STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

AMERICAN RESIDENTIAL DEVELOPMENT LLC; PATRICK LAW; MADISON HIGHLANDS, LLC; JONATHAN L. WOLF; BERKSHIRE SQUARE, LTD; HAWTHORNE PARK, LTD; AND SOUTHWICK COMMONS, LTD,

Petitioners,

vs. Case Nos. 16-6610RU
16-6611RU

FLORIDA HOUSING FINANCE CORPORATION,

Respondent,

and

HERITAGE OAKS, LLLP; AND HTG ANDERSON TERRACE, LLC,

Intervenors.
_____/

FINAL ORDER

This matter came before D. R. Alexander, Administrative Law Judge of the Division of Administrative Hearings (DOAH), after the parties waived a final hearing and submitted a stipulated record. The parties are represented as follows.

APPEARANCES

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STATEMENT OF THE ISSUES

The issues are (1) whether Florida Administrative Code Rules 67-48.002(95) and 67-60.010(3) are invalid exercises of delegated legislative authority; and (2) whether certain statements in Request for Application 2016-113 (RFA-113) issued by Respondent, Florida Housing Finance Corporation (Florida Housing or agency), are unlawful unadopted rules in violation of section 120.54(1)(a), Florida Statutes (2016).

PRELIMINARY STATEMENT

After Florida Housing published its notice soliciting applications pursuant to RFA-113, on November 14, 2016, Petitioners American Residential Development, LLC (ARD), Madison Highlands, LLC (Madison), and Patrick Law (Law) filed with DOAH a Petition for Administrative Determination of Invalidity of Rules 67-48.002(95) and 67-60.010, Florida Administrative Code,

and Non-Rule Policy, which was assigned Case No. 16-6610RU. On the same date, Jonathan L. Wolf (Wolf), Berkshire Square, Ltd (Berkshire), Hawthorne Park, Ltd (Hawthorne), and Southwick Commons, Ltd (Southwick), filed with DOAH a second Petition, which was assigned Case No. 16-6611RU. The two cases were assigned to Administrative Law Judge Green, consolidated, and then transferred to Administrative Law Judge Peterson. On November 15, 2016, the same Petitioners filed with Florida Housing two Petitions for Administrative Determination of Invalidity of RFA 2016-113, which protested certain specifications in RFA-113. After Florida Housing referred the two files to DOAH, they were assigned Case Nos. 16-6698 and 16-6699, initially given an RU suffix, and consolidated with Case Nos. 16-6610RU and 16-6611RU. The undersigned then granted the parties' request to consolidate the four cases with Case No. 16-6168RX, which challenged certain statements in RFA-110 and the same two agency rules. The day after consolidation, Petitioners filed a voluntary dismissal in Case No. 16-6168RX. Intervenors Heritage Oaks, LLLP (Heritage), and HTG Anderson Terrace, LLC (HTG), who intend to file applications in response to the RFA-113 solicitation, were authorized to intervene in support of Florida Housing.

Because Case Nos. 16-6698 and 16-6699 challenge specifications in RFA-113, the RU suffix has been changed to a

BID suffix, and a separate recommended order is being entered in those cases. See § 120.57(1)(e), Fla. Stat., which now authorizes a person challenging agency action to file a collateral rule challenge under section 120.56 regarding the agency's use of an invalid or unadopted rule in a section 120.57 proceeding.

All parties agreed to waive a final hearing and submit a stipulated record. The record consists of Joint Exhibits 1 through 3: RFA-113, as modified; 26 U.S.C.S. § 42 of the Internal Revenue Code (IRC); and Florida Housing's 2016 Qualified Allocation Plan (QAP). Also, Florida Housing offered Exhibit 1, which is the deposition of former Executive Director Steve Auger. Although Petitioners do not stipulate to any parts of the deposition, all exhibits are accepted in evidence. Finally, the parties submitted a Joint Stipulation of certain facts.

Proposed final orders (PFOs) were filed by Petitioners and Florida Housing, and they have been considered in the preparation of this Final Order. Intervenors have joined in the Florida Housing's PFO. To the extent Petitioners' PFO, with an attached exhibit, expands the issues raised in the Petitions, those issues have been disregarded.

FINDINGS OF FACT

A. The Parties

1. Florida Housing is a public corporation created pursuant to section 420.504. One of its responsibilities is to award low-income housing tax credits, which developers use to finance the construction of affordable housing. Tax credits are made available to states annually by the United States Treasury Department and are then awarded pursuant to a competitive cycle that starts with Florida Housing's issuance of an RFA. This proceeding concerns RFA-113.

2. Petitioners ARD and Madison are developers of affordable housing units and submit applications for tax credits. Law and Wolf are principals of a developer of affordable housing units. Berkshire, Hawthorne, and Southwick are limited partnerships that have submitted applications for tax credits. All Petitioners intend to submit applications in response to RFA-113 and will be subject to rule chapters 67-48 and 67-60.

3. Intervenors Heritage and HTG are developers of affordable housing who intend to file applications pursuant to RFA-113.

B. Background

4. On October 28, 2016, Florida Housing published on its website proposed solicitation RFA-113, a 121-page document

inviting applications for the award of up to $14,669,052.00 in housing tax credits for the development of affordable, multifamily housing located in Broward, Duval, Hillsborough, Orange, Palm Beach, and Pinellas Counties. After Petitioners gave notice of their intent to challenge RFA-113, Florida Housing attempted to resolve the dispute by modifying the solicitation on November 13, 2016. The modification did not resolve the dispute.

5. On November 14, 2016, Petitioners timely filed with DOAH two Petitions, each challenging rules 67-48.002(95) and 67-60.010(3) and various statements in RFA-113. On the same date, they filed with Florida Housing two petitions challenging certain specifications in the solicitation. Although the Petitions include allegations that two existing rules are invalid, Petitioners' main concern appears to be directed at various provisions in RFA-113 that they assert limit their ability to be awarded tax credits. These contentions are addressed separately below.

C. Rule 67-48.002(95)

6. The federal Low-Income Housing Credit Program is governed by 26 U.S.C.S. § 42 (section 42). The program allocates annually federal income tax credits to states on a per capita basis to help facilitate private development of affordable low-income housing.

7. As the housing credit agency for the State of Florida, Florida Housing has the authority to administer various federal and state affordable housing programs, including the Low-Income Housing Credit Program. See § 420.5099(1), Fla. Stat.

8. Section 42(m)(l)(A)(i) requires each state that administers low-income housing credits to adopt a QAP, which identifies the selection criteria used for distributing the housing credits.

9. To comply with this requirement, rule 67-48.002(95) adopts and incorporates by reference the 2016 QAP. The rule reads as follows:

> (95) "QAP" or "Qualified Allocation Plan" means, with respect to the HC [Housing Credit] program, the 2016 Qualified Allocation Plan which is adopted and incorporated herein by reference, effective upon the approval by the Governor of the State of Florida, pursuant to Section 42(m)(1)(B) of the IRC and sets forth the selection criteria and the preferences of the Corporation for Developments which will receive Housing Credits. The QAP is available on the Corporation's Website under the Multifamily Programs link or by contacting the Housing Credit Program at 227 North Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329, or from http://flrules.org/Gateway/reference/asp?No=Ref-07355.

10. The 2016 QAP is a five-page document that replaces the 2015 QAP and generally describes the process for allocating 2017 housing credits. In summary, it identifies Florida Housing

as the housing credit agency for the State, lists the federally-mandated preferences and selection criteria to be used when allocating housing credits, describes in brief terms the competitive solicitation process, describes the process for awarding competitive and noncompetitive housing credits, and describes the procedures for monitoring and reporting a project's noncompliance with IRC requirements.

11. Section 42(m)(1)(C) lists ten selection criteria that must be incorporated into the QAP. To comply with this requirement, section I.B. of the 2016 QAP provides that the following selection criteria will be considered when determining the allocation of housing credits:

a. project location;
b. housing needs characteristics;
c. project characteristics including housing as part of a community revitalization plan;
d. sponsor characteristics;
e. tenant populations with special housing needs;
f. public housing waiting lists;
g. tenant populations of individuals with children;
h. projects intended for eventual tenant ownership;
i. energy efficiency of the projects; and
j. historic nature of project.

12. These criteria are identical to those listed in section 42(m)(1)(C) and are intended to provide general guidance for the entire housing credit program, and not just RFA-113.

13. Other than the ten criteria, the IRC requires no further detail regarding the selection criteria. However, more specific guidance is found in the individual RFAs, tailored to each type of solicitation. Since late 2013, when the RFA solicitation process began, around 15 to 20 RFAs have been issued annually. Petitioners assert the QAP violates the IRC by not listing the RFA criteria. However, neither the Department of Housing and Urban Development nor the Internal Revenue Service has ever told Florida Housing that the QAP does not comply with the IRC or other applicable federal regulations.

14. The rule cites section 420.507 as Florida Housing's rulemaking authority. That statute has 49 subsections that identify the various powers necessary for Florida Housing to carry out and effectuate the provisions of the law. Pertinent to this dispute is subsection (12), a general grant of authority for Florida Housing "[t]o make rules necessary to carry out the purposes of [part V, chapter 420]," which governs the various low-income housing programs administered by the agency. The rule cites section 420.5099(1) as the law being implemented. That provision designates Florida Housing as the housing credit agency for the state, along with its "responsibility and authority to establish procedures necessary for proper allocation and distribution of low-income housing tax credits and [to] exercise all powers necessary to administer the

allocation of such credits." While consistency with section 42 is required in order to satisfy federal requirements, the IRC is not the law being implemented.

15. Petitioners allege the rule exceeds the agency's grant of rulemaking authority and enlarges, modifies, or contravenes the specific provisions of law implemented. See § 120.52(8)(b) and (c), Fla. Stat. In short, they contend that other than the generic selection criteria required by section 42(m)(1)(C), the QAP fails to include the other selection criteria in RFA-113 that are used during the competitive process.

D. Rule 67-60.010(3)

16. Petitioners also challenge rule 67-60.010(3). The entire rule, entitled "Funding Preferences," reads as follows:

> (1) In connection with any competitive solicitation, where all other competitive elements are equal, the Corporation may establish a preference for developers and general contractors who demonstrate the highest rate of Florida job creation in the development and construction of affordable housing.
>
> (2) In any competitive solicitation, the Corporation may prescribe a priority to fund affordable housing projects in the Florida Keys Area of Critical State Concern and the City of Key West Area of Critical State Concern where, due to challenging environmental, land use, transportation, workforce, and economic factors, it is extremely difficult to successfully finance, develop, and construct affordable housing.

> (3) The Corporation may establish other funding priorities as deemed appropriate for a competitive program or solicitation.

17. The rule cites section 420.507(12) as the source of rulemaking authority. That statute is a general grant of authority allowing Florida Housing to adopt rules necessary to carry out the purposes of part V, chapter 420, which includes the issuance of tax credits under the Low-Income Housing Credit Program.

18. The rule cites sections 420.507(47), (48), and (49), 420.5087, 420.5089(2), and 420.5099 as the laws being implemented. In their totality, those provisions authorize Florida Housing to adopt rules and procedures for allocating housing credits and loans for programs that it administers pursuant to chapter 420. One authorized procedure is the authority to use RFAs when awarding low-income housing tax credits. See § 420.507(48), Fla. Stat.

19. On the faulty premise that RFA-113 derives its authority from subsection (3) of the rule, rather than statutory law, Petitioners argue that Florida Housing is allocating low-income housing tax credits in a manner that violates section 42 and chapter 420. They contend authority is delegated by the RFA to local governments to choose which developer will receive local funding, thus giving that developer more preferential treatment in the selection process. By doing so, Petitioners

assert subsection (3) violates section 120.52(8)(d) by failing to establish adequate standards for agency decisions and vesting unbridled discretion in the agency.

20. As the record shows, the authority to allocate tax credits is not derived from a rule. The source of authority is a statute. Subsection (3) simply informs readers that, besides the statutorily-mandated procedures spelled out in subsections (1) and (2), other types of funding priorities or preferences may be enacted at some future time by the legislature. As these changes occur, the reader is told that specific rules will be adopted to implement those changes.

E. Agency Statements

21. The allegations concerning unadopted rules, all in the RFA, are somewhat confusing. In their PFO, Petitioners request that a final order be entered determining "the policies that make up virtually all of RFA 2016-113 are invalid non-rule policies." Pet'r PFO, p. 23. In paragraph 38 of the PFO, they make reference to RFA pages 2, 13, 20, 22, 40-45, 53-54, 62-63, 67-68, 72, and 110, but elsewhere provide the actual text of only six statements and a brief description of a few others. In the parties' Joint Stipulation, Petitioners assert only that "RFA 2016-113 contains numerous provisions that are invalid exercises of non-rule policy and are without a basis in or are contrary to the law implemented." Jt. Stip., p. 2, § B.1. No

statements are identified or described. As detailed in endnote 1, however, their initial Petitions identify the text of some statements and provide a brief description of others, along with the page number on which they are found.[1/] Only these statements will be addressed. Petitioners contend that Florida Housing must immediately discontinue all reliance upon them, stop the solicitation process, and issue a new RFA. It is unnecessary to recite each statement in full in order to resolve this dispute.

22. An RFA is issued for each solicitation involving low-income housing credits. Before posting an RFA, Florida Housing typically conducts workshops and posts on-line information to inform prospective applicants of all requirements and any new provisions. By reading the RFA, each prospective applicant is placed on equal footing with the others. RFA-113 consists of six sections: Introduction; Definitions; Procedures and Provisions; Information to be Provided in Application; Evaluation Process; and Award Process. The definitions and funding selection criteria being challenged are found in sections Two and Four, respectively. A lengthy Exhibit A is attached to RFA-113, which includes various forms, instructions, and the like.

23. The evidence shows that RFAs in the low-income rental housing program are not always the same, as they vary depending

on such things as the type of project, size of the county, applicable selection criteria, proximity of other developments, program being implemented, demographics being served, and economic conditions in the area. Also, changes in the substantive law or federal regulations require a modification of an RFA's terms and conditions from time to time. For example, RFA-113 contains new criteria used by Florida Housing for the very first time. In short, RFA-113 is tailored to a very narrow class of persons in the six-county area who seek tax credits to build affordable low-income rental property in that area.

24. The selection criteria in RFA-113 are not cast in stone and some are subject to discretionary application. And applicants can achieve points in different ways. During the review process, evaluators have the discretion to either waive or enforce irregularities, depending on how they characterize the irregularity. It is fair to assume from the record that different members of the evaluation committee might assign a different score to the same section of an application.

F. Is Rulemaking Impracticable?

25. Petitioners contend that Florida Housing must adopt by rule the detailed selection criteria, preferences, and definitions contained in every RFA. These terms and conditions change from cycle to cycle and would require Florida Housing to engage in repetitive rulemaking each year, which more than

likely would unduly delay the solicitation process. Assuming arguendo the statements are a rule, which they are not, under the circumstances presented here, it is not reasonable to adopt by rule precise or detailed principles, criteria, or standards for every solicitation. See § 120.54(1)(a)2.a., Fla. Stat.

G. Attorney's Fees and Costs

26. As a condition precedent to seeking an award of attorney's fees and costs against an agency for having an illegal unadopted rule, the person bringing the challenge must give the agency 30 days' notice before filing a petition under section 120.56(4), which notice must inform the agency that the disputed statement might constitute an unadopted rule. See § 120.595(4)(b), Fla. Stat. The parties have stipulated that Petitioners failed to provide this notice.

CONCLUSIONS OF LAW

27. Petitioners are substantially affected by the challenged rules and statements and have standing to bring this action. Intervenors also have standing to participate.

Existing Rules

28. Petitioners have the burden of proving by a preponderance of the evidence that rules 67-48.002(95) and 67-60.010(3) are invalid exercises of delegated legislative authority as to the objections raised. § 120.56(3)(a), Fla. Stat.

29. Section 120.52(8) defines "invalid exercise of delegated legislative authority" in relevant part to mean:

> [A]ction that goes beyond the powers, functions, and duties delegated by the Legislature. A proposed or existing rule is an invalid exercise of delegated legislative authority if any one of the following applies:
>
> * * *
>
> (b) The agency has exceeded its grant of rulemaking authority, citation to which is required by s. 120.54(3)(a)1; [or]
>
> (c) The rule enlarges, modifies, or contravenes the specific provisions of law implemented, citation to which is required by s. 120.54(3)(a)1.
>
> (d) The rule is vague, fails to establish adequate standards for agency decisions, or vests unbridled discretion in the agency;
>
> * * *
>
> A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.

Petitioners contend rule 67-48.002(95) exceeds its grant of rulemaking authority and enlarges, modifies, or contravenes the specific provisions of law implemented, and rule 67-60.010(3) fails to establish adequate standards for agency decisions and vests unbridled discretion in the agency.

30. An agency may adopt rules "only where the Legislature has enacted a specific statute, and authorized the agency to implement it, and then only if the rule implements or interprets specific powers or duties." State, Bd. of Trustees of the Int. Imp. Trust Fund v. Day Cruise Ass'n, 794 So. 2d 696, 700 (Fla. 1st DCA 2001). In considering an agency's statutory authority to adopt a rule, "[t]he question is whether the statute contains a specific grant of legislative authority for the rule, not whether the grant of authority is specific enough." SW Fla. Water Mgmt. Dist. v. Save the Manatee Club, Inc., 773 So. 2d 594, 599 (Fla. 1st DCA 2000).

31. Rule 67-48.002(95) cites section 420.507 as the source of its rulemaking authority. Subsection (12) authorizes Florida Housing "[t]o make rules necessary to carry out the purposes of this part [part V, chapter 420] and to exercise any power granted in this part pursuant to the provisions of chapter 120." This statute provides a general grant of rulemaking authority. However, as the flush-left paragraph in section 120.52(8) makes clear, these general grants of rulemaking authority are, alone,

insufficient to authorize the adoption of the rule. Thus, the next inquiry required by the flush-left paragraph is whether the challenged rule provisions "implement or interpret the specific powers and duties granted by the enabling statute."

32. Section 420.5099(1), the law being implemented, gives Florida Housing the authority "to establish procedures necessary for proper allocation and distribution of low-income housing tax credits." In order to properly allocate and distribute tax credits, Florida Housing must adopt a QAP. Rule 67-48.002(95) does exactly this. The rule does not exceed the grant of rulemaking authority.

33. Petitioners also contend the same rule contravenes the specific provisions of the law being implemented by failing to include in the QAP the RFA-113 selection criteria. There is, however, no specific requirement that the QAP adopt all of the specifications in the solicitation. Petitioners also argue that the QAP violates section 42, but the IRC is not the law being implemented. The rule does not contravene section 420.5099(1).

34. Petitioners contend rule 67-60.010(3) fails to establish adequate standards for agency decisions and vests unbridled discretion in the agency. This argument is based on the incorrect assumption that rule 67-60.010(3) is the authority for Florida Housing to allocate tax credits through an RFA. The record shows otherwise, as subsection (3) does not serve as the

RFA's source of authority. Rather, section 420.507(48) authorizes Florida Housing to award low-income housing tax credits by competitive solicitation. The rule merely informs the reader that Florida Housing "may establish other funding priorities" when authorized by the legislature. The rule does not violate section 120.52(8)(d).

Unadopted Rules

35. Section 120.56(4)(a) authorizes any person who is substantially affected by an agency statement to seek an administrative determination that the statement is actually a rule whose existence violates section 120.54(1)(a) because the agency has not formally adopted the statement.

36. Petitioners have the burden of establishing by a preponderance of the evidence that the challenged agency statements constitute unpromulgated rules.

37. No explanation is given as to why the text of all challenged statements is not recited in the Petitions, as the text should be readily accessible in the RFA. This would avoid confusion or doubt as to which statements are being challenged. In any event, Petitioners are bound by the allegations in their Petitions, as further limited by the Prehearing Stipulation. Heartland Envtl. Council, Inc. v. Dep't of Cmty. Aff., Case No. 94-2095GM (Fla. DOAH Oct. 15, 1996; Fla. DCA Nov. 25, 1996).

Therefore, only those allegations in the Petitions are relevant to this controversy.

38. Section 120.56(4)(a) provides that the "petition shall include the text of the statement or a description of the statement" being challenged. A vague reference to "policies," a very brief description, or a page number in the RFA, and nothing more, when the text of the RFA is readily available, does not comply with the statute. See Aloha Utils., Inc. v. PSC, 723 So. 2d 919, 921 (Fla. 1st DCA 1999)(a challenge to the PSC's "audit procedures," without describing or reciting the text of any of the individual statements being challenged, fails to comply with the statute). Therefore, allegations in the Petitions of this nature have not been considered.

39. Section 120.52(20) defines an unadopted rule as "an agency statement that meets the definition of the term 'rule,' but that has not been adopted pursuant to the requirements of s. 120.54."

40. Section 120.52(16) defines the term "rule" to mean

> each agency statement of general applicability that implements, interprets, or prescribes law or policy or describes the procedure or practice requirements of an agency and includes any form which imposes any requirement or solicits any information not specifically required by statute or by an existing rule. The term also includes the amendment or repeal of a rule.

41. To be a rule, the statements must have general applicability, and not apply just to a singular factual situation. Ag. for Health Care Admin. v. Custom Mobility, Inc., 995 So. 2d 984, 986 (Fla. 1st DCA 2008). If a statement is limited to a singular factual situation, or the class of persons or activities is too narrow, it is not considered an agency statement of general applicability.

42. The challenged statements are not statements of general applicability. They are specific to the solicitation process for affordable rental housing tax credits in a small geographic area. They have no applicability other than to the specific persons who submit an application in response to RFA-113. The record also shows that in applying and evaluating various provisions within the RFA, the evaluation committee may exercise discretion. State, Dep't of Admin. v. Stevens, 344 So. 2d 290, 296 (Fla. 1st DCA 1977). Given these circumstances, the statements are not rules.

43. Finally, assuming arguendo the statements fall within the definition of a rule, for the reason stated in Finding of Fact 25, adoption of the statements as a rule is not practicable. See § 120.54(1)(a)2.a., Fla. Stat.

DISPOSITION

Based on the foregoing Findings of Fact and Conclusions of Law, it is

ORDERED that rules 67-48.002(95) and 67-60.010(3) are not an invalid exercise of delegated legislative authority; the challenged statements are not unlawful unadopted rules; and the Petitions are denied.

DONE AND ORDERED this 18th day of January, 2017, in Tallahassee, Leon County, Florida.

D. R. ALEXANDER
Administrative Law Judge
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Filed with the Clerk of the
Division of Administrative Hearings
this 18th day of January, 2017.

ENDNOTE

[1/] In the first section of the Petitions labeled "The 2016 QAP and the 'Plan,'" the text or a brief description with the page number of the following challenged statements are made: the definition of "Local Government Areas of Opportunity" on page 2; section 4.A.6.a.(2), page 20, relating to local government funding; and section 4.A.10.b., page 37, relating to local government support. See Petitions, pp. 12-13, ¶¶ 39, 41, and 42; pp. 12-13, ¶¶ 40, 42, and 43.

In the second section labeled "Exclusion of Eligible Developments from Funding," Petitioners provide a brief description of two statements found on pages 2 and 13 of the RFA. The first statement is the definition of a RECAP area. The second described statement, section 4.A.5.c.(1), provides that with one exception, certain proposed developments located within a RECAP

area are not eligible to receive funding. See Petitions, pp. 14-15, ¶¶ 46-47; pp. 13-14, ¶¶ 47-48.

In the third section labeled "Illegal Delegation of Legislative Authority to Local Governments," Petitioners provide the text of five statements found on pages 2 (Section Two, Definitions), 13-14 (§ 4.A.5.c.(1)), 20 (§ 4.A.6.a.(2)), and 40-41 (two parts of § 4.A.10.b.) of the RFA. These statements relate generally to provisions that award extra points to developers who receive cash or grants from a local government or whose projects will be in a specified area within the local government. See Petitions, pp. 16-19, ¶¶ 60, 61, 64, 66, and 69; pp. 16-18, ¶¶ 60, 61, 64, 66, and 69.

No other portions of the 121-page RFA are challenged in the initial Petitions.

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NOTICE OF RIGHT TO JUDICIAL REVIEW

A party who is adversely affected by this Final Order is entitled to judicial review pursuant to section 120.68, Florida Statutes. Review proceedings are governed by the Florida Rules of Appellate Procedure. Such proceedings are commenced by filing the original notice of administrative appeal with the agency clerk of the Division of Administrative Hearings within 30 days of rendition of the order to be reviewed, and a copy of the notice, accompanied by any filing fees prescribed by law, with the clerk of the District Court of Appeal in the appellate district where the agency maintains its headquarters or where a party resides or as otherwise provided by law.