shall consider authorizing the execution of the Loan Commitment and shall consider final Board approval reserving State Bond Allocation for a Development. Requests for Taxable Bonds shall be considered by the Board in an amount recommended by the Credit Underwriter. The Board shall also assign a bond underwriter, an attorney, and any other professionals necessary to complete the transaction. Staff shall assign Florida Housing bond and special counsel as needed.

(26) Following receipt of one-half of the Good Faith Deposit, Florida Housing's assigned counsel shall begin preparation of the Loan Commitment.

(27) Upon execution of a Loan Commitment, Applicant shall pay the balance of the Good Faith Deposit to Florida Housing. Florida Housing shall authorize bond counsel and special counsel to prepare the Program Documents.

(28) The Corporation may disqualify an Applicant if, after a hearing before the Board, the Board determines that the Applicant is not principally:

(a) Has been convicted of fraud, theft or misappropriation of funds or

(b) Has made material misrepresentations to the Corporation;

(c) Has been excluded from federal or Florida procurement programs;

(d) Has been convicted of a felony.


67-21.0035 Applicant Administrative Appeal Commitment

(1) As the conclusion of the review and scoring process equates by Rule 67-21.003, F.A.C., each Applicant will be provided with its final score and notice of rights, which shall constitute the point of entry to contest any issue related to the Applicants’ Program.

(2) Each Applicant that wishes to contest its final score must file a petition with the Corporation on or before the 21st Calendar Day after the date the Applicant receives notice of its score. The petition must conform to subsection 28-106.012(2), F.A.C., as applicable, and specify in detail each issue and score sought to be challenged. Submissions by facsimile or other electronic means will not be accepted. If the petition does not raise a disputed issue of material fact, the challenge will be conducted pursuant to Section 120.57(1), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing will be conducted pursuant to Section 120.57(1), F.S. At the conclusion of any administrative hearing, a recommenced order shall be entered by the designated hearing officer which will then be considered by the Board.

(3) Any Applicant who wishes to challenge the findings and conclusions of the recommenced order pursuant to Section 120.57(1), F.S., proceeding as if the original order were on appeal, may file a petition in the Circuit Court for the Fifteenth Judicial Circuit in and for Duval County, Florida for the purpose of certifying to the Board any appeal issue not previously certified by the Board.

(4) The complete application and hearing records shall be ready for appeal within fifteen (15) days following the conclusion of the hearing. If the appeal involves an issue of law, the appeal must include the complete record of the hearing, together with a statement of the issues presented for appeal. Each party may submit written briefs containing not more than ten (10) pages.

Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 North Bronough Street, Suite 8000, Tallahassee, Florida 32301-1209, no later than 5:00 p.m., Eastern Time, on the date prescribed in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to recommended orders. The Board shall consider all recommended orders and written arguments and enter the appropriate final orders.

(5) Following the entry of final orders in all petitions filed pursuant to Section 120.57(2), F.S., and in accordance with Rule Chapter 67-21, F.A.C., the Corporation shall issue final rankings. For an Applicant that filed a petition pursuant to Section 120.57(1), F.S., which challenged the scoring of its own Application but has not had a final order entered as of the date the final rankings are approved by the Board, the Corporation will, if any such Applicant ultimately obtains a final order that modifies the score so that its Application would have been in the funding range of the applicable final ranking had it been entered prior to the date the final rankings were presented to the Board, provide the requested allocation from the year available allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements.

(6) Each Applicant will be provided with a final ranking of all Applications and notice of rights, which shall constitute the point of entry to contest any issue related to any other Application for the Program. An Applicant that wishes to contest the final ranking of another Applicant may do so only if:

(a) The competing ranking was prepared before the 21st Calendar Day after the receipt of the writ of right pursuant to this subsection (5).

(b) Submission by facsimile or any other electronic means will not be accepted. Each petition must conform to subsection 28-106.20(2) or 28-106.301(2), F.A.C., as applicable, and shall specify in detail each issue, score or ranking sought to be challenged.

(c) For any Application cycle beginning after January 1, 2005, if the contested issue involves an error in scoring, the contested issue must be one that could not have been corrected pursuant to subsection 67-21.003(1)(a), F.A.C., or (ii) it be one that could have been corrected if the error in scoring was corrected by the Applicant's control and within the Attorney's control to correct. Each party must prove that the contested issue was not fairly and accurately within the time allowed for cases in subsection 67-21.003(1), F.A.C.

(d) The complete Application contains facts in its petition sufficient to demonstrate that, but for the specifically identified threshold, scoring or ranking errors in the challenged Application, its Application would have been in the funding range at the time Florida Housing provided the Applicant with its final ranking.

(e) If the petition does not raise a disputed issue of material fact, the appeal will be conducted pursuant to Section 120.57(1), F.S. If the petition raises one or more disputed issues of material fact, a formal administrative hearing shall be conducted pursuant to Section 120.57(1), F.S.
At the conclusion of any administrative hearing, a recommended award shall be entered which will theretofore be considered by the Board.

(6) Any Applicant who wishes to challenge the finding and conclusions of the recommended order offered pursuant to a Section 20.37(2)(e), F.S., proceeding as described in subsection (5) above concerning the final ranking of another applicant shall be afforded the opportunity to submit written arguments to the Board. Any written arguments should be typed and double-spaced with margins no less than one inch in each Time. New Resolts 14-pns or Courier New 12-point font and shall not exceed five pages. Written arguments must be filed with Florida Housing Finance Corporation's Clerk at 227 South Bronough Street, Suite 7000, Tallahassee, Florida 32301-3129, no later than 5:00 p.m., Eastern Time, on the date contained in the recommended order. Submission by facsimile or other electronic means will not be accepted. Failure to timely file a written argument shall constitute a waiver of the right to have a written argument considered by the Board. Parties will not be permitted to make oral presentations to the Board in response to non-submitted arguments. The Board shall consider all recommended orders and written arguments and enter the appropriate final order.

(7) For those Applicants that have filed a petition pursuant to subsection (5) above, the Corporation shall, if any such Applicant ultimately obtains a final order that demeans that its Application would have been in the funding phase of the applicable final ranking, provide the requested allocation from the non-allocated allocation, whether in the current year or a subsequent year. Nothing contained herein shall affect any applicable credit underwriting requirements. The filing of a petition pursuant to subsection (5) above shall not stay the Corporation's provision of funding to Applicants per the final rankings reflected in subsection (4) above.

Specific Authorities: 420.97, 420.98 F.S. Law Implemented: 10-30-95; 3-30-99; 3-22-98; 420.97, 420.98 F.S. History-Note: 11/4/96, amended 5-1/01, 3-7-02, 1-4-02.

67-21.004 Federal Set-Aside Requirements. Each Applicant shall designate one of the following minimum federal Set-Aside requirements that the Development shall meet, consistent with the first day on which at least 10 percent of the units in the property are occupied:

(1) Twenty percent of the residential units in the Development shall be occupied by or reserved for occupancy by one or more persons in a family whose Annual Household Income does not exceed 50 percent of the area median income limits adjusted for family size (the 2050 Set-Aside), or

(2) Forty percent of the residential units in the Development shall be occupied by or reserved for occupancy by one or more persons in a family whose Annual Household Income does not exceed 60 percent of the area median income limits adjusted for family size, (the 4050 Set-Aside).

(3) For developments financed solely through the issuance of Taxable Bonds or refinancings of Tax-exempt Bonds originally issued under section 10-09(14)(A) of the Internal Revenue Code of 1954, as amended, which is adopted and incorporated herein by reference, 20 percent of the residential units in the Development shall be occupied by or reserved for occupancy by one or more persons in a family whose Annual Household Income does not exceed 50 percent of the area median income limits adjusted for family size, (the 2050 Set-Aside).