

State Board of Finance
181 Bataan Memorial Building
Santa Fe NM 87501

SBOF Policy 11-03

October 18, 2011

Emergency Funding Policy

- I. This policy was approved by the State Board of Finance (SBOF) on October 18, 2011.
- II. **Applicability.** This SBOF emergency funding policy shall apply to all requests related to emergency loans and grants made pursuant to Section 6-1-2 NMSA 1978 and to all requests for emergency water loans and grants made pursuant to Section 3-27-9 NMSA 1978 (collectively "emergency funding" herein). The SBOF hereby directs staff to utilize this policy in making recommendations to the SBOF on emergency funding requests. The SBOF has final authority to approve or disapprove any emergency funding request.
- III. **Statutory Authority.**
 - A. **Emergency Loans and Grants.**
 - i. Section 6-1-2 NMSA 1978 states that if the SBOF determines that an emergency exists that warrants such action, it may lend or grant to any state agency, board, commission, municipal corporation or other political subdivision organized under the laws of the state or any Indian nation, tribe or pueblo located in whole or in part in New Mexico that sum of money the SBOF determines reasonable and appropriate from any funds appropriated to the SBOF for use in meeting emergencies. As used in Section 6-1-2 NMSA 1978, "emergency" means an unforeseen occurrence or circumstance severely affecting the quality of government services and requiring the immediate expenditure of money that: a) is not within the available resources of the public entity as determined by the SBOF and b) if subject to appropriation, cannot reasonably await appropriation by the next regular session of the legislature.
 - ii. Section 6-1-3 NMSA 1978 states that the SBOF may prescribe those terms and conditions it deems proper with respect to the repayment of any loan and the application of the proceeds of the loan, and it may require or waive security by way of the pledge of revenues or otherwise and may require or waive interest, as the board determines proper under the circumstances.
 - B. **Emergency Water Loans and Grants.** Section 3-27-9 NMSA 1978 states that expenditures from the emergency water supply fund shall be made upon order of the SBOF when the SBOF determines that an emergency exists requiring the expenditure

in order to provide an adequate and safe drinking water supply for residents of any community of less than 5,000 population in New Mexico using a drinking water supply system in common.

IV. **Evaluation Criteria for New Emergency Funding Requests.** In addition to consideration of any additional statutory requirements, the SBOF shall consider all of the following criteria in composite when evaluating the merits of emergency funding requests. The SBOF may determine that an extraordinary circumstance exists and may heavily weight its decision on any one or more criteria when evaluating the merits of emergency funding requests.

A. **Minimum Statutory Requirements** for requests made pursuant to Section 6-1-2 NMSA 1978.

- i. Description of all other possible funding sources and austerity measures that have been explored, with priority given to requests where all other possible funding sources and austerity measures have been explored and exhausted to minimize the need for emergency funding, including but not limited to exhaustion of the public entity's ability to increase its revenues, grant funding, federal funds, fund balances and reserves, and implementation of austerity measures; confirmation will be sought from the State Budget Division or the Local Government Division, whichever is applicable, as to the lack of funds available to the public body to meet the emergency; emergency funding will not be approved for situations in which the public entity has other available resources or has access to other available resources to meet the emergency;
- ii. The nature of the emergency, with priority given to requests that address a public entity's inability to deliver critical governmental services that affect the public health, safety and welfare of individuals or communities; emergency funding will not be approved for situations that do not severely affect the quality of government services as determined by the SBOF;
- iii. Whether the request cannot reasonably await funding at the next legislative session; emergency funding will not be approved for a situation that can reasonably await funding at the next legislative session.
- iv. Whether the emergency is an unforeseen circumstance, with priority given to requests that could not reasonably have been addressed at a past legislative session; emergency funding will not be approved for situations that are not unforeseen circumstances, unless determined by the SBOF that the situation severely affects the quality of government services.

B. **Minimum Statutory Requirements** for requests made pursuant to Section 3-27-9 NMSA 1978.

- i. Demonstration that the current system is unable to provide safe and adequate drinking water; emergency funding will not be approved for any situation that

- ii. does not address inability to provide safe and adequate drinking water;
- ii. The population of the community, with priority given to requests from smaller communities; emergency funding will not be approved for any community with a population of 5,000 or more;
- iii. Confirmation that the public entity is using a drinking water supply system in common; emergency funding will not be approved for any public entity not using a drinking water supply system in common.

C. Additional criteria for all emergency funding requests associated with the past and current situation:

- i. The number of individuals impacted by the emergency and the nature of the effect, with priority given to requests that impact a large number of individuals or that have a significant detrimental impact on the affected individuals;
- ii. Description of how the public entity responded to the emergency, with priority given to requests where it is demonstrated that the public entity responded with expediency to the emergency to minimize the need for emergency funding;
- iii. Whether emergency funding is requested in the form of a loan or a grant, with priority given to requests for loans, except in the case of general-funded state agencies, where the SBOF may make a finding that an extraordinary circumstance exists, and thus consider the fact that emergency funding is disbursed from and repaid to general fund balances and may approve emergency funding in the form of a grant;
- iv. Whether the public entity is in compliance with any applicable audit requirements, with priority given to requests by public entities that are in compliance;
- v. When emergency funding is requested in the form of a loan, the proposed timeline for repayment, with priority given to requests where the public entity proposes to repay all or part of the emergency loan within the same fiscal year that the loan is requested;
- vi. When emergency funding is requested in the form of a loan, a statement confirming that the public entity will encumber funds for repayment each fiscal year that the loan is outstanding, pursuant to the repayment schedule proposed by the public entity;
- vii. The public entity's existing level of outstanding debt, including bonds, lease-purchase agreements and other loans and the debt service schedule associated with such outstanding debt, with priority given to requests from public entities with relatively low outstanding debt and where the requested loan would be on parity with outstanding debt.

D. Additional criteria for all emergency funding requests associated with assessment of future outcomes:

- i. The amount of emergency funding requested, with priority given to requests that can be addressed without unreasonably restricting the amount of emergency funding available for other potential emergency funding requests that may be made through the remainder of a fiscal year;
- ii. When emergency funding is requested in the form of a loan, whether the public entity agrees to pledge its revenues for loan repayment, with priority given to public entities that have taken steps or agree to take steps to pledge revenues for loan repayment;
- iii. When emergency funding is requested in the form of a loan, demonstration of a feasible plan and commitment to repay the loan over a specified period of time, with priority given to loans for which payment is to be made without reliance on legislative appropriation for loan repayment;
- iv. Evaluation of the public entity's plan for future financial stability, with priority given to public entities that have a reasonable plan to ensure the emergency is resolved to eliminate the need for future emergency funding;
- v. Effective for loans made in or after calendar year 2011, the public entity's agreement to submit quarterly reports on the form prescribed by the SBOF, the current form of which is attached hereto as Exhibit A;
- vi. Any other information deemed necessary by the SBOF to assess the merits of the request.

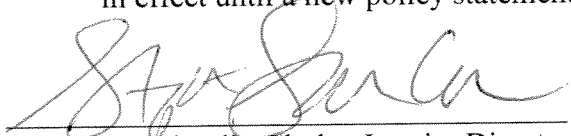
V. **Evaluation Criteria for Requests to Forgive or Extend Emergency Loans.** The SBOF shall consider all of the following criteria and any other information requested by the SBOF in composite when evaluating the merits of requests to forgive emergency loans and water loans through conversion to grants or to extend the repayment schedule associated with emergency loans or water loans. The SBOF may make an oral determination at its meeting that an extraordinary circumstance exists and thus may heavily weight its decision on any one criterion when evaluating the merits of a request.

- A. Demonstration that significant efforts have been made to repay as much of the emergency loan as possible by the scheduled payment date, including but not limited to exhaustion of the public entity's ability to increase its revenues, grant funding, federal funds, fund balances and reserves, implementation of austerity measures, and seeking legislative appropriations for repayment. Documentation of all efforts must be submitted with any request to forgive or extend an emergency loan;
- B. Whether any portion of the loan will be repaid by the scheduled payment date, with consideration given for loans for which partial payment has been made;
- C. The type of public entity, with priority given for requests by general-funded State agencies requesting conversion of loans to grants;
- D. Timeliness with which the public entity has informed the SBOF of its inability to

make a scheduled payment;

- E. The public entity's past compliance with requirements to submit quarterly reports to the SBOF on a form prescribed by the SBOF, the current form of which is attached hereto as Exhibit A, if applicable;

VI. **Effective Date.** This policy statement shall be effective October 18, 2011 and will remain in effect until a new policy statement is adopted.

A handwritten signature in black ink, appearing to read 'Stephanie Schardin Clarke', is written over a horizontal line.

Stephanie Schardin Clarke, Interim Director

NEW MEXICO STATE BOARD OF FINANCE

EMERGENCY LOAN

QUARTERLY REPORT

GENERAL INFORMATION –

Contact Information for Loan:

Name of Public Entity: _____

Address: _____

Contact Name: _____ **Title:** _____

Telephone: _____ **Email:** _____

Signature: _____ **Date:** _____

Date of this Report (choose one): April 15 / July 15 / October 15 / January 15 Year: _____

Purpose of Loan: _____

Emergency Loan No.: _____ **Date of Loan Approval:** _____

Amount of Loan: \$ _____ **Amount Outstanding:** \$ _____

Next Payment Due Date: _____

CURRENT FINANCIAL STATUS –

What amount of original loan proceeds have been expended? \$ _____

Will upcoming payment(s) be made on time (choose one)? Yes / *No

*If no, please attach this quarterly report and additional applicable documentation to a letter explaining why payment will not be timely and request to appear before the State Board of Finance at its next regular meeting.

*Please submit reports each quarter to Leila Burrows Kleats, Director,
LeilaK.Burrows@state.nm.us or Fax to 505-827-3985*