

**New Mexico Mortgage Finance Authority
Request for Proposals
To Provide Trustee and Paying Agent Services**

Part I: Background & General Information

Introduction

The New Mexico Mortgage Finance Authority (“MFA”) is a governmental instrumentality, separate and apart from the state, created by the Mortgage Finance Authority Act, NMSA Sections 58-18-1 to 27 for the purpose of financing affordable housing for low- and moderate-income New Mexico residents.

Purpose

The purpose of this Request for Proposals (RFP) is to solicit proposals, in accordance with the New Mexico Mortgage Finance Authority Procurement Policy, from qualified financial institutions by reason of their skill, knowledge, and experience are able to furnish professional corporate trustee and paying agent services to MFA in connection with its proposed issuance of single family and multifamily mortgage revenue bonds (the “Bonds”) or other obligations issued under stand-alone indentures approved by the MFA Board of Directors under separate, stand-alone (“Closed”) Indentures of Trust. (“Offerors”)

The MFA intends to issue and sell single family and/or multifamily bonds under Closed Indentures. The single family Bonds could be structured either as a traditional mortgage revenue bonds (“MRBs”) issued with serial, term, supersinker, and/or Planned Amortization Class bonds, pass through structures, or they may be similar to Collateralized Mortgage Obligations (“CMOs”). The single family bonds may be secured by mortgage backed securities (FNMA’s, FHLMCs and GNMA’s), and/or by whole loans. The multifamily Bonds may be secured by mortgages or mortgage-backed securities and FHA insurance under the 542(c) Program. Taxable bonds may also be included for single family and multifamily bonds. Other obligations could include draw down facility bonds, notes or other short-term debt. Debt service will generally be monthly, quarterly or semi-annually. Redemptions may occur on non-debt service dates. The bonds may be sold for forward delivery.

Since July 2005, MFA has issued all its single family series under a General Indenture. However, MFA may issue pass through structure bonds under stand-alone indentures. MFA will choose the bond structure and indenture type that is most advantageous to the MFA. There is no guarantee that any or all single family bonds will be issued under a stand-alone indenture. Multi-family bond issues have historically been issued under a stand-alone indenture.

Questions and Answers

Questions pertaining to this RFP and application must be submitted via the MFA website at <http://www.housingnm.org/rfp>. Then under “Current RFP’s,” select “Trustee and Paying Agent Services RFP.” On the Trustee and Paying Agent Services RFP page, select the “Trustee and Paying Agent Services FAQs” link. Questions will be checked on a daily basis. The FAQ will open the day after the RFP issues September 17th, 2020 and will close on October 21st, 2020. To submit your questions, scroll down to the “Ask a question” section, enter your name, email address, and type your question in the “Question” box, type in the two (2) words in the CAPTCHA box and click on “Send my question”. MFA will make every attempt to answer questions within two (2) business days.

Proposal Submission

Proposal submissions must be received no later than October 21st, 2020 at 4:00 p.m., Mountain Time. Proposals which are not received by this time will not be accepted.

Utilize one of the following methods for proposal submission:

Via E-mail: Send to chall@housingnm.org with a subject line of "Proposal to Furnish Trustee and Paying Agent Services." Hard copies are not required.

Proposal Tenure

All proposals shall include a statement that the proposal shall be valid until contract award, but no more than ninety (90) calendar days from the proposal due date.

RFP Revisions and Supplements

If it becomes necessary to revise any part of this RFP or if additional information is necessary to clarify any provision of this RFP, the revision or additional information will be posted on the MFA web site.

Incurred Expenses

MFA shall not be responsible for any expenses incurred by an Offeror in responding to this RFP. All costs incurred by Offerors in the preparation, transmittal or presentation of any proposal or material submitted in response to this RFP will be borne solely by the Offerors.

Cancellation of Requests for Proposals or Rejection of Proposals

MFA may cancel this RFP at any time for any reason MFA and may reject all proposals (or any proposal) which are/is not responsive.

Offeror's Rights to Withdraw Proposal

Offerors will be allowed to withdraw their proposals by submitting a written withdrawal request addressed to Cooper Hall.

Evaluation of Proposals, Selection and Negotiation

Proposals will be evaluated by an Internal Review Committee made up of MFA staff using the criteria listed in Part II Minimum Qualifications and Requirements, Part III Services to be Performed, and Part IV Compensation, below, pursuant to the Evaluation Criteria and scoring shown in Part V, Evaluation Criteria. Final selection shall be made by the full Board of Directors.

MFA may provide Offerors whose proposals 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 offers. Proposals shall be evaluated on the criteria listed in Part IV Evaluation Criteria, below.

The MFA Board of Directors shall select the Offeror(s) whose proposal(s) is/are deemed to be most advantageous to MFA to enter into contract negotiations with MFA. If a final contract cannot be negotiated, then MFA will enter into negotiations with the other Offeror(s). The agreed-upon draft final contract will then be referred to the Contracted Services Committee of the MFA Board of Directors for its review and recommendation, with final approval to be made by the full Board of Directors.

Interview

If selected as a finalist, Offerors agree to provide MFA the opportunity to interview proposed staff members identified by the Internal Review Committee. The Internal Review Committee may request a finalist to provide an oral presentation of the proposal as an opportunity for the Internal Review Committee to ask questions and seek clarifications. All requests for interviews and oral presentations shall be made in MFA's sole discretion.

Award Notice

MFA shall provide written notice of the award to all Offerors within ten (10) days of the date of the award. The award shall be contingent upon successful negotiations of a final contract between MFA and the Offeror(s) whose proposal(s) is/are accepted by MFA.

Proposal Confidentiality

Offerors or their representatives shall not communicate with MFA's Board of Directors or staff members regarding any proposal under consideration or that will be submitted for consideration, except in response to an inquiry initiated by the Internal Review Committee, or a request from the Board of Directors, or its Contracted Services Committee / Finance Committee for a presentation and interview. A proposal will be deemed ineligible if the Offeror or any person or entity acting on behalf of the Offeror attempts to influence members of the Board of Directors or staff during any portion of the RFP review process, including any period immediately following release of the RFP.

MFA will not disclose, discuss or otherwise make available the contents of any proposal to competing or potential Offerors prior to the expiration of the protest period, which in the event a protest is presented, shall not occur until after final determination by the Board of Directors.

Irregularities in Proposals

MFA may waive technical irregularities in the form of proposal of any Offeror selected for award which do not alter the price, quality or quantity of the services offered. Note especially that the date and time of proposal submission as indicated herein under "Part I Background and General Information, Proposal Submission" cannot be waived under any circumstances.

Responsibility of Offerors

If an Offeror who otherwise would have been awarded a contract is found not to be a Responsible Offeror, a determination that the Offeror is not a Responsible Offeror, setting forth the basis of the finding, shall be prepared and the Offeror shall be disqualified from receiving the award. A Responsible Offeror means an Offeror who submits a proposal that conforms in all material respects to the requirements of this RFP and who has furnished, when required, information and data to prove that his financial resources, facilities, personnel, reputation and experience are adequate to make satisfactory delivery of the services described in this RFP. The unreasonable failure of an Offeror to promptly supply information in

connection with an inquiry with respect to responsibility is grounds for a determination that the Offeror is not a Responsible Offeror.

Protest

Any Offeror who is aggrieved in connection with this RFP or the award of a Contract pursuant to this RFP may protest to the MFA. The protest must be written and addressed to:

Cooper Hall, Financial Analyst
New Mexico Mortgage Finance Authority
344 Fourth Street S.W.
Albuquerque, New Mexico 87102

Or:

chall@housingnm.org

The protest must be submitted to MFA within five (5) business days after the notice of award. Upon the timely filing of a protest, the Contact Person shall give notice of the protest to all Offerors who appear to have a substantial and reasonable prospect of being affected by the outcome of the protest. The Offerors receiving notice may file responses to the protest within five (5) business days of notice of protest. The protest process shall be:

- ◆ The protest will be reviewed by the Contracted Services Committee of MFA's Board of Directors, and that committee shall make a recommendation to the full Board of Directors regarding the disposition of the protest.
- ◆ The Board of Directors shall make a final determination regarding the disposition of the protest, which determination shall not be subject to appeal.

Offerors 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, until the protest period has expired, which if there is a protest shall not expire until final determination by the Board of Directors. A proposal will be deemed ineligible if the Offeror or any person or entity acting on behalf of Offeror attempts to influence members of the Board of Directors or staff during any portion of the RFP review process, which remains in effect until the expiration of the protest period, or does not follow the prescribed proposal and protest process.

Confidential Data

Offerors may request, in writing, nondisclosure of confidential information which Offeror includes in its proposal. Such confidential information shall accompany the proposal but shall be readily separable from the proposal so as to facilitate public inspection of the non-confidential portions of the proposal. After the expiration of the protest period, which shall include final determination of any protest by MFA's Board of Directors, all proposals will be open to the public for inspection pursuant to MFA's Request to Inspect Documents Policy. Confidential information shall only include such information as is excepted under Section 14-2-1 NMSA 1978.

If MFA receives a request for inspection of its records which would require the disclosure of information identified by Offeror as confidential information, it will examine Offeror's request for confidentiality and make a written determination that specifies which portions of the proposal, including any information identified by Offeror as confidential information,

shall be disclosed. MFA will provide the Offeror with a written notice of determination which details which information MFA intends to disclose and the date it shall disclose such information.

Part II: Minimum Qualifications and Requirements

Only those Offerors who meet the following minimum criteria are eligible to submit a proposal pursuant to this RFP:

1. All Offerors must be a corporation that is subject to federal supervision and audited by independent public accountants on an annual basis; and
2. All Offerors must have equity capital and surplus of at least \$75 million and/or \$500 million of assets under trust.
3. All Offerors must have experience as trustee and paying agent of state housing bond issues, including both single family and multifamily issues.
4. All Offerors must be able to provide monthly trust statements in electronic format at no extra cost.

Selected Offerors must also meet the following requirements:

5. Offeror shall provide a written statement disclosing: (1) any political contribution or gift valued in excess of \$250.00 (singularly or in the aggregate) made by Offeror to any elected official of the State of New Mexico in the last three years, (2) any current or proposed business transaction between Offeror and any MFA member, officer, or employee, and (3) any other conflict or potential conflict which may give rise to a claim of conflict of interest.
6. Offeror shall provide a written statement disclosing any pending investigation, litigation, recent settlements or regulatory sanctions in performing professional services during the past five years involving Offeror's firm or employees or individuals or organizations involved in any third-party agreements or joint venture agreements. Describe any circumstances under which Offeror's firm or any of Offeror's members or employees have been disciplined by any professional licensing, regulatory or ethics entity. Indicate whether Offeror's firm has been involved in any capacity in litigation, investigations or regulatory proceedings involving HUD, the State of New Mexico or any agency thereof.
7. A Written certification that Offeror has read and shall at all times conduct itself in a manner consistent with MFA's Code of Conduct and MFA's Anti-Harassment Policy. A copy of MFA's Code of Conduct and MFA's Anti-Harassment Policy is posted on the MFA website for review at <http://www.housingnm.org/rfp>. Upon request by MFA, Offeror shall disclose information MFA may reasonably request relating to conflict or potential conflicts of interest.
8. Offeror shall provide a written certification that Offeror is an Equal Opportunity Employer and complies fully with all government regulations regarding nondiscriminatory employment practices.

Part III: Services to be Performed

Offerors may respond to this RFP to provide corporate trustee and paying agent services for MFA's proposed issuance of single family and multifamily mortgage revenue bonds or other obligations issued under stand-alone indentures approved by the MFA Board of Directors under separate, stand-alone ("Closed") Indentures of Trust.

As requested by MFA, professional Trustee and Paying Agent services required to be provided and to be incorporated into the contract to be awarded pursuant to this RFP include, but are not limited to, the following:

1. Account for required flows of funds, investments and yield tracking as required by each Indenture.
2. Be available, at no extra cost, to attend meetings of the MFA, bond closing, and to execute the Bonds. The Bond issues are anticipated to close in Albuquerque. Any travel and related expenses incurred for Bond issues not closing in Albuquerque would be reimbursed by the MFA in accordance with the MFA expense reimbursement policies and procedures set forth in its Policies and Procedures Manual;
3. Furnish, at no extra cost, current market information relating to the MFA's assets in trust;
4. Transact all receipts and disbursements under the resolution at no extra cost as directed by the MFA, including ACH and other electronic funds transfers, wire transfers and checks;
5. Reconcile and confirm cash balances, investments, and bonds outstanding, prepare and confirm bond redemption calculations, and monitor key dates and reporting requirements;
6. Provide, at no extra cost, redemption notices and other notices to Electronic Municipal Market Access ("EMMA") as required under the SEC's secondary market disclosure rules;
7. Provide all trust transaction information in electronic format. Train MFA staff on utilization of all electronic transaction and/or reporting systems at no extra cost. At a minimum, monthly trust statements must be provided in electronic format at no extra cost;
8. Furnish trust transaction balance information and/or annual trust statements to rebate analysts, financial advisors, bond underwriters, independent auditors or other interested parties as directed by the MFA at no extra cost;
9. Furnish the following on an annual basis within six months of fiscal year end at no extra cost: audited financial statements; Service Organization Control (SOC 1) Report, or equivalent information; most recent Community Reinvestment Act Examination Report, if applicable; credit rating report; results of Federal Reserve Dodd-Frank Act Stress Test, if applicable; and results of Federal Reserve Comprehensive Capital Analysis & Review, if applicable;
10. Respond to MFA electronic messages or telephone calls within 48 hours. Resolve any MFA questions within 5 business days unless MFA agrees via electronic message to a longer time period, and
11. Perform paying agent functions including disbursement of funds and payment of all bond interest and principal payments to The Depository Trust Company (DTC), any other successor depository or to bondholders in the event the services provided by DTC are discontinued for any reason.

Part IV: Compensation

Fee basis should be an all-inclusive, fixed fee based on completion of service. Offeror must also state in their submission how long the Offeror can hold the all-inclusive fixed fee for service with the minimum amount of time being three (3) years from the date of proposal and should address how increases will be negotiated. If selected, contracts with Offerors must reflect the all-inclusive, fixed fee for service. Billing on the project should occur on a frequency to be negotiated with successful Offeror(s) and will be based on proposed fixed fee for service.

Part V: Evaluation Criteria

MFA shall award the contract for trustee and paying agent services to the Offeror whose proposal is most advantageous to MFA. Proposals that meet the Minimum Qualifications and Requirements shall be evaluated primarily on experience and fees. Proposals shall be scored on a scale of 1 to 100 based on the criteria listed below. Please note that a serious deficiency in any one criterion may be grounds for rejection regardless of overall score.

Criteria	Point Range	Maximum Points
1. Experience and Financial Capacity: Offeror’s skill, knowledge, experience and assets under management as noted in the experience and financial capacity section.	0-30	30
2. Capabilities and Responsiveness Offerors proposal for delivering services, information technology structure, and responsiveness as noted in the capabilities and responsiveness section.	0-30	30
2. Fees: Fee schedule for single family bonds (Exhibit A Part 1) Fee schedule for multifamily bonds (Exhibit A Part 2)	0-10 0-15	25
4. References	0-10	10
5. New Mexico Resident Business: Offeror is licensed to do business in New Mexico and the majority of Offeror’s employees who would perform the services to be performed in New Mexico reside in New Mexico	0-5	5
Maximum Points	0-100	100

Part VI: Proposal Format and Instructions to Offeror

Proposals submitted to MFA must, at a minimum, contain the following information and shall be organized as follows:

1. Letter of Transmittal – to include at least the following:
 - A. Name, address and telephone number of Offeror and name of contact person.
 - B. A signature of the Offeror or any partner, officer or employee who certifies that he or she has the authority to bind the Offeror.
 - C. Date of proposal.

- D. A statement that the Offeror, if awarded the contract, will comply with the contract terms and conditions set forth in this RFP.
- E. A statement describing how long the Offeror can hold the fee schedules outlined in Exhibit A with the minimum being three (3) years from date of proposal.
- F. A statement that the Offeror's proposal is valid for ninety (90) days after the deadline for submission of proposals.
- G. Provide a statement that the Offeror is subject to federal supervision and indicate the oversight agency. Provide a statement that the Offeror is audited by independent public accountants on an annual basis and indicate the name of the current auditor.
- H. Provide a copy of the Offeror's most recent audited financial statement as a separate attachment. Please reference the page(s) which shows that the Offeror has equity capital and surplus of at least \$75 million and/or \$500 million of assets under trust.

2. Disclosure and Certifications – Offeror shall provide:

- A. A written statement disclosing: (1) any political contribution or gift valued in excess of \$250.00 (singularly or in the aggregate) made by Offeror to any elected official of the State of New Mexico in the last three years, (2) any current or proposed business transaction between Offeror and any MFA member, officer, or employee, and (3) any other conflict or potential conflict which may give rise to a claim of conflict of interest.
- B. A written statement disclosing any pending investigation, litigation, recent settlements or regulatory sanctions in performing professional services during the past five years involving Offeror's firm or employees or individuals or organizations involved in any third-party agreements or joint venture agreements. Describe any circumstances under which Offeror's firm or any of Offeror's members or employees have been disciplined by any professional licensing, regulatory or ethics entity. Indicate whether Offeror's firm has been involved in any capacity in litigation, investigations or regulatory proceedings involving HUD, the State of New Mexico or any agency thereof.
- C. A Written certification that Offeror has read and shall at all times conduct itself in a manner consistent with MFA's Code of Conduct and MFA's Anti-Harassment Policy.
- D. A written certification that Offeror is an Equal Opportunity Employer and complies fully with all government regulations regarding nondiscriminatory employment practices.
- E. A written certification that Offeror is eligible to participate in any and all federal- or state funded housing programs; is not currently facing disciplinary action by any federal, state or local entity; is not suspended, debarred or excluded from participation in any federal or state funded housing program; and is not listed as an excluded party (ies) on the System for Award Management's list of excluded parties accessed at www.sam.gov; and has not been debarred by MFA.
- F. Location. Provide the location of the Offeror's main office and the location of the office where MFA's main contact person is located.

- G. Community Reinvestment Act. Provide a copy of the last Community Reinvestment Act (CRA) Examination document made available to the general public, if applicable, as a separate attachment.
- H. AICPA Service Organization Control SOC1 Report (formerly SAS 70 Report): Offeror must be able to provide the Report or equivalent information on an annual basis. Please attach your most recent Report or equivalent information to Offeror's response as a separate attachment.
- I. Discuss the Offeror's compliance with the Basel III tier 1 capital requirements.
- J. Provide a copy of the Offeror's latest rating agency report.
- K. Provide the most recent results of Offeror's Federal Reserve Dodd-Frank Act Stress Test and Comprehensive Capital Analysis & Review, if applicable. If not applicable, please explain.

3. Experience and Financial Capacity

- A. A description of [businesses, clients, state agencies, municipalities, local government, etc.] represented by or for which Offeror has [worked, performed services, etc.] currently or in the last ten years.
- B. Names and Resumes. Provide the names and resumes of the lead contact and other key personnel, including support staff, to be assigned to the account. Resumes describing the qualifications of personnel to be utilized in the performance of this contract must show, at a minimum, the person's name, education, location, position, and total years and types of experience relevant to the performance of the contract.
- C. Trustee's Counsel. The name of the attorney and firm intended to be used as trustee's counsel. All operational questions requiring legal work will be directed to the MFA. In most cases the MFA will ask its own legal counsel to perform any necessary research.
- D. Assets Under Management.
 - i. Provide the total amount of assets under corporate trust and the amount of assets under corporate trust for state/local single family housing bond issues and multifamily bond issues.
 - ii. Provide a description of experience and services performed as trustee and paying agent for state/local single family housing bond issues and multifamily bond issues. For single family housing bond issues indicate your experience with pass through bond structures, MRBs, CMOs. For multifamily housing bond issues indicate your experience with 542(c) and conduit issues.

4. Capabilities and Responsiveness

- A. Offeror's proposal for delivering services, including organization of responsibilities, work plan, approach, and the availability of personnel for consultation, discussion and coordination with staff, and for travel both within and outside New Mexico, as necessary, to serve the needs of MFA.
- B. Operations. A description of back-office procedures, equipment and software, detailing the Offeror's capability to account for bond activity, ability to deliver responsive, quality services, and the availability of personnel for consultation and discussion as necessary to serve the needs of the MFA.

- C. Report and Electronic Information. Describe the trustee and paying agent month-end and annual reports. Provide sample reports in an appendix of the Offeror's reporting of transactions and period-end balances. Provide detail information about the availability of one-line electronic transaction and balance information and the ability to export such data, including the available export formats. Indicate how long the data is available electronically and what flexibility is availability for the data ranges used to download/export the data.
- D. Security Policies. Describe the security policies and procedures the Offeror has in place to protect MFA and bondholder records and assets. Provide details regarding the Offeror's procedures to detect and prevent fraud and unauthorized transactions.
- E. Disaster Recovery. Describe the Offeror's disaster recovery procedures for its trustee and paying agent function, the projected response time to catastrophic events, the frequency, extent and results of testing of these procedures. In the event of a disaster that required the Offeror to rely on these procedures, describe the impacts MFA would experience as a result.

5. Fees

- F. Two forms for fee proposals are attached to this RFP, one for single family issue fees, EXHIBIT A (Part 1) and one for multifamily issue fees, EXHIBIT A (Part 2). Offeror must submit both forms. They must be sent to the MFA with your proposal. Please note that Offeror's proposed aggregate set-up fee and proposed annual fee must include all charges for Offeror's services, costs and expenses, and New Mexico gross receipts tax. In addition, include Offeror's other fees and/or costs charged in the event of default or extraordinary events. The MFA will not pay Offeror any amount in excess of Offeror's proposed fees.
 - i. Offeror must give MFA at least a three (3) year commitment on the rate schedule offered. The contract may be extended for two, one (1) year periods at the option of the MFA Board. Provide information regarding the Offeror's policy about increasing the proposed fees in Exhibit A (Part 1) and Exhibit A (Part 2) during the duration of a transaction, upon the expiration of the Contract Term.
 - ii. Offeror must absorb the cost of familiarizing itself with MFA programs, policies and procedures, rules, regulations and past bond issues. Program documents and any other relevant information shall be made available for Offeror's review at MFA's office in Albuquerque. MFA will not pay for such work. Indicate how much time Offeror expects to devote to familiarizing itself with MFA programs, policies and procedures, rules, regulations and provide a timetable for doing so.
 - iii. Offeror is required to submit itemized billing statements one week prior to the close of a bond issue.

6. References

- A. Offeror shall provide at least three references for Offeror's work as trustee and paying agent on single family mortgage revenue bond issues, and three references for work as Trustee on multifamily housing revenue bond issues. References must be for clients managed by the Offeror's representatives that would be assigned to the MFA account.

B. MFA shall provide the form attached hereto as **Exhibit B** to all references.

7. New Mexico Resident Business

A. Evidence that the Offeror is licensed to do business in Mexico.

B. Representation that the majority of Offeror's employees who would perform the services to be performed reside in New Mexico.

8. Please provide any other relevant information which will assist MFA in evaluating Offeror's ability to provide trustee and paying agent services to MFA.

Part VII: Principal Contract Terms and Conditions

In addition to the terms respecting the services to be performed and compensation described above, the contract between MFA and the successful Offeror (herein "Contractor") shall include, but may not be limited to, terms substantially similar to the following:

Contract Term

The term of the trustee and paying agent Contract shall begin the date the MFA Board of Directors approves the award and ends December 31, 2023. At the option of the Policy Committee, the contract may be extended for two, one (1) year periods under the same terms and conditions. There will be a transition period for matters in process at the beginning and the end of the contract term.

Hold Harmless and Indemnification. Offeror shall indemnify, defend, and hold harmless MFA and the State of New Mexico, its officers, directors, agents, employees, successors and permitted assigns (each, a "MFA Indemnitee") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including attorneys' fees, that are incurred by a MFA Indemnitee (collectively, "Losses") arising out of or related to any third party claim alleging (i) breach or non-fulfillment of any provision of this Agreement by Offeror or Offeror's personnel; (ii) any negligent or more culpable act or omission of Offeror or Offeror personnel, including any reckless or willful misconduct, in connection with the performance of Offeror's obligations under this Agreement; (iii) any bodily injury, death of any person, or damage to real or tangible, personal property resulting from willful, fraudulent, or negligent acts or omissions of Offeror or Offeror personnel, or (iv) any failure by Offeror or its personnel to comply with any applicable federal, state or local laws, regulations, or codes in the performance of its obligations under this Agreement. Offeror shall further defend, indemnify, and hold harmless the MFA Indemnitees from and against any and all claims that any of the Services or deliverables or MFA's receipt or use thereof infringes any intellectual property right of a third party.

Assignment/Change in Key Contractor Personnel

Contractor shall not assign or transfer any interest in the contract or assign any claims for money due or to become due under the contract (except as security for a bank loan in its ordinary course of its business) without the prior written approval of MFA. Any change to key Contractor personnel, including lead and other attorneys assigned to the contract, shall require prior written notice to and approval by MFA, and amendment to the contract to reflect the change in assigned Contractor personnel.

Permitted Subcontractors. Offeror shall obtain MFA's written approval, which approval shall be given in MFA's sole discretion, prior to entering into any agreements with or otherwise engaging any person, including all subcontractors, other than Offeror's employees, to provide any Services to MFA (each such approved subcontractor or other third party, a "Permitted Subcontractor"). MFA's approval shall not relieve Offeror of its obligations under the Agreement, for any reason, including but not limited to Permitted Subcontractor's bankruptcy, insolvency, or other inability to perform the services required under any subcontract, an Offeror shall remain fully responsible for the performance of each such Permitted Subcontractor and its employees and for their compliance with all of the terms and conditions of this Agreement as if they were Offeror's own employees. Nothing contained in this Agreement shall create any contractual relationship between MFA and any Permitted Subcontractor or supplier. Offeror shall require each such Permitted Subcontractor to be bound in writing by the confidentiality and intellectual property assignment provisions of this Agreement.

Records. Maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Offeror in providing the Services in such form as MFA shall approve. During the Term and for a period of two years thereafter, upon MFA's written request, Offeror shall allow MFA or MFA's representative to inspect and make copies of such records and interview Offeror personnel in connection with the provision of the Services. MFA shall have the right to audit bills submitted to MFA under this Agreement both before and after payment. Payment under this Agreement shall not foreclose the right of MFA to recover excessive and/or illegal payments.

Payment. Payment shall be made to Offeror at the times, and in the amounts, that shall be set forth in a Service Agreement between MFA and Offeror.

Insurance. Offeror shall procure and maintain at its expense until final payment by MFA for Services covered by this Agreement, insurance in the kinds and amounts hereinafter provided with insurance companies authorized to do business in the state of New Mexico, covering all operations under this Agreement, whether performed by the Offeror or its agents. Before commencing the Services, and on the renewal of all coverages, the Offeror shall furnish to MFA a certificate or certificates, providing for not less than thirty (30) days' notice to MFA of non-renewal or cancellation, in form satisfactory to MFA showing that it has complied with this Sub-Section. Various types of required insurance may be written in one or more policies. With respect to all coverages required other than workers' compensation, MFA shall be named an additional insured. Kinds and amounts of insurance required are as follows:

- i. Commercial General Liability insuring the activities of Offeror under this Agreement with limits no less than \$750,000 per occurrence and \$750,000 in the aggregate, and with a claim/aggregate deductible in an amount reasonable for a firm of Offeror's size and financial condition, in a form acceptable to MFA.
- ii. Professional Liability covering all liabilities and risks inherent in Offeror's performance of the services required under this Agreement, with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate and with a claim/aggregate deductible in an amount reasonable for a firm of Offeror's size and financial condition, in a form acceptable to MFA.

Equal Opportunity Data. The Offeror will maintain data relative to "Equal Opportunity" as related to Minority Business Enterprises ("MBE") and Women Business Enterprises ("WBE"). At a minimum, such data shall include the number and dollar value of MBE/WBE contracts and subcontracts awarded. This data is required to be reported to MFA annually in the format prescribed MFA and is due to MFA each year at a time to be determined by MFA in its sole discretion.

Termination. If, in the judgment of MFA, the Offeror, for any cause, fails or omits to carry out the Work in an acceptable manner MFA may give notice in writing of such failure or omission and of a reasonable time within which to cure the deficiency. The Successful Offeror shall take corrective measures within

such time. The Successful Offeror 's failure to comply with such notice and to cure the deficiency as provided in the notice shall subject this Agreement to immediate termination by MFA. In the event of a for-cause termination, MFA shall terminate this Agreement by delivering to Architect a written notice of termination. The effective date of termination shall be the date stated in the notice or, if no date is stated, then the date of delivery of the notice. Upon such termination, Successful Offeror shall deliver to MFA all design plans, construction estimates, drawings, documents, survey books, and all other materials developed under this Agreement. MFA shall then have the right to retain the services of other design professionals to complete Successful Offeror's Work under this Agreement, and shall have no obligation to seek bids for that replacement design professional(s). The cost of completing Successful Offeror's Work under this Agreement shall be paid for by applying the balance of the contract amount remaining on this Agreement at the time of termination. If the cost to complete the Work under this Agreement is less than the remaining contract amount, the remaining contract amount shall be paid to Successful Offeror. If the cost of completing the Work under this Agreement exceeds the contract amount, then Successful Offeror shall pay MFA for the difference between the contract amount and the cost to complete Successful Offeror's Work.

Termination for convenience of MFA. On fifteen (15) business day's written notice to Successful Offeror, MFA may terminate this Agreement in whole or in part for its own convenience in the absence of termination for cause or any default of Successful Offeror. In the event of a termination for convenience, MFA shall terminate this Agreement by delivering to Successful Offeror notice of termination without cause specifying the extent to which performance of Work under this Agreement is terminated and the date upon which such termination becomes effective. Within ten (10) calendar days of the effective date of termination, Successful Offeror shall deliver to MFA all design plans, construction estimates, drawings, documents, survey books and any or all other materials developed under this Agreement. Upon delivery of such notice, Successful Offeror shall have the right to receive payment for services satisfactorily performed to termination date, including reimbursement then due.

All Offerors must be in good standing with MFA and all other state and federal affordable housing agencies. For example, debarment from HUD, MFA or other federal housing programs, bankruptcy, criminal indictments or convictions, poor performance on prior MFA or federally financed Projects on the part of any Offeror may result in termination of this Agreement.

Independent Offeror. The nature of the Offeror's and its staff's relationship to MFA will be that of an independent contractor, and the Offeror will not be deemed an agent, employee or servant of MFA. The compensation agreed upon by MFA and the Offeror will not be subject to withholding from taxes, F.I.C.A., or otherwise, and nothing in this Agreement burdens MFA with the duties of an employer concerning the Offeror and its staff under any state worker's compensation laws, state or federal occupational health and safety laws, or any other state or federal laws. The Offeror and its staff will not participate in any of the fringe benefits generally made available by MFA to its officers or employees. MFA will not provide the Offeror office space, clerical help, office supplies or the like except as mutually agreed to by MFA and the Offeror. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

Awards to Other Offerors. The Offeror shall not assign or transfer any rights, duties, obligations or interest in or to the proceeds of this Agreement without the prior written approval of MFA. If approved, any assignee will be subject to all terms, conditions and provision of this Agreement. No such approval by MFA of any assignment shall obligate MFA for payment of amounts in excess of the Program Funds. In accordance with 2 CFR 200.213, Offeror shall not make any awards or permit any award (subcontract or contract) at any tier to any party which is debarred or suspended or is otherwise excluded from or ineligible to participate in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension."

Intellectual Property Rights; Ownership. MFA is, and shall be, the sole and exclusive owner of all right, title, and interest in and to the deliverables provided pursuant to the provision of the Services, including all Intellectual Property Rights therein. Offeror agrees, and will cause its Offeror personnel to agree, that with respect to any deliverables that may qualify as "work made for hire" as defined in 17 U.S.C. §101, such deliverables are hereby deemed a "work made for hire" for MFA. To the extent that any of the Deliverables do not constitute a "work made for hire", Offeror hereby irrevocably assigns, and shall cause the Offeror personnel to irrevocably assign to MFA, in each case without additional consideration, all right, title, and interest throughout the world in and to the deliverables, including all Intellectual Property Rights therein. The Offeror shall cause the Offeror personnel to irrevocably waive, to the extent permitted by applicable law, any and all claims such Offeror personnel may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of droit moral with respect to the deliverables. Upon the request of MFA, Offeror shall, and shall cause the Offeror personnel to, promptly take such further actions, including execution and delivery of all appropriate instruments of conveyance, as may be necessary to assist MFA to prosecute, register, perfect, or record its rights in or to any deliverables.

Confidential Information. Simultaneous herewith, Offeror shall enter into a Non-Disclosure Agreement with MFA under which Offeror shall agree Offeror will not, during the term of this Agreement, or thereafter, without the written consent of MFA, disclose to anyone, or use for Offeror's own account, any confidential information concerning the businesses or affairs of MFA. Offeror will retain all such knowledge and information respecting such confidential information in trust for the sole benefit of MFA. Upon termination of this Agreement, Offeror will deliver to MFA all writings relating to or containing confidential information or destroyed with destruction certified by the receiving Party.

Remedies. Offeror recognizes that irreparable injury would be caused by any breach of any of the provisions of this Agreement by Offeror. MFA, in addition to all other rights and remedies at law or equity as may exist in its favor, will have the right to enforce the specific performance of the provisions of this Agreement and to apply for injunctive relief against any act that would violate any such provisions. Offeror shall reimburse MFA for all costs and expenses, including reasonable attorney fees incurred by MFA by reason of Offeror's breach of this Agreement. Nothing herein shall be read to limit Offeror's remedies in the event of a breach of this Agreement by the MFA.

Licenses/Compliance with Laws and Regulations. Before the date on which the Services are to start, obtain, and at all times during the Term of this Agreement maintain, all necessary licenses and consents and comply with all relevant laws applicable to the provision of the Services.

Compliance with MFA Rules, Regulations and Policies. Comply with, and ensure that all Offeror personnel comply with, all rules, regulations, and policies of MFA that are communicated to Offeror in writing, including security procedures concerning systems and data and remote access thereto, building security procedures, and general health and safety practices and procedures.

Governing Law and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of New Mexico without giving effect to any choice or conflict of law provision or rule that would cause the application of laws of any jurisdiction other than those of the State of New Mexico. Any legal suit, action, or proceeding arising out of, or related to, this Agreement or the Services provided hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of New Mexico in each case located in the city of Albuquerque and County of Bernalillo, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

New Mexico Mortgage Finance Authority

Board Members

Chair Angel Reyes – President, Centinel Bank in Taos
Vice Chair – Derek Valdo – Chief Executive Officer, AMERIND Risk
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Management

Isidoro Hernandez, Executive Director
Gina Hickman, Deputy Director of Finance & Administration
Donna Maestas-De Vries, Deputy Director of Programs

EXHIBIT A (Part 1)
NEW MEXICO MORTGAGE FINANCE AUTHORITY

Single Family Program Series – Closed Indenture

Fee Proposal

I. Trustee and Paying Agent Fees.

The successful Offeror shall furnish professional services as corporate trustee and paying agent in connection with the MFA's issuance of single family mortgage revenue bonds. The Bonds are to be sold periodically, possibly for forward delivery, under Closed Indentures which may total up to \$120,000,000 annually, not including other obligations. The Bonds could be structured as a traditional MRB issue with serial, term, and other bonds, pass through bond structures, or they may be similar to Collateralized Mortgage Obligations. Taxable bonds may also be included. Other obligations could include draw down facility bonds, notes or other short-term debt. The Bonds may be secured by mortgage-backed securities (FNMA's, FHLMCs and GNMA's), or by whole loans.

The trustee and paying agent fees may include an initial set-up fee and an annual fee based on the principal amount of bonds outstanding. The set-up fee should be bid assuming that the account structure will be the same in each series, although account structure may vary. **The annual fee bid should consider the fact that a minimum fee, if any, will be calculated based on the outstanding bond principal of the sum of all issues closed during each calendar year, and not of the separate issues.**

- A. Aggregate initial set-up fee for each series: This is a one-time aggregate fee payable at bond closing. The fee is to include all fees and disbursements of the trustee and paying agent and its' counsel, including New Mexico gross receipts tax, for review of documents, attendance at MFA meetings and conferences prior to bond closing, attendance at bond closing, initial certification and authentication of bonds at closing, and setting-up of trustee records, accounts and procedures.

PROPOSED AGGREGATE SET-UP FEE FOR EACH SERIES: \$ _____

- B. Annual fee: This fee covers all the on-going fees of the trustee and paying agent and will be payable in semi-annual installments in arrears. The fee is to include all fees and disbursements of the trustee and paying agent and its' counsel, including New Mexico gross receipts tax, except fees and disbursements of trustee and paying agent's counsel incurred in connection with events of default or extraordinary events by the MFA under the bond resolution or indenture and rebate calculations. The fee schedule should be expressed in terms of basis points per \$1,000 of principal amount of each series of bonds outstanding.

PROPOSED ANNUAL FEE: _____ bp/\$1000

- C. Other fees: Fees and disbursements of trustee and paying agent's counsel incurred in connection with events of default or extraordinary events by the MFA under the bond resolution or indenture and rebate calculations. Please detail any other costs.

PROPOSED OTHER FEES: \$ _____

EXHIBIT A (Part 2)
NEW MEXICO MORTGAGE FINANCE AUTHORITY
Multifamily Program Series – Closed Indenture

Fee Proposal

I. Trustee and Paying Agent Fees.

The successful Offeror shall furnish professional services as corporate trustee and paying agent in connection with the MFA's issuance of multifamily mortgage revenue bonds. Taxable bonds may be included. The Bonds are to be sold periodically, possibly for forward delivery, under Closed Indentures which may total between \$3,000,000 and \$50,000,000 annually, not including short term refunding bonds. The Bonds may be secured by mortgage-backed securities or by whole loans.

The trustee and paying agent fees may include an initial set-up fee and an annual fee based on the principal amount of bonds outstanding. The set-up fee should be bid assuming that the account structure will be the same in each series, although account structure may vary. **The annual fee bid should consider the fact that a minimum fee, if any, will be calculated based on the outstanding bond principal of the sum of all issues closed during each calendar year ending, and not of the separate issues.**

- A. Aggregate initial set-up fee for each series: This is a one-time aggregate fee payable at bond closing. The fee is to include all fees and disbursements of the trustee and trustee's counsel, including New Mexico gross receipts tax, for review of documents, attendance at MFA meetings and conferences prior to bond closing, attendance at bond closing, initial certification and authentication of bonds at closing, and setting-up of trustee records, accounts and procedures.

PROPOSED AGGREGATE SET-UP FEE FOR EACH SERIES: \$ _____

- B. Annual fee: This fee covers all the on-going fees of the trustee and paying agent and will be payable in semi-annual installments in arrears. The fee is to include all fees and disbursements of the trustee and paying agent and its' counsel, including New Mexico gross receipts tax, except fees and disbursements of trustee and paying agent's counsel incurred in connection with events of default or extraordinary events by the MFA under the bond resolution or indenture and rebate calculations. The fee schedule should be expressed in terms of basis points per \$1,000 of principal amount of each series of bonds outstanding.

PROPOSED ANNUAL FEE: _____ bp/\$1000

- C. Other fees: Fees and disbursements of trustee and paying agent's counsel incurred in connection with events of default or extraordinary events by the MFA under the bond resolution or indenture and rebate calculations. Please detail any other costs.

PROPOSED OTHER FEES: \$ _____

EXHIBIT B

ORGANIZATIONAL REFERENCE QUESTIONNAIRE

The New Mexico Mortgage Finance Authority, as part of the RFP process, requires Offerors to submit at least three references from financial institutions, governmental entities, and/or mortgage servicers and at least one reference for whom [INSERT TYPE OF PROFESSIONAL SERVICE] has been provided as required within this document. The purpose of these references is to document Offeror's experience relevant to the scope of work in an effort to establish Offeror's responsibility. MFA will send the following reference form to each business reference listed in Offeror's proposal.

TRUSTEE AND PAYING AGENT SERVICES RFP

ORGANIZATIONAL REFERENCE QUESTIONNAIRE FOR:

This form is being submitted to your company for completion as a business reference for the company named above. This form is to be returned to the New Mexico Mortgage Finance Authority via facsimile or e-mail at:

Name: Cooper Hall
Address: 344 4th St. SW
Albuquerque, NM 87102
Telephone: (505)767-2284
Fax: (505) 243-3289
E-mail: chall@housingnm.org

No later than October 21st, 2020 **4:00 p.m. Mountain Time** and must **NOT** be returned to the company requesting the reference.

For questions or concerns regarding this form, please contact the individual first named above.

Company providing reference:	
Contact name and title/position:	
Contact telephone number:	
Contact e-mail address:	
Description of services provided:	
Dates services provided (starting and ending):	

1. How would you rate the timeliness of work conducted and information requested?

_____ (3=Excellent 2=Satisfactory 1=Unsatisfactory 0=Unacceptable)

COMMENTS:

2. How would you rate how the work was planned and executed?

_____ (3=Excellent 2=Satisfactory 1=Unsatisfactory 0=Unacceptable)

COMMENTS:

3. How would you rate the knowledge and technical expertise demonstrated?

_____ (3=Excellent 2=Satisfactory 1=Unsatisfactory 0=Unacceptable)

COMMENTS:

4. How would you rate the value added to your organization through the Offeror's recommendations?

_____ (3=Excellent 2=Satisfactory 1=Unsatisfactory 0=Unacceptable)

COMMENTS:

5. With which aspect(s) of this Offeror's services are you most satisfied?

COMMENTS:

6. With which aspect(s) of this Offeror's services are you least satisfied?

COMMENTS:

7. Would you recommend this Offeror's services?

COMMENTS: