

REQUEST FOR PROPOSALS 2010-05
HEARING OFFICER SERVICES
for
FLORIDA HOUSING FINANCE CORPORATION

May 28, 2010

SECTION ONE INTRODUCTION

Florida Housing Finance Corporation is soliciting competitive, sealed responses from persons to act as Hearing Officer to conduct administrative hearings pursuant to Sections 120.569 and 120.57(2), Fla. Stat., and Fla. Admin. Code R. 28-106, for and on behalf of Florida Housing Finance Corporation in accordance with the terms and conditions set forth in this Request for Proposals, and any other term and condition in the final contract. Florida Housing Finance Corporation anticipates selecting at least two (2) Offerors to provide the services specified in this Request for Proposals.

SECTION TWO DEFINITIONS

For purposes of this document:

“Board”

The Board of Directors of the Florida Housing Finance Corporation.

“Committee”

The review committee appointed by the Executive Director that acts according to Fla. Admin. Code R. 67-49.007.

“Contract”

The document containing the terms and conditions of this Request for Proposals and any other term and condition that the parties require.

“Days”

Calendar days, unless otherwise specified.

“Effective Date”

The date the last party signs the Contract that is awarded as a result of this Request for Proposals.

“Florida Housing”

Florida Housing Finance Corporation, a public corporation and public body corporate and politic created by Section 420.504, Fla. Stat.

“Hearing Officer”

A person or entity providing the services described in Section Four of this RFP.

“Interested Party”

A person or entity that requests a copy of the Request for Proposals from Florida Housing.

“Offeror”

Any person or entity who has the capability in all respects to perform fully the requirements contained in this Request for Proposals and submits a response to this Request for Proposals.

“Response”

The written submission by an Offeror to this Request for Proposals.

“RFP”

This Request for Proposals, including all exhibits referenced in this document and all other documents incorporated by reference.

“Staff”

Any employee of Florida Housing, including the Executive Director.

“Threshold Item”

A mandatory requirement of the RFP. Failure to meet any requirement in the RFP designated as a “Threshold Item” shall result in rejection (no further action) of a Response.

“Universal Application Cycle”

Florida Housing’s application cycle for applicants interested in applying for funding for the construction or rehabilitation of affordable housing through Florida Housing’s Multifamily Mortgage Revenue Bond Program, the State Apartment Incentive Loan Program, the HOME Investment Partnerships Program (rental) or the Housing Credits Program.

“Website”

The Florida Housing Finance Corporation website, the home address of which is www.floridahousing.org.

SECTION THREE PROCEDURES AND PROVISIONS

A. An Offeror must submit an original and eight copies of the Response in a sealed envelope marked "RFP 2010-05." Each envelope or package containing Responses must clearly state the name of the Offeror. The Response that is the original must clearly indicate "Original" on that Response. Florida Housing shall not accept a faxed or e-mailed Response. Florida Housing must receive any Responses on or before 2:00 p.m., Eastern Time, on Thursday, June 24, 2010. Responses shall be opened at that time. Responses must be addressed to:

Sherry Green
Contracts Administrator
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301-1329
(850) 488-4197; Fax (850) 414-6548
Email: sherry.green@floridahousing.org

B. This RFP does not commit Florida Housing to award a Contract to any Offeror or to pay any costs incurred in the preparation or mailing of a Response.

C. All services under the Contract awarded are to be performed solely by the contractor, and may not be subcontracted or assigned without the prior written approval and consent of Florida Housing, which consent shall not be unreasonably withheld. Any subcontracting must be disclosed in the Offeror's Response to this RFP.

D. Florida Housing reserves the right to:

1. Waive minor deficiencies and informalities;
2. Accept or reject any or all Responses received as a result of this RFP;
3. Obtain information concerning any or all Offerors from any source;
4. Schedule an oral interview before the Committee and/or the Board from any or all Offerors;
5. Select for Contract negotiation or award, a Response other than that with the highest score if, in the judgment of Florida Housing, its and the public's interest shall be best served; and

6. Negotiate with the successful Offeror with respect to any additional terms or conditions of the Contract.

E. Any Interested Party may submit any question regarding this RFP in writing *via* mail, fax, or e-mail to Sherry Green at the address given in Section Three, paragraph A. All questions are due by 5:00 p.m., Eastern Time, on Wednesday, June 9, 2010. Phone calls shall not be accepted. Florida Housing expects to respond to all questions by 5:00 p.m., Eastern Time, on Friday, June 11, 2010. Florida Housing shall post a copy of all questions received and their answers on Florida Housing's Website at: http://apps.floridahousing.org/StandAlone/FHFC_ECM/AppPage_LegalRFPs.aspx

Florida Housing shall also send a copy of those questions and answers in writing to any Interested Party that requests a copy. Florida Housing shall determine the method of sending its answers, which may include regular U.S. mail, overnight delivery, fax, e-mail or any combination of the above. Only written responses or statements from Sherry Green, or her designee that are posted on the Website shall bind Florida Housing. No other means of communication, whether oral or written, shall be construed as an official response or statement from Florida Housing.

F. Any person who wishes to protest the contents of this RFP or other specifications, including addenda, must file a protest in compliance with Section 120.57(3), Fla. Stat., and Fla. Admin. Code R. 28-110. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

G. The term provided in the Contract will be for one (1) year. The Contract may be renewed twice for an additional one (1) year period. Renewals shall be contingent upon satisfactory performance evaluations by Florida Housing.

H. Florida Housing will provide a room in which to conduct hearings.

SECTION FOUR SCOPE OF SERVICES

A. 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, and any other administrative hearings which may arise out of or under Florida Housing programs or activities, at Florida Housing for litigation of any notice of a decision from Florida Housing that contains the information required by Section 120.569(1), Fla. Stat., for the Multifamily Mortgage Revenue Bond Program, State Apartment Incentive Loan Program, Housing Credit Program, Homeownership Assistance Program and HOME Investment Partnership Program, which includes the HOME Rental and Homeownership Programs.

B. Florida Housing expects it will require the Hearing Officer services for the Universal FHFC RFP 2010-05

Published, May 28, 2010

Application Cycle, which includes the State Apartment Incentive Loan Program, Housing Credit Program, Multifamily Mortgage Revenue Bond Program, and HOME Rental Program by mid-August. Hearings may be conducted up to eight (8) hours per day. The Recommended Orders must be issued to all parties in a timely manner as will be set forth by each individual program's timelines. Hearings related to the programs set forth above, and to other Florida Housing programs, including and other multifamily programs outside the Universal Cycle, as well as single family programs, may occur at any time throughout the year.

C. The Hearing Officer must resolve legal issues and procedural questions that arise. Other responsibilities shall include, but are not limited to:

1. Ruling on objections, on the admission of evidence, on motions and issuing orders;
2. Compiling an independent record;
3. Reviewing proposed recommended orders and memoranda;
4. Submitting a recommended order for every informal hearing conducted that includes findings of fact, conclusions of law and a recommendation. The findings of fact must provide sufficient detail to be legally sufficient to support the conclusions of law and recommendations;
5. Providing recommended orders to all parties on the service list in accordance with applicable Florida Statutes and Florida Administrative Code;
6. Transmitting all evidence admitted to Florida Housing; and
7. Disqualifying anyone who fails to adhere to the Standards of Conduct for Qualified Representatives.
8. Any other issues or questions arising in proceedings conducted under Sections 120.569 and 120.57(2), Florida Statutes.

D. Florida Housing expects that its Hearing Officer will need to produce and file a large number of Recommended Orders in a short period of time.

SECTION FIVE CERTIFICATION

Do not reproduce the language of this section in the Response. By inclusion and execution of the statement provided in Section Six, subsection G, of this RFP, each Offeror certifies that:

A. The Offeror submits this Response without prior understanding, agreement, or connection with any person or entity submitting a separate Response for the same services. However, any agreement with a person or entity with whom the Response is jointly filed and such joint filing is made clear on the face of the Response shall be an exception so long as the Response is in all respects fair and without collusion or fraud.

B. Any material submitted in response to this RFP is a public record pursuant to Chapter 119, Fla. Stat., and subject to examination upon request, after Florida Housing provides a notice of decision pursuant to Section 120.57(3), Fla. Stat., or within 10 Days after the Response is opened, whichever is earlier.

C. The Offeror is in compliance with Section 420.512(5), Fla. Stat., which provides:

“Service providers shall comply with the following standards of conduct as a condition of eligibility to be considered or retained to provide services. For purposes of paragraphs (a), (b), and (c) only, the term ‘service provider’ means and is limited to a law firm, an investment bank, or a credit underwriter, and the agents, officers, principals, and professional employees of the service provider.

(a) A service provider may not make contributions in any amounts, directly or indirectly, for or on behalf of candidates for Governor, nor shall any service provider make a contribution in excess of \$100 to any candidate for a member of the State Board of Administration other than the Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(b) The service provider shall not participate in fundraising activities for or on behalf of candidates for Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(c) Service providers shall provide to the corporation a statement that the service provider has not contributed to candidates for Governor or contributed in excess of the amounts allowed by this section for a member of the State Board of Administration or engaged in fundraising activities for or on behalf of candidates for Governor in Florida since the effective date of this section or during the 24 months preceding the service provider's application to provide services to the corporation, whichever period is shorter.

(d) The service provider may not engage in prohibited business solicitation

communications with officers, members, or covered employees of the corporation.

(e) If a service provider is in doubt as to whether its activities, or the activities of its principals, agents, or employees, violate the provisions of this section, it may request a declaratory statement in accordance with the applicable rule and Section 120.565, Fla. Stat.

(f) If the corporation determines that a service provider has failed to meet the provisions of this section, it shall consider the magnitude of the violation and whether there has been a pattern of violations in determining whether to terminate or decline to enter into Contracts with the service provider.”

D. For the purpose of Section 420.512(5), Fla. Stat., “Prohibited Business Solicitation Communications” is defined by Section 420.503(31), Fla. Stat., which provides:

“‘Prohibited business solicitation communication’ means a private written or verbal communication between a member, officer, or covered employee of the corporation and a service provider regarding the merits of the service provider and whether the corporation should retain the services of the service provider. The term does not include:

(a) A verbal communication made on the record during a public meeting;

(b) A written communication provided to each member and officer of the corporation and made part of the record at a public meeting;

(c) A written proposal or statement of qualifications submitted to the corporation in response to a corporation advertisement seeking proposals or statements of qualifications as part of a competitive selection process.

(d) A verbal or written communication related to the contractual responsibilities of a service provider who was selected to provide services or who was included in a pool of service providers eligible to provide services as a result of a competitive selection process, so long as the communication does not relate to solicitation of business.

(e) A verbal or written communication related to a proposed method of financing or proposed projects, so long as the communication does not relate to solicitation of business.”

E. The Offeror is in compliance with Section 287.133(2)(a), Fla. Stat., which provides in part:

A person or affiliate, who has been placed on the convicted vendor list, following a conviction for a public entity crime, may not:

a. submit a bid on a contract to provide any goods or services to a public entity;

b. submit a bid on a contract with a public entity for the construction or repair of a public building or public work;

c. submit bids on leases of real property to a public entity;

d. be awarded or perform work as a contractor, supplier, subcontractor, or consultant

under a contract with any public entity, and;

- e. transact business with any public entity in excess of the threshold amount provided in Section 287.017, Fla. Stat., for CATEGORY TWO: \$25,000, for a period of 36 months from the date of being placed on the convicted vendor list.

F. An attorney acting as a Hearing Officer is prohibited from engaging in activities in connection with services related to Florida Housing transactions that produce direct or indirect financial gain for the attorney, or his or her law firm, other than for agreed upon compensation from Florida Housing, unless that attorney, or its law firm, has fully informed Florida Housing of these activities in writing, and has received Florida Housing's written consent.

G. The selection of the Offeror will not result in any current or potential conflict of interest. Alternately, should any potential or existing conflict be known by the Offeror, the Response must specify the party with which the conflict exists or may arise, the nature of the conflict, and whether the Offeror would withdraw from the engagement or representation creating the conflict.

H. In addition to the conflict of interest rules imposed by the Rules regulating the Florida Bar, no attorney that is selected as Hearing Officer, nor any member of that attorney's firm, may represent any person or entity in any matter with or in front of Florida Housing or its Board. Any Hearing Officer for Florida Housing must file, at least annually, beginning with the effective date of the Contract, a written disclosure identifying any person or entity that the attorney, or its firm, represents in any capacity that does business with Florida Housing or appears before Florida Housing or its Board. In the event there is a conflict, Florida Housing reserves the right to provide consent or to terminate the Contract, in its sole discretion.

I. Pursuant to Fla. Admin. Code R. 28-106.306, Florida Housing will be responsible for preserving the testimony at the hearings conducted by the Hearing Officer.

J. Certification Statement (**Threshold Item**)

THE FOLLOWING SHALL BE REPEATED IN THE APPLICANT'S RESPONSE AND SIGNED BY AN INDIVIDUAL AUTHORIZED TO BIND THE APPLICANT. FAILURE TO INCLUDE THE CERTIFICATION STATEMENT BEARING AN ORIGINAL SIGNATURE SHALL RESULT IN REJECTION OF THE RESPONSE.

“I agree to abide by all conditions of RFP 2010-05 and certify that all information provided in this Response is true and correct, that I am authorized to sign this Response as the Applicant and that I am in compliance with all requirements of the RFP, including but not limited to, the certification requirements stated in Section Five of this RFP.”

Authorized Signature (Original)

SECTION SIX INFORMATION TO BE PROVIDED IN RESPONSE

In providing the following information, restate each item and sub-item (with its letter and number), and limit your Response to one bound volume. Responses to the items must be included immediately after the restated items without any reference to any appendix.

A. GENERAL INFORMATION

1. Provide the name, job title, address, office and cellular telephone numbers, fax number, and e-mail address of a primary contact person, who will be responsible for day-to-day contact with Florida Housing, and any backup personnel who would be accessible if the primary contact cannot be reached. The primary contact person so identified will be responsible for making the Offeror’s oral presentations to Staff and/or the Board, if requested.
2. Provide a copy of the declaration page for proof of professional liability errors and omissions insurance.
3. Provide evidence of certification that the Offeror is qualified to do business in the State of Florida.

B. EXPERIENCE

1. Describe the Offeror’s experience acting as a Hearing Officer for hearings pursuant to Sections 120.569 and 120.57(2), Fla. Stat., and Fla. Admin. Code R. 28-106.
2. Describe any experience as a Hearing Officer for any other type of administrative law proceeding.
3. Describe any other experience as a finder of fact or law.
4. List any entity for which the Offeror has been a Hearing Officer. Provide the

name and phone number for a contact person for all entities listed by the Offeror.

5. Describe the Offeror's legal experience with issues involving real estate acquisition, development and financing.

C. QUALIFICATIONS

1. List the names of all of the Offeror's personnel who will be assigned to perform the services requested in Section Four of this RFP.
2. Describe the qualifications and experience of each attorney identified in item 1, above.
3. Provide evidence that the attorney performing services under this RFP is a member of the Florida Bar and has been practicing in the area of administrative law for at least five (5) years. An Offeror must meet this requirement to be considered for award of a Contract.
4. Describe the qualifications and experience of the Offeror's support staff.
5. Provide information about the ability of the Offeror to be available and to perform the work requested in Section Four of this RFP.

D. FEES/COSTS

1. Indicate all fees to be charged to Florida Housing.
2. Indicate all costs to be charged to Florida Housing.

FINAL FEES ARE SUBJECT TO NEGOTIATION

E. DRUG-FREE WORKPLACE

If the Offeror has implemented a drug-free workplace program, pursuant to Section 287.087, Fla. Stat., the Offeror must submit a valid affidavit to demonstrate its status.

F. MINORITY BUSINESS ENTERPRISE

If the Offeror is a minority business enterprise as defined in Section 288.703, Fla. Stat., the Offeror must submit a valid affidavit to demonstrate its status.

G. **CERTIFICATION (Threshold Item):**

FAILURE TO INCLUDE THE CERTIFICATION STATEMENT LOCATED IN SECTION FIVE OF THIS RFP BEARING AN ORIGINAL SIGNATURE SHALL RESULT IN REJECTION OF THE RESPONSE.

**SECTION SEVEN
EVALUATION PROCESS**

Individual Committee members shall evaluate and rank the Responses independently. As indicated in this section, points shall be assigned to certain items presented in Section Six of this RFP. The individual Committee members shall evaluate the Responses by reviewing the answers to each of the items and assigning points up to the maximum points allowed for each item. The Committee shall not use those items without points assigned in computing the numerical score, but shall use them as part of their evaluation and recommendation process, for informational purposes, or as a basis for possible disqualification. The Committee shall also use the various scored items as a part of its evaluation and recommendation process. Based on the criteria for selection, committee members shall rank each Response with the highest rank being "1". The Committee may conduct one or more public meetings during which members may discuss their evaluations, make any adjustments deemed necessary to their evaluations to best serve the interests of Florida Housing's mission, interview Offerors, observe presentations by Offerors, and develop a recommendation or series of recommendations to the Board. The Committee and/or Staff may make a recommendation, in addition to providing the ranking information and the information from the non-scored items to the Board for the Board to use in making the final selection. The Committee and/or Staff may also give the Board a written and/or verbal narrative describing the reasons for any recommendation. In the event of a tie, Florida Housing shall give preference to the Response certifying a drug-free workplace has been implemented in accordance with Section 287.087, Fla. Stat. If a tie continues to exist, Florida Housing shall give preference to minority business enterprises as defined in Section 288.703, Fla. Stat. Staff may recommend that the Board conduct oral interviews as part of the evaluation process to select the Offeror. The Board may use the Responses, the Committee's ranking, the non-scored items in the Responses, any other applicable or relevant information or recommendation provided by the Committee or Staff, any oral presentations of Offerors and any other information the Board deems relevant in its selection of Offerors to whom to award a Contract.

The Board may use the Responses, the Committee's scoring, the non-scored items in the Responses, any other applicable or relevant information or recommendation provided by the Committee or Staff, any oral presentations of Offerors and any other information the Board deems relevant in its selection of Offerors to whom to award a Contract.

The points available for each of the items to be evaluated are as follows:

<u>Section Six Item Reference</u>	<u>Maximum Points</u>
B.1-B.5 Experience	40
C.1-C.5 Qualifications	40
D.1 & D.2 Fees/Costs	20
Total Points Available	100

**SECTION EIGHT
AWARD PROCESS**

Florida Housing shall provide notice of its decision, or intended decision, for this RFP on Florida Housing’s Website the next business day after the applicable Board vote. After posting, an unsuccessful applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.