

CHAPTER 67-38 PREDEVELOPMENT LOAN PROGRAM

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67-38.002 Definitions.

(1) "Act" means the Florida Housing Finance Corporation Act as found in Chapter 420, F.S.

(2) "Affiliate" means any person or entity that:

(a) Directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Applicant.

(b) Serves as an officer or director of the Applicant, or

(c) Is the spouse, parent, child, sibling, or relative by marriage of a person or entity described in (a) or (b) above.

(3) "Applicant" means any unit of government, a local housing authority established pursuant to Chapter 421, F.S., a community-based or not-for-profit organization, or a limited partnership if its general partner is a community-based or not-for-profit organization as defined by Section 420.524, F.S., that submits an Application for funding from the Predevelopment Loan Program. "Applicant" includes a sponsor as defined by Section 420.524, F.S.

(4) "Application" means the completed forms from the Application Package together with all required exhibits submitted to the Corporation in accordance with this Rule Chapter in order to apply for PLP funds.

(5) "Application Package" or "Form 1115" means the forms, exhibits, instructions and other information necessary for submission of an Application under the Predevelopment Loan Program. The Application Package may be obtained from the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The Corporation hereby adopts and incorporates by reference the Application Package (Form PLP 1115).

(6) "Code" means the Internal Revenue Code of 1986, as amended.

(7) "Community-Based Organization" or "Not-For-Profit Organization" means a community based or not-for-profit organization as defined in Section 420.524, F.S. For the Purpose of the Predevelopment Loan Program, the organization shall own at least 51% of the ownership interest in the Development held by the general partner entity. A for-profit entity wholly owned by one or more qualified Not-For-Profit organizations shall constitute a Not-For-Profit entity. A Not-For-Profit entity shall own an interest in the Development, either directly or indirectly; shall not be affiliated with or controlled by a for-profit corporation; and shall materially participate in the development and operation of the Development throughout the total affordability period as stated in the Land Use Restriction Agreement.

(8) "Compliance Period" means the period of time that the Development shall conform to all set-aside requirements as described in this Rule Chapter and agreed to by the Applicant in the Application.

(9) "Corporation" or "Florida Housing" or "FHFC" means the Florida Housing Finance Corporation, a public corporation and the successor to the Florida Housing Finance Agency.

(10) "Credit Underwriter" means the independent contractor under contract with the Corporation having the responsibility for providing stated credit underwriting service.

(11) "Credit Underwriting Report" means a comprehensive analysis of the Applicant, the real estate, the financing of the Development, the ability of the Applicant and the Development team to proceed, evidence of the need for affordable housing in the defined area, and a determination that the Development meets PLP requirements.

(12) "Development" or "Property" means the buildings, structures, fixtures and all other improvements or work located, or to be located, in Florida, including real property, buildings, and any other real and personal property, designed and intended for the primary purpose of providing decent, safe, and affordable residential housing for persons or families for which financial assistance under the Predevelopment Loan Program has been applied for or received.

(13) "Development Plan" means the written description of the proposed Development submitted to the Corporation by the Applicant with the concurrence of the Technical Assistance Provider detailing the Applicant's objectives and goals with respect to the Development.

(14) "Development Site" means the land for the Development, as defined by the legal description in the Development Plan and the documents evidencing or securing the Loan.

(15) "Farmworker" means farmworker as defined in Section 420.503, F.S.

(16) "Financial Beneficiary" means any developer and its principals and principals of the Applicant entity who receives or will receive a financial benefit of:

- (a) 3% or more of Total Development Cost (including deferred fees) if Total Development Cost is \$5 million or less; or
- (b) 3% of the first \$5 million and 1% of any costs over \$5 million (including deferred fees) if total Development cost is greater than \$5 million. This definition does not include third party lenders, third party management agents or companies, housing credit syndicators, credit enhancers who are regulated by a state or federal agency and who do not share in the profits of the Development or building contractors whose total fees are determined to be within reasonable industry standards.

- (17) "HUD" means the United States Department of Housing and Urban Development.
- (18) "Invitation to Participate" means a letter sent to the Applicant indicating the Development has been selected to receive technical assistance which shall be signed and returned with the appropriate commitment fee prior to receiving technical assistance.
- (19) "Loan" means a direct loan from Predevelopment Loan Program.
- (20) "PLP" or "Predevelopment Loan Program" means the Predevelopment Loan Program established by the Act and this Rule Chapter.
- (21) "Predevelopment Expenses" mean the expenses set forth in the Development Plan which are anticipated to be incurred prior to closing on construction or permanent financing.
- (22) "Rehabilitation" means to bring a Development back to its original state, or to bring back to its original state with added improvements with limitations as specified by the program or programs which provide construction or permanent financing to the Development.
- (23) "Servicer" means the independent contractor under contract with the Corporation having the responsibility for providing stated Loan servicing and administration and compliance monitoring services. Such services shall include reviewing and approving Loan disbursement requests for site acquisition, Loan servicing and single-family and multifamily compliance monitoring services, if any.
- (24) "Servicing and Compliance Monitoring Fees" means fees associated with the review and processing of requests for disbursement of funds, inspections and the monitoring of Developments.
- (25) "Set-Aside" means the percentage of units within a Development that shall be reserved as affordable at the specified AMI to income qualified persons or households throughout the compliance period.
- (26) "Technical Assistance Provider" or "TAP" means an independent contractor retained by the Corporation to provide technical support.
- (27) "Technical Assistance" means assistance to Applicants via of telephone, through on-site visits and by responses to oral and written inquiries from Applicants throughout the entire Predevelopment process and to provide such other services as agreed to by the Technical Assistance Provider and the Corporation.
- (28) "Threshold Requirements" means the requirements an Applicant shall meet as identified in the Application Package in order to receive an Invitation to Participate in the Predevelopment Loan Program. *Specific Authority 420.528 FS. Law Implemented 420.507, 420.521-.529 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.002, Amended 3-26-98, 7-17-00, 7-21-03.*

67-38.003 Application Submission Procedures.

- (1) At any time during the year, Applicants may submit an Application to the Corporation for PLP funding.

(2) All Applications delivered by hand shall be presented to Corporation staff to be inscribed with the time and date of receipt. Applications may also be mailed to the Corporation at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. Applications mailed to the Corporation will be inscribed with the time and date received.

(3) Applications that do not contain the required information and documentation as set forth in the Application Package February 2003 shall be determined to have not met Threshold Requirements.

(4) An original and two copies of the Application shall be submitted to the Corporation. The original Application shall contain original signatures on those forms which specifically request original signatures. Signatures on these forms which are faxed, scanned, photocopied, or otherwise duplicated shall not be considered acceptable signatures within the original Application.

(5) Application shall be accompanied by the Application fee. Applications shall be submitted on the forms provided in the Application Package and shall be bound in three ring binders and shall have tabs for each form and exhibit. Exhibits shall be placed behind the form to which they refer. Failure to comply with any of the requirements set forth in this rule chapter shall result in the determination that the Application has not met Threshold Requirements.

(6) If the Applicant, any of its principals or Affiliates, or financial beneficiaries, including the developer, is in arrears for any financial obligation the developer has with the Corporation, or any member of the Project's Development team are determined by the Corporation to have engaged in fraudulent actions, or to have intentionally misrepresented information in any previous application or other documents submitted to the Corporation, the Applicant, its principals and Affiliates, including the developer, shall be deemed ineligible to participate in any program administered by the Corporation. The ineligibility will be for two fiscal years beginning on the date the Corporation's Board of Directors approves the disqualification. Such determination shall be either pursuant to proceedings conducted in accordance with Sections 120.569 and 120.57, F.S., or as a result of a finding by a court of competent jurisdiction.

(7) If the Applicant, Principal, Affiliate, developer or financial beneficiary of the Applicant has any existing Developments participating in Corporation programs that are in non-compliance with the Code, this Rule Chapter or applicable Loan documents, and any applicable cure period has expired at the time of approval of the Development Plan, the requested allocation shall be denied, upon a determination by the Board that the non-compliance increases the likelihood that the Applicant will not be able to satisfy the terms of the Loan. The Applicant and Affiliates of the Applicant or developer will be prohibited from participation in any Corporation programs for the subsequent cycle and continue until all of the Applicant's Developments are in compliance.

(8) Applications that propose to develop individual homeownership units shall be submitted separately from those that propose to develop multifamily rental units.

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.003, Amended 3-26-98, 7-17-00 7-21-03.

67-38.004 Incomplete Applications and Rejection Criteria.

(1) Each Application shall be reviewed by the Corporation to determine if the Application meets Threshold Requirements. Applications that have met Threshold Requirements shall be provided an Invitation to Participate in accordance with this Rule Chapter. If the Application fails threshold, the Corporation shall notify the Applicant of any additional or revised information or material that is required for the Application to meet threshold. Applicant may continue to submit material until the Application is complete and meets threshold. The Application, however, shall not be placed in priority order or on a waiting list until such time that all information and documentation has been submitted and the Application is determined to have met Threshold Requirements.

(2) An Application shall be rejected if any of the following occurs:

- (a) The information submitted in the Application is not sufficient to demonstrate that the Development proposes to meet the minimum Set-Aside requirements. These requirements are:
 - 1. For rental Developments, a minimum of 60% of the completed housing units must be rented to persons whose income does not exceed 60% of the median income for the area, as determined by HUD, with adjustments for family size; and
 - 2. For home ownership Developments, 100% of completed housing units must be sold to persons or households with incomes not exceeding 80% of the median annual gross income as established by HUD for households within the State, the MSA or, if not within the MSA, within the county in which the person or household resides, whichever is greater; or
- (b) The Applicant, its principals, Affiliates, or financial beneficiary including the developer, has not waited the time period specified in subsection 67-38.003(6), F.A.C.; or
- (c) The Development is inconsistent with the purposes of the Predevelopment Loan Program or does not conform to the requirements specified in the Act or this Rule Chapter; or
- (d) The Applicant fails to meet any Threshold Requirement specified in the Application Package

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.004, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.005 Application Evaluation and Award Guidelines.

(1) PLP funding shall be available to Applicants whose Applications have met threshold requirements, on a first-come, first-served basis, pursuant to this Rule Chapter. Applications which propose to set-aside a minimum of 40% of the Development's units for Farmworker residents shall receive priority over all other Applicants, provided the Applicant has also certified that they shall meet PLP minimum set-aside requirements.

(2) After the Application has been reviewed and determined to have met threshold requirements, using the factors specified in the Application Package and this Rule Chapter, staff shall determine whether sufficient funds are available to fund the PLP request.

(3) If the Application fails to meet Threshold Requirements, the Applicant shall be notified of the deficiencies in the Application and provided an opportunity to rectify any outstanding issues.

(4) If the Application is determined to have met Threshold Requirements; and

- (a) Funds are available, the Corporation shall issue an Invitation to Participate; or
- (b) If funds are not available, Applicant will be placed on a waiting list, based on the date and time the Application was determined to have met Threshold Requirements until either;
 - 1. Funds are available, at which time the Applicant will be issued an Invitation to Participate, or

2. Application is withdrawn.

(5) The Invitation to Participate shall be signed and returned to the Corporation within 15 days of receipt by the Applicant. If the signed Invitation to Participate is not received by the Corporation within 15 days, the Invitation to Participate shall be withdrawn and the Applicant shall be so notified.

(6) Upon receipt of the signed Invitation to Participate and the Applicant's initial commitment fee, the Corporation shall assign a Technical Assistance Provider. In the event that technical assistance has begun and payment of the commitment fee is found to be insufficient, technical assistance shall be discontinued until payment is received and determined to be sufficient. If sufficient payment has not been received within seven days of notification to the applicant, the Invitation to Participate shall be withdrawn and the Applicant shall be so notified.

(7) The Technical Assistance Provider shall work with the Applicant to formulate a Development Plan. The Development Plan shall clearly set forth in detail the Applicant's anticipated predevelopment tasks and activities, timeline, itemized budget, sources to fund all anticipated Predevelopment Expenses, including those in excess of the amounts to be requested under the Predevelopment Loan Program, and the anticipated sources and uses of construction and permanent financing. The anticipated activities and expenses shall be those necessary prior to closing on construction or permanent financing for the Development. The Development Plan shall also set forth the number of units to be set aside for low or very low-income residents, including the number of units set-aside for Farmworkers if priority was given for meeting the Farmworker set-aside.

(8) The Applicant shall be given up to six months from the Corporation's receipt of the signed Invitation to Participate to complete and submit the Development Plan unless prior written approval is received from the Corporation. The Invitation to Participate shall be canceled if the Development Plan is not submitted within the six-month period. All Loan documents, if any, shall be cancelled. Any commitment fees paid shall be retained by the Corporation. The Applicant may request an extension for submitting the Development Plan in writing to the Corporation at least thirty days prior to the end of the original six month period.

(9) The Technical Assistance Provider shall submit a written recommendation with the Development Plan to the Corporation. Such recommendation should clearly indicate the Technical Assistance Provider's findings regarding the status of the Development Plan and the requested Loan amount. The Corporation may request additional information and or documentation necessary for the Application to meet Threshold Requirements prior to approval of the Development Plan. If such revisions are requested prior to approval of the Development Plan, the Corporation shall provide a deadline by which the revisions to the Application shall be made and submitted with the approval of the Technical Assistance Provider to the Corporation.

(10) Following approval of the Development Plan, the Loan request shall be submitted to the Board. Amendments to the Development Plan shall be allowed upon a favorable recommendation of the Technical Assistance Provider. If an increase to the Loan is requested, Board approval is required.

(11) Following approval of the Loan the Applicant will receive written notice of such approval. The Applicant shall submit the final commitment fee within fifteen days of receipt of such notice.

(12) If the Board does not approve a Loan request, no funds shall be disbursed other than for expenses incurred for services of the Technical Assistance Provider. Any commitment fee paid shall be retained by the Corporation.

(13) In the event the Development Plan receives approval and Applicant is unable to proceed to completion of Predevelopment Loan Program activities or obtain permanent or construction financing, any commitment fees paid shall be retained by the Corporation.

(14) Following receipt of the final commitment fee, a Loan agreement, promissory note and any other customary Loan documentation will be provided to the Applicant. Upon execution of all Loan documents by the Corporation, funds will be available for disbursement for eligible predevelopment activities as specified in this Rule Chapter.

(15) A positive Credit Underwriting Report is required for closing on a Loan that has been approved for acquisition costs.

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 91-38.005, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.007 Terms and Conditions of the Loan.

(1) Applicants are required to work with the assigned Technical Assistance Provider. Fees of the Technical Assistance Provider shall be paid by the Corporation.

(2) The maximum Loan amount to be disbursed shall not exceed the lesser of the predevelopment and acquisition costs pursuant to Rule 67-38.009, F.A.C., incurred prior to closing of permanent or construction Loan financing for the Development, or \$500,000. The Loan, bearing interest at a rate of 3%, shall be secured by such customary documents and collateral as are necessary to secure repayment.

(3) The Loan shall be non-amortizing with principal and interest deferred until maturity. The Corporation is authorized to forgive such Loan, and thereby make a grant to the Applicant for any monies that are unable to be repaid due to the Applicant's inability to obtain construction or permanent financing for the Development. The Corporation shall not forgive the portion of the Loan, if any, which is secured by a mortgage to the extent such Loan could be repaid from the sale of the mortgaged property.

(4) In the event PLP funds are used to purchase a site, the mortgage securing the PLP Loan shall be in a first or second lien position and shall not share priority with any other liens unless approved by the Board.

(5) The Loan shall mature on the earlier of:

- (a) The date of closing of the permanent or construction Loan for the Development; or
- (b) Three years from the date of execution of Loan documents or other such extended Loan maturity date approved by the Board.

(6) Submission of a request for an extension of the maturity of a Loan shall be subject to the following:

- (a) The recommendation of the Credit Underwriter and the Technical Assistance Provider that an extension of the Loan is likely to result in the successful completion of the Development; and
- (b) Submission of:

1. A revised Development Plan, approved by the Technical Assistance Provider, reflecting the reasons for the extension and the tasks and activities to be completed during the extension period;
2. Evidence of the Applicant's ability to complete the Development, and
3. An alternate financing plan in the event the original financing source withdraws.

(7) With respect to home ownership Developments, the Corporation shall release individual properties within the Development from the lien of the mortgage held by the Corporation prior to maturity of the Loan, upon the recommendation of the Credit Underwriter and a partial release payment in an amount acceptable to the Credit Underwriter and the Corporation.

(8) Prepayment of the Loan shall be permitted without penalty.

(9) Upon determination by the Board that other remedies are ineffectual or non-existent and that the best interest of the Corporation is served by acceleration of the Loan. The Loan shall be accelerated if any of the following occurs:

(a) Proceeds of the Loan are used for any purpose not specified in the Development Plan, the documents evidencing or securing the Loan, the Act or this Rule Chapter; or

(b) The Development fails to meet or maintain the minimum Set-Aside requirement during the Compliance Period; or

(c) Sale, transfer, or conveyance of the Development occurs without the prior written approval of the Corporation, as set forth in Rule 67-38.012, F.A.C.

(10) The Applicant shall submit progress reports evidencing successful completion of the requisite tasks and activities set forth in the Development Plan to the Technical Assistance Provider on a quarterly basis. The Technical Assistance Provider shall submit the reports to the Corporation. Reports are due to the Corporation by the 10th day of April, July, October, and January for so long as funds are outstanding.

(11) The Corporation reserves the right to require an audit of Applicant's accounts and records relating to the PLP Loan funds. If the Applicant is required to perform an audit of its accounts and records, a copy of the same shall be delivered to the Corporation within ten (10) days of receipt of thereof by the Applicant.

(12) The Applicant shall maintain all documents related to the Development, including copies of all contracts and performance bonds, during the term of the Loan and for three years following the maturity of the Loan as the same may be extended pursuant to this Rule Chapter.

(13) With respect to home ownership Developments, in order to assure that such Developments serve the target population the Credit Underwriter or the Corporation shall, prior to release of an individual lot within the Development site, review appropriate documentation as necessary to determine the unit is being sold to an eligible purchaser.

(14) With respect to rental Developments, in order to assure that such Developments serve the target population and maintain the minimum Set-Aside requirements, in addition to the execution and recordation of the Land Use Restriction Agreement (LURA), all deeds conveying title to real estate that is improved with rental units shall contain restrictive covenants that encompass all of the units in the Development and that provide for the continued rental of the units to persons within the target population for the Compliance Period. For those Developments which have occupied units, or will have occupied units, prior to closing of the construction or permanent financing, the Servicer or the Corporation shall conduct a review and physical inspection prior to closing of the construction or permanent financing to assure that the Development meets the minimum Set-Aside requirements and provides the intended benefit to the target population

pursuant to the Act. The Corporation reserves the right to monitor each Development funded under the Predevelopment Loan Program at any time after completion of the Development to assure continued compliance with the applicable provisions of this Rule Chapter.

(15) The loan shall not be assumable upon Development sale, transfer or refinancing of the Development.

Specific Authority 420.528 FS. Law Implemented 420.526, 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.007, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.008 Eligible Uses for the Loan.

(1) The proceeds of the Loan shall only be used for eligible expenses specified in the approved Development Plan.

(2) The Corporation shall monitor all Predevelopment activity expenditures through the designated Technical Assistance Provider and shall deny disbursements which have not been approved by the Technical Assistance Provider prior to submission to Florida Housing.

(3) Eligible Predevelopment expenses shall include the following expenses if such expenses shall be encumbered prior to closing of construction or permanent financing:

(a) Market and feasibility analysis;

(b) Rezoning;

(c) Title search;

(d) Legal fees;

(e) Boundary survey;

(f) Administrative expenses such as phone charges, travel related to the Development, copying, printing, and postage fees. Other expenses requested under this subsection shall be pre-approved by the Corporation. Salaries of employees of the applicant are not an eligible expense.

(g) Third party consultant fees. Consultant shall demonstrate appropriate experience in housing Development projects and shall be acceptable to the TAP. No person, corporation, partnership, or entity having an identity of interest in the Development, or the Applicant, may act as a third party consultant;

(h) Fees of the PLP Credit Underwriter;

(i) Good faith or earnest money deposit related to the Development Site;

(j) Commitment fees to secure construction or permanent financing;

(k) Biological and environmental assessments;

(l) Soil tests;

(m) Appraisals;

(n) Approved acquisition expenses in connection with the Development Site;

(o) Marketing expenses;

(p) Permitting/impact fees;

(q) Architectural/engineering fees;

(r) Fees in connection with a completion audit;

(s) Site Development activities approved by the Corporation;

(t) Insurance fees; and

(u) Connection fees;

(v) Other miscellaneous expenses.

(4) If any of the requisite Predevelopment activities to be completed are pending or have not been satisfactorily completed, the Applicant shall be required to work with the Technical Assistance Provider to complete the Predevelopment activities in a timely and satisfactory manner.

(5) Applicants may request use of PLP Loan funds for site acquisition by providing to Florida Housing:

(a) Evidence that all other Predevelopment expenses have been paid or appropriate funding for outstanding expenses have been reserved. If PLP funds are requested for eligible uses other than acquisition, those funds shall be made available after customary closing documents are executed. PLP funds for acquisition shall not be released until such time as this and the following requirements have been provided;

(b) A detailed explanation as to the necessity to acquire title;

(c) A recommendation from the Technical Assistance Provider that funding be provided for site acquisition; and

(d) A Credit Underwriting Report, which includes a recommendation from the Credit Underwriter that funds be disbursed for site acquisition.

Specific Authority 420.528 FS. Law Implemented 420.526, 420.527, 420.528 FS. History—New 3-23-93, Amended 1-16-96, 5-21-96. Formerly 91-38.008, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.010 Credit Underwriting Procedures.

(1) If an Applicant requests funds for site acquisition pursuant to subsection 67-38.008(5), F.A.C., or requests an extension of the term of the PLP Loan. The Corporation will assign a Credit Underwriter to perform the Credit Underwriting Report.

(2) Upon payment of the credit underwriting fees, the assigned Credit Underwriter shall review the Application and Development Plan and perform the Credit Underwriting Report. In this Credit Underwriting Report, the Credit Underwriter shall:

(a) Analyze the Applicant's Development costs, sources of funds and pro forma operating statement to ensure the Development's feasibility,

(b) Prioritize tasks which must be accomplished prior to obtaining construction and permanent financing,

(c) Advise the Corporation as to the appropriateness of plans, and specifications and the budget for the Predevelopment tasks and activities related to the Development; and

(d) Make a determination as to the feasibility of the Development.

(3) An appraisal of the proposed Development Site shall be required during the Credit Underwriting Report process. The Credit Underwriter shall choose an appraiser from the Credit Underwriter's approved list of appraisers and order the appraisal of the Development.

(4) The Credit Underwriter shall consider the appraisal of the Development and other market data to determine if the market exists to support both the demographic and income restriction Set-Asides committed to within the Application.

(5) The Credit Underwriter may require additional information as is necessary to evaluate the Development Plan and make a determination as to the feasibility of the Development. If the Credit Underwriter requires additional clarifying materials in the course of the Credit Underwriting Report process, the Credit Underwriter shall request the materials from the Applicant and shall specify deadlines for submission of each such material. Failure to submit required information by the specified deadline, unless a written extension of time has been

approved by the Corporation, shall result in the request for disbursement for site acquisition being denied.

(6) The Credit Underwriter shall complete and make a written draft Credit Underwriting Report and recommendation to the Corporation within 80 calendar days from the date underwriting fees are paid. The Technical Assistance Provider and the Applicant shall review the draft Report and provide written comments to the Corporation and Credit Underwriter within 72 hours of receipt. After the 72-hour review period, the Corporation shall provide comments on the draft Report and, as applicable, on the Applicant's and Technical Assistance Provider's comments, to the Credit Underwriter. The Credit Underwriter shall then review and consider the comments thereto and release the revised Report to the Corporation, the Technical Assistance Provider, and the Applicant. Any additional comments from the Applicant and Technical Assistance Provider shall be received by the Corporation and the Credit Underwriter within 72 hours of receipt of the revised Report. The Credit Underwriter shall provide to the Corporation a final Report which will address all comments made by the Applicant and the Technical Assistance Provider.

(7) It is the responsibility of the Applicant with the assistance of the Technical Assistance Provider to comply with each part of this Rule Chapter and to request in writing and provide evidence acceptable to the Corporation of extenuating circumstances for any requested waiver or extension. A failure to comply with any part of this Rule Chapter without the prior written permission of the Corporation shall result in the disqualification of the Development.

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 9I-38.010, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.011 Fees.

(1) The following fees and charges pertaining to each Application shall be paid by the Applicant:

- (a) Application Package fee as identified in the Application Package;
- (b) A nonrefundable application fee as identified in the Application Package;
- (c) If PLP funds are to be used for site acquisition and the Applicant requests an extension of the Loan maturity date, a credit underwriting fee pursuant to the contract between the Corporation and the Credit Underwriter shall be paid. If a Development involves scattered sites, a single credit underwriting fee shall be charged.
- (d) A commitment fee as identified in the Application Package shall be paid to the Corporation;
- (e) Following approval an additional commitment fee shall be paid within 15 days of written notice to Applicant that the Development Plan has been approved. In the event the Development Plan does not receive approval, the commitment fee paid at the time of acceptance of the Invitation to Participate shall be retained by the Corporation. In the event Applicant successfully completes the Predevelopment Loan Program activities and obtains permanent or construction financing, the Applicant's Loan amount due upon closing of the construction or permanent financing will be reduced by the full commitment fee paid.
- (f) Servicing and Compliance Monitoring Fees shall be paid for those multifamily rental Developments that obtain construction or permanent financing from sources other than Corporation programs. The total Servicing and Monitoring fee to be paid by the Applicant shall be submitted to the Corporation at the time of closing on the construction or permanent financing. The total Servicing and Monitoring fee is listed in the Application Package. For those Developments which obtain their construction or permanent financing from Florida Housing Programs, the Compliance Monitoring Fees shall be determined by the requirements of the particular program providing the financing in accordance with the rule chapter governing that particular program.

(g) All credit underwriting, Technical Assistance, Servicing and Compliance Monitoring Fees, extraordinary services and late fees shall be determined by contracts between the Corporation and the provider;

(2) Fees associated with the Loan are part of Development cost and shall be included in the Development cost pro forma, if approved by the Technical Assistance Provider and Florida Housing.

(3) Failure to remit any of the required fees when due shall cause the Application to be disqualified from the PLP program.

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History—New 3-23-93, Amended 1-16-96, Formerly 91-38.011, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.014 Disbursement Procedures.

The Loan shall be disbursed in partial payments by the Corporation to the Applicant or third party contractors subsequent to compliance with the following conditions for either home ownership or multifamily rental Developments:

(1) The Applicant shall deliver to the Corporation all documents required by the Corporation to evidence and secure the Loan and evidence compliance with all terms and conditions of the Loan;

(2) Ten business days prior to each disbursement under the Loan, including any disbursements anticipated at closing, the Applicant shall deliver to the Corporation a written request approved by the Technical Assistance Provider;

(3) Any disbursement request shall set forth the amount requested by the Applicant and shall be accompanied by invoices, cancelled checks or other such documentation to evidence the amount and kind of work or labor that has been or is to be performed; the value of the same; the identification of the portion of the Development Site on which the work has been performed; and that such contractors, sub-contractors, materialmen, laborers, professionals, consultants and all persons employed by the Applicant to work on the Development have been paid for work performed or will be paid. Lien waivers for work or labor which has been completed shall be submitted along with requests for disbursement. Lien waivers for work which will be paid from the requested disbursement shall be submitted prior to receiving additional disbursements;

(4) Disbursements for eligible activities, conducted prior to being awarded predevelopment financing, qualify for reimbursement from PLP funds provided that the eligible Predevelopment activities were performed or completed no earlier than twelve months prior to the submission of the Application. Reimbursement for site acquisition which was completed prior to closing on the PLP loan shall not be allowed as a PLP expense.

(5) Before requests for disbursements under the Loan are processed, the Applicant shall provide verification to the Technical Assistance Provider and the Corporation that the work for which payment is being requested has been performed satisfactorily and on schedule or that the expenses to be reimbursed have actually been incurred or will be incurred.

(6) In the event that the Applicant receives PLP funding for site acquisition, the Applicant must provide A Mortgage on the Development Site as collateral for the Loan subject only to such

encumbrances approved by the Corporation; however, if the Applicant is proffering a subordinate Mortgage or other collateral for the Loan, the same shall be subject to a favorable recommendation of the Credit Underwriter and the approval of the Corporation.

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History—New 3-23-93, Amended 1-16-96, 5-21-96 Formerly 9I-38.014, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.0145 Compliance and Monitoring Procedures.

(1) Units within the Development that are occupied at the time of Loan closing, shall meet Development Set-Aside requirements at that time.

(2) For new construction or rehabilitation of rental units not occupied at time of Loan closing, the Application shall notify the Corporation prior to the leasing of any units in the Development. The units shall be leased by income eligible tenants.

(3) For rental Developments which obtain construction or permanent financing from Corporation programs, the compliance and monitoring requirements of the program or programs under which funding is received shall apply.

(4) For rental Developments that obtain construction or permanent financing from sources other than Corporation programs and no Corporation funds remain in the Development:

(a) Any duly authorized representative of the Corporation shall be permitted at any reasonable time to inspect and monitor the records and facilities of the Development for compliance with the following conditions;

1. For home ownership Developments: The Corporation and or its representative shall perform an initial review to determine home buyer eligibility and verify permanent residency.

2. For multifamily rental Developments: The Corporation or its representative shall monitor tenant records and facilities for compliance during the Compliance Period with the following conditions:

a. All tenant records shall be maintained by the Applicant within 50 miles of the Development Site.

b. The Corporation or its representative shall conduct on-site Development inspections at least annually.

c. The Corporation must approve the Applicant's selection of a management company prior to the company assuming responsibility for the Development based upon the following criteria:

1. Review of the company information including key management personnel, management experience and procedures;

2. Review of company forms such as application for apartment residence, income verification forms, lease, etc.;

3. Key management company representative attendance at a Corporation compliance workshop; and

4. A meeting between Corporation compliance staff and the key management company representative after the compliance workshop.

(b) The Applicant or an authorized representative, if any, shall attend a compliance training workshop or meet with a representative from the Corporation or the monitoring agent for a compliance training conference prior to initial leasing of any units.

(c) The Applicant shall maintain complete and accurate income records pertaining to each tenant occupying a set-aside unit.

Records for each occupied set-aside unit shall contain at least the following documentation:

1. The tenant's application which shall contain the name or names of each household member, employment and income information for each household member, and other information required by the Applicant;
2. A copy of the lease agreement listing the term of the tenancy and each tenant residing in the unit;
3. Verification of the income of each tenant as is acceptable to prove income under Section 8 of the U.S. Housing Act of 1937, as amended;
4. Information as to the assets owned by each tenant; and
5. Income Certification Form TIC-1 for each tenant. Form TIC-1, which is hereby incorporated by reference, can be obtained from the Corporation. For Developments participating in Section 8 and RD Programs, the HUD Forms 50058 or 50059 or RD (or FmHA) Form 1944-8 may be used in lieu of Form TIC-1 as long as proper documentation is maintained in the tenant files.

(d) With respect to rental Developments, program reports shall be submitted as follows:

1. Initial program reports for rehabilitation/acquisition Developments with units occupied at the time of the execution of the Invitation to Participate shall be submitted at the time of execution of the Invitation to Participate.
2. Initial program reports shall be submitted for Developments with no units occupied at the time of the closing of the Loan within 10 days following the end of the calendar quarter during which the leasing of any unit within the Development occurred.
3. Subsequent program reports shall be submitted each year during the Compliance Period and are due on the dates assigned by the Corporation according to an alphabetical breakdown by property.

(5) For homeownership Developments, the initial sale of all units shall be to income eligible purchasers.

Specific Authority 420.528 FS. Law Implemented 420.528 FS. History—New 1-16-96, Formerly 91-38.0145, Amended 3-26-98, 7-17-00, 7-21-03.

67-38.017 Application Procedures for Applicants Participating Under 1998 Cycles I and II.

(1) Participants funded under Cycle I or Cycle II of the 1998 Predevelopment Loan Program, pursuant to Chapter 420, F.S., that have not taken final draws on that funding, shall be allowed to apply for funding under this Rule.

(2) To participate these Applicants shall complete and submit Form PLP 1115 2000. Such Applications shall be subject to all provisions of this Rule except that such Applications shall not be subject to the Application fee or review by the Loan Committee but be deemed to have met threshold.

(3) The Corporation shall issue an Invitation to Participate when the Application has been determined to have met Threshold Requirements, provided previous Predevelopment Loan Program award is relinquished, and outstanding notes and mortgages are satisfied with funding provided under this rule.

(4) Applicants awarded funding from Cycle I or II of the 1998 Predevelopment Loan Program that propose to develop Farmworker housing shall receive first priority for those proposed Developments. Priority shall then be given to Applicants proposing to develop other Farmworker housing, then to Cycle I and II Applicants proposing to develop other types of eligible housing, and finally to other Applicants proposing to develop other types of eligible housing.

Specific Authority 420.528 FS. Law Implemented 420.527, 420.528 FS. History—New 7-17-00, Amended 7-21-03.