

Opportunity Enterprise and Housing Development Review Board Housing Development Evaluation and Prioritization Policy

SECTION 1. PURPOSE AND IMPLEMENTATION

On February 28, 2024, Governor Michelle Lujan Grisham signed House Bill 195 which expanded and retitled the Opportunity Enterprise and Housing Development Act (“Act”), NMSA 1978, Section 6-34-1, et seq., to catalyze below-market housing production across the State to increase the supply of attainable housing for New Mexicans. The expanded Act creates the Housing Development Revolving Fund (“Fund”) within the New Mexico Finance Authority (“NMFA”) and authorizes the NMFA to establish rules, administer the Fund, and recover from the Fund such costs of administering the Fund and originating housing development assistance.

The Opportunity Enterprise and Housing Development Review Board (“OE Board”) established rules and this Housing Development Evaluation and Prioritization Policy to guide the evaluation, selection, and prioritization of projects to recommend to the NMFA for financing consideration from the Fund. Pursuant to the Act, the NMFA Board adopts separate Rules approved by the NMFA Oversight Committee that govern the origination and administration of housing development loans.

The Policy shall be implemented by the (“OE Board”) and may, at times, be waived by the OE Board if the OE Board determines that a deviation from its adopted policy is necessary. Such waiver will be reflected in the agenda for the public meeting at which the waiver is considered.

SECTION 2. DEFINITIONS

- A. “**Act**” means the Opportunity Enterprise and Housing Development Act, Sections 6-34-1 through 6-34-15, NMSA 1978, as the same may be amended and supplemented.
- B. “**Affordable Housing Project**” means residential housing primarily for persons or households of low or moderate income as defined in a local housing plan or by programs managed by the MFA.
- C. “**Application**” means a form and supporting materials submitted to NMFA by a Housing Development Partner that seeks housing development assistance. The application must be on forms provided by NMFA and will be comprised of two parts: a Project Application, the information from which is available to the public, and a Financing Application, which may contain confidential or proprietary information that may be excepted from the Inspection of Public Records Act.
- D. “**Attainable Housing**” means affordable housing or workforce development housing.
- E. “**Fund**” means the Housing Development Revolving Fund.
- F. “**Housing Development Assistance**” means a housing development loan made by the NMFA.

- G. **“Housing Development Committee”** means a committee established pursuant to the Amended and Restated OE Board Bylaws composed of OE Board members. Members of the Housing Development Committee are appointed by the OE Board Chair and approved by the OE Board.
- H. **“Housing Development Partner”** or **“Partner”** means a domestic corporation, a general partnership, a limited liability company, a limited partnership, a public benefit corporation, a nonprofit entity or any other private business entity or combination thereof that the NMFA determines is or will be engaged in a project that creates or expands housing within the state and is eligible for housing development assistance pursuant to the Act.
- I. **“Market Study”** means a project description and analysis of geographic conditions, demographic trends, and competitive market conditions that will impact the success of the project, including absorption estimates for the subject property. Market Studies must be dated within the last six months and must meet the parameters established by the MFA.
- J. **“MFA”** means the New Mexico Mortgage Finance Authority.
- K. **“Middle-Income Workers”** means families with incomes that fall between the lesser of a local jurisdiction’s upper limit for housing assistance by relevant housing type or by the MFA’s upper limit for housing development assistance and 300% of the US Housing and Urban Development Area Median Income for the county.
- L. **“NMFA”** means the New Mexico Finance Authority.
- M. **“OE Board”** means the Opportunity Enterprise and Housing Development Review Board created by the Act.
- N. **“Policy”** means the Housing Development Evaluation and Prioritization Policy.
- O. **“Project”** means an affordable housing infrastructure project or a workforce development housing project.
- P. **“Rural”** means any area not considered Urban.
- Q. **“Site control”** means at least one of the following:
1. a fully executed purchase contract or purchase option,
 2. a written governmental commitment to transfer or convey the property to the applicant, or
 3. a fully executed lease that terminates no sooner than five years after the loan matures and/or five years after the income-restriction compliance period end date.
- R. **“Total Development Cost”** means the total of all costs incurred or to be incurred by the Housing Development Partner in acquiring, constructing, rehabilitating and financing a Housing Development Project. For the purposes of calculating developer fees, Total

Development Cost will be adjusted to exclude developer fees (which include consultant fees), and any construction costs associated with affordable housing, market rate housing, and commercial space.

- S. **“Universal Design”** means a design approach to creating spaces, features and products to maximize the number of people who can independently live in that space, regardless of age, stature, size or physical ability.
- T. **“Urban”** means a continuously built-up area with a population of 60,000 or more. Urban areas may include one or more municipalities or census designated places.
- U. **“Workforce Development Housing”** means below-market housing addressing demand for workforce housing for middle income workers in proximity to employment centers.
- V. **“Workforce Development Housing Project”** means a residential real estate development project that involves the purchase, planning, designing, building, surveying, improving, operating, furnishing, equipping or maintaining of land, buildings or infrastructure that provides housing, including housing that provides the option of home ownership.

SECTION 3. APPLICATION EVALUATION AND PRIORITIZATION

Section 3.1 Housing Development Assistance Applications

The goal of the Fund is to incentivize and support the efficient production of attainable housing, including homes offered for sale and rental units, through flexible, low interest loans.

The OE Board will periodically solicit applications for housing development assistance on a schedule established by the OE Board and posted on the NMFA website. The NMFA will conduct outreach to stakeholders and potential applicants prior to the application opening. Application forms for housing development assistance will be made available through an application system operated by the NMFA. Applicants will be required to submit a Market Study and provide complete information to enable the OE Board and NMFA to make responsible decisions. Incomplete applications and applications not submitted with a recent Market Study will not be accepted.

Section 3.2 Evaluation Criteria

The OE Board will prioritize and recommend applications that are able to efficiently leverage the Fund and proceed expeditiously. The OE Board will evaluate and prioritize applications using the following criteria:

A. Community Need and Alignment: (Maximum 35 Points)

1. Applications will be evaluated for the project’s ability to fill known demand for below-market rate housing within a community.
2. Projects in Urban areas will be evaluated on the project’s proximity to amenities and public transportation; projects in Rural areas will be evaluated on the project’s proximity to amenities or proximity to employment centers.

3. Projects utilizing Universal Design techniques will be awarded points.
4. Projects located in Rural Communities will be awarded points.
5. Projects developed by New Mexico-based developers will be awarded points.

B. Fund Efficiency: (Maximum 30 Points)

Fund efficiency will be based upon the amount of the request as a percentage of total project costs, the amount of the request per unit, and the duration of the housing development assistance.

1. **Fund Leverage:** The OE Board prioritizes applications seeking to leverage secured private investment. Applicants will be required to submit evidence of secured private capital to be leveraged by the housing development assistance. Applications requesting less than 35% of the Total Project Costs will be awarded points in this category.
2. **Funds requested per dwelling unit:** Projects seeking little funding relative to the number of dwelling units supported or created will receive maximum point. Applicants seeking more than \$100,000 per dwelling unit will not receive points.
3. **Duration of assistance:** Projects that are able to return the capital quickly to allow for funding to be reinvested in other worthy projects are prioritized. Applications seeking loan terms of less than seven years will receive maximum points.

C. Project Need and Readiness (Maximum 15 Points)

Availability of private capital to support the project and likelihood of success will be measured.

1. **Financial Soundness of Proposal:** the proposed project must demonstrate high potential for success based on financial feasibility.
2. **Qualified Development Team:** the application must demonstrate that the proposed Development Team (eg, the Project Owner, developer, general contractor, architect, and management and/or sales team) is experienced in successfully completing similar projects on time and with the resources budgeted.
3. **Project Readiness:** Priority will be given to projects that have site control, are properly zoned, have completed the schematic designs, and are otherwise able to begin the project expeditiously.

D. Supportive Land Use Practices: (Maximum 20 Points)

Development of attainable housing is frequently hindered by and made more costly by local government regulations and zoning ordinances, such as density restrictions, setbacks, or lengthy approval processes. Communities supporting attainable housing development through streamlined regulations, incentives, and more flexible zoning strategies will reduce the costs of home development. Projects located in communities

that have adopted best practices land use regulations in the areas of land use approval, allowance for varied housing types, incentives, and zoning will be awarded points:

Section 3.3 Recommendation to the NMFA for Housing Development Loans

To be considered for Housing Development Assistance, applicants shall submit a complete application in the manner requested by NMFA. An NMFA staff review team will evaluate each application using the evaluation criteria contained in this Policy and present its findings to the Housing Development Committee. The Housing Development Committee will consider the recommendation made by NMFA staff and may consider the recommendations of outside parties in making its recommendation to the OE Board on the priority order of the applications. The Housing Development Committee may recommend to the OE Board reduced scopes of projects and/or reduced amounts of funding. Such reductions of scope or funding will be noted in the Housing Development Committee's recommendation. Applications meeting a minimum score of 60 will be placed on a priority list that is recommended to the Board. The OE Board may accept all or a portion of the recommendation made by the OE Board Committee.

In the priority order recommended by the OE Board, NMFA will underwrite applications using its own rules and policies to determine whether housing development assistance should be provided and the terms and conditions of any housing development loans offered. NMFA will report back to the OE Board on the status of any applications recommended by the OE Board to NMFA. The OE Board's recommendation of applications to NMFA is in no way a guarantee that an application will be funded.

SECTION 4 PORTFOLIO CONCENTRATION

The Board promotes investment in projects and communities with the aim of increasing housing stock across the State and across the income continuum. To ensure enterprise assistance is equitably distributed, the following concentration limitations are established:

- A. **Project Limitations:** Housing development assistance will be limited to no more than \$20,000,000 per Project.
- B. **Place-Based Limitations:**
 - 1. Total outstanding loans in any one county may not exceed 50% of the Fund capital.
 - 2. At least 30% of the Fund must be dedicated to projects in Rural communities.
- C. **Applicant Limitations:** Housing Development Partners, including any person with an ownership interest in a Housing Development Partner, may only participate in one Project application per application round.

<p>Funds requested per dwelling unit: Projects seeking funding relative lesser dollar amounts relative to the number of dwelling units supported or created will receive maximum point. Applicants seeking more than \$100,000 per dwelling unit will not receive points.</p> <ul style="list-style-type: none"> ◆ \$25,000 or less 10 points ◆ Greater than \$25,000, but less than \$50,000 6 points ◆ Greater than \$50,000 but less than \$100,000 3 points ◆ Greater than \$100,000 0 points 	10	
<p>Duration of assistance: Projects that are able to return the capital in a reasonably short time frame allow for funding to be reinvested in other worthy projects. Applications seeking loan repayment terms of seven years or less will receive points.</p> <ul style="list-style-type: none"> ◆ Loans maturing in 7 years or less 5 points ◆ Loans maturing in more than 7 years 0 points 	5	
Applicant Need and Readiness		15
<p>Financial Soundness of Proposal: the proposed Project must demonstrate high potential for success based on financial feasibility.</p>	5	
<p>Qualified Development Team: the application must demonstrate that the proposed Development Team (eg, the project owner, developer, general contractor, architect, and management and/or sales team) is experienced in successfully completing similar projects on time and with the resources budgeted.</p>	5	
<p>Project Readiness: Priority will be given to Projects that have site control, are properly zoned, have completed the architect and engineering, and are otherwise able to begin the project expeditiously.</p>	5	
Supportive Land Use Practices		20
<p>Projects located in communities that have established transparent processes and procedures that support timely zoning and permitting of attainable housing projects will be awarded points</p>		

<p>Land Use Approval: One point for each of the following (up to five points):</p> <ul style="list-style-type: none"> ◆ Time limits for review and approval of development application or permit application review ◆ Clearly disclosed and complete standards and processes that minimize subjectivity or discretionary submission requirements -- for submission of development application, permits, or code requirements ◆ Limited discretionary review, including by-right approvals, administrative approval, or limited public hearings for certain development types ◆ Pre-approved technical plans – this can include pre-approved building plans, landscaping, drainage, other engineering, or other sample submission documents ◆ Clear review criteria – Utilization of checklists and other documents that detail internal and external review and approval requirements ◆ Allowance for third-party inspections or plan review– Allowance for builders to hire accredited third-party inspectors when there are scheduling delays from local inspectors ◆ Collection and publication of data around entitlement and building permit review time – Systems in place that track review benchmarks including pre-application, application date (distinct from determination of a complete application), final entitlement decision date, and permit issuance ◆ Internally established goals for the average entitlement and building permit review times 	5
<p>Allowance for Varied Housing Types: five points will be awarded if any of the three exist:</p> <ul style="list-style-type: none"> ◆ Accessory Dwelling Units (ADU) by-right – Local codes which allow for the construction of a guesthouse or casita on any residential lot without a public hearing ◆ Allowance for two-unit and multi-unit structures in all residential zones without any special use review or public hearing, optimally providing by-right multi-unit development on any conforming lot (also called single-family zoning prohibition) ◆ Pre-approved ADU permit drawings – Pre-approved building plan samples adopted by the local government 	5

<p>Incentives: one point for each of the following (up to five points:)</p> <ul style="list-style-type: none"> ◆ Attainable housing fee waivers - Waiver or deferral of development review, building, impact, or permit fees for affordable housing or workforce housing projects ◆ Incentives for infill development- Benefits for projects on sites currently surrounded by existing development and utilizing existing infrastructure ◆ Zoning and Land Use incentives for affordable and workforce housing - Incentives for income restricted, workforce, missing middle, teacherages etc. ◆ Streamlined approval process for certain types of projects - simplified approval processes available to projects meeting specific criteria, typically affordability requirements ◆ Presence of policies which provide financial and in-kind donations to projects that provide affordable housing - This could include public provision of infrastructure, affordable housing funding, affordable housing trust funds, or downpayment assistance programs ◆ Impact fee benefits for infill - Fee structures that recognize that infill development is less infrastructure intensive and provides for reduced fees compared to fees for greenfield development 	5
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Zoning: One point for each of the following (up to five points):

- ◆ Regularly updated zoning documents - Communities which have a requirement in law or established practices to update their General Plan and/or macro zoning documents at least every five years
- ◆ Systematic, streamlined, or by-right rezoning process for higher densities - Frameworks that allow developers to provide more units on a given tract of land without a rezoning, including established targets for higher density zoning based on identified housing needs
- ◆ Increased land area zoned for multi-unit housing - Recent actions (w/in 5 years) to "upzone" existing land to support higher density housing
- ◆ Liberalized design standards - Recent actions to reduce building setbacks or increase height allowance
- ◆ Reduction or removal of minimum lot standards - Removal from zoning code of a base standard for the minimum size a lot can be in a given zoning district
- ◆ Form-based codes or "character districts" - Elimination of use-specific zoning codes that instead rely on the shape or character of a building to guide its allowable design
- ◆ Reduced or flexible parking requirements - Recent actions to reduce required parking, or parking standards for residential housing at or below one space per unit
- ◆ Minimum density targets - Policies that establish a minimum amount of housing units per acre that are connected with a disincentive (e.g. connected to approval criteria, requires a variance, requires a special agreement, fee or other additional benefit to the community)
- ◆ Mixed-use districts - The allowance of residential uses in downtowns, some commercial districts, and in other central business areas
- ◆ Higher density allowed within a specified distance of a transit hub

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