NEW MEXICO FINANCE AUTHORITY

PUBLIC PROJECT REVOLVING FUND
LOAN MANAGEMENT POLICIES

A. PURPOSE

The statutory mission of New Mexico Finance Authority is to provide a necessary central mechanism to coordinate the planning and financing of public projects, and to provide financing for public projects in a manner that will not impair the capacity of the Public Project Revolving Fund to provide future financing to qualified entities for public projects. In the context of that mission, these Loan Management Policies set forth the criteria by which the NMFA may make Public Project Revolving Fund ("PPRF") loans to qualified entities.

B. GOALS

The goal of these Loan Management Policies is to provide guidance to NMFA staff and borrowers regarding acceptable levels of risk, pricing and securitization of individual loans, and structuring enhancements within the PPRF program.

C. IMPLEMENTATION

These Loan Management Policies shall be implemented by the New Mexico Finance Authority Board and may, at times, be waived by the Board if the Board determines that a deviation from its adopted policies is necessary. Such waiver will be reflected in the minutes of the meeting at which the waiver is considered.

SECTION 1. APPLICATION PROCEDURES POLICY

Section 1.1 Overview

The Applications Procedures Policy provides guidance to the NMFA and its Applicants on the information to be included in an application and determined to constitute a complete application.

Section 1.2 General Considerations

The NMFA staff, based on the type of Applicant, the public project being proposed and the specific revenue stream being pledged, shall evaluate applications utilizing the process set forth below. Such evaluation will include, to the extent applicable, an evaluation of project feasibility, administrative capacity, financial position, debt management and economic and demographic factors.

A. Application Forms

1. The Authority will provide applications to its borrowers based upon the type of project seeking financial assistance.

B. Requirements for Complete Applications

1. PPRF borrowers shall submit applications provided by NMFA to apply for funding for specific Public Projects. NMFA staff shall deem an application complete if it:

    i) is signed by the highest elected official or authorized officer of the entity;

    ii) cites a specific loan amount being sought and a description of the proposed use or uses of the loan;

    iii) identifies a specific, legally permissible source of funds for repayment of the proposed loan;

    iv) lists all of the outstanding senior, parity or subordinate indebtedness secured by the proposed revenue stream, including bonds, lease purchase agreements and other loans, by name and principal amount (both the original principal amount and the currently outstanding amount) and the debt service schedule associated with each indebtedness;

    v) contains a description of the Public Project or Public Projects to be financed or refinanced, including:

        (a) description of the scope of work of the Public Project;

(b) estimated cost of the Public Project; and

(c) target date for the initiation of the Public Project and the estimated completion date;

vi) includes the Applicant's audited financial reports for the most recent three years or, where the Applicant that is subject to the State Audit Act but is not required to submit such reports to the State Auditor, that Applicant must provide the most recent three years of internally prepared financial statements. Applicants that are subject to the State Audit Act and lack their most recent three years of audited financial reports may still apply to the Public Project Revolving Fund if at least two of the conditions (a) through (c) and condition (d) are met:

(a) the requested loan is backed by certain interceptable revenue streams (such as GRT, general obligation, law enforcement or fire protection funds, etc) that can be verified through independent sources; or

(b) the loan will fund project(s) relating to the Applicant's ability to provide health, safety and welfare for its constituents; or

(c) a letter accompanying the application, signed by the Director of the Local Government Division of the Department of Finance and Administration or the Director's Designee, certifying the Applicant is fully compliant with all budget reports and other financial reports for the most recent three years as required by law; and

(d) a letter accompanying the application, signed by the Applicant's chief executive officer (eg, Mayor, Executive Director or other Authorized Officer) explaining why the audit reports are not current and providing a detailed plan of how the Applicant is committed to ensuring that all audit reports, as required by law, will be completed and current;

vii) includes additional information requested by staff based upon the type of Applicant and public project.

C. Evaluation of Application

1. Financial Position. Financial performance is a key factor in the evaluation of an Applicant. The evaluation process may differ by Applicant; credit evaluation factors will generally include some or all of the following:

i) review of total property tax collections (including delinquencies) compared to the levy for the past three years;

ii) current year property tax collections compared to the levy for that year;

iii) gross receipts and other tax collection trends and performance for the past three years;

iv) proportion of external revenues (such as state and federal grants) to total revenues; and

v) other user fees or revenues for the past three years.

2. Debt Management. The Applicant's debt management history and the credit-worthiness of any pledged funds will be examined. All debt obligations secured by the funds pledged to the financial assistance will be analyzed. To assess an Applicant's debt position, the following factors may be evaluated:

i) gross direct and overlapping debt to full assessed value of property within the Applicant's boundaries;

ii) all senior, parity and subordinate lien indebtedness to determine all applicable additional bonds tests and other covenants of the outstanding debt;

iii) all internal reserve funds to determine whether the Applicant has sufficient resources to cover unexpected costs;

iv) any applicable rate structure and the timing of all receivables to determine the predictability of cash flow; and

v) user fees that will be used to repay the loans will be analyzed to determine affordability of the Public Project and the level of flexibility that exists relative to future rate increases which may be needed for repayment or other uses of the fees.

3. Audited Financial Reports. Applicants that are subject to the State Audit Act will have its most recent three years audited financial statements analyzed based on the auditor’s opinion and any Material Weaknesses or repeated Significant Deficiency present in order to determine the Applicant’s creditworthiness. Audited financial statements will be evaluated on the following factors:

i) Unmodified/Unqualified Audit Opinion. Applicants with an unmodified/unqualified audit opinion where a Material Weakness or repeated Significant Deficiency exists for the most recent audited financial report will be required to provide a letter, signed by the Applicant’s chief executive officer (eg, Mayor, Executive Director or other Authorized Officer) providing a detailed plan of how the Material Weakness or repeated Significant Deficiency will be resolved. Additionally, the Material Weakness or repeated Significant Deficiency will be analyzed according to the following categories:

(a) Executive management and/or financial controls Material Weakness or repeated Significant Deficiency. In the event a Material Weakness or repeated Significant Deficiency exists relating to the Applicant's executive management and/or financial controls, Applicants will be evaluated whether the Material Weakness is repeated, its ability to cure the Material Weakness or repeated Significant Deficiency based on current management's response and plan to resolve the issue, and whether the Material Weakness or repeated Significant Deficiency may impact the repayment of the loan and/or management of the Public Project. An executive management and/or financial controls Material Weakness or repeated Significant Deficiency that is unlikely to be resolved in one year may result in additional loan covenants and annual certifications on loan coverage, expenditure of tax-exempt loan proceeds, and/or maintenance of the Public Project. An intercept or ACH agreement for the pledged revenue will be required when available. Special consideration will be given for health and safety Public Projects.

(b) Pledged loan revenue Material Weakness or repeated Significant Deficiency. In the event a Material Weakness or repeated Significant Deficiency exists relating to the Applicant's management of the proposed loan's pledged revenue stream, Applicants will be evaluated whether the Material Weakness is repeated, its ability to cure the Material Weakness or repeated Significant Deficiency based on current management's response and plan to resolve the issue, and whether the Material Weakness or repeated Significant Deficiency may impact the repayment of the loan. An intercept or ACH agreement for the pledged revenue will be required when available. The PPRF loan application may receive a negative recommendation from NMFA staff if the Material Weakness or repeated Significant Deficiency is unlikely to be resolved in one year, poses a repayment risk to the PPRF loan, and an intercept is not available.

(c) General accounting Material Weakness or repeated Significant Deficiency. In the event a Material Weakness or repeated Significant Deficiency exists relating to the Applicant's bank reconciliation, general ledger, or other similar issues, Applicants will be evaluated whether the Material Weakness is repeated, its ability to cure the Material Weakness or repeated Significant Deficiency based on current management's response and plan to resolve the issue, and whether the Material Weakness or repeated Significant Deficiency may impact the Applicant's ability to properly manage tax-exempt loan proceeds and total Public Project expenditures. A general accounting Material Weakness or repeated Significant Deficiency that is unlikely to be resolved in one year may result in additional loan covenants and annual certifications on the expenditure of tax-exempt proceeds and ongoing maintenance of the Public Project. Special consideration will be given for health and safety Public Projects.

(d) Asset Management Material Weakness or repeated Significant Deficiency. In the event a Material Weakness or repeated Significant Deficiency exists relating to the Applicant's asset management, Applicants will be evaluated whether the Material Weakness is repeated and on its ability to cure the Material Weakness or repeated Significant Deficiency based on current management's response and plan to resolve the issue. An asset management Material Weakness or repeated Significant Deficiency that is unlikely to be resolved in one year may result in additional loan covenants and annual certifications on all of the assets funded by the tax-exempt loan proceeds, and ongoing maintenance of the Public Project. Special consideration will be given for health and safety Public Projects.

ii) Modified/Qualified Audit Opinion. Applicants with a modified/qualified audit opinion will be analyzed according to the following categories:

(a) Modified/Qualified audit opinion resulting from Applicant's Material Weakness or repeated Significant Deficiency. In the event that a modified/qualified audit opinion is rendered due to the Applicant's Material Weaknesses or repeated Significant Deficiencies for the most recent audited financial report, staff will analyze conditions 1-6 below. Failure to comply with conditions 1-6 may result in a negative recommendation by NMFA staff of the application. Additionally, Applicants receiving a modified/qualified audit opinion for more than two years in a row may lead to denial of the application.

1. The Applicant's ability to cure all Material Weaknesses or repeated Significant Deficiencies present as demonstrated by repeated and/or resolved findings over the last three audited years;

2. Current management's responses and plan to resolve all Material Weaknesses or repeated Significant Deficiencies present;

3. Relevancy of all Material Weaknesses or repeated Significant Deficiencies present on the Applicant's ability to repay the loan;

4. Relevancy of all Material Weaknesses or repeated Significant Deficiencies on Applicant's ability to manage, complete, and maintain the Public Project;

5. Ability to intercept the loan's pledged revenue stream; and

6. A letter from the Department of Finance and Administration, Public Education Department, or applicable overseeing regulatory authority on Applicant's compliance with applicable laws and regulations, asset management and/or interaction/experience with current management.

(b) Modified/Qualified audit opinion resulting from Applicant's component unit. If the Applicant has received a modified/qualified audit opinion as a result of a component unit for the most recent audited financial report, the application will be considered with continued analysis of all other areas of this section. A modified/qualified opinion due to a component unit for three or more straight audited financial reports may result in a negative recommendation from NMFA staff. Special consideration will be given for health and safety Public Projects.

iii) Adverse or Disclaimed Audit Opinion. Applicants with an adverse or disclaimed audit opinion for the most recent financial audit must complete items 1-6 of the previous section (section 1.2.C.3.ii.a) and will receive a negative recommendation from NMFA staff. Special consideration will be given for health and safety Public Projects.

4. Economic and Demographic Factors. Each Applicant will be examined on the basis of underlying economic and demographic factors including total property value per capita, growth in property valuation, growth in gross receipts tax revenues, growth in population, taxpayer mix, unemployment rate, and median household income. Each of these factors is intended to provide an indication of economic vitality in general, rather than the Applicant's financial condition.

Adopted: October 2005
1st Revision Date: September 2011
2nd Revision Date: November 2015

SECTION 2. INTEREST RATE POLICY

Section 2.1 Overview:

The Interest Rate Policy guides NMFA in its setting of interest rates in a manner that is sensitive to the needs of the PPRF borrowers while protecting the long-term health and longevity of the PPRF by limiting the amount of time between the establishment of an interest rate on a loan and the establishment of the interest rate on the bonds issued by the NMFA to reimburse the PPRF for moneys advanced to originate that loan.

Section 2.2 General Considerations:

The goal of this Interest Rate Policy are: (1) to define the process under which NMFA sets market interest rates for its PPRF loans in a manner that will allow staff and PPRF loan Applicants to assess accurately Applicants' ability to undertake debt and to aid in the marketing of the program; (2) to set interest rates on all loans in a manner which tracks as closely as practical the interest rates paid by the NMFA for its bonds issued to reimburse PPRF loans.

A. Determination of Market Interest Rates

For fixed rate loan applications of less than $10 million, the NMFA will set the market rate portion of the interest rate at the time of final loan adoption in the following manner:

1. The NMFA staff will set interest rates for market rate loans on a weekly basis. These Weekly Rates will approximate, as closely as practical, the rates that would be obtained if reimbursement bonds were to be issued the same week. The rates will be published on the NMFA's website each week.

2. The then-current Weekly Rate and a Maximum Rate will be stated in the materials presented to the Board and its Committees for their approval of the loan. The Maximum Rate will consist of the then applicable Weekly Rate plus a margin to provide for potential increases in rates by the time of loan closing. Staff will use the Maximum Rate for the purpose of determining whether coverage ratios for loan applications comply with the PPRF Debt Service Coverage and Additional Bonds Test Policies (Section 4 of these Loan Management Policies).

3. In certain instances in which an applicant is seeking to maximize the net loan proceeds available from a dedicated revenue stream and the Final Rate set on the loan is lower than the maximum interest rate used by staff to determine debt service coverage, the Board delegates to the Chief Executive Officer the authority to increase the market rate portion of the loan under the following conditions:

    a. The staff must have specifically identified in its loan recommendation those instances in which this loan maximization might occur;

b. The Chief Executive Officer may not increase the loan amount by more than 10% of the Board approval; and,

c. The debt service coverage must be within the minimum requirements set by the Board.

4. Following Board approval of a loan, the Maximum Rate will be "locked" for 90 days while the NMFA and borrower work together to close the loan. A Final Rate will be determined and communicated to the borrower under the following conditions:

   a. For a non-delegated authority loan, wherein the borrower's governing body adopts the ordinance or resolution authorizing the borrowing inclusive of a of final pricing, a Final Rate will be determined and communicated one (1) week before the borrower's adoption of the ordinance or resolution authorizing the borrowing.

   b. For a delegated authority loan, wherein the borrower's governing body adopts the ordinance or resolution authorizing the borrowing but delegates an authorized officer to execute final pricing by an established date, a Final Rate will be determined and communicated to the borrower pursuant to the date established in the borrower's adopted delegated ordinance or resolution.

   The Final Rate borrower will receive will be the Maximum Rate or the Weekly Rate then in effect, whichever is lower.

5. Any loan that does not close within the 90-day period may have its Maximum Rate reset at the discretion of the Chief Executive Officer. Loans may establish a Final Rate and close beyond the 90-day Maximum Rate lock period so long as the then applicable Weekly Rate is less than the Maximum Rate.

B. Determination of Bond Rate Loans

For fixed rate loan applications of $10 million or more, the NMFA will set the interest rate in the following manner:

1. The loans will be designated as "Bond Rate Loans."

2. The interest rate on Bond Rate Loans will be the same rate of interest received on the bonds issued to reimburse the Bond Rate Loans.

3. The NMFA and the borrower will close Bond Rate Loans after the NMFA Board approves the sale of the bonds issued to reimburse a bond rate loan. Bond rate loans will be closed within a period of 30 days prior and 30 days after the closing of the bonds issued by the NMFA to reimburse the loan.

4. Compliance with the Debt Service Coverage and Additional Bonds Test Policy (Section 4 of these Loan Management Policies) will be determined during the marketing of the bonds and in no instance will the loan's debt service coverage drop below the amount set by the Board.

As provided for Market Rate Loans in Section 2.2A.3 above, the Chief Executive Officer may increase the Bond Rate portion of the loan subject to the same conditions provided for Market Rate loans.

C. Determination of "Disadvantaged Entity" Interest Rates

As provided under the Rules and Regulations of the Public Project Revolving Fund, the NMFA may provide certain "Disadvantaged Qualified Entities" with up to $500,000 per fiscal year in below-market interest rate loans. Total disadvantaged funding is established by PPRF Rules and Regulations as 13% of Governmental Gross Receipts Tax ('GGRT") proceeds each year; however, the NMFA Board may designate by resolution each year an amount beyond the 13%. To maximize the benefit provided by this "Disadvantaged Entity" interest rate benefit, the NMFA may limit these reduced interest rates to loans of $5 million or less. "Disadvantaged Qualified Entity" assistance guidelines are:

1. Equal to 10% per infrastructure loan not to exceed $500,000 in aggregate per fiscal year or 100% per equipment loan not to exceed $150,000 may be provided at a fixed 2% interest rate if the applicant's Median Household Income, as determined by the NMFA, is greater than 80% but less than 100% of the State's Median Household Income, based on the most recent 5-year average of Median Household Income from census data or through a survey acceptable to the Authority.

2. Equal to 10% per infrastructure loan not to exceed $500,000 in aggregate per fiscal year or 100% per equipment loan not to exceed $150,000 may be provided at a fixed 0% interest rate if the applicant's Median Household Income, as determined by the NMFA, is 80% or less of the State's Median Household Income, based on the most recent 5-year average of Median Household Income from census data or through a survey acceptable to the Authority.

3. NMFA Staff will present to the Board a disadvantaged funding budget for approval for the subsequent fiscal year that will include $5 million base funding amount with the potential of a $10 million maximum funding amount if GGRT funding amounts are available. Funding beyond the $5 million base funding amount should not occur in any year when 20% or more of GGRT has been diverted for State General Fund purposes.

4. At the point in any year in which the maximum funding level is reached or exceeded, an automatic moratorium on infrastructure loan disadvantaged funding will be triggered. Equipment loan disadvantaged funding is not subject to automatic moratorium constraints.

5. Disadvantaged funding will not be extended to refunding or restructured loans.

D. Bond Reimbursements

1. The proactive, regular and frequent issuance of PPRF reimbursement bonds mitigates interest rate risk in the PPRF. The NMFA will issue senior and/or subordinate lien reimbursement bonds with a preferred, but not absolute, minimum size per bond issue of $20 million approximately 3 to 4 times per year, so long as the par amount of the reimbursed loans provides for an efficient pricing and structuring of the reimbursement bond.

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SECTION 3. STRUCTURING POLICY

Section 3.1 Overview

The NMFA recognizes Applicants have different borrowing needs and abilities and provides various structuring enhancements to its borrowers. This Structuring Policy identifies parameters under which NMFA staff may structure its PPRF loans. In order to meet the various underlying rating thresholds within this policy, a borrower should have obtained the credit rating no later than three (3) years from the point of application unless otherwise approved by the Board.

Section 3.2 General Considerations.

In order to mitigate risk in the PPRF while maintaining a diverse pool of borrowers, the NMFA will take the following steps in structuring a transaction:

A. Generally, the NMFA will require that its loans be on no less than a parity lien with all other lenders. Under certain circumstances, the NMFA may agree to accept a security pledge that is subordinate to the payment of another debt:

i) If the identified revenue pledge has a positive historical performance with overall loan coverage adhering to the debt service coverage and additional bonds test requirements outlined in Section 4.2 of the NMFA's Loan Management Policies, or to debt service coverage and additional bonds test requirements specifically set by the Board; and

ii) If the identified subordinate revenue pledge is an additional revenue pledge required solely to achieve minimum debt service coverage and is not projected to be needed to make debt service payments; or

iii) If the senior lien debt is held by NMFA or the U.S. Government.

B. Monthly receipt of loan payments from borrowers provides the NMFA with early detection of potential loan defaults. Generally, when such revenue stream is available, the NMFA will require its loans be paid monthly. Under certain circumstances, the NMFA may allow its borrowers to pay less frequently:

i) The loan is paid annually in advance of the year's principal and interest payments (e.g., State Fire Protection Funds or State Law Enforcement Funds);

ii) The requesting entity has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments and the loan is structured with one of the following:

(a) a debt service reserve fund;

(b) a contingent intercept agreement on loan's pledged revenue stream(s);

(c) insurance or surety policy; or,

(d) one of the three nationally recognized municipal bond rating agencies has assigned an underlying rating of at least a "A/A2" on the entity's pledged revenue.

iii) For loans secured by a revenue stream that is not interceptable but has received at least an "A/A2" rating from one of the three nationally recognized municipal bond rating agencies, the NMFA may agree to semi-annual payments, provided:

(a) the applicant agrees to automated payments through the Automated Clearing House; and

(b) the loan is structured with a reasonably required Debt Service Reserve Fund as outlined in Section 3.2 C of these Loan Management Policies.

iv) The requesting entity has created general obligation debt, secured by its taxing power and full faith and credit, whereby the entity is required by law to adjust the property tax levy sufficient to meet principal and interest payments due on all outstanding debt within the next year.

C. To guard against any precipitous revenue declines affecting the ability of the borrower to make its scheduled principal and interest payments on PPRF loans, NMFA will fund with loan proceeds, a reasonably required debt service reserve fund for all PPRF loans unless any one of the following conditions exist:

1. The loan is less than $250,000;

2. The borrower has created general obligation debt secured by its taxing power and full faith and credit, whereby the borrower is required by law to adjust the property tax levy sufficient to meet principal and interest due on bonds within the next year;

3. The requesting borrower has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments for a loan secured by a revenue with an underlying rating of at least a "A/A2" from one of the three nationally recognized rating agencies;

4. The borrower has agreed to purchase a surety policy to enhance the loan, in the type and manner acceptable to the NMFA; or

5. The loan is secured by State Fire Protection Funds or State Law Enforcement Funds and has a minimum coverage of 2.0x.

D. In lieu of a bond-funded debt service reserve fund, the NMFA may allow a borrower to build its debt service reserve fund over a maximum of two years with excess revenues, provided:

1. The requesting borrower has demonstrated ability to meet prior debt obligations and has sufficient staffing to manage timely loan payments; and

2. It is determined that the use of excess revenue collections to build the debt service reserve fund will not impair the entity's ability to provide governmental services.

E. In lieu of a bond-funded debt service reserve fund, the NMFA may allow an applicant that has secured at least a 'A-/A3' rating from one of the three nationally recognized municipal bond rating agencies to structure into its loan a "Springing Reserve" which provides for the borrower to build a Reasonably Required Debt Service Reserve Fund over a maximum of two years if the coverage on its loan falls below 2x coverage.

F. All loans will be structured utilizing an executed intercept agreement if the NMFA is statutorily allowed to intercept the pledged revenue (e.g., Gross Receipts Taxes, State Fire Protection Funds, State Law Enforcement Funds), however:

1. The NMFA may agree to hold an executed intercept agreement in abeyance while the borrower makes monthly principal and interest payments on its loan. If the borrower fails to make these agreed upon payments in a timely manner, the NMFA will immediately begin to intercept the pledged revenues pursuant to the intercept agreement for the duration of the loan.

2. This "contingent" or "suspended" intercept arrangement will be made only to borrowers that have demonstrated ability to meet prior debt obligations and have sufficient staffing to manage timely loan payments.

G. PPRF loans are expected to have "pre-payment" or "call" features that are equal to the call features of the bonds anticipated to be issued to reimburse the PPRF.

1. Loans identified and approved by the NMFA Board as equity loans may have alternative pre-payment features provided that:

   a. The total market loan is less than $100,000;

   b. For portfolio management purposes, attributes of the loan are deemed by NMFA staff to be better suited for the equity loan pool; or

   c. The borrower has agreed to pay the estimated cost associated with the alternative pre-payment feature. NMFA may still choose to bond reimburse such a loan if it can do so in an economic and efficient manner.

2. Loan pre-payment dates may be reset during the life of the loan to allow for retirement or refunding of the loan prior to the loan's original pre-payment date and prior to a corresponding bond's call date, if applicable, provided that:

a. All outstanding principal and all interest and fees due on the loan through the original pre-payment date is paid in full at the time of early pre-payment of the loan.

b. Loans pre-paid before the original pre-payment date cannot be defeased by establishment of an escrow account funded by NMFA.

c. Gross funded early pre-payments automatically trigger a loan's pre-payment date to be reset to the early pre-payment date.

H. All PPRF loans will require payment by the borrower of a processing and maintenance fee:

Maintenance Fees: 10bp subsumed within each year's interest rate for the life of the loan on all loans except for 0% Disadvantaged Entity loans onto which the 10bp is added;

Origination Fees: 75bp up to $7,500,000 and 35bp thereafter;

Section 2 Interest Rate Policy defines the setting of interest rates

The borrower has the option of paying the origination fee by paying cash, capitalizing the fee into the loan or increasing the interest rate sufficient to cover over the life of the loan the net present value of the required processing fee. If the borrower elects to capitalize the fee, the fee must be added to the total loan amount. If the borrower elects to increase the interest rate to pay the processing fee over the life of the loan, then the borrower must agree to make whole the PPRF should it refinance the loan at any time.

I. The NMFA may structure a loan with mandatory loan pre-payments or "super-sinker" options, if:

1. The requesting entity is pledging a revenue stream that cannot be used for any other purpose or which expires at some point in the future;

2. The requesting entity has demonstrated ability to meet prior debt obligations and as sufficient staffing to manage timely loan payments;

3. It is determined that the use of excess revenue collections for pre-payments will not impair the entity's ability to provide governmental services;

4. It is determined that the structure or use of a "super sinker" doesn't affect the tax status of the bonds;

5. All revenues collected in excess of the loan payment will be applied to mandatory pre-payments unless explicitly approved by the NMFA Board; and

6. All pre-payments will be applied to the principal due on of the loan at the discretion of the NMFA and NMFA will continue to apply excess revenue collections as monies become available until the loan is fully discharged.

J. Pursuant to the General Indenture of Trust or the Subordinated Indenture of Trust, the NMFA shall manage all program, escrow, debt service reserve and debt service accounts.

K. The NMFA may require bond insurance or some additional form of security for a loan, including additional reserves, springing reserves, letters of credit or collateral if legally available, if the NMFA determines that the primary revenue pledge:

1. Is insufficient to meet the proposed debt service over the life of the loan; or

2. Is deemed by NMFA to be of higher risk and additional security would offset the risk of potential future declines of the primary revenue pledge.

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7th Revision Date: November 2018

SECTION 4. DEBT SERVICE COVERAGE & ADDITIONAL BONDS TEST POLICY

Section 4.1 Overview

The Debt Service Coverage & Additional Bonds Test Policy establishes minimum levels of excess revenue coverage requirements for different revenues pledged to secure the loans or bonds held within the PPRF and establishes tests under which borrowers are able to issue additional debt secured by revenues pledged to a PPRF loan.

Section 4.2 General Considerations

The goal of this Coverage and Additional Bonds Test Policy is to identify minimum coverage requirements for loans based on the underlying revenue pledge. The NMFA will examine the audited financial statements and other financial reports of the Applicant to ensure that appropriate levels of loan coverage are structured and to identify any weaknesses or deficiencies in the Applicant's ability to undertake the project or manage the loan.

A. Coverage Policy

The NMFA structures its PPRF loans to allow for some decline of the pledged revenue without affecting the entity's ability to pay debt service. Based upon certain factors such as appropriation risk, revenue stability, management history or essentiality of public project, the NMFA may require higher coverage requirements and additional bonds tests.

1. The NMFA will structure its loans so that at a minimum, historical revenues will exceed the maximum annual debt service (MADS) due during the life of the loan by the following percentages:

    i) Governmental Gross Receipts Tax 120% of MADS (1.2x)

    ii) Fire Protection Funds 125% of MADS (1.25x)

    iii) Law Enforcement Funds 125% of MADS (1.25x)

    iv) Gross Receipts Tax 125% of MADS (1.25x)

    v) Lodger's Tax 130% of MADS (1.30x)

    vi) Mil Levy 125% of MADS (1.25x)

    vii) Net System Revenues 130% of MADS (1.30x)

    viii) General Obligations 100% of Annual Debt Service (1x)

2. In the PPRF, the NMFA may consider estimated or projected revenues to determine minimum coverage requirements if a three-year historical average is either not available or if circumstances have changed significantly within the last three years that would justify the forecasting of revenue growth to achieve minimum coverage requirements. For example, an entity may have imposed a tax or rate increase that has not been reflected in financial statements. Under these circumstances, the NMFA will structure its loans so that at a minimum the projected revenues will exceed the maximum annual debt service (MADS) due during the life of the loan in the following percentages:

   i) Fire Protection Funds 200% of MADS (2.00x)

   ii) Law Enforcement Funds 150% of MADS (1.50x)

   iii) Gross Receipts Tax 150% of MADS (1.50x)

   iv) Lodger's Tax 200% of MADS (2.00x)

   v) Mil Levy 150% of MADS (1.50x)

   vi) Net System Revenues 200% of MADS (2.00x)

B. Additional Bonds Test

NMFA recognizes that public entities must utilize all legally available revenue streams to fund their governmental services and secure funding for their public projects.

1. The NMFA will allow entities to secure additional parity debt utilizing a security pledged to a PPRF loan, so long as the entity has collected in any 12 consecutive month period during the past 24 months, sufficient revenue to pay all Maximum Annual Debt Service (MADS) on the existing and proposed debt with the minimum following coverage levels:

   i) Governmental Gross Receipts Tax: 120% of MADS (1.2x)

   ii) Fire Protection Funds:

      (a) 125% of MADS (1.25x) if the NMFA loan is less than $100,000 or is secured with a reasonably required debt service reserve fund;

      (b) 200% of MADS (2.00x) if the NMFA loan is greater than $100,000 and does not have a debt service reserve fund

   iii) Law Enforcement Funds:

(a) 125% of MADS (1.25x) if the NMFA loan is less than $100,000 or is secured with a reasonably required debt service reserve fund;

(b) 200% of MADS (2.00x) if the NMFA loan is greater than $100,000 and does not have a debt service reserve fund

iv) Gross Receipts Tax: 125% of MADS (1.25x)

v) Lodger's Tax: 130% of MADS (1.30x)

vi) Mil Levy: 125% of MADS (1.25x)

vii) Net System Revenues: 130% of MADS (1.30x)

viii) General Obligation Bonds: 100% of Annual Debt Service (1.00x)

C. Rate Covenants

The NMFA requires borrowers with loans secured by net system revenues to agree to increase their rates should they fall below the minimum required coverage as outlined in Section 4.2 B 1(ix) of these Loan Management Policies.

Revised: October 2008
2nd Revision Date: September 22, 2011
3rd Revision Date: November 2018

SECTION 5. PORTFOLIO DIVERSITY POLICY

Section 5.1 Overview

The Portfolio Diversity Policy provides guidance to protect the PPRF by maintaining a diverse pool within the program that limits the amount of concentration risk to which the NMFA may be exposed to by any one borrower or pledge type, at the senior and subordinate liens of the program.

Section 5.2 General Considerations

In order to protect the PPRF and maintain a diverse pool of borrowers, the NMFA will abide by the following internal limits which shall be applied separately to the senior and subordinate liens:

A. No single borrower may constitute more than 20% of the aggregate pledged revenues collected in any single year, regardless of the pledge of the borrower, unless the underlying borrower has a bond rating of "A-/A3" from one of the three nationally recognized rating agencies, at which time it may not constitute more than 25%, or a bond rating of at least a "AA-/Aa3" from one of these rating agencies at which time it may not constitute more than 30%.

B. No single borrower may constitute more than 25% of the aggregate debt service due in the next year on PPRF bonds, unless the underlying borrower has a bond rating of at least an "A-/A3" from one of the three nationally recognized bond rating agencies at which time it may not constitute more than 35%, or a bond rating of at least a "AA-/Aa3" from one of these rating agencies at which time it may not constitute more than 45%.

C. No single pledge type shall constitute more than 50% of the aggregate pledged revenues collected in any single year.

D. Total subordinate lien State and Federal appropriation loans shall not constitute more than 2.0x the amount on deposit in the Supplemental Credit Reserve Fund. State and Federal appropriation loans will not be placed in the senior lien.

Section 5.3 Annual Compliance Testing

The NMFA shall prepare an analysis of the pledged revenues as part of the NMFA's annual audit to assure compliance with this Portfolio Diversity Policy.

Adopted: October 2005
2nd Revision Date: November 2018

SECTION 6. LOAN REFINANCING POLICY

Section 6.1 Overview:

The Loan Refinancing Policy provides guidance to NMFA staff and its Applicants regarding the use of the PPRF to refinance existing loans, bonds or other debt obligations in a manner that is responsive to the needs of the PPRF borrowers while protecting the long-term financial health and capacity of the PPRF.

Section 6.2 General Considerations:

The PPRF provides significant subsidy to its clients through a variety of loan structuring enhancements and disadvantaged funding. The loans made by the PPRF achieve an interest rate that is among the best available in the marketplace. To protect the PPRF while addressing the refinancing needs of New Mexico's communities, the NMFA will follow these guidelines when providing the extension of a new loan to refinance an existing debt:

A. Refinancing PPRF Loans

1. An existing PPRF loan may be refinanced utilizing a new PPRF loan solely to reduce the interest rate or improve upon the original terms of the PPRF loan if done so in connection with a PPRF bond issue in which the prior bonds will be paid or defeased;

2. An existing PPRF loan may be refinanced on a current basis utilizing a new PPRF loan if the refinancing is done for technical purposes or it is anticipated that the refinancing will achieve interest rate savings of 3% on a net present value basis or if the intent is to restructure the loan terms to prevent a default. In this instance, the NMFA will not seek to reimburse itself for the "refinancing" loan;

3. An existing PPRF loan may not be refinanced on an advanced refunding basis unless it is being done to restructure the terms of the loan to prevent a default;

4. An existing PPRF loan may be refunded in advance of its pre-payment date if all principal and interest due through the original pre-payment date is gross funded at the time of the early pre-payment (see Section 3.2.G.2).

5. Disadvantaged Funding will not be extended to refunding or restructured loans.

B. Refinancing non-PPRF Obligations:

1. A non-PPRF obligation may be refinanced utilizing a PPRF loan if:

i) The maximum term of the "refinancing" loan does not exceed the useful life remaining on the asset(s) originally financed;

ii) The minimum net present value savings on obligations refinanced solely for economic savings must be at least 3%;

iii) Obligations refinanced for technical reasons may not be required to realize a minimum net present value savings on the refunded loan; and

iv) Disadvantaged Funding and NMFA Costs of Issuance Assistance will not be extended on the refinancing loan in either PPRF or non-PPRF loan refinancing.

Adopted: October 2005
1st Revision Date: October 2008
2nd Revision Date: December 2010
3rd Revision Date: November 2018

SECTION 7. TRIBAL FINANCING POLICIES

Section 7.1 Overview:

These Tribal Financing Policies encapsulate guidance provided separately through the PPRF Rules and Regulations last approved by the NMFA in January 2010 and provides additional guidance to NMFA staff and its Applicants regarding the use of the PPRF to finance Tribal projects.

Section 7.2 General Considerations:

The loans made by the PPRF achieve an interest rate that is among the best available in the marketplace, particularly for New Mexico's Indian Nations, Tribes and Pueblos who often lack an access to affordable capital. The NMFA seeks to expand the amount of capital provided for projects in Native American country will follow these guidelines when structuring tribal debt:

A. Pledged Revenues and Coverage Policies

The NMFA structures its PPRF loans to allow for some decline of the pledged revenue without affecting the entity's ability to pay debt service. Based upon certain factors such as appropriation risk, revenue stability, management history, and essentiality of public project, the NMFA may require higher coverage requirements and additional bonds tests.

Consistent with all other PPRF loan Applications, the NMFA will approve applications from tribal entities that are able to demonstrate that the repayment of the loan is fully secured by collateral acceptable to and readily accessible by the NMFA and the repayment pledge identified has achieved on a historical basis revenues sufficient to pay the maximum annual debt service as described below.

1. net utility system revenues with a minimum debt service coverage requirement and additional bonds test of 1.3x. Projects utilizing a net system revenue pledge will be required to agree to a rate covenant that provides that the Nation, tribe or pueblo will increase utility rates if the loan coverage drops below the 1.3x requirement.

2. a tax pledge similar to a gross receipts tax with an approved tax compact with the state with a minimum debt service coverage requirement and additional bonds test of 1.25x if the tax pledge is interceptable from the state or 1.3x if the tax pledge is not interceptable from the state.

3. an irrevocable letter of credit from a lender and pursuant to terms acceptable to the Authority, the coverage requirements of which will be determined on a case-by-case basis;

4. marketable securities acceptable to the Authority at a coverage requirement

determined on a case-by-case basis;

5. Bureau of Indian Affairs loan guaranty acceptable to the Authority;

6. cash or other assets legally available and readily accessible to the Authority; and/or

7. the borrower's general obligation to pay debt service on the loan when due with a minimum debt service coverage and additional bonds test of 1.2x.

B. Reporting

The Authority may waive disclosure of complete audits and certain other financial information required in connection to loans made to Native American Nations, tribes or pueblos under the condition that audits of the pledged revenue are provided.

C. Limited Waivers of Sovereign Immunity

In approving applications, the Authority will require as conditions of either application approval or closing of the loan, waivers of sovereign immunity and exhaustion of tribal remedies, and other assurances of the availability of state court remedies satisfactory to the Authority.

Adopted: February 2011

SECTION 8. CHARTER SCHOOL FINANCING POLICIES

Section 8.1 Overview:

The Charter School Financing Policies provide guidance to NMFA staff and its Applicants regarding the use of the PPRF to provide lease financing for charter school facility acquisitions in a manner that is responsive to the needs of the charter schools while protecting the long-term financial health and capacity of the PPRF.

Section 8.2 General Considerations:

Charter school financings and other land secured transactions introduce an element of risk that the PPRF is unaccustomed to taking and the NMFA will limit this exposure to transactions that demonstrate a strong managerial and board staffing, to strong collateral coverage and to entities with a demonstrated track record to deliver quality education

A. Application Requirements

Applications for lease-purchase financing assistance may be filed by the School District acting as the chartering authority on behalf of a charter school or by the charter school itself, acting under the authority of the charter school's board of directors. In addition to the application materials required by Section 1.2 of these Loan Management Policies, the NMFA requires the following materials prior to approving a PPRF loan for a Charter School facility acquisition:

1. evidence that the Public Education Department has approved the terms of the proposed lease-purchase arrangement and that the charter school is approved for funding through the Program;

2. evidence that the charter has been renewed at least once pursuant to § 22-8B-12 NMSA 1978

3. a business plan that includes the mission and history of the school, resumes of leadership, cash flow projections and evidence of outside support;

4. audits of the charter school and chartering authority for which the charter school is a component unit, the latest of which must be current for the fiscal year ended not less than twenty-four (24) months prior to submission;

5. last five (5) years of quarterly reports to PED; and,

6. evidence of annual lease payments budgeted in chartering authority, including evidence of public review of the budget;

B. Lease Purchase Underwriting

The NMFA will analyze each application to determine whether there is adequate collateral value in the proposed project to undertake the financing and to ensure there is sufficient cash flow coverage arising from the operations of the school or available from the state-supported rent assistance to repay the loan. If either the collateral value or repayment sources are insufficient, the NMFA will not provide PPRF lease purchase assistance for the project.

1. Administrative Capacity. The Authority will evaluate the Applicant's administrative capacity to carry out and operate the Public Project and to meet its payment obligations on the requested Financial Assistance.

2. Financial Position and Loan Repayment. The NMFA will evaluate each Applicant's financial position to assess the Applicant's ability to meet its payment obligations over a term not to exceed thirty (30) years on the requested lease-purchase financing assistance with a minimum coverage debt service coverage of 1.1x from one or more of the following revenues:

   i) Money from the school's general fund;

   ii) investment income actually received from investments;

   iii) loans, grants or lease payments received from the public school capital outlay council pursuant to the Public School Capital Outlay Act;

   iv) fees and assessments received by the school district;

   v) proceeds from the sale of real property and rental income received from the rental or leasing of school property;

   vi) amounts irrevocably pledged by private parties for this purpose; and

   vii) any other legally available funds.

3. Collateral Value. The NMFA may approve lease-purchase assistance upon determination that repayment is adequately secured by a first mortgage on the proposed facility and that it has adequate market value to protect the PPRF against declines in property valuations, including evidence that the property is zoned for appropriate adaptive reuse, including commercial use, as determined by the NMFA.

   Using a recent appraisal, acceptable to the NMFA, the minimum loan-to-value collateral coverage will be as follows:

   i) A 75% loan-to-value collateral ratio for the facility if the Applicant is the charter school itself acting with the authority of its board of directors; or,

ii) 80% loan-to-value collateral ratio for the facility if the Applicant is the chartering school district acting on behalf of the charter school and which school district agrees that, should the charter school's charter be revoked or not renewed, that the school district would make a good faith effort to identify another qualified charter school to lease the facility or, if qualified, assume the lease-purchase financing itself.

C. Lease Purchase Provisions

To protect the PPRF from declining collateral value, the NMFA will require its charter schools borrowers to agree to certain provisions as a condition of closing. As such, the lease purchase agreements shall include the following:

1. Lease payment security deposit, similar to a debt service reserve fund, equal to one year of lease payments which may be funded from the lease financing;

2. Notification provisions which require the charter school notify the NMFA immediately of any adverse action taken by the public education department or chartering authority;

3. Evidence of Repairs and Maintenance. In addition to contributing to the Repair and Replacement Fund, the NMFA will require ordinary maintenance of the facility be performed and that annual reports of such maintenance be supplied to the NMFA; and,

4. Annual submission of:

    i) audited financial records of the charter school;

    ii) adequate hazard and liability insurance; naming the NMFA as an additional insured;

    iii) title or legal occupancy arrangements; and

    iv) evidence that the charter school meeting accountability standards.

Adopted: February 2011