

Testimony of

The Hon. Kathy Patterson  
D.C. Auditor

before the

Council of the District of Columbia  
Committee on Housing and Neighborhood Revitalization

Public Hearing on

Bill 23-0123

Housing Production Trust Fund Transparency Amendment Act of 2019

June 17, 2019

Room 500

The John A. Wilson Building  
1350 Pennsylvania Avenue, N.W.  
Washington DC 20004



Good morning, Councilmember Bonds, and thank you for the opportunity to testify today concerning the Housing Production Trust Fund (HPTF). I am Kathy Patterson, D.C. Auditor, and I am joined by Deputy Auditor Julie Lebowitz, General Counsel Amy Bellanca, and Senior Analyst Ingrid Drake.

The Housing Production Trust Fund is one of the District's main tools to create and preserve affordable housing. In recent years, the District's leaders have significantly increased the investment in the HPTF with \$120 million in the pending FY20 budget, up from \$100 million approved last year.

My testimony covers information from the report we released last month, [Low-Ranked Projects Secure Affordable Housing Funds](#) which followed our earlier work examining HPTF efficiency and the Department of Housing and Community Development's (DHCD) compliance with HPTF oversight requirements.<sup>1</sup> The report examined how Trust Fund projects were selected in the Fall 2017 Consolidated Request for Proposals (RFP) and underscores the need for greater transparency in funding decisions.

With the lack of affordable housing reaching crisis levels in the District it is critical that HPTF awards are based on sound criteria consistent with the program's goals. It also means that every project should be led by qualified developers, with specific and targeted plans, and solid financing, so that affordable housing is created and preserved as swiftly as possible to meet policymaker goals.

To select projects for HPTF funding, DHCD typically publishes one or two RFPs each year soliciting affordable housing development proposals, which may come from nonprofit or for-profit entities. DHCD's selection of nine projects a year ago for \$103 million, \$78 million of which was HPTF funding, raised serious questions about the efficiency and transparency of DHCD's selection process. Between staff recommendation and final selection there was a net loss of 353 affordable units, including 95 units targeting the District's most vulnerable households earning up to 30 percent of the Area Median Income (AMI).

The Fall 2017 Consolidated RFP process, which started in late 2017 and ended in mid-2018, highlights weaknesses in the procurement process which we urge the Council to address through the legislation before you.

- In November 2017, DHCD issued its Fall 2017 RFP, a Consolidated Request for Proposals for Affordable Housing Projects. DHCD's Development Finance Division (DFD) was responsible for conducting the staff-level review and presenting recommendations to the Director for final selection, based on the scores received by each applicant. The RFP explains that:

Applications, scores, and tentative Development Finance Division (DFD) recommendations will be forwarded to an interagency review panel of District government partners for review and prioritization. Projects that the panel finds meet the eligibility requirements and score competitively compared with other proposed projects of similar type will be recommended to DHCD for funding. DHCD will

---

<sup>1</sup> Office of the D.C. Auditor, *Low-Ranked Projects Secure Affordable Housing Funds*, May 30, 2019.  
See: <http://dcauditor.org/report/low-ranked-projects-secure-affordable-housing-funds-2/>

conduct the final review of applications and will select projects for further underwriting.<sup>2</sup>

However, the RFP also goes on to state: “Final selection decisions will be made by the DHCD Director.”<sup>3</sup>

- Between February and April 2018, DFD directed a detailed two-part review of 28 proposals. This included a review of the proposals’ threshold eligibility requirements, such as whether the proposer submitted an eligible project type (number of units for targeted Area Median Income (AMI)), has site control of the proposed development, submitted financing letters, and so on. DFD notified the sponsors of eight proposals that they did not meet the threshold requirements so would not advance to the scoring phase, the second part of the review process.

Based on ODCA interviews and review of DFD procedures, scoring sheets, and the RFP, the scoring phase appeared to be a well-designed and objective method for scoring proposals. According to the RFP, during the scoring phase all proposals will be competitively evaluated, rated and ranked based on underwriting and scoring selection criteria, established in accordance with federal law and the District’s housing priorities and needs. For example, a proposal can earn up to 30 points for its Financial and Economic Feasibility or 30 points for Development Team Capacity and Experience.

During our earlier HPTF audits we documented that there were multiple internal controls in place within DFD: a flowchart of the RFP process, a detailed handbook for project management and underwriting, supervision, and a thoughtful allocation of staff resources to ensure that all proposals were treated the same. For example, we learned that one DFD staffer would focus on one aspect of the scoring criteria for all proposals so that they all would be subjected to the same level of review. Another control: when criteria had room for subjectivity, two scorers were assigned, and their scores were either averaged or discussed and consensus reached.

In addition to its internal review, DFD facilitated an interagency review panel with the D.C. Housing Finance Agency, D.C. Housing Authority, Department of Human Services and Department of Behavioral Health to discuss scores and tentative recommendations based on the Department’s funding constraints.

- In May 2018, DFD recommended the nine highest-scoring projects to the DHCD Director for funding. The projects represented a mix of four preservation projects, three production projects, and two projects that were both production and preservation. These nine projects were to produce or preserve 1,125 units of affordable housing, including 143 Permanent Supportive Housing (PSH) units. The following chart describes the projects recommended by agency staff. We do not identify the five projects that were ultimately not funded a year ago, though we are aware that successor applications were awarded HPTF funds this year.

---

<sup>2</sup> DHCD Fall 2017 Request for Proposals Page 9-10

<sup>3</sup> DHCD Fall 2017 Request for Proposals Page 10

**Figure 1: Nine Highest Scoring Projects Recommended by DFD to DHCD Director for Funding**

Project Name	Ward	Total Units	30% AMI	50% AMI	60% AMI	80% AMI	PSH
A	4	54	54				54
B	7	166	17	149			17
C	7	121	31	77	13		24
D	8	323	10	157	142	14	10
E	5	49	4	8	37		0
Spring Flats	4	88	30	44	14		14
Hanover Courts Apartments	8	82	9	41	32		4
Randle Hill Apartments	8	195	20	127	28	20	20
SOME – Anna Cooper House	2	47	47				0
<b>Total</b>		<b>1,125</b>	<b>222</b>	<b>603</b>	<b>266</b>	<b>34</b>	<b>143</b>

Source: Fall 2017 Consolidated RFP Project Selection Recommendations

- On June 13, 2018, the Mayor announced that nine projects selected from the Fall 2017 RFP had been awarded \$103 million: five of them, highlighted below, did not score among the top proposals recommended by the DFD.

**Figure 2: Nine Projects Awarded Funding From 2017 Fall RFP**

Project Name	Ward	Total Units	30% AMI	50% AMI	60% AMI	80% AMI	PSH
Mary’s House	7	15	3	10		2	3
3500 East Capitol Street NE (Phase II),	7	95	5	90			5
1100 Eastern Ave NE	7	63	13	50			13
Anacostia Gardens Apartments	7	99		9	90		0
Petworth Station	4	88		10	78		1
Spring Flats	4	88	30	44	14		14
Hanover Courts Apartments	8	82	9	41	32		4
Randle Hill Apartments	8	195	20	127	28	20	20
SOME – Anna Cooper House	2	47	47				0
<b>Total</b>		<b>772</b>	<b>127</b>	<b>381</b>	<b>242</b>	<b>22</b>	<b>60</b>

Note: Highlighted projects were not among the highest scoring projects that had been recommended by DFD. Sources: Press Release, “Mayor Bowser Announces \$103 Million Investment in Affordable Housing,” June 13, 2018; Fall 2017 Consolidated RFP Project Selection Recommendations

One thing is immediately clear from these two lists: the projects recommended by DFD would have created more affordable units than the final projects selected – a difference of 353 units. There were

also significantly fewer units (95 units) for households earning up to 30 percent AMI and 222 fewer units for households earning up to 50 AMI. In fact, as shown in a summary chart that follows, there were reductions in every category when DFD’s recommended projects were replaced with the Director’s final selection.

**Figure 3: Number of Affordable Units in Recommended Projects and Final Project List**

	Total Units	30% AMI	50% AMI	60% AMI	80% AMI	PSH
<b>DFD Recommended Projects Total Units</b>	<b>1,125</b>	<b>222</b>	<b>603</b>	<b>266</b>	<b>34</b>	<b>143</b>
<b>Final Projects Awarded Total Units</b>	<b>772</b>	<b>127</b>	<b>381</b>	<b>242</b>	<b>22</b>	<b>60</b>
<b>Difference</b>	<b>3532</b>	<b>95</b>	<b>222</b>	<b>24</b>	<b>12</b>	<b>83</b>

Source: ODCA Analysis

This discrepancy in units runs counter to the goal included in the RFP, which in the first few pages notes:

The greatest gap between the need for and supply of affordable housing is among households with the lowest incomes, those earning no more than 30 percent of the U.S. Department of Housing and Urban Development (HUD) Median Family Income (MFI, currently \$110,300 annually for a family of four).<sup>4</sup>

This decrease in 30 percent and 50 percent AMI units also contradicts DHCD’s response to Council performance questions earlier this year in which the agency reported that, “Beginning with the 2015 Consolidated RFP, DHCD has placed much greater emphasis on 30 and 50 percent of the area median family income (MFI) units.”<sup>5</sup>

There also is an 83-unit gap in the number of Permanent Supportive Housing (PSH) units created in the DFD+-recommended list (143 units) and the list that was ultimately approved (60 units). This is concerning as the RFP was to have a “special emphasis on creating Permanent Supportive Housing (PSH) for individuals and families who were once homeless and continue to be at imminent risk of homelessness.”<sup>6</sup>

In terms of location of projects, in the final list, Ward 5 lost a project and had no awarded projects, while Wards 4 and 8 each lost a project in the final decision. The higher-scoring projects that were not funded last year earned roughly 10 more percentage points than the average of the projects given final approval. . The projects that had been ranked 15, 19 and 20 out of 20 evaluated projects were basically moved up the list and selected among the nine that were funded. This decision to fund the lowest-ranked projects raises concern about not just program transparency but program integrity.

In our 2018 report, [How Not to Create Affordable Housing: A Cautionary Tale About Disappointed Homeowners and Lost Taxpayer Dollars](#), we recommended that District leaders implement “a transparent, online, and searchable selection process of developers receiving HTPF loans, including

<sup>4</sup> DHCD Fall 2017 Request for Proposals Page 4

<sup>5</sup> Page 55

<sup>6</sup> DHCD Fall 2017 Request for Proposals Page 4

making public the evaluation scores of those entities submitting proposals for development projects.” In our more recent report we recommended that the Council enact legislation “to increase the transparency of the affordable housing Request for Proposals (RFP) selection process” which would “include requirements that address when and how the DHCD Director can exercise discretion” and require “public release of the final selection criteria, evaluators’ rating sheets, DHCD’ Development Finance Division staff’s recommendations to the Director, final and signed Decision Memorandum, and the Director’s written justification for awarding projects that were not recommended by DFD.”

One of the two bills that are the subject of today’s hearing directly addresses the intent of the ODCA recommendations. Bill 23-0123, the Housing Production Trust Fund Transparency Amendment Act of 2019, would require the Mayor to provide information on all of the applications for HPTF funding, as well as all of the data used to determine funding awards.

The legislation as drafted is consistent with our findings and recommendations, but it also could be amended to take advantage of the information that is currently a part of the DHCD procurement process and make that information part of what is publicly released. We recommend that this additional information include the two-page scorecard that each project receives and which is already released by DHCD to applicants during the debriefing meetings they hold and the final Decision Memorandum, including a written justification for any departures from the agency’s internal staff recommendations.

A final point that was not explicitly covered in our recent report on the 2017 Fall RFP Housing Production Trust Fund project awards. With regard to the Housing Production Trust Fund, the Department is not covered by the requirements of the Procurement Practices Reform Act, though the agency is subject to the procurement law for most of its other activities. The Committee and the Council may wish to revisit that exemption in order to bring more oversight and consistency to the funding decisions made for this important program.

Thank you and I am happy to respond to questions.