

FLORIDA HOUSING FINANCE CORPORATION
Board Meeting
December 9, 2011
Information Items



AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

Information

I. AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)

A. Changes to Construction Features and Amenities and/or Resident Programs

1. Background/Present Situation

- a) Below is a list of developments that have requested changes to the Construction Features & Amenities and/or Resident Programs in their Application since the last Board meeting which staff has approved:
- (1) Vista Mar (2009-060CTX) has exchanged “Outside recreation facility – shuffleboard court” (2 points) for “Car care area for cleaning/washing” (1 point) and “Laundry facilities with full size washers and dryers in at least one common area on site” (1 point). This exchange is of equal value to the amenities originally chosen in the application.
 - (2) Labre Place (2009-063CTX/2006-074CS) has exchanged “Energy star rating for all windows in each unit” for “Motion detectors on all outside lighting that is attached to the units.” With this exchange, the Developer remains committed to 10 Green Building items.
 - (3) Brownsville Transit Village II (2009-056X) has swapped: “Motion detectors on all outside lighting in all open and common areas” (1 of 10 green building features) for “Carpet and Rug Institute Green Label certified carpet and pad for all carpeting provided” (1 of 10 green building features). This exchange is of equal point value to the amenities originally chosen in the application.
 - (4) Marcis Pointe Apartments (2009-207C/2010-040CX/2011-020CX) has swapped: “Motion detectors on all outside lighting that is attached to the units” (1 of 10 green building features) and “Energy Star qualified lighting in all open and common areas” (1 of 10 green building features) for “Florida Yards and Neighborhood certification on all landscaping” (1 of 10 green building features) and “Toilets that have dual flush options which include 1.6 gallons of water or less” (1 of 10 green building features). This exchange is of equal point value to the amenities originally chosen in the application.
 - (5) Oak Ridge Estates (2009-171C/2010-043CX/2011-023CX) has swapped: “Tankless gas water heater” (2 points) and “Motion detectors on all outside lighting in all open and common areas” (1 and 10 green building features) for “Electric water heater with energy factor of .93 or better” (1 point) and “Energy Star rating for all windows in each unit” (1 of 10 green building features). This exchange is of equal point value to the amenities originally chosen in the application.
- b) Staff will amend the appropriate EUA’s and/or LURA’s for each of the developments, as appropriate.

COMMUNICATIONS

Information

II. COMMUNICATIONS

A. Hardest-Hit Fund

1. Background/Present Situation

a) Since the Florida Hardest-Hit Fund (HHF) launched statewide, Florida Housing has received press on the program in the following media outlets (including print, broadcast and Internet media):

- (1) Bay News 9 Tampa
- (2) Boston Today Newspaper
- (3) Bradenton Herald Newspaper
- (4) CBS 4 in Miami
- (5) Clay Today Newspaper
- (6) CitrusDaily.com Online
- (7) Daytona News-Journal Newspaper
- (8) First Coast News.com Online
- (9) Florida Times Union Newspaper
- (10) Florida Today Newspaper
- (11) Herald Tribune Newspaper
- (12) Highlandstoday.com Online
- (13) Housingwire.com Online
- (14) Miami Herald Newspaper
- (15) Mortgageorb.com Online
- (16) News-Press Newspaper in Fort Myers
- (17) NorthEscambia.com Online
- (18) Ocala.com Online
- (19) Ocala Star Banner Newspaper
- (20) Orlando Sentinel
- (21) Palm Beach Post

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- (22) Pensacola News Journal Newspaper
- (23) RealEstateRama.com Online
- (24) Stateline.org Online
- (25) St. Augustine Record Newspaper
- (26) St. Pete Times Newspaper
- (27) Sun-Sentinel Newspaper
- (28) TCPalm.com Online
- (29) Tomrollins.com Online
- (30) WBBH Channel 2 Charlotte County
- (31) WDEF News Channel 12 online wdef.com
- (32) WEAR Channel 3 Pensacola
- (33) WESH 2 News Orlando
- (34) WFTV News Orlando
- (35) WJXT Channel 9 Jacksonville
- (36) WOFL Channel 35 Lake Mary
- (37) WPTV Channel 5 West Palm Beach
- (38) WTVT Channel 13 Fox Tampa
- (39) WUFT 89 FM Radio Gainesville
- (40) WZVN ABC Channel 7 Fort Myers

COMMUNICATIONS

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- b) Follow-up articles continue to be monitored, and are being saved and cataloged. Communications staff is also monitoring HHF Advisors marketing the program in their areas, in addition to participating servicers outreach efforts. Most recently, Communications and HHF staff participated in the first Bank of America National Mortgage Outreach Event in Florida. The event was held in Tampa on November 3^d – 5 and targeted Bank of America borrowers who are having trouble paying their mortgage or are eligible for some type of modification. Approximately 30,000 homeowners attended the event; HHF program advisors were able to pre-screen the highest number of borrowers when compared to other states who have held the same event with Bank of America.
- c) Recently, the Communications Office unveiled an online HHF Download Center for Advisor Agencies. Various HHF marketing/outreach materials are available on the site in English, Spanish and Creole. These are the official materials of the Florida HHF and all agencies are required to use these materials to help “brand” the Florida HHF program.
- d) Florida Housing continues to monitor and encourage Advisor Agencies to host and participate in outreach events in their communities. During the November, Florida HHF will have a presence at 14 events throughout the state.
- e) We continue to field reporter, consumer, and stakeholder calls and emails at a steady pace. In addition, Communications staff remains in contact with US Treasury officials and National Council of State Housing Agencies (NCSHA) representatives to ensure we stay compliant with guidelines for communications efforts, while also staying apprised on how other states are handling public relations issues surrounding this initiative.
- f) As a continuation of our marketing efforts for HHF, Communications staff has been successful in having information published in online and printed media with the Florida Association of Realtors (FAR), Mortgage Bankers Association of Florida (MBA) and the League of Southeastern Credit Unions to get the word out about the program. Details are listed below:
 - (1) Florida Association of Realtors (www.floridarealtors.org)
Story published in their *E-News* (distributed to approximately 100,000 of their members)
 - (2) Mortgage Bankers Association of Florida (www.mbafl.org)
 - (a) A link to HHF website on their homepage
 - (b) Blast email to their members
 - (3) The League of Southeastern Credit Unions (www.lscu.coop/index.php)
 - (a) Blast email to their Florida members
 - (b) Information posted on their Facebook and Twitter accounts

COMMUNICATIONS

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B. Corporate Marketing/Outreach

1. Background/Present Situation

- a) In an effort to continue building relationships with affordable housing advocates, providers and other stakeholders, Communications staff participated as an exhibitor at the Florida League of Cities Annual Conference in Orlando in August and the Florida Housing Coalition Conference in September.
- b) Communications staff is also working on a plan of action to re-invent the corporate newsletter, *What's Developing*. To date, discovery, a communications plan and a survey have been created. The survey was distributed to stakeholder audiences to obtain feedback on the newsletter, including its format, distribution method, content and relevance.

FISCAL
Information

III. FISCAL

A. Operating Budget Analysis for October 2011

- a) The Financial Analysis for October 31, 2011, is attached as [Exhibit A](#).
- b) The Operating Budget for the period ending October 31, 2011, is attached as [Exhibit B](#).

GUARANTEE PROGRAM

Information

IV. GUARANTEE

A. Status of the Guarantee Program Portfolio

1. Background/Present Situation

- a) Since the implementation of the Guarantee Program in 1993, it has guaranteed 120 transactions, facilitating the construction of over 28,000 housing units in Florida. In November 1994, the Guarantee Program entered into an agreement with HUD to participate in the Risk-Sharing Program; characterized by a 50/50 sharing of default risk in connection with the mortgage guarantee. Of the 81 multifamily developments in the Guarantee Program portfolio today, 55 are Risk-Sharing transactions.
- b) As of October 31, 2011, there were no developments in the portfolio in monetary default (due to the borrower's failure to make timely payments on the note).
- c) Since November 2008, there have been eight (8) multifamily claims filed on the Guarantee Program, representing the total (and only) multifamily claims incurred in its 18-year history. The last multifamily claim occurred in April 2010. The chart in Exhibit A reflects the developments that have been foreclosed as of October 31, 2011, listed in chronological order by claim filed date.

B. Guarantee Program Foreclosure Summary ([Exhibit A](#))

C. Guarantee Program Portfolio Summary and Guarantee Fund Capacity ([Exhibit B](#))

LEGAL

Information

V. LEGAL

- A. **In Re: Elmwood Terrace Limited Partnership v. Florida Housing Finance Corporation – 1st DCA Case No. 1D11-0150; DOAH Case No. 10-1975, 10-2799RX; FHFC Case No. 2010-20GA**

Development Name: (“Development”):	Elmwood Terrace
Developer/Principal: (“Developer”):	Elmwood Terrace Limited Partnership
Number of Units: 116	Location: Lee County
Type: Garden Apartments	Set Aside: 10% @ 33% AMI 90% @ 100% AMI
Demographics: Family	ARRA Exchange: \$

1. Background

- a) Elmwood Terrace Limited Partnership (“Elmwood”) originally filed an application for, and was awarded, an allocation of Housing Credits in the 2007 Universal Cycle. Elmwood was awarded a preliminary allocation of Tax Credits, successfully proceeded through credit underwriting review, and prepared to close on tax credit syndication and financing for the project. Before closing, in 2008, the syndicator informed Elmwood that it would not purchase the tax credits.
- b) Elmwood later submitted an application and sought financing through RFP 2009-04 (the “RFP”) for funds that Florida received through the American Recovery and Reinvestment Act of 2009, PL 111-5 (“ARRA”). Certain provisions in the RFP would have precluded Elmwood from obtaining an allocation of the federal stimulus funds. Elmwood filed a challenge to the terms of the RFP, under DOAH Case No. 09-4682BID (the “RFP case”). On November 12, 2009, Judge Harrell issued a Recommended Order which found that the RFP was contrary to certain provisions of Florida Housing’s existing 2009 Universal Cycle rules, which the RFP incorporated, in three respects: by using Location A to exclude the Elmwood project from consideration for award; by imposing a 92% physical occupancy standard for projects funded under the RFP that was contrary to the 90% requirement in the Universal Cycle Instructions; and that the RFP terms of the selection review process were arbitrary and capricious as they differed from the review process established in section 420.5087, Florida Statutes.
- c) Following issuance of the Final Order in the RFP case, Elmwood was invited into Credit Underwriting process by letter from Florida Housing dated December 4, 2009. Seltzer Company was the credit underwriter assigned by Florida Housing to review Elmwood’s RFP application.
- d) On October 6, 2010, the Administrative Law Judge also issued a Recommended Order in this case. The Recommended Order found and concluded, *inter alia*, that the credit underwriter and the Board correctly applied the applicable rules to the facts of this case; that the initial 2007 decision to award tax credits was appropriate given the economic conditions extant, and that the decision to deny funding in 2010 correctly apprehended the current economic realities.

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- e) Elmwood filed a Petition for Administrative Hearing (the "Petition") challenging the denial of its request for federal stimulus funding and the rescission of the tax credits on March 29, 2010. The Petition alleged the denial was based on incomplete, irrelevant or erroneous facts and assumptions, was inconsistent with the analysis and approval of other applications seeking federal stimulus funding and was based on the incorrect or improper application of Rule 67-48.0072(10), Fla. Admin. Code (the "Credit Underwriting Rule").
- f) Elmwood filed its "Petition for Administrative Determination of Invalidity of Existing Rule," (the "Rule Challenge Petition") at the Division of Administrative Hearings on May 21, 2010. The challenge was filed pursuant to Sections 120.56(1) and (3), 120.569 and 120.57(1), Florida Statutes, and Rule 28-106, Florida Administrative Code. The Rule Challenge Petition challenged the validity of Florida Housing's existing rule, R. 67-48.0072(10), Fla. Admin. Code (2009). More specifically, Elmwood challenged the provision within subsection (10) that provides as follows:
- The credit underwriter must review and determine whether there will be a negative impact to Guarantee Fund Developments within the primary market area or five (5) miles of the proposed Development, whichever is greater.
- g) By Order dated May 25, 2010, these cases were consolidated for hearing. A formal administrative hearing on the consolidated cases was held on June 14-16, 2010, in Tallahassee before William F. Quattlebaum, Administrative Law Judge ("ALJ"), Division of Administrative Hearings ("DOAH"). The hearing was continued until June 22, 2010, to allow Petitioner to include rebuttal testimony.
- h) On October 6, 2010, the ALJ issued a Final Order on the rule challenge. The ALJ found and concluded that the challenged provision, even though it was adopted as a rule, was not a rule within the meaning of sec. 120.52(16), Florida Statutes. The Final Order went on to say that if the "Impact Rule," were a rule, that it would be a valid rule under any of the six elements contained in sec. 120.52(8), Florida Statutes, the definition of "invalid exercise of delegated legislative authority."
- i) Also on October 6, 2010, the ALJ issued a Recommended Order on the board's decision to rescind funding, finding that the Board acted properly and in compliance with its rules, and recommending that the Petition be dismissed. Elmwood filed exceptions to the Recommended Order. On December 20, 2010, the Board issued its Final Order in Case No. 2010-20GA, rejecting the exceptions and adopting the findings of fact, conclusions of law, and recommendation of the Recommended Order, and rescinded Elmwood's funding.

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2. Present Situation

- a) On March 5, 2010, Elmwood filed a Notice of Appeal with the First District court of Appeal. On May 14, 2010, Elmwood moved the Court to abate the appeal proceedings. On May 20, 2010, the Court issued an order placing the case in abeyance until June 30, 2010. Elmwood filed its Initial Brief on August 23, 2010; Florida Housing Filed its Answer Brief on October 8, 2010; and Elmwood's Reply Brief is due not later than November 4, 2010. Oral argument was held at the Court on October 11, 2011.
- b) On November 7, 2011, the Court filed its per curiam opinion, affirming the ALJ's determination that the "Impact Rule," is a valid rule, and affirming the Board's decision to rescind funding for the Elmwood project. The Court explained that it did not approve the ALJ's "alternative holding," that the "Impact Rule," was not a rule and did not need to be. A copy of the Opinion is attached as [Exhibit "A."](#)
- c) Elmwood has declined to file a motion for rehearing, so the case will be closed upon the filing of the Mandate, due on December 7, 2011.

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Information

B. Dale Bairstow v. Florida Housing Finance Corporation, FHFC Case No. 2011-011HHF

1. Background

- a) On July 12, 2011, Petitioner Dale Bairstow (“Bairstow”) filed a Petition challenging the Corporation’s denial of funding under the Hardest Hit Program (HHF). After review of his circumstances by his assigned counselors and Corporation HHF staff, the Corporation determined that he was ineligible to receive funds because his condominium unit was not a part of an FHA-approved condominium association.
- b) On September 2, 2011 a telephonic informal hearing was conducted pursuant to Section 120.57(2), Florida Statutes, before the Corporation’s assigned Hearing Officer, Diane Tremor. Bairstow appeared *pro se* and testified in his own behalf, and the Corporation presented the testimony of David Westcott, Director of Homeownership Programs. The Hearing Officer issued a Recommended Order on October 25, 2011.

2. Present Situation

Subsequent to the hearing and Recommended Order, Bairstow voluntarily withdrew his Petition. The Corporation shall issue an Order Closing File in lieu of a Final Order. No further action by the Board is necessary to dispose of this matter.

MULTIFAMILY BONDS

Information

VI. MULTIFAMILY BONDS

A. Changes to Construction Features and Amenities and/or Resident Programs

1. Background/Present Situation

- a) Below is a list of developments that have requested changes to the Construction Features and Amenities and/or Resident Programs in their Application since the last Board meeting which staff has approved:
 - (1) Veranda Senior Apartments (RFP 2010-12, 2011 Series G1/G2, 2009-509C, 2009-227C, 2010-052X) has exchanged an outside recreation facility (shuffleboard) and a computer lab for emergency call services in all units. Additionally, motion detectors on outside lighting attached to the units as a “Green Building Option” are exchanged for Energy Star Rating on all refrigerators, dishwashers, and washing machines. These changes are of equal value to the amenities originally chosen in the RFP response and Application.
 - (2) Villas de Mallorca (2000 Series G) has added “tile” to the Land Use Restriction Agreement (“LURA”) as another option for flooring in the units. This change is of additional value to the amenities originally chosen in the application.
- b) Staff will amend the LURA for each development as appropriate.

STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

Information

VII. STATE APARTMENT INCENTIVE LOAN PROGRAM (SAIL)

A. Changes to Construction Features and Amenities and/or Resident Programs

1. Background/Present Situation

- a) The development listed below requested changes to the Construction Features & Amenities and/or Resident Programs in its Application since the last Board meeting which staff has approved:

Crossings at Cape Coral (1999-060S) has removed the following sentence from Article II, Section 2.3 of the LURA: "The flooring will be vinyl in the kitchen, foyers, dining rooms and bathrooms and carpet in the remaining areas." As this is not a requirement of the application, there is no point value attributed to this language. Scoring of the application will remain unaffected.

- b) Staff will amend the Land Use Restriction Agreements for each of the developments, as appropriate.

SINGLE FAMILY BONDS

Information

VIII. SINGLE FAMILY BONDS

A. Single Family Professional Development and Outreach

1. Background/Present Situation

- a) Florida Housing continues to honor our commitment to have funds continuously available for qualifying homebuyers through our First Time Homebuyer Program. Florida Housing's Program provides assistance to eligible homebuyers by offering low cost, 30-year, fixed-rate mortgages together with down payment and closing cost assistance. Current allowable mortgage loan products include: Federal Housing Administration (FHA), Department of Veterans Affairs (VA), United States Department of Agriculture - Rural Development (USDA-RD), as well as conventional loan products offered through Fannie Mae and Freddie Mac. These loan products are 100% guaranteed. Borrowers must have a 620 FICO score or higher and must complete a 6-8 hour face-to-face homebuyer education class in order to qualify for assistance through our First Time Homebuyer Program. Our increase from a minimum 600 to a 620 FICO score was a result of closely monitoring Program delinquency data and making the necessary Program changes to ensure that we are helping borrowers not only obtain homeownership but more importantly sustain homeownership. Florida Housing offers qualified homebuyers two down payment and closing cost assistance programs in the form of second mortgage loans. Florida Assist is a 0% deferred payment \$7,500 second mortgage that serves homebuyers with an area median income (AMI) of up to 100%, adjusted for family size. Homeowner Assistance for Moderate Incomes (HAMI) serves households above 100% AMI, up to Program first mortgage income limits. This product provides a qualified buyer with up to \$5,000 of assistance in the form of a 10-year, amortizing second mortgage, currently at a 5% fixed rate. These second mortgage products may only be used in conjunction with Florida Housing's first mortgage products.

- b) Since 2003, Single Family Program Staff has taught a three hour, Department of Business and Professional Regulation (DBPR) approved continuing education ("CE") course for Realtors which is coordinated through local Realtor boards throughout the state. As previously reported in September, our travel costs have, historically, been partially offset by charging a nominal fee to the sponsoring Realtor board based upon the number of participants in attendance. For 2011, we have had a number of classes cancel due to lack of pre-registrations by their members. While class evaluations indicate that Realtors continue to find the course information useful for their prospective homebuyers, we are being told that our fee is to blame for the cancellations. We have discovered that many other CE classes held by these organizations are free of charge. As a result, we agreed to waive our fee in cases where the Realtor board can guarantee increased attendance. We are happy to report that on October 12th, we held a CE class in Tampa through the Greater Tampa Association of Realtors. We also taught a class in St. Augustine through St. Johns Association of Realtors on October 17th. Collectively, we had over 85 Realtors participate in both classes. Eliminating the cost to our Realtor partners is proving to increase participation and interest in the First Time Homebuyer Program.

SINGLE FAMILY BONDS

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- c) On October 27th, we attended an affordable housing roundtable with the Department of Housing and Urban Development (HUD) and Freddie Mac in Clearwater at the Pinellas Board of Realtors. This event provided Single Family Program Staff an opportunity to present the First Time Homebuyer Program to local lenders and Realtors as a solution to homebuyers who do not have down payment for purchasing a home. We were also invited to participate in a bi-annual Mortgage Bankers Association event in Naples Florida on November 2nd. Along with speakers from VA, USDA-RD, and FHA, we presented a 20 minute overview on the benefits of our Program to lenders and Realtors from Collier and surrounding counties. Between the two events we were able to speak to over 100 lenders and Realtors who work with first time homebuyers every day.
- d) The Single Family Program Staff, in conjunction with our Master Servicer, US Bank, and the program compliance team at eHousing, conducts quarterly lender training webinars. The morning session is held for loan officers and processors, with the afternoon session directed to underwriters, closers, shippers, and post-closing staff. By splitting the training into two webinars, we are better able to target the specific needs of each group. Our most recent training webinar was conducted on November 15th. We had over 250 participants take part in both calls. We are now working with US Bank to convert this training into a 24/7 online educational platform. Although we accept new applications from lending institutions once per year (January), the need for training remains constant throughout the year as new loan officers join already approved lending institutions.
- e) Single Family staff recently launched a new, in-person advanced training format designed to enhance the efforts of loan officers already originating Program loans. Our second class was conducted for EverBank in Jacksonville, Florida. The class was attended by over 40 bond trained loan officers, processors, underwriters, closers, and managers. The class teaches processes and Program details targeted specifically to each organization. We expect to see both increased loan production and an increase in loan file quality as a result of these trainings.
- f) Florida Housing continues to sponsor a toll-free telephone line (800-814-HOME), for first time homebuyers to call for information about our program. For the months of August, September and October, we received 904 total calls; of which 621 were transferred to the Single Family Staff. The remaining callers that were not transferred to the Single Family Staff were able to receive information by accessing our First Time Homebuyer Wizard tool, which is located on our website. We continue to closely monitor these calls to evaluate the best way to efficiently handle the call volume in the long term.

B. Single Family Bonds Information ([Exhibit A](#))

SUBORDINATED MORTGAGE INITIATIVE (SMI)

Information

IX. SUBORDINATED MORTGAGE INITIATIVE (SMI)

A. Program Update

1. Background/Present Situation

- a) As of this date the Board has approved funding for a total of thirty-two (32) Subordinated Mortgage Initiative (SMI) loans. The purpose of these loans is to provide subordinate financing on these developments which are credit enhanced by the Guarantee Program, and determined to be in financial distress, in order to provide temporary assistance in funding their mortgage debt service obligations for a period of up to twenty-four (24) months. Florida Housing provided funding for up to one mortgage payment per each three month period. The developer is required to make the remaining payments. This process is to be repeated for up to twenty-four (24) months, with Florida Housing potentially making up to a total of eight mortgage payments and the developer making a total of sixteen mortgage payments during this period.
- b) Attached as [Exhibit A](#) is a spreadsheet of the status of the SMI loans approved to date. Highlights of the data are as follows:
 - (1) The Board has approved a total of thirty-two (32) SMI loans in the amount of \$19,120,000.
 - (2) Thirty (30) of these SMI loans have been closed to date in the principal amount of \$17,834,309.01.
 - (3) \$16,220,539.01 has been disbursed to date.
 - (4) Two (2) loans, representing two different developers, approved in the total amount of \$675,000, have yet to be closed.
 - (5) It does not appear, at this time, that these two loans will be closed due to an inability to obtain the required consent of the investment limited partner.
 - (6) As of November 15, 2011, the final disbursement has been made on twenty-three (23) of the thirty (30) loans closed to date. All accrued interest will be due on these loans twenty four months after the final disbursement. The loan will then be amortized based on a twenty year amortization with a balloon payment due at the end of year six.
 - (7) One loan, Villas at Lake Smart, was paid in full on April 11, 2011. There was \$151,730.22 in undisbursed SMI funds at the time.
- c) Since the inception of the Subordinated Mortgage Initiative only one developer, involving two SMI loans, has failed to make a required payment under their obligations as outlined in the SMI loan. However, the required payments were ultimately made and, as a result, there have been no claims made on the Guarantee Fund Program for any development receiving SMI funding.

UNIVERSAL CYCLE

Information

X. UNIVERSAL CYCLE

A. 2011 Universal Cycle Update

1. Background

- a) The 2011 Universal Cycle opened on October 26, 2011 and closed on December 6, 2011.
- b) A report of the Applications submitted, describing such information as number of applications received, demographic commitments, total amount of funding requested, etc., will be provided as a supplemental item.
- c) Staff anticipates issuing preliminary scores on or about January 19, 2012.