

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
August 9, 2013
Action Items



MULTIFAMILY ENERGY RETROFIT PROGRAM

Action

I. MULTIFAMILY ENERGY RETROFIT PROGRAM

A. Request Approval of Program Parameters and Terms for the Multifamily Energy Retrofit Program

1. Background

- a) The State Energy Office housed in the Florida Department of Agriculture and Consumer Services is the administrator of energy initiatives and funding for Florida. The Energy Office received funding from the federal American Recovery and Reinvestment Act of 2009 targeted to energy programs (funding comes from the U.S. Department of Energy). In late February, the State Energy Office approached Florida Housing with a proposal to enter into an agreement to provide Florida Housing with funding to be used for energy retrofits in multifamily housing. Under this agreement, Florida Housing would develop and administer the funding. At its March 15, 2013, meeting, Florida Housing's Board of Directors authorized staff to develop a multifamily energy retrofit program, using the State Energy Office funding to seed a revolving loan fund.
- b) The Energy Office expects to provide Florida Housing with a minimum of \$5.1 million in funding for this purpose. The federal deadline to expend the funds is September 30, 2013, and the funds will be considered expended once they are provided to Florida Housing. The Energy Office has indicated that it is interested in putting additional money into this program in the future to make this an ongoing program.

2. Present Situation

- a) After evaluation of federal program regulations, other state housing finance agency programs and communication with the Energy Office, Florida Housing staff proposes to create a revolving loan fund to provide energy retrofit loans to aging properties in our portfolio. The goal is to provide loans to upgrade old, inefficient building components, with the resulting savings on energy costs used to repay the loans. Developments will be required to have an energy audit to assess potential savings before any work is done, and only those properties that are projected to have a certain level of savings will be eligible for the program. Properties will be required to monitor and report energy use/savings to show the status of energy performance improvements. The proposed program parameters are outlined below.
- b) The program goal is to reduce energy use and cost in multifamily buildings in Florida Housing's portfolio by updating and replacing old, inefficient building components with energy efficient components.
- c) The general program approach is that Florida Housing will issue a competitive Request for Proposals (RFP), and properties awarded tentative funding will obtain an energy audit from an energy auditor qualified by Florida Housing through a Request for Qualifications (RFQ). Once the credit underwriter and staff have reviewed audit results and agreed on a scope of work with each property owner, final loan approval will be sought from the Board. Construction will be monitored by the credit underwriter and once construction is complete, the property will begin reporting on energy performance through utility bills for the term of the loan.

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d) **Program Guidelines:**

- (1) The loan amount will be a maximum of \$5,000 per unit (not including soft costs/fees), with the actual amount based on recommended measures in the audit, in conjunction with a plans and cost review. Based upon discussions with other state housing finance authorities, staff expects the costs will average \$3,000-\$3,500 per unit. The loan terms will require annual payments of principal and interest based on an amortization schedule term tied to projected energy savings. Interest rates will be indexed to the 10-Year Treasury and fixed at the time of issuance for each RFP. Staff anticipates the typical loan term to be 10 years. The credit underwriter must review and determine whether the projected cash flow analysis, including the projected energy savings, will support repayment of the loan in accordance with a first mortgagee's requirements for third party subordinate financing.
- (2) Florida Housing will issue a competitive RFP to seek interested property owners from Florida Housing's portfolio. Properties must be at least 15 years old and current on: any financial obligations, including but not limited to, obligations to Florida Housing or any agent or assignee of Florida Housing; their mortgage(s) (if there is/are mortgage(s) on the property) and property taxes with no tax and judgment liens. Applicants will also be reviewed for past financial performance as well as current capacity to take on additional debt.
- (3) Funding priority will be given to properties that have ready access to utility data for reporting purposes. This includes:
 - Properties that are master-metered (i.e., the property receives and pays the utilities for the entire property, including the residential units, and the tenants in the residential units pay the property rent and utilities based on a determined utility allowance);
 - Properties in the jurisdiction of a utility willing to assist with the provision of utility data for reporting purposes. Similar programs have had greater success with the public utilities compared to investor-owned utilities;
 - Properties in the jurisdiction of a utility company with a demand management program in which multifamily property owners are eligible for financial assistance (e.g., various energy efficiency rebates and subsidies available from government and utility sources such as appliance rebates, retrofit grants); and
 - Tenant-metered properties that are only retrofitting common areas (lowest priority).

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- (4) Once properties are tentatively chosen to participate in the program, an energy audit will be carried out by an independent, certified, third party auditor that is experienced with multifamily properties. For this purpose, Florida Housing will issue an RFQ for energy audit providers. For a property to receive a loan, the audit must show estimated energy savings of at least 15% over the property's current energy use based on historic utility data and modeling. The retrofit as a whole must show a Savings to Investment Ratio¹ of at least 1.0 overall, meaning the features will pay themselves back over their useful life.
 - (5) Funds will be used for the following purposes:
 - Hard construction costs for improvements related to:
 - Air infiltration improvement (e.g., envelope sealing, duct sealing, weather stripping)
 - Appliances, lighting, faucets/showerheads, HVAC systems, programmable thermostats, boilers/water heaters, insulation, window film and, possibly, windows (note: windows are an expensive replacement item, and the staff will be doing some further evaluation with utility companies and other experts to determine whether the cost/benefit of funding window replacements is sensible for this program;
 - Soft costs, e.g., credit underwriting, legal expenses and the energy audit. Energy audits cost from \$5,000 to \$15,000.
 - (6) Property owners receiving loans through this program must commit to maintaining the affordability of the property. Properties with less than 15 years left on their affordability periods must extend affordability out to 15 years from when the loan is closed. Affordability extensions will not be required for properties with greater than 15 years left on their affordability commitment.
- e) A proposed term sheet is provided as [Exhibit A](#).
 - f) Florida Housing will be allowed to use 10% of the funding for administrative costs (currently estimated at \$510,000). The primary uses of administrative funds will be for data collection and reporting, Florida Housing staffing of the program and any travel associated with the program, which will be minimal. In addition, Florida Housing expects to charge the borrower fees, including commitment fees, fees for credit underwriting, permanent loan servicing and compliance monitoring. Staff anticipates these fees will be consistent with those typically charged for such services for Florida Housing's other programs.

¹ Savings to Investment Ratio is a ratio of the net present value of all savings to the net present value of the total investment. The greater the SIR value above 1.0, typically the more favorable the recommendation is for consideration of implementation.

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- g) Federal energy funding includes reporting requirements to show the energy savings achieved from the retrofit. Florida Housing will report key measures to the State Energy Office, which will in turn report to the Department of Energy on a quarterly basis for the life of the loan. As the retrofits are taking place, Florida Housing will provide quarterly status updates, including number of loans provided, amount of loans closed, and number of energy audits conducted. Once the retrofits are complete, properties are required to report energy use so that pre- and post-retrofit energy use can be compared. Working with the State Energy Office, Florida Housing will develop a plan for reporting utility data that meets the requirements of the program and demonstrates the improved energy performance of the properties. Due to the robust reporting requirements of this program, staff expects to bring a proposal to the Board at a future meeting to use a portion of the administrative funding to contract with the University of Florida to collect and analyze the utility data.

- h) **Next Steps:**

If the Board approves these program parameters, Florida Housing will be ready to proceed with an agreement with the Energy Office for use of the funds. The Energy Office must sign the agreement and disburse funding to Florida Housing by September 30, 2013, to ensure that the funds are not de-obligated from the state. Once the agreement is signed, the staff will begin implementation of the program by providing a program timeline to the Board; issuing an RFQ for qualified energy auditors and an RFP to seek interested, eligible properties for retrofits; and developing an approach to collect, analyze and report utility data.

3. **Recommendation**

- a) Authorize the Executive Director to sign an agreement with the Florida Department of Agriculture and Consumer Services/State Energy Office to receive approximately \$5.1 million to fund the creation of the Multifamily Energy Retrofit Program; and that the Board approve the terms and parameters of the new program as provided herein;
- b) Authorize staff to begin the solicitation (RFQ) process in order to obtain responses from energy auditors to perform energy audits for the Multifamily Energy Retrofit Program and authorize the Executive Director to establish a Review Committee to review the RFQ responses and make a recommendation to the Board; and
- c) Authorize staff to begin the solicitation (RFP) process in order to obtain responses from Applicants interested in reducing energy use and cost in multifamily buildings in Florida Housing's portfolio by updating and replacing old, inefficient building components with energy efficient components.

MULTIFAMILY PROGRAMS

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II. MULTIFAMILY PROGRAMS

A. 2014 Qualified Allocation Plan

1. Background/Present Situation

- a) Rule development workshops were held to solicit comments concerning the proposed changes to Rule Chapter 67-48, F.A.C. and the 2014 Qualified Allocation Plan (QAP) on May 20, 2013 and July 30, 2013.
- b) The QAP will be incorporated by reference in Rule Chapter 67-48, F.A.C. Once the QAP is approved staff will be able to present the document to the Governor for his signature and move forward with the rule making process for Rule Chapter 67-48, F.A.C.
- c) Staff requests the Board's approval of the 2014 QAP. A supplement to the Board Package will be provided which contains this document.

2. Recommendation

Approve the QAP and authorize staff to move forward.

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B. Request for Applications (RFA) to Finance Permanent Supportive Housing for Homeless Persons

1. Background

Florida Housing Finance Corporation was appropriated \$10 million in non-recurring grant funds by the 2013 Legislature to provide housing for homeless persons. The legislation specifies that Florida Housing offer the funding through a competitive grant program to private nonprofit organizations. Funding must be used to develop housing for homeless individuals and families, with priority given to those households with extremely low incomes. The funding must be used to purchase and renovate existing houses, or to construct or purchase and renovate small specialty housing of 15 units or less.

2. Present Situation

- a) After seeking comments from a wide variety of stakeholders who serve homeless people, Florida Housing proposes to allocate funds across small, medium and large counties based on the most recently available number of homeless households in those counties. Applicants proposing to develop housing would only compete with other applicants from the same county grouping, thus encouraging the development of homeless housing in both rural and more urban areas of the state.
- b) Florida Housing proposes to target grant funds for the following housing types:
 - Purchase and rehabilitation of existing homes for homeless persons. Types of properties to be funded would be single family, duplex, triplex or quadraplex units. In this category, 1-4 units per application would be funded; and
 - New construction (including land and housing) or purchase/rehabilitation of existing housing for homeless persons. Types of properties to be funded would be small garden-style apartment buildings. In this category, 5-15 units would be funded.
- c) Funding provided through this RFA is required by law to be encumbered by June 30, 2015, and disbursed by September 30, 2015. As a result, it is critical that Florida Housing award funding as soon as possible. The timeline for issuing these RFAs is as follows:
 - August 8, 2013 – Public workshop to discuss proposed approaches
 - Mid-Late September 2013 – Provide draft RFAs to the public for comment
 - Early October 2013 – Issue RFAs
 - Early November 2013 – Applications due to Florida Housing for scoring
 - December 13, 2013 – Board approves Review Committee funding selection

MULTIFAMILY PROGRAMS

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3. **Recommendation**

Authorize staff to proceed with the Request for Applications competitive process that will offer \$10 million in grant funding to serve homeless individuals and families, and authorize the executive director to proceed in establishing a review committee to make recommendations to the Board.

MULTIFAMILY PROGRAMS

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C. Request for Applications (RFA) to Finance Permanent Supportive Housing for Persons with Developmental Disabilities

1. Background

Florida Housing Finance Corporation was appropriated \$10 million in non-recurring grant funds by the 2013 Legislature for housing for persons with developmental disabilities, as defined in s. 393.063, Florida Statutes. The legislation specifies that Florida Housing offer the funding through a competitive grant program to private nonprofit organizations whose primary mission includes serving persons with developmental disabilities. Funding must be used for new construction and renovation of existing housing units, including Community Residential Homes as defined in s. 419.001, Florida Statutes. Florida Housing is required to consider the extent to which funds from local and other sources will be used by applicants to leverage these grant funds; employment opportunities and supports that will be available to residents of the proposed housing; a plan for residents to access community-based services, resources, and amenities; and partnerships with other supportive services agencies.

2. Present Situation

- a) After seeking comments from a wide variety of stakeholders who serve persons with developmental disabilities, Florida Housing proposes to split this funding into two Requests for Applications. One RFA would make grant funds available for larger properties more typical of what Florida Housing funds through its rental funding cycles. This funding could be combined with 2014 9% Low Income Housing Tax Credits which will also be made available in this RFA.
- b) A second RFA would make grant funds available to build or acquire and rehabilitate smaller rental developments of up to 6 units, including Community Residential Homes, which are essentially group homes.
- c) Funding provided through this RFA is required by law to be encumbered by June 30, 2015, and disbursed by September 30, 2015. As a result, it is critical that Florida Housing award funding as soon as possible. The timeline for issuing these RFAs is as follows:
 - August 8, 2013 – Public workshop to discuss proposed approaches
 - Mid-Late September 2013 – Provide draft RFAs to the public for comment
 - Early October 2013 – Issue RFAs
 - Early November 2013 – Applications due to Florida Housing for scoring
 - December 13, 2013 – Board approves Review Committee funding selection

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3. **Recommendation**

- a) Authorize staff to proceed with the Request for Applications competitive process that will offer \$10 million in grant funding to serve persons with developmental disabilities through two RFAs and a portion of Florida Housing's 2014 housing credit allocation this purpose.
- b) Authorize the executive director to proceed in establishing a review committee for each RFA to make recommendations to the Board.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

III. PROFESSIONAL SERVICES SELECTION (PSS)

A. Request Approval of Responses to Request for Proposals (RFP) 2013-10 for Hearing Officer Services

1. Background

- a) At its March 15, 2013, meeting Florida Housing's Board authorized staff to begin the RFQ process, and establish a review committee, to select hearing officers. Florida Housing requires the services of a Hearing Officer to preside over administrative hearings, pursuant to Sections 120.569 and 120.57(2), Fla. Stat. and Fla. Admin. Code R. 28-106, at Florida Housing for litigation resulting from a Florida Housing agency action. A copy of the RFP is attached as [Exhibit A](#).
- b) Previously, Florida Housing has had at least two individual hearing officers under contract. Even where two hearing officers were available, Florida Housing has encountered difficulties with scheduling hearings.

2. Present Situation

- a) An RFP process was initiated and RFP 2013-10 was issued on June 11, 2013. Responses to the RFQ were due on or before 2:00 p.m., Tuesday, June 25, 2013.
- b) One response was received in response to the RFP: Hayward & Grant, P.A.
- c) The Review Committee members designated by the Executive Director were Wellington Meffert, General Counsel, Hugh Brown, Deputy General Counsel and Claudia Medina, HHF Communications Specialist.
- d) The proposal from Hayward & Grant offered the services of Mr. Barclay and Mr. Grant. The Committee noted that Mr. Barclay has extensive administrative law experience, while Mr. Grant's experience is in transactional matters, with no administrative law experience provided in the response.
- e) The Review Committee meeting was held on Monday, July 8, 2013 at 10:00 a.m. Ms. Medina was unable to attend due to illness, but did submit her scores, which are part of the record. A copy of the scoring grid is attached as [Exhibit B](#).

3. Recommendation

The Review Committee recommends that Florida Housing enter into contract negotiations with Hayward & Grant, P.A., for Mr. Barclay's services, and that staff continue efforts to expand the pool of available hearing officers, including reissue of the solicitation, and/or contracting for hearing officer services with the Division of Administrative Hearings.

PROFESSIONAL SERVICES SELECTION (PSS)

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B. Request Approval of Responses to Request for Proposals (RFP) 2013-09 Compliance Administration for the Single Family Homebuyer Program

1. Background

At its April, 26, 2013, meeting, Florida Housing's Board authorized staff to begin the RFP process and establish a review committee to select compliance administration services for the Single Family Homebuyer Program. A copy of the RFP is attached as [Exhibit C](#).

2. Present Situation

- a) The RFP was issued on June 19, 2013, with responses due on or before 2:00 p.m., Tuesday, June 25, 2013.
- b) One response was received from Housing and Development Services ("HDS"), Inc.
- c) The review committee members designated by the Executive Director were David Westcott, Director of Homeownership Programs, Charles White, Single Family Programs Administrator, Sandy Gaver, Single Family Programs Manager and Melanie Weathers, Bond Administrator.
- d) The Review Committee meetings were held on Monday, July 8, 2013, at 10:00 a.m., and on Monday, July 15, 2013, at 10:00 a.m. A copy of the scoring grid is attached at [Exhibit D](#).

3. Recommendation

The Review Committee recommends that Florida Housing enter into contract negotiations with Housing and Development Services, Inc. as the Compliance Administrator for the Single Family Homebuyer Program, pending successful, good faith negotiations on the proposed schedule of fees as well as other items in the HDS response.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

C. Request Approval of Responses to Request for Qualifications (RFQ) 2013-13 for Structuring Agent Services

1. Background

- a) In August 2008 Florida Housing entered into contracts for Structuring Agent services with the following firms:
 - (1) Morgan Keegan and Company
 - (2) RBC Capital Markets
 - (3) Stern Brothers & Co.
 - (4) Raymond James & Co.
- b) In 2012, Morgan Keegan and Raymond James merged into one company.
- c) The initial term of the contracts was for a three year period. The initial contracts expired in August 2011. The contracts were renewable for two additional one-year periods.
- d) At its June 10, 2011, and June 8, 2012, meetings, Florida Housing's Board of Directors (Board) authorized staff to proceed with the contract renewal process for each provider for one (1) year.
- e) On April 9, 2013, Florida Housing staff issued RFQ 2013-11 Structuring Agent Services. On June 21, 2013, Florida Housing's Board directed staff to enter into contract negotiations with the three offerors: George K. Baum & Company, RBC Capital Markets, LLC and Raymond James.

2. Present Situation

- a) Stern Brothers & Co. contended that because Florida Housing did not post the Notice of Bid in the Florida Administrative Register, they did not have the opportunity to bid for the contract.
- b) On June 25, 2013, Florida Housing issued RFQ 2013-13 Structuring Agent Services provided as [Exhibit E](#). The deadline for receipt of the Responses was 2:00 p.m. on July 9, 2013.
- c) One (1) response was received from the following Offerors:
 - (1) Stern Brothers & Co.

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- d) The Review Committee members, designated by the Executive Director, were Wayne Conner, Multifamily Bonds and Chair of the Committee; Jan Rayboun, Loan Closing Coordinator, Kevin Pichard, Assistant Director of Guarantee Program and Brian Williams, Guarantee Program Senior Asset Manager. Each member of the Review Committee individually reviewed the Responses prior to convening for the Review Committee meetings. The Review Committee meeting was held at 10:00 a.m., Thursday, July 18, 2013.
- e) Results of the Review Committee's evaluation of the scored items and ranking are provided as [Exhibit F](#).

3. **Recommendation**

The Review Committee recommends entering into contract negotiations with Stern Brothers & Co.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

D. Request Approval to Begin Request for Proposals Process for Cash Flow Verification Agent Services

1. Background

- a) Florida Housing currently utilizes the services of Causey Demgen & Moore, Inc. to provide cash flow verifications for fixed rate single-family and multi-family mortgage revenue bonds. This service verifies the mathematical accuracy of the cash flows, the mortgage yield and bond yield produced by the investment banker/structuring agent.
- b) Fla. Admin. Code R. 67-49.002(1)(b), Florida Housing's procurement rule, provides that when the purchase price of commodities or contractual services exceeds or is estimated to exceed twenty-five thousand dollars (\$25,000), in any twelve (12) month period, purchases of these commodities or contractual services, except as otherwise provided in subsection 67-49.002(4),(5) and (6), must be made pursuant to an Invitation to Bid, Invitation to Negotiate, Request for Proposals (RFP) or Request for Qualifications.

2. Present Situation

Rule 67-49.002(1)(b) applies when the anticipated aggregate amount paid for any service will exceed \$25,000 annually. Florida Housing staff believes the RFP process for these services should be initiated.

3. Recommendation

Staff recommends that the Board authorize staff to begin the RFP process to acquire cash flow verification services and authorize the Executive Director to establish a Review Committee to make a recommendation to the Board.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

E. Request Approval of Responses to the Request for Qualifications for Housing Counseling Agencies to Provide 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) At the April 26, 2013, Board Meeting, the Board approved 49 HCAs to provide services for the FCP. At the June 21, 2013, Board Meeting, two additional HCAs were approved.

2. Present Situation

- a) The RFQ allowed for HCAs to respond beyond the original submission date to allow Florida Housing to maximize the number of qualified agencies to provide adequate foreclosure counseling coverage across the state. Three additional HCAs have applied to participate in the FCP.
- b) The proposals were reviewed and recommended for approval by the RFQ review committee on Thursday, July 11, 2013, pending the submission of all required documentation. They are:
 - (1) Miami Beach Community Development Corporation
 - (2) Community Legal Services of Mid-Florida
 - (3) DMCC (Debt Management Credit Counseling Corporation)

3. Recommendation

Approve the three HCAs that were recommended for approval by the RFQ review committee on July 11, 2013.