

CHAPTER 67-60
COMPETITIVE SOLICITATION FUNDING PROCESS

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67-60.001 Purpose and Intent.

The purpose of this rule chapter is to establish the procedures by which the Corporation shall:

- (1) Administer the competitive solicitation funding process to make and service mortgage loans for new construction or rehabilitation of affordable rental units under the State Apartment Incentive Loan (SAIL) Program authorized by section 420.5087, F.S., and the HOME Investment Partnerships (HOME) Program authorized by section 420.5089, F.S.;
- (2) Administer the competitive solicitation processes to implement the provisions of the Housing Credit (HC) Program authorized by Section 42 of the IRC and section 420.5099, F.S.; and,
- (3) Administer the competitive solicitation funding process for any other Corporation program.
- (4) This rule chapter shall be reviewed, and if necessary, repealed or renewed through the rulemaking process no later than five years from the effective date.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History—New 8-20-13, Amended 10-8-14, Repromulgated 9-15-16, 7-8-18, Amended 7-6-22.

67-60.002 Definitions.

Unless otherwise specifically provided, the definitions in section 67-48.002, F.A.C. and Rule 67-21.002, F.A.C., apply to this rule chapter.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History—New 8-20-13, Repromulgated 10-8-14, Amended 9-15-16, 7-8-18, 7-6-22.

67-60.003 Notice and Posting of Competitive Solicitations.

- (1) Public notice of any competitive solicitation pursuant to this rule chapter shall be given as provided herein and in advance of the due date of the Applications, to permit Applicants to prepare and submit Applications in a timely fashion.
- (2) The Corporation shall post any competitive solicitation pursuant to this rule chapter on its Website, which shall constitute “electronic posting” pursuant to section 120.57(3)(a), F.S., notwithstanding the definition in section 287.012(10), F.S., and the provisions of section 287.042(3), F.S. There will be a minimum of fourteen (14) days between the publication date of the notice on the Website, and the due date of the Applications.
- (3) The Corporation shall post each notice of a decision or intended decision concerning a competitive solicitation pursuant to this rule chapter on its Website, which shall constitute “electronic posting” pursuant to section 120.57(3)(a), F.S., notwithstanding the definition in section 287.012(10), F.S., and the provisions of section 287.042(3), F.S.
- (4) Any notice or solicitation issued by the Corporation pursuant to this rule chapter shall be considered published at the date and time indicated on the Corporation Website.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.504, 420.5087, 420.5089(2), 420.5099 FS. History—New 8-20-13, Repromulgated 10-8-14, 9-15-16, Amended 7-8-18, Repromulgated 7-6-22.

67-60.004 Withdrawal of Competitive Solicitation or Application.

(1) The Corporation may withdraw any competitive solicitation pursuant to this rule chapter at any time prior to the due date of the Applications when the withdrawal is determined by the Executive Director to be in the best interest of the Corporation or the public. Notice of such determination shall be posted on the Corporation's Website and published in the next available volume of the F.A.R.

(2) Any Applicant may request withdrawal of its Application from a competitive solicitation by filing a written notice of withdrawal with the Corporation Clerk. For purposes of the funding selection process, the Corporation shall not accept any Application withdrawal request that is submitted after 5:00 p.m. (Eastern Time), on the last business day before the date the scoring committee meets to make its recommendations until after the Board has taken action on the scoring committee's recommendations, and such Application shall be included in the funding selection process as if no withdrawal request had been submitted. Any funding or allocation that becomes available after such withdrawal is accepted shall be treated as returned funds and disposed of according to the terms of that competitive solicitation.

(3) Fees submitted by Applicants as required by any competitive solicitation pursuant to this rule chapter are non-refundable.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History—New 8-20-13, Amended 10-8-14, Repromulgated 9-15-16, Amended 7-8-18, Repromulgated 7-6-22.

67-60.005 Modification of Terms of Competitive Solicitations.

The Corporation may modify the terms of any competitive solicitation pursuant to this rule chapter at any point prior to the due date of the Applications. A notice of modification will be posted on the Corporation's Website. Any Applicant shall have at least seven (7) days from the date of the posting of the notice of the modification to submit or modify its Application.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History—New 8-20-13, Repromulgated 10-8-14, 9-15-16, Amended 7-8-18, Repromulgated 7-6-22.

67-60.006 Responsibility of Applicants.

(1) The failure of an Applicant to supply required information in connection with any competitive solicitation pursuant to this rule chapter shall be grounds for a determination of nonresponsiveness with respect to its Application. If a determination of nonresponsiveness is made by the Corporation, the Application shall be considered ineligible.

(2) At no time during the review and evaluation of any competitive solicitation issued under this rule chapter, commencing with the due date for submission of Applications and continuing until the Board renders a final decision on the competitive solicitation, may Applicants or their representatives contact Board members or Corporation staff, except Corporation Legal staff, concerning their own or any other Applicant's Application. If an Applicant or its representative does contact a Board or staff member in violation of this section, the Board shall, upon a determination that such contact was made in an attempt to influence the selection process, disqualify the Application.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History—New 8-20-13, Amended 10-8-14, Repromulgated 9-15-16, Amended 7-8-18, Repromulgated 7-6-22.

67-60.007 Evaluation of Applications.

(1) For each competitive solicitation issued pursuant to this rule chapter the Corporation shall establish a scoring committee composed only of employees of the Corporation to evaluate Applications, which scoring committee shall provide findings, recommendations, or both to the Board.

(2) Scoring committee members shall independently evaluate Applications, and shall not communicate with members of the same scoring committee regarding such evaluation, except during meetings noticed and open to the public.

(3) The scoring committee shall conduct one or more public meetings at which the scoring committee members may discuss their evaluation, or present their findings, make recommendations to the Board, or any combination thereof.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History—New 8-20-13, Repromulgated 10-8-14, 9-15-16, 7-8-18, Repromulgated 7-6-22.

67-60.008 Right to Waive Minor Irregularities.

Minor irregularities are those irregularities in an Application, such as computation, typographical, or other errors, that do not result in the omission of any material information; do not create any uncertainty that the terms and requirements of the competitive solicitation have been met; do not provide a competitive advantage or benefit not enjoyed by other Applicants; and do not adversely impact the interests of the Corporation or the public. Minor irregularities may be waived or corrected by the Corporation.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History–New 8-20-13, Repromulgated 10-8-14, 9-15-16, Amended 7-8-18, Repromulgated 7-6-22.

67-60.009 Applicant Administrative Appeal Procedures.

(1) Interested parties that wish to protest the terms of any competitive solicitation issued pursuant to this rule chapter may only do so pursuant to the procedures set forth in section 120.57(3), F.S., and chapter 28-110, F.A.C.

(2) Any person who is adversely affected by funding decisions under any competitive solicitation may only protest the results of the competitive solicitation process pursuant to the procedures set forth in section 120.57(3), F.S., and chapters 28-106 and 28-110, F.A.C. Any pleadings or other documents must be filed with the Corporation in accordance with section 28-106.104, F.A.C.

(3) Any specifically named person whose substantial interests are being determined in the proceeding may make an appearance as a party. Any other person wishing to intervene in the proceeding must do so in accordance with rule 28-106.205, F.A.C.

(4) For the purposes of section 120.57(3)(f), F.S., any competitive solicitation issued under this rule chapter shall be considered a “request for proposal.” No submissions made after the Application deadline which amend or supplement the Application shall be considered.

(5) Applicants initiating administrative proceedings under this rule chapter shall not be required to post a bond.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(48), 420.5087, 420.5089(2), 420.5099 FS. History–New 8-20-13, Amended 10-8-14, Repromulgated 9-15-16, Amended 7-8-18, Repromulgated 7-6-22.

67-60.010 Funding Preferences.

(1) In connection with any competitive solicitation, where all other competitive elements are equal, the Corporation may establish a preference for developers and general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing.

(2) In any competitive solicitation, the Corporation may prescribe a priority to fund affordable housing projects in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern where, due to challenging environmental, land use, transportation, workforce, and economic factors, it is extremely difficult to successfully finance, develop, and construct affordable housing.

(3) The Corporation may establish other funding priorities as deemed appropriate for a competitive program or solicitation. However, for any competitive solicitation the Corporation must establish eligibility requirements designed to encourage Applicants with a broad range of development, financing, and management experience to respond to the competitive solicitation and compete for the funding being made available. Therefore, in any competitive solicitation the Corporation shall establish eligibility requirements that:

(a) Demonstrate the Applicant and Principals have experience with development financing of comparable complexity to that outlined in the competitive solicitation, but not limit experience to a specific financing program.

(b) Demonstrate that the statutory and regulatory requirements for all funding sources can be met, regardless of whether or not an Applicant seeks low-income housing tax credits or private activity bond allocation.

(c) Demonstrate successful completion of at least one development of similar type and size for which the Applicant is requesting funding.

(4) For those Applicants meeting the eligibility requirements of a competitive solicitation, the Corporation shall develop a scoring mechanism to evaluate and rank Applicant responses to the competitive solicitation. The elements of the scoring mechanism shall include, but not be limited to:

(a) Experience with successful completion of affordable housing projects.

(b) Having and maintaining a controlling interest in the ownership of affordable housing projects.

(c) Objective assessment of developer financial liquidity and capacity.

(d) Establishing all committed project financing within a given time period, with failure to do so resulting in reallocation of project funds to another Applicant.

Rulemaking Authority 420.507(12) FS. Law Implemented 420.507(47), (48), (49), 420.5087, 420.5089(2), 420.5099 FS. History—New 10-8-14, Repromulgated 9-15-16, 7-8-18, Repromulgated 7-6-22, Amended 10-23-24.