Policies and Procedures of the MFA, including but not limited to, Mortgage Loan purchasing, selling, servicing and reservation procedures, which the MFA may update and revise from time to time as the MFA deems appropriate.

BB. “Recertification” shall mean the recertification of Applicants participating in MFA programs as determined necessary from time to time by the MFA.

CC. “Rehabilitation” shall mean the substantial renovation or reconstruction of an existing single-family residence, not including an increase in living area, which complies with requirements established by the MFA. Rehabilitation shall not include routine or ordinary repairs, improvements or maintenance, such as interior decorating, remodeling or exterior painting, except in conjunction with other substantial renovation or reconstruction.

DD. “Reservation and Compliance Procedures” shall mean the MFA’s procedures for allocating funds to purchase Mortgage Loans, and allocating Mortgage Credit Certificates, if
applicable. Such procedures may be updated and revised by the MFA as the MFA deems appropriate.

EE. “Residential Housing” shall mean a specific work or improvement undertaken primarily to provide one or more dwelling accommodations, including, without limitation, mobile homes, single-family, multiple-family, transitional and congregate dwellings for Persons of Low or Moderate Income, including the acquisition, construction or rehabilitation of real property, buildings and improvements.

FF. “Residential Use” shall mean that the structure is designed primarily for use as the principal residence of the occupant or occupants and shall exclude vacation or recreational homes.

GG. “RHS/USDA” shall mean Rural Housing Service of the United States Department of Agriculture and Rural Housing Community Development Service (RHCDS) and its successors.

HH. “State” shall mean the State of New Mexico.

II. “VA” shall mean the Department of Veterans Affairs.

SECTION 4. GENERAL REQUIREMENTS. The following requirements shall apply to all programs established by the MFA.

4.1 Fees and Charges of the MFA. The MFA may establish and collect fees from Applicants who file Applications: (i) requesting allocations of funds for Mortgage Loans; or (ii) selling or offering to sell Mortgage Loans to the MFA in such amounts as the MFA may deem appropriate. Such fees may be used for, among other purposes: (i) reimbursing the MFA for all or part of its reasonably expected costs of issuing its bonds or other obligations and of administering its programs; and (ii) providing inducements to make or deliver Mortgage Loans or other financing for public purposes which the MFA determines require additional inducements to accomplish. The MFA may establish such other charges, premiums and penalties as it shall deem to be necessary in connection with the administration of its programs.

4.2 Servicing of Mortgage Loans. The MFA shall cause each Mortgage Loan financed by the MFA to be serviced pursuant to the Policies and Procedures of the MFA.

4.3 Examination of Books and Records. The MFA shall cause to be made such examinations of the books and records of each Applicant as the MFA deems necessary or appropriate to determine compliance with the terms of the Act, these Rules and Regulations and any agreement between the Applicant and the MFA. The MFA may require each Applicant to pay the costs of any such examination.

4.4 Consent to Jurisdiction. Each Applicant shall consent to the jurisdiction of the courts of the State, or the appropriate tribal court, over any proceeding to enforce compliance with the terms of the Act, these Rules and Regulations and any agreement between the Applicant and the MFA.
4.5 **Purchase of the MFA’s Bonds.** No Mortgage Lender (including any “related person,” as defined in Section 103 of the Code, and the regulations related thereto) shall, pursuant to any arrangement, formal or informal, or direct or indirect, purchase Bonds or other obligations of the MFA in an amount related to the aggregate principal amount of the Mortgage Loans to be sold to the MFA by such Mortgage Lender (or related person).

4.6 **Policies and Procedures.** The MFA shall adopt written Policies and Procedures for each of its programs and for the general conduct of its business. MFA’s Policies and Procedures Manual shall become effective upon approval by the Board of Directors of the MFA; and shall be established in accordance with the Act, the Code, these Rules and Regulations, and if applicable, the requirements of the guarantor, insurer or purchaser with respect to the particular program. All Policies and Procedures and these Rules and Regulations shall be maintained at the offices of the MFA and be available for review by all Applicants and the general public during normal business hours.

4.7 **Recertification.** The MFA may establish procedures for recertifying Applicants from time to time. Applicants which fail to satisfy the MFA’s requirements for recertification shall cease to be eligible and shall be denied further participation in MFA programs until the requirements of the MFA are satisfied.

**SECTION 5. SINGLE FAMILY HOMEOWNERSHIP PROGRAMS.** In addition to the programs defined in this Section 5, the MFA shall have the power to create variations or extensions of such programs, or additional programs which comply with the Act and these Rules and Regulations.

5.1 **Additional Definitions.** The following words and terms shall have the following meanings only within this Section 5.

A. **“Single Family Homeownership Programs”** shall mean the MFA’s single family mortgage programs in which funds are available to finance Mortgage Loans through the sale of Bonds or other obligations, or from the proceeds of a secondary market facility, or from the MFA’s general fund, or through the issuance of mortgage credit certificates allocated to Applicants on an aggregate or loan-by-loan basis pursuant to the Act and these Rules and Regulations set forth in this Section 5, and shall include: (i) the MFA’s program pursuant to which the MFA shall issue Mortgage Credit Certificates to Persons of Low or Moderate Income; (ii) the financing of Home Improvement Loans; and (iii) the purchase and sale of Mortgage Loans.

B. **FOR PURPOSES OF THE MAKING OF LOANS TO MORTGAGE LENDERS,** the **PURCHASE OF MORTGAGE LOANS AND HOME IMPROVEMENT LOANS,** “Residential Housing” shall mean an owner-occupied, single family residence located in the State, which the mortgagor(s) intend(s) to occupy as his or her (their) principal residence within sixty (60) days after: (1) the date of the closing of the purchase of the residence, or (2) in the case of a Rehabilitation loan where the Rehabilitation is to be accomplished by the
mortgagor, the date of completion of the Rehabilitation. For purposes of this definition, with regard to those properties and projects funded by tax exempt bonds, a single family residence:

(a) shall not include:

(i) a residence intended for occupancy by more than one family;

(ii) a residence which has been used as a residence for more than one family, or which could be used as a residence for more than one family;

(iii) a residence where more than an incidental portion of the total area of which is reasonably expected to be used primarily in a trade or business, which is used as a vacation or recreational home, or with respect to which all or any portion of the land acquired with the proceeds of the related Mortgage Loan is used in a trade or business. The term “incidental”, as used in the paragraph, shall be determined by the MFA on a program basis;

(iv) a residence which has a separate entrance to a section thereof which contains a second kitchen consisting of a sink and cooking facilities in addition to the residence’s main kitchen; and

(b) shall meet such other requirements as the MFA may from time to time determine to be necessary or appropriate to properly administer the Single Family Homeownership Program.

5.2 Allocation of Funds for Financing.

A. Notice of Funds Availability (NOFA). When funds are available or expected to be available, the MFA will issue a Notice of Funds Availability. The notice shall be an invitation to submit a request for reservation of funds to the MFA.

B. Allocation of Funds by the MFA. Funds may be allocated by the MFA either on an aggregate or on a loan-by-loan basis in accordance with the MFA’s Reservation and Compliance Procedures. Allocations of funds for mortgages and/or Home Improvement Loans financed by the MFA shall be conclusive. In making such allocations, the MFA may consider, among other things, as appropriate:

1. In the case of programs, the funds of which are allocated on a loan-by-loan basis, the order of receipt of a request for reservation of funds, so as to generally allocate funds on a first-come, first-served basis;

2. The ability of the Applicant to deliver individual Mortgage Loans or Home Improvement Loans or otherwise utilize the funds for the purpose stated in the notice within the time limits of the program;
3. In the case of programs for the purchase of Existing Mortgage Loans, the terms and conditions of the Mortgage Loans offered for sale by the Applicant.

C. Allocation of Mortgage Credit Certificates. Mortgage Credit Certificates shall be allocated on a loan-by-loan basis in accordance with the Policies and Procedures established by the MFA.

5.3 Applications.

A. Process for Applying. The MFA shall maintain an application policy for Applicants wishing to apply for MFA approval to participate in the Single Family Homeownership Program. Applications will be mailed together with all documents required to be executed and submitted in connection therewith. An Application to sell Mortgage Loans or Home Improvement Loans to the MFA shall contain, among other things, the unconditional agreement of the Applicant, upon acceptance of the Application by the MFA, to sell Mortgage Loans or Home Improvement Loans to the MFA or its designee which comply with the terms of an agreement to be signed by the Applicant and the MFA.

B. Review by the MFA. On receipt of an Application, the MFA shall review and analyze the Applicant’s ability to sell Mortgage Loans or Home Improvement Loans to the MFA or its designee and to service such Mortgage Loans or Home Improvement Loans, or cause them to be serviced.

C. Notification of Acceptance. The MFA, by written notice shall notify each Applicant which has submitted an Application of the approval or disapproval of its Application. Upon approval of its Application, a Mortgage Lender or other Applicant shall be considered approved by the MFA to participate in the Single Family Homeownership Program. The MFA’s approval or disapproval of any Application shall be conclusive.

5.4 Acceptance. The MFA shall establish Policies and Procedures for the purchase of Mortgage Loans and Home Improvement Loans as set forth in paragraph 4.6 of these Rules and Regulations. Each allocation of funds shall be conditioned upon the receipt by the MFA from the Applicant of a commitment fee, if any, and the documents required by the MFA within the time specified in the acceptance. In all cases the MFA may deny requests and may reallocate funds in accordance with the MFA’s Reservation and Compliance Procedures. The allocation and reallocation of funds by the MFA for the financing of Mortgage Loans and Home Improvement Loans shall be conclusive.

5.5 Financing of Mortgage Loans and Home Improvement Loans. The financing of Mortgage Loans and Home Improvement Loans by the MFA shall be in accordance with the Policies and Procedures established by the MFA. Each Mortgage Loan and Home Improvement Loan financed must: (i) be the subject of an allocation of funds; (ii) be the subject of a written agreement executed by the MFA and the Applicant; (iii) comply with the terms and conditions of such agreement; (iv) be serviced in compliance with the servicing requirements of such agreement; and (v) otherwise comply with the MFA’s requirements for the financing and
servicing of Mortgage Loans and Home Improvement Loans under the Single Family Homeownership Program.

5.6 Yield on Mortgage Loans and Home Improvement Loans. Mortgage Loans and Home Improvement Loans under the Single Family Homeownership Program shall bear interest at such a rate or rates as in the aggregate shall produce a yield to the MFA on such Mortgage Loans and Home Improvement Loans sufficient to (i) pay interest on any related issue of the MFA’s bonds or other obligations; (ii) provide adequate reserves, if any, for the holder of any of the MFA’s bonds or other obligations; and (iii) cover the operating costs of the MFA.

5.7 Conditions of Mortgage Loans and Home Improvement Loans.

A. Mortgage Loans and Home Improvement Loans financed by the MFA under the Single Family Homeownership Program shall: (i) comply with the applicable terms and conditions prescribed by the MFA in a written agreement between the MFA and the Applicant for such Mortgage Loan or Home Improvement Loan; and (ii) comply with the Policies and Procedures of the MFA.

B. Each loan commitment to make a Mortgage Loan or Home Improvement Loan must be made to a Person of Low or Moderate Income. Mortgage Loans and Home Improvement Loans shall be financed by the MFA within such time periods as are specified by the MFA.

5.8 Restrictions on Return Realized by Mortgage Lenders. The MFA shall establish and set forth the maximum rate or rates of return which may be realized by Mortgage Lenders from Mortgage Loans or Home Improvement Loans, including any commitment fees, premiums, bonuses, points or other fees charged by the Mortgage Lender in connection with the making of such Mortgage Loans or Home Improvement Loans. Such maximum rates of return shall be set in such amounts as the MFA finds to be reasonably necessary to induce participation in the Single Family Homeownership Program by Applicants in order to accomplish the purposes of the Act.

5.9 Mobile Homes. The eligibility of mobile homes for use as security for Mortgage Loans shall be determined in accordance with standards established by the MFA.

SECTION 6 MULTIPLE FAMILY DWELLING, TRANSITIONAL, AND CONGREGATE PROJECT MORTGAGE LOANS. In addition to the Multi-Family Housing Programs as defined in this Section 6, the MFA shall have the power to create variations or extensions of the programs, or additional programs which comply with the Act and these Rules and Regulations.

6.1 Additional Definitions. The following words and terms shall have the following meanings only within this Section 6.

A. “Congregate Housing Facility” shall mean residential housing designed for occupancy by more than four Persons of Low or Moderate Income living independently of
each other. The facility may contain group dining, recreational, health care or other communal facilities and each unit in a congregate housing facility shall contain at least its own living, sleeping and bathing facilities.

B. “Lender Loan” shall mean a loan made by the MFA to a Mortgage Lender, pursuant to the Act and these Rules and Regulations, the proceeds of which are used directly or indirectly to make Project Mortgage Loans.

C. “Multiple-Family Dwelling Project” shall mean the residential housing that is designed for occupancy by more than four persons or families living independently of each other or living in a congregate housing facility, at least sixty percent of whom are Persons of Low or Moderate Income, including without limitation Persons of Low or Moderate Income who are elderly and handicapped as determined by the MFA, provided that the percentage of low-income persons and families shall be at least the minimum, if any, required by federal tax law or other federal or state funding regulations.

D. “Multi-Family Housing Program” shall mean a program involving a Congregate Housing Facility, a Multi-Family Dwelling Project or a Transitional Housing Facility.

E. “Project” shall mean any work or undertaking, whether new construction, acquisition of existing residential housing, remodeling, improvement, rehabilitation or conversion approved by the MFA for the primary purpose of providing sanitary, decent, safe and affordable residential housing within the State for one or more Persons of Low or Moderate Income.

F. “Project Mortgage Loan” shall mean a Mortgage Loan made to Sponsor to finance project costs of a Multi-Family Housing Project.

G. “Sponsor” shall mean an individual, association, corporation, public or tribal entity, joint venture, partnership, limited partnership, trust or any combination thereof which has been approved by the MFA as qualified to own and maintain a multiple-family dwelling, transitional or congregate housing project, maintains its principal office or a branch office in New Mexico and has agreed to subject itself to the regulatory power of the MFA and the jurisdiction of the courts of the State, including Tribal courts having jurisdiction of projects located on Native American Trust Lands located in New Mexico.

H. “Transitional Housing Facility” shall mean residential housing that is designed for temporary or transitional occupancy by Persons of Low or Moderate Income or special needs.

6.2 Application Procedures.

A. Offers to Sell Project Mortgage Loans. Application procedures for offers to sell Project Mortgage Loans shall be set forth in the Policies and Procedures established by the MFA in accordance with paragraph 4.6 of these Rules and Regulations. The Application shall
contain such information as required by the Act and the MFA for determining whether the MFA shall finance the Mortgage Loans.

B. Loans to Lenders Program. A Sponsor requesting a Lender Loan from the MFA must first submit an Application to the MFA, in the form prescribed by the MFA. Formal Application procedures for loans to lenders shall be set forth, in writing, in the Policies and Procedures established by the MFA in accordance with paragraph 4.6 of these Rules and Regulations.

C. Other Programs Established by the MFA. The MFA shall, from time to time, establish Application procedures for programs. The Application procedures shall be published in Policies and Procedures established by the MFA in accordance with paragraph 4.6 of these Rules and Regulations for various programs. The Application procedures shall take into consideration:

1. timely completion and submission to the MFA of a program Application;

2. timely submission of all other information and documentation related to the program required by the MFA, as set forth in MFA’s Policies and Procedures;

3. timely payment of any fees required to be paid to the MFA at the time of submission of the Application; and

4. compliance with program eligibility requirements as set forth in MFA’s Policies and Procedures.

6.3 Standards for Approving Qualification of Applicants.

A. Sponsors. The MFA shall, from time to time, establish standards for approving qualifications of Sponsors, which standards shall be published in Policies and Procedures established for the particular program. These standards shall take into consideration the following factors:

1. The MFA shall require each Sponsor, at the time of such Sponsor’s request for MFA approval, to submit a verified certificate stating that, among other things:

   (a) for every Multi-Family Housing Program, including every assisted or insured project of HUD, RHS/USDA, FHA and any other state or local government housing finance agency in which such Sponsor has been or is a principal;

   (b) except as shown on such certificate:

      (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 Sponsor has had a legal or beneficial interest;

(iii) such Sponsor 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 Sponsor has not defaulted on an obligation covered by a surety or performance bond.

If such Sponsor cannot certify to each of the above, such Sponsor shall submit a signed statement to explain the facts and circumstances which such Sponsor believes will explain the lack of certification. The MFA may then, in its sole and absolute discretion, determine if such Sponsor is or is not qualified.

2. The experience of the Sponsor in developing, financing and managing Multiple-Family Residential Housing.

3. Whether the Sponsor 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.

B. Mortgage Lenders. In approving Mortgage Lenders, the MFA shall consider, among other things:

1. The financial condition of the Mortgage Lender;

2. The terms and conditions of the Lender Loans to be made;

3. The aggregate principal balances of Lender Loans to be made to each Mortgage Lender compared with the aggregate principal balances of the Lender Loans to be made to all other Mortgage Lenders;

4. The MFA’s assessment of the ability of the Mortgage Lender or its designated servicer to act as originator and servicer of Mortgage Loans for the Multi-Family Housing Programs to be financed; and

5. Previous participation by the Mortgage Lender in the MFA’s programs and HUD, FHA, or RHS/USDA programs.

C. Other Applicants. The MFA shall, from time to time, establish standards for approving the qualifications of other Applicants seeking MFA assistance, which standards shall be published in Policies and Procedures established for the particular program.
6.4 **Notice of Acceptance.** The MFA shall, in writing, notify each Applicant, which has submitted an Application as to the aggregate principal balance of the loan, if any, the MFA shall agree to make, subject to the conditions set forth in the Application. The aggregate principal balance of loans, which the MFA agrees to make to any Applicant, may be in an amount less than that requested.

6.5 **Standards for Determining Minimum Equity Requirements, Acceptable Debt-to-Equity Ratios, and Acceptable Loan-to-Value Ratios.**

A. **Generally.** The MFA shall, from time to time, establish standards for (i) minimum equity requirements and acceptable debt-to-equity ratios; and (ii) acceptable loan-to-value ratios for each project under a particular program, which standards shall be in accordance with generally accepted standards in the lending industry and shall be published in Policies and Procedures established for the particular program.

B. **Sponsors.** With respect to establishing such standards for Sponsors, the MFA shall require that the maximum mortgage amount not exceed the estimate of the replacement cost of the Multi-Family Housing Project when the proposed improvements are completed and required reserves are funded. The replacement cost may include land, the proposed physical improvements, utilities within the boundaries of the land, architect’s fees, taxes, interest during construction and other miscellaneous charges incident to construction and approved by the MFA, including an allowance for Builder’s and Sponsor’s profit and risk.

6.6 **Uniform Accounting System.** The accounting system used by Sponsors shall be based upon generally accepted accounting standards for the industry. Additional requirements may be dictated by the state or federal funding source, which in such cases will be included in the Sponsor’s contract or loan documents.

6.7 **Costs of the Project.**

A. **Submission of Cost Certificate.** Upon completion of any Multi-Family Housing Project, the MFA shall require the Sponsor to submit a cost certificate detailing the specific items of the project if required by the regulations of the funding source. MFA will require the Sponsor to document all costs funded by MFA.

B. **Cost Approvals.** The MFA shall, from time to time, develop standards for approving Project costs for Projects to be financed through an MFA program. These standards shall be set forth in Policies and Procedures established for the particular program and shall include such factors as:

1. the cost of the land upon which the project is to be built;
2. the architect’s and other professionals’ fees;
3. organizational and legal expenses;
4. the number of square feet to be built together with the cost per square foot to build;

5. the amount of Builder’s and Sponsor’s overhead to be allocated to the project;

6. the amount of Builder’s and Sponsor’s profit;

7. taxes and insurance, including title insurance and recording fees; and

8. the Sponsor’s relationship, if any, with the Builder or general contractor for the project, including any collateral agreements.

The MFA shall take into account the guarantor’s, insurer’s, or purchaser’s approved cost limits in effect at the time in evaluating the reasonableness of and approving the project costs for each project. These standards shall also take into consideration the requirements of the Act, the Code and the requirements of any applicable federal government program.

6.8 Geographic Allocation and Other Site Considerations. The MFA shall make all reasonable efforts to provide loan assistance under various Multi-Family Housing Programs on a statewide basis. In providing for reasonable geographic allocation for all MFA Multi-Family Housing Programs, the MFA may consider with respect to a project, among other things:

A. the nature of the proposed neighborhood;

B. whether there is a need in the area for decent, safe and sanitary housing for Persons of Low and Moderate Income;

C. the number of similar multi-family housing projects, if any, located in the particular area and the type, location, number of units and size of such projects;

D. the occupancy history of similar multi-family housing projects in the area;

E. the need for new housing in the area to attract a new industry or plant;

F. the availability of adequate utilities (water, sewer, gas and electricity) and streets to service the project;

G. the availability of, and accessibility to, social, recreational, educational, commercial and health facilities and services, which should at least be equivalent to those found in neighborhoods consisting largely of unassisted, standard housing of similar market rents; and

H. whether the project site is free from adverse environmental conditions, natural or man-made, such as instability, flooding, sewage hazards, harmful air pollution, smoke or dust, excessive vehicular traffic and fire hazards.
In addition, the MFA shall give great weight in making its determination with respect to geographic allocation to whether the project will promote a greater choice of housing opportunities in the area and will avoid an undue concentration of assisted persons in areas containing a high proportion of Persons of Low and Moderate Income. The MFA may rely on such guarantor’s, insurer’s or purchaser’s approval as evidence that the above criteria have been met.

6.9 Discrimination Prohibited. The development, construction, occupancy and operation of a Multi-Family Housing Program financed or assisted by the MFA shall be undertaken in a manner consistent with principles of non-discrimination and equal opportunity, and the MFA shall require compliance with all applicable federal and State laws and regulations relating to affirmative action, non-discrimination and equal opportunity.

SECTION 7. HOUSING OPPORTUNITY FUND (“HOF”). In addition to the following programs defined in this Section 7, the MFA shall have the power to create certain variations or extensions of the programs, or additional programs which comply with the Act and these Rules and Regulations.

7.1 Additional Definitions. The following words and terms shall have the following meanings only within this Section 7.

A. “Down Payment Assistance Programs” shall mean the MFA’s programs that provide down payment and closing cost assistance in the form of a second mortgage lien to Persons of Low and Moderate Income who are, with few exceptions, using the MFA’s Single Family Homeownership Program (as defined in Section 5, above) to acquire single family homes.

B. “Partners Program” shall mean the MFA’s program designed to serve as a secondary market for below-market-rate single family mortgages which have been originated by nonprofit organizations to provide financing for families earning no more than 50% of county or median income as published by the US Department of Housing and Urban Development at the time of initial family qualification by participants and MFA. This income limitation will be increased to a maximum of 60% of county or area median for areas that exhibit a combination of high housing costs and low median incomes which will be determined by the MFA on an annual basis and published in the Notice of Funds Availability (NOFA).

C. “Primero Investment Fund” shall mean the MFA’s program designed to provide flexible financing to nonprofit organizations, Tribal and public agencies, as well as for-profit entities undertaking the development of Affordable owner-occupied, rental or special needs housing projects.

D. “ACCESS Loan Program” shall mean the MFA’s program designed to provide guaranteed or insured construction and permanent financing for affordable rental developments.
E. “BUILD IT Loan Guaranty Program” shall mean the MFA’s program designed to guaranty interim financing provided by other lenders for affordable housing developments.

F. “HERO” shall mean the MFA’s program designed to provide a first fixed-rate mortgage loan, including down payment and closing cost assistance in the amount of a 3.5% grant to be funded to the borrower at the time of loan closing, to households in which at least one member is a teacher, safety worker, health care worker or active member of the armed forces.

7.2 Funding

A. Initial Funding. The HOF shall be initially funded with net residual assets of the MFA’s issue of Home Improvement Loan Revenue Bonds, 1985 Series A and financing adjustment factor (FAF) savings derived from the MFA’s Multi-Family Housing Refunding Revenue Bonds 1990 Series A.

B. Additional Sources. Additional sources of funding may include, but are not limited to:

1. gifts and grants received from the federal government, private foundations, corporate and private individuals and other sources;

2. money and other assets specifically allocated by the MFA to the HOF from time to time; and

3. earnings of the HOF.

7.3 Use of Funds. Monies and other assets of the HOF shall be disbursed to Applicants in accordance with the purposes of the HOF and Policies and Procedures developed and established by the MFA for the HOF as follows:

A. to provide down payment assistance for the financing of housing by Persons of Low and Moderate Income;

B. to provide closing cost assistance for the financing of housing by Persons of Low and Moderate Income;

C. to pay fees for services utilized in connection with HOF programs;

D. to pay costs of acquisition, rehabilitation and/or construction of Affordable housing projects, as well as costs associated with single family mortgages; and

E. in such other manner as the MFA may determine from time to time.
7.4 Administration. The MFA shall administer the affairs of the HOF in accordance with provisions of the Act, these Rules and Regulations, any applicable state and federal laws and regulations, each of which may be amended or supplemented from time to time. The MFA, in establishing, funding and administering the affairs of the HOF and by making, executing, delivering and performing any award, contract, grant or any other activity or transaction contemplated by the HOF, shall not violate any provision of law, rule or regulation or any decree, writ, order, injunction, judgment, determination or award and will not contravene the provisions of or otherwise cause a default under any of its agreements, indentures, or other instruments to which it may be bound.

7.5 Program Guidelines. The MFA shall, from time to time, develop and adopt Policies and Procedures for each program of the HOF, which shall set forth the specific Application and approval procedures.

SECTION 8. SECONDARY MARKET FACILITY. The MFA may establish and implement a secondary market facility for Mortgage Loans and to otherwise act as a conduit for public and private funds to provide an increased degree of liquidity for mortgage investments. In establishing a secondary market facility, the MFA may issue pass-through securities and may purchase and contract to purchase Mortgage Loans, pass-through securities, obligations secured by Mortgage Loans or revenues therefrom or interests therein. The MFA shall establish Policies and Procedures, in accordance with paragraph 4.6 of these Rules and Regulations, which Policies and Procedures shall provide for the governing of the operations of the secondary market facility, the issuance of pass-through securities and for the purchase or issuance by, or the sale of, such obligations to the secondary market facility. The Policies and Procedures shall include, among other things: (i) the submission by Mortgage Lenders of offers to sell Mortgage Loans; pass-through securities; and obligations secured by Mortgage Loans or pledges of Mortgage Loan revenues; (ii) standards for allocating available funds or guarantees among Mortgage Lenders through the secondary market facility; (iii) qualifications or conditions relating to the reinvestment by Mortgage Lenders of the funds made available to Mortgage Lenders by the secondary market facility; and (iv) characteristics of pass-through securities to be issued by the secondary market facility.

SECTION 9. MISCELLANEOUS. Capitalized terms not otherwise defined in these Rules and Regulations have the same meaning as defined in the Act.

SECTION 10. AMENDMENT TO RULES AND REGULATIONS. These Rules and Regulations may be amended or supplemented by the MFA, with the approval of the Oversight Committee, at any time. Proposed amendments to these Rules and Regulations will be posted on MFA’s website for a minimum of thirty (30) days prior to approval by the Oversight Committee, to enable public comment on the proposed changes.
Tab 4
MEMORANDUM

TO: MFA Board of Directors

Through: Policy Committee – November 17, 2015
Legislative Oversight Committee – November 23, 2015

FROM: Marjorie Martin/Nicole Sanchez

DATE: December 16, 2015

SUBJECT: Proposed Amendments to the Affordable Housing Act Rules

Recommendation: Staff recommends the MFA’s Board of Directors adoption of the proposed Amendments, for commencement of the process of ratification pursuant to the Affordable Housing Act’s requirements for passage of Affordable Housing Act Rules. These proposed amendments have been reviewed and approved by MFA’s Legislative Oversight Committee.

Background: Changes made to the Affordable Housing Act (the “Act”) in the 2015 New Mexico legislative session necessitate amendments to the Affordable Housing Act Rules (the “Rules”) to prescribe the process required for adherence to or implementation of those changes. The principal changes to the Act necessitating amendments to the Rules are:

1) the addition of provisions in the Act permitting early termination of the affordability restrictions placed on a subsidized property, in the event of default by the borrower and transfer of the property to the governmental entity lender or MFA, upon a determination that a sale of the property subject to the affordability restrictions will
not permit a sufficient recovery of the public funds invested in the property; and,
2) the addition of civil penalties and authorization for the Attorney General to pursue civil action or criminal charges against violators of the Act.

Changes to the Rules were also made to define, redefine, or clarify certain provisions of the Rules that were identified by MFA staff, and in public comments received during the comment period, as unclear, confusing, insufficient in detail, or otherwise unnecessarily restrictive. Comments were received from the City of Albuquerque, the City of Hobbs, Eastern Regional Housing Authority, and the Association of Counties, to which MFA has responded - where appropriate – in the proposed Affordable Housing Act Rules changes, below.

Discussion: Upon a review of the changes made to the Act, and following a thorough review of the Rules in their present iteration, MFA staff determined that the following changes to the Rules were necessary to comply with the changes to the Act, and to provide clearer guidance to local government entities in their efforts to implement affordable housing programs in compliance with the Act and the Rules:

<table>
<thead>
<tr>
<th>New Mexico Mortgage Finance Authority</th>
<th>Affordable Housing Act Rules</th>
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</thead>
<tbody>
<tr>
<td>Summary of Proposed Changes</td>
<td></td>
</tr>
<tr>
<td>September 1, 2015</td>
<td></td>
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</table>

Affordable Housing Act, Section-6-27-8 (B) NMSA 1978:
The authority shall adopt rules in accordance with the Administrative Procedures Act to carry out the purposes of the Affordable Housing Act.

<table>
<thead>
<tr>
<th>Page</th>
<th>Rule #</th>
<th>Proposed Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>3.4</td>
<td>“Affordable Housing Funds” The definition is amended to state that the term includes any reduction</td>
</tr>
<tr>
<td>Page</td>
<td>Section</td>
<td>Description</td>
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<tr>
<td>3</td>
<td>3.7 “Applicant”</td>
<td>Clarifies the definition of applicant by amending it to specify that it includes individuals and non-individual applicants.</td>
</tr>
<tr>
<td>4</td>
<td>3.13 “Contribution”</td>
<td>Changes reference to “Affordable Housing Grant” to “Housing Assistance Grant,” the term defined in and used throughout the Rules.</td>
</tr>
<tr>
<td>6</td>
<td>3.28 “Multiple Family Housing Project”</td>
<td>The definition of the term is amended to delete the requirement for a 60% set aside of units for Persons of Low or Moderate Income, and to state that the set aside shall be directly proportional to the amount of subsidy.</td>
</tr>
<tr>
<td>7</td>
<td>3.32 “Persons of Low or Moderate Income”</td>
<td>Definition changed to provide AMI percentages applicable to low and moderate income, and delete prior definition for lack of specificity and insufficient guidance.</td>
</tr>
<tr>
<td>9</td>
<td>4.1 and 4.2</td>
<td>Rule 4.1 “The Proposed Ordinance” becomes Rule 4.2, and the original Rule 4.2 An Affordable Housing Plan, is renumbered as Rule 4.1.</td>
</tr>
<tr>
<td>9-10</td>
<td>4.1</td>
<td>Modified to allow more flexibility to counties and municipalities on contents of affordable housing plans, and adds a reference to the MFA Affordable Housing Act &amp; Plans Technical Manual.</td>
</tr>
<tr>
<td>10</td>
<td>4.1 (B)(2)</td>
<td>A provision is added to identify the gap between market rate housing costs and incomes by area median income.</td>
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<tr>
<td>11-12</td>
<td>4.2</td>
<td>The newly numbered Rule 4.2 is amended to clarify the requirements for an affordable housing ordinance, including that it comply with the housing plan; that the AMI percentages do not change annually, despite changes to the numeric amount of income represented by each AMI percentage; that it must be amended pursuant to MFA request; that governmental entities may continue to make lawful donations pending approval of a new ordinance; and that donations must be reported to MFA on an annual basis or pursuant to the ordinance requirements for reporting.</td>
</tr>
<tr>
<td>13-14</td>
<td>5.2</td>
<td><strong>¹</strong> Added provisions to specify the requirements applicable to individual, for profit and nonprofit applicants, and deleted prior subsection (E), which provided requirements for “non-individual” applicants.</td>
</tr>
<tr>
<td>15</td>
<td>5.3</td>
<td><strong>²</strong> Separates the qualifications for non-individual applicants from those of individual applicants.</td>
</tr>
<tr>
<td>16</td>
<td>5.3 (A)(8)</td>
<td>Clarifies that the requirement for an approved mission statement applies to a “for profit” entity.</td>
</tr>
<tr>
<td>17</td>
<td>5.3 (A) (18)</td>
<td>Removed language limiting requirements of applicant and</td>
</tr>
</tbody>
</table>

**¹** Denotes minor correction

**²** Denotes minor correction
<table>
<thead>
<tr>
<th>Section</th>
<th>Rule</th>
<th>Change</th>
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<tbody>
<tr>
<td>19</td>
<td>5.3 (B)</td>
<td>Creates a new subsection B to Rule 5.3, to provide the requirements of the application process for an individual applicant.</td>
</tr>
<tr>
<td>26-27</td>
<td>5.7(B)(1)</td>
<td>Clarifies that the low or moderate income set aside requirements for single apartment units within a multifamily property applicable to Qualifying Grantees who are landlords and/or owners are in direct proportion to the amount of the subsidy provided to that property.</td>
</tr>
<tr>
<td>27</td>
<td>5.7(B)(2)</td>
<td>Clarifies that the low or moderate income set aside requirements for multiple apartment units, or an entire multifamily property, benefiting from affordable housing assistance is in direct proportion to the amount of subsidy provided.</td>
</tr>
<tr>
<td>30-31</td>
<td>Section 8. “In the Event of Default”</td>
<td>Creates a new Section 8, providing the rules applicable to the process and requirements for terminating the affordability restrictions to sell a subsidized property upon default by the borrower.</td>
</tr>
<tr>
<td>31</td>
<td>Section 9. “Enforcement”</td>
<td>Renumbers the prior Section 8 as the new Section 9; and adds to the existing provisions for enforcement, provisions for Attorney General investigation of alleged violations of the Act, ability to pursue civil action or criminal charges against violators, and the availability of civil penalties not to exceed $5,000 per violation.</td>
</tr>
</tbody>
</table>
Proposed timeline for AHA Rules Amendments:

1) Thirty (30) day public comment period – September 14, 2015 to October 14, 2015
2) Concurrence from New Mexico Municipal League and Association of Counties – September/October, TBD by Izzy Hernandez
3) Public Hearing on the proposed amendments to the AHA Rules – week of October 26 or November 2
4) Presentation to Policy Committee of proposed additional amendments made in response to public comments received and staff recommendations - November 17, 2015
5) Presentation to Legislative Oversight Committee (LOC) for approval – November 23, 2015
6) Presentation to MFA Board of Directors – December 16, 2015

Summary: MFA staff is proposing amendments to the Affordable Housing Act Rules (the “Rules”) in accordance with recent amendments to the Affordable Housing Act, passed by the New Mexico legislature. Additionally, staff is proposing other amendments to the Rules for the purpose of providing clarification or supplementing the provisions with information deemed necessary by staff. MFA’s Legislative Oversight Committee has reviewed and approved the proposed amendments.
SECTION 1. AUTHORITY. These Rules are issued under and pursuant to the Mortgage Finance Authority Act, NMSA 1978, § 58-18-1 et seq. (the “MFA Act”) and pursuant to the Affordable Housing Act, NMSA 1978, §6-27-1 et seq. (the “Act”). Following review and comment by the Legislative Oversight Committee (“Oversight Committee”), these Rules will become effective upon the approval of the New Mexico Mortgage Finance Authority’s (“MFA”) Board of Directors.

SECTION 2. PURPOSE AND OBJECTIVES. These Rules are established to effectuate, and shall be applied so as to accomplish, the general purposes of the Act and the following specific objectives:

2.1 Procedures to ensure that both state and local housing assistance grantees are Qualifying Grantees (defined below) who meet the requirements of the Act and rules promulgated pursuant to the Act both at the time of the award and throughout the term of the grant;

2.2 The establishment of an application and award timetable for state housing assistance grants to permit the selection of the Qualifying Grantee(s) by the Governmental Entity (defined herein) and/or the MFA;

2.3 The evaluation by the Governmental Entity and/or the MFA of: the financial and management stability of the applicant, the demonstrated commitment of the applicant to the community, a cost-benefit analysis of the project proposed by the applicant, the benefits to the community of a proposed project, the type or amount of assistance to be provided, the scope of the affordable housing project, any substantive or matching contribution by the applicant to the proposed project, a performance schedule for the Qualifying Grantee with performance criteria, and any other rules or procedures which the Governmental Entity and/or the MFA believes is necessary for a full review and evaluation of the applicant, the application, and any Qualifying Grantee or which the MFA believes is necessary for a full review of the Governmental Entity’s evaluation of the applicant;

2.4 A requirement for long-term affordability of a state, county, or municipal project so that a project cannot be sold shortly after completion and taken out of the affordable housing market to ensure a quick profit for the Qualifying Grantee;

2.5 A requirement that the Governmental Entity and/or the MFA enter into a contract with the Qualifying Grantee consistent with the Act, which contract shall include
remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee and which contract shall be subject to the review of the MFA in its discretion;

2.6 A requirement that a grant for a state or local project must impose a contractual obligation on the Qualifying Grantee that the housing units in any Affordable Housing Project be occupied by low- or moderate-income households;

2.7 Provisions for adequate security against the loss of public funds or property in the event that the Qualifying Grantee abandons or otherwise fails to complete the project;

2.8 A requirement for review and approval of a housing grant project budget by the Governmental Entity and/or the MFA before any expenditure of grant funds or transfer of granted property;

2.9 A requirement that, unless the period is extended for good cause shown, the MFA shall act on an application within forty-five (45) days of the date of receipt of that application and, if not acted upon, the application shall be deemed approved;

2.10 A requirement that a condition of grant approval be proof of compliance with all applicable state and local laws, rules and ordinances;

2.11 Provisions defining “low-income and moderate-income” and setting out requirements for verification of income levels; and

2.12 A requirement that a county or municipality that makes a housing assistance grant shall have an existing valid affordable housing plan or housing elements contained in its general plan.

In carrying out its objectives and purposes, the MFA, pursuant to the MFA Act has the power to raise funds from private and public investors to make funds available for such purposes; to create and implement programs from time to time as may be necessary or appropriate to accomplish its purposes; and to assist, administer, finance or service housing programs and to contract for such services for or through private and nonprofit organizations and local, state, federal and tribal agencies or their instrumentalities.

SECTION 3. GENERAL DEFINITIONS. The following words and terms shall have the following meanings.¹

¹ The following definitions in these Rules were either modeled on the MFA’s internal Rules and Regulations, which were revised by the MFA in October of 2006, approved by the Oversight Committee on November 14, 2006, and adopted by the Board on January 24, 2007; or they were modeled on or taken directly from the Act, as revised in the 2006 Legislative Session. All definitions given were created to support the goals of the Act and the Rules.
3.1 “Act” shall mean the Affordable Housing Act, Section 6-27-1 et seq. NMSA 1978.

3.2 “Affordable” shall mean consistent with minimum rent and/or income limitations set forth in the MFA Act, and in guidelines established by MFA.

3.3 “Affordable Housing” means residential housing primarily for Persons or households of Low- or Moderate-Income.

3.4 “Affordable Housing Funds” shall mean any or all funds awarded or to be awarded, loaned or otherwise distributed under the Act, which includes any reduction or abatement of taxes or fees that would otherwise be imposed in full on a market-rate project.

3.5 “Affordable Housing Program” shall mean any programs that a Governmental Entity and/or the MFA establish pursuant to the Act.

3.6 “Affordable Housing Projects” shall mean any work or undertaking, whether new construction, acquisition of existing residential housing, remodeling, improvement, Rehabilitation or conversion approved by the Governmental Entity and/or the MFA for the primary purposes as allowed by the Act.

3.7 “Applicant” shall mean an individual, or a non-individual applicant such as a governmental housing agency, regional housing authority, tribal housing agency, for-profit organization, including a corporation, limited liability company, partnership, joint venture, syndicate, or association or a nonprofit organization meeting the appropriate criteria of the Governmental Entity and/or the MFA.

3.8 “Application” shall mean an application to participate in one or more Affordable Housing Projects or programs under the Act submitted by an Applicant to the Governmental Entity and/or the MFA.

3.9 “Authority” shall mean the New Mexico Mortgage Finance Authority.

3.10 “Builder” shall mean a person or entity licensed as a general contractor to construct Residential Housing in the state which has been approved by the Governmental Entity and/or the MFA to participate in an MFA program and/or a program under the Act.

3.11 “Building” shall mean a structure capable of being renovated or converted into affordable housing or a structure that is to be demolished and is located on land that is donated and upon which Affordable Housing will be constructed.

3.12 “Congregate Housing Facility” shall mean Residential Housing designed for occupancy by more than four Persons of Low or Moderate Income living independently of each other. The facility may contain group dining, recreational, health
care or other communal living facilities and each unit in a Congregate Housing Facility shall contain at least its own living, sleeping, and bathing facilities.

3.13 “Contribution” shall mean any provision of assistance for affordable housing, including an Affordable Housing Assistance Grant or Affordable Housing Funds, made by a state, any instrumentality of the state, county, municipality, or the Authority.

3.14 “Federal Government” shall mean the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

3.15 “Governmental Entity” shall mean a state, county, or municipality.²

3.16 “Household” shall mean one or more persons occupying a housing unit.

3.17 “Housing Assistance Grant” means the donation, provision, or payment by a Governmental Entity or MFA of:

| A. Land upon which affordable housing will be constructed; |
| B. An existing building that will be renovated, converted, or demolished and reconstructed as Affordable Housing; |
| C. The costs of acquisition, development, construction, financing, and operating or owning affordable housing; or |
| D. The costs of financing or infrastructure necessary to support Affordable Housing. |

3.18 “HUD” shall mean the United States Department of Housing and Urban Development.

3.19 “Infrastructure” shall mean Infrastructure Improvements and Infrastructure Purposes.

3.20 “Infrastructure Improvement” includes, but is not limited to:

| A. sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge; |
| B. drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge; |

² Solely for the purposes of the Affordable Housing Act to distinguish the Authority from any other Governmental Entity, the term “MFA” will always be used when a rule or provision applies to the Authority.
C. water systems for domestic purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

D. areas for motor vehicle use for road access, ingress, egress and parking;

E. trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for road access, ingress, egress and parking;

F. parks, recreational facilities and open space areas for the use of residents for entertainment, assembly and recreation;

G. landscaping, including earthworks, structures, plants, trees and related water delivery systems;

H. electrical transmission and distribution facilities;

I. natural gas distribution facilities;

J. lighting systems;

K. cable or other telecommunications lines and related equipment;

L. traffic control systems and devices, including signals, controls, markings and signs;

M. inspection, construction management and related costs in connection with the furnishing of the items listed in this subsection; and

N. heating, air conditioning and weatherization facilities, systems or services, and energy efficiency improvements that are affixed to real property.

3.21 “Infrastructure Purpose” shall mean:

A. planning, design, engineering, construction, acquisition or installation of Infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of the Infrastructure;

B. acquiring, converting, renovating or improving existing facilities for Infrastructure, including facilities owned, leased or installed by the owner;

C. acquiring interests in real property or water rights for Infrastructure, including interests of the owner; and

D. incurring expenses incident to and reasonably necessary to carry out the purposes specified in this subsection.
3.22 “Market Value” shall mean the price at which buyers and sellers trade similar items in an open marketplace. In the absence of a marketplace, it is the estimated highest price a buyer would be warranted in paying and a seller justified in accepting, provided both parties were fully informed and acted intelligently and voluntarily.

3.23 “MFA” shall mean the New Mexico Mortgage Finance Authority.


3.25 “Mortgage” shall mean a mortgage, mortgage deed, deed of trust or other instrument creating a lien, subject only to title exceptions as may be acceptable to the Governmental Entity and/or the MFA, on a fee interest in real property located within the state or on a leasehold interest that has a remaining term at the time of computation that exceeds or is renewable at the option of the lessee until after the maturity day of the Mortgage Loan or an instrument creating a lien on a mobile home.

3.26 “Mortgage Lender” shall mean any bank or trust company, mortgage company, mortgage banker, national banking association, savings bank, savings and loan association, credit union, building and loan association and any other lending institution, and which must be authorized to make mortgage loans in New Mexico.

3.27 “Mortgage Loan” shall mean a financial obligation secured by a Mortgage, including a project Mortgage Loan.

3.28 “Multiple Family Housing Project” shall mean Residential Housing that is designed for occupancy by more than four persons or families living independently of each other or living in a Congregate Housing Facility, of which the percentage of units set aside for at least sixty percent (60%) of whom are Persons of Low or Moderate Income, as defined in the applicable Affordable Housing Plan and Ordinance, shall be in direct proportion to the amount of subsidy provided as a percentage of total cost. Set asides for Persons of Low or Moderate Income shall include, including without limitation Persons of Low or Moderate Income who are elderly and handicapped as determined by the Governmental Entity and/or the MFA, provided that the percentage of low income persons and families Persons of Low or Moderate Income shall be at least the minimum, if any, required by federal tax law, if applicable.

3.29 “Multi-Family Housing Program” shall mean a program involving a Congregate Housing Facility, a Multiple Family Housing Project or a Transitional Housing Facility.
3.30 “Municipality” shall mean an incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties all as set forth in the Act.

3.31 “Oversight Committee” shall mean the MFA’s Legislative Oversight Committee created by, and appointed in accordance with, the MFA Act.

3.32 “Persons of Low or Moderate Income” low income shall mean persons and families—families who earn up to 80% of local Area Median Income (AMI). Persons of moderate income shall mean persons and families who earn up to 120% of local AMI within the state who are determined by the MFA to lack sufficient income to pay enough to cause private enterprise to build an adequate supply of decent, safe and sanitary residential housing in their locality or in an area reasonably accessible to their locality and whose incomes are below the income levels established by the MFA to be in need of the assistance made available by the Act, taking into consideration, without limitation, such factors as defined under the Act. For purposes of this definition, the word “families” shall mean a group of persons consisting of, but not limited to, the head of a household; his or her spouse, if any; and children, if any, who are allowable as personal exemptions for Federal income tax purposes.

3.33 “Policies and Procedures” shall mean Policies and Procedures of the MFA, including but not limited to, Mortgage Loan purchasing, selling, servicing and reservation procedures, which the MFA may update and revise from time to time as the MFA deems appropriate.

3.34 “Qualifying Grantee” means:

A. An individual who is qualified to receive assistance pursuant to the Act and is approved by the Governmental Entity and/or the MFA; and

B. A governmental housing agency, regional housing authority, tribal housing agency, corporation, limited liability company, partnership, joint venture, syndicate, association or a nonprofit organization that:

1) Is organized under State, local, or tribal laws and can provide proof of such organization;

2) If a non-profit organization, has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual; and

3) Is approved by the Governmental Entity and/or the MFA.

3.35 “Recertification” shall mean the recertification of Applicants and/or Qualifying Grantees participating in any Affordable Housing Programs or in any programs under the Act as determined necessary from time to time by the Governmental Entity and/or the MFA.
3.36 “Rehabilitation” shall mean the substantial renovation or reconstruction of an existing single-family residence or a Multi-Family Housing Project, which complies with requirements established by the MFA. Rehabilitation shall not include routine or ordinary repairs, improvements or maintenance, such as interior decorating, remodeling or exterior painting, except in conjunction with other substantial renovation or reconstruction.

3.37 “Residential Housing” shall mean any Building, structure or portion thereof that is primarily occupied, or designed or intended primarily for occupancy, as a residence by one or more Households and any real property that is offered for sale or lease for the construction or location thereon of such a building, structure or portion thereof. “Residential Housing” includes congregate housing, manufactured homes, housing intended to provide or providing transitional or temporary housing for homeless persons and common health care for supportive housing, kitchen, dining, recreational and other facilities primarily for use by residents of a residential housing project or a single room occupancy facility.

3.38 “Residential Use” shall mean that the structure or the portion of the structure to benefit from the Affordable Housing Funds or Housing Assistance Grant, is designed primarily for use as the principal residence of the occupant or occupants and shall exclude vacation or recreational homes.

3.39 “State” shall mean the State of New Mexico.

3.40 “Transitional Housing Facility” shall mean residential housing that is designed for temporary or transitional occupancy by Persons of Low or Moderate Income or special needs.

SECTION 4. REQUIREMENTS FOR GOVERNMENTAL ENTITIES. If a county or a municipality proposes to make a Housing Assistance Grant or provide Housing Assistance Funds under the Act, it shall first provide the MFA with a copy of the proposed ordinance and written certification that the proposed recipient is in compliance with the Act and these Rules. The county or municipality must also provide the MFA with documentation confirming that it has an existing valid affordable housing plan or housing elements contained in its general plan, so that the MFA may confirm that the ordinance is in compliance with the Act, that the Application is complete, and that the proposed recipient is a Qualifying Grantee under the Act and these Rules. For an ongoing housing assistance program, the county or municipality must provide MFA with a detailed written description of the program, in addition to other required documentation as specified in these Rules. Once the program receives MFA approval, it is not necessary to draft additional ordinances for subsequent transactions conducted under the approved program. MFA reserves the right to investigate each transaction conducted under the program.

4.1. The Proposed Ordinance:
A. Must be provided to MFA, with other required documentation, within the period prescribed by the Rules in Section 5.3(B)(1)(a) for submission to MFA prior to the county’s or municipality’s provision of a Housing Assistance Grant or Affordable Housing Funds. Failure to provide said ordinance and documentation to the MFA, or to provide it in a timely fashion, or to act in accordance with the MFA’s determination that an ordinance is invalid under the Act, the State Constitution, and/or any other applicable law, shall automatically invalidate the ordinance and shall render invalid any act taken pursuant to the ordinance.

B. Must authorize the contribution, state the requirements and purpose, and authorize the transfer or disbursement to the Qualifying Grantee only after a budget is submitted to and approved by the governing body of the county or municipality.

C. May provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through the MFA.

D. Shall comply with these Rules, as amended.

E. Shall be effective subject to local ordinance requirements for publication and filing.

F. Upon amendment, must be submitted to MFA for review of any and all changes for determination that the amended ordinance remains in compliance with the Act, these Rules, and other applicable law.

4.12 An Affordable Housing Plan. An Affordable Housing Plan created subsequent to the November 2007 amendment of these Rules must comply with the requirements set forth below. A housing plan created prior to November 2007 must, upon amendment, be made to comply with the requirements set forth below.

An valid affordable housing plan or housing elements in a general plan of a county or municipality shall contain the following elements when feasible and data is readily available. Detailed guidance which can be used at the discretion of the county or municipality is provided in the MFA Affordable Housing Act & Plans Technical Manual and by MFA staff. The Manual can be found on MFA’s website: http://www.housingnm.org/resources/affordable-housing-act-and-plans.

A. Community and housing profile, which shall include;

1) demographic characteristics, such as race and ethnicity, income, age, employment and population trends;
2) household characteristics including the number of existing households and housing units by tenure; and,

3) housing market analysis including housing costs, rents, vacancy rates, and sales prices;

B. Housing needs assessment that describes;

1) describes existing needs, such as the number of households with a cost burden for housing, living in overcrowded situations, or with special needs, including disabilities, elderly, headed by a female, homeless, and other identified needs, and;

2) identifies the gap between market rate housing costs and incomes, by area median income (AMI).

2)3) identifies the projected needs which shall include the number of new units needed by tenure, type, and cost to meet current needs and to accommodate expected population growth and job generation and a determination of the number of homes to be created through new construction, rehabilitation and preservation;

C. Land use and policy review that includes;

1) a general analysis of land use parcels including zoning, size and existing use, environmental constraints, availability of infrastructure;

2) an evaluation of suitability, availability and realistic development capacity of developable sites, including appropriate zoning for special needs housing, such as multi-family rental, mobile homes, transitional and homeless shelters;

3) identification of constraints, such as land use controls, codes and enforcement, fees and exactions, processing and permit procedures, on/off site improvements, reasonable accommodation, availability of financing, land availability and prices, construction costs, local capacity to assist, finance and manage construction, provide housing support services and administer housing funds and programs;

4) minimum density calculations targeted to affordable housing populations.

D. Goals, policies and quantifiable objectives that include;
1) an estimate of the number and percentage of unit increases, by income levels, to be constructed, rehabilitated or conserved over a set period of time;

2) identification of needed programs and agencies responsible for constructing new housing stock, improving existing housing stock, promoting access and equal opportunity to affordable housing, and increasing the capacity of residents to lower their housing cost burden, build long term equity, stabilize their housing situations through homebuyer training, rental vouchers, assistance to persons with disabilities, and other capacity assistance as deemed appropriate and necessary;

3) plan to promote potential regulatory concessions and incentives for removing or mitigating governmental and non-governmental constraints to development, rehabilitation or conservation of affordable housing;

4) identification of potential sources of federal, state and local financing and subsidies to support affordable housing;

5) a thorough consideration of related issues, such as public participation, job/housing mix, consistency with existing planning and land use policy, protection of ecological resources, promotion of efficient development patterns and green building.

4.2 The Proposed Ordinance:

A. Must be provided to MFA, with other required, documentation, within the period prescribed by the Rules in Section 5.3(B)(1)(a) for submission to MFA prior to the county’s or municipality’s provision of a Housing Assistance Grant or Affordable Housing Funds. Failure to provide said ordinance and documentation to the MFA, or to provide it in a timely fashion, or to act in accordance with the MFA’s determination that an ordinance is invalid under the Act, the State Constitution, and/or any other applicable law, shall automatically invalidate the ordinance and shall render invalid any act taken pursuant to the ordinance.

B. Must authorize the type of contribution, state that the contribution complies with the affordable housing plan or housing elements in the general plan, state the requirements and purpose, and authorize the transfer or disbursement to the Qualifying Grantee only after a budget is submitted to and approved by the governing body of the county or municipality.
C. Household AMI percentages designated by ordinance provisions as qualifying for subsidy may remain the same despite annual changes to the numeric amounts of income attributed to each AMI percentage.

D. May provide for matching or using local, private or federal funds either through direct participation with a federal agency pursuant to federal law or through indirect participation through the MFA.

E. Shall comply with these Rules, as amended.

F. Shall be effective subject to local ordinance requirements for publication and filing.

G. Upon amendment, must be submitted to MFA for review of any and all changes for determination that the amended ordinance remains in compliance with the Act, these Rules, and other applicable law.

H. A county or municipality shall amend its affordable housing ordinance upon and in accordance with a request by MFA for amendment to the ordinance to comply with the requirements of the Act and the Rules. Governmental entities may continue to make lawful donations pending approval of a new ordinance.

I. All donations made pursuant to an affordable housing ordinance must be reported to MFA on an annual basis or pursuant to the requirements of the ordinance for reporting donations to MFA, whichever is the lesser period, in addition to the requirement to report such donations upon MFA’s request.

4.3 A county or municipality must base any transaction conducted under an approved program on a market valuation current at the time of the transaction. MFA may require proof from the county or municipality that the transaction was based on a current market value assessment.

4.4 Any contribution otherwise made in violation of the Act, the Rules, the Constitution, or other applicable law, shall be deemed invalid under the Act.

SECTION 5. GENERAL REQUIREMENTS. With the exception of Housing Assistance Grants of funding from the State, which shall be governed by Section 5.13 below, the following requirements shall apply to all Housing Assistance Grants and Affordable Housing Funds provided by a Governmental Entity and/or the MFA under the Act to a Qualifying Grantee.

5.1 Requests for Proposals. The Governmental Entity and/or the MFA, in its discretion, may issue one or more requests for proposals (“RFP’s”) to solicit applications
(“Applications”) or shall otherwise identify a Qualifying Grantee for the use of any Affordable Housing Funds or Housing Assistance Grants to be awarded, loaned, or otherwise distributed under the Act.

5.2 Applicant Eligibility. The following individuals, and for profit or nonprofit or entities (“Applicants”) are eligible under the Act to apply for Affordable Housing Funds or a Housing Assistance Grant to provide housing or related services to Persons of Low or Moderate Income in their community:

A. All individuals who are qualified to receive assistance pursuant to the Act, and these Rules, and the requirements of any applicable affordable housing ordinance.

A.B. All regional housing authorities, tribal governments, tribal housing agencies, and any governmental housing agencies.

B.C. All for-profit organizations, including any corporation, limited liability company, partnership, joint venture, syndicate, or association or a nonprofit organization is eligible to apply if it is:

1) Organized under state, local, or tribal laws and can provide proof of such organization;

2) Have among its purposes significant activities related to providing housing or services to Persons or Households of Low or Moderate Income;

3) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles;

4) Evidence or certification that it has no significant outstanding or unresolved monitoring findings from the Governmental Entity, MFA, or its most recent independent financial audit; and has not been suspended or debarred by any federal agency or MFA. If the applicant has any outstanding or unresolved monitoring findings, it must have a certified letter from the Governmental Entity, MFA, or auditor stating that the findings are in the process of being resolved.

or,

C.D. Nonprofit organizations are eligible to apply if the following requirements are met:
1) A primary mission of the nonprofit organization must be to provide housing or housing-related services to Persons of Low or Moderate Income; and

2) The non-profit organization must have received its 501(c)(3) designation prior to submitting an Application.

3) The non-profit organization must have no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual.

D. For any non individual applicant to be eligible, it must also:
   (1) Be organized under state, local, or tribal laws and can provide proof of such organization;

   (2) Have a functioning accounting system that is operated in accordance with generally accepted accounting principles or has designated an entity that will maintain such an accounting system consistent with generally accepted accounting principles;

   (3) Have among its purposes significant activities related to providing housing or services to Persons or Households of Low or Moderate Income; and

   (4) Evidence or certification that the applicant has no significant outstanding or unresolved monitoring findings from the Governmental Entity, the MFA, or its most recent independent financial audit, or if it has any such findings, it has a certified letter from the Governmental Entity, the MFA, or auditor stating that the findings are in the process of being resolved.

Any eligible Applicant may, at any time, submit to the Governmental Entity and/or the MFA the information required by Section 5.3(A) sub-paragraphs (4), (5), (6), (8), (9), (10), (11), (12), (13), (14), (15), (16), (17), (20), (21), and (22) of these Rules, as applicable, in order to pre-qualify as a potential Qualifying Grantee. The Governmental Entity and/or the MFA will review the information provided by any eligible Applicant and in its discretion, may certify in writing that the Applicant is a “Potential Qualifying Grantee.” The Governmental Entity shall provide a copy of the certification to the MFA upon its request. The Governmental Entity’s and/or the MFA’s certification shall be valid for up to one (1) year, subject to the ability of the Potential Qualifying Grantee to certify in writing, at the time of any Application or response to any RFP, that there have been no material changes in any of the information or documentation provided by, or representations made by the Potential Qualifying Grantee to the Governmental Entity and/or the MFA and upon which information, documentation, and/or representations the Governmental Entity and/or the MFA has based its decision to certify the Applicant as a Potential Qualifying Grantee. Notwithstanding the foregoing, simply because an Applicant is certified by the Governmental Entity and/or the MFA as a Potential
Qualifying Grantee does not mean that the Potential Qualifying Grantee will be chosen by the Governmental Entity or the MFA as a Qualifying Grantee, or that the MFA will determine that the Potential Qualifying Grantee is a Qualifying Grantee, or that any Application submitted by the Potential Qualifying Grantee is complete or otherwise in compliance with the Act and these Rules or that the Potential Qualifying Grantee will be awarded any Affordable Housing Funds or any Housing Assistance Grants.

5.3 Applications.

A. Application Process for Applying Non-Individual Applicants, and all other Applicants Non-individual entities wishing to apply for a Housing Assistance Grant or Affordable Housing Funds to participate in any Affordable Housing Program are also required to submit to the Governmental Entity and/or the MFA the following, as applicable:

1) One original Application, together with all required schedules, documents, or such other information which may be required by the Governmental Entity and/or the MFA or in any RFP which may have been issued by the Governmental Entity or the MFA, must be included in the completed Application;

2) A proposal describing the nature and scope of the Affordable Housing Project proposed by the Applicant and for which the Applicant is applying for funds or a grant under the Act, and which describes the type and/or amount of assistance which the Applicant proposes to provide to Persons of Low or Moderate Income;

3) Executive Summary & Project Narrative(s) that address the evaluation criteria set forth in any RFP issued by the Governmental Entity or the MFA for the Affordable Housing Funds or the Housing Assistance Grant for which the Applicant is applying;

4) For non-profit organizations, proof of 501(c)(3) tax status;

5) For non-profit organizations, documentation which confirms that no part of its net earnings inures to the benefit of any member, founder, contributor or individual;

6) Current Annual Budget for the Applicant, including all sources and uses of funds not just those related to relevant programs and/or a Current Annual Budget only for the program for which the Applicant is applying for a Housing Assistance Grant, or as otherwise may be required by the Governmental Entity and/or the MFA in its discretion;
7) A proposed budget for the Affordable Housing Project for which the Applicant is applying for Affordable Housing Funds or for a Housing Assistance Grant;

8) For a “for profit” entity, an approved mission statement that has among its purposes significant activities related to providing housing or housing-related services to Persons or Households of Low or Moderate Income;

9) List of current board members, including designated homeless participation, where required by the Governmental Entity and/or the MFA;

10) Current independent financial audit;

11) Evidence (or a certification as may be allowed by the Governmental Entity and/or the MFA) that the Applicant has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or has a designated entity that will maintain such an accounting system consistent with generally accepted accounting principles;

12) Evidence or certification that the Applicant has no significant outstanding or unresolved monitoring findings from the Governmental Entity, the MFA, or its most recent independent financial audit; or if it has any significant outstanding or unresolved monitoring findings from the Governmental Entity, the MFA, or its most recent independent financial audit, it has a certified letter from the Governmental Entity, the MFA, or the auditor stating that the findings are in the process of being resolved;

13) Organizational chart, including job titles and qualifications for the Applicant’s employees or as otherwise may be required by the Governmental Entity and/or the MFA in its discretion. Job descriptions may be submitted as appropriate;

14) Documentation that the Applicant is duly organized in accordance with 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);
15) Certifications as may be required by the Governmental Entity and/or the MFA signed by Chief Executive Officer, Board President or other authorized official of the Applicant;

16) Information as may be required by the Governmental Entity and/or the MFA in order for it to determine the financial and management stability of the Applicant;

17) Information as may be required by the Governmental Entity and/or the MFA in order for it to determine the demonstrated commitment of the Applicant to the community;

18) Applicant shall submit adequate information, as required by the Governmental Entity and/or the MFA, of the Affordable Housing Project proposed by the Applicant. 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;

19) Applicant shall submit information to the Governmental Entity and/or the MFA supporting the benefits to the community of the Affordable Housing Project proposed by the Applicant;

20) The Governmental Entity and/or the MFA 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;

21) Applicant shall provide the Governmental Entity and/or the MFA with any certifications or other proof which it 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;

22) For Applicants who are submitting Applications 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 and/or the MFA:
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.

23) If the Applicant is a Mortgage Lender, the Governmental Entity and/or the MFA 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.

B. Application Process For Individual Applicants: One original Application together with all required schedules, documents, or such other information which may be required by the Governmental Entity and/or MFA must be included in the completed Application;

All Applications, from individual and non-individual Applicants, 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.

B-C. Submission Procedure:

1) Time, Place and Method of Submission Delivery.

   a) If the Governmental Entity has issued an RFP, all Applications must be received by the Governmental Entity no later than whatever deadline has been set forth in the RFP; otherwise, all Applications must be received by the Governmental Entity by whatever deadline the Governmental Entity has established in connection with the respective award or grant. So that any Qualifying Grantees may be selected prior to January of the year in which any Housing Assistance Grant would be made, the Governmental Entity shall issue any RFP’s, solicit any Applications, or otherwise identify any Qualifying Grantees no later than October 15 of any year in order to allow sufficient time for prospective applicants to respond to any such RFP, solicitation, or otherwise, and further to allow the MFA not less than forty-five (45) days in which to review any such Applications or otherwise determine or confirm that an Applicant is a Qualifying Grantee under the Act and consistent with these Rules.

   b) Applications shall be submitted by Applicants to the Governmental Entity or the MFA in the form and by the time as required by the Governmental Entity or the MFA and shall contain all information
which is required by the Act, these Rules, any RFP which may have been issued, and by the Governmental Entity or the MFA.

2) Additional Factors. The Application procedures shall take into consideration:

   a. Timely completion and submission to the Governmental Entity or the MFA of an Affordable Housing Program Application or other appropriate response to any solicitation by the Governmental Entity or the MFA;

   b. Timely submission of all other information and documentation related to the program as required by the Governmental Entity and/or the MFA, or as set forth in these Rules;

   c. Timely payment of any fees required to be paid to the Governmental Entity or the MFA at the time of submission of the Application; and

   d. Compliance with program eligibility requirements as set forth in the Act and these Rules.

3) Submission Format:

   a. Governmental Entity or MFA forms must be used when provided and no substitutions will be accepted; however attachments may be provided as necessary.

   b. An Applicant’s failure to provide or complete any element of an Application, including all requirements of the Governmental Entity or the MFA, or as may be listed on any RFP, may result in the rejection of the Application prior to review.

   c. Illegible information, information inconsistent with other information provided in the application, and/or incomplete forms will be treated as missing information and evaluated accordingly.

   d. The Governmental Entity and/or the MFA reserve the right to request further information from any Applicant so long as the request is done fairly and does not provide any Applicant an undue advantage over another.

   e. The Governmental Entity or the MFA in its discretion may cancel any RFP or reject any or all proposals in whole or part submitted by any Applicant.
f. Neither the Governmental Entity nor the MFA shall be responsible for any expenses incurred by an Applicant in preparing and submitting an Application. However, the Governmental Entity or the MFA, as applicable, may establish and collect fees from Applicants who file Applications. Notice that fees will be charged and the amount of any such fees shall be included by the Governmental Entity or the MFA, as applicable, in any RFP, or otherwise shall be advertised as part of the Application solicitation process.

C.D. Review by the Governmental Entity and/or the MFA. On receipt of an Application, the Governmental Entity and/or the MFA shall:

1) Determine whether the Application submitted by the Applicant is complete and responsive;

2) Determine whether the Applicant is a Qualifying Grantee as defined herein and in the Act;

3) Review and analyze whether the Applicant has shown a demonstrated need for activities to promote and provide affordable housing and related services to Persons of Low or Moderate Income;

4) Determine whether the Applicant has demonstrated experience related to providing housing or services to Persons of Low or Moderate Income, as well as experience and/or the capacity to administer the Affordable Housing Program or Project for which the Applicant has applied;

5) Determine whether the Applicant’s proposal provides a plan for coordinating with other service providers in the community; whether the Applicant’s plan addresses how Low Income or Moderate Income individuals or families in need of housing and/or housing related supportive services can receive supportive services and referrals to federal, state and local resources; and, whether the Applicant’s plan addresses outreach efforts to reach the population to be served as identified by the Governmental Entity and/or the MFA in any RFP or otherwise;

6) Determine whether the Applicant has support from “public service agencies,” or such other support as may be required by the Governmental Entity and/or the MFA in its discretion, for its proposed services in the community. “Public Service Agencies” shall include, but are not limited to, any entities that support Affordable Housing and which believe that the program or project proposed by the Applicant is
worthy and advisable, but which are not involved, either directly or indirectly, in the Affordable Housing Program or Project for which the Applicant is applying;

7) Ascertain the amount of any matching funds or in-kind services specific to the program which may be utilized by the Applicant in connection with the program;

8) Ascertain whether any local, private, or federal funds will be used by the Applicant in connection with the specific grant for which the Applicant is applying;

9) Ascertain whether the Applicant has and can demonstrate the capability to manage the implementation of the program for which the Applicant is applying;

10) If Applicant is a prior recipient of either a Housing Assistance Grant, Affordable Housing Funds and/or other program funds, confirm that the Applicant had no outstanding findings or matters of non-compliance with program requirements from the Governmental Entity or the MFA, as applicable, or if it has any such findings, it has a certified letter from the Governmental Entity, the MFA, or auditor stating that the findings are in the process of being resolved;

11) If Applicant is a prior recipient of either a Housing Assistance Grant, Affordable Housing Funds and/or other program funds, confirm that the Applicant reasonably committed and expended the funds under the prior program and/or met anticipated production levels as set forth in any contract with the Governmental Entity or the MFA, as applicable, for those prior program funds;

12) Evaluate the Applicant’s proposal in part based upon the Applicant’s current financial audit;

13) Evaluate the Applicant’s proposed budget for the project for which the Applicant is applying for Affordable Housing Funds or a Housing Assistance Grant, which proposed budget must be approved by the Governmental Entity and/or the MFA before Applicant can be approved as a Qualifying Grantee and any expenditure of grant funds under the Act or granted property is transferred to the Applicant;

14) On receipt of an Application from a Builder, the Governmental Entity and/or the MFA will analyze the Builder’s ability to construct and sell sufficient Residential Housing units to Persons of Low or Moderate Income within the time or times as may be required by the Governmental Entity.
15) The Governmental Entity and/or the MFA may consider whatever factors it deems appropriate to ensure a reasonable geographic allocation for all Affordable Housing Programs.

5.4 Certification by the Governmental Entity to the MFA.

A. The Governmental Entity upon:

1) Completion of its review of the Application;

2) Determination that the Application is complete;

3) Determination that the requirements of these Rules and the Act have been satisfied; and

4) Determination that the Applicant is a Qualifying Grantee shall so certify in writing to the MFA.

B. Review by the MFA. The MFA upon its receipt of the certification from the Governmental Entity may, in its discretion, review the Application and any of the materials submitted by the Applicant to the Governmental Entity. The MFA may also request any additional information from the Applicant, which it may require in order to determine whether the Applicant is a Qualifying Grantee under the Act and the Application is complete. The MFA will then notify the Governmental Entity of its determination of whether or not the Application is complete and that the requirements of the Act and these Rules have been satisfied and the Applicant is a Qualifying Grantee. Unless the period is extended for good cause shown, the MFA shall act on an Application within forty-five (45) days of its receipt of any Application, which the MFA deems to be complete, and, if not acted upon, the Application shall be deemed to be approved.

5.5 Notification to Applicant. The Governmental Entity and/or the MFA, upon completion of its review of the Application and an evaluation of the criteria for approval of the Application as set forth in the Act, in any applicable ordinance, these Rules and in any RFP issued by the Governmental Entity and/or the MFA and upon its determination that the Applicant is a Qualifying Grantee, and upon its receipt of notification from the MFA that it agrees that the Application is complete and that the Act and these Rules have been satisfied and the Applicant is a Qualifying Grantee, by written notice shall notify each Applicant which has submitted an Application of the approval or disapproval of its Application. Upon approval of its Application, the Applicant shall be considered approved to participate in the Affordable Housing Program. The Governmental Entity’s and/or the MFA’s determination of any Application shall be conclusive.
5.6 Additional Requirements. Upon acceptance, the following additional requirements shall apply to any Applicant, who is a Qualifying Grantee:

A. Contractual Requirements. The Qualifying Grantee shall enter into one or more contracts with the Governmental Entity and/or the MFA, which contract(s) shall be consistent with the Act and subject to the review of the MFA, in its discretion, and which contract(s) shall include remedies and default provisions in the event of the unsatisfactory performance by the Qualifying Grantee;

B. Security Provisions; Collateral Requirements. In accordance with the Act and these Rules, the Governmental Entity and/or the MFA shall require the Qualifying Grantee to execute documents, which will provide adequate security against the loss of public funds or property in the event the Qualifying Grantee abandons or fails to complete the Affordable Housing Project, and which shall further provide, as may be permitted by law, for the recovery of any attorneys’ fees and costs which the Governmental Entity and/or the MFA may incur in enforcing the provisions of these Rules, the Act and/or any agreement entered into by the Governmental Entity and/or the MFA and the Qualifying Grantee, and which documents may include, but are not limited to the following: note, Mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other agreement which the Governmental Entity and/or the MFA may require in order to allow for any funds which the Qualifying Grantee may receive under a Housing Assistance Grant to be adequately secured and to allow the Governmental Entity and/or the MFA to ensure that such funds shall be utilized by the Qualifying Grantee in accordance with the Act and these Rules;

C. Performance Schedule and Criteria. The Qualifying Grantee shall be required to abide by a reasonable performance schedule and performance criteria which the Governmental Entity and/or the MFA, in its discretion, may establish; and

D. Examination of Books and Records. The Qualifying Grantee shall submit to and the Governmental Entity and/or the MFA shall cause to be made such examinations of the books and records of each Qualifying Grantee as the Governmental Entity and/or the MFA deems necessary or appropriate to determine the Qualifying Grantee’s compliance with the terms of the Act, these Rules and any contracts between the Qualifying Grantee and the Governmental Entity and/or the MFA. The Governmental Entity and/or the MFA may require each Qualifying Grantee to pay the costs of any such examination.

E. Cost Reimbursement Contracts:
1) **Cost Reimbursements.** Payment to a Qualifying Grantee under cost reimbursable contract provisions shall be made upon the Governmental Entity’s and/or the MFA’s receipt from the Qualifying Grantee of certified and documented invoices for actual expenditures allowable under the terms of any agreement between the Qualifying Grantee and the Governmental Entity and/or the MFA.

2) **Cost Reimbursements For Units of Service.** Payment under any unit cost contract provisions shall be made upon the Governmental Entity’s and/or the MFA’s receipt from the Qualifying Grantee of a certified and documented invoice showing the number of units of service provided during the billing period.

3) **Rate at which Costs Incurred.** Under unit cost or cost reimbursable contracts, it is anticipated that costs will be incurred by the Qualifying Grantee at an approximate level rate during the term of any agreement between the Qualifying Grantee and the Governmental Entity and/or the MFA. If the Governmental Entity and/or the MFA determine that the Qualifying Grantee is underspending or overspending, then the Governmental Entity and/or the MFA may reduce the budget and/or exercise such other budgetary fiscal controls it deems appropriate.

4) **Invoices.** Qualifying Grantees shall not submit invoices more than once a month, unless written approval is obtained in advance from the Governmental Entity and/or the MFA. Failure to submit invoices within twenty (20) days of the close of the month for which payment is sought may result in the non-availability of funds for reimbursement.

5) **No Dual Application of Costs.** The Qualifying Grantee shall certify that any direct or indirect costs claimed by the Qualifying Grantee will not be allocable to or included as a cost of any other program, project, contract, or activity operated by the Qualifying Grantee and which has not been approved by the Governmental Entity and/or the MFA in advance in writing.

6) **Prohibition of Substitution of Funds.** Any Affordable Housing Funds or other amounts received by Qualifying Grantee may not be used by Qualifying Grantee to replace other amounts made available or designated by State or local governments through appropriations for use for the purposes of the Act.

7) **Cost Allocation.** If required by the Governmental Entity and/or the MFA, the Qualifying Grantee shall clearly identify and distribute all costs incurred pertaining to the Affordable Housing Project by a methodology and cost allocation plan at times and in a manner prescribed by, or acceptable to the Governmental Entity and/or the MFA.
F. **Additional Information.** Qualifying Grantees shall provide the Governmental Entity and/or the MFA with any and all information which the Governmental Entity and/or the MFA reasonably may require in order for it to confirm that the Qualifying Grantees continue to satisfy the requirements of the Act and these Rules throughout the term of any contract and/or any Affordability Period (defined below) or otherwise as may be required by the Governmental Entity and/or the MFA in its discretion. At a minimum, on an annual basis, the Governmental Entity shall certify to the MFA in writing that the Qualifying Grantee is still in compliance with the Act and these Rules.

5.7 **Affordable Housing Requirements.** All Affordable Housing Funds or Housing Assistance Grants awarded under the Act are to be used by Qualifying Grantees for the benefit of Persons of Low or Moderate Income subject to the provisions of the Act and with particular regard to their to their housing related needs.

A. **Single Family Property.** Qualifying Grantees shall agree that they shall maintain any single-family property which has been acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or which property has otherwise benefited from Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, as Affordable Housing for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period (defined below), whichever is longer.

B. **Multi-Family Property.**

1) **Single Apartment within a Multi-Family Property.** Qualifying Grantees shall agree that, if any single apartments are to be rehabilitated, weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable Housing Funds, those apartments shall be leased to Persons of Low or Moderate Income at the time of any such award. Qualifying Grantees, who are the landlords and/or owners of such properties, shall further agree to set aside a percentage of units for Persons of Low or Moderate Income, which shall be in direct proportion to the amount of subsidy provided as a percentage contribute at least sixty percent (60%) of the total cost of the rehabilitation, weatherization, conversion, lease, repair, and/or construction. Qualifying Grantees also shall agree that the Persons of Low or Moderate Income, who are tenants of those apartments, shall be allowed to remain tenants for so long as there are no unsecured defaults by those tenants under their respective leases and provided that there is no just cause for the landlord to terminate any lease agreement with those tenants.
2) **Multiple Apartments.** Qualifying Grantees shall agree that, if multiple apartments or an entire multi-family property are to be acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or otherwise are to benefit from Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, they shall maintain as Affordable Housing a percentage of units set aside for Persons of Low or Moderate Income, that is in direct proportion to the amount of subsidy provided as a percentage of total cost, not less than sixty percent (60%) of the. These set aside housing units shall be maintained as Affordable Housing for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, whichever is longer.

C. **Non-Residential Property.** Qualifying Grantees shall agree that they shall maintain any non-residential property which has been acquired, rehabilitated, weatherized, converted, leased, repaired, constructed, or which property has otherwise benefited from Affordable Housing Funds, including but not limited to any loans which have been repaid with Affordable Housing Funds and which loans previously were secured by such properties, as a facility which provides housing related services to Persons of Low or Moderate Income for so long as any or all of the Affordable Housing Funds which have been awarded, loaned, or otherwise conveyed to the Qualifying Grantee are unpaid and outstanding or the Affordability Period, whichever is longer.

D. **Housing Assistance Grant Affordability Requirements.** Qualifying Grantees shall agree that they shall maintain any land or buildings received as a Housing Assistance Grant either as either single-family or multi-family Affordable Housing in accordance with paragraphs A and B of this Section 45.6 or as a facility which provides housing related-services to Persons of Low or Moderate Income in accordance with paragraph C of this Section 45.6 (as applicable) for the duration of the Affordability Period. Qualifying Grantees shall agree that they shall maintain any land or buildings for which they have received the costs of acquisition, development, construction, financing, operating, or owning as a Housing Assistance Grant either as either single-family or multi-family Affordable Housing or as a facility which provides housing related-services to Persons of Low or Moderate Income (as applicable) for the duration of the Affordability Period. In calculating the Affordability Period for Housing Assistance Grants of either land or buildings, or the costs of acquisition, development, construction, financing, operating or owning land or buildings, or the costs of Infrastructure at the time of the donation by the state, county or municipality shall apply.

E. **Affordability Period Defined.** If the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds which have
been awarded, loaned, donated, or otherwise conveyed to the Qualifying Grantee is from $1 to $14,999, then the Affordability Period shall be not less than five (5) years. If the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds is from $15,000 up to and including $40,000, then the Affordability Period shall be not less than ten (10) years. If the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds is from $40,000 up to and including $100,000, then the Affordability Period shall be not less than fifteen (15) years. If the fair market value of any Housing Assistance Grant or the total amount of Affordable Housing Funds is greater than $100,000, then the Affordability Period shall be not less than twenty (20) years. The Governmental Entity and/or the MFA, in its discretion, may increase the Affordability Period in any contract, note, mortgage, loan agreement, land use restriction agreement, restrictive covenant agreements and/or any other agreement which the Governmental Entity and/or the MFA may enter into with any Qualifying Grantee or beneficiary of the Affordable Housing Funds or of the Housing Assistance Grant. Notwithstanding the foregoing, in the discretion of the MFA, Weatherization Funds conveyed from the State to the MFA and/or any other similar conveyances where an Affordability Period is not practical, shall not be subject to the Affordability Period requirements of this Section; but nevertheless, any such conveyances may be subject to recapture on some pro-rated basis as determined by the Governmental Entity and/or the MFA.

5.8 Consent to Jurisdiction. Each Qualifying Grantee shall consent to the jurisdiction of the courts of the State of New Mexico over any proceeding to enforce compliance with the terms of the Act, these Rules and any agreement between the Qualifying Grantee and the Governmental Entity and/or the MFA.

5.9 Recertification. The Qualifying Grantee must meet the requirements of the Act and these Rules and any applicable ordinance both at the time of any award and throughout the term of any grant and contract related thereto. The Governmental Entity and/or the MFA may establish procedures for recertifying Qualifying Grantees from time to time. Qualifying Grantees which fail to satisfy the requirements for recertification shall cease to be eligible and shall be denied further participation in Affordable Housing programs until the requirements of the Governmental Entity and/or the MFA are satisfied.

5.10 Compliance with the Law. Qualifying Grantee shall provide the Governmental Entity and/or the MFA with any certifications or other proof which it may require in order for the Governmental Entity and/or the MFA to confirm that the Qualifying Grantee and the Qualifying Grantee’s proposed project are in compliance with all applicable federal, state and local laws, rules and ordinances.
5.11 **Extension of Affordable Housing Programs.** The MFA shall have the power to create variations or extensions of such Affordable Housing programs, or additional programs which comply with the Act and these Rules.

5.12 **The Governmental Entity and/or the MFA:**

A. May hold any award of Affordable Housing Funds or any Housing Assistance Grant made by any county or municipality in suspense pending the issuance by the Governmental Entity and/or the MFA of any RFP, or pending the award of the Affordable Housing Funds or of the Housing Assistance Grant by the Governmental Entity and/or the MFA to the Qualifying Grantee without the issuance of an RFP by the Governmental Entity and/or the MFA.

B. Shall have oversight over the Qualifying Grantee under these Rules, upon the Qualifying Grantee’s receipt of Affordable Housing Funds or a Housing Assistance Grant.

5.13 **School District and Post-Secondary Educational Institution Grant Requirements.** If a school district or a post-secondary educational institution intends to make a Housing Assistance Grant, then it shall provide the MFA with a written certification that the proposed grantee is in compliance with the Act and these Rules so that the MFA may confirm that the Application is complete and the proposed grantee is a Qualifying Grantee under the Act and these Rules. Any transfer of land by a school district to a county or municipality to be further granted as part or all of an Affordable Housing grant shall be subject to the additional limitations contained in the Act that the school district and the governing body of the county or municipality enter into a contract that provides the school district with a negotiated number of affordable housing units that will be reserved for employees of the school district. Any transfer of land by a post-secondary educational institution shall be subject to the additional limitations contained in the Act that (1) the property transferred shall be granted by the county, municipality or tribal government as part or all of an Affordable Housing grant; and (2) the governing board of the post-secondary educational institution and the governing body of the county, municipality or tribal government enter into a contract that provides the post-secondary educational institution with Affordable Housing units. As used in this Section, “post-secondary educational institution” means a state university or a public community college. The Governmental Entity and/or the MFA, in their discretion, may also hold any Housing Assistance Grant made by any school district or post-secondary educational institution in suspense pending the issuance by the Governmental Entity and/or the MFA of any RFP or pending the award of the Housing Assistance Grant by the Governmental Entity and/or the MFA to the Qualifying Grantee without the issuance of an RFP by the Governmental Entity and/or the MFA. Any award of a Housing Assistance Grant by a school district or a post-secondary educational institution shall subject the Qualifying Grantee of the grant to the oversight of the Governmental Entity and/or the MFA under these Rules.
5.14 Housing Assistance Grants From the State. All Housing Assistance Grants from the State pursuant to the Act shall be appropriated to the Department of Finance and Administration for disbursement by the MFA to a Qualifying Grantee through use of a contract consistent with the provisos in the State appropriation and these Rules.

SECTION 6. DISCRIMINATION PROHIBITED. The development, construction, occupancy and operation of an Affordable Housing Program or an Affordable Housing Project financed or assisted under the Act shall be undertaken in a manner consistent with principles of non-discrimination and equal opportunity, and the Governmental Entity and/or the MFA shall require compliance by all Qualifying Grantees with all applicable federal and State laws and regulations relating to affirmative action, non-discrimination and equal opportunity.

SECTION 7. ADMINISTRATION. The Governmental Entity and/or the MFA shall administer any Affordable Housing programs in accordance with provisions of the Act, these Rules, any applicable state and federal laws and regulations as each of which may be amended or supplemented from time to time. The Governmental Entity and/or the MFA, in establishing, funding and administering the Affordable Housing Programs and by making, executing, delivering and performing any award, contract, grant or any other activity or transaction contemplated by the Act, shall not violate any provision of law, rule or regulation or any decree, writ, order, injunction, judgment, determination or award and will not contravene the provisions of or otherwise cause a default under any of its agreements, indentures, or other instruments to which it may be bound.

SECTION 8. IN THE EVENT OF DEFAULT. In the event that a Qualifying Grantee defaults on a contractual obligation for a subsidized affordable housing project, or abandons or otherwise fails to complete an affordable housing project, for which the Governmental Entity has donated land or funds to purchase the land, a Governmental Entity shall act in the manner set forth below to ensure the property’s timely sale and recovery of the public funds invested in the project.

A. The Governmental Entity must ascertain that the title to the property has been transferred to the Governmental Entity through a foreclosure sale, a transfer of title by deed in lieu of foreclosure or any other manner.

B. If the Governmental Entity has or will acquire title, then it must determine if, under the contractually imposed affordability restrictions requiring long-term occupancy by Persons of Low or Moderate Income, the property is or is not marketable for a price that would sufficiently recover the investment of public funds.

A.–C. If the determination is that the property cannot be sold under the affordability restrictions for a price that would recover the investment of public funds in the property, then the Governmental Entity shall obtain a written appraisal of the fair market value of the project, without the affordability restrictions, that is current to the time the project is put up for sale.
C. The Governmental Entity shall thereafter, prior to the sale of the project, request MFA review and approval of the determination to release the affordability restrictions on the property to effect a sale. The Governmental Entity must provide MFA with a certification that its determination to sell the affordable housing project without the affordability restrictions was made pursuant to the requirements of this Section of these Rules.

E. Following receipt of MFA approval of the determination to release the affordability restrictions to effect a sale, the Governmental Entity may release the affordability restrictions upon sale of the project at a fair market value current to the time of the sale.

F. Exercise reasonable efforts to ensure that all proceeds from the sale of a property pursuant to this section are used solely for purposes pursuant to the Affordable Housing Act and that the Qualifying Grantee that held title to the property shall not benefit from the sale of the property or from the transfer of the affordable housing project.

SECTION 89. ENFORCEMENT. The New Mexico Attorney General’s Office is the State agency responsible for enforcing compliance with the requirements of the Act and these Rules. Noncompliance by any entity whose actions fall within the jurisdiction of the Act and these Rules will be reported by the MFA to the Attorney General’s Office for investigation. The Attorney General’s Office will investigate an alleged violation of the Act reported by the Authority, and based on a reasonable belief that a violation of the Act has occurred, may bring a civil action and/or pursue criminal charges against the alleged violator. Civil penalties for a judicial finding of a violation of the Act shall not exceed the amount of five thousand dollars ($5,000) per violation, in addition to any equitable relief imposed by the court.

SECTION 910. MISCELLANEOUS. Capitalized terms not otherwise defined in these Rules and Regulations have the same meaning as defined in the Act.

SECTION 110. AMENDMENT TO RULES AND REGULATIONS. These Rules may be amended or supplemented by the MFA at any time. With regard to any amended or supplemental rules under this Section, the MFA shall seek comment from the Oversight Committee, provide a public hearing in accordance with the State Administrative Procedures Act, and require concurrence in any rule having application to local government by both the New Mexico municipal league and the New Mexico Association of Counties, all as required by the Act.

Adopted by the MFA’s Board: October 17, 2007 and as amended on December 16, 2015 (pending).
Tab 5
MEMORANDUM

TO: MFA Board of Directors

FROM: Jay Czar, Executive Director

DATE: December 16, 2015

SUBJECT: Amendment to 2016 Low Income Housing Tax Credit Qualified Allocation Plan

Recommendation:
Approve the amended 2016 Qualified Allocation Plan (QAP) to reduce the fees MFA may charge to those allowed in the 2015 QAP.

Background:
After the 2016 QAP was approved by the MFA Board on October 21, 2015, it was determined that the increase in fees should be reconsidered. After discussions with interested parties, it is recommended that fees in the 2016 QAP be changed to those allowed in the 2015 QAP. Fee increases will be further analyzed in preparation for the next QAP cycle.

The attached copy of the revised 2016 Board approved QAP shows in redline the proposed changes recommended. In summary those changes are:

1. Application Fee: Reduced from $3,500 to $500 for nonprofit/governmental entity; $1,000 for profits (same as 2015) (page 31)
2. Processing Fee: (page 32)
   a. 9% Credits reduced from 8% to 7.5% of Allocation (same as 2015)
   b. Projects Financed with Tax Exempt Bonds: reduced form 5.5% to 3.5% of Allocation on (same as 2015)
3. Extension Fee: Reduced from $1,000 to $500 (same as 2015) (page 33)

There were no other fees changes from 2015.

Summary:
Staff recommends approval of the amended 2016 QAP, which reduces the fees MFA may charge to those allowed in the 2015 Qualified Allocation Plan.
STATE OF NEW MEXICO
HOUSING TAX CREDIT PROGRAM

QUALIFIED ALLOCATION PLAN

Effective as of January 1, 2016

[Proposed for Board Approval 12.16.15]

NEW MEXICO MORTGAGE FINANCE AUTHORITY
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I. BACKGROUND AND PURPOSE OF THE QUALIFIED ALLOCATION PLAN

A. GENERAL

The Low Income Housing Tax Credit ("LIHTC", "Credits", or "Tax Credit") Program was created in the Tax Reform Act of 1986 as an incentive for individuals and corporations to invest in the construction or rehabilitation of low income housing. The Tax Credit provides the investor a dollar-for-dollar reduction in personal or corporate federal income tax liability for a 10-year period for Projects meeting the Program’s requirements.

New Mexico Mortgage Finance Authority ("MFA") is the Housing Credit Agency ("HCA") for the State of New Mexico, responsible for administering the Tax Credit Program and allocating Tax Credits to eligible New Mexico Projects.\(^1\) Accordingly, MFA awards Tax Credits to Projects meeting its Project Selection Criteria, including an annual population allocation, any subsequent carry-forward, returned Credits, and national pool Credits. MFA monitors existing Projects for compliance with the Section 42 of the Internal Revenue Code of 1986, as amended ("Section 42 of the Code"\(^2\)). However, MFA does not make any representation to any party concerning compliance with Section 42 of the Code, Treasury Regulations or other laws or regulations governing Low Income Housing Tax Credits. Neither MFA, nor its agents or employees will be liable for any matters arising out of, or in relation to, the allocation of Low Income Housing Tax Credits. All organizations and individuals intending to utilize the LIHTC Program should consult their own tax advisors concerning the application of Tax Credits to their Projects, and the effect of Tax Credits on their federal income taxes.

The federal laws governing the Tax Credit Program are subject to change. Final interpretations of certain rules and regulations governing the Program may not yet have been issued by the U.S. Department of Treasury. In the event that any portion of this Qualified Allocation Plan ("QAP") should conflict with Section 42 of the Code, amendments made thereto, or federal regulation promulgated thereunder, the federal regulation shall take precedence. If any portion of this QAP is invalid due to such conflict, the validity of the remaining portions will in no way be impacted, affected or prejudiced.

Administration of the Tax Credit Program, as outlined in this Qualified Allocation Plan, is consistent with the statutes creating MFA in 1975 [Chapter 303, Laws of New Mexico, 1975, known and cited as the New Mexico Mortgage Finance Authority Act, being Sections 58-18-1 through 58-18-27, inclusive], as supplemented in 1995, as follows:

The legislature hereby finds and declares that there exists in the state of New Mexico a serious shortage of decent, safe and sanitary residential housing

\(^1\) Additional capitalized terms are defined in Section XI, the Glossary.
\(^2\) Section 42 of the Code is found in the United States Code in Title 26, Subtitle A, Chapter 1, Subchapter A, Part 4, Subpart D, at Section 42 (26 U.S.C. § 42).
available at prices and rentals within the financial means of persons and families of low income. This shortage is severe in certain urban areas of the state, is especially critical in the rural areas and is inimical to the health, safety, welfare and prosperity of all residents of the state. The legislature hereby further finds and determines that to aid in remedying these conditions and to help alleviate the shortage of adequate housing, a public body politic and corporate, separate and apart from the state, constituting a governmental instrumentality, to be known as the New Mexico Mortgage Finance Authority should be created with power to raise funds from private investors in order to make such private funds available to finance the acquisition, construction, rehabilitation and improvement of residential housing for persons and families of low income within the state. The legislature hereby finds and declares further that in accomplishing this purpose, the New Mexico Mortgage Finance Authority is acting in all respects for the benefit of the people of the state in the performance of essential public functions and is serving a valid public purpose in improving and otherwise promoting their health, welfare and prosperity, and that the enactment of the provisions hereinafter set forth is for a valid public purpose and is hereby so declared to be such as a matter of express legislative determination.

One of the obligations of the HCA is to prepare a Qualified Allocation Plan for allocating Tax Credits. Code Section 42(m) states that the HCA must make allocations of Tax Credits pursuant to a Qualified Allocation Plan which:

1. Sets forth Project Selection Criteria to be used to determine housing priorities of the Housing Credit Agency, which are appropriate to local conditions. These criteria must consider Project location, housing needs characteristics, Project characteristics, sponsor characteristics, participation of local tax-exempt organizations, public housing waiting lists, tenants with special housing needs including individuals with children, energy efficiency standards, historic character and Projects intended for eventual tenant ownership.

2. Gives preference in allocating housing credit dollar amounts among selected Projects to those which:
   a) Serve the lowest income tenants;
   b) Serve qualified tenants for extended periods of time; and
   c) Are located in Qualified Census Tracts and the development of which contributes to a Concerted Community Revitalization Plan.

3. Provides a procedure that the agency will use in monitoring for noncompliance.

This document is intended to fulfill requirements 1 and 2 above for the MFA’s Tax Credit allocation activity in the State of New Mexico, commencing on its effective date. The procedure
required in item 3 above is summarized in Section X but published in full under a separate cover.

B. PUBLIC HEARINGS

Following public notice, a draft Qualified Allocation Plan will be available to the public for comment for a period of thirty (30) days, during which time public hearing(s) will be held. MFA will accept written comments during this thirty-day period and will consider any comments presented at the public hearing, prior to completion of the plan.

II. LOW INCOME HOUSING TAX CREDIT PROGRAM SUMMARY

A. GENERAL

The Tax Reform Act of 1986 established the Tax Credit Program to stimulate private sector investment in low income rental housing. In August of 1993, permanency was granted to the Tax Credit Program after numerous temporary annual extensions.

There are numerous technical rules governing a Project’s qualification for Tax Credits. The following is a summary of certain key provisions of Section 42 of the Code and regulations, and the Tax Credit Program. Applicants are advised to review Section 42 of the Code directly for further detail, since this overview does not address all of the provisions. Capitalized terms, when not defined in the text of this document, are defined in Section XI or in Section 42 of the Code.

B. AMOUNT OF TAX CREDIT AVAILABLE STATEWIDE

The State of New Mexico, for the calendar year 2016, will receive a population based Tax Credit allocation equal to $2.35 (indexed for inflation) per resident. The current year’s population estimates, as provided by the Internal Revenue Service, and the estimated Annual Credit Ceiling, including any carry-forward, returned or national pool Credits received by the State, may be found on the MFA web site.

C. NONPROFIT ALLOCATION SET ASIDE

A minimum of 10 percent of the Annual Credit Ceiling must be allocated each year to Projects involving Qualified Nonprofit Organizations. MFA’s Allocation Set Asides (see Section III.D) are intended to implement this requirement. However, Qualified Nonprofit Organizations may also apply for Tax Credits in excess of these Set Asides.

For the purposes of identifying Applicants eligible for this Allocation Set Aside, several requirements must be met, as described in Code Section 42(h)(5). A Qualified Nonprofit Organization is an organization described in Sections 501(c)(3) or 501(c)(4) of the IRS Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives, or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous, and substantial basis in both the
development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization.

D. **MINIMUM APARTMENT UNIT SET ASIDES**

In order for a Project to qualify for Tax Credits, the Project Owner must rent at least 20 percent of the Units in the Project to households with incomes at or below 50 percent of the Area Gross Median Income (20/50 Election), or at least 40 percent of the Units to households with incomes at or below 60 percent of the Area Gross Median Income (40/60 Election).

*Only Low Income Units as determined by the Project’s Set Aside Election are eligible for Tax Credits. For example, if the 20/50 Election is chosen, only Units that are rent restricted and set aside for tenants whose income does not exceed 50 percent of Area Gross Median Income are qualified as Low Income Units. If the 20/50 Election is chosen, Units with income and rent limits above 50 percent of Area Gross Median Income are not eligible for Tax Credits.*

The Set Aside Election must be made at the time the Application is submitted to MFA. Once an Application has been submitted to MFA, the Set Aside Election cannot change.

E. **RENT AND INCOME RESTRICTIONS**

Set Aside Units must only be rented to households meeting certain income restrictions. Furthermore, rents charged for Set Aside Units may not exceed 30 percent of the applicable income limit(s) designated by the Applicant. Gross rent limits provided annually by HUD (found on MFA’s web site) must be reduced by a utility allowance that accurately reflects the cost of tenant-paid utilities by unit size. MFA’s Land Use Restriction Agreement prohibits collection of Section 8 or other rent subsidy payments which, when added to the tenant payments, would exceed the Tax Credit Ceiling Rents, except in Projects with project-based subsidies when the program governing the project-based subsidy allows higher rents. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA Tax Credit Monitoring and Compliance Plan, which is issued under a separate cover and summarized in Section X.

F. **GENERAL PUBLIC USE**

Generally, all Units, including Set Aside Units, must be made available to the general public under an initial lease term of at least 6 months. However, exceptions are made for single room occupancy and transitional homeless facilities.

Under Treasury Regulation Section 1.42-9(b), if a residential Unit is provided only for a member of a social organization or provided by an employer for its employees, the Unit is not for use by the general public and is not eligible for Tax Credit under Section 42 of the Code. However, as clarified in Section 42(g)(9) of the Code, a qualified low-income Project does not fail to meet the general public use requirement solely because of occupancy restrictions or preferences that favor tenants (1) with special needs, (2) who are members of a specified group under a Federal
program or State program or policy that supports housing for such a specified group, or (3) who are involved in artistic or literary activities. Any Unit that is part of a hospital, nursing home, sanitarium, life care facility, retirement home providing significant services other than housing is not for use by the general public.

Units set aside for Project employees (property managers, maintenance staff, etc.) for which rent is collected will be considered unavailable to the general public and, thus, will be treated as Market Rate Units. Units set aside for Project employees for which rent is not collected will be treated as common area.

Projects may set aside or otherwise have a preference for military veterans that have served in the armed force of the United States and MFA encourages all projects to develop marketing plans that involve outreach and marketing of units to veterans.

G. ELIGIBLE PROJECTS

The Tax Credit Program is intended for rental housing. Projects may include transitional housing for the homeless, Single Room Occupancy (“SRO”) Projects, senior and other special needs Projects. Dormitories, “trailer parks” and transient housing (e.g. emergency shelters for homeless persons and families) are ineligible. Proposed Projects must be eligible for an allocation of Credits under Section 42 of the Code.

H. SCATTERED-SITE PROJECTS

Projects that would otherwise qualify as a project for the purposes of Section 42 of the Code but for their lack of proximity may nonetheless be eligible for Tax Credits provided they meet the following criteria:

1. All building are located within the same County;
2. Units are similarly constructed;
3. All buildings are owned by the same person or entity for federal tax purposes;
4. All buildings are financed pursuant to a common financing plan; and
5. All of the Units (except employee units treated as common space) are Low Income Units.

Generally, each site of a scattered-site Project must have a community space adequate for the provision of services and services must be delivered at each site in order for the Project to be eligible for points for Projects in Which Units are Reserved for Households with Special Needs, Projects Reserved for Senior Households, Projects in which 25 Percent of All Units are Reserved for Households with Children, and Resident Financial Literacy Training. However, if one of the Project sites does not have adequate community space for the provision of services, services may be provided for residents at another Project site so long as the following conditions are met: (1) the Project sites are located with ¼ of a mile of each other and connected by an ADA accessible route, (2) the Application demonstrates, to the sole satisfaction of MFA, how the needs of persons with disabilities who do not have access to on-
site services will be met, and (3) sufficient community space for the provision of services is available for all residents of the Project.

I. PROJECTS INVOLVING BOTH REHABILITATION OF EXISTING UNITS AND THE CONSTRUCTION OF NEW UNITS.

In accordance with the provisions of this QAP, Projects may combine the rehabilitation of existing residential units with the construction of new residential units. Applications for combined rehabilitation and new construction Projects, however, must submit additional application materials as provided for in Project Selection Criterion 5, Rehabilitation Projects (i.e. Separate Schedules A and D must be provided for each activity as well as for the entire Project). Each activity (rehabilitation or new construction) will be evaluated separately, as if each were a separate Project, in regards to 2016 MFA Mandatory Design Standards for Multifamily Rental Housing and Cost Limits provided in Section IV.C.2.

J. COMPLIANCE PERIOD

The initial Compliance Period is 15 years. An Extended Use Period also applies to the Project for a minimum of 15 additional years following the expiration of the initial Compliance Period, during which time transfers and tenant dislocation are limited. The Project Owner shall not sell, assign, convey, transfer or otherwise dispose of the Project or any building in the Project without the prior written consent of MFA during the Extended Use Period. By agreeing to an Extended Use Period, the Project Owner and its successors and assigns agree to maintain the Project as a Qualified Low Income Housing Project (as defined in Section 42(g) of the Code) for the entire Extended Use Period. During the Extended Use Period the Project Owner is prohibited from evicting or terminating tenancy of an existing tenant of any Low Income Unit other than for good cause and/or increasing the gross rent with respect to a Low Income Unit not otherwise permitted by Section 42 of the Code, as applicable throughout the entire commitment period. The Project Owner will not have the right to require the MFA to present a “qualified contract” in accordance with Code Section 42(h)(6), the Extended Use Period will not be terminated for any reason other than foreclosure (or instrument in lieu of foreclosure), and existing Low Income Tenants will not be evicted or charged rents in excess of Tax Credit Rents for a period of three years after the Extended Use Period. Failure to comply with Set Asides, or any reduction in the number or floor space of the Set Aside Units during the Compliance Period, will result in recapture, with non-deductible interest, of at least a portion of the Tax Credits taken previously. MFA will notify the IRS if it learns of any noncompliance. The Project Owner must also make tenant income determinations and file an annual compliance statement with MFA.

K. COMPLIANCE MONITORING

As of January 1, 1992 the IRS required each HCA to write and implement a Monitoring and Compliance Plan (summarized in Section X). MFA’s plan includes a combination of Project
Owner’s certification of continued compliance and regular property visits for all completed Tax Credit Projects. During the property visit, MFA will conduct a compliance audit and a physical inspection. The IRS has provided substantial penalties, including recapture of the Tax Credits plus interest, for non-compliance with the policies and procedures set forth in Section 42 of the Code and MFA’s Tax Credit Monitoring and Compliance Plan. Monitoring and compliance fees described in Section IV.B will be assessed for each year of the Extended Use Period. The fees will be billed annually in December/January for the subsequent year and will be due no later than January 31. Owners of new Tax Credit Projects will be given the option to pay the initial 15 years of monitoring and compliance fees at the time of Final Allocation Application. Failure to pay monitoring and compliance fees within the time frame specified in the invoice will result in MFA’s filing of a “Notice of Noncompliance” (IRS Form 8823) with the IRS and the Principal(s) will be deemed ineligible for additional funding from MFA, including Tax Credit, for any Projects while the fees remain outstanding.

L. ELIGIBLE BASIS ACCORDING TO TYPE OF ACTIVITY

The “Eligible Basis” is generally the same as a Project's adjusted depreciable basis for tax purposes. Fees or points charged to obtain long-term financing, syndication costs and fees, and marketing expenses are not included in Eligible Basis. These ineligible fees, costs, and expenses include credit enhancement, credit origination fees, bond issuance costs, reserves for replacement, start-up costs and future operating expenses. Costs related to the acquisition of land, costs attributable to any commercial portion of the property, and costs attributable to non-Set Aside Units that are above the average quality of the Set Aside Units in the Project are also ineligible. Additionally, Federal Grants shall not be included in a Project’s Eligible Basis in accordance with Section 42 of the Code.

The Eligible Basis attributable to new construction or rehabilitation costs for a Project that scores at least 10 points under Projects that Benefit the Environment, that has units set-aside for Seniors Households, Households with Children, or Households with Special Needs, and that is not financed with Tax Exempt Bonds may, in MFA’s sole discretion based upon a Project’s financial need, be increased by up to 30 percent for the purpose of calculating Tax Credits. The Eligible Basis attributable to new construction or rehabilitation costs for a Tax Exempt Bond Financed Project may be increased by up to 30 percent for the purpose of calculating Tax Credits only if the Project is located in a HUD-designated Qualified Census Tract or a HUD-designated Difficult Development Area. In no case will a Project’s Eligible Basis attributable to the acquisition of an existing building be increased.

M. TEN-YEAR RULE

In order for the acquisition of an existing building to qualify for Tax Credits, the taxpayer must adhere to the “Ten-Year Rule,” meaning that the Project Owner must acquire the building from an unrelated person who has held the building for at least ten years. The 10-year requirement shall not apply to Federally-Assisted Buildings and State-Assisted Buildings. In addition, the Secretary of the Treasury can waive the 10-year “Placed in Service” limitation for buildings acquired from a federally insured depository institution that are in default, as defined by Section
3 of the Federal Deposit Insurance Act, or from a receiver or conservator of such an institution. Please refer to Section 42(d) of the Code for exceptions to the Ten-Year Rule.

**N. FEDERAL GRANTS AND FEDERAL SUBSIDY**

The Eligible Basis of any Project shall not include costs financed with a Federal Grant. Many federal operating and rental assistance funds are excluded from this provision, as are Native American Housing Self Determination Act (“NAHSDA”) funds. Please refer to Section 1.42-16(b) of the Treasury regulations for a complete list of federal assistance waived from this provision. For the purpose of determining a Project’s Applicable Credit Percentage, Federal Subsidy means any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes. The most common form of Federal Subsidy is Tax-Exempt Bond Financing. Tax-Exempt Bond Financing does not require a reduction in Eligible Basis provided that the Tax-Exempt Bond Financing is greater than fifty percent of the aggregate basis of the land and building(s).

**O. QUALIFIED BASIS ACCORDING TO TYPE OF PROJECT**

The “Qualified Basis” is that portion of the Eligible Basis attributable to Low Income Units. It is calculated as the smaller of the percentage of Low Income Units in the building, or the percentage of floor space devoted to Low Income Units in a building.

**P. PLACED IN SERVICE REQUIREMENT**

The 10-year Credit Period, 15-year Compliance Period, and Extended Use Period begin with the taxable year in which the building is “Placed in Service” (the time at which a building is “suitable for occupancy,” which generally refers to the date of the issuance of the first certificate of occupancy for each building in the Project), or, at the Project Owner’s election, the following taxable year.

Section 42(h)(1)(E) of the IRS Code allows for the allocation or Carryover Allocation of Tax Credits to a building that is part of a new construction or rehabilitation Project, with the limitations described in Section 42(h)(1)(E), if an Applicant’s qualified expenditures, or actual basis in the Project, as of the date which is one year after the date that the allocation was made, is more than 10 percent of the taxpayer’s reasonably expected total basis in the Project as of the close of the second calendar year following the calendar year in which the allocation was made. MFA requires evidence of ownership and submission of a complete Carryover Allocation Application by November 15th of the year in which the Tax Credit award was made, and evidence of the expenditure of more than 10 percent of the expected basis in the Project by August 31 of the following year. A Cost Certification detailing the qualified expenditures, or actual basis, that make up 10 percent of the reasonably expected basis and a description of the

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3 November 15th is defined in the Glossary.
4 If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.
Applicant’s method of accounting must be prepared by a Certified Public Accountant and submitted to MFA at that time. If the complete Carryover Allocation Application, the Certified Public Accountant’s Cost Certification, the Attorney’s Opinion regarding the qualification of the Project for Tax Credits, and any other required materials are not received on the applicable dates noted herein by 5:00 P.M., the Project’s Credit Reservation may be canceled. Section 42(h)(1)(E) further allows for a qualified building to be Placed in Service in either of the two calendar years following the calendar year in which the allocation is made. This paragraph does not apply to Tax Exempt Bond Financed Projects.

Q. BUILDING CLASSIFICATION AND TAX CREDIT APPLICABLE PERCENTAGES

The Tax Credit’s Applicable Credit Percentage (i.e., the “4 Percent” or “9 Percent” Credits for which a Project is eligible) is determined by the type of Project proposed, its use of Federal Subsidy or Federal Grants, and the amount of Credit necessary to reach feasibility and long-term viability. The rates of 4 Percent and 9 Percent are upper limits of available Credits, which fluctuate based on market conditions. The actual “Applicable Credit Percentages” are based on monthly prevailing interest rates that are calculated and published by the U.S. Treasury Department as the “Applicable Federal Rate” or “AFR.” The amount of the annual Tax Credit is calculated to yield a present value of either 30 percent (in the case of 4 Percent Credits) or 70 percent (in the case of 9 Percent Credits) of Qualified Basis, as adjusted by MFA. The Applicable Credit Percentage may be locked in at the Developer’s option, at the sooner of 1) the month in which the building is Placed In Service or 2) the month in which a Binding Commitment (Carryover Allocation) is made for an allocation or, in the case of Tax Exempt Bond Financed Projects, the month the tax exempt obligations are issued. Listed below are types of Projects, which could be considered eligible for the Tax Credits and the Applicable Credit Percentage for each Project type.

1. **New Construction.** New Construction Projects that are not financed by Tax Exempt Bonds are eligible for 9 Percent Credits. Projects financed with Tax Exempt Bonds are eligible for 4 Percent Credits only.

2. **Rehabilitation of an Existing Building.** To qualify for Tax Credits, rehabilitation expenditures includable in Qualified Basis must exceed the greater of 1) at least 20 percent of the Qualified Basis of the building being rehabilitated, or 2) at least $6,000 per Low Income Unit being rehabilitated. For Projects Placed in Service after 2009, the $6,000 will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed in Service in 2013 was $6,400. Rehabilitation Projects that are not financed by Tax Exempt Bonds are eligible for 9 Percent Credits. Projects financed with Tax Exempt Bonds are eligible for 4 Percent Credits only.

3. **Acquisition/Rehabilitation of an Existing Building.** The maximum Applicable Credit Percentage for acquisition of an existing building that will be subsequently rehabilitated is 4 percent. To qualify for Tax Credits for the acquisition, rehabilitation expenditures includable in Qualified Basis must exceed the greater of 1) at least 20 percent of the Qualified Basis of the building being rehabilitated, or 2) at least $6,000 per Low Income
Unit being rehabilitated. For Projects Placed in Service after 2009, the $6,000 per Low Income Unit figure will be indexed for inflation. The minimum rehabilitation expenditures included in Qualified Basis for Projects Placed in Service in 2013 was $6,400. Rehabilitation expenditures associated with acquisition of an existing building can qualify for the 9 Percent Tax Credits as long as the rehabilitation expenditures are not funded with Tax Exempt Bonds. Projects financed with Tax Exempt Bonds are eligible for 4 Percent Credits only.

4. Federal Grant Financed Projects with Reduction in Eligible Basis. In the case of a Project financed with Federal Grants, whether a newly constructed or rehabilitated building, the Project Owner shall exclude the amount of the Federal Grants from Eligible Basis.

III. HOUSING PRIORITIES AND PROJECT SELECTION CRITERIA

A. Needs Analysis

This plan is consistent with the Needs Analysis of the State of New Mexico Consolidated Plan for Housing and Community Development and 2016 Action Plan. Housing priorities stated in the Consolidated Plan include increasing the supply of decent, affordable rental housing, expanding housing opportunities and access for individuals with special needs, expanding the supply of housing and services to assist the homeless, and preserving the State’s existing affordable housing stock.

B. Housing Priorities

The following priorities are to be used by MFA in the distribution of Tax Credits, and are reflected in the Allocation Set Asides and Project Selection Criteria used to rank competitive Projects. These priorities include the following:

1. Levels of affordability in excess of the minimum requirements, through one or more of the following:

   a) Higher numbers of Set Aside Units; and /or

   b) Rents set to serve lower income tenants, for example, tenants earning no more than 40 percent or 30 percent of median income; and/or

   c) Extended Use Periods longer than the 30-year minimum.

2. Provision of affordable housing to households on public housing waiting lists;

3. Maximizing leverage by obtaining other public or private non-equity program resources;
4. An equitable distribution of Tax Credits throughout all parts of the state where affordable housing is needed;

5. Provision of housing to serve documented Senior and Households with Special Needs, tenant populations of Households with Children, Projects intended for eventual tenant ownership, and under-served urban and rural areas;

6. Nonprofit development;

7. Production of housing with high quality design and construction;

8. Production of Projects that are located in Qualified Census Tracts and which Projects contribute to the development of a Concerted Community Revitalization Plan;

9. Provision of housing that is energy efficient or historic in nature; and

10. Efficient use of scarce resources including Tax Credits, measured through lower Development Costs or other means.

C. MINIMUM PROJECT THRESHOLD REQUIREMENTS

All Tax Credit Applications must meet each of the following requirements, in addition to the eligibility requirements of Section 42 of the Code. MFA will use the deficiency correction process as described in Section IV.C.5 to allow Applicants to correct deficiencies related to Site Control, Zoning, and Fees (requirements 1-3 below). All other threshold requirements are not correctable and Initial Applications not meeting those requirements will be rejected. Applications not meeting Site Control, Zoning, and Fee requirements will be rejected if they are not corrected within the time period allowed in Section IV.C.5.

1. Site Control. Site Control for all of the property needed for the Project must be evidenced by: 1) a fully executed and legally enforceable purchase contract or purchase option, and/or a written governmental commitment to transfer or convey the property to the Applicant by deed or lease that demonstrates the Applicant will possess a Qualified Leasehold Interest upon execution of the lease, (collectively termed a “Transfer Commitment”); or 2) a recorded deed or recorded lease demonstrating that the Applicant possesses a Qualified Leasehold Interest. If a Transfer Commitment is submitted, the commitment must provide for an initial term lasting at least until July 31 of the year in which the allocation is made (“Initial Term”). This Initial Term must not be conditioned upon any extensions requiring seller consent, additional payments, financing approval, Tax Credit award or other such requirements. Similarly, the Transfer Commitment must not require any additional actions on behalf of the Applicant during the Initial Term which could allow the seller/lessor to terminate the Transfer Commitment if the action is not fulfilled by the Applicant. If the Transfer Commitment requires an escrow payment due after signing, evidence that payment was received must be included in the Initial Application.
Site Control evidence and the Application materials must show exactly the same names, legal description and acquisition costs. All signatures, exhibits, and amendments should be included to be considered complete.

2. **Zoning.** Evidence that the current zoning of the proposed site(s) does not prohibit multifamily housing must be submitted. The evidence must indicate the specific address, or location of the site if no address has been assigned, for the proposed Project and be dated no more than 6 months prior to the Application Deadline. This requires that multifamily Projects not be prohibited by the existing zoning of the proposed site and there is no pending litigation or unexpired appeal process relating to the zoning of the proposed site. Projects sited on land which is not zoned or which is zoned agricultural, are exempt from this threshold test, but must obtain zoning approval and deliver evidence of it to MFA no later than November 15th of the year of the Reservation.

3. **Fees.** All fees owed to MFA for all Projects in which Principal(s) of the proposed Project participate must be current. Fees currently due and owing must be received by MFA by the date due.

4. **Minimum Project Score.** The Project must achieve at least the Minimum Score established in the Project Selection Criteria established in accordance with Section III.E below.

5. **Applicant Eligibility.** All members of the development team (Developer, General Partner, Contractor, management company, consultant(s), architect, attorney, and accountant, etc.) of the proposed Project must be in good standing with MFA and all other state and federal affordable housing agencies. For example, debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally financed Projects (for example, late payments within the 18 month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance (e.g. with the terms of LURAs on other projects), or failure to meet development deadlines or documentation requirements,) on the part of any proposed development team member or Project Owner or other Principal may result in rejection of an Application by MFA. In addition, MFA will consider a Principal’s progress made with previous Tax Credit reservations, including timeliness in delivering required documents and fees, and meeting all required deadlines.

6. **Financial Feasibility.** Applications must demonstrate, in MFA’s reasonable judgment, the Project’s financial feasibility. Please refer to Section IV.C.2, Section IV.D, and Section IV.E requirements pertaining to MFA’s financial feasibility considerations.

Additional minimum Project Threshold Requirements apply to Tax Exempt Bond Financed Projects, as described in Section VI.B.
D. **ALLOCATION SET ASIDES**

1. **Nonprofit Set Aside.** Ten percent of the Annual Credit Ceiling for each calendar year will be reserved for Projects sponsored by Qualified Nonprofit Organizations as defined in IRS Code Section 42(h)(5)(C). For purposes of this set aside, only federal requirements identified in IRS Code Section 42(h)(5) will apply. The aggregate amount of Tax Credits allocated by MFA to Qualified Nonprofit Organizations may exceed this amount.

2. **USDA Rural Development Set Aside.** Ten percent of the Annual Credit Ceiling will be set aside for Projects with direct USDA Rural Development (“USDA-RD”) financing (USDA-RD 514/515/516 and MPR programs) that meet the following requirements:

   a) The Initial Application for rehabilitation Projects must include evidence that the USDA-RD local office and regional office have reviewed and approved 1) the transfer of the property and, if applicable, 2) the restructuring of the existing USDA-RD debt, and 3) the new direct USDA-RD financing. The Initial Application for new construction Projects must include a Financing Commitment for the direct USDA-RD financing. **Financing Commitments and evidence of USDA-RD debt restructuring must include loan interest rate, term and repayment requirements.**

   b) The Project’s score must be within 20 percent of the highest scoring Project to be awarded Tax Credits through the ranking process in the same funding round.

   c) For rehabilitation Projects, evidence of final USDA-RD approval must be delivered to MFA by the date that the reservation fee and contract are due.

3. **Ranking to Meet Allocation Set Asides.** If the scoring and ranking process without regard to the Nonprofit Set Aside does not result in awards to Projects sponsored by Qualified Nonprofit Organizations sufficient to fill the Nonprofit Set Aside requirement, the next highest scoring, Qualified Nonprofit Organization Eligible Projects will receive awards sufficient to fulfill that requirement ahead of the lowest scoring Projects that would otherwise have received an award. If there are insufficient Qualified Nonprofit Organization Eligible Projects to meet the Nonprofit Set Aside, the unallocated Nonprofit Set Aside Tax Credits cannot be allocated to other Eligible Projects. A similar procedure will be used to meet the USDA-RD Set Aside; however, if there are insufficient USDA-RD Eligible Projects to meet the USDA-RD Set Aside, any unallocated USDA-RD Tax Credits may be used for other Eligible Projects. In addition, if the top scoring Project qualifying for the USDA-RD Set Aside is awarded less than 10 percent of the Annual Credit Ceiling but there are insufficient Tax Credits remaining to fully fund a second Project under the set aside, only the top scoring Project will be awarded Tax Credits under the set aside.

Tax Exempt Bond Financed Projects are not subject to the above Allocation Set Aside considerations.
E. PROJECT SELECTION CRITERIA TO IMPLEMENT HOUSING PRIORITIES

The criteria shown below are the basis for the awarding of points to a particular proposed Project during the Application round(s) conducted by MFA. Tax Credit reservations will not be awarded to Projects achieving fewer than 130 points (the “Minimum Score”) unless too few Projects score above this level and MFA, in its reasonable judgment, decides to reduce the Minimum Score. Projects scoring 130 or more points will be ranked according to their scores, subject to Allocation Set Aside requirements, and Reservations will be made to these Projects, unless they are eliminated under Threshold Review or subsequent processing, starting with the highest scoring Projects until all available Tax Credits are used. Tax Exempt Bond Financed Projects will also be scored and must obtain a score of at least 80 points in order to obtain a Letter of Determination that they are consistent with the QAP. Included within those 80 minimum points must be points for serving a targeted population (Households with Special Needs, Senior Households or Households with Children) and points for *Projects that Benefit the Environment*.

Although some criteria include scaled point structures, partial points will not be awarded.

If two or more Projects with equal scores (each a “Tied Project”) would require more than the available Tax Credits, the Tied Project with the lower Total Development Cost per Unit will be selected first for an award of Credits. If too few Tax Credits are available to make a full award of Credits to any Tied Project, MFA will determine in its discretion whether to award a partial allocation, to commit future year’s Tax Credits to the Project in accordance with Section VIII, to award no Tax Credits at all to any Tied Project, or to choose some combination of these options.

*Regardless of strict numerical ranking, the scoring does not operate to vest in an Applicant or Project any right to a Reservation or Tax Credit Allocation in any amount. MFA will, in all instances, reserve and allocate Tax Credits consistent with its sound and reasonable judgment, prudent business practices, and the exercise of its inherent discretion. Consequently, MFA may reject any Project that MFA deems to be inconsistent with the objectives of this Qualified Allocation Plan or prudent business practices regardless of the Project’s numerical ranking.*
## Project Selection Criteria

<table>
<thead>
<tr>
<th>1</th>
<th><strong>Nonprofit, New Mexico Housing Authority (NMHA), or local Tribally Designated Housing Entity (TDHE) Participation</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>Tier 1: Local Nonprofits (as that term is defined in this criterion below), NMHA and TDHEs that demonstrate financial capacity by having net worth/net assets of at least $1,000,000 will qualify for 10 Points. Nonprofits, NMHA and TDHEs with net worth/net assets below $1,000,000 may partner with another entity to increase the General Partner’s combined net worth above this threshold.</td>
<td></td>
</tr>
<tr>
<td>Tier 2: Local Nonprofits, NMHA and TDHEs which have net worth/net assets of at least $250,000 will qualify for 5 Points. In addition, Qualified Nonprofit Organizations that do not meet this criterion’s definition of “Local Nonprofit” but demonstrate strong financial capacity by having net worth/net assets of at least $2,000,000 will qualify for 5 Points.</td>
<td></td>
</tr>
</tbody>
</table>

For any entity to claim points under this scoring criterion, the Qualified Nonprofit Organization, NMHA, or TDHE must own at least 51% of the General Partner interest and be receiving a minimum of 10 percent of the developer fee as identified in the Project Application. The developer fee calculation is made before any reduction for consultant fees. When more than one entity is receiving a portion of the developer fee, documentation will be required evidencing the agreement among the entities as to the fee split arrangement. Also, the Application must include evidence that a representative of the Qualified Nonprofit Organization, NMHA, or TDHE (board member, officer, director, commissioner, or staff) has attended the MFA QAP training and/or other MFA approved Tax Credit training prior to submitting the Application. This approved training must have been completed within the six months prior to submittal of the Application.

Net worth/net assets must be substantiated by accountant reviewed or audited year-end financial statements for each General Partner whose financials are being relied upon to meet the minimum net worth/net assets.

“Local Nonprofit” means a Qualified Nonprofit Organization that has a board of directors that is comprised of a majority of New Mexico residents at the time the Application is submitted and was incorporated in New Mexico before January 1 of the year in which the Application is submitted.
2 **Projects that Benefit the Environment**

These points will be awarded to Projects meeting minimum requirements in incorporating green building, energy efficiency, water conservation, healthy materials, and sustainability in the design and construction or rehabilitation of the Project. Projects seeking points in this scoring criterion must make one of the following elections:

1) **Option A:** Commitment to obtain certification from one of the following green building standards: LEED, Enterprise Green Communities Green Criteria, National Green Building Standard, or Build Green NM; or

2) **Option B:** Commitment to meet the MFA Green Building Criteria. See *2016 Green Building Supplement* for additional details.

See Application Attachments Checklist and *2016 Green Building Supplement* in Application Package for additional materials needed to obtain points in this Project Selection Criterion.

| Option A: 18 Points | Option B: 10 Points |

3 **Locational Efficiency**

Projects located in proximity and connected to 1) services and 2) public transportation are eligible for 2 points. Projects located in proximity and connected to 1) services or 2) public transportation are eligible for 1 point.

See the *2016 Locational Efficiency Supplement* for additional detail and submission requirements.

| Up to 2 Points |

4 **Rehabilitation Projects**

These points will be awarded to all Projects incurring average rehabilitation Construction Costs of $25,000 per Unit or more. In combined new construction and rehabilitation, rehabilitated Units must account for the greater of at least 25 percent of the total Units or 15 Units. The separation of rehabilitation costs and new construction costs must be designated in the Application on separate Schedules A and D (i.e., the Application must include a Schedule A and D for the entire Project, a Schedule A and D for the rehabilitation costs, and a Schedule A and D for the new construction costs). All schedules must reconcile. The addition of common space to an existing Project is not considered new construction.

These points can be awarded in conjunction with points under *Sustaining Affordability*.

| 15 Points |
### 5 Sustaining Affordability

15 points: Projects which meet one of the criteria listed below are eligible for 15 points:

1. Previously subsidized existing Projects that are currently restricted but for which use restrictions are to expire on or before December 31, 2020, or
2. Existing Projects that are currently subsidized and eligible for prepayment and termination of their use agreement, or are eligible to make a Qualified Contract request on or before December 31, 2020, or
3. Projects that have or will have a federal rental assistance contract covering at least 75 percent of all units, subject to a minimum of 30 units.

5 points: Projects that have or will have a federal rental assistance contract covering at least 20 percent of all units, subject to a minimum of 5 units, are eligible for 5 points.

(See Attachments Checklist for additional materials required to obtain these points.)

### 6 Project Average Gross Median Income (AGMI) Level

To determine the AGMI, calculate a weighted average based on the number of Units Set Aside at each income level. Market Rate Units will be treated as if they were set aside at 100 percent of Area Gross Median Income. When calculating AGMI, round to the nearest whole number at each tier, following the example in the Glossary definition of “AGMI.”

<table>
<thead>
<tr>
<th>AGMI Percentage</th>
<th>Counties w/AMI less than or equal to $54,100</th>
<th>Counties w/AMI greater than $54,100</th>
</tr>
</thead>
<tbody>
<tr>
<td>50 percent or less</td>
<td>40 Points</td>
<td>35 Points</td>
</tr>
<tr>
<td>51-59 percent</td>
<td>35 Points</td>
<td>30 Points</td>
</tr>
<tr>
<td>60-69 percent</td>
<td>30 Points</td>
<td>25 Points</td>
</tr>
</tbody>
</table>

Maximum points that may be awarded for rent and income targeting in Project Average Gross Median Income (AGMI) Level, Projects that Incorporate Market Rate Units, and Project Average Gross Median Rent (AGMR) Level combined is 65. See Chart.
### Project Average Gross Median Rent (AGMR) Levels

To determine the AGMR, calculate a weighted average based on the number of Units Set Aside at each rent level. Market Rate Units will be treated as if they were set aside at 100 percent of Area Gross Median Rent. When calculating AGMR, round to the nearest whole number, following the example in the Glossary definition of “AGMR.”

A Project can opt to restrict rents at a lower level than the targeted income level for any given Unit(s), but in no case can the rent levels exceed the income levels.

Maximum points that may be awarded for rent and income targeting in Project Average Gross Median Income (AGMI) Level, Projects that Incorporate Market Rate Units, and Project Average Gross Median Rent (AGMR) Level combined is 65.

<table>
<thead>
<tr>
<th>Range</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>60 – 69%</td>
<td>20</td>
</tr>
<tr>
<td>51 – 59%</td>
<td>25</td>
</tr>
<tr>
<td>50% or less</td>
<td>30</td>
</tr>
</tbody>
</table>

### Projects that Incorporate Market Rate Units

Projects that incorporate Market Rate Units equal to at least 15 percent of the total Units.

Maximum points that may be awarded for rent and income targeting in Project Average Gross Median Income (AGMI) Level, Projects that Incorporate Market Rate Units, and Project Average Gross Median Rent (AGMR) Level combined is 65.

10 Points

### Projects Committed to an Extended Use Period of the Following:

- 35 Years...5 Points
- 40 Years...10 Points
- 45 Years...15 Points

This period includes the 15 Year IRS Compliance Period.

If the Project site will be leased, the site control document submitted with the Initial Application must indicate that the term of the lease will be equal to or greater than the Extended Use Period. Refer to Section III.C.

<table>
<thead>
<tr>
<th>Period</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>35 Yrs.</td>
<td>5</td>
</tr>
<tr>
<td>40 Yrs.</td>
<td>10</td>
</tr>
<tr>
<td>45 Yrs.</td>
<td>15</td>
</tr>
</tbody>
</table>
### Projects in Which Units are Reserved for Households with Special Needs

Projects in which Units are Reserved for Households with Special Needs are eligible for points as follows:

**Option A:** 20 percent of total Units set aside for Households with Special Needs. To be eligible for points under this option, at least 10 percent of the Total Units in the Project must be rent restricted at 30 percent of Area Median Income (AMI) or have permanent rental subsidy support with a project-based federal rental assistance contract that ensures residents do not pay rent in excess of 30 percent of their adjusted income.

**Option B:** 5 percent of total Units set aside for Households with Special Needs and 5 percent of the units rent restricted at 30 percent of AMI. (only available to Projects financed with Tax Exempt Bonds)

To receive points for this criterion, the Initial Application must include a signed Letter of Commitment to Coordinate with the Local Lead Agency for Household with Special Needs. In addition, Applicants must indicate on the application form and Schedule B, Unit Type and Rent Summary that 10 percent or 5 percent in accordance with the election of Option A or B above, of the total Units will be rent restricted at 30 percent of AMI, or include a copy of the federal rental assistance contract that covers at least the minimum percentage of the Total Units required by the election made.

Projects must include appropriate space reserved for the delivery of counseling services, such as a private office with secure file storage space (if client files are to be stored on-site), in order to be eligible for points under this criterion.

**Optional Funding for Special Needs Units Under Option A: Section 811 Project Rental Assistance (PRA) may be available for five or more of the 30 percent AMI units reserved under Option A above. Section 811 PRA households must meet the following definition: At least one person in the household must be non-elderly (18-62 years of age), have a disability that meets the criteria for Serious Mental Illness (SMI), and be eligible to receive Medicaid and services/supports. If Section 811 PRA is requested, applicants with projects outside of Bernalillo, Doña Ana and Santa Fe counties will need to provide documentation such as signed agreement/s to indicate that supportive services for Serious Mental Illness (SMI) are available and can be delivered at the local level. For more information, visit our website and Program Guidelines at: http://housingnm.org/developers/section-811-project-rental-assistance.**

<table>
<thead>
<tr>
<th>Projects in Which Units are Reserved for Households with Special Needs</th>
<th>Option A: 15 Points</th>
<th>Option B: 5 Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td><strong>Projects Reserved for Senior Households</strong></td>
<td></td>
</tr>
<tr>
<td>----</td>
<td>--------------------------------------------</td>
<td></td>
</tr>
<tr>
<td></td>
<td>These points benefit Projects specifically designated for exclusive use by Senior Households. New construction Projects must include central common areas that can be used for resident activities and serving meals with an adjoining kitchen area.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Set Aside points will be awarded based on the Project meeting the requirements above. Additional points may be awarded for enrichment service activities as listed below. To receive additional points under this category, the Project Owner must certify that a service coordinator will be on site a minimum of two days per week for a cumulative minimum of 10 hours per week, and the Project must include adequate common space for the provision of the proposed enrichment services. The social service coordinator must be in addition to the property manager. Enrichment services must be offered on-site, at no charge to all residents, and be actively linked to the Project, not simply available to the community at-large. The proposed Project annual operating budget must include at least $2,500 for the provision of enrichment services.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>The Applicant must indicate in the Initial Application which enrichment services will be provided by the Project Owner. Project Owners must provide executed contracts with qualified service providers when the Project is Placed in Service. Contracts with service providers must include: 1) a description of the service to be provided including frequency, 2) acknowledgement that services will be provided on-site and 3) list the amount of any fee for services provided. MFA will not issue IRS Form(s) 8609 unless Project Owner demonstrates, to MFA’s sole satisfaction, that enrichment services are being delivered by a qualified service provider as committed to in the Initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>These points may not be combined with points for Projects in Which 25 Percent of Total Units are Reserved for Households with Children or Projects in Which Units are Reserved for Households with Special Needs.</td>
<td></td>
</tr>
</tbody>
</table>

**CONTINUED ON NEXT PAGE**
### Projects Reserved for Senior Households - Continued

<table>
<thead>
<tr>
<th>Service Enrichment Scoring</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>Set Aside and design requirements met</td>
<td>7</td>
</tr>
<tr>
<td>Community building and all Units incorporate Universal Design (must be evidenced in plans and specifications)</td>
<td>3</td>
</tr>
<tr>
<td>Providing one prepared meal on a daily basis available to all tenants</td>
<td>2</td>
</tr>
<tr>
<td>Monthly housekeeping services</td>
<td>2</td>
</tr>
<tr>
<td>Bi-monthly health and nutrition education</td>
<td>1</td>
</tr>
<tr>
<td>Quarterly blood pressure or other health screening</td>
<td>1</td>
</tr>
<tr>
<td>Quarterly computer training</td>
<td>1</td>
</tr>
<tr>
<td>Social events such as movie nights, holiday dinner parties, etc. Bi-monthly or 6 per year (qualified service provider not required)</td>
<td>1</td>
</tr>
<tr>
<td>Other - MFA approved service. Must be approved by MFA in writing one month before Application due date.</td>
<td>1-2</td>
</tr>
</tbody>
</table>

The Set Aside requirement and any additional enrichment services committed to will be enforced through a provision in the Land Use Restriction Agreement, which will require notification of any termination in service contracts, and no more than a 30-day gap in service provided. The Project will be determined out of compliance if the requirements of the Land Use Restriction Agreement are not met (e.g. if a new service contract is not timely executed). The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided, and documentation of time spent on-site by the service coordinator.
<table>
<thead>
<tr>
<th>12</th>
<th>Projects in Which 25 Percent of All Units are Reserved for Households with Children</th>
<th>Up to 15 Points (see chart)</th>
</tr>
</thead>
</table>

Projects in which 25 percent of all Units are Reserved for Households with Children are eligible for points as described below.

For new construction Projects, at least 10 percent of the total Units must have 3 or more bedrooms with at least 1.75 bathrooms and a further 20 percent of the total Units must have 2 or more bedrooms with at least 1.75 bathrooms. For rehabilitation Projects, 30 percent of the total Units must have at least 2 bedrooms. For Projects that combine rehabilitation and new construction, all Units added to existing properties must have at least 2 bedrooms with 1.75 bathrooms and/or 3 bedrooms with 1.75 bathrooms until the percentages required for new construction Projects are met for the Project overall. All Projects must include adequate common space for the provision of the proposed enrichment services. The Applicant must provide a description of the Project’s specific design elements that serve the needs of Households with Children.

Set Aside points will be awarded based on the Project meeting the requirements above. Additional points may be awarded for enrichment service activities as listed below. To receive additional points under this category, the Project Owner must certify that a service coordinator will be on site a minimum of two days per week for a cumulative minimum of 10 hours per week. The social service coordinator must be in addition to the property manager. Enrichment services must be offered on-site, at no charge to all residents, and be actively linked to the Project, not simply available to the community at-large. The proposed annual Project operating budget must include at least $2,500 for the provision of enrichment services.

The Applicant must indicate in the Initial Application which enrichment services will be provided by the Project Owner. Project Owners must provide executed contracts with qualified service providers with the Placed in Service Application. Contracts with service providers must include: 1) a description of the service to be provided including frequency, 2) indicate that services will be provided on-site and 3) specify any fee for services provided. MFA will not issue IRS Form(s) 8609 unless the Project Owner demonstrates, to MFA’s sole satisfaction, that enrichment services are being delivered by a qualified service provider as committed to in the Initial Application. MFA, at its sole discretion, may allow substitution of enrichment services as deemed appropriate by MFA.

These points may not be combined with points for Projects Reserved for Seniors or Projects in Which Units are Reserved for Households with Special Needs.

CONTINUED ON NEXT PAGE
### Projects in Which 25 Percent of All Units are Reserved for Households with Children - Continued

<table>
<thead>
<tr>
<th>Service Enrichment Scoring</th>
<th>Points</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Set Aside and design requirements met</strong></td>
<td>7</td>
</tr>
<tr>
<td><strong>Daily on-site Childcare</strong></td>
<td>2</td>
</tr>
<tr>
<td>(operated in accordance with all applicable laws and regulations, including those related to fees)</td>
<td></td>
</tr>
<tr>
<td><strong>Weekly on-site Childcare</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Bi-monthly health and nutrition education</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Bi-annual CPR training</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Quarterly blood pressure or other health screening</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Quarterly computer training</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Weekly tutoring during school year</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Quarterly job training, search assistance, and/or placement</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>Other - MFA approved service. Must be approved by MFA in writing one month before Application due date</strong></td>
<td>1-2</td>
</tr>
</tbody>
</table>

*The Set Aside requirement and any additional enrichment services committed to will be enforced through a provision in the Land Use Restriction Agreement, which will require notification of any termination in service contracts, and no more than a 30 day gap in service provided. The Project will be determined out of compliance if the requirements of the Land Use Restriction Agreement are not met (e.g. if a new service contract is not timely executed). The Project Owner will be required to maintain a file containing contracts with service providers, documentation of when and where services were provided, and documentation of time spent on-site by the service coordinator.*
### Projects Receiving a Local Contribution

Projects in which at least one percent of the Total Development Cost (TDC) is to be made permanently available to the Project or endowed by formal resolution of a state, local governmental entity or local tribal governmental entity or tribal council are eligible for points. Up to 10 points will be awarded corresponding to the percentage of TDC contributed by the state, local governmental entity, or local tribal governmental entity or tribal council. Only whole points will be awarded with the point value rounded down to the nearest percentage point. For example, a Project that receives a local contribution of 2.3 percent of TDC, is eligible for 2 points, a Project that receives a local contribution of 5.7 percent of TDC is eligible for 5 points, etc., up to 10 points. The value of the contribution must be listed as a source on Schedule A-1 and, when not a cash contribution, as a cost on Schedule A.

The commitment from a state, local governmental entity local tribal governmental entity or tribal council may be made in the form of cash, land, and/or buildings. Tax Exempt Bond Financing, funds awarded by MFA, non-verifiable sources, or sources requiring any hard debt payment will not be counted in meeting this criterion. “As-Is” Appraisals dated no earlier than six months prior to the Application date and completed by MAIs licensed in New Mexico must be submitted for all Applications in which land or building values are counted toward the local contribution, unless the land is Native American Trust Land. Appraisals must take into account any use restrictions on contributed land and buildings. Contributions of Native American Trust Land qualify for 5 points. Additional points may be awarded for additional eligible cash or building contributions. For Native American Trust Land donations, a certified copy of the tribal council resolution will be required.

Contributions made to a Project by an entity that has an ownership interest in that Project, with the exception of NAHSDA funds contributed by the TDHE, will not be considered contributions for this Project Selection Criterion.

### Complete Applications

Points are awarded to Initial Applications that meet all the standards described in Section IV.A.4 under “Content and Format” when initially submitted and that do not require any deficiency corrections.

### Marketing Units to Households Listed On Public or Indian Housing Agency Waiting Lists

Projects providing a commitment to market the units to households listed on public or Indian housing agency waiting lists are eligible for points under this criterion. A letter to the PHA or Tribally Designated Housing Entity which serves the jurisdiction of the proposed site verifying this commitment is required to obtain points for this criterion.
### QCT/Concerted Community Revitalization Plan

Projects that meet the criteria listed below are eligible for 5 points:

1. The Project is located in a Qualified Census Tract (“QCT”), and
2. The Project is a) also located in an area covered by a Concerted Community Revitalization Plan and the development of the proposed Project contributes to the Concerted Community Revitalization Plan by engaging in a housing activity promoted in the plan or b) the proposed Project is also located within ½ mile of a New Mexico designated MainStreet area.

Projects that are not in a QCT but are either a) located in an area covered by a Concerted Community Revitalization Plan and the development of the proposed Project contributes to the Concerted Community Revitalization Plan by engaging in a housing activity promoted in the plan or b) are located within ½ mile of a New Mexico designated MainStreet area are eligible for 3 points.

A list of New Mexico designated Mainstreet areas can be located at [http://www.nmmainstreet.org](http://www.nmmainstreet.org).

### Projects with Units Intended for Eventual Tenant Ownership

Projects in which at least half of the Units are intended for eventual tenant ownership are eligible for points under this criterion. The Project design must be conducive to this purpose, using single family homes, duplexes, and/or townhomes that have individually metered utilities and public streets. This commitment will be evidenced by submission of a long-range Tenant Conversion Plan and will be documented in the Land Use Restriction Agreement. These points may not be awarded in combination with points under *Projects Committed to an Extended Use Period*.

### Resident Financial Literacy Training

Projects that will provide quarterly financial literacy training to residents are eligible for points under this criterion. Classes must be offered on-site at no charge to all residents. The Project must include space appropriate for the provision of this service. The proposed Project annual operating budget must include at least $1,500 for the provision of the financial literacy classes.

The commitment to provide quarterly financial literacy training must be evidenced by a certification from the Project Owner. Project Owners must provide executed contracts with qualified service providers when the Project is Placed in Service. Contracts with service providers must include: 1) a description of the service to be provided including frequency, 2) indicate that services will be provided on-site and 3) specify any fee for services provided. MFA will not issue IRS Form(s) 8609 unless the Project Owner demonstrates, to MFA’s sole satisfaction, that services are being delivered by a qualified service provider as committed to in the Initial Application.
19 **Projects with Historic Significance**  
Projects certified on the National Register of Historic Places (i.e., meeting the criteria for Part 1 Approval for Historic Tax Credits) are eligible for points under this criterion.

If Federal Historic Tax Credits are included in the financing structure of the Project, evidence that the National Park Service has received a complete Historic Certification Application - Part 2 for the Project must be included in the Project Owner’s Carryover Allocation Package.

5 Points

20 **Blighted Buildings and Brownfield Site Reuse**  
Projects that include the demolition of Blighted Building(s) or the remediation and reuse of a Brownfield site are eligible for points under this criterion. Blighted Building(s) must account for at least 10 percent of the sum of each Building’s Gross Square Feet. Points in this criterion cannot be combined with points under Rehabilitation Projects.

5 Points

21 **Projects Located in Areas of Statistically Demonstrated Need**  

<table>
<thead>
<tr>
<th>Tier 1 Areas</th>
<th>Tier 2 Areas</th>
</tr>
</thead>
<tbody>
<tr>
<td>Eligible Projects are located in the counties of: Chaves, Cibola, Curry, Eddy, Lea, Sandoval, Santa Fe and Taos. In addition, all Projects on Native American Trust Lands or Native American-owned lands within the tribe’s jurisdictional boundaries are eligible for Tier 1 points.</td>
<td>Eligible Projects are located in the counties of: Bernalillo, Colfax, Grant, Lincoln, Luna, McKinley, Rio Arriba, San Juan and Torrance.</td>
</tr>
</tbody>
</table>

*These tier areas are subject to change based on any changes in the 2016 Action Plan.*

Tier 1: 15 Points  
Tier 2: 10 Points

22 **Efficient Use of Tax Credits**  
New construction Projects that request less than $15,000 Tax Credits per Low Income Unit and less than $15.50 Tax Credits per Low Income square foot are eligible for 5 points. New construction Projects that request 1) less than $16,500 Tax Credits per Low Income Unit and less than $17.00 Tax Credits per Low Income square foot or 2) less than $15,000 Tax Credits per Low Income Unit or $15.50 Tax Credits per Low Income square foot are eligible for 3 points.

For the purpose of this criterion, Low Income square footage means the sum of each Building’s Gross Square Feet multiplied by the Project’s Applicable Fraction and includes common space allocated to low income use.

These points are not available to Projects involving the rehabilitation of existing residential rental units or Adaptive Reuse of an existing building even if the Project also involves new construction.

0-5 Points
<table>
<thead>
<tr>
<th></th>
<th>Non-Smoking Properties</th>
<th>2 Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>23</td>
<td>Projects which will be non-smoking properties and participate in the American Lung</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Association in New Mexico Smoke Free @ Home program are eligible for 2 points. Project</td>
<td></td>
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<tr>
<td></td>
<td>must have appropriate space for the provision of smoking cessation classes.</td>
<td></td>
</tr>
</tbody>
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<table>
<thead>
<tr>
<th></th>
<th>Adaptive Reuse Projects</th>
<th>5 Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>24</td>
<td>Projects which will involve the conversion of an existing building that was not initially</td>
<td></td>
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<tr>
<td></td>
<td>constructed for residential use to multifamily residential use are eligible for 5 points.</td>
<td></td>
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<tr>
<td></td>
<td>In combined new construction and Adaptive Reuse Projects, converted space must account</td>
<td></td>
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<tr>
<td></td>
<td>for at least 20 percent of the sum of each Building’s Gross Square Feet. The separation</td>
<td></td>
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<td></td>
<td>of conversion costs and new construction costs must be designated in the Application on</td>
<td></td>
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<tr>
<td></td>
<td>separate Schedule As and Ds (i.e., the Application must include a Schedule A and D for the</td>
<td></td>
</tr>
<tr>
<td></td>
<td>entire Project, a Schedule A and D for the rehabilitation/conversion costs, and a Schedule</td>
<td></td>
</tr>
<tr>
<td></td>
<td>A and D for the new construction costs). All schedules must reconcile.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Projects eligible for points for Rehabilitation Projects are not eligible for points</td>
<td></td>
</tr>
<tr>
<td></td>
<td>under this criterion.</td>
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</tr>
</tbody>
</table>

**F. ADDITIONAL CREDITS FOR PROJECTS WITH PARTIAL ALLOCATIONS**

If an Applicant receives a partial allocation in a given round, and requests additional Credits in a subsequent round, the Minimum Project Threshold Requirements and the Project Selection Criteria for scoring used in the initial allocation year will be applied to the evaluation of the Project in the subsequent allocation year. The Project’s ranking relative to Initial Application year Projects will be determined by calculating the Project Score as a percentage of the highest score in its initial allocation round, and multiplying that percentage by the highest score in the subsequent Application round to derive its subsequent Application year score and ranking among the subsequent round Applications.

**G. ADDITIONAL SUPPLEMENTAL TAX CREDITS FOR COST INCREASES**

Projects with increased Eligible Basis as a result of increases in hard construction costs may apply for additional Tax Credits in subsequent allocation rounds prior to issuance of an IRS Form 8609. Full applications will be required for competition within an allocation round, and the Project will compete on the same basis as that of the subsequent round Projects. However, Projects for which increased Tax Credits have been requested cannot exceed MFA’s cost limits or limitation on an award to a single Project for the year of the initial award or subsequent round. In addition, Project’s which were awarded points for the Efficient Use of Credits project selection criteria may not apply for additional Tax Credits. Applications that are submitted for additional Tax Credits will be subject to MFA’s evaluation process and the availability of Credits, as well as limitations on the time period for allocation of additional Credits under Section 42 of the Code. Only one additional Tax Credit Allocation will be permitted by MFA for any given Project. The
process is intended for hardship cases, and hardship will have to be documented accordingly in any such request.

H. NEW ALLOCATIONS TO PROJECTS PREVIOUSLY SUBSIDIZED WITH TAX CREDITS

Existing Projects that previously received Tax Credit Allocations and are now eligible under Code Section 42(d)(2) for new acquisition Tax Credits may apply for a current allocation. However, because of prior subsidy investment in the Project and the scarcity of the resource, and to insure that the subsidy is not being used primarily for ownership transfer, previously subsidized Projects must demonstrate: 1) a real risk of loss of affordable units, and/or 2) an addition of significant improvements and services to enhance livability for the tenants. These may qualify for standard Tax Credit Applicable Percentages (as described in Section II.N).

However, in a proposed sale transaction when there is an Identity of Interest between the seller and Principal(s), the Project will be eligible for reduced Developer Fees. When there is such an Identity of Interest, the Developer Fee percentages (described in Section IV.D.2.b) will be calculated on Total Development Cost less Acquisition Costs.

Tax Exempt Bond Financed Projects are excluded from the above requirements.

I. PROPERTY STANDARDS

All newly constructed properties must meet applicable state and local building codes, the Uniform Building Code, the National Standard Plumbing Code, and the National Electrical Code Handbook. Rehabilitation Projects should meet these codes when reasonable. Projects containing facilities that are available to the general public must meet the Americans with Disabilities Act (ADA) requirements, and Projects combining housing Tax Credits with another federal source of funding must comply with HUD Section 504 requirements. Federal fair housing accessibility requirements promulgated through the Fair Housing Accessibility Guidelines (56 FR 9472, 3/6/91) must also be adhered to. Finally, conformance to 2016 MFA Mandatory Design Standards for Multifamily Rental Housing, in the Application Package, is mandatory for all Projects including Tax Exempt Bond Financed Projects.

IV. ALLOCATION PROCEDURE AND APPLICATION REQUIREMENTS

A. ALLOCATION ROUNDS

1. Submission Date(s)

MFA intends to conduct one competitive Application round each calendar year. However, MFA reserves the right to conduct additional rounds or to award Tax Credits outside of the rounds. Initial Applications will be accepted between the hours of 8:00 AM and 5:00 PM Mountain Standard Time on business days from January 11, 2016, through February 1, 2016. Initial Applications must be received by MFA at the address identified in Section IV.A.2 of this QAP no later than the Application Deadline. Late Applications will not be accepted. If the Projects submitted do not use all of the available Tax Credits, or if additional Tax Credits
become available later in the year, MFA will consider a second round or make allocations to lower scored Eligible Projects at MFA’s sole discretion.

Initial Applications for Tax Exempt Bond Financed Projects are accepted on a continuous basis, subject to the timing requirements outlined in Section VI.B.

2. Place of Submission:

Initial Applications may be delivered by U.S. mail, by courier service, or by hand to the following address:

New Mexico Mortgage Finance Authority
344 Fourth Street SW
Albuquerque NM  87102
(505) 843-6880
ATTN:  Housing Tax Credit Program Manager

3. Form of Submission

Initial Applications may not be delivered by facsimile transmission or email. Only one complete, original hard copy is needed. The required forms will be provided electronically and may be downloaded from MFA’s web site at http://www.housingnm.org/developer/. All Applications should be marked “LIHTC APPLICATION” in readily visible print. On receipt, MFA will date and time stamp the Application. No additional materials may be submitted after the Initial Application is date and time stamped by MFA, unless requested by MFA in accordance with the provisions of this QAP.

4. Content and Format: Complete Applications

Complete Applications will meet the following standards when they are initially submitted and without benefit of any subsequent submissions, including any such submissions received during the Deficiency Correction Period:

a) All Application documents that require signatures must be included and bear the original signatures in blue ink from all General Partners.

b) Complete Initial Applications must include the Application Form, the LIHTC Application Attachments Checklist found in the Application Package, and all mandatory items listed in Section I of the LIHTC Application Attachments Checklist, including a CD, DVD or USB flash drive containing a complete copy of the LIHTC Application, including all attachments, in PDF file format with protected personal information such as Social Security numbers and Board Member home addresses, redacted. The CD, DVD or USB flash drive must contain a separate folder for each Application Tab (Tab), and named accordingly (e.g. “Tab 1”, “Tab 2”, etc.). Each Folder must include all of the documents required for the respective Tab, as identified in the Application Checklist, and named accordingly (e.g. “Tab 1.1 - Attachments Checklist”, “Tab 1.2 - Tax Credit Selection Criteria Scoring Worksheet”,

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Proposed Final 12-16-15
c) Complete Initial Applications must include Application fees as outlined in Section IV.B below.

d) Complete Initial Applications must be submitted in at least two brown Classification Folders, Legal, 2 Partitions (i.e. 6 fasteners), with all attachments provided in the order listed. Attachments must be tabbed and numbered as in the Attachments Checklist Classification folders may be purchased at Staples, Office Max or similar suppliers.

e) No additional materials may be submitted after the Initial Application is date and time stamped by MFA, unless requested by MFA in accordance with the provisions of this QAP.

f) Current year MFA forms must be used when provided, and no substitutions will be accepted.

g) All information must be current, clearly legible and consistent with all other information provided in the Application.

h) Forms must be completely filled out and executed as needed. All signatures are to be made in blue ink.

i) Except as MFA may determine is necessary to evaluate the “Applicant Eligibility” threshold requirement in Section III.C.5, all Applications must be self-contained: MFA will not rely on any previously submitted information, written or verbal, to evaluate the Applications in a given round.

In determining whether the Application is complete, MFA will examine the package for both the availability of all required materials listed in Section I of the Application Attachments Checklist, and for the content of those materials. Failure to provide or complete any element of the Initial Application Package, including all items listed in Section I of the Application Attachments Checklist, may result in immediate rejection of the Application without complete review. When special materials required to obtain points under particular Project Selection Criteria are not provided in the Initial Application, as listed in Section II of the Application Attachments Checklist, the related points will not be awarded.

In addition to the actions MFA may take pursuant to Section IV.C.5 (Deficiency Correction Period), MFA may request additional information from any Applicant as deemed necessary for a fair and accurate evaluation of an Application. MFA may also choose to accept inconsistent information, and if so, may select any of the inconsistent pieces of information over any other piece, in its reasonable judgment. However, MFA is under no obligation to seek further information or clarification, or to accept inconsistent responses.
The Applicant will bear sole and full responsibility for submitting its Application in accordance with the requirements of the Internal Revenue Code and the Qualified Allocation Plan and will be deemed to have full knowledge of such requirements regardless of whether or not a member of MFA’s staff responds to a request for assistance from the Applicant or otherwise provides the Applicant assistance with respect to all or a portion of the Application.

5. Communications

Questions concerning the competitive 9 Percent Tax Credit round Application requirements must be submitted through MFA’s web site at www.housingnm.org/low-income-housing-tax-credits-lihtc-allocations. No questions will be accepted after 5:00 PM Mountain Standard Time, January 18, 2016. Answers will be posted to the website. It is the sole responsibility of Applicants to review the website for answers to questions.

A “Quiet Period” for each competitive round will begin at the time an Initial Application is submitted and end upon the announcement of the Tax Credit awards. During the Quiet Period, Applicants shall not contact MFA management and employees in regards to an Application under consideration unless expressly directed to do so by MFA staff. The purpose of the Quiet Period is to create a fair and consistent process for all Applicants in the competitive round. The Quiet Period only applies to Applications under consideration during the competitive round and not to any other Projects, Applications, or issues.

All communications regarding Projects which have received Tax Credit awards and Tax Exempt Bond Financed Projects should be directed to:

Susan H. Biernacki, J.D.
Housing Tax Credit Program Manager
(505) 767-2273
sbiernacki@housingnm.org

B. MFA FEES AND DIRECT COSTS

All fees are non-refundable. They are due at the times and in the amounts shown below and they apply to both allocated and non-allocated Tax Credits. Fees may be delivered in the form of personal or business checks, money orders or cashier’s checks. Any check returned for insufficient funds will result in rejection of the Application, cancellation of the Reservation, or other actions available to MFA. Exceptions may be granted at MFA’s sole discretion, and fees may be adjusted annually, as determined by MFA in its sole discretion.

**Application Fee** (For Initial and Supplemental Requests)

- **$3,500** due at submission of Tax Credit Initial Application
- **$500 for nonprofit or governmental entity Applicant; $1,000 for a for-profit Applicant**

**Market Study and Design Review Deposit**
• $8,500 (deposit) due at submission of Tax Credit Initial Application

This deposit is intended to cover the cost of the commissioned market study and a portion of the design reviews for compliance with 2016 MFA Mandatory Design Standards for Multifamily Rental Housing. Design reviews are estimated to cost between $5,000 to $10,000, depending on project location and complexity. This is an estimate only and the final cost may vary. If the market study or design review costs more than the deposit, the difference will be billed. If the cost is less, the difference will be refunded. Any amount in excess of the $8,500 deposit is due within 20 calendar days of billing by MFA.

Processing Fee

Projects receiving a Reservation of 9 Percent Tax Credits

• Due at Execution of Reservation Contract
• 8.75 percent of the MFA-determined Tax Credit Allocation amount rounded down to the nearest dollar

Projects Financed with Tax Exempt Bonds

• Due Prior to Delivery of Letter of Determination
• 53.5 percent of the MFA-determined annual Tax Credit amount rounded down to the nearest dollar
• If the actual Tax Credit amount is greater at Final Allocation than when the Letter of Determination was delivered, the Applicant must pay an additional Processing Fee of 53.5 percent of the increase in the Tax Credit amount.

Monitoring and Compliance Fees

• Due annually by January 31st for each year of the Extended Use Period. The monitoring and compliance fee for the entire 15-year Compliance Period may be paid in a lump sum at time of Final Allocation Application
• 2016 - $45/Set Aside Unit/Per Year

Appeal Fee

• $5,000 due at submission of appeal.
• No appeal will be entertained in advance of appeal fee payment.

Subsidy Layering Review, Request for Increase in Tax Credits, Request for Changes to a Project, and/or Requests for Document Corrections (when not a result of an administrative error by MFA, including when changes or alternate forms are proposed by an Applicant in lieu of MFA standard forms)

• $500 due at submission of review/correction request.

Extension Fee
• Due at submission of request to extend deadline of any documents required under Subsequent Project Requirements and/or with submission of late or missing documents required under Subsequent Project Requirements.

• $1,000 - per week

C. STAFF ANALYSIS AND APPLICATION PROCESSING

1. Threshold Review. Following the Application Deadline, MFA will undertake a Threshold Review to determine whether the Initial Application meets the Minimum Project Threshold Requirements shown in Section III.C. If the Initial Application fails the Threshold Review because it does not achieve the Minimum Score, it may be retained until MFA determines whether all Tax Credits can be allocated to higher scoring Projects. If the Initial Application fails to meet Site Control, Zoning, and Fee requirements, the Applicant will be given an opportunity to correct the deficiency in accordance with Section IV.C.5 and if not corrected in the time period allowed, the Application will be rejected. The Applicant Eligibility and Financial Feasibility threshold requirements are not correctable, and Applications that fail to meet these requirements will be rejected.

2. Cost Limits. Total Development Costs for various types of Projects may not exceed the following:

   a) New Construction and Adaptive Reuse Projects. The Total Development Cost per Unit must not exceed 130 percent of the weighted average Total Development Cost per Unit for all New Construction and Adaptive Reuse Projects submitted in the same round.

   b) Acquisition/Rehabilitation Projects. The Total Development Cost must not exceed 100 percent of the weighted average Total Development Cost per Unit for all New Construction and Adaptive Reuse Projects submitted in the same round.

   c) Tax Exempt Bond Financed Projects. Total Development Cost must not exceed the limits established for new construction, Adaptive Reuse or Acquisition/Rehabilitation Projects, as appropriate, submitted in the most recent allocation round.

   d) Rehabilitation, New Construction, and Adaptive Reuse Projects. For Projects that involve rehabilitation of existing units, the construction of new units, and/or the Adaptive Reuse of an existing building, the costs related to each will be evaluated separately for comparison to the limits established in Sections IV.C.2.a) and b) above.

See the Glossary Section XI for the definition of the terms “Unit” and “Total Development Cost” as they apply to the cost limit calculations in this section. Costs that exceed these limits will be excluded when calculating the Tax Credit amount. These limits are binding through Final Allocations.
3. **Local Notice.** The Chief Executive Officer of the local jurisdiction where the Project is located will receive a Local Notice from MFA stating that an Application has been received. The Local Jurisdiction and the Chief Executive Officer are to be identified by the Applicant in the Application form. The jurisdiction may be a municipality, town, county or tribal government. Such notification will be issued for all Applications no more than ten (10) business days after MFA’s Application Deadline and the recipient will have thirty (30) calendar days to respond. If MFA receives a response to this notice that MFA deems in its sole discretion to be negative with respect to the Project, the Application may be rejected with no further review regardless of its scoring or Threshold Review results. No response will be interpreted by MFA as approval of the Project by the local jurisdiction.

4. **Site Visits.** On completion of the Threshold Review, MFA will visit the proposed sites for the highest ranking Projects. Sites considered by MFA in its reasonable judgment to be inappropriate due to current or foreseeable adverse health, safety, welfare, or marketability risks may be cause for rejection of any Application, regardless of Threshold Review or scoring results.

5. **Deficiency Correction Period.** MFA may provide a Deficiency Correction Period after the Threshold Review. This period is intended only to: (1) correct Threshold items that are identified as correctable in Section III.C, (2) address Complete Application items, (3) clarify ambiguous information, (4) complete forms, or (5) make minor corrections to the Application. In no case shall the Deficiency Correction Period be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC Application Attachments Checklist. If the Deficiency Correction Period is used, MFA will provide notice to Applicants having such shortcomings in their Applications via email and U.S. mail. Applicants will have five (5) business days after the date of the email notice to correct deficiencies. All materials must be submitted no later than 5:00 PM Mountain Standard Time on the fifth business day, following “Form of Submission” requirements shown in Section IV.A.3 above. Certain types of deficiencies cannot be corrected during the Deficiency Correction Period, including an Applicant’s failure to provide materials or to provide materials in the required form, as well as other deficiencies that MFA determines in its reasonable judgment may not be correctable. Furthermore, the Deficiency Correction Period may not be used by the Applicant to alter the original structure of the Project. This prohibition includes, but is not limited to, all changes listed in Section IV.H. If the information requested by MFA is not submitted within the timeframe provided, or is submitted but remains deficient, the Application may be rejected without any further review.

6. **Local Jurisdiction Support.** Allocations will be limited to Applications which include a local support letter, and which do not produce negative responses to MFA’s Local Notice described in Section IV.C.3. The local support letter to be delivered under this requirement must 1) refer to the specific Project location(s) proposed in the Application, 2) identify the nature of the development as affordable housing, 3) have a date no more
than ninety (90) days prior to the Application Deadline, 4) be signed by the Chief Executive Officer or the Chief Administrative Officer of the jurisdiction in which the site is located, and 5) be conditional only on standard zoning and local regulatory process approvals. Signatures by designees of these officials will not be accepted.

7. **Supplemental Information Submission.** If at any point during the processing of an Application, staff determines that supplementary information is needed to complete its review, the Applicant will be notified in writing and will have five (5) business days after the date of MFA’s notice to deliver a written response. In no case shall the supplemental information request be used by MFA to allow an Applicant to submit scoring items listed on Section II of the LIHTC Application Attachments Checklist. This provision does not apply to incomplete Applications, which may be rejected during the Threshold Review or subject to the Deficiency Correction Period Process.

8. **Design Review.** All Projects will be subject to a minimum of four (4) design reviews by MFA (upon completion of the construction documents, twice during construction and upon full completion of the Project) to determine compliance with the 2016 *MFA Mandatory Design Standards for Multifamily Rental Housing* (Design Standards). Design review will require periodic site visits to determine compliance with Design Standards. For rehabilitation and Adaptive Reuse Projects, a Capital Needs Assessment will be required subsequent to the Initial Application (prior to the issuance of the Letter of Determination for Tax Exempt Bond Finance Projects, and at Carryover Application for all other Projects) and this assessment may be reviewed by MFA for completeness and compliance with the Design Standards. All plans and related design materials submitted as part of an Application must provide enough detail for MFA to determine compliance with the Design Standards. Applicants shall not commence construction on a Project prior to receipt of MFA’s written approval of complete construction documents. MFA staff will make a good faith effort to perform an initial review of construction documents within ten business days of submission of complete construction documents. Final approval will occur upon receipt of an approval recommendation from MFA’s architect that all outstanding issues, if any, have been resolved.

9. **Market Study.** For Projects passing the Threshold Review in a 9 Percent Tax Credit allocation round and ranking among the top scoring Projects, MFA shall commission a standardized market study by outside professionals chosen pursuant to the requirements of MFA’s procurement policy and having no financial interest in any of the Projects. For all Tax Exempt Bond Financed Projects, MFA shall commission, or cause to be commissioned, a standardized market study by outside professionals chosen pursuant to the requirements of MFA’s procurement policy and having no financial interest in any of the Projects. A deposit is required with each Application. Any additional cost of these studies will be charged to the Applicant, and failure to pay any additional costs within 20 calendar days of the billing will result in rejection of the Application.
10. **Other Project Compliance.** All Principals (See Glossary), related entities, and affiliates must be in compliance with respect to all other federally subsidized housing or Tax Credit Projects that they own or operate throughout the country. Applicants shall submit a complete list of all Projects in which the Applicant has an interest. Each Applicant shall also submit an affidavit certifying the Applicant is not in default with respect to any material compliance matter for any such property or shall state what defaults exist and what corrective action the Applicant is taking. If MFA determines either through information provided by an Applicant or through MFA's investigation that any federally subsidized housing or Tax Credit Project in which any Principal has an interest is in default of any material compliance matter, MFA may reject the Application. See Section IV.F.1 for additional discussion. This determination of default in regards to any Principal may concern, but is not limited to, progress made with previous Tax Credit reservations, including timely delivery of required documents and meeting all required deadlines; development compliance; and payment of monitoring fees.

11. **Development Team Review.** Staff will review the qualifications of each development team member (Developer, General Partner, Contractor, management company, consultant(s), architect, attorney, and accountant, etc.) to determine capacity to perform in the role proposed. Considerations may include related experience, financial capacity, performance history, references, management and staff, among others. An Application may be rejected or substitutions requested if the development team or any member thereof is unsuitable as determined by MFA.

### D. FEASIBILITY ANALYSIS AND FINANCIAL CONSIDERATIONS

All Projects successfully completing the Threshold Review and ranking among the highest scoring Projects for which Annual Credit Ceiling is available in a given year, as well as Tax Exempt Bond Financed Projects which pass Threshold Review, will undergo financial analysis by MFA staff to determine whether the Projects are financially feasible. Such determinations will rely on both the financial data submitted by the Applicant and on staff judgments with respect to feasibility matters. Projects that do not appear financially feasible in MFA's judgment may be rejected without further processing. Although Financing Commitments will not be required at Initial Application, all sources must be clearly identified and their terms specified. Financing Commitments will be required as a “Subsequent Requirement” after the initial Reservations are made.

Initial Applications for any Tax Credits (4 percent or 9 percent) must include a letter of interest from a Tax Credit syndicator or direct investor stating the terms and pricing for the purchase of Tax Credits allocated to the Project. In addition, all Projects will be underwritten using the more conservative of the standards indicated in this QAP, those in an underwriting supplement to be published by MFA at least one month prior to the Application Deadline, the terms listed in any Financing Commitment or letter of interest, or, in cases where one is available, the Project’s market study. Project 15-year proforma cash flow projections must include an operating expense inflation factor of at least 3 percent, a rental income inflation factor of no more than 2 percent, and a vacancy factor of at least 7 percent for all occupancy related income.
1. **Development Costs.** Development Costs will be evaluated against the average costs of competing Projects. In the case of rehabilitation Projects and Adaptive Reuse Projects an appraisal and Capital Needs Assessment of the existing Project will be required (prior to the issuance of the Letter of Determination for Tax Exempt Bond Finance Projects, and at the time of the Carryover Application for all other Projects), and used by MFA to evaluate Development Costs. The acquisition cost on which Tax Credits are calculated, for rehabilitation Projects, will be held to the lesser of sale price or appraised value. Applicants submitting costs exceeding these cost standards or submitting costs substantially below costs typical in the marketplace must provide information acceptable to MFA, justifying such costs. Projects with excessive costs will be subject to adjustments to the amount of Tax Credits requested.

2. **Developer and Other Fees.** Fees are limited to the following standards:

   a) **Builder Profit, Overhead and General Requirements**

   Builder profit may not exceed 6 percent of Construction Costs, builder overhead may not exceed 2 percent of Construction Costs, and general requirements may not exceed 6 percent of Construction Costs. For purposes of these calculations, see definition of Construction Costs in the Glossary.

   b) **Developer Fees**

   Developer fees may not exceed 1) $22,500 per Low Income Unit for Projects with 30 or fewer Units, 2) $21,000 per Low Income Unit for Projects with 31-60 Units, 3) $19,500 per Low Income Unit for Projects with 61-100 Units not to exceed $1.5 million, 4) and $15,000 per Low Income Unit for Projects with more than 100 Units not to exceed $1.8 million. Additionally, in no case shall the developer’s fee exceed 14% of Total Development Cost. Developer fees include all consulting costs for services typically rendered by a developer. Any reserve, excluding the MFA required Project Reserve (see below), may be considered as part of the developer fee, if it is not held for the benefit of the Project for a minimum of 15 years. Where an Identity of Interest exists between the Developer and the builder, the above-mentioned fee may be further reduced if MFA, in its discretion, determines the fee to be excessive. For purposes of these calculations, Total Development Cost is adjusted to exclude developer fees, consultant fees, and all reserves. If an Identity of Interest exists between a seller and a Principal, the above-mentioned fees may be further reduced at MFA’s discretion, and as described in Section III.H for Projects previously subsidized with Credits.

Exceptions to these rules governing developer and other fees may be granted in MFA’s sole discretion. Although the same standards will apply for Projects subject to Subsidy Layering Review, such Projects will require Board approval for Subsidy Layering purposes whenever they
exceed the federally defined “Ceiling Standard” limits, and only five such excess fee amounts can be approved in any given year.

Increases in Project costs subsequent to the Application Deadline may not result in an increase in any of the fees calculated above for Tax Credit Allocation purposes. These fees may be held to the same dollar amount as approved by MFA during the initial underwriting of the Project. Any changes in the amount of fees through the course of development will require prior approval of MFA and must be justified by a change in scope of the Project. Any change in the scope of the Project that results in increased fees for which an exception is being requested constitutes a change to that Project.

3. **Reserves (Escrows) Included In Development Costs.** The development budget must include an operating reserve equal to a minimum of four months of projected operating expenses, debt service payments, and replacement reserve payments. Larger operating reserves may be required for Projects which show a declining debt coverage ratio in 15-year cash flow projections, have rental assistance contracts included in their income projections, or have other factors that MFA determines in its discretion to warrant larger reserves. Replacement reserve levels must be shown in the operating budget at the minimum of $250 per unit per year for Senior Housing (new construction Projects only) and $300 per unit per year for all other new construction and rehabilitation and Adaptive Reuse Projects. Project reserves of any kind in the development budget will not be included in MFA’s calculation of Eligible Basis for Tax Credit purposes.

4. **Operating Expenses and Replacement Reserves.** MFA will review the projected operating expenses, replacement reserves and loan terms and may, in its determination of economic feasibility, make adjustments based upon industry standards, its own underwriting parameters, the Capital Needs Assessment, or facts obtained from other appropriate sources. Applicants are urged to carefully review operating cost proformas. Applicants must include real estate taxes in their operating expenses, unless evidence of a perpetual real estate tax waiver (throughout the term of permanent financing) is submitted with the Application.

5. **Debt Service Coverage and Subordinate Debt.** Applicants who are proposing subordinate debt must include the terms of the loan, and proformas must reflect the ability to repay the senior and subordinate debt with an aggregate minimum debt service ratio of 1.20. Projects that have debt service ratios higher than 1.40 may receive smaller Tax Credit awards, smaller subsidized loans, or higher loan rates than requested in the application. MFA will consider total annual cash flow as well as debt service ratio when making this determination. MFA will generally not consider the repayment of deferred developer fees when underwriting for feasibility but may consider a Project infeasible if the deferred fee represents a financial burden to the Project.

6. **Unit Distributions.** For Projects with more than one income and rent tier, all unit types must be distributed proportionately among each of the multiple tiers. That is, if 30 percent of the units are to be Set Aside for tenants earning no more than 50 percent of
median income, then the units used for this income group must include 30 percent of all one-bedroom units, 30 percent of all two-bedroom units, etc. This also applies to market rate units in the Project. This is intended to prevent allocation of all of the high rent units to the higher income groups, thereby maximizing income while potentially violating the intent of fair housing law.

Although the Federal Tax Credit regulation allows tenant rents plus federal rent subsidies in excess of the Tax Credit Ceiling Rents as long as the tenant pays no more than 30 percent of household income toward rent, the practice is prohibited by MFA except in Projects with project-based subsidies where the program that governs the project-based subsidies allows rents above Tax Credit Ceiling Rents. Note that in order to underwrite such rents, a copy of a federally approved rent schedule must be provided to MFA, e.g. HUD, USDA. More detail regarding rental assistance payments and qualifying tenants can be found in the MFA Tax Credit Monitoring and Compliance Plan, which is issued under a separate cover and summarized in Section X.

E. CREDIT CALCULATION METHOD

1. **Tax Credit Calculations.** During each evaluation, MFA will determine the amount of Tax Credits to be reserved, committed, or allocated by considering factors specific to each Project including, but not limited to, the following:

   a) Development Costs;
   b) Funding sources available to the Project for construction and permanent financing:
      i. First mortgage loans;
      ii. Grants;
      iii. Tax Credit proceeds;
      iv. Owner equity; and
      v. Subordinate debt.
   c) Projected operating income and expenses, cash flow and tax benefits;
   d) Maximum Tax Credit eligibility;
   e) Debt service coverage ratio compared to lender requirements or commercial lending practices, as applicable;
   f) Project reserves;
   g) Developer fees and builder overhead and profit; and
   h) Per Unit cost limits (Section IV.C.2).

2. **Amount of Tax Credits for Reservation or Carryover Allocation.** To estimate the amount of the Tax Credit Allocation for a Project at Initial Application or at Carryover, MFA will use the prior twelve months average Applicable Credit Percentage of the Qualified Basis, as adjusted by MFA, or the amount needed to fill the financing gap. The procedure to determine the amount to fill the financing gap is outlined in 3 below.

3. **Tax Credit Proceeds.** At the time of Initial Application, MFA will use the more conservative of the equity-pricing factor stated in the letter of interest from the tax credit
syndicator or the equity-pricing factor listed in the underwriting supplement published by MFA for the current allocation round. The prior twelve months’ average of Applicable Credit Percentage will be used along with the equity-pricing factor to estimate the Tax Credit Proceeds. At the time of the Carryover Allocation, the Project Owner must deliver a written letter of intent from a syndicator or equity provider that clearly states the equity-pricing factor. That equity-pricing factor along with the prior twelve months average Applicable Credit Percentage will be used to estimate the Tax Credit proceeds for the Carryover Allocation. The equity-pricing factor to be used at Final Allocation will be the actual equity-pricing factor contained in the Project’s syndication agreement, and the Applicable Credit Percentage will have been determined at either Carryover (or in the case of Tax Exempt Bond Financed Projects, the month the tax-exempt obligations are issued) or Placed in Service date.

4. **Limitation on Tax Credit Awards to a single Project or Principal.** Subject to the exceptions contained herein, no Project shall receive a Tax Credit Reservation in excess of $1,150,000 and no Applicant, any General Partner or affiliate of an Applicant, or affiliate of an Applicant, or person or entity receiving or identified as eligible to receive any part of a developer fee for a Project may receive more than two Tax Credit Reservations in any given competitive 9 Percent Tax Credit round. Projects to be located on adjacent sites proposed by the same Applicant in the same allocation round will be treated as a single Project with respect to the per Project limit stated above.

5. **Other Factors Limiting the Credit Reservation.** The amount of Credit reserved, committed and finally allocated to a Project will be the lesser of:

   a) The maximum Tax Credit eligibility of the Project;
      
      o Maximum Tax Credit eligibility is the maximum amount of Tax Credit justified by a Project’s Qualified Basis, as adjusted by MFA, and taking into consideration any increase in Eligible Basis approved by MFA and the Applicable Credit Percentage as described in Section IV.E.2 above, or the Applicable Credit Percentage that was locked-in at Carryover (or in the case of Tax Exempt Bond Finance Projects, the month the tax-exempt obligations are issued) or was in effect when the building was Placed in Service; or
      
      o The amount requested in the Application; or
      
      o The amount necessary to fill the funding gap.

   b) The funding gap is the difference between Total Development Cost (exclusive of syndication related costs) and all available funding sources, including HOME funds awarded in conjunction with the Tax Credit allocations, excluding anticipated Tax Credit proceeds. The terms of all proposed sources must be within reasonable industry norms and financing for the Project has to be maximized when evaluating
rate, term, debt service coverage, loan-to-value, etc. The maximum Tax Credit amount allowed based on the funding gap will be determined by the MFA limits stated in Section IV.E.3 above.

6. **Increased Basis for High Cost Areas.** Additional Eligible Basis (up to 30 percent of the initial calculation) will be considered for Projects located in HUD-designated “Difficult Development Areas” (DDA) and “Qualified Census Tracts” (QCT) if deemed necessary for viability of the Project by MFA. Applicants requesting such increases must deliver evidence in the Initial Application Package that the Project is located in a DDA or QCT. Projects that are not financed with Tax Exempt Bonds which score at least 10 points under *Projects that Benefit the Environment*, and have Units set-aside for Seniors, Households with Children, or Households with Special Needs may also be determined to be eligible for the basis increase (up to 30 percent) if deemed necessary for Project feasibility as determined by MFA. All areas of the state are eligible for this additional basis boost. The boost may not be applied to Projects financed by Tax Exempt Bonds unless located within a HUD-designated DDA or QCT.

7. **Adjustments to Credit Allocations.** When actual Tax Credit proceeds are confirmed and final financial feasibility analysis is performed during review of Final Allocation Packages, there may be adjustments to the Tax Credit Allocation. Adjustments may also be made at Carryover when the 12-month average Applicable Credit Percentage has changed, and, for rehabilitation Projects, when the Capital Needs Assessment and appraisal are provided. If actual Project costs or funding sources differ substantially from the projections submitted in the Application, MFA may reduce the final Tax Credit Allocation or the Project Owner may establish Project reserves to offset the deficit if in MFA’s reasonable judgment the Project has sufficient Tax Credit eligibility. The conditions for such reserve accounts will be determined by MFA on a case-by-case basis.

8. **Federally Required Subsequent Financial Analyses.** Federal regulations require that Housing Credit Agencies conduct evaluations at three specific times to determine the amount of applicable Tax Credits:

   a) Upon receipt of an Application for Low Income Housing Tax Credit Reservation; and  
   b) Prior to granting a Tax Credit Allocation; and  
   c) No earlier than thirty (30) days prior to awarding the Tax Credit Certification, IRS Form 8609.

**F. FINAL PROCESSING AND AWARDS**

1. **Additional Considerations.** Applications meeting the requirements of the Threshold Review and Feasibility Analysis described above will be further evaluated and processed by MFA. In this step all remaining determinations will be made with respect to development team capability, design, readiness to proceed, and other factors in MFA’s reasonable judgment to evaluate the Project’s Application. Projects
must meet 2016 MFA Mandatory Design Standards for Multifamily Rental Housing available from MFA on the website. Debarment from HUD, MFA, or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally-financed Projects (for example, late payments within the 18 month period prior to the Application deadline, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on other projects], or failure to meet development deadlines or documentation requirements) on the part of any proposed development team member or Project Owner or other Principal may result in rejection of an Application by MFA. In addition, MFA will consider a Principal’s progress made with previous Tax Credit reservations, including timeliness in delivering required documents and fees, and meeting all required deadlines. When scoring and ranking generates multiple Projects that would draw tenants from a single market area (as determined by the MFA market studies for the Projects in question), MFA may choose to eliminate the lower scoring or higher cost Project to avoid overbuilding and distribute Credits more evenly throughout the state. In addition, MFA reserves the right to reject any Project, which MFA in its reasonable judgment determines is inconsistent with prudent business practices or with the intent and purpose of the QAP. MFA may also make awards conditional on specific modifications to the Project that MFA in its sound judgment considers necessary to enhance the feasibility or safety of the Project.

2. Selection of Projects for Awards. Projects meeting the Threshold Review requirements listed in Section III.C will be ranked and ordered according to scoring procedures established in Section III.E, with consideration to the Allocation Set Asides as described in Section III.D. Staff will then prepare a summary of the Projects to be recommended for allocations. Eligible and ineligible Projects will be distinguished for purposes of subsequent awards if additional Credits become available. Tax Exempt Bond Financed Projects will be evaluated in a similar process but will not compete against other Projects for an allocation of Tax Credits.

3. Allocation Review Committee (ARC). The Chairman of the Board of MFA will appoint an Allocation Review Committee. The functions of this committee will be to 1) review the Project rating and ranking results in the staff’s proposed award summary, 2) determine whether or not the proposed awards have been made consistent with the criteria and other aspects of this Qualified Allocation Plan, 3) conduct the appeals process, and 4) make final award recommendations to the Board. MFA will notify Applicants of the preliminary status of their Projects with the use of a preliminary reservation letter, preliminary waitlist letter, or rejection letter, after the committee’s approval of the staff’s proposed awards and before the appeal process begins. Such letters will be scheduled to be issued approximately ninety (90) days after the Application Deadline. Except for appeals as described in Section IV.E.4 below, the provisions of this section are not applicable to Tax Exempt Bond Financed Projects.
4. **Appeal Process.** Applicants wishing to appeal a determination made by MFA with respect to their Application may do so in writing delivered to MFA no later than 5:00 PM local time on the 10th calendar day after the date of the preliminary reservation letter, preliminary waitlist letter, or rejection letter (or draft Letter of Determination, in the case of Tax Exempt Bond Financed Projects). Appeal requests may only be filed with regard to Applications that have been made to meet all of the requirements in “Content and Format” in Section IV.A.4, must be specific as to the decision(s) being appealed, and they must be accompanied by a fee payment in the amount shown in Section IV.B. Appeals for a given Project can only be filed by the General Partner or proposed General Partner and only one appeal may be filed with regard to an Application. MFA’s initial determination with respect to the Application will stand unless the Applicant can prove or justify, solely on the basis of materials submitted in the Initial Application, why the decision should be changed. The ARC will review the appeal and take whatever action it deems appropriate. The decision by the ARC or the Board, if the matter is referred to the Board, will be final; no further appeals will be entertained. Appeals may result in re-ranking of the Projects, in rejection of previously approved Projects and/or in approval of previously rejected Projects. Once the appeals process is completed, and the resulting recommendations are approved by MFA’s Board of Directors, final Reservation Letters (or draft Letter of Determination in the case of Tax Exempt Bond Financed Projects) will be issued.

5. **Board of Directors.** The Board will make final awards for each competitive 9 Percent Tax Credit allocation round, although for logistical reasons the preliminary reservation letters, preliminary waitlist letter and rejection letters may be issued prior to the appeals process and the Board’s final decisions. Final reservation letters will be issued following the Board decision. The Board will approve Projects considered to be Eligible Projects, and these may include Projects for which Tax Credit Allocations are not immediately available. If any Projects receiving Reservations fail to meet subsequent requirements, an allocation of Tax Credits may be revoked and then awarded by MFA to the next highest scoring Eligible Project(s) on the waiting list. Any conflicts of interest of Board members are to be disclosed and Board members having such conflicts will abstain from votes approving or disapproving Tax Credit Projects in accordance with MFA’s policies, procedures, rules, and regulations regarding conflicts of interest. The provisions of this section relating to Board actions following competitive allocation rounds are not applicable to Tax Exempt Bond Financed Projects.

6. **Prohibited Activities.** Applicants (including Applicants for Tax Exempt Bond Financed Projects) or their representatives shall not communicate with, or by any other means attempt to influence, members of the Board of Directors and their proxies, Design Competition Committee members, or members of the ARC regarding any Application except when specifically permitted to present testimony at a Tax Credit related proceeding. **An Application shall be rejected if the Applicant**
or any person or entity acting on behalf of the Applicant violates the prohibitions of this section. A list of the members of MFA’s Board of Directors and their proxies and ARC members can be found at http://www.housingnm.org.

Nothing in this section shall be construed to alter or affect the mandatory appeals processes and procedures that are prescribed elsewhere in this QAP. An Applicant’s failure to adhere to the prescribed Application and appeals processes and procedures shall result in the rejection of the Application.

G. NOTIFICATION OF APPROVAL AND SUBSEQUENT PROJECT REQUIREMENTS

Note: Only Sections 6.e) and 7-9 of this Section IV.G. apply to Tax Exempt Bond Financed Projects.

Successful Applicants will be notified of MFA’s allocation decision in the form of a Reservation Letter.

Affirmative actions after Reservation. From the date of the Reservation, the Applicant must meet each of the deadlines specified below for follow up activity in order to maintain its Reservation or Carryover Allocation. MFA has no obligation to provide any further notice to Applicants of these requirements, and failure to submit any one or more of the items may cause the Reservation to be terminated or the Carryover Allocation to be cancelled. Applicants must further agree to voluntarily return their Reservations or Tax Credit Allocations for reallocation to other Projects by MFA if any of the deadlines below are not met.

1. At Reservation

   a) The Processing fee must be paid at this time, and any other conditions noted in the Reservation Letter, which may include evidence of continued site control, must be satisfied.

2. By November 15th (See Glossary for the definition of this date) of the allocation year

   a) Threshold Requirement #2

       Applicants whose Projects were not required to meet Threshold Requirement #2 (zoning) at the Application Deadline must submit evidence that all required zoning approvals for the proposed Project have been obtained; and

   b) All Applicants must deliver:

       i. The contractor’s resume, if it was not included in the Application;
       ii. Financing Commitment(s) (See definition) for construction and permanent financing and any other rental or other subsidy, as applicable. Financing Commitments must be submitted from all funding and subsidy sources including construction and first mortgage lender(s), all secondary
financing sources (i.e., grants, loans, in kind contributions), and a letter of intent from equity provider. Projects which include Federal Historic Tax Credits in the financing structure submit evidence from National Park Service that a complete Historic Certification – Part 2 for the Project has been received.

iii. For a Project to be financed by HUD, evidence that the Applicant has submitted a Site Appraisal and Market Analysis (“SAMA”) Application to HUD; and

iv. For a Project to be financed by MFA’s 542(c) Risk Sharing Program, a HUD Firm Approval Letter.

c) Carryover Allocation Requirements. If the Project will not be Placed in Service during the calendar year in which the reservation is made, the Applicant must request a Carryover Allocation, which allows for twenty-four (24) additional months to complete the Project. The complete Carryover Allocation Package, including an electronic version (CD, DVD or USB flash drive) and hard copies of these documents must be delivered to MFA by November 15th of the year in which the Reservation was made. It must contain all items on the Carryover Allocation Requirements Checklist, which include, among other items, an updated Application Form, and recorded deed or lease to the site. The Applicant must deliver evidence that the Project Owner has taken ownership of the land and, if applicable, depreciable real property, or holds long-term lease rights to the land or if applicable, depreciable real property, that is expected to be part of the Project. For Tribal Projects, this would include fully executed master and sub-lease agreements with evidence of filing with the Bureau of Indian Affairs. All Tax Credit fees must be paid to date. In addition, the Project architect must certify that the Project’s plans and specifications meet the 2016 MFA Mandatory Design Standards for Multifamily Rental Housing and contain all commitments made in the initial application regarding design and building.

d) Rehabilitation and Adaptive Reuse Projects. In addition, rehabilitation Projects must provide with the Carryover Application an appraisal and a Capital Needs Assessment of the existing Project.

3. March 1\(^5\) of the year following Carryover

If applicable, the MFA 542(c) Risk Sharing commitment is to be fully executed.

4. June 30 (see footnote 5) of the year following Carryover

The Applicant must submit complete Project plans, specifications, and construction documents for MFA review for compliance with the 2016 MFA Mandatory Design Standards for Multifamily Rental Housing.

\(^5\) If such date falls on a weekend or holiday, the deadline shall be the first working day following such date.
Standards for Multifamily Rental Housing. Applicants must receive written approval of complete plans, specifications, and construction documents from MFA prior to start of construction. MFA staff will make a good faith effort to perform an initial review of construction documents within ten business days of submission of complete construction documents. Final approval will occur upon receipt of an approval recommendation from MFA’s architect that all outstanding issues, if any, have been resolved.

5. **August 31** (see footnote 5) of the year following Carryover

   a) The Applicant must submit evidence that the basis in the Project exceeds 10 percent of the reasonably expected total basis in the Project, an Independent Auditor’s Report and Cost Certification, and a Project Owner’s attorney’s opinion and any other documentation required by MFA (“10 Percent Test”).

   b) The Applicant must deliver evidence acceptable to MFA that construction of the Project has begun. This will include, at a minimum, building permits and site photographs.

   c) The Applicant must deliver an executed partnership agreement.

   d) If Federal Historic Tax Credits are included in the financing structure of the Project, evidence of National Park Service approval of the Project’s Historic Certification – Part 2 must be submitted.

6. **November 15th** (see Glossary and footnote 5) of the Second Year following the initial allocation

**Final Allocation and Placed in Service Requirements.** On or before November 15th of the second year following the initial allocation, a Placed in Service Application or a Final Allocation Application must be submitted, in electronic form (CD, DVD or USB flash drive in addition to a hard copy, for each Project. **Failure to meet this requirement will result in the loss of Tax Credits.** If the Project is to be Placed in Service but the Applicant is not yet ready to request Low Income Housing Tax Credit Allocation Certification (IRS Form 8609), the Placed in Service portion of the Final Allocation Package must still be submitted. A complete Final Allocation Package should be submitted no later than 120 days following the close of the Project’s first taxable year of the Credit Period. Prior to the issuance of IRS Form 8609 certifications for the Project, the Project Owner must submit a complete Final Allocation Package, containing all items on the Final Allocation Checklist, which include, among other items, the following:

   a) **Cost Certification.** A Project Cost Certification prepared by a Certified Public Accountant must be delivered by the Project Owner prior to the issuance of IRS Form 8609 certifications. This form and required documentation must be completed within sixty (60) days after the Project is Placed in Service. MFA is under no obligation to issue IRS Form 8609 certifications for the current year if the package is received after November 15th.
b) **Architects Certification.** A certification from the Project architect, certified by the Project Owner, that the Project has been built in conformance with the 2016 *MFA Mandatory Design Standards for Multifamily Rental Housing*, all applicable codes, and commitments made in the initial application regarding design and building, unless otherwise approved in writing by MFA.

c) **Project Owner’s Attorney’s Opinion.** A Project Owner’s attorney opinion submitted on firm’s letterhead with required text as set forth in the Application Package.

d) **Final Contractor’s Application and Certificate for Payment, AIA Doc. G702, or equivalent.** A fully executed copy indicating all of the hard construction costs for the Project must be submitted with the Final Allocation Package.

e) **Land Use Restriction Agreement (LURA).** Prior to December 31 of the year in which the buildings are Placed in Service, the Project Owner must submit an executed and recorded LURA, satisfactory to MFA in form and content.

7. **Other Developer Responsibilities and Elections.** The Project Owner has several options concerning the month in which the Applicable Credit Percentage is locked in, for both taxable Projects and Tax Exempt Bond Financed Projects. Additionally, the Project Owner must place the buildings in service and claim Tax Credits within certain time periods. MFA must be notified of these dates to ensure that all necessary administrative actions are taken in a timely manner. Otherwise Tax Credits may not be able to be claimed as desired.

8. **LURA or Extended Use Agreement.** Section 42(h)(6) of the Code requires imposition of “an extended low-income housing commitment.” MFA complies with this requirement with a LURA filed at the time of Placement in Service or Final Allocation. The LURA sets forth, as covenants running with the land for a minimum of 30 years (or longer if the developer commits to a longer restriction period), the compliance fees, the low income Set Asides, the percentages of median income to be served, the special housing needs to be served (if any) and any other such commitment made in the Initial Application or that may be imposed through this QAP and Code Section 42. The LURA may not be terminated prior to its term for any reason other than foreclosure or an instrument in lieu of foreclosure and the Project Owner will not have the right to require MFA to present a “qualified contract” in accordance with Code Section 42(h)(6). The Developer will also have to deliver subordination agreements from all lenders, giving lien priority to the Tax Credit restrictions.

**H. TERMINATION OF RESERVATIONS OR REJECTION OF APPLICATIONS**

Any of the following events or actions on the part of the Applicant at any time subsequent to the Application Deadline may cause the Application to be rejected, or the Reservation to be terminated in MFA’s sole discretion:
1. Loss of site control or site change;

2. Submission of any false or fraudulent information in the Application or in other submissions;

3. Failure to meet the conditions in Sections IV.B and IV.G above or in the Reservation Letter;

4. Subsequent regulations issued by U.S. Treasury or the IRS pertaining to Section 42;

5. Failure to promptly notify MFA of any material or adverse changes in the facts of the original Application pursuant to Section IV.I below;

6. Instances of non-compliance continuing beyond the specified cure period on Applicant’s or Principals’ other Projects;

7. Any other change which would alter the original scoring of the Application, or which was not approved in advance by MFA;

8. Debarment from HUD, MFA or other Federal programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or HUD financed Projects (including but not limited to late payments within the 18 month period prior to the Application Deadline, misuse of reserves and/or other Project funds, default, fair housing violations, non-compliance [e.g. with the terms of LURAs on other projects], failure to meet development deadlines, or documentation requirements) on the part of any development team member or owner or other Principal; or

9. Change in the Federal Set Aside Election or other Set Aside proposed in the Initial Application, subsequent to the Application Deadline.

I. NOTIFICATION TO MFA OF CHANGES TO THE PROJECT

It is the Applicant’s responsibility to notify MFA immediately, in writing, of any changes to the Project subsequent to submission of an Application, including the changes listed below and any other material changes, by requesting MFA’s approval of such changes. Failure to notify MFA may result in the rejection of an Application or loss of a Reservation or Tax Credit Allocation. Approval of such changes will be made in MFA’s sole discretion, and the change may result in a change in the Tax Credit amount or other action by MFA. A $500 fee payment is required at the time of the request for approval of any changes pursuant to Section IV.B.

Examples of changes of which MFA must be notified:

1. Site control or rights of way are lost;
2. Project costs change in excess of five percent (5 percent) of the Total Development Cost shown in the Carryover Allocation application package;

3. Applicant obtains additional subsidies or financing other than those disclosed in the Carryover Allocation application package; loses subsidies or financing included in the Carryover Allocation application package; or the amount of any such financing or subsidy changes by 10 percent or more from the amount shown in the Carryover Allocation application package;

4. Development cost contributions made by a state, local or tribal government entity are reduced, increased, withdrawn or substituted with other types of contributions than the ones originally proposed in the Application;

5. The syndication payment timing and/or net proceeds change from those stated in the Carryover Allocation application package;

6. The parties (other than the Limited Partner(s)) involved in the ownership entity as represented in the Application change;

7. Changes to Project design, unit design, square footage, unit mix, number of units, or number of buildings changes;

8. A change in any enrichment service provider, including financial literacy training provider, and/or change in type of enrichment service to be provided;

9. The general contractor or other member of the original development team changes; and/or

10. Any other factor deemed material by MFA in its reasonable judgment.

J. NOTICE PROVISIONS

MFA will typically provide notice to Applicants through certified mail, courier service, facsimile, or email transmission. Consequently, correct street addresses, email addresses and fax numbers must be provided clearly in the Application Form. Such notices will be provided only to the single contact person shown in the Application Form. MFA will not be responsible for any consequences that may result from the Applicant’s inability to receive notice from MFA due to a change in contact person information that was not reported to MFA.

K. APPLICATIONS ARE PUBLIC RECORDS
All information contained in Applications for Tax Credits are public records subject to inspection under state and federal open records laws. In addition, MFA may share information and details obtained from Applications with other public agencies.

L. ATTORNEY FEES

In any litigation, arbitration, or other proceeding arising from, as a result of, or pursuant to this QAP and/or the resulting Tax Credit allocation round, selection process, or award determinations, MFA, if it is the prevailing party, shall be entitled to be awarded its reasonable attorney fees, costs and expenses incurred from the opposing party, regardless of which party initiated the litigation, arbitration, or other proceeding.

V. COST CERTIFICATION

A. APPLICABILITY OF COST CERTIFICATION

Certification by a Certified Public Accountant is required to certify compliance with the 10 Percent Test as defined in Section IV.G.4.a. Prior to the issuance of a Low Income Housing Tax Credit Allocation Certification (IRS form 8609), MFA will require a Cost Certification, prepared by an independent Certified Public Accountant, which meets the MFA requirements for all Projects as defined in this QAP.

B. REQUIREMENTS

The Cost Certification must meet the following requirements:

1. The accountant preparing the Cost Certification must certify that all costs are related to the Project’s development and do not include costs for organization, syndication, professional or consultant fees related to syndication.

2. All fees, including the developer fee, paid to the Developer or to an entity with an Identity of Interest with the Developer, must be clearly identified. If all or a portion of the developer fee is deferred, copies of the promissory note or other substantiation of the validity of the fee must be reviewed.

3. If the land is purchased from a related party, the Project Owner must submit an appraisal to substantiate fair market value.

4. Legal fees related to land acquisition must be clearly identified.

5. Interest expense related to land must be clearly identified.

6. The sources of all funding including loans, Tax Credit proceeds, developer equity and all other sources must be certified.

C. AUTHORITY TO DETERMINE MAXIMUM QUALIFIED BASIS
MFA may challenge the costs provided in the Cost Certification, impose the limitations set forth in this QAP, and at its sole discretion, determine the maximum Qualified Basis against which Credit is allocated.

VI. AUXILIARY FUNCTIONS

MFA conducts certain Tax Credit related functions which are separate from the regular allocation and monitoring process, including the following;

A. SUBSIDY LAYERING REVIEW

Pursuant to Section 911 of the Housing and Community Development Act of 1992, HUD is required to determine that Projects receiving Tax Credits and federal, state, or local assistance do not obtain subsidies in excess of that which is necessary to produce affordable housing. This responsibility has been delegated to MFA, and MFA’s review process will follow the HUD’s Administrative Guidelines issued December 15, 1994. An essential component of this review is an analysis of the reasonableness of fees paid to sponsors, developers, and builders. Consequently for purposes of Section 911 reviews, fees used to calculate Tax Credit amounts will not exceed the limits stated in Section IV.D.2 “Developer and Other Fees”, above. Some of these maximum fees allowed by MFA exceed the “Safe Harbor” fee amounts, which apply to Section 911 reviews. Special factors that justify these published higher fees (which do exceed “ceiling” amounts) include, but are not limited to: the relatively high cost of construction and land within the State of New Mexico; the lack of state- or locally-funded soft second financing or operating subsidies; and the general inability of local governments to donate land and/or other services to worthy Projects due to the state’s “Anti-Donation” clause.

MFA reserves the right to include or consider other criteria to justify exceeding Safe Harbor limits for fees associated with Projects requiring Subsidy Layering Reviews. MFA also reserves the right to limit Projects to Safe Harbor limitations for any reason that, in its sole discretion, deems reasonable. This paragraph applies to all Projects that require Subsidy Layering Reviews.

Requests for Subsidy Layering Reviews may be made at any time by an Applicant, and must include a $500 review fee. Responses will be provided by MFA no later than thirty (30) business days subsequent to receipt of the Subsidy Layering Review request by MFA, unless the request is submitted less than ninety (90) days after an allocation round deadline.

B. PROCESSING OF TAX EXEMPT BOND FINANCED PROJECT APPLICATIONS

IRS Code Section 42 allows Tax Exempt Bond Financed Projects to receive an allocation of 4 Percent Tax Credits provided they meet the minimum requirements for an allocation in the QAP. MFA’s determination that a Project satisfies the requirements of the QAP will be based on the Project’s meeting all Minimum Project Threshold Requirements, Staff Analysis, Application Processing, Feasibility Analysis, and Property Standards described in the QAP in effect when
the determination is made. The Tax Credits allocated to Tax Exempt Bond Financed Projects are not subject to the Annual Credit Ceiling and, consequently, are not required to compete in the competitive allocation process described in the QAP. In addition to meeting the minimum score stated in Section III.E, Tax Exempt Bond Financed Projects are required to score points for Projects in Which Units are Reserved for Households with Special Needs, Projects Reserved for Senior Households, or Projects in which 25 Percent of All Units are Reserved for Households with Children and for Projects that Benefit the Environment. MFA staff will also undertake an analysis to determine the Tax Credit amount necessary for financial feasibility.

Requests for these determinations must be made by the Project’s Developer/Sponsor no more than 60 calendar days after an award of bond volume cap is made by the State Board of Finance, and no less than 60 calendar days prior to the anticipated bond issuance date. Requests must include an Application Fee as listed in Section IV.B, a deposit toward the cost of a market study to be ordered by MFA, and the Development Project Application Form with needed schedules, the Attachments Checklist, and any other material specified by MFA. For Tax Exempt Bond Financed Projects only, MFA may accept the Applicant’s market study and waive the deposit if the Applicant’s study meets all of the requirements of MFA’s studies, in MFA’s determination, and is dated no more than 180 calendar days prior to the date on which a complete Application is received by MFA. Prior to the release of the Letter of Determination by MFA staff, a processing fee in the amount of five and one half percent (5.5 percent) of the approved annual Credit amount will be due. MFA’s initial response to the Application for 4 Percent Tax Credits will be provided no later than sixty (60) business days subsequent to receipt of the complete Application by MFA.

Tax Exempt Bond Financed Projects may receive Tax Credits on the full amount of their Eligible Basis only if at least 50 percent of the Project’s “aggregate basis” is financed with Tax Exempt Bonds. Additionally, numerous bond-financing rules apply and many Tax Credit requirements are different for Tax Exempt Bond Financed Projects. MFA recommends that developers undertaking these Projects obtain advice from qualified tax professionals to ensure that such requirements are met.

To ensure that these Credits are used to leverage the greatest possible amount of resources, the following additional Minimum Project Threshold Requirements will apply:

1. **Percent of Total Sources Limit.** The private activity bond volume cap allocation by the State Board of Finance must not exceed seventy-five percent (75 percent) of the Project’s Total Development Cost; and

2. **Costs of Issuance Limit.** Costs of issuance may not exceed five percent (5 percent) of the bond issue for Projects with total financing sources of $2,000,000 or more, and seven percent (7 percent) for Projects with total financing sources of less than $2,000,000.
For all Tax Exempt Bond Financed Projects, the developer must provide notice to MFA that units have been Placed in Service and request the issuance of a LURA from MFA within one month of the date on which the last unit of the Project was Placed in Service.

VII. AMENDMENTS TO THE ALLOCATION PLAN AND WAIVERS OF PLAN PROVISIONS

MFA reserves the right to modify this QAP, including its compliance and monitoring provisions, as required by the promulgation or amendment of Section 42 of the Code, from time to time, or for other reasons as determined by MFA. MFA will, however, make available to the general public a written explanation of any allocation of Housing Tax Credits that is not made in accordance with established priorities and selection criteria of the agency.

VIII. FUTURE YEAR’S BINDING COMMITMENTS

MFA staff shall have the authority to advance allocate up to $300,000 in future year’s Tax Credits to Board-approved Eligible Projects. However, advance allocations are made solely at MFA’s discretion, and no advance allocation may be made to any Project whose Tax Credit amount is not at least 50 percent funded by the current year’s Annual Credit Ceiling without MFA Board approval. Future year commitments in excess of $300,000 in any given year must also be approved by the Board.

IX. DISASTER RELIEF ALLOCATIONS

The Board will retain the authority to allocate current or future year’s Tax Credits at any time and in any amount to Projects approved by the Board that are intended to alleviate housing shortages in communities affected by natural disasters.

X. MFA TAX CREDIT MONITORING AND COMPLIANCE PLAN SUMMARY

A. General Requirements

Federal Law requires MFA to develop and implement a compliance-monitoring program for completed Projects that have received Low Income Housing Tax Credits. A compliance plan contained in a manual has been developed and is available to the Project Owners at MFA’s website, www.housingnm.org. Compliance monitoring is required for a minimum of 15 years after receipt of a Tax Credit allocation. Each owner has chosen to utilize Low Income Housing
Tax Credits to take advantage of the tax benefits provided. In exchange for these tax benefits, certain requirements must be met so that the Project will benefit Low Income Tenants.

Project Owners will be required to submit a quarterly report to MFA for each of the first four calendar quarters after a Project is Placed in Service. At that time, if the Project is determined to be in compliance with Section 42 of the Code, reports may be filed on an annual basis. Project Owners will be required to submit to MFA a copy of all federal form 8609’s, including schedule A, filed with the IRS in the first year that credits are claimed, and at any subsequent time as requested by MFA.

B. INSPECTIONS

MFA will conduct annual on-site inspections of at least thirty-three percent (33 percent) of the Projects under the MFA’s jurisdiction. Each inspection will include a review of the Project’s low income certifications, supporting income documentation, leases, rent records (including utility documentation) and unit inspections in at least twenty percent (20 percent) of the Project’s Set Aside Units and a physical inspection of the entire Project (interior and exterior). In mixed-use properties, one hundred percent (100 percent) of the units may be monitored. If Projects are determined to be in noncompliance, site visits may occur more often. MFA will provide written notification of scheduled inspections.

During the Extended Use Period, MFA reserves the right, under the provisions of Section 42 of the Code and the Project’s Land Use Restriction Agreement, to perform an audit of any Project that has received an allocation of Tax Credits. This audit will include an on-site inspection of all buildings, and a review of all tenant records and certifications and other documents supporting criteria for which the Project Owner received points in the Application for an allocation of Credits.

C. RECORD KEEPING AND RECORD RETENTION

Under the provisions of the Tax Credits, the Project Owner will be required to keep records as defined below for each building within a particular development. These records must be retained by the Project Owner for a minimum of six (6) years beyond the Project Owner’s income tax filing date for that year. However, first-year Project records must be maintained for six (6) years beyond the tax filing date of the final year of the Project’s eligibility for Tax Credits. The Project Owner must report to MFA, through MFA’s WCMS On-Line system, annual audited property financial statements, as well as annual operating budgets. On a monthly basis, the Project Owner must provide tenant income certifications and property vacancy data using the WCMS On-Line system. In addition, the Project Owner must maintain records for each qualified Low Income building in the Project showing:

1. The total number of residential Units in the building (including the number of bedrooms and size in square feet of each residential Unit);

2. The percentage of residential Units in the building that are Set Aside Units;
3. The rent charged on each residential Unit in the building (including utility allowances);

4. The number of occupants in each residential Unit in the building;

5. The Low Income Unit vacancies in the building and documentation of when and to whom the “next available units” were rented;

6. The income certification of each Low Income Tenant;

7. The documentation to support each Low Income Tenant’s income certification;

8. The Eligible Basis and Qualified Basis for each building;

9. The character and use of any nonresidential portion of the building included in the building’s Eligible Basis (this includes separate facilities such as clubhouses or swimming pools whose Eligible Basis is allocated to each building);

10. Additional documentation and reporting as required by federal regulation; and

11. Additional documentation and reporting as required by MFA.

Failure to annually report is deemed as noncompliance and is reportable to the IRS.

D. ANNUAL CERTIFICATION REVIEW

It is the responsibility of the Project Owner to annually certify to MFA that the Project meets the requirements of Section 42 of the Code, whichever Set Aside is applicable to the Project. Failure to make this certification is deemed as noncompliance and is reportable to the IRS. This annual certification requires the Project Owner to certify that:

1. The Project meets the minimum requirements of the Set Aside Election;

2. There has been no change in the applicable fraction;

3. An annual Low Income certification has been received from each Low Income Tenant and documentation is available to support that certification;

4. Each Low Income Unit is rent restricted under Section 42 of the Code;

5. Subject to the income restrictions on the Project, all units in the Project are for use by the general public and are used on a non-transient basis;

6. There has been no finding of discrimination under the Fair Housing Act;
7. Each building within the Project is suitable for occupancy taking into account local health, safety, and building codes;

8. There has been no change in any building’s Eligible Basis under Section 42 of the Internal Revenue Code, or if there has been a change, adequate explanation of the nature of the change has been given;

9. All tenant facilities included in the Eligible Basis of any building in the Project are provided on a comparable basis, without a separate fee, to all tenants in the building;

10. If a Low Income Unit in the Project becomes vacant during the year, reasonable attempts are made to rent that Unit to tenants having a qualifying income, and while the Unit is vacant, no Units of comparable or smaller size are rented to tenants not having a qualifying income;

11. If the income of Low Income Tenants of units increases above one hundred forty percent (140 percent) of the applicable income limit allowed in Section 42 of the Code, the next available Unit of comparable or smaller size will be leased to tenants having qualifying income.

12. Project Owner has not refused to lease a Unit to an applicant based exclusively on their status as a holder of a Section 8 voucher and the Project otherwise meets the provisions outlined in the extended low-income housing commitment;

13. If the Project Owner received its Tax Credit Allocation from the state ceiling Set Aside for Projects involving “qualified non-profit organizations”, the non-profit entity materially participated in the operation of the development;

14. There has been no change in ownership or management of the Project;

15. The Project Owner has obtained accurate, allowable, current utility allowances for use in the calculation of rents for the Project, and acknowledges this to be an annual requirement for the duration of the Compliance Period;

16. For the preceding 12 months the Project Owner has complied with Section 42(h)(6)(E)(ii)(I) of the Code that an existing tenant of a low-income Unit has not been evicted or had their tenancies terminated for anything other than good cause;

17. The Project Owner has complied with Section 42(h)(6)(E)(ii)(II) of the Code and not increased the gross rent above the maximum allowed under Section 42 with respect to any low-income Unit.

As an exception, only for Rural Development (RD) Projects, MFA may accept a certification from RD that income is based upon annual tenant certifications/re-certifications, and that third
party verification has been obtained. This certification will be in a form that is acceptable to both RD and MFA. Project Owners must furnish RD certifications annually, verifying that Projects are in compliance with Section 42 of the Code.

Tax Exempt Bond Financed Projects in which fifty percent (50 percent) or more of the aggregate basis is funded with the proceeds of bond financing may also be exempt, in MFA’s discretion, from many of the certification and review provisions outlined within this document. The monitoring and certification guidelines for these Projects must be in a form that will satisfy those agencies issuing the bonds and MFA. The Project’s monitoring procedures must, at a minimum, satisfy the compliance guidelines set forth by Section 42 of the Code.

Projects which are 100 percent affordable for Tax Credit purposes (i.e. all units are income and rent restricted at 60 percent of AMI or lower) and that have no other financing requiring annual income re-certifications may also be exempt pursuant to HR 3221. Project Owners must furnish MFA certifications annually, verifying that Projects are in compliance with Section 42 of the Code, as well as any other data that MFA may require per our monitoring and compliance guidelines.

The Project Owner of any exempted Project must certify to MFA on an annual basis that the Project is in compliance with the requirements for RD assistance, Tax Credits or the Tax Exempt Bond Financing guidelines, as applicable, and that all requirements of Section 42 are also being met. The Project Owner must inform MFA of any noncompliance or if the Project Owner is unable to make one or more of the required certifications.

E. COMPLIANCE REVIEW

MFA may elect to subcontract the monitoring procedure to other agents. In doing so, MFA would designate the subcontractor as the compliance-monitoring agent who would perform MFA’s function.

In the event that any noncompliance with Section 42 is identified, a discrepancy letter entitled “Notice of Non-Compliance”, detailing the noncompliance will be forwarded promptly to the Project Owner and the management company of the Project. The Project Owner must then respond in writing to MFA within thirty (30) days after receipt of the discrepancy letter. The response must address all discrepancies individually and must indicate the manner in which corrections will be made. The Project Owner will then have a cure period of thirty (30) days from the date of the discrepancy letter to correct the noncompliance detected and to provide MFA with any documentation or certification found to be missing during the annual management review. The cure period may be extended for periods of up to six (6) months. Extensions will be based on a determination by MFA that there is good cause for granting the extension.

MFA will notify the IRS within forty five (45) days after the expiration of the cure period of any non-compliance that has been detected. All corrections made by the Project Owner within the cure period will be acknowledged within this notice. A copy of the Project Owner’s response to the non-compliance will accompany the notice to the IRS.
If potential non-compliance is discovered during a compliance monitoring review, the Project Owner will be required to have his managing agent attend a compliance training session within two (2) months following the compliance monitoring review.

In order to offset the cost of monitoring procedures, an annual fee will be assessed for each year of the Extended Use Restriction Period. For 2016, the monitoring/compliance fee is $45.00/Set Aside Unit/Per Year. The monitoring/compliance fee can be paid annually or in a lump sum to cover the initial 15 years of the Compliance Period. If paid in a lump sum, the amount will be determined in the year the development receives a final allocation. Payment of the lump sum amount will be required prior to issuance of Forms 8609 for each Project. The amount of the compliance monitoring fee for the remainder of the contractual Extended Use Period will be determined in year 15. Annual certifications and reports are due in the MFA office by January 31st of each year (for the past reporting year). Annual Compliance Reports are due by January 31st of each year, through MFA’s WCMS on-line compliance system for the full term of the Extended Use Period. Annual audited property financial statements are due in the MFA office within 120 days of the property’s fiscal year end. A notice will be mailed to each property Project Owner or a designated representative to remind them that the certification, reports and fees are due.
XI. GLOSSARY

“Adaptive Reuse Projects” means Projects which will involve the conversion of an existing building, or buildings, which was not initially constructed for residential use to multifamily residential use.

“Agency” means New Mexico Mortgage Finance Authority (MFA).

“Allocation Review Committee” means a committee appointed by the Chairman of the MFA Board to review Projects’ rating and ranking results, to determine if the proposed allocations have been made consistent with the Project Selection Criteria and the Qualified Allocation Plan, and to hear appeals and decide their outcome.

“Allocation Set Asides” means the federally mandated Tax Credit allocation set aside requirement for Projects involving Qualified Nonprofit Organizations, as well as other Tax Credit Allocation Set Asides designated by MFA from time to time and incorporated into the Qualified Allocation Plan.

“Annual Credit Ceiling” means the total dollar volume of Tax Credits available for distribution by the Agency and authorized pursuant to Section 42 of the Code, in a given year. The Population-based Ceiling Amount is the amount of Tax Credits allocated to the state each year based on the state population.

“Applicable Credit Percentage” means the monthly interest rate issued by the Treasury Department and used to discount the present value of the 70 percent Tax Credit (approximately 9 percent) and the 30 percent Tax Credit (approximately 4 percent).

“Applicable Fraction” means the fraction, the numerator of which is the number of Low Income Units and the denominator of which is the total number of residential rental Units less any Unit exempted by Revenue Ruling 92-61; or the fraction, the numerator of which is the floor space of the Low Income Units and the denominator of which is the total floor space of the residential rental units less any Unit exempted by Revenue Ruling 92-61, whichever is less. The Eligible Basis of a building is multiplied by the Applicable Fraction to determine the Qualified Basis of a building for Tax Credit purposes.

“Applicant” means the General Partner or the managing member(s) of the General Partner.

“Application” means the completed forms, schedules, checklists, exhibits, computer disks and any additional documentation requested in the Initial Application Package, Carryover Allocation Package, and Final Allocation Package, as well as any supplemental materials requested by MFA. They must be submitted to MFA in accordance with the Qualified Allocation Plan in order to apply for the Tax Credit Program.

“Application Deadline” means 5:00 p.m., Mountain Standard Time on the final day of the Application Period, except for Tax Exempt Bond Financed Projects, for which the submission date is specified in Section VI.B.
“Application Package” means the forms, schedules, checklists, exhibits, computer disks and instructions thereto obtained from the Agency, which shall be completed and submitted to the Agency in accordance with all regulations in order to apply for the Tax Credit Program.

“Application Period” means the period during which Applications will be accepted by MFA as described in the Qualified Allocation Plan.

“Area Gross Median Income” means the median income level, issued annually by HUD for each metropolitan area and for each county outside a metropolitan area, which is adjusted for family size and used to calculate maximum income of eligible persons and rents for rent restricted units. As of July 30, 2008, any Project located in a rural area (as defined in Section 520 of the Housing Act of 1949) shall have income limitations measured by the greater of the HUD median income or the national non-metropolitan median income.

“Average Gross Median Income” or “AGMI” means, for a Project, the average area gross median income level(s) at which units are set aside, weighted by the number of units set aside at each income level. AGMI calculations are rounded to the nearest whole number. Market Rate Units will be treated as if they were set aside at 100 percent of Area Gross Median Income.

An example of the calculation of AGMI in a 60-unit Project with no management employee units is as follows:

- 25 percent of the units are Set Aside at 50 percent of Area Gross Median Income; and
- 50 percent of the units are Set Aside at 60 percent of Area Gross Median Income; and
- 25 percent of the units are Market Rate.

The AGMI calculation would be as follows:

| Percent of Set Aside Income Level | Weighted Average |
| Total Units | (As a % of Median) | |
| 25% | X 50% | = 13% |
| 50% | X 60% | = 30% |
| 25% | X 100% | = 25% |

Total AGMI: AGMI for Scoring 68%

Units to be provided for management or maintenance staff rent free should not be included in the calculation.

“Average Gross Median Rent” or “AGMR” means, for a Project, the average area gross median rent level(s) at which units are Set Aside, weighted by the number of units Set Aside at each rent level. AGMR calculations are rounded to the nearest whole number at each stage of the calculation. Market Rate Units will be treated as if they were Set Aside at 100 percent of Area Gross Median Income.
An example of the calculation of AGMR in a 60-unit Project with no management employee units is as follows:

- 25 percent of the units are rent restricted at 50 percent of Area Gross Median Income; and
- 50 percent of the units are rent restricted at 60 percent of Area Gross Median Income; and
- 25 percent of the units are Market Rate (not rent restricted).

The AGMR calculation would be as follows:

<table>
<thead>
<tr>
<th>Percent of Total Units</th>
<th>Rent Restricted Level (As a % of Median Income)</th>
<th>Weighted Average</th>
</tr>
</thead>
<tbody>
<tr>
<td>25%</td>
<td>X 50%</td>
<td>13%</td>
</tr>
<tr>
<td>50%</td>
<td>X 60%</td>
<td>30%</td>
</tr>
<tr>
<td>25%</td>
<td>X 100%</td>
<td>25%</td>
</tr>
</tbody>
</table>

**Total AGMR: AGMR for Scoring** 68%

Units to be provided for management or maintenance staff rent free should not be included in the calculation.

“**Binding Commitment**” means an agreement between MFA and an Applicant by which MFA allocates and the Applicant accepts Tax Credits in accordance with Section 42(h)(1)(C) of the Code. MFA’s Carryover Allocation is its Binding Commitment.

“**Blighted Buildings**” means buildings that are in such severe disrepair to the extent that rehabilitation or Adaptive Reuse is no longer feasible.

“**Board of Directors**” or “**Board**” means the New Mexico Mortgage Finance Authority Board of Directors.

“**Brownfield**” means land where the development, redevelopment, or reuse may be complicated by the presence of hazardous substance, pollutant, or contaminant including petroleum. Brownfield sites require a remediation plan based on a Phase II Environmental Site Assessment.

“**Building’s Gross Square Feet**” means the sum of the Gross Square Feet on each floor of a building. Covered parking and structured parking should not be included in a Building’s Gross Square Feet.

“**Capital Needs Assessment**” means a report prepared by a competent third party licensed architect or engineer that addresses the following:

1. Site visit and physical inspection of the interior and exterior of Units and structures.
2. Interview with available on-site property management and maintenance personnel regarding past and pending repairs/improvements and physical deficiencies.
3. Identification of the presence of any visible environmental hazards on the site.
4. Opinion as to the adequacy of the proposed budget for recommended improvements.
5. Identification of critical building systems or components that have reached or exceeded their expected useful lives.
6. Projection of recurring probable expenditures for significant systems and components over 15 years.
7. Determination of the appropriate upfront and ongoing replacement reserve deposits.

“Carryover Allocation” means the provision under Section 42 of the Code which allows a Project, under certain conditions allowed by Section 42 of the Code, to receive a Tax Credit allocation in a given calendar year and to be Placed In Service within a period of two calendar years after the calendar year in which the Applicant qualifies for a Carryover Allocation. The Carryover Allocation is MFA’s Binding Commitment for Tax Credits.

“Childcare” means daycare and/or youth programming for children provided by a licensed childcare provider. Daily Childcare means that service(s) are provided Monday through Friday for a minimum of 6 hours per day. Weekly Childcare means that service(s) will be provided a minimum of one day per week for a minimum of 6 hours.

“Code” means the Internal Revenue Code of 1986, as in effect on the date of the Qualified Allocation Plan, together with corresponding and applicable final, temporary or proposed regulations and revenue rulings issued with respect thereto by the Treasury or the Internal Revenue Service of the United States.

“Complete Application” is an Initial Application meeting all of the requirements in “Content and Format” in Section IV.A.4.

“Compliance Monitoring” means the Agency’s procedure, as required by Section 42 of the Code and detailed in MFA’s Tax Credit Monitoring and Compliance Plan, of auditing and inspecting all completed Tax Credit Projects.

“Compliance Period” means, with respect to any building that is included in a Tax Credit Project, a minimum period of 15 years beginning on the first day of the first taxable year of the Tax Credit period with respect thereto in which a Tax Credit Project shall continue to maintain the Low Income Units as Low Income Units pursuant to the Applicant’s Set Aside Election in the Application, pursuant to Section 42 of the Code.

“Concerted Community Revitalization Plan” means a Metropolitan Redevelopment Plan as defined in NMSA 1978 Section 3-60A-4 prepared and enacted by a local, county or tribal government at least six months prior to the application deadline. For Projects located on sovereign tribal lands, “Concerted Community Revitalization Plan” means a written plan similar in content and affect to a Metropolitan Redevelopment Plan as defined in NMSA 1978 Section 3-60A-4, prepared and enacted by or tribal government at least six months prior to the
application deadline, which identifies barriers to community vitality and promotes specific concerted revitalization activities within an area having distinct geographic boundaries.

“Consolidated Plan” means the plan prepared in accordance with HUD Regulations, 24 C.F.R. 91 (1994), which describes needs, resources, priorities and proposed activities to be undertaken with respect to certain HUD programs.

“Construction Costs” means, for purposes of calculating builder profit, overhead and general requirements, and per Unit rehabilitation Construction Cost, the on-site and construction costs in the construction contract, before gross receipts tax, profit, overhead, and general requirements. At Initial Application and Carryover, Construction Cost should include a reasonable construction contingency.

“Contact Person” means a person identified in the Initial Application with decision-making authority for the Applicant, Developer or the owner of the Project, with whom MFA will correspond concerning the Application and/or the Project.

“Contractor’s Cost Certification” A certification prepared by a Certified Public Accountant, indicating the method of certification, all identities of interest, and certification that all construction costs included are related to the Project.

“Cost Certification” A certification prepared by a Certified Public Accountant on forms provided by MFA, indicating the method of certification, all identities of interest, and certification that all Project costs included are related to the Project.

“Credit Period” means with respect to any building that is included in a Tax Credit Project, the period of 10 years beginning with (i) the taxable year in which the building is Placed In Service, or (ii) at the election of the Developer, the succeeding taxable year.

“Developer” means any individual, association, corporation, joint venture, or partnership, which is to manage all aspects of the construction and/or rehabilitation of the proposed Project.

“Development Costs” means the sum total of all costs incurred in the development of a Project all of which shall be subject to approval, and are approved by MFA as reasonable and necessary. Such costs may include, but are not limited to:

1. The cost of acquiring real property and any building thereon, including payment for options, deposits, or contracts to purchase properties.
2. The cost of site preparation, and development.
3. Any expenses relating to the issuance of Tax Exempt Bonds or taxable bonds by the Agency, if any, related to the Project.
4. Fees in connection with the planning, execution, and financing of the Project, such as those of architects, engineers, attorneys, accountants, and the Agency.
5. The cost of studies, surveys, plans, permits, insurance, interest, financing, tax and assessment costs, and other operating and carrying costs incurred during construction, rehabilitation, or reconstruction of the Project.
6. The cost of the construction, rehabilitation, and equipping of the Project.
7. The cost of land improvements, such as landscaping and off-site improvements related to the Project, whether such costs are paid in cash, property, or services.
8. Expenses in connection with initial occupancy of the Project.
9. Allowances established by the Agency for working capital, contingency reserves, and reserves for any anticipated operating deficits during the first 2 years after completion of the Project.
10. The cost of such other items, including relocation cost, indemnity and surety bonds, premium on insurance, and fees and expenses of trustees, depositories, and paying agents for bonds.

“Difficult Development Area” means any area designated by the Secretary of Housing and Urban Development as having high construction, land, and utility costs relative to Area Gross Median Income in accordance with Section 42(d)(5) of the Code.

“Eligible Application” or “Eligible Project” means an Application or Project which has met all Minimum Project Threshold Requirements.

“Eligible Basis” means the sum of the eligible cost elements that are subject to depreciation, such as expenditures for new construction, rehabilitation and building acquisition.

“Eligible Persons” or “Eligible Households” means one or more natural persons or a family, irrespective of race, creed, national origin or sex, determined by the Agency to be of low or very low income. In determining the income standards of eligible persons for its various programs, the Agency shall take into account the following factors:

1. Requirements mandated by federal law;
2. Variations in circumstances in the different areas of the state;
3. Whether the determination is for rental housing; and
4. The need for family size adjustments.

“Executive Director” means the Executive Director of the New Mexico Mortgage Finance Authority.

“Extended Use Period” means, with respect to any building that is included in a Tax Credit Project, the period that begins on the first day of the Compliance Period and ends on the later of (i) the ending date of the term specified by the Applicant in the Initial Application Package and recorded in the Land Use Restriction Agreement or (ii) the date that is the fifteenth anniversary of the last day of the Compliance Period, unless earlier terminated as provided in Section 42(h)(6) of the Code or more stringent requirements of the HCA as reflected in the LURA.

“Feasibility Analysis” means a financial analysis based on rules established by the IRS and MFA to determine a Project’s financial feasibility, which is completed to ascertain a Tax Credit amount, the adequacy of financing sources, the income required to support operation of the Project, etc.

“Federal Grant” means any Federal Grant except those specifically excluded in Section 1.42-16(b) of the Treasury regulations.
“Federal Subsidy” means any construction or permanent financing that is directly or indirectly financed from state or local bonds, including municipal bonds, which are tax-exempt for federal income tax purposes.

“Federally-Assisted Building” means any building which is substantially assisted, financed, or operated under Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4), or 236 of the United States Housing Act, Section 515 of the Housing Act of 1949, or any other program administered by the Department of Housing and Urban Development or by the Rural Housing Service of the Department of Agriculture.

“Final Allocation” means a determination by MFA that a Project is complete and that a certain amount of Tax Credits is warranted. The Final Allocation must be requested by the Project Owner, and culminates in delivery of IRS Form 8609 by MFA.

“Financing Commitment” means a commitment for permanent or construction financing which 1) is not subject to further approval by any loan committee or board of directors or other entity of the creditor making the commitment, and 2) contains specific terms of funding and repayment.

“General Partner” means that partner or collective of partners identified as the general partner of the partnership that is the Project Owner and that has general liability for the partnership. If the Project Owner is a limited liability company, the term “General Partner” shall mean the managing member or members with management responsibility for the limited liability company.

“Government Entity or Instrumentality” means any agency or other government created entity of the State of New Mexico, the counties or municipalities of New Mexico, or the tribal governments of New Mexican tribes and pueblos.

“Gross Square Feet” means the area that includes all enclosed space as measured from the exterior face of the building walls. Covered parking and structured parking should not be included in Gross Square Feet.

“Homeless” means a) an individual or family which lacks a fixed, regular, and adequate nighttime residence; or b) an individual or family which has a primary nighttime residence that: 1) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelter, and transitional housing for persons with mental illness); 2) an institution that provides a temporary residence for individuals intended to be institutionalized, or previously institutionalized; 3) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings; or 4) individuals who are certified by their case manager as “doubling up”, “couch surfing” or staying with another household of a relative or friend. The term does not include any individual imprisoned or otherwise detained pursuant to an Act of the Congress or State law.

“Households with Children” means households that include one or more persons under the age of 18 years.

“Households with Special Needs” means households in which an individual or household member is in need of supportive services, tenancy supports, and housing and has a
substantial, long term disability, which includes any of the following: (1) Serious Mental Illness; (2) Addictive Disorder (i.e., individuals in treatment and demonstrated recovery from substance abuse disorder); (3) Developmental Disability (e.g., intellectual disability, autism, or other disability acquired before the age of 22); (4) Physical, sensory, or cognitive disability occurring after the age of 22; 5) Disability caused by effects of chronic illness (e.g., people with HIV/AIDS who are no longer able to work); (6) Age-related Disability (e.g., frail elderly, or, young adults with other special needs who have been in the foster care or juvenile services system), or, 7) households/individuals who are homeless.

“HUD” means the U.S. Department of Housing and Urban Development.

“Identity of Interest” occurs when any officer, director, board member, or authorized agent of any development team member (consultant, general contractor, attorney, management agent, seller of the land, etc.): (a) is also an officer, director, board member, or authorized agent of any other development team member; (b) has any financial interest in any other development team member's firm or corporation; (c) is a business partner of an officer, director, board member, or authorized agent of any other development team member; (d) has a family relationship through blood, marriage or adoption with an officer, director, board member, or authorized agent of any other development team member; or (e) advances any funds or items of value to the sponsor/borrower.

“Initial Application” means the Application first provided to MFA on or before an Application Deadline to request an allocation of Tax Credits.

“Land Use Restriction Agreement” or “LURA” means the agreement submitted to the Agency restricting the property to affordable housing use during the Compliance Period and Extended Use Period.

“Letter of Determination” means the letter issued by MFA pursuant to Section 42(m)(1)(D) of the Code advising the Project Owner that MFA has made the determination that a Tax Exempt Bond Financed Project satisfies the requirements for an allocation of Tax Credits under the QAP conditioned upon Project compliance with Section 42 of the Code.

“Local Government” means any county, municipality, tribe or other general-purpose political subdivision in the State of New Mexico.

“Local Lead Agencies” (LLAs) are organizations selected by the New Mexico Behavioral Health Collaborative, or its designee or successor in interest, to be responsible for supportive services including acting as referral agents for community services, providing and coordinating services provided by local service providers for Households with Special Needs. LLAs organize needed services for a specific geographic area, and/or specific target population. The LLA will enter into a formal agreement to provide tenant pre-screening, tenant referrals to the property manager, and social service coordination as well as serving as the Tenant Services Liaison. The LLA will remain in place for the length of the compliance and extended use period.
“Local Notice” means MFA’s letter to the Chief Executive Office (or the equivalent) of the local
jurisdiction within which the Project is located, which provides a thirty (30) day period to
comment on the Project pursuant to Code Section 42(m)(1)(A)(ii).

“Low Income Housing Tax Credit Program” or “Tax Credit Program” means the rental
housing program administered by MFA pursuant to Section 42 of the Code and by the State of
New Mexico Executive Order 97-01.

“Low Income Tenants” are households that occupy Set Aside Units.

“Low Income Units” or “Set Aside Units” shall mean units which are rent restricted and set
aside for tenants whose income does not exceed 50 percent, 60 percent or some lower
percentage, whichever is elected, of Area Gross Median Income.

“Market Rate Units” means residential rental units that are not Low Income Units.

“Minimum Score” means the lowest score with which an Application will be considered to have
passed the Minimum Project Threshold Requirement related to scoring.

“Mortgage Revenue Bonds (MRB)” or “Tax Exempt Bonds” means bonds issued by state
designated issuers, including MFA, which may be used to finance LIHTC Projects subject to
Project allocations made by the State Board of Finance.

“New Mexico Housing Authority (NMHA)” means any public housing authority legally
established in the state of New Mexico.

“November 15th” means November 15th, unless this date falls on a weekend or a holiday, in
which case it means the first business day following November 15th.

“Ownership of Land” means holding fee title or a qualified leasehold interest.

“Participating Title Company” means a New Mexico title company that maintains pooled,
interest-bearing transaction account(s) pursuant to the Land Title Trust Fund Act of 1997.

“Placed in Service” means the date on which the first Unit of a new construction Project is
certified or otherwise officially declared as available for occupancy. For acquisitions of existing
Projects, it is the date of transfer to a new Project Owner.

“Principal” means an Applicant, any general partner of an Applicant, and any officer, director,
board member or any shareholder, general partner, managing member, or affiliate of an
Applicant. It also includes any entity receiving any part of a developer fee for a Project. For
Project compliance purposes (Section IV.C.11), Principal would include shareholders with
interests of 25 percent or more, all officers of a corporation (whether Board members or
employees), all general partners or members.

“Program” means the Tax Credit Program as administered by MFA.

“Project” means the development proposed by the Applicant as specifically described in the
Application.
“Project Expenses” means usual and customary operating and financial costs. The term does not include extraordinary capital expenses, development fees and other non-operating expenses.

“Project Owner” means the legal entity that ultimately owns the Project and to which Tax Credits will be allocated.

“Project Selection Criteria” means the criteria used to score a Project for Tax Credit allocation purposes.

“Qualified Allocation Plan” or “QAP” means this Qualified Allocation Plan, which was adopted by Board Action on October 21, 2015 and made effective as of January 1, 2016, and which was approved by the Governor of the State of New Mexico pursuant to Section 42(m)(1)(B) of the Code and sets forth the Project Selection Criteria and the preferences for Projects which will receive Tax Credits.

“Qualified Basis” means the portion or percentage of the Eligible Basis that qualifies for the Tax Credit. It is calculated by multiplying the Eligible Basis by the Applicable Fraction.

“Qualified Census Tract” means any Census tract which is designated by the Secretary of Housing and Urban Development as having 50 percent or more of the households at an income level which is less than 60 percent of the Area Gross Median Income in accordance with Section 42(d)(5) of the Code.

“Qualified Leasehold Interest” means a leasehold interest running at least as long as the Extended Use Period.

“Qualified Nonprofit Organization” means an organization described in Sections 501(c)(3) or 501(c)(4) of the IRS Code and exempt from tax under Section 501(a). The production of decent, safe and affordable housing must be one of the defined goals, objectives, or purposes of the nonprofit organization. The nonprofit organization must materially participate in the Project, meaning that the organization must be involved on a regular, continuous, and substantial basis in both the development and operation of the Project during the term of the Compliance Period. The nonprofit must also own an interest in the Project throughout the Compliance Period and may not be affiliated with or controlled by a for-profit organization.

“Rehabilitation Costs” means, as stated in Code Section 42(e)(2), the amounts chargeable to capital accounts and incurred for property in connection with the rehabilitation of a building. For the purposes of the calculation in scoring Rehabilitation Projects, only rehabilitation “hard” costs will be considered, which are those costs that would be included in a construction contract. If the Project does not include the construction of new Rent Restricted Units, the cost of the construction of common space buildings will be considered Rehabilitation Costs.

“Rent Restricted Unit” means, with respect to a Tax Credit Project, a unit for which the gross rent does not exceed 30 percent of the imputed AGMI limitation applicable to such unit as chosen by the Applicant in the Application and in accordance with the Code. Gross rent must be determined from the rent charts included in the Application Package and must correspond to the
percentage of AGMI selected by the Applicant in the Application. It includes the cost of utilities, and must be reduced by the amount of tenant-paid utilities. Gross rent includes all income for the unit, including tenant and any subsidy payments. See also “Unit”.

“Reservation” or “Reservation Contract” means the contract executed by MFA and the Applicant with respect to an allocation of Tax Credits, which states the conditions to be met by the Applicant prior to issuance of a Carryover Allocation.

“Reservation Letter” or “Reservation” means a document issued by MFA which describes the amount of Credits provisionally awarded to a Project and the conditions which the Project Owner must meet in order to obtain a Binding Commitment for Tax Credits.

“Reserved” means that the units may not be rented to other categories of households unless the Project Owner demonstrates a subsequent change in the level of demand for such units and a good faith effort to obtain the originally targeted tenant category. Any such change in tenant characteristics must be approved in advance by MFA.

“Rural Development” or “RD” or “USDA” (previously called “Farmer’s Home Administration” or “FmHA” of the United States Department of Agriculture) means Rural Development or other agency or instrumentality created or chartered by the United States to which the powers of the RD have been transferred.

“Senior Households” means households that include at least one person 55 years of age or older.

“Senior Housing” means Projects specifically designed for exclusive use by senior tenants. Senior is defined as those persons 55 years of age or older.

“Set Aside” means all or a portion of a Project’s Units that are Rent Restricted and/or limited to use by a specified tenant income category, or a particular special needs tenant group. Set Asides will be described in the LURA.

“Set Aside Election” means the federally imposed minimum proportion of total Project units set aside as Low Income Units at one or more Area Gross Median Income level(s). This election is made by the Applicant, and meets the minimum requirements of Code Section 42: larger proportions of units are generally set aside by the Applicant and restricted in the LURA.

“Set Aside Units” means “Low Income Units.”

“Single Room Occupancy” (SRO) means housing consisting of single room dwelling units. The unit must contain either food preparation and/or sanitary facilities.

“Households with Special Needs” means households in which an individual or household member is in need of supportive services, tenancy supports, and housing and has a substantial, long term disability, which includes any of the following: (1) Serious Mental Illness; (2) Addictive Disorder (i.e., individuals in treatment and demonstrated recovery from substance abuse disorder); (3) Developmental Disability (e.g., intellectual disability, autism, or other disability acquired before the age of 22); (4) Physical, sensory, or cognitive disability occurring
after the age of 22; 5) Disability caused by effects of chronic illness (e.g., people with HIV/AIDS who are no longer able to work); (6) Age-related Disability (e.g., frail elderly, or, young adults with other special needs who have been in the foster care or juvenile services system), or, 7) households/individuals who are homeless.

“State-Assisted Building” means any building which is substantially assisted, financed, or operated under any State law similar in purposes to Section 8 of the United States Housing Act of 1937, Section 221(d)(3), Section 221(d)(4), or 236 of the United States Housing Act, Section 515 of the Housing Act of 1949, or any other program administered by the Department of Housing and Urban Development or by the Rural Housing Service of the Department of Agriculture.

“Subsidy Layering Review” or “911 Review” means the review conducted under subsidy layering guidelines adopted by HUD in order to assure that excessive subsidies are not provided to Projects which receive both Tax Credits and other governmental assistance.

“Tax Credit Allocation” means Tax Credits approved for a Project by MFA in an amount determined by MFA as necessary to make a Project financially feasible and viable throughout the Project’s Compliance Period pursuant to Section 42(m)(2)(A) of the Code.

“Tax Credit Project” means the proposed or existing rental housing development(s) for which Tax Credits have been applied for or received.

“Tax Credit Ceiling Rents” means the maximum rent that may be charged for a Rent Restricted Unit.

“Tax Exempt Bond Financed Project” means a Project, which is being financed by the issuance of Tax Exempt Bonds subject to applicable volume cap pursuant to Section 42(h)(4) of the Code.

“Tenant Conversion Plan” means a written plan acceptable to MFA, describing the method to be used to enable tenants to acquire ownership of their units at such time as conversion to owner occupancy is allowed under Code Section 42. The Project Owner must provide and describe the type of homeownership, financial, and maintenance counseling to be offered. The Project Owner must describe in detail how the unit will be converted from a rental unit to homeownership. Other items the plan must contain include:

1. How the unit will be offered for sale and remain affordable.
2. How the value and sales price of the home will be determined at the time of purchase.
3. Any favorable financing or down payment assistance.
4. Formation of any neighborhood associations, and if so the benefits and responsibilities outlined within the proposal.
5. Copy of the plot plan for ultimate subdivision, or proposed condominium declaration.

“Threshold Review” means the assessment of a Project with respect to Minimum Project Threshold Requirements as defined in the QAP.
“Threshold Tests” are the Minimum Project Threshold Requirements described in Section III.C that must be achieved for a Project to be considered further for an allocation.

“Total Development Cost” means the total of all costs incurred or to be incurred by the Project in acquiring, constructing, rehabilitating, and financing the Project. For purposes of calculating developer fees, Total Development Cost will be adjusted to exclude developer fees, consultant fees, commercial space construction costs, and all reserves. For purposes of calculating Cost Limits, the purchase price attributed to the land, any costs related to commercial space, and reserves (not eligible for tax credits) will be excluded.

“Unit” means a residential rental housing unit in a Project including manager and employee units.

“Universal Design” means any component of a house or apartment that increases the usability for people of all ages, size and abilities and enhances the ability of all residents to live independently for as long as possible.
Tab 6
<table>
<thead>
<tr>
<th>Department and Program</th>
<th>Project</th>
<th>Action Taken</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Housing Development- Low Income Housing Tax Credits</td>
<td>Request for Qualifications for LIHTC Market Studies</td>
<td>Submissions due 12/4/15</td>
<td>PC approval received 11/3/15 to release RFQ for LIHTC Market Studies</td>
</tr>
<tr>
<td>Housing Development State Tax Credit Program</td>
<td>Villa de la Paz, Santa Fe Habitat for Humanity</td>
<td>New $15,000 SF state tax credit award</td>
<td>Approved by Policy Committee on 11/3/15</td>
</tr>
<tr>
<td>Asset Management - Multifamily Properties</td>
<td>Affordable Housing Request for Proposal (RFP)</td>
<td>RFP deadline extended to November 20, 2015. The extension allowed additional interested applicants more time to gather information and complete submissions</td>
<td>November 9, 2015 PC approved this action.</td>
</tr>
<tr>
<td>Community Development Department - NM Energy$mart</td>
<td>Weatherization</td>
<td>Signed a $20,000 grant for weatherization services in the Santa Fe Area with Climate Change Leadership Institute</td>
<td>Approved by PC on November 19, 2015.</td>
</tr>
<tr>
<td>Housing Development - HOME Rental Program</td>
<td>Mesa Village</td>
<td>Modification of HOME Loan #HM040 to Mesa Village LP, to decrease the interest rate and change the amortization schedule.</td>
<td>Approved by Isidoro Hernandez, Deputy Director of Programs, 11/23/15</td>
</tr>
<tr>
<td>Housing Development - HOME Rental Program</td>
<td>Silver Cliffs</td>
<td>Assumption of HOME Loan #HM013 by to Cliffview Partners and 46 month extension of the maturity date until 12/31/35</td>
<td>Approved by Isidoro Hernandez, Deputy Director of Programs, 11/24/15</td>
</tr>
</tbody>
</table>
Tab 7
New Mexico Mortgage Finance Authority

Combined Financial Statements
and Schedules

October 31, 2015
NEW MEXICO MORTGAGE FINANCE AUTHORITY
FINANCIAL REVIEW
For the one-month period ended October 31, 2015

NEW ISSUES:

- Single Family issue: None.
- Multi-family issue: None.

COMPARATIVE YEAR-TO-DATE FIGURES:

<table>
<thead>
<tr>
<th></th>
<th>1 months</th>
<th>1 month</th>
<th>% Change</th>
<th>Forecast 10/31/15 YTD</th>
<th>Actual to Forecast/ Target 10/31/14 YTD</th>
<th>Forecast 9/30/16</th>
</tr>
</thead>
<tbody>
<tr>
<td>PRODUCTION</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1 Single family issues (new money only):</td>
<td>$0.0</td>
<td>$0.0</td>
<td>0%</td>
<td>$0.0</td>
<td>0%</td>
<td>$39.0</td>
</tr>
<tr>
<td>2 Single family loans sold (TBA):</td>
<td>$13.3</td>
<td>$13.1</td>
<td>2%</td>
<td>$9.8</td>
<td>36%</td>
<td>$117.0</td>
</tr>
<tr>
<td>3 Multifamily issues:</td>
<td>$0.0</td>
<td>$0.0</td>
<td>0%</td>
<td>$0.0</td>
<td>0%</td>
<td>$0.0</td>
</tr>
<tr>
<td>4 Payoffs:</td>
<td>$6.7</td>
<td>$7.1</td>
<td>-6%</td>
<td>$6.4</td>
<td>5%</td>
<td>$76.4</td>
</tr>
</tbody>
</table>

| BALANCE SHEET         |          |         |          |                        |                                          |                   |
| 5 Avg. earning assets:| $966.2   | $1,052.8| -8%      | $973.9                 | -1%                                      | $919.0            |
| 6 General Fund Cash and Securities (no escrows) | $75.2    | $70.3   | 7%       | $73.1                  | 3%                                       | $71.0             |
| 7 General Fund SIC Fair Market Value Adj.:   | $-0.368  | $-0.380 | -3%      | $0.0                   | N/A                                      | $0.0              |
| 8 Total bonds outstanding: | $737.4  | $811.9  | -9%      | $742.3                 | -1%                                      | $685.5            |

| INCOME STATEMENT      |          |         |          |                        |                                          |                   |
| 9 General Fund expenses: | $0.449  | $0.465  | -3%      | $1.006                 | -55%                                     | $12.070           |
| 10 General Fund revenues: | $0.686  | $0.937  | -27%     | $1.221                 | -44%                                     | $14.656           |
| 11 Excess revenue over expenses: | $0.182  | $0.381  | -52%     | $0.415                 | -56%                                     | $4.561            |
| 12 Net position:      | $203.1   | $198.5  | 2%       | $203.3                 | 0%                                       | $207.5            |
| 13 Return on avg. earning assets (ann'zd): | 0.21%   | 0.43%   | -51%     | 0.47%                  | -55%                                     | 0.50%             |
| 14 Net TBA profitability: | 1.58%   | 2.32%   | -32%     | 1.75%                  | -10%                                     | 1.75%             |
| 15 Interest margin (consolidated) | 0.81%   | 0.76%   | 7%       | 0.62%                  | 31%                                      | 0.62%             |

| MOODY’S BENCHMARKS    |          |         |          |                        |                                          |                   |
| 16 Net Asset to debt ratio (5-year avg): | 22.57%  | 19.75%  | 14%      | 23.72%                 | -5%                                      | 23.72%            |
| 17 Net rev as a % of total rev (5-year avg): | 5.84%   | 5.57%   | 5%       | 7.42%                  | -21%                                     | 7.42%             |

Legend: Positive Impact, Negative Impact, Caution/Known Trend

MONTHLY FINANCIAL TRENDS & VARIANCES:

None

CURRENT YEAR FINANCIAL TRENDS & VARIANCES:

► Our FY16 estimates anticipate continued improvement in the interest rate environment and economy in general providing stability in investment yields and stabilized production.

► Single family payoffs are continuing to decline this fiscal year. Current year payoffs are $6.7 mm, which is (6%) less than last year at this same time.

► Growth in our portfolio of Single family program loans and mortgage backed securities has shown a decrease of (1.1%) since the beginning of the fiscal year. Year-to-date (1 month) increase in total assets is .2%. Growth in assets is estimated to be a (5.7%) decrease this fiscal year and it is still assumed prepayments will exceed new assets as MFA utilizes the secondary market to fund the Single Family Mortgage Program as needed based on market conditions. In this funding execution, MFA does not issue debt to fund the program but instead the mortgage backed securities are sold to investors.

► FY16 excess revenues over expenditures are $.2 mm which is (56%) below the target of $.4 mm, and (52%) below last year’s year-to-date income of $.4.

► The General Fund and Housing Program budget expenditures are (55%) under the pro-rated budget. Revenues are under budget (44%) due to unbudgeted losses related to State Investment Council fair market value adjustments of ($.4) mm.

► Based on Moody’s issuer credit rating scorecard, MFA’s 22.57% net asset ratio, which measures balance sheet strength, provides a strong and growing level of resources for maintaining HFA’s creditworthiness under stressful circumstance (> 20%). The net revenue as a percent of total revenue measures performance and profitability and MFA’s 5.84% ratio indicates satisfactory profitability with consistent trends (5%-10% range).
MONTHLY FINANCIAL GRAPHS

Assets Under Management as of 9/30/2016
($ in thousands)

YTD Annualized Payoffs as a Percentage of Single Family Mortgage Portfolio as of 9/30/2016

YTD Excess Revenues over Expenses as of 10/31/2015

Yield Targets 9/30/2016

(1) Weatherization Assistance Programs; Emergency Shelter Grant; State Homeless; Housing Opportunities for People With Aids; NM State Tax Credit; Governor’s Innovations; EnergySaver; Tax Credit Assistance Program; Tax Credit Exchange; Neighborhood Stabilization Program; Section 811 PRA; Homeownership Preservation Program
(2) NM Affordable Housing Charitable Trust Fund; Land Title Trust Fund; Housing Trust Fund
# NEW MEXICO MORTGAGE FINANCE AUTHORITY
## COMBINED STATEMENT OF NET POSITION
### OCTOBER 31, 2015
#### (THOUSANDS OF DOLLARS)

<table>
<thead>
<tr>
<th></th>
<th>YTD 10/31/15</th>
<th>YTD 10/31/14</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>ASSETS:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>CURRENT ASSETS:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash &amp; Cash Equivalents</td>
<td>$29,055</td>
<td>$24,209</td>
</tr>
<tr>
<td>Restricted Cash Held in Escrow</td>
<td>10,874</td>
<td>-</td>
</tr>
<tr>
<td>Short-Term Investments</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Accrued Interest Receivable</td>
<td>3,437</td>
<td>4,019</td>
</tr>
<tr>
<td>Mortgage Payment Clearing</td>
<td>(41)</td>
<td>206</td>
</tr>
<tr>
<td>Other Current Assets</td>
<td>1,642</td>
<td>1,352</td>
</tr>
<tr>
<td>Administrative Fees Receivable (Payable)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Inter-Fund Receivable (Payable)</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Current Assets</strong></td>
<td>44,967</td>
<td>29,787</td>
</tr>
<tr>
<td>Cash - Restricted</td>
<td>38,547</td>
<td>48,828</td>
</tr>
<tr>
<td>Long-Term &amp; Restricted Investments</td>
<td>59,282</td>
<td>60,671</td>
</tr>
<tr>
<td>FNMA, GNMA, &amp; FHLMC Securitized Mtg. Loans</td>
<td>634,683</td>
<td>703,466</td>
</tr>
<tr>
<td>Mortgage Loans Receivable</td>
<td>189,690</td>
<td>182,857</td>
</tr>
<tr>
<td>Allowance for Loan Losses</td>
<td>(2,695)</td>
<td>(2,473)</td>
</tr>
<tr>
<td>Fixed Assets, Net of Accum. Depn</td>
<td>993</td>
<td>1,123</td>
</tr>
<tr>
<td>Other Real Estate Owned, Net</td>
<td>490</td>
<td>554</td>
</tr>
<tr>
<td>Other Non-Current Assets</td>
<td>-</td>
<td>-</td>
</tr>
<tr>
<td>Intangible Assets</td>
<td>65</td>
<td>68</td>
</tr>
<tr>
<td><strong>Total Assets</strong></td>
<td>966,022</td>
<td>1,024,881</td>
</tr>
<tr>
<td><strong>Deferred Outflows of Resources</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Refundings of Debt</td>
<td>1,136</td>
<td>1,286</td>
</tr>
<tr>
<td><strong>Total Assets &amp; Deferred Outflows of Resources</strong></td>
<td>967,158</td>
<td>1,026,167</td>
</tr>
<tr>
<td><strong>LIABILITIES AND NET POSITION:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>LIABILITIES:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Current Liabilities:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accrued Interest Payable</td>
<td>6,200</td>
<td>7,602</td>
</tr>
<tr>
<td>Accounts Payable and Accrued Expenses</td>
<td>4,657</td>
<td>4,803</td>
</tr>
<tr>
<td>Escrow Deposits &amp; Reserves</td>
<td>10,874</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total Current Liabilities</strong></td>
<td>21,732</td>
<td>12,405</td>
</tr>
<tr>
<td>Bonds Payable, Net of Unamortized Discount</td>
<td>737,434</td>
<td>811,927</td>
</tr>
<tr>
<td>Mortgage &amp; Notes Payable</td>
<td>4,541</td>
<td>3,000</td>
</tr>
<tr>
<td>Accrued Arbitrage Rebate</td>
<td>85</td>
<td>82</td>
</tr>
<tr>
<td>Other Liabilities</td>
<td>246</td>
<td>239</td>
</tr>
<tr>
<td><strong>Total Liabilities</strong></td>
<td>764,038</td>
<td>827,652</td>
</tr>
<tr>
<td><strong>Net Position:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Invested in Capital Assets, Net of Related Debt</td>
<td>(993)</td>
<td>(692)</td>
</tr>
<tr>
<td>Unappropriated Net Position (Note 1)</td>
<td>63,868</td>
<td>66,677</td>
</tr>
<tr>
<td>Appropriated Net Position (Note 1)</td>
<td>140,245</td>
<td>132,529</td>
</tr>
<tr>
<td><strong>Total Net Position</strong></td>
<td>203,120</td>
<td>199,514</td>
</tr>
<tr>
<td><strong>Total Liabilities &amp; Net Position</strong></td>
<td>967,158</td>
<td>1,026,167</td>
</tr>
</tbody>
</table>
## NEW MEXICO MORTGAGE FINANCE AUTHORITY
### STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET POSITION
#### FOR THE ONE MONTH ENDED OCTOBER, 2015
##### (THOUSANDS OF DOLLARS)

<table>
<thead>
<tr>
<th></th>
<th>YTD 10/31/15</th>
<th>YTD 10/31/14</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>OPERATING REVENUES:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INTEREST ON LOANS</td>
<td>$2,993</td>
<td>$3,368</td>
</tr>
<tr>
<td>INTEREST ON INVESTMENTS &amp; SECURITIES</td>
<td>254</td>
<td>255</td>
</tr>
<tr>
<td>LOAN &amp; COMMITMENT FEES</td>
<td>-</td>
<td>(7)</td>
</tr>
<tr>
<td>ADMINISTRATIVE FEE INCOME (EXP)</td>
<td>357</td>
<td>624</td>
</tr>
<tr>
<td>RTC, RISK SHARING &amp; GUARANTY INCOME</td>
<td>2</td>
<td>7</td>
</tr>
<tr>
<td>HOUSING PROGRAM INCOME</td>
<td>9</td>
<td>3</td>
</tr>
<tr>
<td>LOAN SERVICING INCOME</td>
<td>12</td>
<td>10</td>
</tr>
<tr>
<td>OTHER OPERATING INCOME</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td><strong>SUBTOTAL OPERATING REVENUES</strong></td>
<td><strong>3,629</strong></td>
<td><strong>4,260</strong></td>
</tr>
</tbody>
</table>

| **NON-OPERATING REVENUES:** | | |
| ARBITRAGE REBATE INCOME (EXPENSE) | - | - |
| GAIN(LOSS) ASSET SALES/DEBT EXTINGUISHMENT | (498) | (558) |
| OTHER NON-OPERATING INCOME | 2 | 0 |
| GRANT AWARD INCOME | 2,869 | 2,934 |
| **SUBTOTAL NON-OPERATING REVENUES** | **2,373** | **2,375** |

| **TOTAL REVENUES** | **6,001** | **6,635** |

| **OPERATING EXPENSES:** | | |
| ADMINISTRATIVE EXPENSES | 418 | 430 |
| INTEREST EXPENSE | 2,597 | 2,953 |
| AMORTIZATION OF BOND/NOTE PREMIUM(DISCOUNT) | (102) | (102) |
| PROVISION FOR LOAN LOSSES | 14 | 5 |
| MORTGAGE LOAN & BOND INSURANCE | - | - |
| TRUSTEE FEES | 7 | 8 |
| AMORT. OF SERV. RIGHTS & DEPRECIATION | 13 | 11 |
| AMORTIZATION OF BOND ISSUANCE COSTS | - | - |
| BOND COST OF ISSUANCE | - | - |
| **SUBTOTAL OPERATING EXPENSES** | **2,948** | **3,305** |

| **NON-OPERATING EXPENSES:** | | |
| CAPACITY BUILDING COSTS | 3 | 15 |
| GRANT AWARD EXPENSE | 2,869 | 2,933 |
| **SUBTOTAL NON-OPERATING EXPENSES** | **2,872** | **2,948** |

| **TOTAL EXPENSES** | **5,819** | **6,254** |

| **EXCESS REVENUES OVER EXPENSES** | 182 | 381 |
| **EXCESS (DEFICIENCY) OF REVENUES OVER EXPENSES AND OTHER FINANCING SOURCES(USES)** | - | - |
| **NET POSITION AT BEGINNING OF YEAR** | 202,938 | 198,133 |

| **NET POSITION AT 10/31/2015** | **203,120** | **198,514** |
### NOTAESS TO FINANCIAL STATEMENTS

(For Informational Purposes Only)
(Thousands of Dollars)

(Note 1) MFA Net Position as of October 31, 2015:

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>UNAPPROPRIATED NET POSITION:</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>$37,182</td>
<td>is held by Bond Program Trustees and is pledged to secure repayment of the Bonds.</td>
<td></td>
</tr>
<tr>
<td>$26,650</td>
<td>is held in Trust for the NM Housing Trust Fund and the NM Land Title Trust Fund.</td>
<td></td>
</tr>
<tr>
<td>$36</td>
<td>is held for New Mexico Affordable Housing Charitable Trust.</td>
<td></td>
</tr>
<tr>
<td><strong>Total UNAPPROPRIATED NET POSITION:</strong></td>
<td>$63,868</td>
<td>Total unappropriated Net Position</td>
</tr>
</tbody>
</table>

**APPROPRIATED NET POSITION: GENERAL FUND**

By actions of the Board of Directors on various dates, General Fund net assets have been appropriated as follows:

<table>
<thead>
<tr>
<th>Appropriation</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$86,581</td>
<td>for use in the Housing Opportunity Fund ($67,758 in loans plus $18,823 unfunded, of which $8,709 is committed).</td>
<td></td>
</tr>
<tr>
<td>$20,606</td>
<td>for future use in Single Family &amp; Multi-Family housing programs.</td>
<td></td>
</tr>
<tr>
<td>$11,006</td>
<td>for loss exposure on Risk Sharing loans.</td>
<td></td>
</tr>
<tr>
<td>$(993)</td>
<td>invested in capital assets, net of related debt.</td>
<td></td>
</tr>
<tr>
<td>$11,621</td>
<td>for the future General Fund Operating Budget Y E 9/30/16 ($12,070 total budget less $449 expended budget through 10/31/15.)</td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal - General Fund</strong></td>
<td>$128,821</td>
<td></td>
</tr>
</tbody>
</table>

**APPROPRIATED NET POSITION: HOUSING**

By actions of the Board of Directors on December 7, 1999, Housing assets have been appropriated as follows:

<table>
<thead>
<tr>
<th>Appropriation</th>
<th>Amount</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,431</td>
<td>for use in the federal and state housing programs administered by MFA.</td>
<td></td>
</tr>
<tr>
<td><strong>Subtotal - Housing Program</strong></td>
<td>$10,431</td>
<td></td>
</tr>
<tr>
<td><strong>Total Appropriated Net Position</strong></td>
<td>$139,252</td>
<td></td>
</tr>
<tr>
<td><strong>Total combined Net Position at October 31, 2015</strong></td>
<td>$203,120</td>
<td></td>
</tr>
</tbody>
</table>

Total combined Net Position, or reserves, at October 31, 2015 was $203.1 million, of which $63.9 million was pledged to the bond programs, Affordable Housing Charitable Trust and fiduciary trusts. $139.3 million of available reserves, with $75.2 million primarily liquid in the General Fund and in the federal and state Housing programs and $64.1 million illiquid in the programs of the General Fund, have been:

- for use in existing and future programs
- for coverage of loss exposure in existing programs, and
- for support of operations necessary to carry out the programs.

MFA’s general plan for bond program reserves as they may become available to MFA over the next 30 years is to use the reserves for future programs, loss exposure coverage, and operations.
## New Mexico Mortgage Finance Authority General Fund & Housing

### Budget Variance Report for the One Month Ended 10/31/15

<table>
<thead>
<tr>
<th>REVENUES</th>
<th>ONE MONTH</th>
<th>YEAR TO DATE</th>
<th>UNDER/(OVER)</th>
<th>EXPENDED</th>
<th>EXPENSES</th>
<th>TOTAL REVENUES</th>
<th>OPERATING &amp; NON-OPERATING EXPENSES</th>
<th>EXCESS REVENUE OVER EXPENSES</th>
<th>LESS CAPITALIZED ASSETS</th>
<th>TOTAL EXPENSES LESS CAPITALIZED ASSETS</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>ACTUAL</td>
<td>ACTUAL</td>
<td>PRO RATA</td>
<td>INCOME</td>
<td>INCOME</td>
<td>ACTUAL</td>
<td>ACTUAL</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OPERATING REVENUES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>INTEREST INCOME</td>
<td>470,598</td>
<td>470,598</td>
<td>515,229</td>
<td>44,631</td>
<td>6,182,753</td>
<td>5,712,155</td>
<td>7.61%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>ADMIN INCOME</td>
<td>559,005</td>
<td>559,005</td>
<td>620,401</td>
<td>61,396</td>
<td>7,444,812</td>
<td>6,885,807</td>
<td>7.51%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHER OPERATING INCOME</td>
<td>24,001</td>
<td>24,001</td>
<td>85,728</td>
<td>61,727</td>
<td>1,028,737</td>
<td>1,004,736</td>
<td>2.33%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SUBTOTAL OPERATING REVENUES</td>
<td>1,053,604</td>
<td>1,053,604</td>
<td>1,221,359</td>
<td>167,755</td>
<td>14,656,302</td>
<td>13,602,698</td>
<td>7.19%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NON-OPERATING REVENUES</td>
<td>(368,023)</td>
<td>(368,023)</td>
<td>8</td>
<td>368,031</td>
<td>100</td>
<td>368,123</td>
<td>-368,022.83%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL REVENUES</td>
<td>685,581</td>
<td>685,581</td>
<td>1,221,367</td>
<td>535,786</td>
<td>14,656,402</td>
<td>13,970,821</td>
<td>4.68%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EXPENSES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OPERATING EXPENSES</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>COMPENSATION</td>
<td>269,896</td>
<td>269,896</td>
<td>506,770</td>
<td>236,874</td>
<td>6,081,243</td>
<td>5,811,347</td>
<td>4.44%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TRAVEL &amp; PUBLIC INFO</td>
<td>16,698</td>
<td>16,698</td>
<td>35,688</td>
<td>18,990</td>
<td>428,259</td>
<td>411,561</td>
<td>3.90%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OFFICE EXPENSES</td>
<td>45,702</td>
<td>45,702</td>
<td>67,119</td>
<td>21,417</td>
<td>805,429</td>
<td>759,727</td>
<td>5.67%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>OTHER OPERATING EXPENSES</td>
<td>85,840</td>
<td>85,840</td>
<td>117,544</td>
<td>31,703</td>
<td>1,410,522</td>
<td>1,324,682</td>
<td>6.09%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SUBTOTAL OPERATING EXPENSES</td>
<td>418,137</td>
<td>418,137</td>
<td>727,121</td>
<td>308,845</td>
<td>8,725,453</td>
<td>8,307,316</td>
<td>4.79%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NON-OPERATING EXPENSES</td>
<td>3,057</td>
<td>3,057</td>
<td>99,906</td>
<td>96,849</td>
<td>1,198,875</td>
<td>1,195,818</td>
<td>0.26%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SUBTOTAL OPERATING &amp; NON-OPERATING EXPENSES</td>
<td>421,194</td>
<td>421,194</td>
<td>827,027</td>
<td>405,833</td>
<td>9,924,328</td>
<td>9,503,134</td>
<td>4.24%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>SERVICING &amp; CAPITAL OUTLAY</td>
<td>612</td>
<td>612</td>
<td>120,566</td>
<td>119,444</td>
<td>1,440,675</td>
<td>1,440,063</td>
<td>0.04%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>NON-CASH ITEMS</td>
<td>27,403</td>
<td>27,403</td>
<td>58,724</td>
<td>31,322</td>
<td>704,690</td>
<td>677,287</td>
<td>3.89%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL EXPENSES</td>
<td>449,209</td>
<td>449,209</td>
<td>1,005,808</td>
<td>556,599</td>
<td>12,069,693</td>
<td>11,620,484</td>
<td>3.72%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>EXCESS REVENUE OVER EXPENSES</td>
<td>236,372</td>
<td>236,372</td>
<td>215,559</td>
<td>20,813</td>
<td>2,586,709</td>
<td>(2,350,337)</td>
<td>190.86%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>LESS CAPITALIZED ASSETS</td>
<td>-</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL EXPENSES LESS CAPITALIZED ASSETS</td>
<td>236,372</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
November 11-December 8, 2015

MEDIA COVERAGE

Dec.  NM Society of CPAs  New Mexico Affordable Housing Trust

11-6  Las Cruces Bulletin  Public hearing will focus on affordable housing

11-13 to 19  ABQ Business First  Homeownership ad

11-20 to 26  ABQ Business First  Homeownership ad

11-25  Taos News  Twenty years on, town mulls options for Beleaguered Chamisa Verde

PRESS RELEASES, NEWSLETTERS and LENDER MEMOS

11-13  Tribal Update

12-2  Lender Memo 15-37  December Web Training Schedule

12-8  Tribal Update
In This Edition

- **DATES TO REMEMBER**
- **ANOTHER SUCCESSFUL PRIDE IN THE PROFESSION**
- **APPLY NOW FOR THE 2016 LEADERSHIP ACADEMY**
- **NEW MEXICO AFFORDABLE HOUSING CHARITABLE TRUST**
- **MEMBERS ON THE MOVE**

**DATES TO REMEMBER**

*All meetings and events are at the Society office unless otherwise noted.*

**December**

04 – New Mexico Tax Conference (Sheraton Albuquerque Uptown)
12 – Young CPAs Community Service Project at Roadrunner Food Bank
   (11 a.m. - 2 p.m.)

**ANOTHER SUCCESSFUL PRIDE IN THE PROFESSION**

Laughter, applause, and even some tears filled the room at the Sheraton Albuquerque Uptown earlier this month during the annual Pride in the Profession awards luncheon. During the ceremony, Society Chair Heather Zundel thanked committee members, committee chairs and past Society chairs for their service and welcomed all of the CPAs and guests in attendance. She briefed the crowd about recently held Society events and spoke about her role as Chair. Heather expressed her gratitude to her family and colleagues for their support and remarked that professional success often depends on support from family.

The program began with the recognition of the scholarship award recipients. Due to generous contributions from firms, members and sponsors, the Society awarded $26,800 to 12 accounting students from the University of New Mexico and New Mexico State University. The awards included a one-time memorial scholarship in honor of Daniel Mackie, founder of the Albuquerque firm Mackie Reid and Company.
APPLY NOW FOR THE 2016 LEADERSHIP ACADEMY
We are now accepting applications and nominations for the 2016 NMSCPA Leadership Academy! Click here for more information and the online form.

NEW MEXICO AFFORDABLE HOUSING CHARITABLE TRUST
By Dennis Burt, CPA, Founder of Burt & Company CPAs

As a CPA and Chairman of New Mexico Mortgage Finance Authority (MFA) Board of Directors, I was pleased to learn about the tax benefits of contributing to the New Mexico Affordable Housing Charitable Trust. Donations to the Charitable Trust will earn your clients a 50 percent credit on their state taxes, plus the charitable contribution deduction on their federal taxes. A household with a combined federal and state tax rate of 40 percent can earn back 90 percent of its contribution in tax credits and deductions. I know it’s hard to believe, but I’ve used this tool successfully to benefit both my clients and families in need throughout New Mexico.

To make a donation, simply make out a check to the New Mexico Affordable Housing Charitable Trust and send it, along with the tax credit voucher form, to MFA at 344 Fourth Street SW, Albuquerque NM, 87102. Click here for more information on the tax credit and to download the voucher form. You can also visit MFA’s website at www.housingnm.org.

As tax season and the holiday season approach, please join me in contributing to the New Mexico Affordable Housing Charitable Trust. We all benefit from saving money and helping people in need.

MEMBERS ON THE MOVE
Raul J. Anaya was promoted to Principal at the Albuquerque office of CliftonLarsonAllen. In this role Raul will head up the nonprofit assurance practice. He has more than 10 years of public accounting experience and specializes in audits for governmental agencies, nonprofit organizations, and closely held corporations.

Louis Griego, a Manager at Sandia National Laboratories, graduated from the 2015 AICPA Leadership Academy last month. Attendees discussed important issues facing the profession and participated in leadership development sessions with some of the profession’s most influential leaders, including immediate past AICPA Chair Tommye Barie and AICPA President Barry Melancon. More than 200 CPAs have graduated from the program in the past seven years, including five individuals from New Mexico.
Public hearing will focus on affordable housing

A public hearing is scheduled for Nov. 10, when the Doña Ana County Board of Commissioners will consider whether to adopt an ordinance for an affordable-housing initiative within Doña Ana County.

The Nov. 10 meeting will begin at 9 a.m. in the Commission Chambers of the Doña Ana County Government Center, and the public hearing will be preceded by several other items of business.

The official title of the proposed ordinance is: An Ordinance Establishing an Affordable Housing Program Pursuant to the Affordable Housing Act; Defining Terms; Establishing Application Requirements and Review Criteria; and Establishing Procedures to Administer an Affordable Housing Program.

The purpose of the proposed ordinance is to allow Doña Ana County the flexibility to leverage state and federal resources to promote the development of affordable housing through the New Mexico Mortgage Finance Authority (NMMFA) programming and provide for statutory exemption to New Mexico’s Anti-Donation Clause.

The proposed ordinance establishes the initial framework and tools necessary to begin the Affordable Housing initiative process. If the ordinance is approved, specific affordable-housing projects will be presented to the commissioners on a case-by-case basis.

A copy of the proposed ordinance is available for inspection at the Doña Ana County Clerk’s Office within the Doña Ana County Government Center at 845. N. Motel Blvd., in Las Cruces.

Parties who require special accommodations may contact Doña Ana County ADA Coordinator Meg Haines at (575) 525-5884 (voice) or (575) 525-5951 (TTY) during regular business hours.
That's what we believe here in New Mexico, and that's why the New Mexico Mortgage Finance Authority was created by the state legislature in 1975. Since then, MFA has helped thousands of New Mexicans with low and moderate incomes become homeowners.

MFA’s homeownership programs like First Home, First Down and Next Home provide competitive interest rates and down payment assistance for first-time homebuyers as well as for current homeowners wishing to purchase their next primary residence. Borrowers may be able to purchase a home by investing as little as $500 of their own funds.

These benefits can only be obtained through an MFA approved lender. Your lender will coordinate everything with MFA from determining program eligibility through the application process and closing. Your new home is just around the corner!

It’s easy to get started. Go to the “Homebuyers” section of MFA’s website at housingnm.org to find an MFA participating lender.

MFA | Housing New Mexico

344 4th Street SW, Albuquerque, New Mexico 87102  505.843.6880  800.444.6880  www.housingnm.org
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Twenty years on, town mulls options for beleaguered Chamisa Verde

By J.R. Logan

The Taos News

Allegations of wrongdoing halted the development of the town-owned Chamisa Verde affordable housing subdivision in the late 2000s. But town officials now hope there’s a chance to put some of the undeveloped property to work.

More than 20 years ago — in June 1995 — the town unveiled plans for a 32-acre, 130-unit affordable housing subdivision to give Taos’ working class an option for homeownership. Bob Romero, the town’s then-housing director, said in an interview at the time that Taos had the highest discrepancy between median income and housing costs in the state.

“We have to address this issue,” Romero said.

But after some initial successes, the subdivision hit a major stumbling block.

In 2007, the state Mortgage Finance Authority (the agency in charge of making sure local governments handle affordable housing development according to state law) were made aware of a series of potential violations at the first phase of Chamisa Verde.

In June 2008, an attorney with the Mortgage Finance Authority sent an email to the town outlining the agency’s concerns. Among them, the attorney noted the town could not produce several required documents pertaining to the sale of lots in the subdivision. The attorney also raised questions about whether lots that had been specifically designated for affordable housing had actually been sold to low-income buyers.

In light of those concerns, the agency halted work on phase one and went to the New Mexico Attorney General, asking him to sort out the allegations and determine if any laws were broken. In 2010, the town provided paperwork to the State Auditor’s office, which was apparently conducting its own investigation.

However, those reviews yielded no clear results.

A spokesperson for the State Auditor told The Taos News the office could find no evidence of a special audit of Chamisa Verde. And a spokesman for Attorney General Hector Balderas (who happened to be State Auditor when the investigation was announced) said the investigation was closed by the previous administration with no charges being brought.

So what exactly does that mean for the dozens of undeveloped lots that remain unused in the 20-year-old development?

In an email to The Taos News, a spokesperson for the Mortgage Finance Authority maintained that it was still unable to “assist” with Phase 1 of Chamisa Verde until the town could show past transfers of lots were legal.

However, the agency said it does not have a problem with the town moving forward with other projects in different phases of the subdivision.

In an email to The Taos News this week, Town Manager Rick Bellis said the town is currently working on several affordable housing options, including finishing development of the seven empty lots in Chamisa Verde Phase I.

“There are a few hurdles we inherited from prior efforts by earlier administrations that we are working through with the state that should be wrapped up by mid-December to mid-January at the latest,” Bellis wrote. “But the state and we are agreed we should not hold up current and future housing efforts while we are doing the neglected housekeeping.”

Despite the challenges, the town has taken some action at Chamisa Verde recently.

In 2013, the town asked developers for proposals to plan, design, construct and manage the second phase of the subdivision, which consists of about 17.3 acres that remain undeveloped. A plat prepared by the town says as many as 180 units could be built in that area.

And in late 2014, the town transferred two lots to Habitat for Humanity so the nonprofit could build homes as well.

Bellis said the Habitat model — one lot at a time — has proven much more “doable” that doing larger scale projects.

He said while there are no restrictions on Phase 2, there are also no utilities, meaning it would be far more costly to develop.
The Chamisa Verde affordable housing subdivision (outlined in red) is located on the north side of Paseo del Caño East near the Taos Youth and Family Center. The project's first phase (outlined in blue) is 10.2 acres and has been mired in questions about the legal transfer of properties for years. The 17.3-acre undeveloped portion, known as phase 2, still has the potential to provide space for low-income housing or subsidized rental properties.
NM Tribal Homeownership Coalition Meeting
Thursday November 19 at NAHCs
8308 Washington St. NE
Albuquerque, NM 87113
1 to 3 pm

We have an exciting meeting planned on the Section 184 in New Mexico.

1. Renee Konski and Darkfeather Ancheta of 1st Tribal will update us on the 184 program and will provide some TDHE financing options for discussion.
2. Isaac Perez of San Felipe will cover his TDHE 184 loans and their structure. San Felipe has been immensely successful.
3. Wayne Solomon of Solomon Appraisals will discuss appraisal challenges on trust land and answer your questions.
4. Time permitting, Eric Schmieder will provide an update on MFA’s weatherization program and some interesting New Mexico statistics on the 184 loan.

If you have been giving any thought to using the 184 loan with your TDHE as the borrower, do plan to attend.

The final agenda will go out early next week. It may include a couple of other honored guests and speakers.
December 2015 Web Training Schedule

- New MFA Single Family Programs and New DPA Funding Process

MFA will be offering webinar training for the NEW MFA Single Family Programs and Down Payment Assistance Funding Process, which became effective October 1, 2015.

The training is designed for all staff originating, processing, closing and shipping MFA loans. The trainings will be more technical in nature and will provide Participating Lenders with the information needed to efficiently originate, fund and deliver loans under the new programs/process.

New Single Family Program and DPA Funding Webinar Training:

MFA will offer two (2) individual webinar trainings on the New Single Family Programs and the new DPA Funding Process.

Each of the two (2) webinars will cover the same material.

Participating Lenders only need to attend one of the webinars:

- Wednesday, December 9, 2015 1:30pm-3:00pm MST
- Wednesday, December 16, 2015 10:00am-11:30am MST
To Participate:

Register via the MFA Lender Training link [http://www.housingnm.org/lender-training](http://www.housingnm.org/lender-training) no later than 5:00 PM MST on the business day prior to the training. Please register for the individual session(s) that will be attended. The materials will be sent to you the evening before the training. Below is the link and call in numbers for all of the sessions.

Conference Dial-in Number: (641) 715-3276
Participant Access Code: 297334#

Thank you for participating in MFA’s program. Should you have any questions, please contact an MFA Homeownership Representative.

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You are receiving this email because you are associated with MFA.

Our mailing address is:
MFA
344 4th St SW, Albuquerque, NM, United States
Albuquerque, NM 87102

Add us to your address book

unsubscribe from this list  update subscription preferences
This course design will teach participants how to prepare proposals for affordable housing projects or programs including housing construction/rehabilitation, program capacity building, community project/facilities and infrastructure grants. Through a hands-on project development approach, the course covers how to maximize benefits through leveraging, match project goals to funder’s goals, and how to prepare a statement of need, project description, implementation schedule, financial feasibility analysis and project sustainability plan. Participants will be required
to write key components of a grant and analyze an actual grant application.

**Details**

Note: Registration is on Tuesday, January 12th from 8-8:30 AM.

**When**

Tuesday, January 12, 2016 - Thursday, January 14, 2016
8:30 AM - 4:30 PM

**Where**

SWONAP Training Room
One North Central Avenue, Suite 600
Phoenix, AZ 85004
USA

**Things to know**

- Registration closes January 8.

- When registering on behalf of someone else or for a group, email addresses for each attendee must be provided.

- Attendees are responsible for arranging for their hotel accommodations.

---

National American Indian Housing Council
900 2nd Street NE • Suite 107
Washington, DC 20002
202-789-1754 • [www.naihc.net](http://www.naihc.net)
Registration Now Open

You are invited to join us for a free, informational workshop to learn how to access funds for affordable housing, economic development and community revitalization. The FHLB Dallas Community Investment team will discuss eligibility requirements and the application process for grant and community advance programs available in 2016.

Each workshop will focus on the same information, so please choose the date and location most convenient for you.

**CLICK HERE TO REGISTER**

Contact Erica Herd at erica.herd@fhlb.com for questions.
NEW NAME: NATIVE Partnership for Housing (NPH)

Navajo Partnership for Housing is being changed to Native Partnership for Housing. The purpose of the name change is to expand NPH's services to other Native tribes and Individuals. A part of the service expansion also includes the formation of Native Investments Holding Company and Clearwater Construction Partners. Clearwater Construction Partners will be available to assist Native communities with housing construction projects through its' joint venture partnerships.

Available Positions

Click on one of the listed links for a full description of the available position

- Weatherization Program Manager
- Compliance Manager
- Rental Assistance and Linkages Program Manager
How to Apply

Click on an available position above for a complete description. If you have any questions, please feel free to contact MFA’s HR Director at (505) 843-6880 or Click Here to send a message.

Website Submission

- To apply via our website, follow one of the position links above and complete the application submission form following the position description.

Fax Submission

- Please fax your cover letter, resume, salary history, and professional references to:
  
  (505) 243-3289: Attention HR Director.

Mail Submission

- Send your cover letter, resume, salary history, and professional references to:
  
  HR Director at 344 4th St. SW
  
  Albuquerque, NM 87102