

Ray Debuque, Chairman
Trey Price, Executive Director

Ron Lieberman, Audit Committee Chairman
Chris Hirst, Inspector General

Project #2019-06 **Final Report** **December 9, 2019**
Audit of Multifamily Program -
Selected Controls

SUMMARY

The Office of Inspector General (OIG) conducts audits of Florida Housing Finance Corporation's (Florida Housing) programs to provide management and other stakeholders with unbiased, timely, and relevant information for use in promoting accountability, stewardship, and efficient operations.

The OIG's Annual Audit Plan for Fiscal Year 2019 included an audit of the Multifamily Programs. Furthermore, Florida Housing's Executive Director requested that a portion of the audit focus on the Multifamily Program's compliance with and adequacy of controls around the low-income housing tax credit (LIHTC) pricing processes, which are within the Multifamily Program's span of control.

Within the scope of the areas reviewed, this audit disclosed that the Florida Housing Multifamily Program is compliant with applicable laws, rules, and regulations; however, it is strongly recommended that some of the following key areas be improved to further minimize risk exposure:

- increase governance, transparency, and accountability of the LIHTC pricing process;
- improve initial quality and accuracy of final cost certifications (developer final cost certification and general contractor cost certification);
- create a platform for electronic submission and storage of final cost certifications and supporting documentation, with incorporated error controls;
- enable timely access to supporting documentation; and
- conduct selective auditing of development projects digital final cost certifications by the Florida Housing OIG as recommended by the National Council of State Housing Agencies report *Recommended Practices in Housing Credit Administration*.

OBJECTIVES, SCOPE AND METHODOLOGY

This audit was conducted in accordance with the OIG's Annual Audit Plan for Fiscal Year 2019. After conducting a risk assessment of the program area, the audit scope was narrowed to focus on the Multifamily Program requirements, responsibilities, and controls for minimizing risk within the tax credit pricing process. In addition, the audit also focused on the adequacy of controls around the

¹ Source: NCSHA website: <https://www.ncsha.org/wp-content/uploads/2018/04/NCSHA-Recommended-Practices-in-Housing-Credit-Administration-Updated-Forms-1.pdf>

Multifamily Program development cost certification review process. The purpose of the cost certification review process is to establish the total actual costs incurred by the tax credit applicant in the delivery of a LIHTC development. This enables the Multifamily Program to determine certain development costs and the amount of subsidy to be allocated to the LIHTC development. Based on analysis of the industry research, construction costs are one of the highest fraud related areas of development construction.

The audit objectives were to determine the:

- adequacy of the Multifamily Program's controls for compliance with authoritative sources, internal policies and procedures, and best practices that govern the final cost certification process;
- accuracy and validity of selected final cost certifications;
- adequacy of the program's controls to reasonably constrain project development cost outcomes between projected and actual;
- adequacy of the program's controls for compliance with authoritative sources, internal policies and procedures, and best practices that govern developer performance;
- adequacy of controls, under the administration of Florida Housing, that govern the sale of LIHTC between developers and investors to render assurance on the adequacy of those controls; and
- authoritative sources, internal policies and procedures, and best practices that govern Florida Housing's management and control of the pricing and sale of LIHTC transactions between developers and investors.

The audit scope included the Multifamily Program's controls, processes, policies and procedures, and related guidance, which were in effect during the fieldwork (February - October 2019).

To achieve these objectives, the OIG reviewed the following documentation, including but not limited to:

- Internal Revenue Code (IRC) §42, Low-Income Housing Credit;
- Rule Chapter 67-21, Non-Competitive Affordable Multifamily Rental Housing Programs, Florida Administrative Code (F.A.C.);
- Rule Chapter 67-48, Competitive Affordable Multifamily Rental Housing Programs, F.A.C.;
- Rule Chapter 67-60, Multifamily Competitive Solicitation Funding Process, F.A.C.;
- National Council of State Housing Agencies Recommended Best Practices in Housing Credit Administration;
- United States Government Accounting Office Reports:
 - *Low Income Housing Tax Credit - Improved Data and Oversight Would Strengthen Cost Assessment and Fraud Risk Management*;
 - *Low Income Housing Tax Credit - Some Agency Practices Raise Concerns and IRS Could Improve Noncompliance Reporting and Data Collection*; and
 - *Affordable Rental Housing - Assistance Is Provided by Federal, State, and Local Programs, but There Is Incomplete Information on Collective Performance*.

- Florida Housing OIG Final Report No. 2016-23 - *Management Review of the Low-Income Housing Tax Credit Program's Internal Controls*;
- Office of Program Policy and Analysis and Government Accountability Report No. 12-10 - *The Florida Housing Finance Corporation Could Improve Its Tax Credit Allocation Process and Develop Better Performance Measures*;
- Florida Housing Request for Application process documentation;
- Florida Housing Developer Final Cost Certification process documentation; and
- Florida Housing General Contractor Cost Certification process documentation.

BACKGROUND

Organizationally situated within the Multifamily Program, Florida Housing's LIHTC Program manages the allocation of federal tax credits. The Multifamily Program is comprised of the Director of Multifamily Programs, three Assistant Directors, two Multifamily Programs Administrators, and 21 staff members.

The federal tax credits provide affordable housing developers and investors with a dollar-for-dollar reduction in federal tax liability in exchange for the acquisition and substantial rehabilitation, or new construction of low and very low-income rental housing units. A LIHTC allocation to a development can be used for 10 consecutive years once the development is placed in service. The Federal LIHTC Program is governed by the U.S. Department of Treasury under Section 252 of the Tax Reform Act of 1986 and Section 42 of the IRC. Each year, the U.S. Department of Treasury awards Florida Housing with an allocation of LIHTC, which is based on a specific per capita dollar amount, multiplied by the state population plus the state's share of the national pool (unused credits from other states).

In 2018, Florida Housing awarded \$86,003,422 in federal tax credits to assist in the funding of 66 affordable housing development projects consisting of 7,860 units set aside as affordable for qualified low-income persons. Special consideration is given to properties that target specific demographic groups, such as people who are elderly or homeless. Consideration also is given to properties that target certain geographic areas, such as the Florida Keys and developments in local revitalization areas.

Florida Housing's LIHTC Program was previously the subject of confirmed fraudulent activity.² As a result, Florida Housing began to review and strengthen controls related to the type of construction contracts required and the final cost certification process, which provides the basis for the issuance of housing tax credits. In 2014, executive management also requested Florida Housing's OIG to review these controls and document all efforts of due diligence. This resulted in Project No. 2016-23 *Final Report Management Review of the Low-Income Housing Tax Credit Program's Internal Controls*. The review determined that Florida Housing had implemented additional controls in their final cost certification review process to strengthen detection measures for the prevention of fraudulent activities. The OIG recommended that alongside the measures previously implemented, additional

² <https://www.justice.gov/usao-sdfl/pr/former-carlisle-ceo-pleads-guilty-30-million-fraud-involving-ten-low-income-housing>

steps could be taken to strengthen controls in the final cost certification process. Several of the recommendations contained in this report build upon those prior recommendations.

In 2017, a contractor and an affiliated affordable housing developer were charged by the Government with the theft of millions of dollars in LIHTC by submitting inflated construction contracts to Florida Housing representatives. However, the Government and the contractor entered into a Deferred Prosecution Agreement³ in which they agreed to forfeit \$4.2 million of which they were not entitled, along with an additional \$1 million penalty, totaling \$5.2 million.⁴

Given the size and complexity of the LIHTC process along with the substantial amount of tax credit allocation that Florida Housing's Multifamily Program manages, the process consistently ranks high on the annual risk assessment performed by the OIG. Therefore, due to the high ranking and request by the Executive Director, the Multifamily Program was selected for an internal audit in 2019. During the initial stages of the audit, additional risk assessment activities resulted in the narrowing of the audit scope to focus on the LIHTC Program and LIHTC pricing controls.

Low-income Housing Tax Credit Pricing

Tax credits are awarded to developers of qualified development projects via a competitive application process administered by Florida Housing. Developers either use the tax credits or sell them to investors to raise capital for development projects, which in turn reduces the debt or equity contribution that would otherwise be required of developers. Selling the tax credits refers to the process of exchanging tax credits for equity investment in development projects. Developers recruit investors to provide equity to fund development projects and offer the tax credits to those investors in exchange for their commitment. When tax credits are sold, the sale is usually structured with a limited partnership agreement between the developer and the investor, and sometimes administered by syndicators.⁵ As the general partner, the developer has a very small ownership percentage but maintains the authority to build and run the project on a day-to-day basis. The investor, as a limited partner, has a large ownership percentage with an otherwise passive role.

Typically, investors do not expect their equity investment in a project to produce income. Instead, investors look to the tax credits, which will be used to offset their income tax liabilities, as their return on investment. The return investors receive is determined in part by the market price of the tax credits. The market price of tax credits fluctuates, but in normal economic conditions, the price typically ranges from the mid \$0.80s to low \$0.90s per \$1.00 tax credit. The larger the difference between the market price of the credits and their face value (\$1.00), the larger the return to investors. The investor can also receive tax benefits related to any tax losses generated through the project's operating costs, interest on its debt, and deductions such as depreciation.

³ A deferred prosecution agreement is a voluntary alternative to adjudication in which a prosecutor agrees to grant amnesty in exchange for the defendant agreeing to fulfill certain requirements. A case of corporate fraud, for instance, might be settled by means of a deferred-prosecution agreement in which the defendant agrees to pay fines, implement corporate reforms, and fully cooperate with the investigation. Fulfillment of the specified requirements will then result in dismissal of the charges.

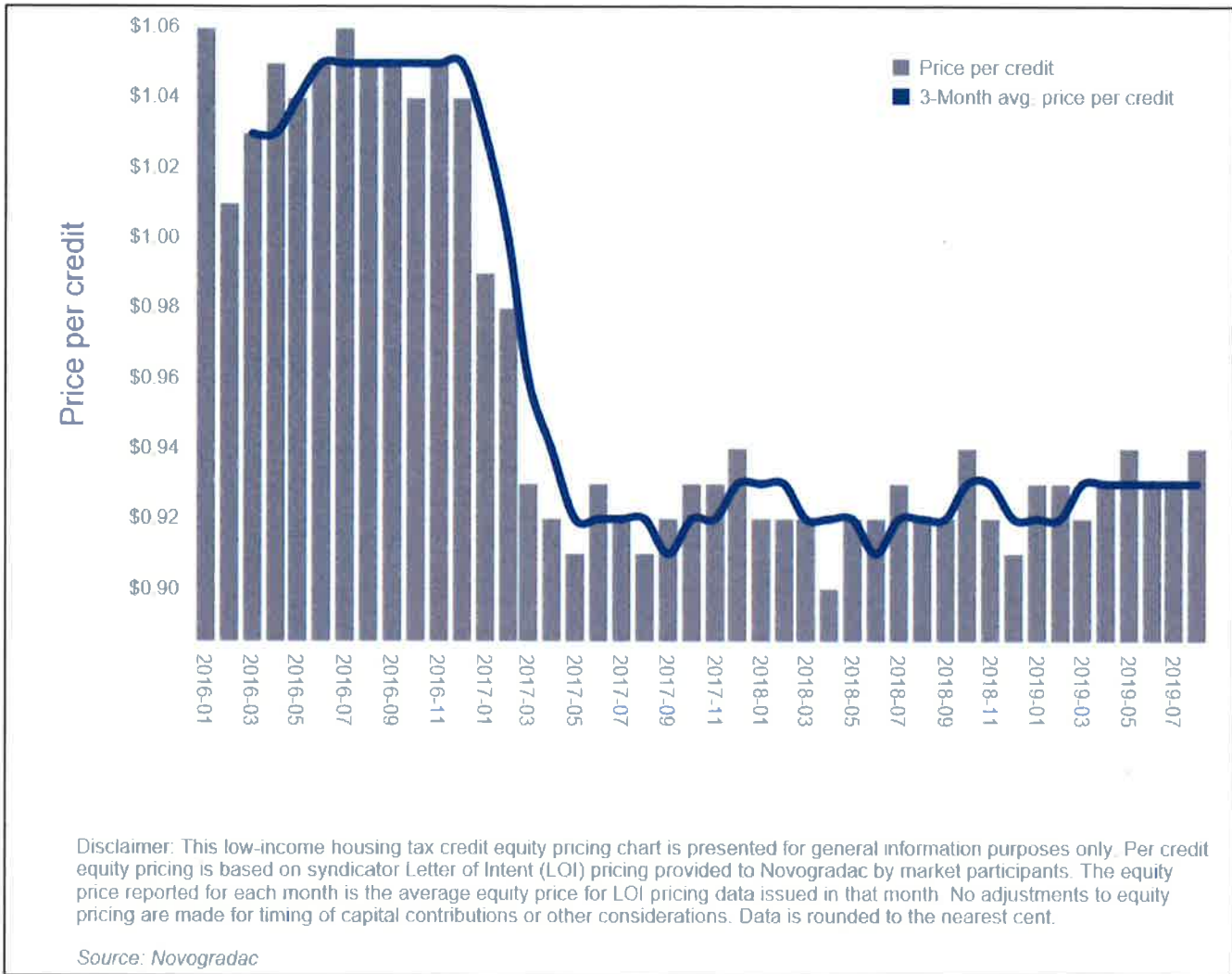
⁴ [Pinnacle Housing Group's Affiliate Charged in \\$4 Million Government Theft Involving Low-Income Housing Developments](#)

⁵ The developer sells an ownership interest in the project either directly to investors, or in many instances, to a fund managed by a syndicator who acts as an intermediary between the developer and investors.

In recent years, LIHTC pricing⁶ has been more variable:

LIHTC Pricing Trends

January 2016 - August 2019



⁶ Source: Novogradac website: <https://www.novoco.com/resource-centers/affordable-housing-tax-credits/data-tools/lihtc-pricing-trends>

Observation 1: Errors and Inefficiency in the Final Cost Certification Review Process

The OIG reviewed eight final cost certifications for both 4% and 9% LIHTC development projects and concluded that Florida Housing's cost certification process should be improved to minimize errors and inaccuracies in the first version of the final cost certification. Furthermore, of the projects reviewed, several took up to two months from receipt of the first version to completion of an error free final version, as the developer and reviewer worked to correct the errors. The OIG noted in one instance it took up to nine versions of the cost certification before a correct and final certification was achieved.

The purpose of the final cost certification process is to establish the total actual development costs incurred by the LIHTC applicant in the delivery of the LIHTC development. This enables Florida Housing to determine certain development costs and the amount of tax credits to be allocated to the LIHTC development. The developer final cost certification and general contractor cost certification is required of all LIHTC applicants and must be completed and returned to Florida Housing along with an unqualified audit report from an independent certified public accountant (CPA), each component of which must be reviewed and accepted by Florida Housing prior to the issuance of the IRS Form 8609. The CPA's report must provide the findings of its audit of the LIHTC applicant's development costs and state that the LIHTC development's final cost certification was completed according to proper regulatory procedures and professional standards. It should be noted that upon submission of the final cost certification, the developer and their CPA have attested that "the representations, certifications, calculations and covenants on the part of the Applicant appearing on the Application were correct on the date of the Applicant's submission to Florida Housing..."

During the course of fieldwork, Multifamily Program staff stated that many of these errors are avoidable. The amount of time and effort Multifamily Program staff spend to correct these errors, results in an inefficient use of program resources that could be better utilized elsewhere. Improvement in the initial accuracy and number of errors will reduce the considerable amount of time and resources Multifamily Program staff expend, in many cases, to correct the final cost certifications they receive.

The OIG **recommends** that the Multifamily Program research the possibility of developing or procuring a web-based, electronic version of the current hard copy developer final cost certification and general contractor cost certification forms. If implemented, the electronic form fields should utilize data validation as appropriate (e.g. data type validation; range and constraint validation; code and cross-reference validation; and structured validation, etc.) in order to reduce input errors by the developer and general contractor when completing their respective final cost certification forms. In addition, this electronic version could be incorporated into a workflow-based platform (e.g. SharePoint) that could initiate situational triggers for review, approval, feedback, notification of pending milestones and deadlines, etc. Furthermore, documentation in support of the asserted construction costs (e.g. general contractor payment applications, associated cancelled checks, and corresponding subcontractor invoices) could be incorporated in the form of an upload requirement for review and audit as warranted. All of this should provide the Multifamily Program with increased efficiency, transparency,

control, and accountability of the developer final cost certification and general contractor cost certification.

In addition, the OIG **recommends** that the Multifamily Program implement a process for the periodic review/audit of final cost certifications to be performed by the OIG on a selected basis. This additional level of review/audit would help to ensure the accuracy of selected cost certifications and provide additional assurance for stakeholders.

Observation 2: LIHTC Pricing Attestation and Validation

Florida Housing's Multifamily Program should strengthen controls related to LIHTC pricing by implementing a LIHTC pricing attestation document. In addition, the Multifamily Program should strengthen its controls related to the documenting and storing of the computation for validating the selling price per credit of LIHTCs.

Currently, there is no document requiring that the syndicator⁷ attest to the legitimacy of the LIHTC selling price per credit, as stated in the limited partnership agreement (LPA), and that there are no side agreements,⁸ regarding the selling price per credit, between developer and investor. Absent the attestation of the selling price per credit, such pricing irregularities may result in the over allocation of LIHTC resources, causing an inefficient use of federal tax dollars as Florida Housing cannot ensure that the tax credits are utilized to their fullest extent.

The OIG **recommends** that the Multifamily Program develop a LIHTC pricing attestation document and require the syndicator to attest that there are no side agreements regarding pricing manipulations related to the sale of tax credits between developer and investor.

Currently, there is no formalized process for documenting the results of Multifamily Program staff's computational validation of the reported final selling price per credit of LIHTCs. In interviews, Multifamily Program staff stated that the reported final selling price per credit is "locked in", which is recorded on the LPA. Multifamily Program staff also stated that the reported final selling price per credit is then confirmed by staff performing a mathematical computation and the results of the computation are either handwritten on the LPA document itself or on a note affixed to the LPA. The OIG attempted to verify that staff were consistently executing this validating control by randomly sampling LPA documentation related to 10 affordable housing developments in order to view the computation. However, 3 of the 10 reviewed (30%) contained no evidence of the computation either on the LPA itself or on a note affixed to the LPA. As a matter of caution, the OIG did perform the mathematical computation on those 3; and the results confirmed that the reported final selling price per credit was correct.

⁷ Once the allocating agencies award developers of qualifying projects the opportunity to earn tax credits, developers typically attempt to obtain funding for their projects by attracting third-party investors willing to invest in the project (provide up-front cash) in exchange for the ability to claim tax credits. The developer sells an ownership interest in the project either directly to investors, or in many instances, to a fund managed by a syndicator who acts as an intermediary between the developer and investors. Source: United States Government Accounting Office Report: Low-Income Housing Tax Credit: The Role of Syndicators <https://www.gao.gov/assets/690/682890.pdf>

⁸ Side agreement - an agreement outside of the limited partnership agreement; anything that supersedes or differs from the agreement known to Florida Housing.

The objective of this control is to independently confirm the reported final selling price per credit and document the verification. In addition to the OIG being unable to render assurance that the control was being consistently performed, there is the potential risk of not being able to produce evidence that the control was being performed, especially to an entity outside Florida Housing.

The OIG **recommends** the Multifamily Program develop and implement a formalized method of documenting the results of staff's computation on the LPA. Additionally, the OIG **recommends** that the Multifamily Program add a section to the final cost certification checklist to serve as an acknowledgement that their staff have performed the mathematical computation.

Observation 3: LIHTC Pricing Review Process

Florida Housing's Multifamily Program could strengthen controls by developing and implementing a formalized process for the review, analysis, and justification of LIHTC pricing outside of an established acceptable range.

In accordance with F.A.C. Rules 67-21 and 67-48, "the price of the Housing Credits being sold must reflect a market rate value". Recently, a development project's proposed selling price per credit was significantly more than the accepted current market rate. Multifamily Program management and staff questioned the legitimacy of the price per credit and engaged resources outside of Florida Housing for assistance. However, when asked if there was a documented process to follow when these types of pricing anomalies happen, staff indicated there was not. Although, in this instance, the OIG noted that key staff were vigilant and posed questions when the pricing anomaly was observed. Increased scrutiny of the LIHTC pricing process, along with the Florida Housing Executive Director's concerns, highlight the importance of this control. Furthermore, such pricing not in accordance with F.A.C. Rule may result in the over allocation of LIHTC resources, causing an inefficient use of federal tax dollars as Florida Housing cannot ensure that the tax credits are utilized to their fullest extent.

The OIG **recommends** that the Multifamily Program develop and implement a formalized process for the review and analysis of LIHTC pricing outside of an established acceptable range. This control should provide assurance that the Multifamily Program has performed adequate due diligence in rendering a decision on the legitimacy of the proposed price per credit sale from the developer to the investor. The control could be triggered for development projects where the sale of LIHTC are outside of the parameters of the current market price per credit or an established acceptable range. This process should involve consultation with external subject matter experts, when appropriate. Additionally, the final decision to permit or deny the sale at the reported price per credit should be documented and include a justification for the decision.

Observation 4: Access to Cost Certification Documentation

Florida Housing's Multifamily Program should consider adding language to F.A.C. Rules 67-21 and 67-48 to ensure that Florida Housing has access to any documentation necessary to support the review and approval of cost certifications. This should include the independent CPA's audit documentation

from their review of the development and construction costs as asserted and documented in the final cost certifications.

In accordance with F.A.C. Rules 67-21, 67-48 and Florida Housing's Final Cost Application Package, developers are required use the services of a CPA as follows:

Rule 67-21

"The Final Cost Certification Application Package shall be used by an Applicant to itemize all expenses incurred in association with construction or Rehabilitation of a Housing Credit Development. Such form package shall be completed, executed and submitted...for the HC Development Final Cost Certification (DFCC) and the General Contractor Cost Certification (GCCC)...along with...the required certified public accountant opinion letter for both the DFCC and GCCC" and "an unmodified audit report prepared by an independent certified public accountant for both the DFCC and GCCC."

Rule 67-48

"Final cost certification documentation shall be submitted by an Applicant to itemize all expenses incurred in association with construction or Rehabilitation of a Housing Credit Development, including Developer's and General Contractor's fees as described in rule 67-48.0072, F.A.C., along with...the required certified public accountant opinion letter" and "an unmodified audit report prepared by an independent certified public accountant".

Florida Housing's Final Cost Application Package

Florida Housing's Final Cost Application Package instructions are "comprised of the HC Development Final Cost Certification (DFCC), the unqualified audit report from an independent Certified Public Accountant regarding the DFCC, the General Contractor Cost Certification (GCCC)" and "the unqualified audit report from an independent Certified Public Accountant regarding the GCCC..." In addition, "the Certified Public Accountant must randomly select other sub-contractors sufficient in number (but in no event less than five), when taken together with the three largest dollar sub-contractors, to account for at least 40% of the total contract construction cost, and verify the amounts paid to each sub-contractor by reviewing check copies, contract documents, change orders, and other supporting information to verify amounts included within the cost certification for each sub-contractor selected."

Florida Housing's Request for Application form also states that the applicant agrees to "promptly furnish such other supporting information, documents...as may be requested or required by the Corporation..."

During the course of audit fieldwork, the OIG contacted eight developers and requested that they provide their CPA's documentation related to their audit of the development's construction costs. This resulted in the following:

- Five developers provided complete and comprehensible documentation and the OIG was able to reconcile the asserted costs.
- Three developers provided documentation that was incomplete and/or incomprehensible and the OIG was unable to reconcile the asserted costs, with some details listed below:
 - In one of the three instances above, the documentation was provided by the developer, instead of their CPA, which took multiple requests and 17 business days to receive this information.
 - Another has resulted in additional scrutiny of the asserted costs related to the percentage of self-performed work⁹; and as of the date of this report, this issue is still undergoing further review.
 - Without sufficient and timely access to the CPA's audit documentation, the OIG was unable to determine the accuracy and validity of asserted construction costs for these three developments.

The OIG **recommends** that the Multifamily Program consider adding language to F.A.C. Rules 67-21 and 67-48 to ensure that Florida Housing has timely access to any documentation necessary to complete the review and approval of the required cost certifications. In the event that non-compliance with this Rule occurs before Florida Housing's issuance of IRS Form 8609, the form should be withheld until compliance is achieved.

ACKNOWLEDGEMENT

The Office of Inspector General would like to extend our appreciation to the management and staff of Florida Housing for their assistance and cooperation during this audit.

This audit was conducted in conformance with the International Standards for the Professional Practice of Internal Auditing, published by the Institute of Internal Auditors. The audit was conducted by David Merck, Systems Auditor, CIA, CISA, CISSP-ISSMP, CAP, CPM and Melanie Yopp, Director of Investigations, CFE, CGAP, CIGI, CIGA, under the supervision of Justin Evans, Director of Auditing, CIA, CFE, CIGA, CPM. This report and other reports prepared by Office of Inspector General can be obtained from the Corporation's website, <http://www.floridahousing.org/AboutUs/OfficeOfInspectorGeneral>.

⁹ The general contractor on a project completes certain construction activities, such as concrete, carpentry, or framing work, with their own employees instead of a sub-contractor.

Observation 1: Errors and Inefficiency in the Final Cost Certification Review Process

The OIG **recommends** that the Multifamily Program research the possibility of developing or procuring a web-based, electronic version of the current hard copy developer final cost certification and general contractor cost certification forms. If implemented, the electronic form fields should utilize data validation as appropriate (e.g. data type validation; range and constraint validation; code and cross-reference validation; and structured validation, etc.) in order to reduce input errors by the developer and general contractor when completing their respective final cost certification forms. In addition, this electronic version could be incorporated into a workflow-based platform (e.g. SharePoint) that could initiate situational triggers for review, approval, feedback, notification of pending milestones and deadlines, etc. Furthermore, documentation in support of the asserted construction costs (e.g. general contractor payment applications, associated cancelled checks, and corresponding subcontractor invoices) could be incorporated in the form of an upload requirement for review and audit as warranted. All of this should provide the Multifamily Program with increased efficiency, transparency, control, and accountability of the developer final cost certification and general contractor cost certification.

Response to the First Recommendation

Multifamily concurs with the needs for the recommendation above. Multifamily is in the process of transitioning to a new development management software (ProLink). Multifamily staff along with Information Technology Department staff are researching, recommending and designing ways for the developer final cost certification form to be integrated into the ProLink software tool, as well as researching ProLink applications that may be useful for general contractor cost certification information. If successfully implemented, such integration would include the triggers for review, approval, feedback, and notifications for the cost certification processes.

It is yet to be determined whether ProLink has the capacity to support the integration above as well as full uploads of substantiating cost certification documentation on every transaction. The next 12-24 months will be informative about the capacity for the ProLink software for the aforementioned cost certification needs. Should the ProLink software prove to be infeasible for overall cost certification needs, Multifamily will research the feasibility of developing or procuring a web-based version of the cost certifications in accordance with the recommendation. This type of review will necessitate an analysis of the overall project cost.

Additionally, and in the short term while the ProLink implementation occurs, in order to address the errors and inefficiencies in the final cost certification review process, in 2020 Multifamily staff will be working on a short resource document to provide to CPAs and developers regarding the cost certification requirements to mitigate the frequency of errors. Multifamily leadership will also review the feasibility of developing a training for CPAs and developers who participate in completing cost certifications.

In addition, the OIG **recommends** that the Multifamily Program implement a process for the periodic review/audit of final cost certifications to be performed by the OIG on a selected basis. This additional level of review/audit would help to ensure the accuracy of selected cost certifications and provide additional assurance for stakeholders.

Response to the Second Recommendation

Multifamily concurs with this recommendation and will work with OIG to review the resources necessary to implement a process for the periodic review/audit of final cost certifications to be performed by the OIG on a selected basis and determine a course of action that effectively addresses the observation while maintaining efficient use of Multifamily staff support for such a process.

Observation 2: LIHTC Pricing Attestation and Validation

The OIG **recommends** that the Multifamily Program develop a LIHTC pricing attestation document and require the syndicator to attest that there are no side agreements regarding pricing manipulations related to the sale of tax credits between developer and investor.

Response to the First Recommendation

Multifamily concurs with the recommendation and will continue to work with the Office of General Counsel on potential ways to develop a pricing attestation document in 2020 Rule Development.

During the 2019 Rule development process, Multifamily presented a draft rule requiring that as a part of the final cost certification package, an applicant must provide a verification from the syndicator (if the housing credits are syndicated) or the applicant (if the credits are not syndicated) that certified for each housing credit investor that there are no agreements outside of the limited partnership agreement.

After workshopping the draft Rule requirements, Florida Housing received public feedback that third party syndicators' legal counsel would not authorize the execution of such a verification. Florida Housing does not have any regulatory authority over third party housing credit investors or syndicators. Accordingly, Multifamily did not move forward with promulgating the draft rule.

It should be noted that currently all Applicant Certification and Acknowledgment forms executed by the applicant authorized principal representative require certification that there are no agreements, other than the letter of intent provided with the application or the LPA, between the applicant and the housing credit syndicator/equity provider.

The OIG **recommends** the Multifamily Program develop and implement a formalized method of documenting the results of staff's computation on the LPA.

Response to the Second Recommendation

Multifamily staff currently reviews the LPA and calculates the overall pricing, based on the equity amount and the allocation amount represented in the LPA. This procedure is performed through the staff review of the preliminary recommendation letter, credit underwriting report review, and final cost certification processes. There is currently a checklist in the final cost certification review confirming staff has conducted the calculation. Multifamily will edit the current checklist to include the mathematical computation.

Observation 3: LIHTC Pricing Review Process

The OIG **recommends** that the Multifamily Program develop and implement a formalized process for the review and analysis of LIHTC pricing outside of an established acceptable range. This control should provide assurance that the Multifamily Program has performed adequate due diligence in rendering a decision on the legitimacy of the proposed price per credit sale from the developer to the investor. The control could be triggered for development projects where the sale of LIHTC are outside of the parameters of the current market price per credit and/or outside of an established acceptable range. This process should involve consultation with external subject matter experts, when appropriate. Additionally, the final decision to permit or deny the sale at the reported price per credit should be documented and include a justification for the decision.

Response to the Recommendation

Multifamily agrees with this recommendation and will work toward implementing the process with the understanding and acknowledgment that each development is different, market conditions are variable, and housing credit pricing fluctuates. While a process for pricing review can be formalized, it should be done so with the understanding that each development and each market require a specialized approach, which is not one size fits all. Multifamily agrees that once staff identifies that pricing on a development might be outside of a market range, staff should consult external resources for review and such review should be documented to the development file, such a review will necessitate a budget analysis.

Observation 4: Access to Cost Certification Documentation

The OIG **recommends** that the Multifamily Program consider adding language to F.A.C. Rules 67-21 and 67-48 to ensure that Florida Housing has timely access to any documentation necessary to complete the review and approval of the required cost certifications. In the event that non-compliance with this Rule occurs before Florida Housing's issuance of IRS Form 8609, the form should be withheld until compliance is achieved.

Response to the Recommendation

Multifamily is requesting permission to enter rulemaking for Rule chapters 67-21 and 67-48 at the December 13 Board meeting. Multifamily will publicly workshop the concept presented to determine feasibility and seek public feedback in early 2020. One legitimate issue related to this recommendation is that Multifamily has encountered circumstances where a development ends up in litigation related to contract disputes and as a result, timely access to certain documentation has proved difficult to ascertain. Any change to Florida Housing Rules must acknowledge situational issues that arise and avoid unintended consequences.