

New Mexico Housing Trust Fund Notice of Funding Availability (NOFA) and Application Guidelines

Introduction and Background

During the 2005 legislative session the New Mexico Housing Trust Fund Act (“the Act”) was passed with unanimous support by the State’s Senate and House of Representatives. \$10 million was appropriated from the State capital outlay fund to provide initial capital for the Housing Trust Fund (“HTF”) with an additional \$5 million appropriated during the 2006, 2007 and 2008 legislative sessions. In November 2006, Constitutional Amendment 4 passed and its enabling legislation, the Affordable Housing Act, was amended allowing state funds to be used to finance land and building acquisition in addition to providing or paying for the costs of infrastructure.

The New Mexico Mortgage Finance Authority (“MFA”) is a governmental instrumentality separate and apart from the state, created by the New Mexico Mortgage Finance Authority Act for the purpose of financing affordable housing for low and moderate income New Mexico residents. The New Mexico Housing Trust Fund Act designates MFA as the administrator and trustee of the HTF.

The purpose of the HTF is to provide flexible funding for housing initiatives in order to produce significant additional housing investment in the state. The Act requires that funds be awarded on a competitive basis and that the application process encourage applicants to develop solutions that are responsive to local needs and are consistent with sound housing policy. The HTF may be used to finance in whole or in part projects that will provide affordable housing primarily for persons or households of low or moderate income.

Contact Person

Applicants are encouraged to direct questions regarding the New Mexico Housing Trust Fund Notice of Funding Availability (“NOFA”) and Funding Application Guidelines to:

Mr. Daniel Puccetti
New Mexico Mortgage Finance Authority
344 4th Street SW
Albuquerque, NM 87102
Phone: (505) 767-2251 or toll-free statewide (800) 444-6880
E-mail: dpuccetti@housingnm.org

Application Submission and Due Date

Applications will be reviewed on a quarterly basis as long as funds are available. In order to be considered for the funding cycle, completed applications must be received and date-stamped at MFA’s office in Albuquerque no later than 5 p.m. on the application due date, which shall be the second Friday of January, April, July and October. The required forms will be provided electronically and may be downloaded from MFA’s website at <http://www.housingnm.org/developers>. Applications will NOT be accepted electronically or via facsimile. Applications shall be submitted in sealed envelopes marked “New Mexico Housing Trust Fund Application.” Applicants must deliver one (1) original of the application to the Contact Person.

Eligible Applicants

Eligible applicants include non-profit organizations, for-profit organizations, governmental housing agencies, regional housing authorities, governmental entities, governmental instrumentalities, tribal governments, tribal housing agencies, builders, corporations, limited liability companies, partnerships, joint ventures, syndicates, associations, or other entities that can assume contractual liability and legal responsibility by executing one or more written agreements entered into with MFA.

To be eligible to receive Housing Trust Fund assistance, an applicant shall:

- Be organized under state, local, or tribal laws and provide proof of such organization and that the applicant is in good standing, as applicable;
- 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;
- Have (a) no significant financial audit findings and (b) no significant findings on its most recent MFA monitoring or outstanding or unresolved issues with MFA; if applicable;
- Not have 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;
- Have among its purposes significant activities related to providing housing or services to persons of low or moderate income; and
- Not have defaulted on any obligation covered by a surety or performance bond.

If a non-profit organization, an applicant shall:

- Provide proof of its 501(c)(3) tax status;
- Provide proof that it is in compliance with the Charitable Solicitations Act NMSA 1978, §57-22-1, et. seq. and with the filing requirements by the New Mexico Attorney General's Office under that Act; and
- Have no part of its net earnings inuring to the benefit of any member, founder, contributor or individual.

Eligible Activities

Subject to applicable law, the HTF may be used to assist in financing a wide range of activities to provide affordable housing, including costs of infrastructure necessary to support affordable housing. Projects must conform to MFA design standards. MFA encourages contact and inquiries from potential applicants prior to and during application preparation to help assure that proposed activities are eligible. Eligible activities may include, but are not limited to:

Homeownership

- New construction or acquisition, rehabilitation, and resale of single-family homes including manufactured housing.
- Home rehabilitation and maintenance, or repair of existing owner-occupied housing.
- Emergency home repair of existing owner-occupied housing.

Rental Housing

- New construction or acquisition and rehabilitation of permanent rental housing.

Special Needs Housing

- New construction or acquisition and rehabilitation of housing for special needs populations including, but not limited to, transitional, group or congregate housing, and temporary housing for the homeless.

Development Prerequisites and Enhancement

- The acquisition of vacant land undertaken only in conjunction with a specific eligible housing project intended to provide affordable housing.
- The acquisition, development, and improvement of infrastructure required for a specific eligible housing project intended to provide affordable housing.
- Guarantees or other such credit enhancements for the development of eligible affordable housing projects.

Eligible Expenses

Subject to applicable law, HTF financing may be used only for reasonable and customary costs that are directly attributable and traceable to the development, acquisition, construction and/or rehabilitation of affordable housing projects.

Beneficiary Income Limits and Other Requirements

Beneficiaries or occupants of housing financed in whole or in part by the HTF must have incomes at or below the following limits, which the applicant shall be required to verify. The income limits and requirements vary depending on the type of housing provided.

Owner-Occupied Housing

Beneficiary households residing in units financed with HTF monies must have incomes at or below 80% of area median income adjusted for family size as determined by HUD. The home must be owned and occupied by the household as a principal residence. Title to the property must be held as fee simple or a 99-year leasehold. Homes located on Tribal Land may have a 50-year lease or alternative acceptable to MFA.

Workforce Housing

Workforce housing is defined as housing, owner-occupied or rental, for which there is a direct and demonstrable link between the availability of such housing and the ability of the locality to attract or retain essential service providers or those workers that are required to maintain and/or develop a viable local economy. Applicants must identify specific salary ranges earned by the beneficiaries to whom the workforce housing is targeted. Beneficiary eligibility of the households residing in units financed with HTF monies will be based primarily on employment with the participating employer: although there is no prescribed income eligibility guideline for this activity, applications will be reviewed to ensure consistency with the purposes and intent of the Act.

Rental Housing

Beneficiary households residing in units financed with HTF monies must initially have incomes at or below 60% of area median income adjusted for family size as determined by HUD.

Special Needs Housing

Households residing in units financed with HTF monies must have the special needs characteristics identified in the application such as elderly, disabled, victims of domestic

violence, homeless, *etc.* Although there is no prescribed income eligibility guideline for this activity; applications will be reviewed to ensure consistency with the purposes and intent of the Act.

Affordability Standards

Housing financed in whole or in part by the HTF must meet the following affordability standards. The affordability standards vary depending on the type of housing provided.

Rental Housing and Special Needs Housing

Rent rates for households residing in units financed with HTF monies must comply with *at least one* of the following affordability standards.

1. Be no greater than 30% of the maximum eligible household income for the assisted unit, less utility cost allowances determined by MFA.
2. Comply with the requirements of the Home Investment Partnership (“HOME”) Program, or
3. Comply with the requirements of the Low Income Housing Tax Credit Program.

Affordability Period

The HTF is designed to assist housing that will remain affordable on a long term or permanent basis. MFA shall establish a required affordability period, which, as long as funding for the HTF is provided by state funds, shall be in accordance with Section 5.7 E of the Affordable Housing Act Rules, a copy of which can be obtained on MFA’s website. These rules require minimum affordability periods (based on per unit subsidy) during which the housing units must only be occupied by low income families. For single family for-sale homes this will require deed restrictions ensuring that the unit can only be sold to qualifying individuals during the affordability period (minimum 5 years).

Housing Standards

All housing receiving HTF financing must meet housing standards prior to occupancy (or after completion for homeowner rehabilitation) and throughout the affordability period. Standards vary depending on the type of housing (owner-occupied, rental, special needs, *etc.*) and the type of activity. Standards must be met for both the type of housing and the type of activity which includes meeting all state and local code requirements, federal fair housing requirements, ADA, Model Energy codes as applicable and all new construction must meet MFA design standards.

Owner-Occupied Housing

The property valuation for newly constructed, acquired, and rehabilitated units after completion may not exceed 95% of the 203(b) FHA Mortgage Insurance Limits.

Funding Terms and Conditions

All awards of HTF funds shall be subject to the availability of funds and applicable law. The MFA will allocate only the minimum amount of HTF funds that MFA determines to be necessary for the financial feasibility of the project and its viability as a qualified affordable housing project throughout the affordability period. Applications will be underwritten and awards of HTF funds will be structured to ensure that these funds will be repaid. Principles of sound underwriting and risk management will be applied when reviewing all applications.

All HTF financing will be in the form of loans, which may be for interim and/or permanent financing. The terms and conditions for each loan will be based on the financing needs of each project or activity. Loan terms and conditions may range from no interest, deferred payment loans to revolving line of credit loans to loans with near-market interest rates and terms.

All loans will be secured by mortgages and/or other appropriate liens and the recording of Land Use Restriction Agreements (LURAs) will be required for all loans. These LURAs shall remain in place throughout the required affordability period regardless of the status of the loan or changes in ownership, unless equal or more restrictive land use restrictions are in place from other funding sources or imposed through permanent affordability mechanisms such as deed restrictions or land trusts.

Funding Limits and Restrictions

Awards of HTF funds are contingent on sufficient appropriations and authorization being made by being made by the State of New Mexico and are further subject to applicable law. If these are not available any loan or other agreement between the MFA and any successful, eligible applicant shall terminate upon written notice being given by the MFA to the applicant. The MFA's decision as to whether sufficient appropriations are available or whether Housing Trust Fund Assistance may be awarded subject to applicable law shall be accepted by any applicant and shall be final.

Maximum Funding Amount

There is no cap on funding amounts. However, MFA, in its discretion, may set limits on the amount of HTF funding to be awarded per application, per NOFA, per quarter, per year, or otherwise.

Developer and Consultant Fees

Developer and Consultant Fees are limited to the following percentages of acquisition and site improvements, hard construction costs, professional fees, financing costs, and soft costs, unless further restricted by other funding sources.

Small project (5 or fewer units):	15%
Standard project (6 or more units)	12%

Builder Fees

“Builder Fees” generally covers Builder overhead, profit and general requirements. Builder fees are limited to the following percentages of site improvements and hard construction costs, unless further restricted by other funding sources.

Small project (5 or fewer units):	15%
Standard project (6 or more units)	13%

Evaluation of Applications, Award Notice, and Negotiation

Subject to applicable law, the Housing Trust Fund Act Rules and the Affordable Housing Act Rules, applications will be evaluated by MFA staff using the criteria listed below, and by the New Mexico Housing Trust Fund Advisory Committee, with final selection to be made by MFA's Board of Directors. In the event of a tie score, staff will recommend approval based on the income level of families served (i.e. the lower the area median income (AMI) percentage, the higher the weight), financial need, and other factors as determined by staff. As a condition of

any award of HTF funds, all applicants shall be required to comply with all applicable federal, state and local laws, rules and ordinances.

MFA shall enter into loan agreements and related agreements with the applicants whose applications are deemed to be most advantageous to the achieving the goals of the HTF. The loan and related agreements shall include provisions for adequate security against the loss of HTF funds in the event that a successful applicant abandons or otherwise fails to complete an HTF project and further shall include remedies and default provisions in the event of the unsatisfactory performance by the successful applicant. MFA may provide applicants whose applications are reasonably likely, in MFA's discretion, to be selected, an opportunity to discuss and revise their proposals prior to award for the purpose of obtaining final and best applications. Applications shall be evaluated using the criteria listed below.

Threshold Requirements

To be considered for funding, an applicant must first demonstrate that it meets each of the following threshold criteria:

1. The application is complete and legible, including all schedules and attachments, and is submitted by the application deadline.
2. The application complies with all applicable requirements established in these Guidelines and NOFA.
3. The applicant provides sufficient evidence of its ability to undertake and complete the proposal in the areas of financing, acquiring, rehabilitating, developing, and/or managing an affordable housing project.
4. The application provides sufficient evidence that the proposed project is financially and technically feasible and includes a proposed budget and performance schedule for the proposed project.

Applications that do not meet all of the threshold requirements will not receive further consideration for funding and will be returned to the applicant.

Evaluation Criteria and Scoring

Applications meeting the minimum threshold criteria will be scored according to the following evaluation criteria.

1. The degree to which the applicant has demonstrated its ability to undertake and complete the proposed project in the areas of financing, acquiring, rehabilitating, developing, and/or managing an affordable housing project. Evaluators will also consider the degree to which applicants collaborate with other stakeholders (*e.g.*, state and/or local governmental agencies, other for-profit and/or non-profit housing service providers, *etc.*) in the community in which the project will be located. Maximum points: 17
2. The degree to which the applicant has leveraged other public or private sector resources appropriate for the proposed type of affordable housing project or activity. Applicants are expected to access other resources that are available for the type of housing project proposed. The evaluation will be based on the ratio of leveraged resources (*e.g.*, cash, land, relevant professional services, *etc.*) to requested HTF funds, taking into consideration the availability of other resources for the specific affordable housing type or activity. For example, homeownership projects will generally be expected to have a higher ratio of leveraged funds than transitional housing projects. Maximum points: 17

3. The degree to which the applicant has demonstrated the cost effectiveness and cost reasonableness of the proposed project or activity. Evaluation of this category will include the source of the applicant's cost estimates, data from experience on prior projects in New Mexico, and consultation with construction cost experts. Maximum points: 17
4. The degree to which the applicant has demonstrated the need and market for the proposed affordable housing project or activity. For example, an application that demonstrates need using a 10-year-old community needs assessment would generally not score as well as an application with a legitimate waiting list of eligible project beneficiaries. Maximum points: 17
5. The degree to which the applicant has demonstrated readiness to proceed. More points will be awarded to applicant projects that are ready to begin implementation immediately with environmental review requirements completed, land control secured, planning design and permitting complete, other resources firmly committed, *etc.* Maximum points: 17
6. Energy Efficiency points if the applicant agrees to the following: Project will receive a Housing Energy Rating System (HERS) assessment. Rehabilitation projects: Homes, as improved for sale, and rental units at occupancy must achieve a 25% reduction on the final HERS Index from the initial rating, and are not required to increase efficiency beyond the target HERS Index of 85. New construction requires a HERS Index of at least 85. The process will include an initial assessment, energy improvement specifications, and then a final audit to confirm that housing meets the threshold. Points: 10 (no partial points)
7. Applicant is a "New Mexico resident business," which means a business that is authorized to do and is doing business under the laws of New Mexico and that maintains its principal place of business in the state. Points: 5 (no partial points)

Maximum Total Evaluation Criteria points: 100

Priority Ranking Criteria Scoring

In addition to maximum 100 points awarded in conjunction with the criteria above, applications shall be awarded 10 points for each of the below five priority funding conditions met. A total of 50 points is possible if an application meets all five of the HTF funding priorities identified in the below "HTF Funding Priorities". All statements and summaries provided in response to the ranking criteria must be supported by pertinent documentation. Applicants must earn a threshold level of 75 points out of the maximum 150 points to be considered for funding

HTF Funding Priorities (subject to change)

1. Homeownership Housing Development - production of "new" affordable homeownership units, which shall include housing units constructed where none had existed previously, acquired unlivable, abandoned, or fire-damaged residential units returned to residential use, and non-residential or non-residentially-zoned property converted to residential use.
2. Workforce Housing Development - Production of "new" affordable workforce housing units, which shall include housing units constructed where none had existed previously, acquired unlivable, abandoned, or fire-damaged residential units returned to residential use, and non-residential or non-residentially-zoned property converted to residential use.

3. Preservation - Affordable housing projects rehabilitating existing low income rental or single family for-sale housing.

4. Interim or Short Term Financing - Proposals in which the HTF funds are repaid in full within a three-year period.

5. Lowest Income Beneficiaries - Projects serving the lowest income households appropriate for the type of affordable housing project or activity. For example, appropriate income levels of households served by a transitional housing project may be at or below 30% of the area median, whereas appropriate income levels for a homeownership project may be no lower than 50% of the area median.

Application Format and Instructions to Applicants

Proposals must include and address the following, pursuant to the HTF Application Package:

1. Completed and executed HTF Application, including all requested and applicable documentation attached as appendices
2. Resumes or biographical profiles and related information on applicant's development and/or management team and qualifications evidencing ability to manage proposed project
3. Current audits for the previous two fiscal year ends (FYE) (*i.e.*, no more than 18 months old). An internally prepared FYE statement is acceptable for the most recent FYE if the audit is not yet available
4. Year-to-date internally prepared financial statements (dated within 3 months of the application) that demonstrate the financial and management stability of the applicant
5. Narrative, supported by the application and schedules, that describes the need for the Housing Trust Fund award, the value that the Housing Trust Fund award has on reducing the cost of the housing, and the benefit to the community and/or beneficiaries of a proposed project
6. Applicant Certification
7. Litigation: Please describe any material, current or pending litigation, administrative proceedings or investigations that could impact the reputation or financial viability of applicant.
8. The MFA requires that applicants be Equal Opportunity Employers (if applicable). Please state that applicant complies fully with all applicable government regulations regarding nondiscriminatory employment practices.
9. Disclosure: If applicable please provide a statement disclosing:
 - a. any political contribution or gift valued in excess of \$2,500.00 (singularly or in the aggregate) made by applicant or on applicant's behalf to any elected official of the State of New Mexico in the last three years; and
 - b. any current or proposed business transaction between applicant and any MFA member, officer, employee or their employer or other potential conflict which may

give rise to a claim of conflict of interest. Applicant shall warrant that it has no interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under any loan agreement that may be awarded as a result of this NOFA.

Incurred Expenses

MFA shall not be responsible for any expenses incurred by an applicant in applying for HTF funding. All costs incurred by an applicant in the preparation, transmittal or presentation of any application or material submitted in response to this NOFA will be borne solely by the applicant.

Award Notice

MFA shall provide written notice of the award to all applicants within fifteen (15) days of the date of the award. The award shall be contingent upon successful negotiations of a final loan agreement and related agreements between MFA and the applicant whose application has been selected by MFA for HTF financing.

Loan Agreement

A successful applicant will enter into a loan agreement and related agreements with MFA for the services to be performed. Related agreements may include, but are not limited to, notes, financing statements and Land Use Restriction Agreements. The loan agreement shall include the scope of services, term of performance, fees or costs, and shall describe the conditions under which the successful applicant shall perform the scope of services.

Application Confidentiality

Prior to the application deadline, MFA encourages inquiries and contacts with its Contact Person from potential applicants regarding the NOFA or sound housing project policies and procedures. The MFA shall not disclose any information regarding a proposed application provided during such inquiries and contacts to any third party.

After the application deadline and until awards are made and notice given to all applicants, the MFA will not disclose the contents of any application or discuss the contents of any proposal with an applicant or potential applicant, so as to make the contents of any offer available to competing or potential applicants.

After the awards have been made and notice given to all applicants, all applications shall be available and open to the public for review.

Irregularities in Applications

MFA may waive technical irregularities in the form of proposal of any applicant selected for award which do not alter the price, quality or quantity of the services offered.

Responsibility of Applicants

If an applicant who otherwise would have been awarded a loan agreement is found not to be a responsible applicant, a determination, setting forth the basis of the finding, shall be prepared and the applicant disqualified from receiving the award.

A responsible applicant means an applicant who submits an application that conforms in all material respects to the requirements of this NOFA and the HTF application and who has

furnished, when required, information and data to prove that the applicant's financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in this NOFA.

Protest

Any applicant who is aggrieved in connection with this NOFA or the award of a loan agreement pursuant to the HTF application process may protest to MFA. The protest must be written and addressed to the Contact Person. The protest must be delivered to MFA within fifteen (15) calendar days after the notice of award. Upon the timely filing of a protest, the Contact Person shall give notice of the protest to all applicants who appear to have a reasonable prospect of being affected by the outcome of the protest. The applicants receiving notice may file responses to the protest within seven (7) calendar days of notice of protest. A committee appointed by the MFA Board Chair shall review the protest and responses to the protest and shall make a recommendation to the Board of Directors regarding the disposition of the protest.

The Board of Directors shall make a final determination regarding the disposition of the protest. Applicants or their representatives shall not communicate with MFA Board of Directors or staff members regarding any proposal under consideration, except when specifically permitted to present testimony to the committee of the Board of Directors. A proposal will be deemed ineligible if the applicant or any person or entity acting on behalf of applicant attempts to influence members of the Board of Directors or staff during any portion of the review process, or does not follow the prescribed Application and Protest process.