

**FLORIDA HOUSING FINANCE CORPORATION**  
**Board Meeting**  
April 26, 2013  
Action Items



# FISCAL

## *Action*

### I. FISCAL

#### A. Investment Guidelines

##### 1. Background

- a) Florida Housing developed and implemented investment guidelines in January 1998. The Board of Directors approved the guidelines.
- b) In 2005, the Board authorized the Executive Director to modify the investment guidelines as needed, with changes provided to the Board for ratification at the next scheduled meeting.

##### 2. Present Situation

- a) Several events prompted Florida Housing to review the investment guideline. New contracts with investment managers were recently signed; Florida Housing's investment liquidity which is governed by program utilization of funds has changed during the current market cycle; and interest rates in the current market cycle.
- b) Proposed changes to the guidelines, resulting from discussions with the investment managers and the Financial Advisor, will provide opportunities to improve the rate of return on investments yet retain the low level of risk which will sustain Florida Housing's principal. The revised guidelines also include multiple benchmarks that are more targeted to the structure of the portfolio.
- c) The revised Investment Guidelines approved by the Executive Director are attached as [Exhibit A](#).

##### 3. Recommendation

- a) Ratify the revised Investment Guidelines as approved by the Executive Director.

## **FISCAL**

### ***Action***

#### **B. Unrestricted Net Assets**

##### **1. Background**

- a) For financial statement presentation purposes, Florida Housing's net assets fall into two primary categories: Restricted and Unrestricted. Restricted net assets are those on which constraints have been placed by law or external agreements or entities.
- b) Florida Housing's Board may "designate" net assets within the Unrestricted Net Asset balance for specific purposes. This designation means that the Board has directed the use of these assets for certain purposes. The Board may choose to modify or remove such designations through future votes.
- c) There are currently three main categories of designations: demonstration and other initiatives, single family bond program and operating reserve.
- d) Examples of these designations by the Board include:
  - (1) demonstration programs such as victims of domestic violence and persons with special needs;
  - (2) the subordinate mortgage program for loans guaranteed by the Guarantee Fund;
  - (3) all funds in the Single Family Escrow accounts for the single family bond program. These accounts include cash, investments and loans remaining after bonds were fully defeased. Since these funds derive from the single family bond program, they have historically been set aside for use within that program;
  - (4) a housing credit reserve (for future compliance monitoring fees) and budget stabilization . The amount of this designation currently provides for future compliance monitoring fees and two years of operations; and
  - (5) to support multiyear operating costs for the development and implementation of a data management system and a capital needs assessment project.

##### **2. Present Situation**

- a) In the 2012 audit performed by the Auditor General, a recommendation was made to disclose these designations in detail in the financial statements. Florida Housing agreed with this recommendation and will list the specific designations in the December 31, 2012 financial statement footnotes.

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- b) Staff is requesting the board approve the following general designations for presentation in the financial statements. The exact amounts for the 2012 financial statements are not known until the financial statement is prepared. The 2011 amounts are provided as a reference point.
- (1) Single Family Programs – includes all funds in the single family escrow and related accounts. For 2011, this amount was \$12.75 million.
  - (2) Dedicated Reserve for Operations – includes a housing credit compliance monitoring reserve and operating budget stabilization. This designation was approximately \$42.87 million in 2011.
  - (3) Demonstration and Other Initiatives – includes funds for demonstration programs and to support other programs such as the Guarantee Fund. This designation would include all net assets not designated for Single Family or Operations. In 2011, this amount was approximately \$40 million.
- c) Other unrestricted net asset designations may also include other risks and contingencies as approved by the Board.

### 3. **Recommendation**

Staff recommends that the Board approve the designation of unrestricted net assets as articulated above.

## LEGAL

### Action

## II. LEGAL

### A. Pearl Apartments, Ltd. v. Florida Housing Finance Corporation - FHFC Case No.: 2012-047UC

<b>Development Name: (“Development”):</b>	<b>The Pearl Application No. 2011-158C</b>
<b>Developer/Principal: (“Developer”):</b>	<b>Gatehouse Group, LLC</b>
<b>Number of Units: 100</b>	<b>Location: Miami-Dade County</b>
<b>Type: High Rise</b>	<b>Set Aside: 10% @ 28% AMI 90% @ 60% AMI</b>
<b>Demographics: Elderly</b>	<b>Housing Credits: \$2,561,000</b>

#### 1. Background

- a) Pearl Apartments, Ltd. (“Petitioner”) applied for funding, under Application No. 2011-158C, during the 2011 Universal Application Cycle, seeking Low Income Housing Tax Credits. Petitioner was notified by Florida Housing Finance Corporation (“Florida Housing”) of its final ranking on or about June 8, 2012. Petitioner was not funded as other Applications, No. 2011-052C (Collins Park, LLC) and 2011-128C (RLI Beneficial Development II, LLC) collectively, the “Challenged Applications” were ranked higher. There was insufficient housing credit allocation to fund Petitioner after the Challenged Applications were funded. Petitioner timely filed a Petition for Formal Administrative Proceeding under Sections 120.569 and 120.57(2), Florida Statutes, challenging Florida Housing’s scoring of the Challenged Applications, alleging that Florida Housing incorrectly scored the Challenged Applications as Collins Park, LLC, failed to provide a firm commitment under Part V.D. of the 2011 Application Instructions; and RLI Beneficial Development II, LLC, failed to provide evidence of infrastructure under Part III.C. of the 2011 Universal Application Instructions.
- b) Florida Housing filed a Motion to Dismiss for Lack of Standing, alleging that even if Petitioner prevailed in the merits of its Petition, Petitioner would remain unfunded under Florida Housing’s rules that govern ranking. Petitioner maintained that it had standing. For the purposes of the hearing, Florida Housing conceded the merits of the Challenged Applications and proceeded with the hearing with Petitioner’s eligibility for funding remaining as the only issue to be adjudicated.

#### 2. Present Situation

A hearing was conducted on August 23, 2012, and February 25, 2013 before Florida Housing’s appointed Hearing Officer, Diane Tremor. The parties filed Proposed Recommended Orders. On March 14, 2013, the Hearing Officer issued a Recommended Order, finding that Petitioner was eligible for funding, and recommending that Florida Housing adopt a Final Order awarding Petitioner its requested tax credit funding from the next available allocation. A copy of the Recommended Order is attached as [Exhibit A](#).

## **LEGAL**

### *Action*

#### **3. Recommendation**

Staff recommends that the Board: Adopt the Findings of Fact of the Recommended Order, the Conclusions of Law of the Recommended Order, and the Recommendation of the Recommended Order, and issue a Final Order in accord with same.

## MULTIFAMILY PROGRAMS

### *Action*

### III. MULTIFAMILY PROGRAMS

#### A. Multifamily Mortgage Revenue Bonds (MMRB) and Non-Competitive Housing Credits – Rulemaking

##### 1. Background/Present Situation

- a) To solicit comments concerning Rule Chapters 67-21 and 67-48, F.A.C., and proposed changes to the application process, rule development workshops were held on April 26, 2012, June 7, 2012, July 19, 2012, August 14, 2012, September 6, 2012, and October 1, 2012.
- b) As a result of these workshops, staff has continued to revise the application process and the rules governing the multifamily programs.
- c) As discussed at the December 7, 2012 Board meeting, Competitive Housing Credits will be awarded through various competitive request for proposals and request for applications. At the June 21, 2013, Board meeting, staff expects to submit for approval the 2014 Qualified Allocation Plan, proposed Rule Chapter 67-48, F.A.C., and the new rule governing the competitive request for application process (Rule Chapter 67-60, F.A.C.).
- d) To facilitate the application process for Corporation-issued tax-exempt bonds (MMRB), with or without Non-Competitive Housing Credits, and for Non-Competitive Housing Credits to be used with tax-exempt bonds issued by another source, staff has transferred the credit underwriting and program provisions for Non-Competitive Housing Credits from Rule Chapter 67-48, F.A.C., to Rule Chapter 67-21, F.A.C. Therefore, going forward, all applications for MMRB and/or Non-Competitive Housing Credits will be accomplished under the authority of Rule Chapter 67-21, F.A.C., and will not be affected by the rule development process for the competitive funding programs.
- e) Staff would like to proceed with rule development process for Rule Chapter 67-21, F.A.C., and requests the Board's approval of the proposed Rule and Non-Competitive Application. A supplement to the Board Package will be provided which contains these documents.
- f) If the Board approves the proposed rule and Application as presented, the Notice of Proposed Rulemaking (NOPR) will be published in the April 30, 2013 edition of the Florida Administrative Register. The NOPR will announce the Rule Hearing which is scheduled for May 21, 2013, in Tallahassee. Following review of the public comments received at the Rule Hearing and the comments received from the Joint Administrative Procedures Committee following its review of the NOPR, staff will proceed as follows:

If modification of the proposed rule is not required, staff will file Rule Chapter 67-21, F.A.C., for adoption.
- g) If modification of the proposed rule is required, staff will prepare a Notice of Change (NOC) to incorporate all proposed modifications to the proposed rule and, if required, will submit the NOC for Board approval.

## MULTIFAMILY PROGRAMS

### *Action*

#### 2. **Recommendation**

Approve the proposed rule and Application and authorize staff to file the rule for adoption if a NOC is not required, and, if a NOC is required, authorize the Chair to determine whether a NOC makes material, substantive changes to the rule chapter. If he determines that it does not, staff recommends that the Board approve such NOC without the requirement of another Board meeting. In the alternative, if the Chair determines that any NOC does make material, substantive changes to the rule chapter, staff recommends that a telephonic board meeting be called to obtain Board approval for any required changes, with such changes to be ratified at the next regularly scheduled Board meeting.



## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### IV. PROFESSIONAL SERVICES SELECTION (PSS)

##### A. State Housing Initiatives Partnership (SHIP) Program Compliance Monitoring Services

###### 1. Background

- a) Florida Housing is required by 420.9075, F.S. to monitor the activities of local governments participating in the SHIP program to determine compliance with program requirements. This requirement is met through periodic compliance monitoring reviews of each SHIP local government performed by compliance monitoring firms as assigned by and under the supervision of Florida Housing compliance staff.
- b) On June 22, 2007, the Board approved the recommendation of the review committee appointed to evaluate the responses to the RFP and authorized staff to enter into contract negotiations with First Housing Development Corporation of Florida, Florida Planning Group, Inc. and Seltzer Management Group, Inc. to provide compliance monitoring services for the SHIP Program. The contracts were signed and became effective in December 2007.
- c) The initial term of the contracts was three years. The contracts could be renewed for an additional three-year period upon mutual agreement of Florida Housing and each firm. Under this provision, all three contracts were renewed in December 2010.

###### 2. Present Situation

- a) The current SHIP compliance monitoring services contracts expire as follows (based on the dates the contracts were executed):
  - (1) Florida Planning Group, Inc. – December 19, 2013;
  - (2) First Housing Development Corporation of Florida – December 14, 2013; and
  - (3) Seltzer Management Group, Inc. – December 19, 2013.
- b) In order to continue to carry out the required compliance monitoring of SHIP local governments, staff is recommending that a new request for proposals (RFP) be issued to procure the services of compliance monitoring firms capable of providing these services.
- c) The contracts for SHIP compliance monitoring services will be subject to the program receiving funding.

###### 3. Recommendation

Authorize staff to draft an RFP and begin the solicitation process for SHIP Program Compliance Monitoring Services and authorize the Executive Director to establish a review committee to review responses to the RFP and to make a recommendation to the Board.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### **B. Request Permission to Issue a Request for Proposals (RFP) for Compliance Administration for the Single Family Homebuyer Program**

##### **1. Background**

- a) In June of 2010, Florida Housing's Board of Directors selected U.S. Bank Home Mortgage Company to provide servicing and compliance administration for the Single Family Homebuyer Program.
- b) The term of the original contract with U.S. Bank Home Mortgage was for two years. The contract provides for two renewals. The first of the two contract renewals occurred in October 2012 for a one year period.

##### **2. Present Situation**

- a) U.S. Bank Home Mortgage (Servicer) contracted with eHousing to provide the compliance administration to Florida Housing. U.S. Bank Home Mortgage has advised that it will no longer provide compliance administration services for Florida Housing after September 30, 2013. The purpose of the RFP will be to obtain the compliance administration services for the Single Family Homebuyer Program.
- b) The primary responsibilities of the compliance administrator selected may include, but will not be limited to, the following:
  - (1) Provide and manage a reservation system for participating lenders to utilize program funds, access program documents as well as manage their pipeline. It should also enable Florida Housing and third parties to monitor reservations through reporting features.
  - (2) Provide and manage a compliance and mortgage monitoring system that will allow Servicer to purchase eligible loans from participating lenders;
  - (3) Provide periodic lender training sessions online, accessible to lenders at any time, on utilizing the reservation system as well as program training as needed and directed by Single Family Program Staff;
  - (4) Have the ability to notify participating lenders, electronically or through the online reservation system, of any changes or updates to Agency (Fannie Mae, Freddie Mac, USDA-RD, VA, and FHA) guidelines, rules and regulations once changes have been communicated and/or confirmed by the Servicer and Single Family Program Staff;
  - (5) Provide Florida Housing's trustee with confirmation of loan accuracy and wiring instructions for the distribution of second mortgage funds.
  - (6) Provide reports as requested by Florida Housing or third parties.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

3. **Recommendation**

Authorize Florida Housing staff to begin the solicitation process for compliance administration services for the Single Family Homebuyer Program and authorize the Executive Director to establish a Review Committee to make a recommendation to the Board.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### C. Management Company Services

##### 1. Background

The mission of Florida Housing Finance Corporation (Florida Housing) is to help our fellow Floridians obtain safe, decent housing that might otherwise be unaffordable to them. One of the ways this is done is by making loans to developers of affordable multifamily housing developments. As it may become necessary for Florida Housing to foreclose on such loans or to otherwise replace the Management Company that operates an affordable multifamily housing development for which Florida Housing has made a loan, Florida Housing has a need for qualified firms to perform Management Company services to ensure full compliance with all applicable federal, state, and local laws including specific requirements, procedures, and guidelines for the HOME Investment Partnership Program, Multifamily Mortgage Revenue Bonds Program, State Apartment Incentive Loan Program, and Demonstration Development Programs in the event of foreclosure, and for the Housing Credit Program when a development also participates in a Florida Housing loan program.

##### 2. Present Situation

- a) Florida Housing currently has management contracts with Services Taylor-Made, Inc., Stephenson & Moore, Inc., Concord Management, Ltd., Royal American Management Services, Inc., The Wilson Company and WRH Realty Services, Inc.
- b) Florida Housing staff has determined that it is necessary to issue a new Request for Qualifications to supplement the approved list of management companies that have experience working with providers of community-based supportive services and experience managing developments serving persons and households with special needs, such as frail elders, youth aging out of foster care, survivors of domestic violence or persons with disabilities.

##### 3. Recommendation

- a) Authorize staff to begin the solicitation (RFQ) process in order to obtain responses from qualified entities to increase the pool of management companies that provide supportive housing services.
- b) Authorize the Executive Director to establish a Review Committee to review the RFQ responses and make a recommendation to the Board.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### **D. Affordable Housing Catalyst Program Services**

##### **1. Background**

- a) The Affordable Housing Catalyst Program provides training and technical assistance to local governments and community based organizations on state and federal housing programs. This includes administration and implementation of the State Housing Initiatives Partnership (SHIP) Program, the HOME Investment Partnerships (HOME) Program, Hardest Hit Fund Program and other affordable housing programs. The Affordable Housing Catalyst Program has been outsourced since its inception.
- b) Florida Housing is authorized to administer the Affordable Housing Catalyst Program (Catalyst) under chapter 2004-243, Laws of Florida, amending Section 420.531, F.S.

##### **2. Present Situation**

- a) A Request for Proposals (RFP) process was initiated and RFP 2013-03 was issued on Tuesday, February 12, 2013 ([Exhibit A](#)) and a Modification to the RFP ([Exhibit B](#)) was issued on February 13, 2013. The deadline for receipt of responses was 2:00 p.m., Tuesday, March 19, 2013. One proposal from the Florida Housing Coalition was received by the deadline.
- b) The Review Committee members, designated by the Executive Director, were Rob Dearduff, Special Programs Administrator (Chair), Rebecca Sheffield, Asset Management Analyst and Elaine Roberts, Senior Policy Analyst.
- c) Each member of the Review Committee individually reviewed the Proposal prior to convening for the Review Committee meetings. The Review Committee meetings were held at 10:00 a.m. Monday, March 25, 2013 and the final meeting was held at 10:00 a.m. Tuesday, April 2, 2013. At the April 2, 2013 meeting the Committee provided scores and a recommendation to the Board. Final scoring is provided as [Exhibit C](#).
- d) Because Florida Housing currently contracts with Florida Housing Coalition to carry out Catalyst Program services and is very satisfied with the quality of these services, the Review Committee was comfortable with recommending the one offeror for contract services.
- e) Funding for the Catalyst Program will be subject to funding availability either through the Florida Legislature or other sources.

##### **3. Recommendation**

The Committee recommends that Florida Housing enter into contract negotiations with Florida Housing Coalition to determine the scope of services and fees based on funding that is available through a legislative appropriation or other Florida Housing sources.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### **E. Request Approval of Request for Qualification Responses From Housing Counseling Agencies to Provide Counseling Services for the Foreclosure Counseling Program**

##### **1. Background**

- a) On February 1, 2013, the Board approved a staff recommendation to issue a Request for Qualifications (RFQ) for Housing Counseling Agencies (HCA) for the implementation of the Foreclosure Counseling Program (FCP) funded through the national mortgage settlement.
- b) On February 12, 2013, Florida Housing posted the RFQ ([Exhibit D](#)) on the Corporation's website and posted notice of the RFQ on the corporation's Web Board for the FCP.
- c) On March 12, 2013, 49 responses to the RFQ were received prior to the deadline.
- d) On March 22, 2013, and April 1, 2013, the Review Committee appointed by the Executive Director met to discuss and approve the RFQ responses. The Review Committee was comprised of the following individuals: Rob Dearduff, Special Program Administrator and Local Government Liaison, Elizabeth O'Neill, Senior Policy Analyst, Lily Shen, Financial Accountant and Matt Jugenheimer, Hardest Hit Fund Compliance Officer.

##### **2. Present Situation**

- a) In order to administer the FCP as efficiently as possible, staff believes that approving a maximum number of qualified HCAs to provide counseling services under this RFQ will best serve the needs of homeowners throughout the state. For this reason, the RFQ was designed to:
  - (1) Allow any HUD approved HCA in good standing with Florida Housing to participate in the program provided they submitted adequate information as required in the RFQ.
  - (2) Allow that any responses to the RFQ received after the initial deadline be considered for approval by the Board at a subsequent meeting.
- b) The Review Committee reviewed all responses and has recommended approval of all 49 agencies that responded as listed on Exhibit E pending submission of updated documentation listed on the exhibit and satisfaction of any past due issues the entity may have with Florida Housing.

##### **3. Recommendation**

Approve the list of HCAs on [Exhibit E](#) recommended by the Review Committee to provide counseling services under the Foreclosure Counseling Program contingent upon all needed documentation listed on [Exhibit E](#) being submitted to Florida Housing and allow staff to notify each counseling agency and issue contracts to those that meet all requirements.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### F. Permanent Loan Servicing Software Request for Proposals

##### 1. Background

The Board of Directors gave approval at the February 1, 2013 Board of Directors meeting to issue a Request for Proposals for Loan Servicing Software to purchase permanent loan servicing software that can be used to service the Hardest Hit Fund loans funded by the federal government.

##### 2. Present Situation

- a) A Request for Proposals (RFP) process was initiated and RFP 2013-05 was issued on Friday, March 8, 2013 ([Exhibit F](#)). The deadline for receipt of responses was 2:00 p.m., Wednesday, March 27, 2013. Three proposals were received by the deadline. The proposals were received from Benedict Group, Inc., The Mitas Group and eMason, Inc. d/b/a Clairfire.
- b) The proposal received from eMason, Inc. d/b/a Clairfire was rejected due to the omission by the Respondent to include the signed Certification which was a required threshold item found in Section Five of the RFP.
- c) The Review Committee members, designated by the Executive Director, were Susan Platt, Assistant Director of Asset Management and Compliance (Chair), Angie Sellers, Comptroller, Linda Arredondo, Chief Technology Officer, Tim Kennedy, Special Assets Administrator, Diane Rommel, Loan Servicing Manager, Misty Smith, Loan Servicing Senior Analyst and Nicole Gibson, Federal Loan Program Administrator.
- d) Each member of the Review Committee individually reviewed the proposals prior to convening the Review Committee meetings. The Review Committee's first meeting was held at 1:00 p.m. Tuesday, April 2, 2013 and the final meeting was held at 1:30 p.m. Monday, April 8, 2013. At the April 8, 2013 meeting, the Committee provided scores and a recommendation to the Board. Final scoring is provided as [Exhibit G](#).

##### 3. Recommendation

The Review Committee recommends that Florida Housing enter into negotiations to purchase the required permanent loan servicing software from Benedict Group, Inc. The Review Committee recommends that if contract negotiations with Benedict Group, Inc. fail then Florida Housing begin contract negotiations with The Mitas Group.

## PROFESSIONAL SERVICES SELECTION (PSS)

### *Action*

#### **G. Request Approval of Request for Proposals Response for the Provision of Training, Technical Assistance and Counseling Evaluation Services for the Foreclosure Counseling Program**

##### **1. Background**

- a) On February 1, 2013, the Board approved a staff recommendation to issue a Request for Proposals (RFP) for the Provision of Training, Technical Assistance and Counseling Evaluation Services for the Foreclosure Counseling Program funded through the national mortgage settlement.
- b) On February 12, 2013, Florida Housing posted the RFP ([Exhibit H](#)) on the Corporation's website and posted notice of the RFP on the corporation's Web Board for the Foreclosure Counseling Program.
- c) On March 12, 2013, two responses to the RFP were received prior to the deadline. They were from the Florida Housing Coalition and the Florida Housing Counseling Network.
- d) On March 28, 2013, and April 8, 2013, the Review Committee appointed by the Executive Director met to discuss scores, reconcile and choose a response to recommend to the Board. The final scoring grid is provided as [Exhibit I](#).

##### **2. Present Situation**

The Review Committee reviewed all responses and recommends approval of Florida Housing Counseling Network as the entity contracted by Florida Housing to provide these services.

##### **3. Recommendation**

Approve Florida Housing Counseling Network as recommended by the Review Committee to provide training, technical assistance and counseling evaluation services under the Foreclosure Counseling Program and allow staff to enter into contract negotiations with the Florida Housing Counseling Network. If contract negotiations fail then Florida Housing may enter into contract negotiations with Florida Housing Coalition, Inc.