

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
May 8, 2015
Action Items



LEGAL

Action

I. LEGAL

A. Resolution

1. Background/Present Situation

In the ordinary course of business, situations arise where an authorized signature is needed on routine financial documents and to effect bond transactions. By a series of resolutions, the Board has previously delegated signature authority to the Executive Director, the Chief Financial Officer, and the Comptroller, to execute corporation bonds and related documents, and has designated certain corporation employees as Assistant secretaries of the Corporation for purposes of attesting signatures on bond documents.

2. Present Situation

Draft Resolution 2015-07 reflects changes in corporation personnel, specifically by adding Hugh R. Brown, General Counsel, as Assistant Secretary for purposes of attesting signatures on bond documents. A copy of the Resolution is attached as [Exhibit A](#).

3. Recommendation

That the Board adopt Resolution 2015-07 delegating signature authority and designating staff as described in such Resolution.

MULTIFAMILY ENERGY RETROFIT PILOT

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II. MULTIFAMILY ENERGY RETROFIT PILOT

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

1. Background

- a) The State Energy Office (Energy Office), housed within the Florida Department of Agriculture and Consumer Services (DACS) administers energy initiatives in Florida. The Energy Office received State Energy Program (SEP) funding from the U.S. Department of Energy through the American Recovery and Reinvestment Act of 2009 (ARRA). In February of 2013, the Energy Office proposed to use the SEP funds to establish a revolving loan fund administered by Florida Housing in order to finance energy retrofits in older affordable housing. Federal regulations specifically allow this use of SEP funds under 10 CFR 420.
- b) At its August 2013 meeting, the Board of Directors authorized Florida Housing staff to execute an agreement with DACS, approved program parameters, and directed staff to implement the program. On September 16, 2013, Florida Housing executed an agreement with DACS establishing a \$6,297,600 revolving loan fund. The agreement was subsequently amended on September 25, 2013; and October 27, 2014, to increase the total amount of funds to \$8,370,093 and revise timelines.
- c) The approved program parameters require an Energy Audit performed by a qualified professional in order to recommend specific energy conservation measures and forecast resultant energy savings. On January 27, 2014, Florida Housing published a Request for Qualifications (RFQ) seeking qualified energy auditors. At its March 2014 meeting, the Board of Directors authorized staff to enter into contract negotiations with the firm EMG. Florida Housing and Clampett Industries, LLC d/b/a EMG Holdings LLC, executed an agreement on February 2, 2015.
- d) Federal requirements, the contract with DACS, and the approved program parameters require post-retrofit monitoring of energy consumption. On January 22, 2014, Florida Housing executed an agreement with the University of Florida Program for Resource Efficient Communities to provide data collection and analysis.
- e) On October 29, 2014, Florida Housing issued a request for application (RFA) in order to solicit property owners interested in carrying out energy retrofits. There were no responses.

2. Present Situation

- a) From December 2014 through April 2015, Florida Housing staff consulted with developers and property owners, DACS, other entities across the nation which have implemented similar programs, and utility providers in order to restructure

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the MERP to be more inviting to property owners. Stakeholder feedback indicated a number of challenges:

- (1) The federal subsidy requires compliance with the Davis-Bacon Act. This requirement adds to contractors' labor costs and administrative burdens.
 - (2) Under the first RFA, Florida Housing did not offer a developer fee or owner incentive, and owners were concerned about the transactional costs of the program compared to the loan size.
 - (3) The program was only available to master-metered properties, those served by the largest municipal utility providers, and those served by Florida Power and Light. Individually metered properties served by the three other investor owned utilities were ineligible to apply for MERP.
 - (4) The program would only fund energy conservation measures with high savings to investment ratios (SIRs) and required a minimum projected savings of at least 15%. In effect, this prevented the replacement of windows and possible other retrofits of interest to property owners. Several property owners were primarily interested in the program in order to replace windows at aging properties.
 - (5) Many property owners stated that it would be difficult to obtain consents from superior lien holders and limited partners in order to encumber the property and perform the work.
 - (6) The loan terms outlined in the RFA required fully amortized repayment based on the projected energy savings resulting from the retrofit with a maximum loan term of 10 years. Many property owners expressed concern that they would be unable to meet debt service in the event the projected savings did not materialize.
- b) Florida Housing staff worked to find solutions to these issues. The following concepts will be tested as part of a limited pilot program:
- (1) Based on transaction models with various cost assumptions, staff recommends increasing the maximum per unit loan amount from \$5,000 to \$15,000, with the expectation that the average per unit retrofit amount will be \$10,000.
 - (2) A project incentive fee of up to 16% will be offered.
 - (3) Florida Housing has proposed to the Energy Office that up to 15% of the retrofit award be provided as a grant to offset costs of the energy audit; loan, credit underwriting and construction fees; and some of the costs of meeting Davis-Bacon requirements.
 - (4) Staff has now obtained the cooperation of three of the four investor owned utilities in Florida.
 - (5) Staff recommends eliminating the SIR and minimum projected savings requirements and instead recommends sizing the scope of work and loan amount based on the priority needs identified in the Energy Audit.

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The Energy Audit will prioritize the measures with the highest projected energy savings.

- (6) Staff proposes to alter the loan terms to interest-only payments contingent upon cash flow for qualifying properties. The loan repayment will be co-terminus with the first mortgage and principal repayment will be due upon sale or refinance. The loan will be assumable subject to approval by Florida Housing. This should alleviate the concerns of operators and partially ease the reticence of superior lien holders and investors.
- (7) For the pilot, staff proposes to offer the funds on a first-come, first-served basis.
- c) At the January and March 2015 Board meetings, staff reported that it was considering combining MERP with the Competitive Housing Credit Preservation RFA. This approach has proven infeasible. The Davis-Bacon requirement applies to the entire scope of work of any federally assisted project. Federal regulations prohibit developers from splitting jobs into separate contracts in order to isolate the federally assisted component within a larger scope of work. Consequently, a housing credit project with MERP funding would have to pay a 10-15% premium on its construction hard costs and incur additional soft costs. For this reason, staff has abandoned the idea of combining MERP with Preservation.
- d) Staff recommends offering a portion of this funding through a limited pilot program starting in June of 2015. This timing is reliant on how quickly the Energy Office signs off on the contract with Florida Housing to update the workplan. This approach will enable the Corporation to gauge interest in the program and work closely with property owners to facilitate successful implementation of the retrofits. After the first 3-5 retrofits are complete, Florida Housing staff will evaluate the results and report back to the Board with its recommendations regarding the use of the remaining MERP funds. [Exhibit A](#) outlines the full set of pilot parameters.
- e) If the Board of Directors approves the pilot program parameters, Florida Housing will be ready to proceed with a contract amendment with the Energy Office to update the current work plan. Staff will also update its agreements with the University of Florida and EMG.

3. Recommendation

- a) Authorize staff to proceed with the Multifamily Energy Retrofit Pilot to offer loan and grant funds to eligible properties for energy retrofits based on the terms provided in Exhibit A, and authorize the staff to accept and process the first applications to send to credit underwriting.
- b) Authorize the Executive Director to execute an amendment to the agreement with the Florida Department of Agriculture and Consumer Services/State Energy Office to implement the MERP. In addition, authorize staff to amend both the agreement with the University of Florida for data collection and analysis to match the new program parameters and, as needed the agreement with EMG for the performance of Energy Audits of eligible properties.

MULTIFAMILY PROGRAMS

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III. MULTIFAMILY PROGRAMS

A. Request for Applications (RFA) 2014-115 for Housing Credit Financing for Affordable Housing Developments Located in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas Counties

1. Background/Present Situation

- a) On November 21, 2014, Florida Housing staff issued RFA 2014-115 offering an estimated \$15,553,993 of Housing Credits available for award to proposed Developments located in Broward County, Duval County, Hillsborough County, Orange County, Palm Beach County, and Pinellas County, through the following Demographic Set-Asides: (i) Homeless Demographic Set-Aside offering an estimated \$2,561,000 of Housing Credits plus an estimated \$4,683,000 of State Apartment Incentive Loan (SAIL) Program funding, and (ii) Family and Elderly Demographic Set-Aside offering an estimated \$12,992,993 of Housing Credits. The deadline for receipt of Applications was 11:00 a.m., Eastern Time, Tuesday, February 3, 2015.
- b) Florida Housing received 58 Applications in response to this RFA (4 for proposed Developments with the Homeless Demographic and 54 for proposed Developments with the Family or Elderly Demographic [23 Family and 31 Elderly]). The Review Committee members, designated by the Executive Director, were Bill Aldinger, Assistant Policy Director (Chair), Bill Cobb, Multifamily Programs Manager, Elaine Roberts, Senior Supportive Housing Analyst, Elizabeth O'Neil, Multifamily Programs Manager, Jean Salmonsens, Multifamily Housing Development Manager, Amy Garmon, Multifamily Programs Manager, John Toman, Policy Coordinator, Susan Parks, Special Programs Manager, and Tim Kennedy, Special Assets Administrator. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- c) At its April 29, 2015 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Four B of the RFA.
- d) The RFA 2014-115 All Applications chart (provided as [Exhibit A](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- e) The Review Committee considered the following two (2) motions:
 - (1) A motion to adopt the scoring results, as set out on Exhibit A; and
 - (2) A motion to tentatively select the Applications set out on [Exhibit B](#) for funding and invite the Applicants to enter credit underwriting.
- f) Both of the motions were passed unanimously.

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- g) As outlined in subsection 67-48.0072(1), F.A.C., at the completion of all litigation and approval by the Board of all Recommended Orders with regard to this RFA, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting.

2. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 58 Applications (set out on Exhibit A) and authorize the tentative selection of the 8 Applications (set out on Exhibit B) for funding and invitation to enter credit underwriting.
- b) An unallocated balance of \$1,503,148 of Housing Credits remains (\$402,148 from the Family and Elderly Demographic Set-Aside and \$1,101,000 from the Homeless Demographic Set-Aside). In addition, an unallocated balance of \$183,000 of SAIL funding remains from the Homeless Demographic Set-Aside. As provided in Section Four B of the RFA, any remaining funding will be distributed as approved by the Board.
- c) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications set out on Exhibit B.
- d) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.

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B. Request for Applications (RFA) 2014-116 for Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County

1. Background/Present Situation

- a) On November 21, 2014, Florida Housing staff issued RFA 2014-116 offering an estimated \$6,928,107 of Housing Credits available for award to proposed Developments located in Miami-Dade County, through the following Demographic Set-Asides: (i) Homeless Demographic Set-Aside offering an estimated \$2,561,000 of Housing Credits plus an estimated \$4,683,000 of State Apartment Incentive Loan (SAIL) Program funding and (ii) Family and Elderly Demographic Set-Aside offering an estimated \$4,367,107 of Housing Credits. The deadline for receipt of Applications was 11:00 a.m., Eastern Time, Tuesday, February 10, 2015.
- b) Florida Housing received 53 Applications in response to this RFA (3 for proposed Developments with the Homeless Demographic and 50 for proposed Developments with the Family or Elderly Demographic [34 Family and 16 Elderly]). The Review Committee members, designated by the Executive Director, were Bill Aldinger, Assistant Policy Director (Chair), Bill Cobb, Multifamily Programs Manager, Elaine Roberts, Senior Supportive Housing Analyst, Elizabeth O'Neil, Multifamily Programs Manager, Jean Salmonsens, Multifamily Housing Development Manager, Amy Garmon, Multifamily Programs Manager, John Toman, Policy Coordinator, Susan Parks, Special Programs Manager, and Kevin Tatreau, Director of Development Finance. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- c) At its April 29, 2015 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Four B of the RFA.
- d) The RFA 2014-116 All Applications chart (provided as [Exhibit C](#)) lists the eligible and ineligible Applications. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) and the ineligible Applications are listed in assigned Application Number order.
- e) The Review Committee considered the following two (2) motions:
 - (1) A motion to adopt the scoring results, as set out on Exhibit C; and
 - (2) A motion to tentatively select the Applications set out on [Exhibit D](#) for funding and invite the Applicants to enter credit underwriting.
- f) Both of the motions were passed unanimously.

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- g) As outlined in subsection 67-48.0072(1), F.A.C., at the completion of all litigation and approval by the Board of all Recommended Orders with regard to this RFA, the Corporation shall offer all Applicants within the funding range an invitation to enter credit underwriting.

2. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 53 Applications (set out on Exhibit C) and authorize the tentative selection of the 3 Applications (set out on Exhibit D) for funding and invitation to enter credit underwriting.
- b) An unallocated balance of \$381,000 of Housing Credits and \$383,000 of SAIL funding remains from the Homeless Demographic Set-Aside. As provided in Section Four B of the RFA, any remaining funding will be distributed as approved by the Board.
- c) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications set out on Exhibit D.
- d) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.

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C. Request for Applications (RFA) 2015-102 Elderly Housing Community Loan

1. Background/Present Situation

- a) On January 23, 2015, Florida Housing staff issued RFA 2015-102 offering an estimated \$3,653,200 of Elderly Housing Community Loan (EHCL) Program funding to Applicants proposing to provide life-safety, building preservation, health, sanitation, or security-related repairs or improvements to Developments currently serving Elderly residents aged 62 or older. The deadline for receipt of Applications was 11:00 a.m., Eastern Time, Tuesday, March 17, 2015.
- b) Florida Housing received 3 Applications in response to this RFA. The Review Committee members, designated by the Executive Director, were Elizabeth Thorp, Multifamily Programs Manager (Chair), Heather Boyd, Multifamily Programs Manager, and Karla Brown, Multifamily Programs Manager. Each member of the Review Committee independently evaluated and scored their assigned portions of the submitted Applications, consulting with non-committee staff and legal counsel as necessary and appropriate.
- c) At its April 14, 2015 Review Committee meeting, the individual committee members presented their scores and the Committee carried out the funding selection process in accordance with Section Four B of the RFA.
- d) The RFA 2015-102 All Applications chart (provided as [Exhibit E](#)) lists the eligible Applications. All 3 Applications were found to be eligible for funding. The eligible Applications (i.e., Applications that met all criteria to be eligible to be considered for funding) are listed in assigned Application Number order.
- e) The Review Committee considered the following two (2) motions:
 - (1) A motion to adopt the scoring results, as set out on Exhibit E; and
 - (2) A motion to tentatively select the Applications set out on [Exhibit F](#) for funding and invite the Applicants to enter credit underwriting.
- f) Both of the motions were passed unanimously.

2. Recommendation

- a) Approve the Committee's recommendations that the Board adopt the scoring results of the 3 Applications (set out on Exhibit E) and authorize the tentative selection of the 2 Applications (set out on Exhibit F) for funding and invitation to enter credit underwriting.
- b) A balance of \$2,153,200 remains in the Large County Geographic Category. As provided in Section Four B of the RFA, any remaining funding will be distributed as approved by the Board. Staff further recommends that the one eligible unfunded Medium County Application be funded from the remaining balance available.

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- c) If no notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., staff will proceed to issue an invitation to enter credit underwriting to the Applications tentatively selected for funding.
- d) If a notice of protest or formal written protest is filed in accordance with Section 120.57(3), Fla. Stat., et. al., then at the completion of all litigation, staff will present all Recommended Orders for Board approval prior to issuing invitations to enter credit underwriting to those Applicants in the funding range.

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D. Rule Development – Rule Chapter 67-21, F.A.C.

1. Background/Present Situation

Staff would like to implement changes to the Non-Competitive Application Package (NCA Rev. 11-14), which is incorporated by reference in paragraph 67-21.003(1)(a), F.A.C. Therefore, staff would like to begin the rule development process to solicit comments concerning the proposed changes by scheduling a rule development workshop.

2. Recommendation

Authorize staff to proceed with the rule development process.