

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
September 18, 2015
Action Items



HARDEST-HIT FUND

Action

I. HARDEST-HIT FUND

A. Request Approval to Modify the Principal Reduction (PR) Program

1. Background

- a) The PR program is designed to assist eligible “underwater” homeowners by providing up to \$50,000 applied to the principal balance of the first mortgage, to reduce the loan-to-value (LTV) to no less than 100 percent.
- b) Homeowners must be current on their mortgage and have the hardship of being at least 125% underwater, among other eligibility criteria. Since its launch in September, 2013, \$225.2 million has been expended to assist eligible homeowners.

2. Present Situation

Since the initial terms of the PR Program were negotiated, U.S. Treasury has approved eligible hardships of 115% LTV for similar programs in other HHF states. U.S. Treasury representatives have indicated that they would now be willing to allow Florida Housing to reduce our minimum LTV to 115%, as well.

3. Recommendation

Authorize staff to amend the PR term sheets to allow for an eligible hardship of 115% LTV, subject to further approvals and conditions from counsel, the U.S. Treasury and the appropriate Florida Housing staff.

LEGAL

Action

II. LEGAL

A. **Houston Street Manor L.P. v. Florida Housing Finance Corporation, DOAH Case No. 15-3302BID; FHFC Case No.2015-024BP (Intervenor Powers Avenue Senior Apartments, LTD, d/b/a/ Pine Grove Senior Apartments)**

1. **Background**

- a) This case regards a protest filed against the funding awards for projects under Request for Applications (“RFA”) 2014-115 for affordable housing developments located in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas Counties. Petitioner Houston Street Manor and Intervenor Pine Grove Senior Apartments applied for funding through the RFA seeking allocations of Low Income Housing Tax Credits. Both parties were notified of the Board’s intended decision on or about May 8, 2015. Both Houston Street and Pine Grove were deemed eligible and both had perfect scores, but Pine Grove was selected for funding due to its lower lottery number. Houston Street timely filed notice of intent to protest and formal written protests as required by section 120.57(3), Florida Statutes, challenging the Corporation’s scoring of Pine Grove’s application. Pine Grove properly and timely filed for intervention to participate in this case. The case was then referred to the Division of Administrative Hearings.
- b) The central issue in this case is whether Respondent Florida Housing Finance Corporation’s decision to award funding under RFA 2014-115, as proposed on May 8, 2015, was contrary to the agency’s governing statutes, the agency’s rules or policies, or the solicitation specifications. More specifically, the issues were whether Florida Housing’s decision to award maximum transit points to Pine Grove due to its proximity to a public bus transfer stop, and whether its determination that Houston Street’s application demonstrated the ability to proceed, were within the bounds described above.
- c) During the course of this proceeding it became apparent that the bus stop identified in Pine Grove’s application did not meet the definition of a public bus transfer stop. As a result of this fact, which was stipulated to by all parties, Florida Housing reversed its initial determination and took the position during the hearing that Pine Grove should have been determined to be ineligible and that Houston Street should have been selected for funding. It was also Florida Housing’s position that Houston Street’s application was properly determined to be eligible and that it had demonstrated its ability to proceed.

2. **Present Situation**

- a) An evidentiary hearing was held before Administrative Law Judge John G. Van Laningham at the Division of Administrative Hearings in Tallahassee, Florida, on July 8, 2015. The parties filed Proposed Recommended Orders. After reviewing the Proposed Recommended Orders, the Administrative Law Judge issued a Recommended Order on August 18, 2015. The Recommended Order affirmed Florida Housing’s litigation positions as to the issue noted above, and recommended that Florida Housing enter a Final Order rescinding the preliminary award to Pine Grove and designating Houston Street as the recipient of funding under this RFA. A copy of the Recommended Order is attached as [Exhibit A](#). No exceptions have been filed, and none are expected to be filed.

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 such decisions.

LEGAL

Action

B. Pinnacle Heights, LLC, v. Florida Housing Finance Corporation, DOAH Case No. 15-3304BID; FHFC Case No.2015-025BP (Intervenor Rio at Flagler, LP)

1. Background

- a) This case regards a protest filed against the funding awards for projects under “RFA 2014-116 – Housing Credit Financing for Affordable Housing Developments Located in Miami-Dade County,” (the “RFA”). The parties applied for funding through the RFA seeking allocations of Low Income Housing Tax Credits. Petitioner (“Pinnacle Heights”) was notified of the Board’s intended decision on or about May 8, 2015. Petitioner timely filed notice of intent to protest and formal written protests as required by section 120.57(3), Florida Statutes, challenging the Corporation’s scoring and ranking of Applicants for funding under RFA 2014-116. Intervenor (“Rio”) properly and timely filed for intervention to participate in this case.
- b) The central issue in this case is whether Respondent Florida Housing Finance Corporation’s (“Florida Housing”) decision to award or deny funding under RFA 2014-116, as proposed on May 8, 2015, is contrary to the agency’s governing statutes, the agency’s rules or policies, or the solicitation specifications. More specifically, whether Florida Housing’s scoring and ranking decisions as to Rio’s proximity scoring for its selected Public Bus Transfer Stop.
- c) Florida Housing’s position was that based on the information discovered during the course of the litigation, Rio’s bus stop did not qualify as a Public Bus Transfer Stop and Rio should not have received any proximity points. Since Rio’s Application did not meet the minimum transit score according to the RFA, it is ineligible.

2. Present Situation

- a) A hearing was conducted on August 6, 2015, before Administrative Law Judge D.R. Alexander, at the Division of Administrative Hearings in Tallahassee, Florida. The parties filed Proposed Recommended Orders. After reviewing the Proposed Recommended Orders, the Administrative Law Judge issued a Recommended Order on August 31, 2015. The Recommended Order recommended that Florida Housing enter a Final Order finding that Rio’s Application is ineligible for funding and that Pinnacle Height’s Application should be selected for funding. A copy of the Recommended Order is attached as [Exhibit B](#). As of the date of this memorandum, no Exceptions to the Recommended Order have been filed.

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 such decisions.

MULTIFAMILY PROGRAMS

Action

III. MULTIFAMILY PROGRAMS

A. Request for Qualifications (RFQ) 2015-201 - Multifamily Energy Retrofit Program (MERP)

1. Background

- a) On August 17, 2015, Florida Housing Staff issued RFQ 2015-101, offering \$7,533,084 in loans to property owners proposing the retrofit of existing multifamily rental developments. Florida Housing solicited Responses from qualified Respondents committing to make improvements that result in measurable energy savings and water conservation; to provide ongoing property management, staff education, and resident outreach to maximize the benefits of the retrofit; and to submit reports on energy use/savings.
- b) The maximum available funding amount for this RFQ was \$15,000 per unit or \$3,000,000, whichever is less, to any single Development.

2. Present Situation

- a) Responses were accepted by Florida Housing beginning 10:00 a.m. on August 27, 2015. The RFQ outlined that Responses will continue to be accepted until the earlier of the following two (2) events: the combined maximum eligible funding amount of all of the eligible Responses in the Response Queue is \$30 million; or December 31, 2015 (“Response Acceptance Period”). Any eligible Responses that have been submitted during the Response Acceptance Period have been placed in the Response Queue, based on the date and time of the electronic submission of the Response. The most current RFQ 2015-201 Response Queue is provided as [Exhibit A](#). 33 eligible Responses were received, for a combined maximum eligible request amount of \$57,900,000.
- b) Responses were recommended for tentative funding on a first come, first served basis submitted after the Response Acceptance Period began, using a County Test and a 75% Funding Test. Once it was determined that there was not enough funding remaining to fund at least 75% of a Respondent’s funding amount in the Queue, the process paused. Those Responses that are recommended for funding are set forth on [Exhibit B](#).
- 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 a preliminary letter of award to the Respondents set out on Exhibit B. 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 a preliminary letter of award to the Respondents set out on Exhibit B.
- d) After the preliminary letters of award are issued, Florida Housing will order an Energy Audit/Critical Repair Needs Analysis (CRNA) prepared by a Qualified Energy Auditor previously procured by Florida Housing. Then, Florida Housing will develop the retrofit scope of work in consultation with the Respondent using the Energy Audit/CRNA, prior to the issuance of the invitation to credit underwriting.

MULTIFAMILY PROGRAMS

Action

3. **Recommendation**

- a) Approve the Response Queue set out in Exhibit A and authorize the tentative selection of funding for the four (4) Responses set out in Exhibit B.
- b) Authorize staff to award any remaining funding and any returned funding in accordance with the provisions in the RFQ and the established eligible Response Queue as approved by the Board.
- c) Additionally, authorize Florida Housing to deem the Response Acceptance Period closed because the combined maximum eligible funding amount of all of the eligible Responses in the Response Queue exceeds \$30 million.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

IV. PROFESSIONAL SERVICES SELECTION (PSS)

A. Request for Qualifications (RFQ) for Public Relations, Media Buying and Planning Services

1. Background

- a) In March 2011, Florida Housing entered into contracts for Public Relations, Media Buying and Planning Services with Kidd and Company, Inc. and Evok Advertising & Design, Inc.
- b) These contracts provided for a three year original term with two optional renewal periods of one year each, that were contingent upon the firm satisfactorily performing its obligations under the contract. Kidd and Company, Inc. opted out of their final one year renewal.

2. Present Situation

- a) The contract with Evok Advertising & Design, Inc. will expire on March 23, 2016. Florida Housing utilizes these firms to provide public relations planning and implementation, and/or media buying strategies and placement, which may include print, broadcast (radio, television), and/or display advertising (outdoor, online). For the past several years, these services have been enlisted for promoting the federal Florida Hardest-Hit Fund program; however, at the approval of the Executive Director, these services may be used for other programs.

3. Recommendation

Authorize staff to issue an RFQ in order to select one or more qualified firms for Public Relations, Media Buying and Planning Services; and authorize the Executive Director to establish a Review Committee who shall review the proposals and make a recommendation of qualified firms to the Board.

PROFESSIONAL SERVICES SELECTION (PSS)

Action

B. Request for Qualifications (RFQ) 2015-03, Management Company Services

1. Background

At the June 19, 2015 meeting, the Board authorized Florida Housing staff to issue a solicitation to procure one or more management companies and authorized the Executive Director to establish a review committee to make a recommendation to the Board.

2. Present Situation

- a) Request for Qualifications (RFQ) 2015-03 was issued on Friday, June 19, 2015. The deadline for receipt of responses was 2:00 p.m., Thursday, July 23, 2015. A copy of the RFQ is provided as [Exhibit A](#).
- b) Three responses were received by the deadline from the following:
 - (1) Flynn Management Corporation;
 - (2) Royal American Management, Inc.; and
 - (3) WRH Realty Services, Inc.
- c) Members of the review committee were Kevin Pichard (Chairperson), Assistant Director of the Guarantee Program; Tim Kennedy, Special Assets Administrator; and Luke White, Asset Management Senior Analyst.
- d) Each member of the review committee individually reviewed the proposals submitted prior to convening for the review committee meeting which was held at 10:00 a.m., Wednesday, August 12, 2015.
- e) At the August 12th meeting, the review committee provided final scores for each of the responses. The score sheet is provided as [Exhibit B](#).

3. Recommendation

The review committee recommends that the Board authorize Florida Housing to enter into contract negotiations with Royal American Management, Inc. and WRH Realty Services, Inc. for management company services. Should negotiations with either of those firms fail, then the committee recommends that Florida Housing have the option to enter into negotiations with the third-highest ranked offeror, Flynn Management Corporation.