

State Board of Finance

Administrative Guide

2.61.2 NMAC — Dedication of a Portion of the State Gross Receipts Tax Increment for Metropolitan Redevelopment

Issued by: New Mexico State Board of Finance (“Board”)

Administered with: Department of Finance & Administration (“DFA”), Board of Finance Division, and Economic Analysis Unit

Governing rule: 2.61.2 NMAC — Dedication of a Portion of the State Gross Receipts Tax Increment for Metropolitan Redevelopment

Statutory authority: Metropolitan Redevelopment Code, NMSA 1978, Chapter 3, Article 60A, including §§ 3-60A-21 and 3-60A-23

How to use this Guide

This Guide explains how a local government applies to the Board for a dedication of a portion of the state gross receipts tax (“GRT”) increment under 2.61.2 NMAC, and how to request that a specific application requirement be non-applicable, waived or substituted or satisfied by an existing document (“substitution”). It standardizes those processes so that requirements, deadlines, and decision timelines are uniform and predictable for every applicant.

This Guide is an administrative aid. It does not amend 2.61.2 NMAC or the Metropolitan Redevelopment Code, nor does it bind the Board’s exercise of the discretion the rule commits to it. Where this Guide and the rule differ, the rule controls. Section and subsection references are to 2.61.2 NMAC unless otherwise noted.

Part 1: Overview and Legal Authority

1.1 What the program does

Tax increment financing dedicates the growth in tax revenue generated within a defined redevelopment area to fund redevelopment in that area. It is a district-based tool: a geographic area is singled out for treatment different from surrounding areas, the tax base is fixed at a baseline, and the increment above that baseline is dedicated to redevelopment costs or debt service.

Under the Metropolitan Redevelopment Code, a metropolitan redevelopment plan, “as originally approved or as later modified,” may dedicate a portion of a property tax increment or a gross receipts tax increment to fund a metropolitan redevelopment project for up to twenty years. A local government and the Board may each dedicate up to seventy-five percent of the applicable increment, and a dedication resolution takes effect only on January 1 or July 1 of the calendar year. The increment procedures run annually for a maximum of twenty years.

1.2 The Board’s authority and role

The Legislature directed the Board to “promulgate rules for implementing the dedication of a state gross receipts tax increment” and for determining the amount of the increment. 2.61.2 NMAC is that rule. Before dedicating a state GRT increment, the Board must, based on its review of the applicable metropolitan redevelopment plan, find that the dedication is reasonable and in the state’s best interest.

The Board reviews and decides each application and each request for a waiver, substitution, or modification. In doing so, the Board applies published, consistent standards (Part 5) and reserves to itself, in its sole and absolute discretion, the decision whether any requirement is waived or modified.

1.3 Two application types

This Guide distinguishes two application types because the level of detail feasible for each differs:

- Area-wide (district) TIF: a request supporting district-level redevelopment activity across a metropolitan redevelopment area.
- Project-based TIF: a request supporting a specific redevelopment project or projects.

Practitioner guidance recognizes this distinction: district-wide or zonal programs are treated differently from project-specific arrangements because analyses that can be produced for a defined project will likely differ in detail or specifics from analyses for an entire district over a twenty-year horizon. The Board applies that distinction through the applicability matrix in Part 3.

1.4 Funding expectation—the dedicated increment must be leveraged

The dedication of a state GRT increment is not an end in itself; the Metropolitan Redevelopment Code contemplates that the increment will be leveraged to finance redevelopment. Before dedicating a state GRT increment, the Board must find, based on its review of the applicable metropolitan redevelopment plan, that the dedication is reasonable and in the best interest of the state. § 3-60A-23(C)(2), NMSA 1978. By statute, the Board must also condition any dedication of the state GRT increment on the initial issuance of bonds secured by that increment no later than four years after the Board adopts the dedication resolution. § 3-60A-23(C), NMSA 1978. A dedication that the local government does not intend to leverage — through tax increment bonds or another financing mechanism that puts the increment to work — is therefore difficult to reconcile with the statutory scheme and with the best-interest-of-the-state finding.

This expectation applies to every MRA TIF request, whether area-wide or project-based. In its application and financing plan, an applicant should identify how the dedicated increment will be leveraged, the anticipated financing structure, and the expected timing of the initial bond issuance within the four-year statutory window. Because bonds issued in whole or in part against a state GRT increment also require review by the New Mexico Finance Authority and specific authorization by law before issuance, applicants should account for that additional approval path when planning their financing timeline. § 3-60A-49, NMSA 1978. The Board will weigh the absence of any plan to leverage the increment in determining whether a requested dedication is in the best interest of the state.

Part 2 — Key Definitions

The following studies and plans are defined in 2.61.2.7 NMAC and required under 2.61.2.8 NMAC. Each study must be prepared by a qualified professional or an independent consultant approved by the Board.

Term	Meaning (summarized from 2.61.2.7 NMAC)	Rule
Economic analysis study	An analysis of the economic feasibility of a project — costs, benefits, and projected economic impacts — with tables/charts from tools such as IMPLAN, REMI, and ESRI and a methodology appendix.	N.M. Admin. Code 2.61.2.7
Market absorption study	A study of market demand for real property in the area and the rate	N.M. Admin. Code 2.61.2.7

Term	Meaning (summarized from 2.61.2.7 NMAC)	Rule
	at which the market can absorb new supply; it incorporates a population analysis and a housing supply study.	
Housing supply study	A statistical description of the community's housing supply, including units, turnover, rents/prices, population estimates, and displacement risk.	N.M. Admin. Code 2.61.2.7
Population analysis	A breakdown of the area's population by age, income, employment, and education, with projected units, price per square foot, and market supply.	N.M. Admin. Code 2.61.2.7
Financing plan	A plan outlining the sources and uses of funds (revenue or debt) for the redevelopment, including the GRT-increment financing rationale.	N.M. Admin. Code 2.61.2.7
Operating plan	A plan describing how the local government will carry out redevelopment activities, including management, staffing, and operational procedures.	N.M. Admin. Code 2.61.2.7

Substitution, modification, and waiver are defined and distinguished in Part 4 of this Guide.

Part 3 — Application Elements and the Applicability Matrix

3.1 Required application elements

A local government seeking to dedicate a portion of the state GRT increment must submit an application to the Board that includes, among other elements, an operating plan, a financing plan, a market absorption study, and an economic analysis, each as defined in 2.61.2.7 NMAC.

The Board “may consider the scale, complexity, and public investment associated with the local government’s request when determining the appropriate level of specificity, detail, and analysis of the requirements,” and may request additional best-practice elements as needed. This Guide uses that authority to establish default expectations by application type.

3.2 The applicability matrix

The Board classifies each application element into one of three dispositions for each application type. This matrix sets forth the Board’s default classification; an applicant may rely on it when preparing an application, subject to the standards in Part 5 and the Board’s review of the specific submission.

- Required — the element must be submitted as a standalone deliverable.

- Required; substitution available (§8.C) — the element is required, but the applicant may request that an existing current instrument (e.g., the MRA Plan, TIF Plan, boundary designation, or market study) satisfy it under the substitution path (Part 4.2) if the existing document meets the §8.C standard. The Board does not presume that the required content already exists in another document.

Application element	Area-wide (district) TIF	Project-based TIF
Operating plan	Required	Required
Financing plan	Required (district-level; project-specific bond terms not expected)	Required (project-level, including bond structure and pro-forma)
Market absorption study (incl. population analysis + housing supply study)	Required; substitution may be requested under §8.C (the Board does not presume the study already exists)	Required
Economic analysis study — district feasibility, blight-mitigation, property-value-trend content, project-level multiplier effects, “but for” analysis, three-digit NAICS job/salary projections, workforce-development plans	Required; substitution may be requested under §8.C (the Board does not presume the study already exists)	Required

Applicants proposing a classification different from this matrix should raise the issue at the pre-application conference (Part 6.1) and document it using the applicable standardized request content in Part 7.

3.3 The “but for” requirement

A consistent requirement for TIF is the “but for” showing: without the incentive, development would not happen at the same scale, quality, or speed. For area-wide designations, the Board accepts a district-level “but for” demonstration completed during boundary designation and the MRA Plan.

Part 4 — The Three Paths: Substitution, Exemption Waiver & Modification Waiver

The rule provides three distinct alternative requirement paths. Choosing the correct path determines which standardized request content to provide (Part 7) and which timeline applies (Part 6).

4.1 Substitution — existing documents in lieu of a requirement — §8.C

The Board may accept existing metropolitan redevelopment plans, blight studies, tax-increment financing action plans, budgets, or other documents in lieu of specific application requirements. The local government must seek Board approval of that use before submitting the application and must allow sufficient time for the Board to consider the request. Existing documents are accepted “only to the extent that they substantively convey the information required” and are “sufficiently recent so as to provide the Board with a reasonably accurate understanding,” and the local government “must clearly identify how and where the existing documents address the requirement.”

Two standards drawn from redevelopment practice inform how the Board applies §8.C:

- Substance over form. An existing study can satisfy a requirement so long as its methods yield substantial evidence documenting the required information; no particular format is mandated. Conversely, a document that lacks specific, quantifiable support for the required point is not an adequate substitute.
- Currency. A prior plan or blight determination does not stand indefinitely; the Board assesses whether the existing document remains current enough to support the finding. As a default guideline, the Board

will generally regard a supporting study or determination completed within the preceding five years as presumptively current; for older documents, or where conditions have materially changed since the document was prepared, the Board may require that it be updated.

- File: the Standardized Substitution Request Content a cross-reference table (Part 7.1).

4.2 Exemption waiver or modification waiver — §8.B / §13

When a requirement applies but the local government seeks an exemption or a modification, it must obtain formal Board approval for a waiver under Section 13. The Board, in its sole and absolute discretion, may waive or modify application requirements “where strict compliance would be impracticable or inconsistent with the nature of the redevelopment activity,” unless the waiver would be contrary to the Metropolitan Redevelopment Code or would impair the Board’s obligations under § 3-60A-23(C), NMSA 1978.

- Exemption: The applicant seeks to be excused from a required analysis in whole or in part; this requires a § 13 waiver.
- Modification: The applicant will still perform the required analysis but proposes a different form, scope, or methodology; this requires a § 13 waiver.
- File: the Waiver / Modification Request Form (Part 7.3).

4.4 Decision tree

If the required analysis...	Path	Request Content	Waiver needed?
already exists, current, in another document	Substitution (§8.C)	Part 7.1	No — Board approval of substitution N.M. Admin. Code 2.61.2.8
will be performed, but in a changed form/scope/methodology	Modification (§13)	Part 7.2	Yes — formal Board modification waiver N.M. Admin. Code 2.61.2.8
Will not be performed in part or entirety	Waiver (§13.C)	Part 7.2	Yes — formal Board exemption waiver N.M. Admin. Code 2.61.2.8

Part 5 — Standards the Board Applies

5.1 Standard for accepting an existing document (substitution)

The Board accepts an existing document only to the extent that it substantively conveys the required information, is sufficiently recent, and is cross-referenced to the specific requirement it satisfies. For this purpose, “substantial evidence” means relevant evidence that a reasonable person would accept as adequate to support the required point, and “current” is assessed against the five-year default described in Part 4.2. Where blight or similar findings are at issue, the applicant should identify in the existing document the specific criteria that support the finding; such determinations ordinarily rest on multiple criteria rather than a single factor.

5.2 Standard for an exemption waiver or modification waiver

The Board may, in its discretion, grant a waiver or modification when strict compliance would be impracticable or inconsistent with the nature of the redevelopment activity, subject to the Metropolitan Redevelopment Code and § 3-60A-23(C) NMSA 1978.

- Exemption: A requirement will be considered impracticable or inconsistent only when the applicant demonstrates through extraordinary, evidence-based justification that the analysis cannot be credibly

performed by any reasonable method, even at a district scale, and that no proxy, partial analysis, scaled methodology, scenario-based approach, or level of aggregation can satisfy the informational purpose of the requirement. The applicant must document the analytical approaches explored and why each fails, with justification tied to the inherent nature of the redevelopment rather than uncertainty. Before seeking an exemption, the applicant must also show why existing plans, blight studies, district plans, housing studies, or market analyses cannot be used as substitutions, as failure to fully explore the substitution pathway will be grounds for denying the request. Ultimately, the applicant must provide compelling evidence explaining why reasonable projections or assessments cannot be made using available ranges, assumptions, or trend data.

- **Modification:** A requirement may be approved in modified form only when the applicant demonstrates, with clear and well-supported justification, that the required analysis can be credibly performed but that strict adherence to the prescribed form, scope, or methodology is not feasible or is inappropriate. The applicant must show that the proposed alternative approach—whether a different methodology, scaled analysis, adjusted scope, or revised format—still fulfills the informational purpose of the requirement and provides the Board with a reliable basis to make its statutory findings. A complete modification request must explain the specific departure from the rule; describe all analytical options considered, including district-level aggregation, partial analyses, proxy methods, or scenario-based approaches; and demonstrate why the chosen alternative is the most appropriate way to meet the requirement’s intent. The applicant must also identify any existing plans or studies incorporated as part of the modified methodology and justify why they are sufficient to support the modified requirement. The Board will only approve a modification when the alternative approach is robust, evidence-based, tailored to the nature of the redevelopment, and preserves the Board’s ability to evaluate reasonableness, fiscal impact, and alignment with statutory obligations.

5.3 Consistency and reasoned decisions

The Board decides comparable requests consistently and explains the basis for its decisions. Consistency across similar cases is a recognized measure of the reasonableness of administrative action, and a decision on a waiver request should connect the relevant facts to the standard rather than merely reciting a conclusion. The Board gives meritorious requests a considered review of all relevant factors.

Part 6 — Procedures and Timelines

6.1 Step 1 — Pre-application conference (strongly encouraged)

Before preparing an application, a local government is encouraged to schedule a pre-application conference with Board staff and the DFA Economic Analysis Unit to discuss the application elements, the metropolitan redevelopment plan, and the proposed activities. The local government may raise any waiver requests and any requests to use existing documents in lieu of specific requirements at this time. Applicants should use the pre-application conference to confirm the application type and identify any elements for which they intend to seek a waiver or substitution.

6.2 Step 2 — File waiver and substitution requests early

Applicants may file a substitution or waiver request, including the intent and justification for the substitution, exemption waiver, or modification waiver. If the supporting local document (for example, an MRA Plan amendment) has not yet completed local adoption, the applicant should so state; the Board may condition its approval on the later delivery of the finalized document.

- Waiver requests (§13): must be submitted for formal Board approval at least two months before the complete application is submitted.
- Substitution requests (§8.C): must be submitted for Board approval before the application is filed and with sufficient time for the Board to consider them. Applicants should file substitution requests on the same two-month schedule as waiver requests to maintain a uniform pre-application calendar. The Board may, in its discretion, accept a complete application for filing while a substitution or waiver request

remains under review, so that staff has adequate time to review potentially lengthy existing documents without the applicant losing a filing cycle. If the Board denies a substitution or waiver request, the applicant must supply the required standalone deliverable, which may delay consideration of the application.

6.3 Step 3 — Submit the complete application by the deadline

Applications are considered at the Board's regular meetings in June or December each year.

- A complete application must be submitted no later than November 1 of the preceding year for the June meeting or July 1 of the preceding year for the December meeting.
- All required materials must be submitted electronically, and tables must be submitted as Microsoft Excel files that include all data, assumptions, and formulae.
- If the governing body has not adopted the resolution pledging its increment by the submission deadline, that resolution must be provided immediately upon adoption; the Board may impose a condition or defer action if the dedication is not made before the meeting.
- Concurrent submittal. In addition to the Board, copies of the application must be submitted to the DFA Economic Analysis Unit, the New Mexico Finance Authority, the Taxation and Revenue Department's Office of the Secretary, and the Legislative Finance Committee staff.

6.4 Step 4 — Board review, supplementation, and decision

The Board may require an informational presentation at a meeting prior to the meeting at which the application is considered and may also require the submission of supplemental information during its review.

Cure/supplementation. When the Board identifies specific additional information needed for it to consider the request, the applicant may supplement the record. Once staff confirms the submission is complete, the matter will be placed on the next available Board agenda — rather than restarting at the next semiannual deadline. This procedure reflects the standard notice-and-opportunity-to-cure model, under which a party receives written notice of a deficiency and a defined, limited window to correct it, rather than facing an immediate adverse outcome. During the review period, Board staff will endeavor to keep the applicant apprised of the status of the review and to give notice of any additional information needed, so that deficiencies can be raised and addressed before the meeting at which the application is considered rather than after.

6.5 Timeline summary

Step	Timing
Pre-application conference	Before preparing the application
Waiver request (§13)	At least two months before the complete application, NMAC 2.61.2.13
Substitution request (§8.C)	Before the application, recommended two months prior to NMAC 2.61.2.8
Complete application — June meeting	By the preceding November 1, NMAC 2.61.2.9
Complete application — December meeting	By the preceding July 1, NMAC 2.61.2.9
Board decision	June or December meeting NMAC 2.61.2.9
Supplemental information	During review, staff will apprise the applicant of status and any additional information needed; once the submission is complete, the matter returns to the next available agenda

6.6 Public inspection

All information submitted to the Board under 2.61.2.9 NMAC is available for public inspection unless otherwise provided by law. Applicants should prepare their submissions accordingly.

Part 7 — Standardized Request Content

The sections below standardize each request and lay out what each request requires. Applicants should submit the information with the supporting documentation identified.

7.1 Substitution Request — Existing Document in Lieu of a Requirement (§8.C)

1. Local government/applicant
2. Metropolitan redevelopment area
3. Application type (District-wide or project-based)
4. Rule requirement to be satisfied by an existing document
5. Adoption status (finalized/adopted, pending adoption (with expected adoption date))
6. Currency certification — applicant's attestation that the analysis remains accurate and current (supports, but does not replace, the Board's independent currency determination)

Required attachment — cross-reference table. Identify exactly how and where the existing document addresses each element of the requirement:

Rule requirement / sub-element	Existing document	Page / section	Notes on how it is addressed

7.2 Waiver Request (§13)

1. Local government / applicant
2. Metropolitan redevelopment area
3. Rule requirement(s) for which a waiver is sought
4. Type of request (exemption waiver, modification waiver)
5. Summary of requested departure (Identify the portion of the requirement for which exemption or modification is sought.)
6. Evidence and justification information

For an exemption waiver:

Provide extraordinary, evidence-based justification demonstrating that the analysis cannot be credibly performed by any reasonable method. Describe:

- Analytical approaches explored (e.g., aggregation, proxy analyses, partial studies, scenario-based methods);
- Why each approach cannot meet the informational purpose of the requirement;
- Why substitutions using existing plans or studies (blight studies, MRA plans, housing or market studies) are not feasible;
- Evidence showing why projections or assessments cannot be made using reasonable ranges, assumptions, or trend data.

For a modification waiver:

Describe why strict compliance with the prescribed form, scope, or methodology is not feasible or appropriate. Provide:

- The alternative form, scope, methodology, or level of detail proposed (e.g., partial completion, aggregate-level analysis, generalized assumptions, higher uncertainty);
- Analytical options considered and justification for selecting the proposed alternative;

- Identification of any existing plans or studies incorporated into the modified approach and explanation of why they are sufficient;
- Confirmation the modified analysis still fulfills the informational purpose of the requirement and supports the Board's statutory findings.

7. Supporting documentation included:

- ☐ Analytical approaches explored
- ☐ Evidence supporting impracticability (exemption)
- ☐ Description of alternative methodology (modification)
- ☐ Evaluation of substitution documents
- ☐ Data, projections, assumptions, or trend analyses
- ☐ Other supporting materials (specify): _____

8. Confirmation the request is filed at least two months before the complete application

7.3 Pre-Application and Completeness Checklist

- ☐ Pre-application conference scheduled with Board staff and the DFA Economic Analysis Unit
- ☐ Application type identified (area-wide or project-based)
- ☐ Applicability matrix reviewed; each element classified (required / non-applicable / substitution)
- ☐ Substitution requests filed before the application with cross-reference tables (Part 7.1)
- ☐ Waiver/modification requests filed at least two months before the complete application (Part 7.2)
- ☐ Required elements prepared: operating plan, financing plan, market absorption study, economic analysis study
- ☐ Studies prepared by a qualified professional or independent consultant approved by the Board
- ☐ "But for" showing appropriate to the application type (Part 3.3)
- ☐ Governing-body resolution pledging the increment (or plan to provide it upon adoption)
- ☐ Materials submitted electronically; tables in Excel with data, assumptions, and formulae
- ☐ Concurrent copies to the DFA Economic Analysis Unit, NM Finance Authority, Taxation & Revenue Department, and LFC staff
- ☐ Complete application submitted by the applicable deadline (November 1 or July 1)

Contact¹

Questions about this Guide, the pre-application conference, or a specific waiver, substitution, or modification request should be directed to the Board of Finance Division of the Department of Finance & Administration. Applicants are encouraged to engage Board staff early, before incurring the cost of studies, to confirm the application type and the disposition of each application element.

¹ *This Guide is issued for the convenience of applicants and does not amend 2.61.2 NMAC or the Metropolitan Redevelopment Code. The Board retains its discretion under 2.61.2.13 NMAC to grant or deny any waiver or modification and to determine whether an application requirement has been satisfied.*