




# Memorandum



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To: Michael Liu, Director  
Public Housing and Community Development Department

From: Felix Jimenez, Inspector General 

Date: April 9, 2021

Subject: FY 2020 Documentary Stamp Surtax Funding and State Housing Initiatives Partnership Funding and Home Investment Partnerships Funding Allocation; OIG Ref: 20-0017-O

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## **INTRODUCTION & BACKGROUND**

By way of this memorandum, the Office of the Inspector General (OIG) shares with you our observations regarding the *Request for Applications (RFA) for the FY 2020 Documentary Stamp Surtax Funding and State Housing Initiatives Partnership Funding and Home Investment Partnerships Funding (Surtax/HOMES/SHIP) Funding Allocation* process that was recently completed by the Department of Public Housing and Community Development (PHCD). This review focused solely on the evaluation process for the RFA.

In an earlier memorandum, dated November 13, 2020, we transmitted to you our review of the FY 2017 RFA process.<sup>1</sup> That review, predicated on allegations received by the OIG, substantiated some non-compliant practices pertaining to the Florida Sunshine Law, Florida Statute Section (FSS) 286.011. In response, you advised us that those practices have been revised and implemented into the FY 2019 process to ensure compliance.

The review of the FY 2017 RFA process also found that other allegations pertaining to the Cone of Silence and provisions of County Implementing Order (IO) 3-34 to be unfounded, as these two governing authorities are not applicable to the RFA process. While not legally required, PHCD advised that it had adopted some of these provisions as best practices, such as audio recording the evaluation meetings.

We became aware that the FY 2020 RFA process was underway and because of our prior review, we advised you that we would proactively monitor this process.

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<sup>1</sup> Reference IG18-0002-I

## **OIG MONITORING & GENERAL OBSERVATIONS**

The OIG began actively monitoring this process by reviewing the RFA and attending public meetings of the Selection Committee (SC), beginning with the Kick-Off meeting through the evaluation and scoring meetings. Listed below is a chronology of all the meetings and our general observations. Unless otherwise noted, an OIG representative was physically present at each meeting. (Please note that certain observations will be discussed in greater detail, following the chronology.)

- Nov. 18, 2020      SC Kick-Off Meeting, Board Room, Robert King High Towers  
All SC members were physically present. All attendees wore facial masks and socially-distanced themselves. The SC Chair reviewed the evaluation criteria and established dates for future meetings. The meeting was properly noticed and audio recorded. Note: This meeting was 18 days after the expiration of Governor's Executive Order permitting virtual meetings. All SC voting members were required to be physically present at meetings.
- Dec. 10, 2020      SC Evaluation Meeting, Board Room, Robert King High Towers  
All SC members were physically present. All attendees wore facial masks and socially-distanced themselves. The SC members read evaluation scores into the record. Scoring discrepancies were discussed and there were opportunities for correcting or revising members' scores. The meeting was properly noticed and audio recorded.
- Dec. 21, 2020      SC Evaluation Meeting, Board Room, Robert King High Towers  
OIG did not attend but reviewed an audio recording of this meeting. The audio recording revealed that the meeting was adjourned after all individual scores were read into the record. Subsequently, the OIG confirmed with the SC Chair that individual scores were not tabulated during the meeting and, as such, the final rankings based on the total scores were not announced into the record during the public meeting. There was no final recommendation made by the SC.
- Jan. 22, 2021      SC Supplemental Meeting, Training Room, 701 N.W. 1<sup>st</sup> Court  
A cancellation notice was issued 15 minutes prior to the scheduled start of the meeting due to the inability of one SC Scoring member to physically attend the meeting.
- Feb. 01, 2021      SC Supplemental Meeting, Training Room, 701 N.W. 1<sup>st</sup> Court  
Four SC scoring members were present constituting a quorum. The fifth scoring member was granted a medical exemption and was permitted to participate in the meeting virtually through Zoom. All attendees wore facial masks and socially-distanced themselves.

The SC Chair advised the SC members of a departmental error in retrieving complete proposals from ZoomGrants. The SC members were requested to review the supplemental data and provide scoring. The SC members read their scores aloud into the record; the meeting then adjourned. There was no discussion or announcement into the record of what impact, if any, the supplemental scores had on the final scores/ranking. The meeting was properly noticed and audio recorded.

Feb. 11, 2021 Virtual Meeting – OIG, PHCD and County Attorney’s Office (CAO)  
The OIG requested this virtual meeting to discuss two findings of non-compliance with certain requirements of the Sunshine Law. The CAO concurred with the OIG, and PHCD agreed to take corrective action. These two findings, and the corrective actions taken, are detailed below.

Feb. 23, 2021 SC Meeting, Training Room, 701 N.W. 1<sup>st</sup> Court.  
All SC members were physically present. All attendees wore facial masks and socially-distanced themselves. The SC members’ individual scoresheets were returned to the members and the SC Chair requested that each member re-read their scores into the record. The SC Chair then preformed the scoring tabulation based on the individual SC member scores. A final ranking was produced and funding recommendations were made based on the final ranking. Issues previously identified by the OIG were corrected during this meeting. The meeting was properly noticed and audio recorded. The public notice for this meeting was amended to include information for virtual attendance by members of the public.

## **OIG SPECIFIC OBSERVATIONS & COMMENTS**

The OIG’s physical attendance at the meetings and review of audio recordings, individual scoresheets, and the tabulation spreadsheet from the SC meetings revealed certain practices that require greater discussion.

### **1. Sunshine Law, F.S. 286.011 - Tabulation of individual members’ scores and final ranking of proposals were not conducted nor announced during the public meeting.**

The OIG’s attendance at the meeting on December 10, 2020, and a review of audio recording for the meeting on December 21, 2020, noted that each scoring member announced their score for an individual scoring criteria question for each proposal before proceeding to the next question. Scoring criteria questions were either “Yes/No” or formula-based and provide little latitude for subjective scoring. However, some of the

Bonus Questions provided latitude for members' discretion, for example, asking whether the documentation provided in the proposal satisfactorily responded to the criteria in question. Whenever a member's announced score was perceived to be different from a correct formula score, there was active discussion by the members as to the correct application of the formula score. Following this discussion, member(s) were provided an opportunity to revise their score by announcement and to revise their scoresheet along with placing their initials next to the revised score. This continued question-by-question for all proposals.

A review of the audio recording for the final scoring meeting on December 21, 2020, during which the OIG was not present, indicated that after individual scores were announced for the final question, the Chair thanked SC members for their participation and adjourned the meeting. Subsequently, we learned from the SC Chairperson that departmental personnel completed the tasks of scoring tabulation and final rankings on their own (presumably in their own offices or while teleworking) at some point after the meeting adjourned.

On February 1, 2021, the SC was reconvened to consider information for five proposals that had not been provided for the original evaluation and scoring. The Chairperson explained that this was due to incomplete retrieval of proposal submission from ZoomGrants. The SC members were requested to provide supplemental scoring based on the information provided. Following the announcement of individual scores and submission of scoresheets, the SC Chairperson adjourned the meeting. There was no new scoring tabulation and there was no announcement how, if any, the supplemental scores impacted the proposal rankings based on the earlier scoring tabulation. Subsequently, we learned from the SC Chairperson that they completed the tasks of scoring tabulation and adjusted final rankings on their own (presumably in their own offices or while teleworking) at some point after the meeting adjourned.

The OIG notes that the RFA SECTION C Minimum Threshold Requirements states that:

Developments will be recommended for funding based on applications meeting all minimum threshold requirements listed below, **and will be ranked in order based on highest score**. If a tie breaker is needed during scoring to determine project ranking, the first tiebreaker will be "Ability to Proceed. Those projects that score highest in Ability to Proceed, will be ranked higher. If a second tiebreaker is needed, those projects with higher points in leveraging, i.e., projects that require less total County funding per unit, will be ranked higher. If a third tiebreaker is needed, the application that proposes to construct the highest number of units will be ranked higher. (Emphasis added by OIG.)

Further, RFA SECTION E Policies states that:

The number of applications recommended for funding shall be limited by the application scores and the funds available for this RFA. Applications are recommended for funding by categories in this RFA, and are fully funded until the funding in that category is exhausted. PHCD reserves the right to reallocate funding between categories.

The RFA makes it clear that the final scores and ranking of proposals will be the basis for funding recommendations that PHCD will make to the Board of County Commissioners. Florida Statutes Section (FSS) 286.011(1) states:

All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and **no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting**. The board or commission must provide reasonable notice of all such meetings. (Emphasis added by OIG.)

Based on our observations, the OIG requested a meeting with representatives of PHCD and the CAO. That meeting was held virtually on February 11, 2021. We shared our observations and opinion that the Sunshine Law requires the process of final score tabulation and ranking of proposals to be conducted during the public meeting as the recommendation(s) for funding allocation are based on scores and rankings. The CAO concurred with the OIG's opinion and advised PHCD to reconvene the selection committee for that purpose. PHCD agreed to the corrective action but explained that it has been their practice for staff to tabulate scores and do final ranking on their own after the meeting. The final scores and ranking would then be transmitted, via letter, to proposers and also posted on their website. PHCD agreed that from this point forward, they would implement the new procedure to be in compliance with the Sunshine Law.

**2. In at least five instances, the tabulation spreadsheet for a SC member's scores did not match the scores written on the scoresheet submitted by a member.**

The OIG reviewed copies of SC members' scoresheets and the tabulation spreadsheet of those scores used to determine the final ranking. We found at least five (5) instances where the score entered in the tabulation spreadsheet did not match the score written on the SC members' scoresheet. For this SC member's score sheet, we saw no evidence of a revision or correction made to the scoresheet for the criteria in question. (In comparison, the OIG noted that there were other scoresheets with scoring revisions, along with the members' initials to indicate approval of a revised score. In these instances, the revised score matched the tabulation spreadsheet.)

Subsequent to the meetings, the OIG brought this discrepancy to the attention of the SC Chairperson. It was explained to the OIG that there was open discussion, with the SC member, of these differences during the public meeting. In the example proffered by the OIG, the SC member's scoresheets were not revised and initialed after the discussions. Consequently, the OIG reviewed the audio recording of this meeting<sup>2</sup> for the discussion on this bonus question. At the 1:06:14 mark of the recording, the Chairperson can be clearly heard asking the SC member if after the discussion "would you be making any adjustment to your score." To which the member responded "No. I will leave it at zero." The example of this discrepancy occurred in the scoring of a Bonus Question criteria for Sea Level Rise in Binder 20-02 for the View 29 application. The relevant portion of the SC member's scoresheet is shown below:

<p><b>Sea Level Rise</b></p> <p>Bonus points may be achieved by providing documentation within the application that the development will prepare for sea level rise and natural environmental hazards, such as elevating AC units, or raising the building.</p> <p><i>NO DOCUMENTATION. ?</i></p>	<p><b>2 points</b></p> <p><i>—</i></p>	<p>2 points</p>	<p><i>0</i></p>
		<p><b>TOTAL</b></p>	<p><i>0</i></p>

The image shows that the SC member provided a score of zero "0" with a handwritten notation of "NO DOCUMENTATION?"

On February 4, 2020, PHCD provided the OIG with a copy of the score tabulation in Excel format. The next illustration, taken from the tabulation data shows the recorded score of 2 points (highlighted in yellow) for the Sea Level Rise Bonus criteria in the tabulation spreadsheet for Binder No. 20-02 (View 29)

Committee Member-->	Shannon Lee-Sin							
Applicant/Entity --->	20-02	20-03	20-04	20-14	20-15	20-17	20-21	20-25
Sea Level Rise	2	2	2	2	2	2	2	2
SubTotal Bonus Points	18	45	29	30	50	38	34	33
Total Score	89	128	116	106	143	113	125	106

The OIG notes that all cases of scoring discrepancies observed were for the same SC member for the same Bonus Question relating to Sea Level Rise. As mentioned before, the tabulation of scores was performed in the privacy of the PHCD's offices after the meeting had adjourned.

<sup>2</sup> The audio recording obtained from PHCD is titled "121020 SSH Score Review Pt1.MP3"

The SC member can be clearly heard on the audio recording stating that she wished to retain her zero point score. It is unclear to the OIG who tabulated the scores, nevertheless it is the responsibility on the Chairperson to ensure that the tabulation accurately reflects the scores provided by the SC members. This could have been verified if the tabulation total score matches the total reflected on the scoresheet. This discrepancy would not have been discovered had the OIG not verified scores and scoring tabulation.

While this discrepancy of 2 points did not have any material effect on the over-all outcome, the fact that there is any discrepancy between actual score written on the scoresheet and the recording of the score in tabulation spreadsheet would raise questions as to the reliability of the process.

For illustrative purposes, the example below shows where, after a group discussion of the criteria and the information contained in the applicant's proposal, a SC member revised his/her score from a maximum of 10 points to a revised score of zero (0) points and initialed the change.

<b>Number of Housing HOME Set Aside Units</b>			<b>10 points</b>	
	100%	<i>no!</i>	10 points	<i>[Signature]</i>
	75%		7 points	
	50%		5 points	
	25%		3 points	
	0		0 points	<i>[Signature]</i>

During the aforementioned February 11 virtual meeting with PHCD and the CAO, the OIG raised this issue as a scoring discrepancy that needed to be corrected in a public meeting, and that the score tabulation must match the physical scoresheet. The CAO concurred and PHCD agreed to take the correct action at a reconvened SC meeting, which took place on February 23, 2021.

The OIG was present at the February 23, 2021 meeting. Members' individual scores were re-read into the record, tabulated and proposals ranked according to total scores. Subsequent to the meeting, an OIG review of the scoresheets, tabulation and ranking of proposals confirmed that the tabulation accurately reflected the members' scores.

Last, the OIG recounts that in our prior review of the FY 2017 RFA process, there was an allegation about observed pressure, influencing, coaching and/or encouraging SC members to their change scores. While the OIG did not substantiate the allegation in our prior review, having monitored the complete FY 2020 RFA process we can now understand why such an allegation is possible. However, as observed by the OIG during the FY 2020 process, there were times of active discussion among the SC members when assessing whether the scoring formula was properly applied or the criterion for a bonus question was satisfied. Following this discussion, there would be an opportunity for the member to revise their score. The OIG can see how these discussions could be interpreted by SC members not familiar with RFA process (as opposed to RFP

procurement process) to be seen as influencing a SC member to change one's score. This further emphasizes the importance of adhering to FSS 286.011.

### **3. Meeting Locations and Public Access**

The OIG verified that all SC meetings were properly noticed and open to the public as required by Florida Statutes Section 286.011(1). The first three meetings of SC were held in the PHCD Board Room, Robert King High Towers, 1407 N.W. 7<sup>th</sup> Street, Miami. We note that for these first three meetings, there was no virtual access (e.g., Zoom link) for members of the public.

The remaining meetings were held in the first floor Training Room of the Overtown Transit Village North Building, 701 N.W. 1<sup>st</sup> Court, Miami (OTV-North Training Room). Notwithstanding our observations below regarding virtual access, we noted that the OTV-North Training Room seemed to be less than half the size of the previous location (Robert King High Board Room). Although individuals that were required to attend wore facial masks and were seated socially-distanced from one another, physical accommodations, within CDC guidelines, for members of the public would not have been possible.

The OIG observed that at the February 1, 2021 SC meeting held in OTV-North Training Room, PHCD staff had set-up a laptop computer to accommodate virtual attendance, via Zoom, for one SC member that had a medical exemption; a quorum was established by all the other scoring members being physically present. Prior to the beginning of the meeting, the OIG was advised that a few other members of the public had virtually joined the meeting via Zoom. While testing the Zoom connection, the laptop could not broadcast nor receive audio. It was able to broadcast only a video signal. To correct this shortcoming, PHCD staff established an audio connection via cellular telephone with the scoring member. The public joining via Zoom were unable to receive an audio broadcast of the meeting.

After this meeting, the OIG inquired of the Chairperson as to how the public became aware of the Zoom access for the meeting when it was not included in the public notice for the meeting. The Chairperson stated that she was unaware as to how those members of the public were advised of the Zoom access link. The OIG suggested that PHCD consider formalizing Zoom access to its public meetings, especially when they are scheduled at locations where the meeting rooms are less than generously spacious.

Following this, the OIG observed that the public notice for the February 23, 2021 meeting was amended to include information for Zoom access.

Upon entering the room for the SC meeting on February 23, 2021, the OIG observed a cell phone precariously propped in an upright position on an open laptop computer. The open laptop screen was being used as a brace to adjust the orientation of the cell phone. The OIG was advised that the cellphone would be used for the Zoom broadcast.



The OIG was unable to observe the broadcast quality of the meeting being transmitted by cell phone. Later in the meeting, the OIG observed staff actually using the same laptop for scoring tabulation and it was not obvious where the aforementioned cell phone was or whether the meeting was still being broadcast via Zoom.

## **CONCLUSION & RECOMMENDATIONS**

While the OIG observed significant process improvements in the FY 2020 RFA cycle—compared to the FY 2017 cycle—the process still fell short due to a lack of full understanding of the Sunshine Law. This conclusion is evidenced by the SC Chairperson not completing the evaluation process during the public meeting, i.e., tabulating individual scores and announcing the final rankings based on scores. This occurred despite the presence of other PHCD supervisory personnel and a later acknowledgement that “this is how it has been done.”

Based on the OIG’s observations while monitoring the RFA process, we recommend that PHCD:

### **1. Develop and implement a written procedure for conducting the RFA process**

Based on our prior observations of the FY 2017 RFA process and these current observations of the FY 2020 RFA process, the OIG recommends that PHCD develop and implement a written procedure to educate and guide future SC chairpersons and members through the RFA process. The written procedure should identify the legal requirements of the Sunshine Law and identify which best practices (contained in IO 3-34) are adopted for the RFA process. The written procedure could also include guidance for unforeseen occurrences, such as the reconciliation of scoring differences, and could also include development of standard scripts—such as an introduction or overview—that is read aloud during the Kick-Off Meeting. Because SC members may be drawn from other county departments, they might not be familiar with the nuanced differences between the RFA process and a competitive procurement process (e.g., Requests for Proposals and Notices to Professional Consultants). Once the written procedure is complete, the OIG recommends that all PHCD personnel involved in the RFA process become familiar with the new procedures.

### **2. Implement enhancements to the scoring tabulation process**

Because the scoring tabulation must take place during the public meeting, PHCD staff should consider utilizing a laptop connected to a LCD projector that can project the tabulation worksheet onto a screen/blank wall that is visible to all. After reading aloud their scores into the record, SC members can visually verify that their scores are being entered correctly into the tabulation sheet. The OIG believes that this process would minimize or eliminate any future discrepancies.

Another suggested enhancement is to the format of the excel spreadsheet used for tabulation. We suggest that PHCD staff format the tabulation by “proposal” where all members scores are grouped in adjacent columns. In this manner, it would easier to visually scan the entered scores to look for discrepancies. PHCD currently utilizes a format where a member’s scores for proposals are grouped in adjacent columns.

### **3. Formalize virtual access to public meetings**

While FSS 286.011 does not mandate virtual access to public meetings, it states that public meetings must be open to the public at all times. The OIG recommends that PHCD consider, as a best practice, formalizing virtual access to its public meetings, and in doing so, ensure that staff is provided with proper equipment and trained in its use. Even after a year of pandemic-induced virtual meetings, we do not believe that the desire for virtual attendance will dissipate anytime soon. Virtual access to public meetings has proven to be convenient and efficient, and the ease to which the public can view these meeting facilitates overall transparency.

### **4. Revise the Selection Committee member appointment memorandum to delete non-applicable provisions**

In our November 13, 2020 memorandum to you, we discussed at length, the fact that the Selection Committee appointment memorandum contains a number of references that do not apply to members of a Selection Committee or its conduct. In brief, these refer to Implementing Order IO 3-34 and the Cone of Silence. The OIG recommends that PHCD work with the Internal Services Department and the County Attorney’s Office to tailor the standard Selection Committee appointment memorandum to the RFA process.<sup>3</sup>

### **5. Request greater participation by the County Attorney’s Office**

In consideration of the multiple observations (from the FY 2017 process and from this current year) of non-compliance issues, the OIG recommends that PHCD request greater participation by the CAO during the RFA process until there is some assurance that prospective administrators and managers of RFA are fully aware of, and in compliance with, all the requirements of the Sunshine Law.

The OIG was informed that due to projections for increased funding availability for the FY 2020 Surtax/SHIP/HOMES allocation, there will be evaluations of new proposals scheduled for April 13, 2021. The OIG will continue its monitoring of this process.

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<sup>3</sup> The OIG is aware that Selection Committee appointment memoranda for the FY 2020 RFA process was issued on July 7, 2020, prior to our November 13, 2020 memorandum.

The OIG wishes to make clear that these observed shortcomings relate solely to conducting the RFA process. We do not believe that they, in any way, affect the scoring and ranking of the proposals.

Pursuant to Section 2-1076(d)2 of the Code of Miami-Dade County, the OIG is requesting that you provide us with a report on the actions being taken to address these recommendations. We would appreciate receiving this report in 90 days (on or before July 9, 2021) or prior to the beginning of the FY 2021 RFA process, whichever comes first.

The OIG wishes to thank the staff of PHCD which offered their total cooperation during this review.

cc: Geri Bonzon-Keenan, County Attorney  
Gerald Sanchez, First Assistant County Attorney  
Jess McCarty, Executive Assistant County Attorney  
Morris Copeland, Chief Community Services Officer  
Clarence Brown, Division Director, PHCD