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The Florida Housing Finance Corporation Could Improve Its Tax Credit Allocation Process and Develop Better Performance Measures

at a glance

The Florida Housing Finance Corporation's board and executive director, the Governor, and the Legislature have roles in overseeing and directing corporation programs and staff. We found no compelling reason to change the current governance structure. However, to expand its role and enhance communication with the corporation, the Legislature could consider amending state law to provide for board appointments by the President of the Senate and the Speaker of the House of Representatives.

A major focus of the corporation's decision making is distributing federal low-income housing tax credits for affordable rental housing developments. To address concerns about the process, we suggest that the corporation consider reducing the frequency of rule development workshops; revising the time allowed for applicants to identify problems with each other's projects; and increasing the emphasis on considering market feasibility and project costs.

Most of the corporation's performance measures provide information on program outputs rather than program outcomes or cost-effectiveness. To enhance the quality and utility of the data the corporation reports, the Legislature could consider expanding the statutorily required performance measures.

Scope

Chapter 2012-127, *Laws of Florida,* directs the Auditor General and OPPAGA to conduct a joint audit and review of the Florida Housing Finance Corporation. The Auditor General's report addresses the corporation's internal management and selected financial and operational controls and identifies areas for improvement.[1] OPPAGA's report examines the corporation's governance structure, decisionmaking, and performance, and identifies areas for improvement.

Background

The Florida Housing Finance Corporation was created in 1998. The corporation replaced the Florida Housing Finance Agency, an arm of the former Department of Community Affairs. The corporation operates as a public corporation within the Department of Economic Opportunity, but is a separate budget entity and is not subject to the department's control, supervision, or direction. The corporation works to increase the supply of safe, affordable housing for households with very low to moderate incomes by stimulating the investment of private capital and encouraging public and private sector housing partnerships. Acting as a financial institution, the corporation administers federal and state resources to finance the development and preservation of affordable homeowner and rental housing and assists homebuyers with financing and down payment assistance.

The corporation's 2012 operating budget totaled $44.7 million, including $11.0 million in salaries, taxes, and benefits for 125 employees. The corporation does not receive an annual legislative appropriation for operations. These expenses are funded through administrative and program fees, investment income, and other income sources.

The corporation administers and allocates a combination of federal and state resources to support its affordable housing programs. Federal sources account for the majority of the corporation's allocations. As shown in Exhibit 1, federal funds

[1] Auditor General Report No. 2013-047, November 2012.

allocated for 2012 total approximately $1.54 billion. Included in this federal allocation is over $1 billion for the Hardest Hit Fund and more than $400 million for mortgage revenue bonds.

Exhibit 1
The Corporation Was Allocated Approximately $1.54 Billion from Federal Sources

Federal Affordable Housing Resources Administered by the Corporation 2011-12	Amount
Hardest Hit Fund[1]	$1,057,047,483
Mortgage Revenue Bond Allocation	422,156,112
Low-Income Housing Tax Credit Program	40,500,131
HOME Investment Partnership Program	20,115,148
Total	**$1,539,818,874**

[1] The Hardest Hit Fund originated in 2010; the amount reported is the total federal allocation remaining.

Source: Florida Housing Finance Corporation.

Historically, the Legislature has appropriated state funding for corporation programs via two trust funds—the State Housing Trust Fund and the Local Government Housing Trust Fund. The source of revenue for both is documentary stamp taxes.

- The State Housing Trust Fund supports programs such as the State Apartment Incentive Loan (SAIL) Program and other smaller programs. The most recent appropriation for the SAIL Program was $41.09 million in state Fiscal Year 2008-09.
- The Local Government Housing Trust Fund provides resources for the State Housing Initiative Partnership (SHIP) along with other smaller programs. The most recent allocation of SHIP funds totaled $30.1 million in state Fiscal Year 2009-10.

The corporation's programs assist homebuyers, homeowners, and renters. The First Time Homebuyer Program, for example, provides funds for 30-year fixed rate mortgages and may offer qualified homebuyers down payment and closing cost assistance. The corporation relies primarily on bond proceeds to fund its homebuyer assistance programs. Since 2011, the corporation also has assisted homeowners through the federal Hardest Hit Fund Program. This program is intended to help Florida homeowners who are, through no fault of their own, unemployed or underemployed and have fallen behind on their mortgage payments. The corporation's rental development programs provide funds for the construction, rehabilitation, and preservation of affordable rental housing for low-income households.

For additional information on the corporation's programs, see Appendix A.

The corporation relies on federal low-income housing tax credits to finance affordable rental housing developments. The Internal Revenue Service (IRS) annually establishes a tax credit ceiling for each state's maximum tax credit allocation.[2] In March, the IRS notifies states of the population figures and annual per capita multiplier it will use to determine the amount of available tax credits for that year; Exhibit 2 shows Florida's population and the multipliers for 2008 through 2012. The amount annually allocated to a state provides a benefit in that amount for each year in a 10-year period. Thus, the $41.9 million in tax credits awarded to Florida for 2012 represents a total of $419.2 million in credits over 10 years. States' affordable housing corporations and housing finance agencies must allocate tax credits within the same year the IRS awards them. However, federal rules allow states to carry over tax credits for one year.[3]

Exhibit 2
During the Last Five Years, the IRS Has Awarded Florida Average Annual Tax Credits of Approximately $40 Million

Year	Florida Population	Per Capita Multiplier	Tax Credit Allocation
2008	18,251,243	$2.00	$36,502,486[1]
2009	18,328,340	2.30	42,155,182[1]
2010	18,537,969	2.10	38,929,735
2011	18,801,310	2.15	40,422,816
2012	19,057,542	2.20	41,926,592

[1] The 2009 American Recovery and Reinvestment Act of 2009 included a Tax Credit Assistance Program and a Tax Credit Exchange Program. These programs addressed the loss of available housing credit equity due to the economic downturn in 2007, 2008, and 2009. Florida's share of funding for the two programs was $101.1 million and $578.7 million, respectively.

Source: U.S. Internal Revenue Service.

[2] The tax credit ceiling is the maximum amount of low-income housing tax credits that a state is allowed to allocate each calendar year. At the same time, the IRS establishes a volume cap on tax-exempt private activity bonds.

[3] States that carry forward tax credits to the next year do not qualify to receive credits from the national pool of credits that are unused by other states.

The amount of tax credits the corporation allocates in a given year may differ from the amount of tax credits the IRS awards. For example, while the IRS allocated $40.4 million for calendar year 2011, the corporation allocated $60 million in tax credits for the 2011 application cycle. The corporation's allocation included carry forward credits from 2011, all the credits from 2012, and forward allocated credits for calendar year 2013.[4]

The tax credits are intended to provide developers with a 30% or a 70% subsidy for rental housing developments. Over time, the 30% subsidy came to be referred to as a 4% tax credit rate, while the 70% subsidy was referred to as a 9% tax credit rate.[5] Developers can apply for 4% or 9% tax credits. Non-competitive 4% tax credits can be used in conjunction with revenue bonds and are not included under the tax credit ceiling. The corporation allocates the 9% tax credits through a competitive process.

The tax credits allow developers to raise funding for their projects without increasing their debt. Investors provide funds for projects in exchange for tax credits that provide a dollar-for-dollar reduction in federal income taxes. Syndicators package tax credits for investors and may offer a pool of tax credit projects. The resources provided through tax credits reduce the amount of debt the project will incur. For example, the 9% tax credits can help a developer raise as much as 70% of a project's funding.[6] Investors do not receive tax credit benefits until a development is completed and its final costs are reported to the corporation. Developers must complete construction and have the development open for occupancy within two years of it receiving a tax credit allocation.

The corporation and other entities work to ensure federal and state programs comply with applicable laws and regulations. Various government entities audit and review the corporation's activities, including the Chief Financial Officer, the Department of Economic Opportunity, and federal entities including the U.S. Department of Housing and Urban Development and the U.S. Treasury. In addition, the corporation contracts with an independent accounting firm to conduct an annual financial audit.

To ensure that developers comply with federal and state laws and regulations, the corporation contracts with three vendors to monitor properties in the corporation's portfolio. The vendors monitor construction loan servicing and conduct other compliance monitoring activities. Loan servicing activities include reviewing developers' construction draw requests, reviewing developers' documents to determine compliance with loan requirements, and conducting onsite inspections. Compliance monitoring includes annually reviewing property records to ensure that tenants meet income requirements and conducting physical inspections of housing units to ensure that developers are adequately maintaining properties. When contracted vendors identify problems, corporation staff works with the developers to address them. The corporation can withhold a developer's final construction payment for failure to address problems occurring during a project's construction. Compliance problems, such as those related to tenant rents and facility conditions, can result in the IRS recapturing tax credits from investors.

Governance

Several entities oversee the corporation's programs and services; other states use a variety of governance structures for their affordable housing agencies

A nine-member board of directors oversees the corporation's activities. As established in ss. 420.504(3) and 420.506, *Florida Statutes*, the Florida Housing Finance Corporation's governance structure includes a nine-member board of directors

[4] The corporation typically forward allocates tax credits. When the corporation forward allocates credits, a developer receives a binding commitment letter. Because of possible changes in federal law, the corporation forward allocated as many 2013 credits as possible in 2012.

[5] The tax credit rate varies monthly. Each month, the Treasury Department recomputes the annual applicable percentage that will yield a present value of 70%, or 30% of a project's eligible cost over a 10-year period.

[6] The most common method used to calculate the maximum amount of tax credits for a project involves: (1) determining a project's eligible basis, the total development costs less the land acquisition costs; (2) determining the qualified basis by multiplying the eligible basis by the percent of units in the development set aside for low-income households; and (3) multiplying the qualified basis by the 9% tax credit rate. Using this formula, a project with an eligible basis of $4 million with 40% of units set aside for low-income households would have a qualified basis of $1.6 million. This amount multiplied by a 9% tax credit rate equals an annual tax credit of $144,000 for 10 years, a total of $1.4 million in tax credits.

composed of eight members appointed by the Governor and subject to confirmation by the Senate. The executive director of Department of Economic Opportunity or his or her designee serves as an ex officio and ninth voting member. Board members are subject to removal by the Senate, and the Governor may suspend a member for cause. As shown in Exhibit 3, the board governs, directs, and oversees the corporation and its programs through a variety of activities.

Exhibit 3
The Corporation's Board Establishes Program Policies and Approves Its Strategic Plans, Rules, Allocation of Resources, and Budget

Statutory Responsibilities of the Corporation's Board of Directors

- Establishing policies for the corporation's affordable housing programs
- Adopting rules and procedures that govern the corporation's programs
- Approving the staff's recommendations on the final ranking of applications for low-income housing tax credits and directing staff to proceed with the issuing of invitations to credit underwriting to those applicants selected to receive credits
- Issuing final orders on developers' appeals of the corporation's scoring of tax credit applications
- Approving the corporation's strategic plan and long range program plan, which describe concerns faced by the corporation and strategies for addressing them
- Approving transactions involving the use of program funds
- Overseeing the corporation's executive director
- Overseeing and assessing the performance of the corporation's programs
- Approving the corporation's budget

Source: The *Florida Statutes*, corporation documents, and OPPAGA analysis.

Several board members reported that they would like to see the board become more involved in developing and approving policies rather than just reviewing and approving program-related projects and financial transactions. In that regard, the board recently created three committees to help carry out its responsibilities. The Audit Committee oversees the public accounting firm employed to audit the corporation's financial statements and reviews any accounting or reporting issues raised in these annual audits. The committee also reviews the effectiveness of the corporation's internal audit and control functions. The Planning Committee reviews all aspects of the universal application cycle, including development costs for low-income housing tax credit projects and methods for assessing job creation resulting from corporation programs. The Procedures Committee addresses issues such as establishing a process for evaluating the corporation's executive director and inspector general and implementing more formal parliamentary procedures process for board meetings.

The executive director of the Department of Economic Opportunity, with the board's advice and consent, appoints the corporation's executive director. The executive director manages the corporation's staff and its activities, such as implementing affordable housing programs and preparing the corporation's budget and strategic plan. The executive director also works closely with the board and presents recommendations to the board for addressing program-related issues.

Along with the board and executive director, the Governor participates in corporation decision making. In addition to appointing the corporation's board, the Governor plays a role in the corporation's governance through other activities. Federal law requires the Governor to approve the corporation's Qualified Allocation Plan (QAP) for awarding federal low-income housing tax credits. The corporation's staff drafts rules to guide the process for awarding tax credits that incorporate the plan by reference. After the board approves the rule and the QAP, the plan goes to the Governor, who may request changes prior to signing it. For example, in reviewing the corporation's most recent allocation plan, the Governor's office modified the plan, increasing the percentage of tax credits to be allocated for new construction projects from 50% to 65% and reducing the percentage for preservation projects from 50% to 35%. Similarly, the corporation revised its initial guidelines for using Florida's funding award for the federal Hardest Hit Program after consulting with the Governor's office.[7] Specifically, the amount of time that individuals could receive program assistance was reduced from 18 months to 6 months.

[7] The federal government created the Hardest Hit Program in 2010 to assist in housing foreclosure prevention. Under the program, Florida was awarded approximately $1.1 billion. Florida's program is designed to assist eligible unemployed and underemployed homeowners in making mortgage payments.

The Legislature also serves a role in governing the corporation. The Legislature establishes the corporation's governance structure in state law, creates statewide affordable housing policies, and appropriates state and local housing trust funds. In addition, the Senate confirms the Governor's appointment of public board members. Moreover, the Legislature monitors the corporation's performance by holding committee meetings, where corporation managers provide information on the corporation's programs, accomplishments, and challenges. However, as stated previously, the Legislature does not appropriate the corporation's annual budget and corporation funding decisions are not subject to legislative approval.

Other states' affordable housing governance structures vary. In addition to Florida, six other states use a corporate governance structure, with public corporations serving as affordable housing agencies—Alaska, Hawaii, Kansas, Kentucky, Mississippi, and Utah. Like Florida, appointed boards govern these corporations, with most members appointed by the governor. In the remaining 43 states, a state housing department, agency, finance authority, or commission operates affordable housing programs.[8]

Most (40, or 91%) of these states' affordable housing departments or agencies have appointed boards. For all the states with appointed boards (6 corporations and 40 state housing entities), the majority (approximately 73%) of the board members are appointed by the states' governors.[9]

However, for several states' housing agencies, the legislature appoints some board members. For example, the Pennsylvania Housing Finance Agency has 14 board members, of which 4 are appointed by the legislature. California's Housing Finance Agency has 11 voting members, of which 2 are appointed by the legislature. While the Florida Legislature does not appoint members to the corporation's board, it does appoint members to the boards of several other governmental corporations. For example, the President of the Senate and the Speaker of the House of Representatives each appoint three members to the nine-member board of the Scripps Florida Funding Corporation. Similarly, the President of the Senate and the Speaker of the House of Representatives each appoint two members of the board of the Citizens Property Insurance Corporation.[10]

Page 17 of this report discusses options for addressing the Florida Housing Finance Corporation's governance structure.

Decision Making

The corporation annually revises rules for allocating tax credits, which results in a lengthy and costly process; other states use approaches that are more streamlined

A major focus of the corporation's decision making concerns the distribution of federal low-income housing tax credits to affordable rental housing developments. The corporation's process to allocate these tax credits consists of four stages: rulemaking, application, underwriting, and construction and closing.[11]

This four-stage process, shown in Exhibit 4, is consistent with the corporation's goals of openness and transparency. However, each stage includes multiple steps that can take many months to complete, which increases corporation and developer costs. Exhibit 5 includes a flowchart for the stages and timeline for the 2013 application cycle.

[8] *State HFA Factbook: 2010 NCSHA Annual Survey Results,* National Council of State Housing Agencies, Washington, D.C., 2012.

[9] Most (34 of 47 states, or 72%) states' housing agencies reported that their boards approve their budgets, while 5 reported that their Legislatures approve their budgets. The remaining states reported that various entities approve their budgets (e.g., agency head or director, governor, or legislature).

[10] Unlike the Scripps Florida Funding Corporation and Citizens Property Insurance Corporation, the corporation acts as a state agency for certain purposes under state law.

[11] The corporation allocates tax credits through a universal application cycle that includes the allocation of other federal and state resources, depending on the availability of funds. In recent years, tax credits have provided the bulk of resources for rental housing developments.

Exhibit 4
The Corporation's Process to Allocate Tax Credits Consists of Four Stages

Stage	Description
1. Rulemaking	The corporation drafts rules and prepares its annual Qualified Allocation Plan, which must be signed by the Governor as the state's chief executive and submitted to the IRS. Rulemaking also includes resolving rule challenges filed by developers during the process.
2. Application	The corporation officially opens the application process and invites developers to apply for tax credit awards and other funds as available. Corporation staff receives, reviews, and scores the applications, and developers can review and question each other's applications and correct (i.e., cure) certain information in their own applications. Corporation staff provides final scores and a list of ranked projects to the board for approval.
3. Underwriting	Developers with approved projects are invited to credit underwriting. Each project must have an independent market analysis that shows the viability of the project, which is associated with the need for the project based on occupancy rates and market rents in the area surrounding the project. If the underwriter determines that the project meets federal and state guidelines and the market analysis shows the project is viable, the corporation will commit to providing the tax credits upon the project's completion.
4. Construction and Closing	Developers have two years to complete the project from the time they receive the corporation's commitment letter. Developers must decide whether to negotiate a price for the tax credits up front or wait until closing; once made, the decision is irrevocable. Investors do not begin to receive the benefits of the tax credits until the development is placed in service (i.e., opened for occupancy).

Source: OPPAGA analysis.

Rulemaking and application stages can take 12 months or longer to complete. The corporation adopts its rules pursuant to the Administrative Procedures Act, Ch. 120, *Florida Statutes*. For the 2013 application cycle, the corporation began rulemaking in late April 2012. Between April and October, corporation staff conducted six rule development workshops throughout the state. The workshops allow stakeholders to present their positions and advocate for rule changes that benefit their organizations. These stakeholders include diverse groups such as for-profit and non-profit developers, advocates for persons with special needs (e.g., elderly, homeless, and persons with disabilities), local governments, and county housing finance agencies. The agenda for the workshops can change from one meeting to the next; thus, developers typically attend each meeting to avoid missing important new issues. After gathering and incorporating feedback from the workshops, corporation staff will prepare the final rules and Qualified Allocation Plan and present them to the board for approval.

Following the board's final approval of the rules and the plan, the cycle will open for applicants to submit their proposals in January 2013. The application process includes preliminary scoring by the staff followed by back and forth communications with developers over their own proposals and other developers' proposals. The process allows developers to submit a Notice of Possible Scoring Error, which identifies potential problems with another developer's scores. Applicants have the opportunity to "cure" or fix certain application problems or issues raised in a possible scoring error. The corporation then makes a determination as to possible scoring errors and notifies both developers. Applicants may then submit Notices of Alleged Deficiencies concerning additional information provided by other developers. Once they finalize the scores, corporation staff presents the projects to the board for final rankings. According to corporation officials, the process that allows applicants to identify problems with other applications provides an important internal control mechanism for the corporation.

It may take months for the corporation to complete the rulemaking and application stages, and the process can take even longer if developers use the administrative hearing process to challenge rules and appeal application scores and decisions. For the last two cycles (2009 and 2011), the time taken to complete the process from the first rule development workshop hearing to the approval of final project rankings ranged from 12 to 14 months.

After rulemaking and application processing, developers are invited to credit underwriting, which can take an additional nine months to complete. After the board approves the final project rankings, developers are invited to credit underwriting. The corporation's contracted underwriters are responsible for overseeing the bids for conducting market analyses that are required for each project.

The credit underwriting process, including the market analysis, can take an additional nine months to complete.

Due to the length of the process, developers may enter the credit underwriting process prior to final project approval, but do so at their own risk. Corporation officials reported that some developers go forward with project construction once the market analysis is complete, even if credit underwriting is still in progress. Developers commence construction because following an approved market analysis, the corporation issues a letter committing the tax credits and the developer has two years to complete the project.

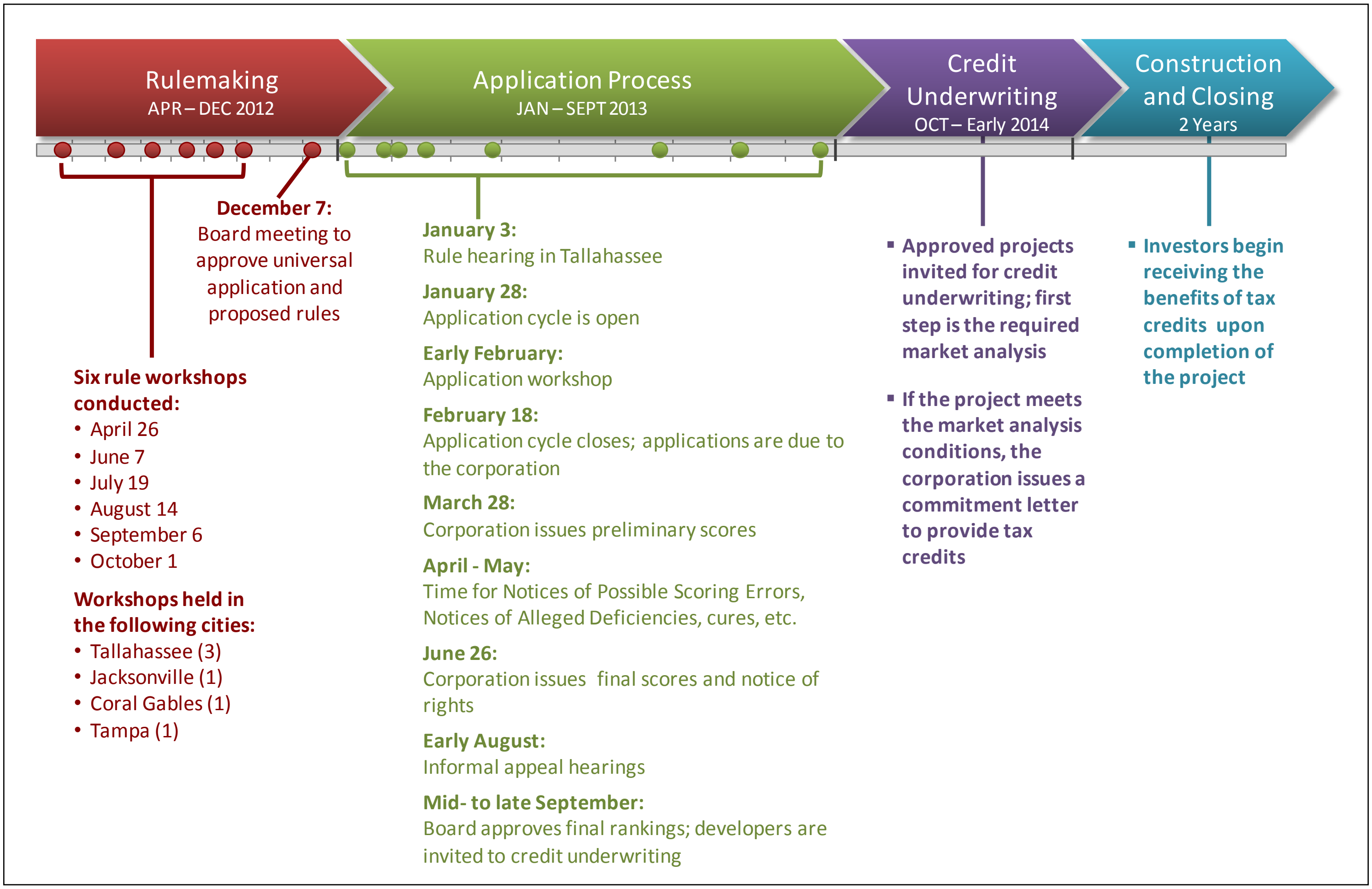
The lengthy process to allocate tax credits increases costs for the corporation and applicants. Along with corporation staff time and travel costs related to planning, preparing for, and attending multiple rule development workshops, stakeholders expend significant resources traveling to these workshops. In addition, developers bear the time and costs to prepare financing packages and applications for affordable housing development projects that comply with corporation requirements. The corporation incurs additional staff costs associated with repeatedly evaluating and scoring applications. Both the corporation and the applicants incur costs when there are notices of application errors, corrections, administrative appeals, and, if necessary, recourse through the courts. Corporation officials attribute the length of the rule development and application process to the requirements of Florida's Administrative Procedures Act.

Some stakeholders like the corporation's open, transparent rulemaking and application process and value the opportunity to make a case for changes that might benefit their interests. However, many others expressed concern about the complexity of the process, suggesting that it prohibits the participation of some developers. Some stakeholders also noted that there is not enough change in the affordable housing market to warrant this investment of time and resources for each new application cycle. The length of time to allocate tax credits may place Florida behind other states in the sale of tax credits, which may result in a lower price for tax credits and ultimately derail a project. For example, Michigan plans to issue its final 2013 tax credits in May 2013, while the corporation will not complete its final 2013 tax credit allocation until September 2013.

Other states' tax credit allocation processes are more streamlined. States vary considerably in how they allocate their tax credits. The Colorado Housing and Finance Authority publishes the first draft of its QAP in the fall and conducts two public hearings before its board and governor approve the plan in December or January. The authority limits the number of public hearings because it receives input from a tax credit advisory group that meets monthly. The advisory group includes interested parties such as for-profit and non-profit stakeholders, tax credit syndicators, and local government representatives. Similarly, the Arizona Department of Housing receives written comments on updates to its QAP as well as input from a subcommittee of the Arizona Housing Commission. The department held two focus groups in October 2012 to receive public comments on its 2013 QAP and anticipated completing its update by mid-November. Michigan's process to revise its QAP is comparable in length to Florida's process. However, Michigan begins its process earlier, allowing developers to market tax credits several months in advance of Florida developers.

Page 17 of this report discusses options for streamlining the Florida Housing Finance Corporation's rule workshop and application process.

Exhibit 5
The Corporation's Process to Allocate Federal Low-Income Housing Tax Credits Includes Four Stages That Can Take Many Months to Complete



Source: OPPAGA analysis.

The process of scoring tax credit applications relies on narrow tiebreaker criteria; the corporation could increase its emphasis on market feasibility and cost effectiveness

Consistent with other states, the Florida Housing Finance Corporation considers various state and federal laws, policies, and goals in scoring tax credits for rental housing developments. Major factors the corporation considers and examples of each factor are described below.

- **Geographic location**: Allocating credits for at least two affordable housing developments in the Florida Keys; designating specified percentages of credits to small-, medium-, and large-sized counties; giving priority to developments that are close to services (e.g., public transportation, grocery stores, and medical facilities); and establishing limited development areas that restrict new developments in areas with high vacancy rates to protect existing properties from losing tenants to newly funded developments
- **Local housing needs:** Identifying the number of cost-burdened households in the state using data from a triennial study by the University of Florida's Shimberg Center for Housing Studies.[12] The center reports county-level data on the need for affordable housing based on the number of households in each county at or below 60% of the area median income and estimates the number of

[12] The Shimberg Center conducts a statutorily required market study every three years to identify state and county rental housing needs.

these households that are cost burdened by paying more than 40% of income for housing.[13]

- **Financing:** Considering other government funding, such as local matching funds, in making decisions to award tax credits
- **Resident characteristics:** Allocating tax credits to developments that serve specific populations (i.e.; elderly, homeless, or persons with disabilities)
- **Project activities and types:** Setting aside 35% of total housing credits for preservation projects and setting aside 65% for new construction, rehabilitation, or redevelopment projects
- **Building characteristics**: Targeting developments that have energy efficient or green construction features
- **Sponsorship and costs**: Supporting projects jointly sponsored by for-profit and non-profit entities or public-private partnerships
- **Affordability:** Giving preference to developments that have waived the option to convert set-aside units to market rate after the development's 14th year

According to a 2002 Urban Institute study, states use two mechanisms to incorporate these factors into their tax credit allocation processes.[14] States may (1) treat certain factors as preferences "that are operationalized when state allocation agencies 'score' projects that are competing for tax credits and award extra points to projects with desired characteristics" or (2) establish set-asides where funds are "set aside every year from a state's allocation pool and dedicated to specific types of projects."

The corporation's process to identify viable projects and widely distribute tax credits results in maximum scores for most applications. In reviewing rental development applications, corporation staff determines whether each application meets threshold requirements that are "pass/fail" conditions. Staff then scores the application according to a point distribution prescribed in administrative rule. As shown in Exhibit 6, the scoring process involves numerous factors that can be met in various ways. For example, to obtain points for optional features and amenities, developers can choose among services such as swimming pools, libraries, computer labs, and playgrounds. Similarly, to obtain points for resident programs, developers can choose to provide literacy, after school, and first time homebuyer programs. Throughout the application review process, staff continues to revise scores based on new information provided by developers in an effort to cure missing information or to respond to scoring errors.

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[13] For the last two application cycles, Miami-Dade and Broward counties had the highest level of need. In the 2009 cycle, five projects in Miami-Dade County and two in Broward County were allocated a total of $13,974,539 in tax credits subject to credit underwriting, which represented 34% of the total statewide allocation. Similarly, in the 2011 cycle, the corporation allocated 11 projects in Miami-Dade County and 4 in Broward County, representing $26,958,818 in tax credits subject to credit underwriting, 45% of the total statewide. The corporation allocated tax credits to developments in 18 other counties in the 2009 cycle and 19 other counties in the 2011 cycle.

[14] Gustafson, Jeremy and Walker, J. Christopher. *Analysis of State Qualified Allocation Plans for the Low-Income Housing Tax Credit Program*, Urban Institute, May 2002. The Urban Institute conducted the study under contract to the U.S. Department of Housing and Urban Development.

Exhibit 6
The Corporation Uses a Complex Scoring System to Identify Viable Rental Developments

Threshold Requirements

The 2011 Universal Application Instructions included a list of **16 threshold requirements** pertaining to the accuracy and completeness of the application; timely application submission; and documentation of financing, minimum set asides, development team experience, and non-profit status (if applicable). The threshold requirements also specify that

- none of the items in the corporation's rules has caused rejection of the application;
- the developer can demonstrate an ability to proceed; and
- other threshold items specifically designated in the application also apply.

Application Scores

A **maximum of 79 points** can be awarded in the following categories:

- *Construction Features and Amenities* (41 points): In addition to threshold requirements for general features and amenities, the scoring process includes points awarded for optional features and amenities as well as green building.[1]
- *Resident Programs* (14 points): Varies depending type of development, resident programs might include first time homebuyer programs, after school programs, and literacy programs.
- *Set Aside Commitment* (12 points): Commitment to set aside at least 70% of a development's units for tenants at 60% or less of area median income, set asides for special needs households, and an affordability period of 31 years or longer.
- *Local Government Contributions* (5 points): Includes local government grants, loans, fee waivers, or fee deferrals.
- *Local Government Incentives* (4 points): Includes expedited permitting and fee reductions.
- *Housing Credit Development Experience* (3 points): Developers meet one of three criteria regarding prior tax credit experience; for example, that the developer has completed at least three housing credit developments since 2007.

Tie Breakers

A **maximum of 37 tiebreaker points** can be awarded. The use of tiebreakers varies depending on whether the project is for new construction or preservation. Using the example of new construction, the tiebreaker process is as follows.

- *A/B Leveraging Process*: Divides applications into two groups based on the extent to which the project leverages corporation funding. Applicants in Group A are more likely to receive funding.
- *Ability to Proceed*: Awards points based on the extent to which the developer has site plan/plat approval, available electricity, water, sewer, roads, and appropriate zoning.
- *Proximity Scores*: Awards points in three categories – (1) proximity to transit services; (2) proximity to Tier 1 services such as a grocery store, public school, senior center, or medical facility; and (3) proximity to Tier 2 services such as public parks, community centers, pharmacies, and libraries.
- *Preferences*: Includes using a Florida general contractor or concrete construction as tiebreakers.

Rankings

The board approves final rankings of projects based on scores, tie breaker points, and corporation goals and preferences.

Source: Florida Housing Finance Corporation.

In the 2011 application cycle, most of the eligible applications were awarded the maximum possible score. For example, of 130 applications deemed eligible by the corporation, 123 (94.6%) received the maximum score—79 points.[15] Over time, the corporation has tried different mechanisms to address the high frequency of projects receiving maximum scores. For example, the corporation has used lottery numbers to rank tax credit applications but moved away from this practice because it created an incentive for developers to submit multiple shell applications to improve the chances of receiving an award. After the lottery numbers were assigned, developers would provide missing information for the applications that received the best (i.e., lowest) lottery numbers.

To address such issues, the corporation created a set of tiebreaker points. As shown in Exhibit 6, there are several categories of tiebreaker points. However, the tiebreaker points for proximity to transportation hubs, medical facilities, grocery stores, or other facilities appear to be the most important; corporation management reported that 70% of awards in the 2011 were decided by proximity. Of the 2011 applications eligible for scoring, 92% received proximity tiebreaker scores that were very close, ranging from 24.5 to 36.75 points out of a maximum 37 points. Consequently, the allocation of tax credits was heavily dependent on the award of a narrow assortment of tiebreaker points.

In addition, the use of proximity scores has resulted in unintended consequences that may adversely affect affordable housing developments. Stakeholders suggest that awarding proximity points has increased land costs in certain areas of the state, as landowners would charge a higher price for properties in proximity to facilities. As a result, the corporation is considering additional changes to proximity scoring for the 2013 application cycle.

Greater emphasis on market feasibility and cost could help the corporation's efforts to ensure tax credit awards to the most needed and cost-effective rental developments. The corporation's continuing efforts to prevent new projects from increasing vacancy rates at existing affordable housing developments, combined with concerns about rising construction costs, suggest a possible need for the corporation to revise the scoring system to place greater emphasis on market feasibility and project costs. For example, one key question in determining the appropriateness of a proposed development is whether the housing is truly needed in a given market. Market feasibility becomes especially important given the ongoing statewide need for housing and the limited resources available. However, the corporation's current application process does not require a market analysis for developments until credit underwriting, which is after the scoring and tiebreaker process is completed. Other states, such as Georgia, Illinois, Ohio, Pennsylvania, and South Carolina, require a market analysis at the time of application submission. In the absence of a market analysis, these states reject the application as incomplete.

In addition, states across the nation are reviewing the rising costs of multi-family rental housing. In some instances, costs may be rising due to the increased costs of construction materials and labor. Other contributing factors include additional requirements for affordable housing developments, such as including amenities and using energy efficiency appliances. To address concerns about rising costs in Florida, the corporation analyzed the costs per unit of developments proposed in the 2011 application cycle as well as developments completed following the 2008 and 2009 cycles; the analysis found that during these periods, the average high rise cost per unit in Florida was $263,000.[16] As a result, the corporation is currently considering alternative methods that would contain the costs of affordable housing projects by capping the total development costs per unit of a development. This approach is consistent with other states' efforts to address rising costs. For example, Pennsylvania has established a maximum unit cost of $250,000; projects exceeding this maximum must demonstrate a compelling reason in order to receive a waiver. However, some Florida stakeholders expressed concern that considering per unit cost as a scoring criteria would

[15] For the 2011 application cycle, the corporation received 218 applications.

[16] Some sources suggest that a cost "per bedroom" is a more appropriate measure than a cost per unit since affordable housing for some households can include three bedrooms, which increases the cost, while other sources suggest that a per square foot cost would be more appropriate.

encourage developers to construct low-cost housing units that may not be durable due to the use of cheaper construction materials.

Page 18 of this report discusses options for addressing the Florida Housing Finance Corporation's decision making regarding the tax credit allocation process.

In response to the economic downturn, the corporation developed strategies to address Guarantee Program long-term stability; some properties remain at risk

The 1992 Legislature created the Florida Affordable Housing Guarantee Program to stimulate private sector lending activities in order to increase the supply and lower the cost of financing affordable housing.[17] By guaranteeing the repayment of multi-family development mortgages, the program reduced the risk to private lenders, enabling them to make loans available to developers. The Florida Housing Finance Corporation's board has a mandated 5:1 risk to capital ratio, meaning that one dollar in the fund can guarantee no more than five dollars of mortgage repayments. Since its inception, the program has credit enhanced 120 mortgages totaling $1.4 billion. No new guarantees have been issued since 2005.

The Legislature authorized the corporation to issue revenue bonds to establish the Guarantee Program. To capitalize the fund, the corporation issued four series of variable rate bonds from 1993 to 2002 totaling $300 million.[18] By statute, the bonds are primarily payable from and secured by annual debt service reserves; interest earned on funds deposited in the fund; and fees, charges, and reimbursements established by the corporation for the issuance of affordable housing guarantees. State law requires that if revenues are insufficient to fully fund the annual debt service, the deficiency is payable from the State Housing Trust Fund, which contains state documentary stamp tax revenues. Further, the Guarantee Program must maintain no less than the third highest rating classification (i.e., A-) by any nationally recognized rating service. If the fund's credit rating falls below the required classification, the corporation must notify the Chief Financial Officer of the amount of claims obligation to be paid out of the trust fund. To date, the corporation has never used this statutory mechanism to meet Guarantee Program obligations.

The economic downturn affected the Guarantee Program, but the corporation took steps to maintain fund stability. The economic downturn that began in 2008 created two problems for the Guarantee Program. The first concerned the providers that insured the liquidity of the corporation's variable rate bonds. The second concerned the foreclosure of several guaranteed properties.

Bond liquidity. Because bondholders had a right to tender the bonds weekly if investors need liquidity, the corporation contracted with bond insurers to provide this liquidity. Due to the economic downturn, the auction-rate securities market collapsed and rating companies downgraded the bond insurers. As a result, the debt service payments on the bonds increased.[19]

To address the problems related to the variable rate bonds, the corporation took steps to buy back the bonds using corporation assets. The corporation took a bank loan for $156 million to refinance the outstanding bonds. By December 2012, corporation officials hope to complete repayment of the loan (the last $51 million of the original $156 million).

Foreclosures. In response to the economic downturn, the corporation established a Subordinate Mortgage Initiative to help struggling Guarantee Program developments. The corporation used unrestricted net assets to assist developments that required assistance making monthly mortgage payments. For qualified developments, the corporation provided loans for up to one mortgage payment each quarter for up to a two-year period (maximum of eight payments). As of November

[17] In 1994, the corporation's predecessor entered into a risk sharing agreement with the U.S. Department of Housing and Urban Development (HUD). Under the HUD risk-sharing program, HUD assumes 50% of the Guarantee Program's guaranteed mortgages on multi-family developments.

[18] The bonds were weekly-reset taxable variable rate demand bond obligations that were sold to investors and traded in the same market as auction-rate securities. Bondholders have the right to tender the bonds on a weekly basis if investors need liquidity.

[19] Because of the downgrades of the bond insurers, many bondholders turned to liquidity facilities that had standby purchase agreements with the corporation to purchase the bonds. The result was that the bonds accrued interest at prime plus rates.

2012, the corporation had issued 32 loans totaling $19.1 million to such developments.

In addition, the corporation took steps to address properties that went into foreclosure. During the 18-month period from November 2008 to April 2010, eight Guarantee Program properties went into foreclosure. The corporation took control of these properties and facilitated their sale. Once completed, the corporation recovered 87% of the mortgages for these foreclosures. More recently, the corporation has used State Apartment Incentive Loan Program (SAIL) repayment funds to help Guarantee Program properties reduce their debt service. The reduction in debt, combined with low interest rates, allowed property owners to refinance out of the program. In exchange, the owners agreed to set aside existing units for extremely low-income households.

The corporation reduced the Guarantee Program's level of risk, but some properties remain in jeopardy. As of September 2012, the corporation had reduced the Guarantee Program's risk to capital ratio to 2.57:1, well below the board's mandated maximum of 5:1. Four properties have refinanced out of the fund, and four developments have refinancing efforts in progress. The 2012 Legislature authorized the corporation to provide up to $2.5 million per project to preserve individual Guarantee Program projects. The funding expires at the end of Fiscal Year 2012-13.

While the corporation continues its efforts to reduce the state's risk associated with the Guarantee Program, some guaranteed properties continue to struggle financially. For example, as shown in Exhibit 7, 11 properties have debt service coverage ratios below 0.60. A property's debt service coverage ratio, measured as its net operating income divided by its debt service, greater than 1.0 indicates that a property has more than enough money to pay its bills. A ratio equal to or less than 1.0 indicates that the property does not have adequate resources. In these cases, the developer and investors may have to cover the property's debts.

The corporation monitors all Guarantee Program properties closely and reports that in addition to properties that anticipate refinancing out of the program in 2013, others continue to explore other debt restructuring opportunities. According to corporation officials, some of the properties with the lowest debt service coverage ratios are developments where developers and investors, to remain in good standing with the corporation, continue to provide resources to support the developments.

Exhibit 7
Certain Guarantee Program Properties Have Very Low Debt Service Coverage Ratios

Debt Service Coverage Ratio	Number of Properties	Dollar Amount of Guarantee Fund Risk[1]	Percentage of Guarantee Fund Risk
Greater than 1	27	$185.9 million	38%
From 0.60 to 1.0	35	244.8 million	51%
Less than 0.60	11	51.4 million	11%
Total	**73**	**$482.1 million**	

[1] The amount of risk does not include the HUD risk-sharing portion.
Source: Florida Housing Finance Corporation.

Decisions regarding the issuance of private activity bonds are heavily influenced by market conditions and the absence of gap financing

In some circumstances, the federal government provides a tax exemption on interest income from what are known as private activity bonds; the proceeds of private activity bonds primarily benefit private individuals and businesses. The federal government places an annual volume cap on the total amount of private activity bonds that states can allocate.[20] The Florida Division of Bond Finance, using a statutorily-required formula, allocates Florida's private activity bond volume to various entities across the state, including the Florida Housing Finance Corporation.

The corporation issues single-family mortgage revenue bonds to fund the First Time Homebuyer Assistance Program. Upon receiving its private activity bond allocation, the corporation determines the amount to be used for single-family and multi-family mortgage revenue bonds. The corporation uses the proceeds from single-family revenue bonds to provide first time homebuyer mortgages. To help determine the timing for issuing a bond, corporation staff works with an advisory board composed of participating lenders. After obtaining advice on the current level of

[20] Federal law establishes the criteria that activities must meet for tax exempt private activity bonds.

need for first time homebuyer mortgages and current market and interest rates, as well as any changes in credit underwriting requirements, the corporation moves forward with issuing a bond. The corporation works to maintain a continuous lending model that provides funds for first time homebuyers as needed throughout the year.

The corporation issues the single-family revenue bonds and then holds the proceeds from the bond sales in reserve for participating entities (i.e., banks and other agencies) that issue first mortgages to qualified borrowers. First mortgages are typically 30-year fixed rate mortgages; borrowers may also receive down payment assistance through the state's Homeownership Assistance Program. Lenders submit these loans to the corporation's contracted master servicer (U.S. Bank), which bundles them into mortgage-backed securities that are sold to investors. Throughout the process, the mortgages are reviewed for compliance with bond rules, as well as IRS and other requirements. Should a homeowner default on a loan, the master servicer would purchase the loan and handle the foreclosure. Because of mortgage insurance, foreclosures do not represent a risk to the corporation.

A lack of gap financing has reduced the use of multi-family mortgage revenue bonds. Multi-family mortgage revenue bonds can be used in conjunction with 4% tax credits or other funding sources to provide funds for the construction of a specific rental housing development. While the multi-family mortgage revenue bonds provide the bulk of resources required to complete the project, additional resources are often needed. In the past, the corporation allocated SAIL Program funds to help developers fill the gap between a project's total costs and the funds provided through bonds. However, SAIL Program funds are not currently available for gap financing; consequently, fewer developers are accessing multi-family revenue bonds.

Due to high market interest rates, the corporation has been issuing multi-family and single-family mortgage revenue bonds through the federal New Issue Bond Program. The economic downturn led to high interest rates on tax-exempt bonds, making them difficult to use for affordable housing. In response, the federal government established the New Issue Bond Program to respond to the credit and liquidity issues in the tax-exempt bond market. As part of the program, the federal government agreed to purchase 100% of the corporation's multi-family revenue bonds at lower than market interest rates and 60% of its single-family revenue bonds. In 2011, the corporation issued $66.1 million in bonds through the New Issue Bond Program that produced 1,164 rental housing units, of which 1,024 were set aside for low-income households. During the same period, the corporation used $333.4 million in proceeds from New Issue Bonds to assist 3,449 first time homebuyers. The federal government has extended the New Issue Bond Program through December 2012.

Performance

The corporation's performance reporting system primarily provides output data rather than comprehensive information about program outcomes and the condition of the rental property portfolio

The Florida Housing Finance Corporation routinely calculates and reports performance measures for its various affordable housing programs. (See Exhibit 8.) As shown in the exhibit, the corporation's long-range program plan for Fiscal Years 2013-14 through 2017-18 contains several measures, including the percent of targeted dollars allocated to the targeted population for the SAIL Program; ratio of non-state resources to state-appropriated dollars; and number of local governments served by the State Housing Initiatives Partnership.

In addition, the corporation's quarterly and annual reports to the Department of Economic Opportunity include performance measures and standards. These measures, which are specified in a contract with the department, are similar to those in the corporation's long-range program plan. For example, contract measures include the number of rental housing units produced, rehabilitated, or made affordable through the corporation's programs; number of developments and units funded by the SAIL Program specifically targeted for elderly, homeless, and farm worker populations; and ratio of other public or private resources leveraged to corporation resources.

Finally, the corporation's 2011 annual report includes statutorily required performance measures.

Examples of these mandated measures include the number of people served by income, age, family size, and racial characteristics; number of units produced under each program; average sales price of single-family units financed through the Homeownership Assistance Program; and average amount of rent charged for units of various sizes for projects that received SAIL Program funding.

The corporation's performance measures are useful, but do not provide comprehensive information. Most of the corporation's measures assess program outputs; these measures count the number of products produced, such as the annual number of rental housing units produced, rather than assessing the program outcomes. In addition, these measures do not provide information on the overall financial and physical condition of the rental properties that have received funding from the corporation or the foreclosure rate on single-family homes whose owners received financial assistance from corporation programs.

Some other states' housing finance agencies report on performance measures that not only provide information on program outputs, but also include information on program outcomes and cost effectiveness. For example, the Maryland Department of Housing and Community Development reports on the percentage of single-family homeowner loans it funded that were in foreclosure and homeowner delinquency rates, while Oregon's affordable housing agency reports on the cost per square foot for housing units developed through its grant and tax credit programs.

Corporation managers acknowledge the limited usefulness of some measures. Corporation managers reported that many of the performance measures in the corporation's contract with the Department of Economic Opportunity are outdated or otherwise inadequate in assessing performance. The corporation already has developed or is in the process of developing data systems that could be used to create measures that would provide more comprehensive information on program performance. For example, the corporation currently reports on the occupancy rates of individual projects in its multi-family portfolio with a focus on Guarantee Program properties. It also reports the debt service coverage ratio of each development whose mortgage it guaranteed and is in the process of creating a data warehouse that will provide this data for all multi-family properties.[21] The corporation's asset management staff reviews this data to help monitor property financial condition; however, the data could be compiled on a statewide level to measure the corporation's efforts to identify and monitor properties experiencing problems. Further, while the corporation provided data on the percentage of homeowner loans in foreclosure compared to the state average in its 2008 and 2009 annual reports, it has not included such data in subsequent reports.

In addition to state-required performance reporting, the corporation reports to the federal government, including the U.S. Treasury. The corporation's quarterly Hardest Hit Fund reports to Treasury contain data on the median length of time taken from a homeowner's initial request for assistance to the time the assistance is granted and the percentage of loans that were transitioned out of the program due to owners reinstating or bringing their loans current or paying off their mortgages. While this data is not included in the corporation's performance reports to state entities, some state housing agencies include them in their annual reports. For example, the Michigan State Housing Development Authority's performance report includes a performance measure on Hardest Hit Fund turnaround times.

Page 18 of this report discusses options for addressing the Florida Housing Finance Corporation's performance measurement system.

[21] A development's debt service coverage ratio is its net operating income divided by its debt service. A debt service coverage ratio of less than 1.0 indicates that the income generated by a property is not sufficient to cover its mortgage payments and operating expenses.

Exhibit 8
The Florida Housing Finance Corporation Includes Performance Measures in Several Reports to State Entities

Long Range Program Plan for Fiscal Years 2013-14 through 2017-18

- The percent of statutorily targeted dollars that are allocated to the targeted population
- The ratio of non-state resources to state-appropriated dollars (ratio of Sadowski funds used versus non-state funds)
- The percent of units exceeding statutory set aside
- The number of applications processed
- The number of affordable housing loans funded (the number of applications approved for funding for the SAIL, Predevelopment Loan, and Homeownership Assistance programs)
- The number of local governments under compliance monitoring for the State Housing Initiatives Partnership (SHIP) Program
- The number of local governments served (SHIP Program)

Contract with the Department of Economic Opportunity

- The annual number of rental housing units produced, rehabilitated, or made affordable through the corporation's programs
- The annual number of home ownership housing units produced, rehabilitated, or made affordable through the corporation's programs
- The annual number of developments and units therein funded by the SAIL Program specifically targeted for elderly, homeless, and farm worker populations
- The number of developers and units funded by the SAIL Program
- The annual percentage of set-aside units at designated percentages of median income to total units reported as produced during such annual period
- The average initial set aside period for units funded in the current year to be occupied by a targeted population for the following corporation rental programs: Multifamily Mortgage Revenue Bonds, Housing Credits, SAIL, and HOME
- The total number of existing units set aside for a targeted population and funded by the following corporation rental programs: Multifamily Mortgage Revenue Bonds, Housing Credits, SAIL, and HOME
- The ratio of other public or private resources leveraged to corporation resources
- The percentage of annual dollar volume of housing credits allocated, loans committed, and tax-exempt bond allocation utilized to allocations (including recaptured funding) available, reported by program
- The annual estimated dollar amount of economic activity created as a result of housing activity generated by the corporation's programs
- The estimated number of jobs created as a result of affordable housing activity generated by the corporation's programs
- The annual percentage of the corporation's operating budget to program resources administered
- The number of additional households provided affordable housing during the current year by the corporation's programs

Statutorily Required Measures in the Corporation's Annual Report

- The number of people served, delineated by income, age, family size, and racial characteristics
- The number of units produced under each program
- The average cost of producing units under each program
- The average sales price of single-family units financed under s. 420.5088, *F.S.*
- The average amount of rent charged based on unit size on units financed under s. 420.5087, *F.S.*
- The number of persons in rural communities served under each program
- The number of farm workers served under each program
- The number of homeless persons served under each program
- The number of elderly persons served under each program
- The extent to which geographic distribution has been achieved in accordance with the provisions of s. 420.5087, *F.S.*

Source: OPPAGA review of Florida statutes and corporation reports.

Options for Improvement —

There are several options to address the corporation's governance structure, decision making, and performance measurement system

There are a number of options for enhancing the Florida Housing Finance Corporation's governance structure, decision making processes, and performance measures and reporting. Some options would require legislative action, while the corporation could implement others using its authority and resources.

Governance structure. The Legislature may wish to consider amending s. 420.504, *Florida Statutes*, to allow the President of the Senate and the Speaker of the House of Representatives to each appoint one or more members of the Florida Housing Finance Corporation's board. As stated previously, other states (e.g., California and Pennsylvania) use this approach. Such appointments would expand the Legislature's role in the corporation's governance and could help enhance communication between the Legislature and the corporation.

We also reviewed other options for modifying the corporation's governance structure and concluded that there is no compelling reason to change the current model. Corporation board members, managers, and various stakeholders, including private and non-profit developers and representatives of local housing authorities and interest groups, reported that they are not in favor of changing the corporation's governance structure. These stakeholders believe that converting the corporation to an agency would limit its ability to react to economic conditions and implement new federal programs. They also reported that being under state employment requirements would inhibit the corporation's ability to hire and retain qualified staff. In addition, most (37 entities) of the housing finance agencies in other states report that they are independent authorities like the Florida Housing Finance Corporation. For example, the Ohio Housing Finance Agency reported it was an agency within the state's Department of Development until 2005, when it became a separate entity independent of the department. According to the executive director, being an independent entity allows his agency to focus on performing its mission and to respond quickly to Ohio's pressing affordable housing issues.

Further, if Florida's corporation were reconstituted as an agency, it could hamper participation in future federal affordable housing programs. For example, when the federal Hardest Hit Program was created in 2010, U.S. Treasury guidelines specified that to receive funds, each recipient must be a financial institution as defined in the Emergency Economic Stabilization Act of 2008. These guidelines further specified that an eligible entity must be incorporated separately from state government, such as a private or public corporation, and that agencies of state governments were not considered eligible entities for purposes of the program. As a result, states whose housing finance agencies were not already corporations had to create corporations in order to receive the funds. For example, the Michigan Housing Development Authority created the Michigan Homeowner Assistance Nonprofit Housing Corporation to be the eligible entity for that state.

Tax credit allocation processes. The corporation's on-going efforts to respond to developer litigation have resulted in it establishing an elaborate rulemaking process. However, the continual rule modification provides applicants more opportunities to challenge the new rules as well as the scoring of applications using the new rules. These challenges, in turn, result in additional rulemaking in subsequent application cycles and contribute to the complexity and expense of the corporation's tax credit allocation process.

While Florida law and federal requirements guide the tax credit application and allocation process, the corporation could take steps to streamline its approach. For example, given the extensive written comments that stakeholders currently provide, the corporation could consider reducing the frequency of rule development workshops by holding one public hearing, receiving written comments for a specified period, and then holding a final rule workshop. The corporation also could reduce the time allowed for applicants to identify problems with each other's projects and address the loss of this information by reviewing application elements that are most susceptible to developer manipulation (e.g., proximity factors).

In addition, the corporation could emphasize projects' market feasibility by requiring developers to submit a market analysis along with their applications and considering the results during, rather than after, the scoring process. To ensure the integrity of the process, the corporation also could adopt the practice used by other states that require a market analysis to be conducted by a corporation-approved firm and could require approved firms to adopt best practices developed by the U.S. Department of Housing and Urban Development and the National Council on Affordable Housing Market Analysts.

Finally, the corporation could streamline the scoring process by including more "threshold requirements" or pass/fail requirements for proposed developments and considering a project's cost per unit. For example, recommended construction features and amenities and resident programs could be threshold features instead of requiring a numerical score. A less prescriptive, simplified scoring system could enhance innovation and enable developers to demonstrate how they can provide the best return on the tax credit award.

During our review, corporation officials acknowledged the potential for streamlining the tax credit application and allocation process. The corporation should continue to strive to balance the need for an open and transparent process with the process's length and cost.

Performance measures. The Legislature may wish to consider amending s. 420.511, *Florida Statutes*, to expand the corporation's statutorily required performance measures so that they provide additional information on program outcomes such as the

- percentage of underperforming properties in the corporation's multi-family rental portfolio, as measured by those with an occupancy rate below 90%, and/or those with a debt service coverage ratio less than or equal to 1;
- percentage of portfolio properties with a specified level of compliance issues;
- percentage of single-family homeowner loans that are in foreclosure; and
- cost per square foot for housing units developed through the corporation's tax credit programs.

In addition, corporation management should continue to work with the board to develop a performance measurement system that will provide them, the Governor, and the Legislature with comprehensive information.

Agency Response

A draft of our report was submitted to the Executive Director of the Florida Housing Finance Corporation for review and response. The executive director's written response has been reproduced in Appendix B.

Appendix A

The Florida Housing Finance Corporation operates various homeownership and rental development programs as well as several special projects. These activities are described in Exhibit A-1 below.

Exhibit A-1
The Corporation Provides Numerous Programs to Benefit Low-Income Floridians

Program Type	Program Descriptions
Homeownership Programs	▪ **First Time Homebuyer Program**. The program uses private activity bonds to provide 30-year fixed-rate mortgage loans for qualified applicants who meet IRS criteria and demonstrate credit worthiness and required income levels. ▪ **Mortgage Credit Certificates**. A first time homebuyers can receive an annual tax credit that can be applied against his or her federal tax liability to increase the homebuyer's after-tax pay and increase his or her ability to afford a home. The certificates may not be used with low interest mortgages. ▪ **Down Payment Assistance**. Funds for down payment assistance and closing costs can be provided with a First Time Homebuyer mortgage. ▪ **Homeownership Pool Program**. This program uses federal funds and allows developers to assist eligible homebuyers with purchase assistance. The program is currently available for self-help programs such as those run by Habitat for Humanity.
Rental Development Programs	▪ **Low-Income Housing Tax Credits**. Developers apply for and obtain tax credits that benefit investors who provide project funding. ▪ **Multi-Family Mortgage Revenue Bond Program**. The program uses both taxable and tax-exempt bonds to provide below market rate loans to developers that set aside a certain percentage of apartment units for low-income households. ▪ **HOME Investment Partnership Program**. The program provides non-amortizing, low interest rate loans to developers who acquire, rehabilitate, or construct rental housing for low-income households. ▪ **Florida Affordable Housing Guarantee Program**. The program provided loan repayment guarantees for rental housing developments. ▪ **State Apartment Incentive Loan (SAIL) Program**. The program provides non-amortizing, low interest loans on a competitive basis to developers of affordable rental housing.
Homeownership and Rental Programs	▪ **State Housing Initiatives Partnership (SHIP) Program**. The program provides state funds to local governments using a population-based formula. Local governments have three years to use the funds and must allocate 65% to homeownership. ▪ **Predevelopment Loan Program**. The program assists nonprofit and community-based organizations, local governments, and public housing authorities with planning, financing, and developing affordable housing.
Special Initiatives and Short Term Programs	▪ **Hardest Hit Fund**. This federally funded program provides unemployment mortgage assistance and mortgage loan repayment. ▪ **National Foreclosure Mitigation Counseling Program**. The corporation awards funds to counseling and legal aid agencies in their efforts to assist troubled homeowners with counseling and legal services. ▪ **Demonstration Loans**. These loans, issued by the corporation through a request for proposal process, provide funds to target specific populations such as homeless persons, frail elders, and farmworkers. ▪ **Preservation Bridge Loan Pilot Program**. This pilot program provided short-term loans to affordable rental housing locations in Orange, Palm Beach, and Pasco counties. As loans are repaid, funds are used for other preservation transactions.

Source: Florida Housing Finance Corporation.

Appendix B

we make housing affordable™
Florida Housing Finance Corporation
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November 28, 2012

R. Philip Twogood
Office of Program Policy Analysis
and Government Accountability
111 West Madison Street, Room 312
Tallahassee, FL 32399-1475

Dear Dr. Twogood:

Thank you for the opportunity to respond to the Office of Program Policy Analysis and Government Accountability November 20, 2012, draft report on Florida Housing Finance Corporation's governance, decision making and performance. Our comments on the report's options for enhancing our decision-making processes and performance measures and reporting follow.

Tax Credit Allocation Process

An October 2000 audit performed by the State Comptroller was very critical of Florida Housing's processes. A key criticism at the time was that the tax credit allocation and application scoring challenge process was unfair. In the ensuing years, we worked hard to rebuild the integrity of Florida Housing's allocation process for rental financing programs. Our primary focus was to ensure that the resources were allocated around the state in an equitable manner based on need. We focused on several objectives to create a transparent, predictable process: the creation of a very open, accessible rule development process for stakeholders; development of objective scoring standards with the ability for applicants to cure non-material problems in their applications; establishment of clearly delineated opportunities for applicants to challenge the scoring of their own applications as well as those of other applications; and adherence to the decisions of independent hearing officers, so Florida Housing's Board of Directors would no longer be put in the position of re-hearing each challenge at its Board meetings. Maintaining these objectives over the last ten years of dynamic changes in the real estate and financial markets has led Florida Housing down the road of creating an ever more complex allocation process. This has been compounded by our incorporation of standards and incentives into the application in the last few years to address a number of critical issues, particularly the following:

- Ensuring that we are financing the development of various types of rental housing only where needed;
- Providing access to our financing for all kinds of developers to build a variety of housing types as needed to serve a range of populations;

R. Philip Twogood
November 28, 2012
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- Containing costs of development while also ensuring that housing is built to be strong and functional over the long term; and
- Making sure resources are as well leveraged as they can be and best aligned with other State and local priorities.

OPPAGA's report provides Florida Housing with the impetus to streamline our allocation process to be simpler and less prescriptive. Such a process will necessarily have to be more flexible and subjective in order to promote innovation. To these ends, our staff and Board are already in discussion about how to implement changes in the allocation process.

One suggestion in the report that we are unsure will serve the allocation process well is to require a market analysis to be submitted with each application. The report points out that market studies are completed during the credit underwriting process by third party analysts approved by Florida Housing's underwriters for each application that is awarded financing. Applicants understand that a positive market finding is a non-negotiable requirement for a final award of financing. It is Florida Housing's experience that market studies which show a positive demand for proposed housing typically do not provide enough differentiation to be useful for scoring purposes in the type of prescriptive, objective system historically employed for delineating applications. Moreover, requiring all applicants to submit a market study at application unnecessarily adds to application costs for applicants that are not awarded financing (175 out of 218 applications submitted in the 2011 cycle were not funded). However, we agree that Florida Housing should develop market study standards to ensure that these analyses are providing consistent, high quality information, and we will consider whether there is a way to utilize this information differently as we implement changes to the scoring process.

Performance Measures

Florida Housing is very interested in working with the Department of Economic Opportunity (DEO), the Governor's Office of Policy and Budget, and the Legislature to develop more meaningful performance measures. We believe that parts of s. 420.511, Florida Statutes, were useful when Florida Housing transitioned to a corporation in 1998, but are now outdated and ready for revision. Florida Housing has already begun to work with DEO and others to develop benchmarks that will assist the state in measuring progress toward meeting Florida's economic development plan objectives.
In addition, while Florida Housing staff provides a great deal of written performance data to the Board at each meeting, the information is embedded in many documents and is not in a format that is quickly accessed. We look forward to working with the Board to develop a simpler "dashboard" approach to reporting key performance measures.

R. Philip Twogood
November 28, 2012
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Florida Housing appreciates the thoughtful process that the OPPAGA staff used to learn about Florida Housing's complex financial allocation and asset management processes. We look forward to working with our stakeholders to address the options provided in the report.

Sincerely,

Stephen P. Auger
Executive Director

The Florida Legislature

Office of Program Policy Analysis and Government Accountability

OPPAGA provides performance and accountability information about Florida government in several ways.

- Reports deliver program evaluation and policy analysis to assist the Legislature in overseeing government operations, developing policy choices, and making Florida government better, faster, and cheaper.
- PolicyCasts, short narrated slide presentations, provide bottom-line briefings of findings and recommendations for select reports.
- Government Program Summaries (GPS), an online encyclopedia, www.oppaga.state.fl.us/government, provides descriptive, evaluative, and performance information on more than 200 Florida state government programs.
- PolicyNotes, an electronic newsletter, delivers brief announcements of research reports, conferences, and other resources of interest for Florida's policy research and program evaluation community.
- Visit OPPAGA's website at www.oppaga.state.fl.us

OPPAGA supports the Florida Legislature by providing data, evaluative research, and objective analyses that assist legislative budget and policy deliberations. This project was conducted in accordance with applicable evaluation standards. Copies of this report in print or alternate accessible format may be obtained by telephone (850/488-0021), by FAX (850/487-3804), in person, or by mail (OPPAGA Report Production, Claude Pepper Building, Room 312, 111 W. Madison St., Tallahassee, FL 32399-1475). Cover photo by Mark Foley.

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