

TITLE 19 NATURAL RESOURCES AND WILDLIFE
CHAPTER 1 NATURAL RESOURCES GENERAL PROVISIONS
PART 10 COMMUNITY ENERGY EFFICIENCY DEVELOPMENT (CEED) PROGRAM

19.1.10.1 ISSUING AGENCY: Energy, Minerals and Natural Resources Department.
[19.1.10.1 NMAC – N, 5/16/2023]

19.1.10.2 SCOPE: Part 19.1.10 NMAC applies to all eligible entities applying for a grant from the community energy efficiency development (CEED) program.
[19.1.10.2 NMAC – N, 5/16/2023]

19.1.10.3 STATUTORY AUTHORITY: Part 19.1.10 NMAC is authorized pursuant to Subsection B of 62-17A-3 NMSA 1978, and Subsection E of Section 9-1-5 NMSA 1978.
[19.1.10.3 NMAC – N, 5/16/2023]

19.1.10.4 DURATION: Permanent.
[19.1.10.4 NMAC – N, 5/16/2023]

19.1.10.5 EFFECTIVE DATE: May 16, 2023, unless a later date is cited at the end of a section.
[19.1.10.5 NMAC – N, 5/16/2023]

19.1.10.6 OBJECTIVE: The objective is to establish procedures for administering the program, adopt application requirements and evaluation criteria, and define the purposes and qualifications for which CEED program funding may be utilized.
[19.1.10.6 NMAC – N, 5/16/2023]

19.1.10.7 DEFINITIONS: For additional definitions, refer to Section 62-17A-2 NMSA 1978.

A. “Act” means the Community Energy Efficiency Development Block Grant Act, 62-17A NMSA 1978.

B. “Affordable housing assessment” means a calculation of rent or a mortgage that is no more than thirty percent of the United States department of housing and urban development’s state income limits as updated each year for low-income, very low- income residents, and residents whose income is thirty percent of the state median income.

C. “Applicant” means one or more representatives of an eligible entity writing an application for a CEED program grant.

D. “Division director” means the director of the department’s energy conservation and management division.

E. “Eligible entity” means an organization that may apply for a grant from the CEED program and includes an Indian nation, tribe, or pueblo; county; municipality; or the New Mexico mortgage finance authority (MFA).

F. “Program” means the CEED program administered by the division.

G. “Type one projects” means projects which have the eligibility requirements described in subsection 19.1.10.12 NMAC.

H. “Type two projects” means projects by the MFA which have the eligibility requirements described in subsection 19.1.10.13 NMAC.

[19.1.10.7 NMAC – N, 5/16/2023]

19.1.10.8 PURPOSE: Community energy efficiency projects are projects that provide improvements to residential buildings in an underserved community that will, in the aggregate, reduce energy consumption, energy-related operating costs, carbon intensity of energy consumption, or a combination thereof. These projects will target the adoption of energy-efficient consumer behavior, equipment, or devices that result in a decrease in energy consumption without reducing the amount or quality of energy services. This includes health and safety measures,

including those that use efficient equipment or devices to improve indoor air or drinking water quality. It is the responsibility of the applicant to demonstrate how the proposed projects correspond to these requirements.
[19.1.10.8 NMAC – N, 5/16/2023]

19.1.10.9 ELIGIBILITY:

A. Entity categories. The CEED program will fund entities in the following categories when funds are available:

- (1) an Indian nation, tribe, or pueblo;
- (2) a county;
- (3) a municipality; and
- (4) the MFA.

B. Project location. The CEED program shall only award grants to eligible entities for a community energy efficiency project located in New Mexico.

[19.1.10.9 NMAC – N, 5/16/2023]

19.1.10.10 APPLICATION PROCESS:

A. Application acceptance. To apply for a CEED program grant, an applicant shall:

- (1) obtain the division-developed CEED program application from the division,
- (2) conform to the application instructions determined by the division,
- (3) submit the completed application to the division.

Applications will be accepted by approved electronic application system, or alternate submission options may be authorized by the division director upon request.

B. Application completeness.

(1) Upon receipt of applications, division staff will review for eligibility, completeness, and compliance with the rule and application instructions.

(2) In the event that the application is incomplete, the applicant will be notified by the division. The applicant must then submit the information requested in connection with an incomplete application in the timeframe established by the division. Applicants that do not respond in the established timeframe may be disqualified.

(3) The division will determine whether an application is complete, and its decision is final.

(4) Approval will be granted in two stages. Preliminary approval requires an application submission and division selection. Final approval requires an additional grant of authority submission as required in 19.1.10.16 NMAC before full division approval may be granted.

C. Application review. The division may consult appropriate agencies or experts for information and advice concerning technical aspects and evaluation of any application.

D. Additional criteria. The division may require applications meet additional criteria consistent with the goal of improving the energy efficiency, livability, or public health and safety of affordable housing in underserved communities.

[19.1.10.10 NMAC – N, 5/16/2023]

19.1.10.11 APPLICATION SUBMISSION CYCLE: Contingent upon availability of funds and state appropriations, the division will request applications on an annual cycle that aligns with the state government's fiscal year. The division will determine and announce the application due date(s) for each application cycle no less than 60 days before each application due date.

[19.1.10.11 NMAC – N, 5/16/2023]

19.1.10.12 TYPE ONE PROJECTS: APPLICATION REQUIREMENTS FOR AN INDIAN NATION, TRIBE, OR PUEBLO; COUNTY; MUNICIPALITY; OR THE NEW MEXICO MORTGAGE FINANCE AUTHORITY: Applications for CEED Program type one project grant funding shall include the following sections:

A. Applicant contact information. This section identifies the full legal name and address of the applicant entity, and the name, title, telephone number, and e-mail address for the person(s) authorized to negotiate a contract on behalf of the entity. Identify names, titles, telephone numbers, and e-mail addresses of person(s) to be contacted for clarification.

B. Project description. This section of the application shall clearly describe the community energy efficiency project that is being proposed, the selected geographic areas or property addresses where the project will take place, data detailing the justification for selection, how the project would support infrastructure improvements for affordable housing, and how the project would provide energy efficiency improvements to residential buildings in an underserved community.

C. Community description. This section of the application shall clearly identify the targeted underserved community and describe the energy-related needs of the community and the benefits this community would receive if the proposed project was implemented.

D. Participant eligibility requirements. Applicants shall demonstrate the ability to determine which participant households within the proposed community meet the eligibility criteria. Applicants are responsible for determining if and certifying that a household is eligible for this program. Applicants must certify that the households receiving services have been verified for eligibility prior to the commencement of project work. The division reserves the right to audit project eligibility at the discretion of the division. Eligible households include:

(1) residential housing units occupied by low-income individuals, couples, or families whose annual household adjusted gross income, as defined in section 62 of the federal Internal Revenue Code of 1986, as amended or renumbered, does not exceed two hundred percent of the federal poverty level, within an underserved community; or

(2) residential housing units within an underserved community that otherwise meet the criteria for housing that is affordable to low-income persons,

(3) low income verified by the applicant by any of the following methods:

(a) Direct income verification by the most recent tax returns of the household.

(b) Eligibility is assumed if, within five years of household application:

(i) person(s) within the household receives federal or state disability

assistance;

(ii) person(s) within the household receives SNAP food benefits;

benefits;

(iii) person(s) within the household receives TANF temporary assistance

insurance program benefits;

(iv) person(s) within the household receives medicaid or children's health

income program.

(v) person(s) within the household participates in a utility low-to-moderate

(c) Affordable housing verification can be evidenced by the fact that the resident receives low-income housing benefits or by mortgage or rental agreement.

(d) Other methods of eligibility must be approved by the division prior to application submission.

E. Scope of work. Applications shall detail the energy efficiency measures that will be implemented for the targeted households and demonstrate how these measures will address the energy-related needs of those households. This demonstration should include, as appropriate, the estimated reduction of energy use that will come from implementation of these measures, the estimated reduction of energy cost that will come from implementation of these measures, and the estimated reduction in carbon intensity of energy consumption. The description should also include the average impact by household along with the aggregated impact of the project, a timeline for implementation, the approach for maximizing project benefits, and metrics which will determine success in implementation. Metrics proposed in applications may be tailored to the individual project.

F. Partnerships. Applications shall detail the partnerships that the applicant(s) have established to achieve project implementation, including:

(1) one or more service providers, including subcontractors that will use local safety and code standards to implement the energy efficiency measures in targeted households and the experience of the service provider in working with the target underserved community. If the service provider has committed to employ apprentices from a registered apprenticeship program that promotes diversity or provides paid internships to persons from the targeted underserved community, this should be detailed in this section; and

(2) one or more community partners that have identified and worked with targeted households to implement the project and the experience of the community partner in working with the target underserved community. If the community partner has committed to employ apprentices from a registered apprenticeship program that promotes diversity or provides paid internships to persons from the targeted underserved community, this should be detailed in this section.

G. Budget. Applications shall detail the project budget including anticipated expenditures for the entire project and additional funding sources that would complement the CEED program grant, if obtained. The project should strive to maximize benefits in the community to the greatest extent practicable and be reflected in the amount sought per household. The budget should include the total project amount, the average amount per household, administrative costs, partnership expenses, and any other applicable expenses that are being requested. [19.1.10.12 NMAC – N, 5/16/2023]

19.1.10.13 TYPE TWO PROJECTS: APPLICATION REQUIREMENTS FOR THE NEW MEXICO MORTGAGE FINANCE AUTHORITY: Applications for CEED program type two project grant funding shall include the following sections:

A. Applicant contact information. This section identifies the name, title, telephone number, and e-mail address for the person or persons authorized to negotiate a contract on behalf of the applicant entity. Identify names, titles, telephone numbers, and e-mail addresses of persons to be contacted for clarification.

B. Project description. This section of the application shall clearly describe the community energy efficiency project that is being proposed, the address of the property or properties where the project will take place, how the project would support infrastructure improvements for affordable housing that would complement and not duplicate other energy efficiency programs in the state; and

(1) sets forth the energy efficiency improvements to residential housing units, regardless of whether the residential housing units are located in an underserved community, provided that the residential housing units meet the eligibility criteria established by the MFA; and

(2) describes how energy efficiency improvements to the residential housing units will help to reduce the energy burden of low-income households that may not qualify for other energy efficiency programs in the state.

C. Scope of work. Applications shall detail the energy efficiency measures that will be implemented for the targeted households and demonstrate how these measures will address the energy-related needs of those households. The application should include, as appropriate, the estimated reduction of energy use that will come from implementation of these measures, the estimated reduction of energy cost that will come from implementation of these measures, and the estimated reduction in carbon intensity of energy consumption. The description should also include the average impact by household along with the aggregated impact of the project, a timeline for implementation, the approach for maximizing project benefits, and metrics which will determine success in implementation.

D. Partnerships. Applications shall detail the partnerships that the applicant(s) have established to achieve project implementation, including:

(1) one or more service providers, including subcontractors that will use local safety and code standards to implement the energy efficiency measures in targeted households and the experience of the service provider in working with the target underserved community. If the service provider has committed to employ apprentices from a registered apprenticeship program that promotes diversity or provides paid internships to persons from the targeted underserved community, this should be detailed in this section; and

(2) one or more community partners that will identify and work with targeted households to implement the project and the experience of the community partner in working with the targeted underserved community. If the community partner has committed to employ apprentices from a registered apprenticeship program that promotes diversity or provides paid internships to persons from the targeted underserved community, this should be detailed in this section.

E. Budget. Applications shall detail the project budget including anticipated expenditures for the entire project and additional funding sources that would complement the CEED program grant, if obtained. The project should strive to maximize benefits in the community to the greatest extent practicable and be reflected in the amount sought per household. The budget should include the total project amount, the average amount per household, administrative costs, partnership expenses, and any other applicable expenses that are being requested. [19.1.10.13 NMAC – N, 5/16/2023]

19.1.10.14 APPLICATION EVALUATION CRITERIA FOR PROJECTS FROM AN INDIAN NATION, TRIBE, OR PUEBLO; COUNTY; OR MUNICIPALITY: Applications will be scored by the division based on the following criteria that include but are not limited to:

A. Application completeness. The division will review the entire application to see that it contains all application requirements for the specific project type.

B. Capability to meet the scope of work described. The division will consider the project timeline, appropriateness of energy efficiency measures to be implemented, qualifications of project team members including subcontractors and community partners, and the ability to complete the project financially if the total budget exceeds the amount requested.

C. Budgetary considerations. The division will consider the total proposed budget as well as the average amount requested per household, prioritizing applications which propose to maximize project benefits in the community to the greatest extent feasible. The division may ask the applicant for additional documents to support the proposed budget if deemed necessary.

D. Energy reduction potential. The division will consider the estimated reduction of energy use that will come from implementation of the proposed measures, the estimated reduction of energy cost that will come from implementation of the proposed measures, and the estimated reduction in carbon intensity of energy consumption from implementation of the proposed measures.

E. Geographic diversity. The division will consider the geographic diversity of applications submitted in each application cycle.

F. Partnership experience. The division will consider the experience of each community partner and service provider identified in the application in working with the targeted underserved community.

G. Workforce impact. The division will consider whether the partners identified in the application employ apprentices from a registered apprenticeship program that promotes diversity or if they provide paid internship to persons from the targeted underserved communities.

H. Replicability. The division will consider the value of the project as a demonstration project to provide data for the effectiveness of implementing similar projects elsewhere.

I. Underserved community benefits. The division will consider the degree to which the project benefits an underserved community, including any non-energy benefits and health benefits provided by the project.

J. Additional criteria. If the criteria are published in the project solicitation, the division may also consider:

- (1) the degree to which the project will protect public health, including protecting underserved communities from a public health threat;
- (2) the degree to which the project will contribute to economic recovery; or
- (3) the degree to which the project will reduce economic hardship of individual families due to the coronavirus COVID-19 pandemic.

[19.1.10.14 NMAC – N, 5/16/2023]

19.1.10.15 APPLICATION EVALUATION CRITERIA FOR PROJECTS FROM THE NEW MEXICO MORTGAGE FINANCE AUTHORITY: Applications will be scored by the division based on the following criteria, that include but are not limited to:

A. Application completeness. The division will review the entire application to see that it contains all application requirements for the specific project type.

B. Capability to meet the scope of work described. The division will consider the project timeline, appropriateness of energy efficiency measures to be implemented, qualifications of project team members including subcontractors and community partners, and the ability to complete the project financially if the total budget exceeds the amount requested.

C. Budgetary considerations. The division will consider the total proposed budget as well as the average amount requested per household, prioritizing applications which propose to maximize project benefits in the community to the greatest extent feasible. The division may ask the applicant for additional documents to support the proposed budget if deemed necessary.

D. Energy reduction potential. The division will consider the estimated reduction of energy use that will come from implementation of the proposed measures, the estimated reduction of energy cost that will come from implementation of the proposed measures, and the estimated reduction in carbon intensity of energy consumption from implementation of the proposed measures. The division will also consider if the community served would not be likely to otherwise receive energy efficiency improvements through other state programs.

E. Geographic diversity. The division will consider if the application would promote the geographic diversity of the portfolio of community energy efficiency projects.

F. Partnership experience. The division will consider the experience of each community partner and service provider identified in the application in working with the targeted underserved community.

G. Additional criteria. The division will consider if the application would help create a portfolio of community energy efficiency projects that would best meet the goals of the CEED Block Grant Act.

[19.1.10.15 NMAC – N, 5/16/2023]

19.1.10.16 FINAL APPROVAL OF APPLICATIONS:

A. Indian nation, tribe, or pueblo: If applicable based on statute, prior to the division’s final approval of an application, an applicant that is an Indian nation, tribe, or pueblo must provide the division with a copy of a resolution enacted by the Indian nation, tribe, or pueblo that provides approval for a specific CEED program grant and must include in the resolution the terms and conditions of the grant approved by the division. If such a resolution is not supplied to the division, final approval of the application shall not be issued.

B. County or municipality: If applicable based on statute, prior to the division’s final approval of an application, an applicant that is a county or municipality must provide a copy of the ordinance enacted by the county or municipality that provides the county’s or municipality’s formal approval for a specific CEED program grant and must include in the ordinance the terms and conditions of the grant approved by the division. If such a resolution is not supplied to the division, final approval of the application shall not be issued.

C. New Mexico Mortgage Finance Authority:

(1) Required grant of authority. If applicable based on statute, prior to the division’s final approval of an application from the MFA for a CEED program grant, the MFA shall provide the division with formal approval of the MFA to accept a specific CEED program grant. If this is not supplied to the division, final approval of the application shall not be issued.

(2) Project coordination. The division and the MFA shall coordinate the work done pursuant to CEED Program grants in the state to implement energy efficiency measures.

D. Contracts: For selected project applications, the division will approve and enter into contracts with grantees to implement selected community energy efficiency projects. All contracts shall have project performance measures, penalties, or other provisions that ensure the successful completion of the projects and shall require reporting on project performance, energy savings, and non-energy benefits resulting from the energy efficiency measures.

[19.1.10.16 NMAC – N, 5/16/2023]

19.1.10.17 FUNDING: Funding for CEED program projects may come from state, federal, other eligible funding sources, or a combination thereof.

A. If the funding source requires a set-aside allotment, entity categories shall have a percentage allotment of available funding reserved in any given fiscal year. If an allotment is not reached in any given entity category, the division will decide how to leverage the remaining funds against eligible projects.

B. If a set budgetary amount is identified in the application instructions, projects exceeding that amount which have provided justification and demonstrated need for the additional cost may request consideration for the increased amount, to be approved at the discretion of the division director.

[19.1.10.17 NMAC – N, 5/16/2023]

19.1.10.18 RECORD KEEPING AND REPORTING: Successful applicants receiving CEED program grants shall submit progress and expenditure reports, including a final report, in accordance with the requirements of their respective contract or agreement. Reporting requirements may be on a project-specific basis. The division will process reimbursements for costs that are incurred no more than once per month. The division will notify applicants as necessary of the funding source(s) applied to their projects and any associated reporting and compliance requirements associated with the funding. Applicants shall be responsible for satisfying any such requirements associated with an identified funding source as part of the grant solicitation or award in addition to the requirements of this part.

[19.1.10.18 NMAC – N, 5/16/2023]

19.1.10.19 ADMINISTRATIVE AND LEGAL REQUIREMENTS:

A. Environmental and cultural resources compliance for projects anticipating ground disturbance. Successful applicants receiving CEED program funding shall provide a statement to demonstrate

acknowledgement of compliance with all applicable federal, state, and local environmental and cultural resources laws.

B. Administrative compliance. Successful applicants receiving CEED program funding shall adhere to all applicable federal and state fiscal or procurement laws and any other applicable procurement procedures established by the division, in order to ensure that grant funds are expended in accordance with state and federal law including rules and regulations.

C. Program oversight. Successful applicants receiving CEED program funding shall be subject to periodic monitoring by the division to ensure compliance with applicable laws, rules, and regulations; the grant contract or agreement; and the program guidelines.

(1) Entities must cooperate fully with such evaluations, including, but not limited to, making all financial and program records available for inspection and personnel available for interview.

(2) If an entity materially fails to comply with the CEED program terms and conditions, whether stated in a law, statute, rule, regulation, assurance, application, or notice of award, the division director may take one or more enforcement actions, including terminating the grant, imposing specific conditions upon the award, or other remedies that may be legally available.

[19.1.10.19 NMAC – N, 5/16/2023]

19.1.10.20 VARIANCES: Written requests for a variance from any of the provisions of this rule shall:

- A. state the reasons for the variance request;
- B. identify each of the sections of this rule for which a variance is requested;
- C. describe the effect the variance will have, if granted, on compliance with this rule;
- D. describe how granting the variance will not compromise, or will further, the purposes of this rule;

and

- E. indicate why the proposed variance is a reasonable alternative to the requirements of this rule.

[19.1.10.20 NMAC – N, 5/16/2023]

19.1.10.21 MAINTENANCE AND INSPECTION OF PUBLIC RECORDS ACT/CONFIDENTIAL INFORMATION: All information obtained regarding the project, including pre-applications, applications for funding, and reports are subject to disclosure, in response to requests received under provisions of the New Mexico Inspection of Public Records Act, Sections 14-2-1 to 14-2-12 NMSA 1978. Information that could reasonably be considered to be proprietary, privileged or confidential commercial or financial information must be identified as such by the applicant. The division will maintain the confidentiality of that information only to the extent permitted by law.

[19.1.10.21 NMAC – N, 5/16/2023]

History of 19.1.10 NMAC: [RESERVED]