

# Federal Stimulus Update

## FLC Webinar: October 22, 2009





# Agenda

- Opening Remarks
- Energy Efficient & Conservation Block Grants – Jeremy Susac
- Broadband Grants – Bill Price
- Recovery Zone Bonds – George Smith
- Questions & Answers



# How to Send a Question

- Use the 'chat' box on the "Go to Meetings" bar to send the moderator a question or discussion point
- Your call should NOT be on speaker phone – in case the mute feature does not engage – thank you.



# Florida Recovery & Reinvestment Plan

Energy Efficiency and  
Conservation Block Grant



## Energy Efficiency Conservation Block Grant FECC-Approved Projects: \$30.4 Million

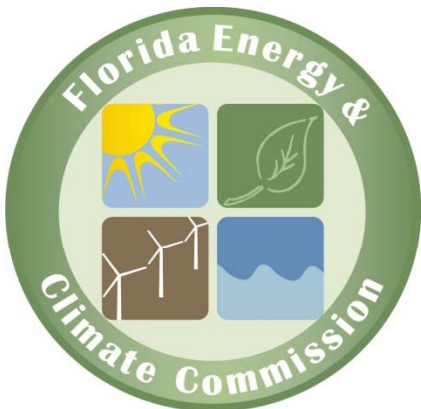
- Competitive Grants to Non-Entitlement Cities and Counties
- Sunshine State Buildings Initiative
- Energy Code Compliance and Evaluation
- Energy Code Training and Education
- Clean Tech Economic Development Strategy Support
- Electric Car Rebate
- Data Center Energy Efficiency





## EECBG: Competitive Grants to Non-Entitled Cities and Counties (\$18.6 million)

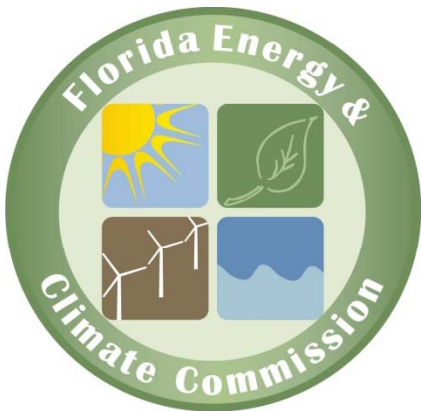
- The FECC plans to distribute these monies through a competitive solicitation.
- 2/3 (\$12.4 million) will be made available for all eligible local governments with a maximum award that may not exceed 10% of the available grant funds.
- 1/3 (\$6.2 million) will be dedicated to assist small counties and cities. A “small county” has an unincorporated population of less than 50,000, while a “small city” has a population of less than 15,000. The maximum award is \$250,000.





## EECBG: Competitive Grants to Non-Entitled Cities and Counties (\$18.6 million)

- Eligible jurisdictions may choose to partner in their application, the maximum per partner may not exceed 10% of the available grant funds. There will be a total project cap. The cap has not been determined at this time. A lead grantee must be designated in the application. The lead grantee will act as the fiscal agent and will be responsible for reporting to the FECC.
- Only projects and activities that can be excluded from the National Environmental Policy Act (NEPA) review through a Categorical Exclusion will be considered. Categorical Exclusion means a category of actions for which neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) is normally required.





## EECBG: Competitive Grants to Non-Entitled Cities and Counties (\$18.6 million)

- Registration Requirements - There are several one-time actions that must be completed in order to receive federal funds and enter into an agreement with the State. Applicants should allow at least 10 days to complete these requirements.
  - Applicants must obtain a DUNS number. DUNS website: [http://www.dnb.com/US/duns\\_update/](http://www.dnb.com/US/duns_update/)
  - Applicants must register with the CCR. CCR website: <http://www.ccr.gov/>
  - Applicants must register with MyFloridaMarketPlace. MFMP website: [www.mfmp.vendor.org](http://www.mfmp.vendor.org)

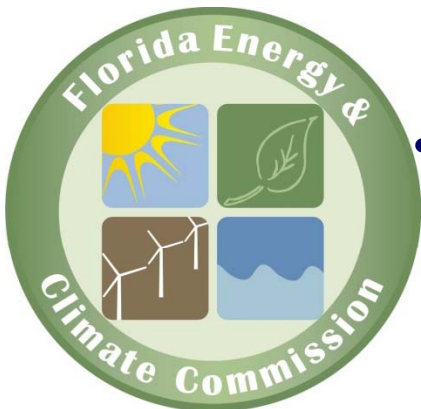




## EECBG: Competitive Grants to Non-Entitled Cities and Counties (\$18.6 million)

Federal requirements:

- Buy American -None of the funds appropriated or otherwise made available by the Recovery Act may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.
- Davis-Bacon Act Wage Rate Requirements - All laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act, shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (Davis-Bacon Act).
- Environmental, Historic Preservation, and Cultural Review - Because Recovery Act funds are federal, all funding recipients must meet federal environmental review requirements under the National Environmental Policy Act (NEPA) and cultural resource review requirements under Section 106 of the National Historic Preservation Act (Section 106).





# New EECBG Competitive Grant: “Retrofit Ramp-up”

- Funding: \$390 million –between 8 and 20 awards for programs of \$5 million to \$75 million
- Focus: Large scale energy efficiency retrofits with geographic focus (i.e., “whole neighborhood” retrofits)
- Eligibility: States, local governments, tribes, non-governmental entities, collaborative efforts
- Voluntary Letter of Intent Due: November 19th
- Application Due: December 14th





## New EECBG Competitive Grant: General Innovation Fund for Local Governments



- Funding: \$63.7 million –between 15 to 60 awards for programs of \$1 million to \$5 million
- Focus: Innovative and sustainable market transformation programs
- Eligibility: Non-entitlement local governments, non-governmental entities, collaborative efforts
- Application Due: December 14th
- FECC NOT Eligible



# Federal Reporting Requirements

[www.FlaRecovery.gov](http://www.FlaRecovery.gov)

- Grantees must report no later than 3 days after the end of each quarter
  - Total amount of recovery funds received; and
  - Total amount of recovery funds expended/obligated
  - Detailed list of projects/activities for which recovery funds were expended or obligated, including:
    - Name of the project or activity
    - Description
    - Completion status
    - Number of jobs created/retained
  - Detailed information on subcontracts/subgrants
- Florida agencies report to [FlaReporting.gov](http://FlaReporting.gov)
  - Available for review only by the FL Office of Economic Recovery, OPB reviewers, and inspector general;
  - Economic Recovery Office submits to [www.FederalReporting.gov](http://www.FederalReporting.gov)





## Broadband Stimulus

Bill Price

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[http://dms.myflorida.com/suncom/broadband\\_initiative\\_arra](http://dms.myflorida.com/suncom/broadband_initiative_arra)

# Topics to be Covered

- Round 1
  - Basics
  - Florida Applications
  - Infrastructure
  - PCC
  - Adoption
- Round 2
  - Changes from Round 1
  - What is important to know

# Originally Round 1

## **Basic Objectives:**

- Close the broadband gap across the county
- Stimulate investment and the economy
- Create jobs
- Provide high-speed access to schools, libraries, hospitals, training centers, etc.
- Encourage demand for and adoption of broadband service

## **Funding:**

- \$7.2 billion in competitive funding [\$4.7 billion NTIA grants; \$2.5 billion USDA/RUS grants and loans]
- \$6.4 billion to accelerate broadband deployment to un-served and underserved areas
- \$350 million to develop and maintain a nationwide broadband map
- \$250 million for innovative programs to promote sustainable adoption of broadband service
- \$200 million for community computing centers (community colleges, libraries)

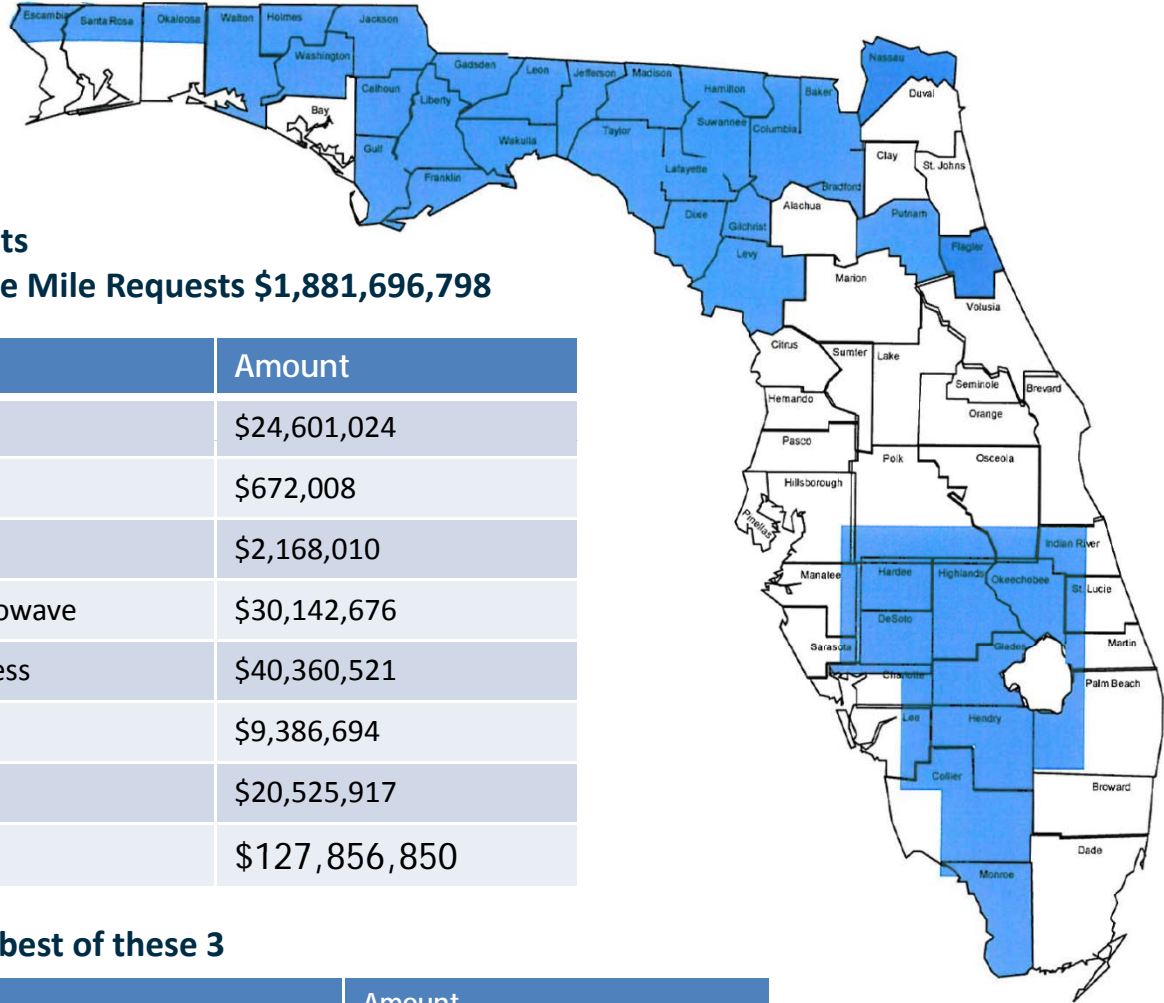
## **Schedule: 3 Rounds of Funding:**

- |                 |  |
|-----------------|--|
| June 2009       | First Notice of Funding Availability   |
| Sept-Dec 2009   | Initial proposal processing and review |
| Oct-Dec 2009    | Second solicitation for proposals      |
| Dec 2009        | Initial grant awards made              |
| April-June 2010 | Third solicitation for proposals       |
| Sept 2010       | All awards to be made                  |

# Round 1

- Florida Applications and Governor's Office Review
  - Over 120 applications were reviewed
  - No Pre NTIA qualification
  - Inconsistent information provided, non responsive applicants to request for full detail disclosure, redaction
  - Only aware of 24 applications prior to the process start, very limited amount of time to review and requesting and getting information at the last minute eats up review time
  - There were 52 applications for expanding infrastructure yet in many cases there was no factual proof in the applications of the need for investing in that area, particularly in Middle Mile applications.
  - Reviewers were hindered by not having a Florida Broadband Map to evaluate statements about existing service coverage

# Round 1 Infrastructure Geographic Priorities



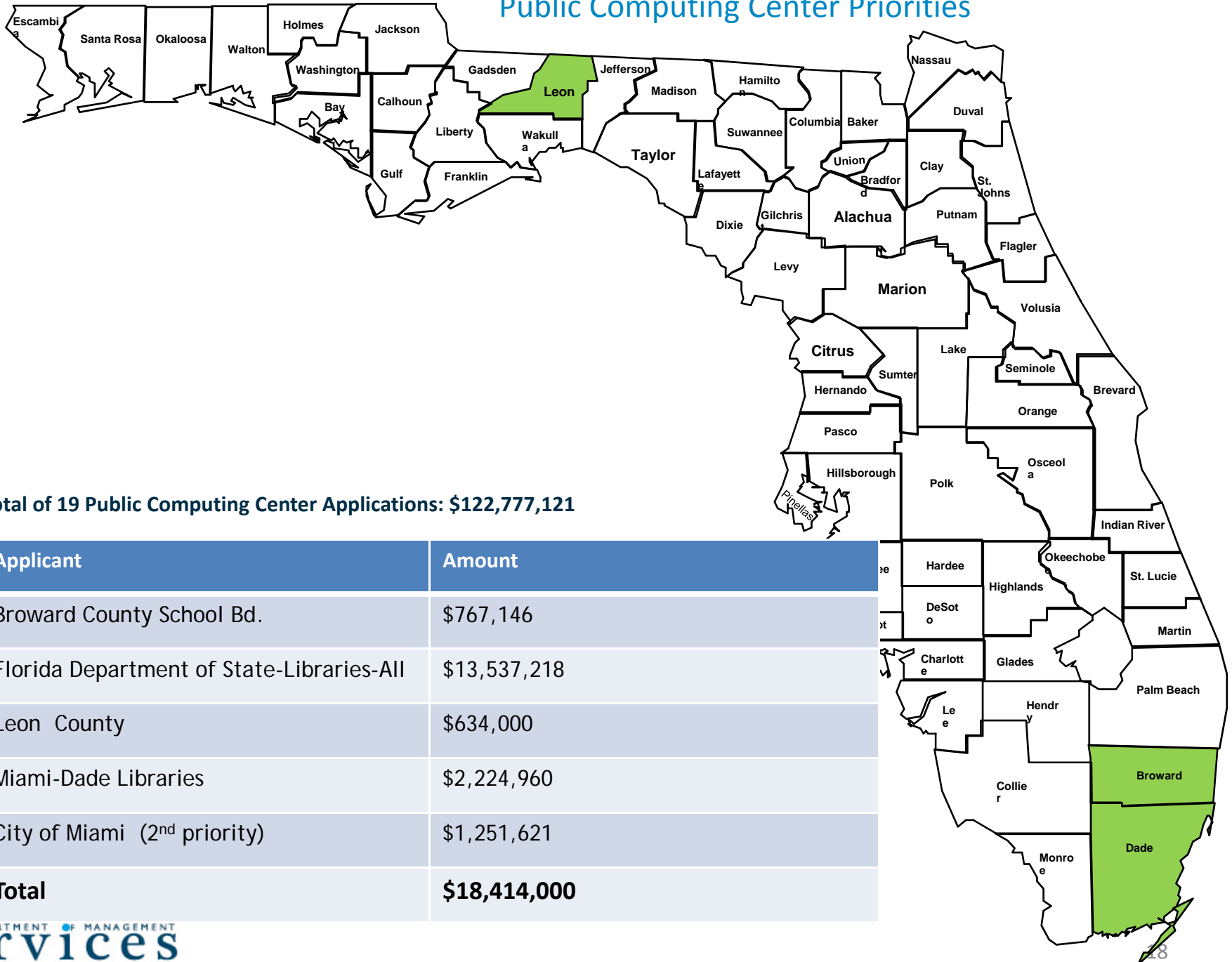
- Total 52 Infrastructure Applicants
- Total Amount of Last and Middle Mile Requests \$1,881,696,798

Applicant	Type	Amount
Florida Heartland	MM fiber	\$24,601,024
GTC	LM fiber	\$672,008
L3	MM fiber	\$2,168,010
N. Fl. BB Authority	MM Microwave	\$30,142,676
NW. Fl. Biz Dev. Council	LM Wireless	\$40,360,521
Okaloosa Co.	MM fiber	\$9,386,694
Palm Beach Co.	LM fiber	\$20,525,917
Total Prioritized		\$127,856,850

- Recommended NTIA select the best of these 3

Applicant	Type	Amount
Epath	LM Wireless	\$11,568,443
Navtech	LM	\$10,625,981 \$21,660,656 Loan
Vistanet	LM wireless	\$66,086,850

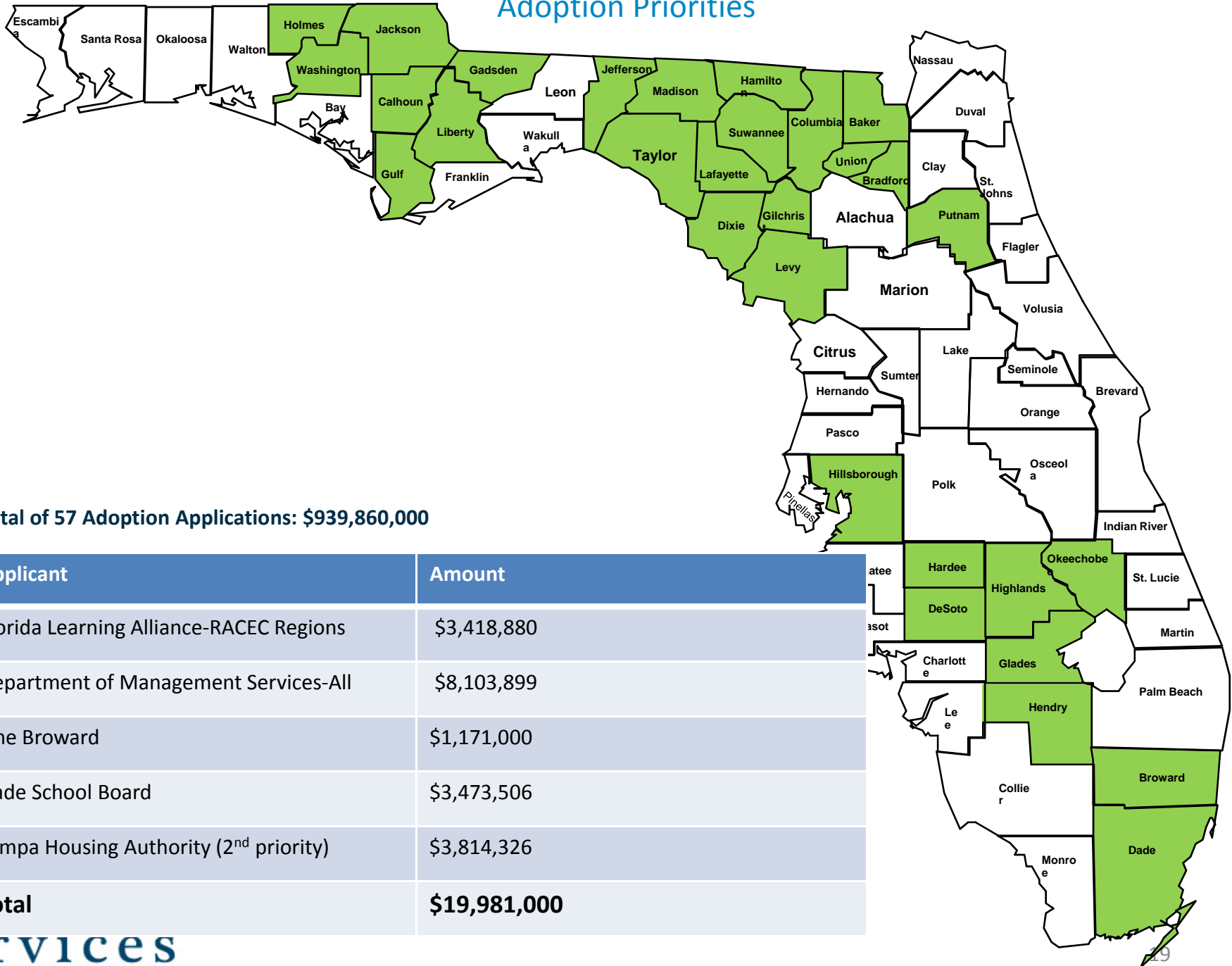
## Public Computing Center Priorities



**Total of 19 Public Computing Center Applications: \$122,777,121**

Applicant	Amount
Broward County School Bd.	\$767,146
Florida Department of State-Libraries-All	\$13,537,218
Leon County	\$634,000
Miami-Dade Libraries	\$2,224,960
City of Miami (2 <sup>nd</sup> priority)	\$1,251,621
<b>Total</b>	<b>\$18,414,000</b>

## Adoption Priorities



**Total of 57 Adoption Applications: \$939,860,000**

Applicant	Amount
Florida Learning Alliance-RACEC Regions	\$3,418,880
Department of Management Services-All	\$8,103,899
One Broward	\$1,171,000
Dade School Board	\$3,473,506
Tampa Housing Authority (2 <sup>nd</sup> priority)	\$3,814,326
<b>Total</b>	<b>\$19,981,000</b>

# Round 2

- What we learned:
  - BTOP and BDIA Program changes can come at any time and any form
    - Funding intervals: Mapping went from 5 year to 2 year , notification came after mapping grants were submitted
    - Funding amounts: Mapping went from average of 4-5M to 1.5-2M
    - Requirement changes: clarifications, areas of focus
    - Scheduling: 3 rounds to 2 rounds, Award announcements for mapping have slipped 2 months already
    - Changed the Governors office role in application reviews
- What's important for Infrastructure applicants to understand:
  - State Law Impacts
    - Florida Statutes Chapter 282.103 - Communications and Data Processing
      - **All state agencies and state universities are required to use the SUNCOM Network for agency and state university communications services**
    - Florida Statutes 350.81 - Communications services offered by governmental entities
      - **All "Governmental entities" must adhere to these rules if offering broadband in their community**
      - [http://www.lawserver.com/law/state/florida/statutes/florida\\_statutes\\_350-81](http://www.lawserver.com/law/state/florida/statutes/florida_statutes_350-81)

Recovery Zone  
Bonds and Build  
America Bonds

Bryant  
Miller  
Olive

American Recovery and Reinvestment Tax Act of 2009

October 22, 2009

[www.bmolaw.com](http://www.bmolaw.com)

- One focus of the Recovery Act is to provide local governments with greater borrowing capacity and lower borrowing costs
- Focus today is on borrowing opportunities
  - Must have a viable revenue stream to pledge
  - Must undergo normal credit underwriting
  - Must meet existing bond covenants such as additional bond tests and rate covenants
- The financing alternatives are temporary; debt must be issued before January 1, 2011

## Bank Qualified Bonds

- For bonds issued in calendar years 2009 and 2010, the small issuer exception for bank qualified debt is increased from \$10 million to \$30 million.
- If had a borrowing need of \$60 million, could issue one \$30 million tranche prior to December 31, 2009 and one \$30 million tranche after January 1, 2010.
- Limit is applied by treating the ultimate borrower of the bond proceeds as the issuer.
- Applies to both new money and refunding bonds issued during calendar years 2009 and 2010.

## New Tax Credit Bonds Created

- New types of Tax Credit Bonds
  - Recovery Zone Economic Development Bonds
    - For Governmental Projects in Recovery Zones
    - Subject to a Volume Cap
  - Recovery Zone Facility Bonds
    - For Private Activity Projects in Recovery Zones
    - Subject to a Volume Cap
  - Build America Bonds
    - For Governmental Projects
    - No Volume Cap

## Recovery Zone Bonds

- Volume-cap allocations were made to each State based on the difference between the number of individuals employed in the State in December 2007 and in December 2008.
- IRS Notice 2009-50: Recovery Zone Bond Volume Cap Allocations
- Promotes job creation and economic recovery that is targeted to areas particularly affected by employment declines.

## Additional Volume Cap Possible

- If a City did not receive an allocation, allocation not used by other issuers could become available
- Volume Cap recipient may allocate their volume cap to another issuer of tax-exempt debt within its jurisdiction
- A County could give to a City, School Board or a Special District authorized to issue tax-exempt Bonds
- Volume-cap allocations may be made by the Issuers to ultimate beneficiaries in any reasonable manner as determined in their good faith discretion for eligible costs

## Recovery Zone Bonds

- A Recovery Zone is an area designated by the issuer that is considered economically depressed, including:
  - Significant poverty, unemployment, rate of home foreclosures, or general distress
  - Closing or realignment of a military installation
  - Empowerment Zone or Renewal Community

## Designation of a Recovery Zone

- May have more than one Recovery Zone within a jurisdiction
- Could be any area that is economically depressed
- Not limited to the requirements of a Community Redevelopment Area

- The City and the County may designate Recovery Zones
  - In any reasonable manner
  - Applying the statutory criteria
  - Using their good faith discretion
- Certain Issuers have designated their entire corporate limits as a Recovery Zone
- See Notice 2009-50

## Recovery Zone Economic Development Bonds

- The Issuer receives a rebate from the IRS of 45% of the taxable interest paid on Recovery Zone Economic Development Bonds
- Treasury will issue rebate contemporaneously with the interest payment for fixed rate debt
- Filing is due to the IRS 45 days prior to interest payment date for fixed rate debt

## Recovery Zone Economic Development Bonds

- Proceeds of the Recovery Zone Economic Development Bonds must be used to:
  - Finance “qualified economic development purposes”
  - Within designated “Recovery Zones”
- Expenditures must occur after the Recovery Zone has been designated

# Recovery Zone Economic Development Bonds

- Proceeds must be used for Qualified Economic Development Purposes:
  - Capital Expenditures paid with respect to property located in a Recovery Zone
  - Expenditures for public infrastructure and construction of public facilities; and
  - Expenditures for job training and educational programs

## Recovery Zone Economic Development Bonds

- Expenditures must occur after the Issuer has designated an area as a Recovery Zone
- Most traditional tax-exempt requirements must be met
  - At the time of establishing the Recovery Zone, the Issuer should also state its intent to reimburse itself from bond proceeds for qualifying expenditures within such Recovery Zone
  - Must comply with private use restrictions
- The wage requirement of the Davis-Bacon Act must be satisfied

## Recovery Zone Designation

- Identify governmental projects for Recovery Zone Economic Development Bonds
- Identify security for repayment
- Projects may be limited by revenue stream
  - State law requirements must still be satisfied
    - For example if pledging Sales Tax the projects must qualify
    - If pledging TIF the project must be part of CRA Plan
- May have more than one Recovery Zone
- Allocations are relatively small so don't need very many projects within economically depressed areas to use all allocation
- Alternative approach is to designate Recovery Zones and then identify projects

## Recovery Zone Facility Bonds

- Recovery Zone Facility Bonds are akin to tax-exempt private activity bonds
- They are tax-exempt, unlike BABs and Recovery Zone Economic Development Bonds which are taxable
- Issuer does not receive a tax credit back from the IRS
- Expands businesses eligible to borrow through conduit
- The wage requirement of the Davis-Bacon Act do not apply to RZFB

## Recovery Zone Facility Bonds

- A “Qualified Business” for use of RZFB proceeds means any trade or business except
  - The rental of residential real property
  - The operation of a non-favored facility under the IRS Code
    - Private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling; or a store the principal business of which is the sale of alcoholic beverage for consumption off premises

- Many projects that did not qualify for financing with Industrial Development Bonds, will now qualify for RZFB (still have to satisfy state law requirements)
- Must finance depreciable property (land is not depreciable so could not be financed)
- The Recovery Act expanded the definition of “Manufacturing Facility” for Recovery Zone Facilities
- A Manufacturing Facility now includes any facility that is used in the manufacturing, creation or production of tangible or intangible property

## Types of Permitted Private Activity

- Any trade or business that is not prohibited in the definition of Qualified Business Owner is a for profit entity
  - Could be a
    - manufacturing facility
      - Including facility creating intangible property
    - restaurant
    - hotel
    - office building
    - distribution facility

## Build America Bonds

- Build America Bonds are taxable governmental bonds that could be issued as tax-exempt bonds but which the issuer elects to treat as taxable under the Code
- Generally, the tax restrictions that apply to tax-exempt bonds apply to BABs
- BABs can not be used to finance private activity
- BABs can be issued in combination with traditional tax-exempt bonds and Recovery Zone Economic Development Bonds

- Two Types of BABs
  - Tax Credit BABs
  - Direct Payment BABs
- Biggest difference is who receives the tax credit
- In many respects, the two types of tax credits are the same. Direct Payment BABs have additional restrictions that do not apply to Tax Credit BABs

## Tax Credit BABs

- Operates as a traditional tax-credit bond
- Bondholder receives a federal income tax-credit equal to 35% of the interest paid on the bond by the Issuer to the Bondholder
- Tax-credit is treated as income to the holder which reduces the actual credit benefit (IRS estimates it should be considered as a "25 percent credit")

- Direct Payment BABs
- Bondholder receives taxable interest payment from the Issuer
- Issuer receives the 35% tax refund from the IRS in lieu of the bondholder receiving the tax credit
- Direct Payment BABs have a few additional requirements above that of the Tax Credit BABs, including limiting costs of issuance paid with proceeds to 2%

## Direct Payment BABs Risks

- Some criticisms of the Direct Payment BABs and the Recovery Zone Bonds include the requirement of the long-term relationship with the U.S. Treasury
  - Concern that Issuers will have sufficient rights relative to the IRS
  - IRS has right to set-off rebate payment against amounts owed to the IRS by the Issuer
  - Concern that Congress could remove subsidy in the future
- Representatives of the Treasury have stated that there is no validity to these concerns
- Overall borrowing capacity may be lowered because interest rate is taxable
  - Pledging subsidy not favored at least by one rating agency
  - Probably not able to include subsidy when calculating coverage tests



# Questions?

- Please use the chat box on your “go to meetings” bar to send the moderator a question or discussion point



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*Recovery Zone Bonds*



# Thank You!

- The Florida League of Cities appreciates your participation
- Please check the FLC web site and Datagram for more webinars – a different topic each month