

July 25, 2017

EMG Holdings, LLC
ATTN: Matthew Munter
222 Schilling Circle, Suite 275
Hunt Valley, MD 21031

Dear Mr. Munter:

Pursuant to our Contract for Energy Auditor Services for the Multifamily Energy Retrofit Program (MERP), #2014-01-Q-353-001, Section H.1., Florida Housing is providing notice of termination of our contract, effective August 4, 2017.

As a result of an agreement with the Florida Department of Agriculture and Consumer Services' Office of Energy to terminate the MERP pilot, these services are no longer required from your firm. Florida Housing would like to thank you and your staff for your hard work on this project, and we look forward to future partnerships.

If you have any questions, please do not hesitate to reach out to Nancy Muller, Director of Policy and Special Programs, at 850-488-4197 or via e-mail at Nancy.Muller@floridahousing.org.

Sincerely,



Hugh R. Brown
General Counsel

Rick Scott, Governor

Board of Directors: Bernard "Barney" Smith, Chairman • Ray Dubuque, Vice Chairman
Natacha Bastian • Renier Díaz de la Portilla • John David Hawthorne Jr. • Creston Leifried • Ron Lieberman
Julie Dennis, Florida Department of Economic Opportunity

Harold "Trey" Price, Executive Director

**THIRD AMENDMENT
TO CONTRACT NUMBER 2014-01-Q-353-001**

THIS THIRD AMENDMENT ("Amendment") to CONTRACT NUMBER 2014-01-Q-353-001 is entered into and effective as of May 1, 2017, ("Effective Date") by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic ("Florida Housing"), and CLAMPETT INDUSTRIES LLC D/B/A EMG HOLDINGS, LLC ("Service Provider").

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-01-Q-353-001, dated February 2, 2015, ("Contract") wherein Service Provider agreed to provide energy auditor services pursuant to RFQ 2014-01. As used herein, "Contract" shall include within its meaning any modification or amendment to the Contract.
- B. Florida Housing and Service Provider wish to amend the Contract, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date; Recitals. Upon its execution by both parties, this Amendment shall be effective as of May 1, 2017. The above recitals are true and correct and form a part of this Amendment.

B. Amendments.

1. Section J, Item 1 is hereby deleted in its entirety and is replaced with the following:

Files Subject to Florida's Public Records Law: Any file, report, record, document, paper, letter, or other material received, generated, maintained or sent by the Service Provider in connection with this Contract is subject to the provisions of Section 119.01-.15, Fla. Stat., as may be amended from time to time (Florida's Public Records Law). The Service Provider represents and acknowledges that it has read and understands Florida's Public Records Law and agrees to comply with Florida's Public Records Law.

Pursuant to Section 119.0701(2)(b), Fla. Stat., the Service Provider will be required to comply with public records laws, specifically to:

- a. Keep and maintain public records required by the public agency to perform the service.

b. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract. If the contractor does not transfer the records to the public agency.

d. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor upon termination of the contract or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when the Service Provider is acting on behalf of Florida Housing.

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the Corporation Clerk at:

**Corporation Clerk
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
E-mail: Corporation.Clerk@floridahousing.org**

2. The following is appended to Section K, Other Provisions:

6. The Service Provider will not employ any unauthorized aliens in violation of the Immigration and Nationality Act. Additionally, the Service Provider will comply with all applicable federal, state and local rules and regulations as well as the applicable provisions of Grant Agreement ARS138 between Florida Housing and the Florida Department of Agriculture and Consumer Services, as amended.

C. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the Parties have executed this THIRD AMENDMENT to Contract Number 2014-01-Q-353-001, by a duly authorized representative, effective as of May 1, 2017.

CLAMPETT INDUSTRIES LLC D/B/A EMG HOLDINGS, LLC.

By: 

Name/Title: Matthew Munter, PE, Principal, EVP

Date: June 1, 2017

FEIN: 02-0655997

FLORIDA HOUSING FINANCE CORPORATION

By: 

Name/Title: Hugh R. Brown - General Counsel

Date: 6-1-17

**SECOND AMENDMENT
TO CONTRACT NUMBER 2014-01-Q-353-001**

THIS SECOND AMENDMENT ("Amendment") to CONTRACT NUMBER 2014-01-Q-353-001 is entered into and effective as of August 6, 2016, ("Effective Date") by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic ("Florida Housing"), and CLAMPETT INDUSTRIES LLC D/B/A EMG HOLDINGS, LLC ("Service Provider").

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-01-Q-353-001, dated February 2, 2015, ("Contract") wherein Service Provider agreed to provide or perform energy auditor services pursuant to RFQ 2014-01. As used herein, "Contract" shall include within its meaning any modification or amendment to the Contract.
- B. Florida Housing and Service Provider wish to amend the Contract, subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date; Recitals. Upon its execution by both parties, this Amendment shall be effective as of August 6, 2016. The above recitals are true and correct and form a part of this Amendment.

B. Amendments. The Contract is hereby amended as follows:

1. The following is appended to the end of Section J, Item 1, Public Records:

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the Corporation Clerk at:

**Corporation Clerk
227 N. Bronough Street, Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
E-mail: Corporation.Clerk@floridahousing.org**

2. Item 5. under Section K, Other Provisions, is hereby created:

5. The Contractor understands and agrees to cooperate with any audits conducted in accordance with the provisions set forth in Section 20.055(5), Fla. Stat.

3. The first paragraph within Exhibit A, Section One, Introduction, is deleted in its entirety and is replaced with following:

The purpose of this Request for Qualifications (RFQ) is to establish a pool of qualified Energy Auditors to perform energy audits on properties seeking loans through the Multifamily Energy Retrofit Program (MERP). Offerors selected will enter into an Agreement to participate in a pool of Energy Auditors. Florida Housing staff will engage the Energy Auditor and order an Energy Audit/CRNA for each Development awarded preliminary funding. Florida Housing will pay this expense directly and deduct the appropriate amount from the property's total MERP award. Florida Housing shall provide guidance about MERP standards and requirements. The report shall identify Florida Housing as the intended user for the purpose of providing a basis for developing the scope of work, and determining the maximum loan amount.

C. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

IN WITNESS WHEREOF, the Parties have executed this SECOND AMENDMENT to Contract Number 2014-01-Q-353-001, by a duly authorized representative, effective as of August 6, 2016.

CLAMPETT INDUSTRIES LLC D/B/A EMG HOLDINGS, LLC

By: 

Name/Title: Matthew Munter, Principal, EVP

Date: 8/12/2016

FEIN: 020655997

FLORIDA HOUSING FINANCE CORPORATION

By: 

Stephen P. Auger, Executive Director

Date: 8/15/16

**FIRST AMENDMENT
TO CONTRACT NUMBER 2014-01-Q-353-001**

THIS FIRST AMENDMENT ("Amendment") to CONTRACT NUMBER 2014-01-Q-353-001 is entered into effective as of the date the last party signs, ("Effective Date") by and between FLORIDA HOUSING FINANCE CORPORATION, a public corporation and a public body corporate and politic ("Florida Housing"), and CLAMPETT INDUSTRIES LLC D/B/A EMG HOLDINGS, LLC ("Service Provider").

RECITALS

- A. Florida Housing and Service Provider entered into Contract Number 2014-01-Q-353-001, dated February 2, 2015, ("Contract") wherein Service Provider agreed to provide or perform energy auditor services pursuant to RFQ 2014-01. As used herein, "Contract" shall include within its meaning any modification or amendment to the Contract.
- B. Florida Housing and Service Provider wish to amend the Contract subject to the terms and conditions set forth below.

AGREEMENT

NOW THEREFORE, in consideration of the terms and conditions contained in the Contract and this Amendment, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. Effective Date; Recitals. Upon its execution by both parties, this Amendment shall be effective as of the date that the last party signs. The above recitals are true and correct and form a part of this Amendment.

B. Amendments.

- 1. The third, fourth and fifth paragraphs within Exhibit A, Section One, Introduction, are hereby amended as follows:

Florida Housing administers MERP, a revolving loan fund funded through a grant from the state Office of Energy (housed in the Department of Agriculture and Consumer Services). The goal of the program is to lower ongoing operating costs at multifamily properties, making the development more sustainable. Properties funded through this program must show a projected energy savings of at least fifteen percent in order to proceed with the retrofit. ~~Additionally, the collective Savings to Investment Ratio (SIR) of the retrofit must be 1.0 or greater.~~ Properties are eligible for a maximum loan amount of \$15,000 per unit, ~~not including soft costs (e.g. cost of energy audit, credit underwriting fees, and loan servicing fees).~~ Based on federal requirements of this funding, any retrofit work done using this funding must reduce energy use at the property.

The following items are eligible within the scope of a MERP retrofit: air infiltration improvement (e.g., envelope sealing, duct sealing, weather stripping); appliances, lighting, faucets, showerheads, HVAC systems, programmable thermostats, boilers/water heaters, insulation and window film, high efficiency windows, and other building improvements.

Florida Housing expects to select multiple offerors that propose to provide the energy audit services, including analyses and analysis of critical repair needs, specified in this RFQ.

2. The definition for "SIR" in Exhibit A, Section Two, Definitions, is hereby deleted in its entirety.

3. Exhibit A, Section Four, sub-sections A – D , are hereby amended as follows:

A. Purpose of the Energy Audit. The purpose of properties undergoing an energy audit is to determine eligibility to go forward with a MERP ~~loan~~ funding and to recommend items to be included in the scope of work for the retrofit. In order for a property to be eligible, the energy audit must show that:

1. The property can achieve a projected energy savings of ~~15 percent~~ if recommended retrofits are carried out; and

2. There are no unaddressed exigent safety or health issues, such as structural problems, moisture problems, pest infestations, fire safety risks or code violations. If the critical repair needs analysis (described in Section B.4. below) identifies items urgently in need of repair, in order to remain eligible, the property owner must provide its plan to address the issue and identify the funds with which it intends to do so. The collective SIR of the recommended retrofit, not to exceed MERP funded maximum cost of \$5,000 per unit, is 1.0 or greater. (If the property owner has additional financing, the cost of the retrofit may exceed \$5,000 per unit, provided the property can meet credit underwriting requirements.)

B. Scope of Services. The services of the energy auditor shall include, but are not limited to the following:

1. Perform an on-sight inspection and energy audit of the property, including in the audit at least one year of historic utility data for the subject property;

2. Perform an analysis to determine whether the property can achieve a projected energy savings of at least 15 percent, and document this in the energy audit report;

3. Provide recommended improvements within the scope of work of MERP, along with cost estimates ~~and the SIR~~ and payback period for each measure and all measures collectively. Building features that are within the allowable scope of work of a MERP retrofit are: building envelope, ducts, appliances, lighting systems, faucets, showerheads, HVAC systems, thermostats, boilers, water heaters, insulation and window film, high efficiency windows, and other building improvements which will result in reduced energy and/or water consumption (~~note that window film is an allowable use of MERP funding, but not window replacement~~);

4. Through a critical repair needs analysis, identify any exigent safety or health issues, such as structural problems, moisture problems, pest infestations, fire safety risks or code violations, and provide an estimated cost for repair of any such issues identified;

5. ~~4.~~ Prepare a report which includes the components outlined in D. below;

6. ~~5.~~ Advise Florida Housing and the credit underwriter in determining the final scope of work for the property.

C. Energy Audit/Critical Repair Needs Analysis Process. The Offeror must physically walk through and inspect the property including all mechanical and electrical systems and all building features that are within the allowable scope of work of a MERP retrofit (described in Section Four B.3 above), as well as items described in Section D. 9. below. The Offeror must coordinate with the property manager for access to the property, including units to be sampled. The Offeror shall be responsible for scheduling meetings/inspections onsite with the property manager and maintenance staff. Meetings with staff should include a review and analysis of occupancy reports and actual historical energy use patterns and identification of anticipated property or occupancy changes that could affect energy use. The Sampling Requirements shall be:

1. No less than ten percent (10%) of dwelling units; however, all common elements and common areas of each building containing dwelling units shall be inspected. In addition, 100 percent of non-dwelling structures and property site(s) shall be inspected;

2. For the Energy Audit, Bblower door and duct leakage testing in a sample of no less than ten percent (10%) of dwelling units;

3. For Energy Audit inspection and blower door testing purposes, as well as the critical repair needs analysis, units shall be randomly sampled

across all buildings at each property, while taking into consideration occupied and unoccupied units and the unit mix, i.e., efficiencies, one bedroom, two bedrooms, three bedrooms and four bedrooms. If the property was constructed in various phases or the buildings consist of different construction systems, then a representative sampling of dwelling units in each phase or building of different construction systems shall be inspected.

D. Energy Audit/Critical Repair Needs Analysis Report Components. ~~Energy audit Reports~~ will be reviewed by Florida Housing staff and external credit underwriters to determine the scope of work for the retrofit. Reports should be organized into sections that clearly describe the condition of the energy systems of the property and recommended improvements. The following items must be included in the report. Note that reports do not have to be in this exact format, but should include all of the following information:

1. Executive Summary. A summary including the general physical description of the property (e.g. age, number of buildings, type of construction, number of units, etc.); type of metering (i.e., master or individual); energy source (i.e., electric and/or gas); overview of any previous retrofits, rehabilitation, or renovation; current annual energy consumption, patterns and cost; and a summary of recommended energy efficient operations and maintenance opportunities and retrofit measures and their cost, collective payback period, ~~SIR~~, and estimated annual savings as a percentage improvement and as a dollar amount. The summary of recommended measures may be in the form of a list or table and must include the following information: description of retrofit measure; initial cost; annual energy savings, annual cost savings; payback period; ~~SIR~~; life cycle savings; and expected useful life. The executive summary should also include a summary of exigent safety or health issues found as a result of the critical repair needs analysis.

2. Overview and description of energy audit process. Describe the methodology used to conduct the energy audit and present recommendations regarding all options analyzed, and include all calculations conducted in support of the analyses. If a proposed measure is not recommended, then specify the reasons. Specify the energy modeling software used for the energy audit.

3. Overview of building characteristics and electrical and mechanical systems. This section should provide a description of the current state of the property, including opportunities for energy savings on a building by building basis.

4. Analysis of Existing Energy Consumption. A minimum of one year's utility bills should be evaluated.

5. Review of Relevant Maintenance and Repair. The energy auditor should consult with the property manager and/or owner regarding any repairs done on any systems or building features that affect energy consumption. This may be via phone or in-person interviews.

6. Recommendations for energy savings. This section should include a description of each recommended measure (including performance specifications or other design documents needed to bid and install the measure), discussion and rationale for the recommendation, and economic analysis including costs of material, labor, engineering design and project management. The energy audit recommendations should be formatted to allow the property owner to use them as a basis for bidding the projects and should be divided into logical and biddable tasks. Additionally any recommendations for operations and maintenance that will lower operating costs should be included in this section.

7. Photographs. Include any photographs that may assist Florida Housing and credit underwriters in understanding the physical description of the property and recommended measures.

8. Energy modeling software report. Energy modeling should be conducted with TREAT, Energy Gauge, EA-QUIP, or other multifamily energy audit software approved by the U.S. Department of Energy (DOE).

9. Critical repair needs analysis using the sampling protocol described in Section C that identifies any exigent safety or health issues, such as structural problems, moisture problems, pest infestations, fire safety risks or code violations. The critical repair needs analysis section will also include the estimated costs to remedy identified exigent needs.

C. General Terms and Conditions.

1. This Amendment shall be construed and enforced according to the laws of the State of Florida and venue for any actions arising hereunder shall lie in Leon County, Florida.

2. This Amendment shall be binding upon and inure to the benefit of the parties hereto, and their respective heirs, successors and assigns.

3. This Amendment may be executed in counterpart originals, no one of which needs to contain the signatures of all parties hereto, but all of which together shall constitute one and the same instrument.

4. All rights, powers and remedies provided herein may be exercised only to the extent that the exercise thereof does not violate any applicable law and are intended to be limited to the extent necessary so that they will not render this Amendment invalid, illegal, or unenforceable under any applicable law. If any term of this Amendment shall be held to be invalid, illegal or unenforceable, the validity of the other terms of this Amendment shall in no way be affected thereby.

5. Except as specifically modified by this Amendment, the Contract shall remain in full force and effect, and all of the terms and provisions thereof are hereby ratified and confirmed.

IN WITNESS WHEREOF, the Parties have executed this FIRST AMENDMENT to Contract Number 2014-01-Q-353-001, by a duly authorized representative, effective as of the date the last party signs.

CLAMPETT INDUSTRIES LLC D/B/A EMG HOLDINGS, LLC.

By: 

Name/Title: Matthew Munter, Principal

Date: 8/6/15

FEIN: 02-0655997

FLORIDA HOUSING FINANCE CORPORATION

By: 

Stephen P. Auger, Executive Director

Date: 8/6/15

**AGREEMENT TO PARTICIPATE
IN A POOL OF ENERGY AUDITORS
BETWEEN
FLORIDA HOUSING FINANCE CORPORATION
AND
CLAMPETT INDUSTRIES LLC d/b/a EMG HOLDINGS, LLC**

This Agreement for Energy Auditor Services for properties seeking loans through the Multifamily Energy Retrofit Program (MERP), 2014-01-Q-353-001 (Agreement) is entered into by and between the FLORIDA HOUSING FINANCE CORPORATION (Florida Housing), a public corporation and a public body corporate and politic, with headquarters located at 227 North Bronough Street, Suite 5000, Tallahassee, Florida, 32301, and CLAMPETT INDUSTRIES, LLC d/b/a EMG HOLDINGS, LLC (Energy Auditor) a Foreign Limited Liability Company located at 222 Schilling Circle, Suite 275, Hunt Valley, MD 21031. Upon execution by both parties, this Agreement shall become effective as of the date the last party signs (Effective Date).

RECITALS

- A. The Energy Auditor represents that it is fully qualified and possesses the requisite skills, knowledge, qualifications and experience to provide Energy Auditor services identified herein and offers to perform those services described in Exhibit A, Request for Qualifications (RFQ) 2014-01 attached hereto and incorporated herein.
- B. Florida Housing has a need for such services and does hereby accept the offer of the Energy Auditor upon the terms and conditions outlined in this Agreement.
- C. Florida Housing and the Provider wish to memorialize the Provider's selection by Florida Housing for inclusion in the pool and the Provider's agreement to participate in the pool.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

A. **ATTACHMENTS**

This Agreement has the following attachments, which are incorporated herein:

- Exhibit A, RFQ 2014-01
- Exhibit B, Fees/Costs Schedule

B. ENGAGEMENT OF THE ENERGY AUDITOR

The Energy Auditor agrees to provide Energy Auditor Services in accordance with the terms and conditions hereinafter set forth. The Energy Auditor agrees to perform the services set forth in Exhibit A, and as otherwise stated in this Agreement. The Energy Auditor understands and agrees that all services under this Agreement are to be performed solely by the Energy Auditor, and may not be subcontracted or assigned without the prior written approval and consent of Florida Housing.

The Energy Auditor agrees to participate in the pool of Energy Auditors and be available to contract directly with owners of the developments in accordance with RFQ 2014-01. Under the terms of the RFQ, an owner of a development participating in the Multifamily Energy Retrofit Program (MERP) must choose an Energy Auditor from the pool and contract directly with the chosen provider in order to obtain the Energy Audit. This Agreement does not assure the Energy Auditor that an owner of a Housing Credit development will select or contract with the Energy Auditor to provide any services.

The Energy Auditor represents and warrants that it is now, and will remain so at all times during the term of this Agreement, fully qualified and possessed of the requisite skills, knowledge, qualifications (including licenses or certifications) and experience to provide the services identified herein and in RFQ 2014-01.

The Energy Auditor agrees to maintain in full force and effect at all times during the term of this Agreement the licenses or certificates, as applicable, required in RFQ 2014-01, and will make such licenses or certificates (or acceptable evidence thereof) available to Florida Housing upon request.

The Energy Auditor acknowledges that its selection by Florida Housing for inclusion, and the opportunity to participate, in the pool of Energy Auditors represents full, adequate and the sole consideration due the Provider for its agreement to participate in the pool and all of its undertakings under this Agreement. The Energy Auditor further understands and agrees that no other compensation or payment is due the Energy Auditor under this Agreement for its participation in the pool of Energy Auditors.

During the term hereof, the Energy Auditor authorizes Florida Housing to publish on its website and in other media as may be selected by Florida Housing, to perform energy audits on properties participating in MERP to determine eligibility for a MERP loan and provide retrofit recommendations pursuant to Request for Qualifications 2014-01 ("RFQ 2014-01").

C. TERM OF AGREEMENT

The initial term of this Agreement shall be for three (3) years from the Effective Date. If the parties mutually agree in writing, the Agreement may be renewed twice. Each renewal shall be for an additional one (1) year period. Renewals are at the discretion of Florida Housing, and shall be contingent upon satisfactory performance evaluations by

Florida Housing.

D. MODIFICATION OF AGREEMENT

Either party may request a modification of the provisions of this Agreement. Modifications that are mutually agreed upon shall be valid only when reduced to writing, signed by the parties and attached to this Agreement.

E. FEES/COSTS

The Energy Auditor shall be compensated as described in the Fees/Costs Schedule attached hereto as Exhibit B.

F. LIABILITY: INDEPENDENT CONTRACTOR; COMPLIANCE WITH LAWS

1. Florida Housing shall not be deemed to have assumed any liability for the acts, omissions, or negligence of the Energy Auditor, its agents, its servants, or employees, and the Energy Auditor specifically accepts responsibility for its acts, omissions or negligence and for the acts, omissions or negligence of its agents, servants or employees, and shall defend and hold Florida Housing harmless from and against the claims of any party arising out of or claimed to arise out of any such acts, omissions, or negligence.

2. This Agreement is executed on behalf of Florida Housing by the signatory only in his or her designated capacity as representative and on behalf of Florida Housing. Such individual shall neither have nor incur any individual or personal responsibility or liability under this Agreement as a result of such execution.

3. Nothing herein shall be construed as a waiver of sovereign immunity by Florida Housing; it being the intent to reserve all such rights and immunities to the fullest extent of the law.

4. The Energy Auditor, together with its agents, suppliers, subcontractors, officers, and employees, shall have and always retain under this Agreement the legal status of an independent contractor, and in no manner shall they be deemed employees of Florida Housing or deemed to be entitled to any benefits associated with such employment. During the term of this Agreement, the Energy Auditor shall maintain at its sole expense those benefits to which its employees would otherwise be entitled to by law. The Energy Auditor remains responsible for all applicable federal, state, and local taxes, and all FICA contributions.

5. The Energy Auditor shall comply with all other laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State and local agencies having jurisdiction and authority. In addition, and by way of non-exhaustive example, the Energy Auditor shall comply with Florida Housing policies while on Florida Housing premises and in

the conduct of its business with Florida Housing personnel.

6. The Energy Auditor specifically accepts responsibility for payment of all taxes, assessments, or contributions that may be required to be paid to any unit of government as a result of the payments being paid to or by the Energy Auditor, if any, in conjunction with the services rendered pursuant to this Agreement. At no time shall the Energy Auditor make any commitments for or incur any charges or expenses for, or in the name of, Florida Housing.

7. The Energy Auditor shall not be relieved of liability to Florida Housing for damages sustained by Florida Housing by virtue of any termination or breach of this Agreement by the Energy Auditor.

G. DEFAULT AND REMEDIES

1. If any of the events listed in subparagraph 2. of this section occur, all obligations on the part of Florida Housing to continue doing business with the Energy Auditor or assign any future transaction to the Energy Auditor shall, if Florida Housing so elects, terminate and Florida Housing may, at its option, exercise any of its remedies set forth herein, or as otherwise provided by law. However, Florida Housing may continue doing business with the Energy Auditor as a participant after the happening of any event listed in subparagraph 2. of this section without waiving the right to exercise such remedies, without constituting a course of dealing, and without becoming liable to include the Energy Auditor in the transaction or any future transaction.

2. The Events of Default shall include, but not be limited to, the following:

a. If any report, information or representation provided by the Energy Auditor in this Agreement is inaccurate, false or misleading in any respect;

b. If any warranty or representation made by the Energy Auditor in this Agreement or any other outstanding agreement with Florida Housing is deemed by Florida Housing to be inaccurate, false or misleading in any respect;

c. If the Energy Auditor fails to keep, observe, or perform any of the terms or covenants contained in this Agreement, or is unable or unwilling to meet its obligations as defined in this Agreement;

d. If, in the sole discretion of Florida Housing, the Energy Auditor has failed to perform or complete any of the services identified in the attachments;

e. If the Energy Auditor has not complied with all Florida laws, federal laws, Florida Housing rules or Florida Housing policies applicable to the work;

f. If the Energy Auditor has discriminated on the grounds of race, color,

religion, sex, national origin, or disability in performing any service identified in the attachments;

g. If the Energy Auditor does not comply with the terms and conditions set forth in Section 420.512(5), Fla. Stat.;

h. If the Energy Auditor commits fraud in the performance of its obligations under this Agreement; or

i. If the Energy Auditor refuses to permit public access to any document, paper, letter, computer files, or other material subject to disclosure under Florida's Public Records Law.

Upon the occurrence of any Event of Default listed in subparagraph 2. above, Florida Housing will provide written notice of the Default detailing the grounds that constitute the Event of Default (Notice of Default), delivered by courier service or electronic mail to the address set forth in Section J, Administration of Agreement, herein.

3. Upon the occurrence of any Event of Default listed in subparagraph 2. above, Florida Housing may provide the Energy Auditor a reasonable period of time to cure the Event of Default (Cure Period). If Florida Housing provides a Cure Period, Florida Housing will notify the Energy Auditor of the length of the Cure Period in the Notice of Default.

4. If Florida Housing provides a Cure Period and if the Energy Auditor is unable or unwilling to cure the Event of Default within the Cure Period, Florida Housing may exercise any remedy permitted by law. The pursuit of any one of the following remedies shall not preclude Florida Housing from pursuing any other remedies contained herein or otherwise provided at law or in equity. The remedies include, but are not limited to the following:

a. Florida Housing may terminate the Agreement on the tenth (10th) day after the Energy Auditor receives the Notice of Default or upon the conclusion of any applicable Cure Period, whichever is later;

b. Florida Housing may commence an appropriate legal or equitable action to enforce performance of the terms and conditions of this Agreement;

c. Florida Housing may exercise any corrective or remedial actions including, but not limited to, requesting additional information from the Energy Auditor to determine the reasons for or the extent of non-compliance or lack of performance, issuing a written warning to advise that more serious measures may be taken if the situation is not corrected, advising the Energy Auditor to suspend, discontinue or refrain from incurring fees or costs for any activities in question or requiring the Energy Auditor to reimburse Florida Housing for the amount of costs incurred; or

d. Florida Housing may exercise any other rights or remedies that may be otherwise available under law.

H. TERMINATION

1. Florida Housing may terminate the Agreement, without cause, at any time upon ten (10) days written notice delivered by courier service or electronic mail to the Energy Auditor at the address set forth in Section J, Administration of Agreement, herein.

2. The Energy Auditor may terminate this Agreement, without cause, at any time upon ninety (90) days written notice delivered by courier service or electronic mail to Florida Housing at the physical or electronic address, as applicable, set forth in Section J, Administration of Agreement, herein. The Energy Auditor shall be responsible for all costs arising from the resignation of the Energy Auditor and the costs associated with the appointment of and transition to a successor Energy Auditor.

I. ADMINISTRATION OF AGREEMENT

1. The Florida Housing contract manager for this Agreement is:

Contracts Manager
Florida Housing Finance Corporation
227 North Bronough St., Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
E-mail: Contracts.Manager@floridahousing.org

2. The Florida Housing program contact for this Agreement is:

Laura Cox
Director of Asset Management & Guarantee Program
Florida Housing Finance Corporation
227 North Bronough St., Suite 5000
Tallahassee, Florida 32301-1329
Phone: 850.488.4197
E-mail: laura.cox@floridahousing.org
or the designated successor.

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3. The Energy Auditor contract manager for this Agreement is:

Matthew Munter
Project Executive
EMG
222 Schilling Circle, Suite 275
Hunt Valley, MD 21031
Phone: 800.733.0660 ext. 2709 main
Cell: 240.418.7443
E-mail: mmunter@emgcorp.com
or the designated successor.

4. All written approvals referenced in this Agreement shall be obtained from the parties' contract manager or their respective designees.

5. All notices shall be given to the parties' contract manager.

J. PUBLIC RECORDS; CONFIDENTIALITY; COPYRIGHT, PATENT, TRADEMARK; FILES

1. Public Records

Files Subject to Florida's Public Records Law: Any file, report, record, document, paper, letter, or other material received, generated, maintained or sent by the Energy Auditor in connection with this Agreement is subject to the provisions of Section 119.01-.15, Fla. Stat., as may be amended from time to time (Florida's Public Records Law). The Energy Auditor represents and acknowledges that it has read and understands Florida's Public Records Law and agrees to comply with Florida's Public Records Law.

Pursuant to Section 119.0701(2), Fla. Stat., the Energy Auditor is required "to comply with public records laws, specifically to:

- (i) Keep and maintain public records that ordinarily and necessarily would be required by the public agency in order to perform the service.
- (ii) Provide the public with access to public records on the same terms and conditions that the public agency would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- (iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (iv) Meet all requirements for retaining public records and transfer, at no cost, to the public agency all public records in possession of the contractor upon

termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the public agency in a format that is compatible with the information technology systems of the public agency.”

Notwithstanding anything contained herein to the contrary, the provisions and requirements of this paragraph shall only apply if and when the Energy Auditor is acting on behalf of Florida Housing.

2. Confidentiality

a. If the Energy Auditor asserts that any information or materials intended to be delivered or provided under this Agreement constitute a trade secret, or are otherwise confidential or exempt from the public records disclosure requirements of Florida’s Public Records Law, such assertion must be made prior to submitting them to Florida Housing.

b. It is the Energy Auditor’s obligation and responsibility to maintain the secrecy of trade secrets and the confidentiality of other confidential information by adequately marking such materials as confidential or exempt before forwarding such information or materials to Florida Housing.

c. In the case of work product furnished to Florida Housing pursuant to this Agreement that is confidential, the Energy Auditor will treat such materials as confidential and will not reveal or discuss such materials or any other information learned as a result of this Agreement with any other person or entity, except as authorized or directed by Florida Housing.

d. Working papers, copies, internal documents, procedures, methods and related materials considered confidential and/or proprietary shall be treated as confidential and/or proprietary and shall not be revealed or discussed with any other person or entity, except as authorized or directed by Florida Housing. All such records and materials will remain the property of Florida Housing.

e. If the Energy Auditor is required to disclose or publish the existence or terms of transactions under this Agreement pursuant to Florida’s Public Records Law, then the Energy Auditor shall notify Florida Housing in writing of such disclosure within two (2) days after receipt of the Public Records request.

3. Copyright, Patent and Trademark

a. If the Energy Auditor brings to the performance of this Agreement a pre-existing copyright, patent or trademark, the Energy Auditor shall retain all rights and entitlements to that pre-existing copyright, patent or trademark unless the Agreement provides otherwise.

b. If any discovery or invention arises or is developed in the course of or as a direct result of work or services performed under this Agreement, the Energy Auditor shall refer the discovery or invention to Florida Housing for a determination whether patent protection will be sought in the name of Florida Housing. Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to Florida Housing. In the event that any books, manuals, films, or other copyrightable material are produced, the Energy Auditor shall notify Florida Housing in writing. Any and all copyrights or trademarks created by or in direct connection with the performance under this Agreement are hereby reserved to Florida Housing.

c. All subcontracts or other arrangements entered into, by the Energy Auditor, with prior written approval and consent of Florida Housing, for the purpose of developing or procuring copyrightable materials (e.g. audiovisuals, computer programs, software, publications, curricula, research materials or training materials, etc.) shall specifically reference and reserve Florida Housing's exclusive rights to use and exploit copyrights and licenses to the extent permitted by copyright law and Florida Statutes.

4. Files

a. Contents of the Files: The Energy Auditor shall maintain files containing documentation to verify all compensation to the Energy Auditor in connection with this Agreement, as well as reports, records, documents, papers, letters, computer files, or other material received, generated, maintained or filed by the Energy Auditor in connection with this Agreement. The Energy Auditor shall also keep files, records, computer files, and reports that reflect any compensation it receives or will receive in connection with this Agreement.

b. Retaining the Files: The Energy Auditor shall maintain these files for five (5) years after the fiscal year in which the files become inactive, except that, if any litigation, claim or audit is commenced with respect to the transactions documented by such files before the end of the aforementioned five (5) year period and extends beyond the expiration of the five (5) year period, these files will be retained until all litigation, claims, or audit findings involving the files have been resolved.

c. Access to the Files: Upon reasonable notice, the Energy Auditor and its employees shall allow Florida Housing or its agent(s) access to its files during normal business hours, 9:00 a.m. to 5:00 p.m., Monday through Friday, provided such day is not a holiday.

d. Return of the Files: In the event this Agreement is terminated, all finished or unfinished documents, data, studies, computer files, correspondence, and other products prepared by or for the Energy Auditor under this Agreement shall be submitted to Florida Housing within fifteen (15) days of such termination at the

expense of the Energy Auditor.

K. OTHER PROVISIONS

1. This Agreement shall be construed under the laws of the State of Florida, and venue for any actions arising out of this Agreement shall lie in Leon County.

2. No waiver by Florida Housing of any right or remedy granted hereunder or failure to insist on strict performance by the Energy Auditor shall affect or extend or act as a waiver of any other right or remedy of Florida Housing hereunder, or affect the subsequent exercise of the same right or remedy by Florida Housing for any further or subsequent default by the Energy Auditor. A waiver or release with reference to any one event shall not be construed as continuing or as constituting a course of dealing.

3. Any power of approval or disapproval granted to Florida Housing under the terms of this Agreement shall survive the terms and life of this Agreement as a whole.

4. The Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

L. LOBBYING PROHIBITION

No funds compensation or other resources received in connection with this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida or Federal Legislature or any state or Federal agency. The Energy Auditor further acknowledges that it has not retained the services of any lobbyist or consultant to assist in the procurement and negotiation of this Agreement.

M. LEGAL AUTHORIZATION

The Energy Auditor certifies with respect to this Agreement that it possesses the legal authority to enter into this Agreement and that, if applicable, its governing body has authorized, by resolution or otherwise, the execution and acceptance of this Agreement with all covenants and assurances contained herein. The Energy Auditor also certifies that the undersigned possesses the authority to legally execute and bind the Energy Auditor to the terms of this Agreement.

N. PUBLIC ENTITY CRIME

Pursuant to Section 287.133(2)(a), Fla. Stat.: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids,

proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.”

Any contract in violation of this provision shall be null and void.

O. CONFLICTS OF INTEREST

1. Section 420.503(32), Fla. Stat., states:

Prohibited business solicitation communication’ means a private written or verbal communication between a member, officer, or covered employee of the corporation and a service provider regarding the merits of the service provider and whether the corporation should retain the services of the service provider. The term does not include:

- (a) A verbal communication made on the record during a public meeting;
- (b) A written communication provided to each member and officer of the corporation and made part of the record at a public meeting;
- (c) A written proposal or statement of qualifications submitted to the corporation in response to a corporation advertisement seeking proposals or statements of qualifications as part of a competitive selection process.
- (d) A verbal or written communication related to the contractual responsibilities of a service provider who was selected to provide services or who was included in a pool of service providers eligible to provide services as a result of a competitive selection process, so long as the communication does not relate to solicitation of business.
- (e) A verbal or written communication related to a proposed method of financing or proposed projects, so long as the communication does not relate to solicitation of business.

2. By executing this Agreement, the Energy Auditor certifies that it shall comply with, and is currently in compliance with, Section 420.512(5), Fla. Stat., as amended.

3. In addition to the conflict of interest rules imposed by the Florida Statutes, should the Energy Auditor become aware of any actual, apparent, or potential conflict of interest or should any such actual, apparent, or potential conflict of interest come into being subsequent to the effective date of this Agreement and prior to the conclusion of the Agreement, the Energy Auditor will provide notification to Florida

Housing, through first class certified mail, return receipt requested (Notice of Conflict of Interest), to the address and individual set forth in Section J, Administration of Agreement herein, within ten (10) working days. If Florida Housing, in its sole discretion, finds the Energy Auditor to be in non-compliance with this provision, without prior written consent from Florida Housing's Executive Director, any compensation received in connection with this Agreement shall be subject to forfeiture to Florida Housing and all obligations on the part of Florida Housing to continue doing business with the Energy Auditor or assign any future transaction to the Energy Auditor shall, if Florida Housing so elects, terminate.

P. ENTIRE AGREEMENT

This Agreement, including any and all attachments, embodies the entire agreement of the parties. There are no other provisions, terms, conditions or obligations between the parties. This Agreement supersedes all previous oral or written communications, representations or agreements on this subject.

Q. SEVERABILITY

If any provision of this Agreement is in conflict with any applicable statute or rule, or is otherwise unenforceable, then such provision shall be deemed null and void to the extent of such conflict or unenforceability, and shall be deemed severable, but shall not invalidate any other provision of this Agreement.

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IN WITNESS WHEREOF, the parties have executed this Agreement Number 2014-01-Q-353-001, each through a duly authorized representative, effective on the Effective Date.

VENDOR NAME


By: 

Name/Title: Matthew S. Menter / Senior Vice President

Date: 1/27/2015

FEIN: 02-0655997

FLORIDA HOUSING FINANCE CORPORATION

By: 

Stephen P. Auger, Executive Director

Date: 2/2/15

EXHIBIT A

REQUEST FOR QUALIFICATIONS (RFQ) 2014-01

For Inclusion in a Pool of Energy Auditors

for

FLORIDA HOUSING FINANCE CORPORATION

Issue Date: January 27, 2014

Due Date: February 11, 2014

SECTION ONE INTRODUCTION

The purpose of this Request for Qualifications (RFQ) is to establish a pool of qualified Energy Auditors to perform energy audits on properties seeking loans through the Multifamily Energy Retrofit Program (MERP). Selection of an Offeror as an Energy Auditor by Florida Housing Finance Corporation (Florida Housing) for inclusion in the pool under this RFQ will not result in a contract between the selected Energy Auditor and Florida Housing. Offerors selected will enter into an Agreement to participate in a pool of Energy Auditors. The assigned credit underwriter for each MERP award will select the Energy Auditor from Florida Housing's pool of approved Energy Auditors. Payment or compensation due the Energy Auditor shall be the sole responsibility of the owner of the development who contracts with the Energy Auditor. Florida Housing shall not be a party to any such contract and, with the exception of questions about MERP standards and/or requirements, shall have no obligation to the owner of the development or to the Energy Auditor under any such contract. Selection for inclusion in the pool does not assure the Energy Auditor that an owner of a development will elect to contract with that Energy Auditor. Although the credit underwriter is responsible for engaging the Energy Auditor and the owner of the development is responsible for payment under such contract, the report shall identify Florida Housing and the credit underwriter as the intended user for the purpose of providing a basis for credit underwriting decisions.

Offerors shall be selected and determined through Florida Housing's review of each response, considering the factors identified in this RFQ and any other factors that it considers relevant to serving the best interests of Florida Housing and its mission.

Florida Housing administers MERP, a revolving loan fund funded through a grant from the state Office of Energy (housed in the Department of Agriculture and Consumer Services). The goal of the program is to lower ongoing operating costs at multifamily properties, making the development more sustainable. Properties funded through this program must show a projected energy savings of at least fifteen percent in order to proceed with the retrofit. Additionally, the collective Savings to Investment Ratio (SIR) of the retrofit must be 1.0 or greater. Properties are eligible for a maximum loan amount of \$5,000 per unit, not including soft costs (e.g., cost of energy audit, credit underwriting fees, and loan servicing fees). Based on federal requirements of this funding, any retrofit work done using this funding must reduce energy use at the property.

The following items are eligible within the scope of a MERP retrofit: air infiltration improvement (e.g., envelope sealing, duct sealing, weather stripping); appliances, lighting, faucets, showerheads, HVAC systems, programmable thermostats, boilers/water heaters, insulation and window film.

Florida Housing expects to select multiple offerors that propose to provide the energy audit services specified in this RFQ.

SECTION TWO DEFINITIONS

For purposes of this document, the following terms shall be defined as follows:

“Agreement”	A document containing the terms and conditions of this Request for Qualifications and any other term and condition that the parties require.
“Board”	The Board of Directors of Florida Housing Finance Corporation.
“Committee”	The review committee composed only of employees of Florida Housing that is established pursuant to Fla. Admin. Code R. 67-49.007.
“Days”	Calendar days, unless otherwise specified.
“Effective Date”	The date the last party signs the Agreement(s) that is (are) signed as a result of this Request for Qualifications.
“Energy Auditor”	A person or entity approved by Florida Housing to provide the services described in Section Four of this RFQ as evidenced by the selection of such person or entity by Florida Housing for inclusion in the pool contemplated by this RFQ .
“Florida Housing”	Florida Housing Finance Corporation, a public corporation and public body corporate and politic created by Section 420.504, Fla. Stat.
“Interested Party”	A person or entity that obtains a copy of the Request for Qualifications from Florida Housing.
“MERP”	Multifamily Energy Retrofit Program.
“Offeror”	Any person or entity who has the capability in all respects to perform fully the requirements contained in this Request for Qualifications, and submits a response to this Request for Qualifications.
“Response”	The written submission by an Offeror to this Request for Qualifications.
“RFQ”	This Request for Qualifications, including all exhibits referenced in this document and all other documents incorporated by reference.
“SIR”	Savings to Investment Ratio - the ratio of the net present value of all savings to the net present value of the total investment. The greater the SIR value above 1.0, typically the more favorable the recommendation is for consideration of implementation.

“Staff”	Any employee of Florida Housing, including the Executive Director.
“Threshold Item”	A mandatory requirement of the RFQ. Failure to meet any requirement in the RFQ designated as a “Threshold Item” shall result in rejection (no further action) of a Response.
“Website”	The Florida Housing Finance Corporation website, the Universal Resource Locator (URL) of which is www.floridahousing.org .

SECTION THREE PROCEDURES AND PROVISIONS

A. An Offeror must submit an original and three (3) copies of the Response in a sealed envelope marked “RFQ 2014-01.” Each envelope or package containing Responses must clearly state the name of the Offeror. The Response that is the original must be clearly indicated on that Response. An electronic copy of the Response must also be submitted on a CD or flash drive. Florida Housing shall not accept a faxed or e-mailed Response. Florida Housing must receive any Responses on or before 2:00 p.m., Eastern Time, on Tuesday, February 11, 2014. Responses shall be opened at that time. Responses must be addressed to:

Della Harrell
Contracts Manager
Florida Housing Finance Corporation
227 North Bronough Street, Suite 5000
Tallahassee, FL 32301-1329
(850) 488-4197; Fax (850) 414-6548
Email: della.harrell@floridahousing.org

B. This RFQ does not commit Florida Housing to select any Offeror or to pay any costs incurred in the preparation or mailing of a Response.

C. All services under the Agreement awarded are to be performed solely by the Offeror, and may not be subcontracted or assigned without the prior written approval and consent of Florida Housing.

D. Florida Housing, at its sole discretion, reserves the right to:

1. Waive minor deficiencies and informalities;
2. Accept or reject any or all Responses received as a result of this RFQ;

3. Obtain information concerning any or all Offerors from any source;
4. Schedule an oral interview before the Board from any or all Offerors;
5. Select for inclusion in the pool a Response other than that with the highest ranking if, in the judgment of Florida Housing, both Florida Housing and the public's interest shall be best served; and
6. Negotiate with the successful Offeror(s) with respect to any additional terms or conditions of the Agreement.

E. Any Interested Party may submit any question regarding this RFQ in writing via mail, fax, or e-mail to Della M. Harrell at the address given in Section Three, paragraph A. All questions are due by 5:00 p.m., Eastern Time, on Wednesday, February 5, 2014. Phone calls shall not be accepted. Florida Housing expects to respond to all questions by 5:00 p.m., Eastern Time, on Friday, February 7, 2014. Florida Housing shall post a copy of all questions received and their answers on Florida Housing's website at:

<http://www.floridahousing.org/BusinessAndLegal/Solicitations/RequestForQualifications/>.

Florida Housing shall also send a copy of those questions and answers in writing to any Interested Party that requests a copy. Florida Housing shall determine the method of sending its answers, which may include regular U.S. mail, overnight delivery, fax, e-mail or any combination of the above. Only written responses or statements from Della M. Harrell, or her designee, which are posted on the Website, shall be construed as an official response to questions submitted to Florida Housing. No other means of communication, whether oral or written, shall be construed as an official response or statement from Florida Housing.

F. Any person who wishes to protest the specifications of this RFQ must file a protest in compliance with Section 120.57(3), Fla. Stat., and Fla. Admin. Code Rule Chapter 28-110. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

G. The pool of Energy Auditors established by this RFQ shall be effective for a period of three (3) years following the date of approval by the Board and the Energy Auditor(s) selected for inclusion within the pool of Energy Auditors will be eligible to remain in the pool for that period, unless sooner removed by Florida Housing. Florida Housing reserves the right to remove an Energy Auditor from the pool at any time if the Energy Auditor fails to comply with any of the other requirements imposed under this RFQ, or if the Energy Auditor engages in conduct or other actions deemed by Florida Housing to be detrimental or contrary to participants in MERP.

H. Pursuant to Fla. Admin. Code R. 67-49.004, Florida Housing may modify the terms of the RFQ at any point prior to two (2) weeks of the due date for Responses. A notice of such modification shall be posted on Florida Housing's Website and shall be provided to potential

Offerors who requested copies of the RFQ. The deadline for receipt of Responses may be extended as deemed necessary by Florida Housing.

I. The terms of this RFQ, and any modifications thereto, shall be incorporated into any Agreement offered as a result of this RFQ. Failure of a successful Offeror to accept these obligations in the final Agreement may result in cancellation of the award at Florida Housing's sole discretion.

SECTION FOUR PURPOSE AND SCOPE OF SERVICES

A. Purpose of the Energy Audit. The purpose of properties undergoing an energy audit is to determine eligibility to go forward with a MERP loan and to recommend items to be included in the scope of work for the retrofit. In order for a property to be eligible, the energy audit must show that:

1. The property can achieve a projected energy savings of 15 percent if recommended retrofits are carried out; and
2. The collective SIR of the recommended retrofit, not to exceed MERP funded maximum cost of \$5,000 per unit, is 1.0 or greater. (If the property owner has additional financing, the cost of the retrofit may exceed \$5,000 per unit, provided the property can meet credit underwriting requirements.)

B. Scope of Services. The services of the energy auditor shall include, but are not limited to the following:

1. Perform an on-sight inspection and energy audit of the property, including in the audit at least one year of historic utility data for the subject property;
2. Perform an analysis to determine whether the property can achieve a projected energy savings of at least 15 percent, and document this in the energy audit report;
3. Provide recommended improvements within the scope of work of MERP, along with cost estimates, and the SIR and payback period for each measure and all measures collectively. Building features that are within the allowable scope of work of a MERP retrofit are: building envelope, ducts, appliances, lighting systems, faucets, showerheads, HVAC systems, thermostats, boilers, water heaters, insulation and window film (note that window film is an allowable use of MERP funding, but not window replacement);
4. Prepare a report which includes the components outlined in D. below;
5. Advise Florida Housing and the credit underwriter in determining the final scope of work for the property.

C. Energy Audit Process. The Offeror must physically walk through and inspect the

property including all mechanical and electrical systems and all building features that are within the allowable scope of work of a MERP retrofit (described in Section Four B.3 above). The Offeror must coordinate with the property manager for access to the property, including units to be sampled. The Offeror shall be responsible for scheduling meetings/inspections onsite with the property manager and maintenance staff. Meetings with staff should include a review and analysis of occupancy reports and actual historical energy use patterns and identification of anticipated property or occupancy changes that could affect energy use. The Sampling Requirements shall be:

1. No less than ten percent (10%) of dwelling units; however, all common elements and common areas of each building containing dwelling units shall be inspected. In addition, 100 percent of non-dwelling structures and property site(s) shall be inspected;
2. Blower door and duct leakage testing in a sample of no less than ten percent (10%) of dwelling units;
3. For inspection and blower door testing purposes, units shall be randomly sampled across all buildings at each property, while taking into consideration occupied and unoccupied units and the unit mix, i.e., efficiencies, one bedroom, two bedrooms, three bedrooms and four bedrooms. If the property was constructed in various phases or the buildings consist of different construction systems, then a representative sampling of dwelling units in each phase or building of different construction systems shall be inspected.

D. Energy Audit Report Components. Energy audit reports will be reviewed by Florida Housing staff and external credit underwriters to determine the scope of work for the retrofit. Reports should be organized into sections that clearly describe the condition of the energy systems of the property and recommended improvements. The following items must be included in the report. Note that reports do not have to be in this exact format, but should include all of the following information:

1. Executive Summary. A summary including the general physical description of the property (e.g. age, number of buildings, type of construction, number of units, etc.); type of metering (i.e., master or individual); energy source (i.e., electric and/or gas); overview of any previous retrofits, rehabilitation, or renovation; current annual energy consumption, patterns and cost; and a summary of recommended energy efficient operations and maintenance opportunities and retrofit measures and their cost, collective payback period, SIR, and estimated annual savings as a percentage improvement and as a dollar amount. The summary of recommended measures may be in the form of a list or table and must include the following information: description of

- retrofit measure; initial cost; annual energy savings, annual cost savings; payback period; SIR; life cycle savings; and expected useful life.
2. Overview and description of energy audit process. Describe the methodology used to conduct the energy audit and present recommendations regarding all options analyzed, and include all calculations conducted in support of the analyses. If a proposed measure is not recommended, then specify the reasons. Specify the energy modeling software used for the energy audit.
 3. Overview of building characteristics and electrical and mechanical systems. This section should provide a description of the current state of the property, including opportunities for energy savings on a building by building basis.
 4. Analysis of Existing Energy Consumption. A minimum of one year's utility bills should be evaluated.
 5. Review of Relevant Maintenance and Repair. The energy auditor should consult with the property manager and/or owner regarding any repairs done on any systems or building features that affect energy consumption. This may be via phone or in-person interviews.
 6. Recommendations for energy savings. This section should include a description of each recommended measure (including performance specifications or other design documents needed to bid and install the measure), discussion and rationale for the recommendation, and economic analysis including costs of material, labor, engineering design and project management. The energy audit recommendations should be formatted to allow the property owner to use them as a basis for bidding the projects and should be divided into logical and biddable tasks. Additionally any recommendations for operations and maintenance that will lower operating costs should be included in this section.
 7. Photographs. Include any photographs that may assist Florida Housing and credit underwriters in understanding the physical description of the property and recommended measures.
 8. Energy modeling software report. Energy modeling should be conducted with TREAT, Energy Gauge, EA-QUIP, or other multifamily energy audit software approved by the U.S. Department of Energy (DOE).

E. Consultation with Florida Housing. The energy auditor shall be available for consultation with Florida Housing staff and credit underwriters while the scope of work on a property is being finalized.

F. Timing of Energy Audits. Energy audits must be performed within 30 days of invitation to credit underwriting. An energy audit report must be provided to Florida Housing within 30 days of the energy audit being performed.

SECTION FIVE CERTIFICATION

Do not reproduce the language of Section Five in the Response. By inclusion and execution of the statement provided in this Section of the RFQ, each Offeror certifies that:

A. The Offeror submits this Response without prior understanding, agreement, or connection with any person or entity submitting a separate Response for the same services. However, any agreement with a person or entity with whom the Response is jointly filed and such joint filing is made clear on the face of the Response shall be an exception so long as the Response is in all respects fair and without collusion or fraud.

B. Any material submitted in response to this RFQ is a public record pursuant to Chapter 119, Fla. Stat., and subject to examination upon request, after Florida Housing provides a notice of decision pursuant to Section 120.57(3), Fla. Stat., or within 10 Days after the Response is opened, whichever is earlier.

C. The Offeror is in compliance with Section 420.512(5), Fla. Stat., which provides:

“Service providers shall comply with the following standards of conduct as a condition of eligibility to be considered or retained to provide services. For purposes of paragraphs (a), (b), and (c) only, the term ‘service provider’ means and is limited to a law firm, an investment bank, or a credit underwriter, and the agents, officers, principals, and professional employees of the service provider.

(a) A service provider may not make contributions in any amounts, directly or indirectly, for or on behalf of candidates for Governor, nor shall any service provider make a contribution in excess of \$100 to any candidate for a member of the State Board of Administration other than the Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(b) The service provider shall not participate in fundraising activities for or on behalf of candidates for Governor in Florida while the service provider is included in an applicant pool from which service providers are selected to provide services to the corporation, while the service provider provides services to the corporation, and for the longer of a period of 2 years thereafter or for a period through the next general election for Governor.

(c) Service providers shall provide to the corporation a statement that the service provider has not contributed to candidates for Governor or contributed in excess of the amounts allowed by this section for a member of the State Board of Administration or engaged in fundraising activities for or on behalf of candidates for Governor in Florida since the effective date of this section or during the 24 months preceding the service provider's

application to provide services to the corporation, whichever period is shorter.

(d) The service provider may not engage in prohibited business solicitation communications with officers, members, or covered employees of the corporation.

(e) If a service provider is in doubt as to whether its activities, or the activities of its principals, agents, or employees, violate the provisions of this section, it may request a declaratory statement in accordance with the applicable rule and Section 120.565, Fla. Stat.

(f) If the corporation determines that a service provider has failed to meet the provisions of this section, it shall consider the magnitude of the violation and whether there has been a pattern of violations in determining whether to terminate or decline to enter into Contracts with the service provider.”

D. For the purpose of Section 420.512(5), Fla. Stat., “Prohibited Business Solicitation Communications” is defined by Section 420.503(32), Fla. Stat., which provides:

“Prohibited business solicitation communication’ means a private written or verbal communication between a member, officer, or covered employee of the corporation and a service provider regarding the merits of the service provider and whether the corporation should retain the services of the service provider. The term does not include:

(a) A verbal communication made on the record during a public meeting;

(b) A written communication provided to each member and officer of the corporation and made part of the record at a public meeting;

(c) A written proposal or statement of qualifications submitted to the corporation in response to a corporation advertisement seeking proposals or statements of qualifications as part of a competitive selection process.

(d) A verbal or written communication related to the contractual responsibilities of a service provider who was selected to provide services or who was included in a pool of service providers eligible to provide services as a result of a competitive selection process, so long as the communication does not relate to solicitation of business.

(e) A verbal or written communication related to a proposed method of financing or proposed projects, so long as the communication does not relate to solicitation of business.”

E. The Offeror is in compliance with Section 287.133(2)(a), Fla. Stat., which provides in part:

A person or affiliate, who has been placed on the convicted vendor list, following a conviction for a public entity crime, may not:

(a) submit a bid on a contract to provide any goods or services to a public entity;

(b) submit a bid on a contract with a public entity for the construction or repair of a public building or public work;

- (c) submit bids on leases of real property to a public entity;
- (d) be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and;
- (e) transact business with any public entity in excess of the threshold amount provided in Section 287.017, Fla. Stat., for CATEGORY TWO: \$35,000, for a period of 36 months from the date of being placed on the convicted vendor list.

F. The Offeror acknowledges that any Offeror selected shall be prohibited from engaging in activities in connection with services related to Florida Housing transactions that produce direct or indirect financial gain for the Offeror other than for the compensation agreed upon in the Contract that results from this RFQ, unless that Offeror has Florida Housing's written consent after Florida Housing has been fully informed of such activities in writing.

G. In addition to the conflict of interest rules imposed by the Florida Statutes, the Offeror(s) that is (are) selected may not engage in any actual, apparent, or potential conflict of interest. Should any such actual, apparent, or potential conflict of interest come into being subsequent to the effective date of the Contract and prior to the conclusion of the Contract, the Offeror shall provide notification (Notice of Conflict of Interest) to Florida Housing, through first class certified mail, return receipt requested, within ten (10) working days, seeking consent from Florida Housing's Executive Director. If the Offeror is found to be in non-compliance with this provision, without written consent from Florida Housing's Executive Director, any compensation received in connection with the Contract shall be subject to forfeiture to Florida Housing.

H. The Offeror, in submitting this Response, acknowledges and agrees that the terms and conditions of this RFQ, as well as any modifications thereto, shall be incorporated into any Contract offered as a result of this RFQ. Such terms and conditions include, but are not limited to, the obligation of any successful Offeror to order any services to be provided in connection with this RFQ from a Florida Housing Contract Vendor as provided in Section Three, paragraph K hereof.

I. **Certification Statement (Threshold Item)**
THE FOLLOWING SHALL BE REPEATED IN THE OFFEROR'S RESPONSE AND SIGNED BY AN INDIVIDUAL AUTHORIZED TO BIND THE OFFEROR. FAILURE TO INCLUDE THE CERTIFICATION STATEMENT BEARING AN ORIGINAL SIGNATURE SHALL RESULT IN REJECTION OF THE RESPONSE.

"I agree to abide by all conditions of RFQ 2014-01 and certify that all information provided in this Response is true and correct, that I am authorized to sign this Response as the Offeror and that I am in compliance with all requirements of the

RFQ, including but not limited to, the certification requirements stated in Section Five of this RFQ.”

Authorized Signature (Original)

Print Name and Title

**SECTION SIX
INFORMATION TO BE PROVIDED IN RESPONSE**

A. Cover Letter (Threshold)

Each Response must be accompanied by a cover letter that contains a general statement of the purpose of submission and includes the following information.

1. The name, job title, address, office and cellular telephone numbers, fax number, and e-mail address of a primary contact person, who will be responsible for day-to-day contact with Florida Housing and the credit underwriter, and any backup personnel who would be accessible if the primary contact cannot be reached.
2. Legal business status (individual, partnership, corporation, etc.) of the Offeror.

B. General Information (15 points maximum)

1. Provide evidence from the Florida Department of State, Division of Corporations, that the Offeror is a legally formed entity qualified to do business in the state of Florida.
2. Provide a brief history of the Offeror, including the year organized, ownership and the total number of employees. Discuss any changes in the Offeror’s management in the last two (2) years. Include the name, e-mail address, and fax and telephone number of a contact person for the Offeror. Summarize the Offeror’s overall approach to the Scope of Services, highlighting any outstanding qualifications and experience relevant to performing the technical work. Highlight any additional experience relevant to the Scope of Services.

C. Experience (20 points maximum)

Describe the Offeror’s experience conducting energy audits on multifamily properties.

1. The Offeror must have conducted at least 4 energy audits on multifamily properties, each with a minimum of 75 units, in the past 10 years. Provide a table listing the multifamily properties the Offeror has conducted energy audits for, the date of the energy audit (year, at a minimum), and number of units at each property.
2. The Offeror must have experience with multifamily energy auditing software, such as TREAT, EA-QUIP, or EnergyGauge. Describe what software programs the Offeror has used for multifamily energy audits, and how often the Offeror has used them.
3. Give examples of work performed by the Offeror within the past two (2) years that is similar to that indicated in the Scope of Services. Explain its relevance to the Scope of Services and the proposed contract.

D. Qualifications of Individual Performing Energy Audit and Preparing Report (20 points maximum)

Provide the names and evidence of the following for each of the individuals who will be doing the on-site evaluations and preparing the reports (Note: For an individual property, the on-site evaluation and the report must be conducted and prepared by the same individual):

1. Must be certified through one of the following programs: Certified Energy Manager®, RESNET®, or the Building Performance Institute, Inc.; or be a Class 1 Energy Rater certified by the State of Florida;
2. Provide the names, background, qualifications, experience and resumes of the principal members of the Offeror including officers, if any, including the senior project managers responsible for report review/quality control, and final sign-off.
3. State how many years the Offeror has been engaged in business under its present firm or trade name.

E. Provision of Sample Energy Audit Report (25 points maximum)

The offeror must provide a sample of an actual energy audit report prepared by the Offeror for a multifamily property similar in scope to the Scope of Services requested in this RFQ.

F. Fees

Provide a detailed breakdown of fees for the services the Offeror will provide. The Offeror may provide cost options based on the size of the property and type of construction. Fees must be based on the service provided and not on the results and/or recommendations of the energy audit. Provide a fee schedule.

G. Insurance (Threshold)

Provide a copy of the declaration page of proof of (i) blanket fidelity insurance and (ii) errors and omissions or professional liability insurance which includes the following for each policy:

- a. Name of carrier and policy number;
- b. Effective date of insurance;
- c. Policy exclusions, if any;
- d. Current coverage amounts;
- e. Staff and others acting on behalf of the Offeror covered; and
- f. Type of coverage.

H. Drug-Free Workplace

If the Offeror has implemented a drug-free workplace program, pursuant to Section 287.087, Fla. Stat., the Offeror must submit a valid affidavit to demonstrate its status.

I. Minority Business Enterprise

If the Offeror is a minority business enterprise as defined in Section 288.703, Fla. Stat., the Offeror must submit a valid affidavit to demonstrate its status.

J. Certification (Threshold Item):

FAILURE TO INCLUDE THE CERTIFICATION STATEMENT LOCATED IN SECTION FIVE OF THIS RFQ BEARING AN ORIGINAL SIGNATURE SHALL RESULT IN REJECTION OF THE RESPONSE.

SECTION SEVEN EVALUATION PROCESS

Individual Committee members shall evaluate and rank the Responses independently. As indicated in this section, points shall be assigned to certain items presented in Section Six of this RFQ. The individual Committee members shall evaluate the Responses by reviewing the answers to each of the items and assigning points up to the maximum points allowed for each item. The Committee shall not use those items without points assigned in computing the numerical score, but shall use them as part of their evaluation and recommendation process, for informational purposes, or as a basis for possible disqualification. The Committee shall also use the various scored items as a part of its evaluation and recommendation process.

Based on the criteria for selection, committee members shall rank each Response, with the highest rank being "1". The Committee may conduct one or more public meetings during which members may discuss their evaluations, make any adjustments deemed necessary to their

evaluations to best serve the interests of Florida Housing’s mission, interview Offerors, observe presentations by Offerors, and develop a recommendation or series of recommendations to the Board. The Committee and/or Staff may make a recommendation, in addition to providing the ranking information and the information from the non-scored items to the Board for the Board to use in making the final selection. The Committee and/or Staff may also give the Board a written and/or verbal narrative describing the reasons for any recommendation. In the event of a tie, Florida Housing shall give preference to the Response certifying a drug-free workplace has been implemented in accordance with Section 287.087, Fla. Stat. If a tie continues to exist, Florida Housing shall give preference to minority business enterprises as defined in Section 288.703, Fla. Stat. Staff may recommend that the Board conduct oral interviews as part of the evaluation process to select the Offeror. The Board may use the Responses, the Committee’s ranking, the non-scored items in the Responses, any other applicable or relevant information or recommendation provided by the Committee or Staff, any oral presentations of Offerors and any other information the Board deems relevant in its selection of Offerors to whom to award a Contract.

The points available for each of the items to be evaluated are as follows:

Item Reference	Maximum Points
A. Cover Letter	Threshold
B. General Information	15
C. Experience	20
D. Qualifications	20
E. Sample Energy Audit Report	25
G. Insurance	Threshold
J. Certification	Threshold
Total Points Available	80

SECTION EIGHT AWARD PROCESS

Florida Housing shall provide notice of its decision, or intended decision, for this RFQ on Florida Housing’s Website the next business day after the applicable Board vote. After posting, an unsuccessful applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., et al. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., et al. or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

**EXHIBIT B
FEE SCHEDULE**

Energy Auditor Services
(Agreement #2014-01-Q-353-001)

The following fees are based on position on an hourly basis:

Position	Hourly Rate
Project Executive	\$150.00
Program Manager/Quality Assurance Manager	\$125.00
Assessment Team PE/RA	\$105.00
Technical Report Reviewer/Quality Control	\$105.00
Technical Manager	\$95.00
Administrative	\$50.00