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CHAPTER 213
OREGON CRIMINAL JUSTICE COMMISSION

FILING CAPTION: Administrative Rules Governing the IMPACTS Program

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RULES:
213-030-0011, 213-030-0021, 213-030-0031, 213-030-0041, 213-030-0051, 213-030-0061, 213-030-0071, 213-030-0081, 213-030-0091, 213-030-0101, 213-030-0111, 213-030-0121, 213-030-0131

ADOPT: 213-030-0011

RULE TITLE: Authority

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:
These rules are promulgated pursuant to Sections 1 to 14, Chapter 563, 2019 Oregon Laws (Enrolled Senate Bill 973).

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0021

RULE TITLE: Purpose

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

The purpose of these rules is to administer the Improving People's Access to Community-Based Treatment, Supports, and Services Program (IMPACTS), established by Sections 1 to 14, Chapter 563, 2019 Oregon Laws.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0031

RULE TITLE: Definitions

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rules.

RULE TEXT:

As used in OAR 213-030-0010 to 213-030-0130, unless the context indicates otherwise:

(1) "Applicant" means a county, regional consortium, or federally recognized tribe

(2) "Awardee" means a county, regional consortium, or federally recognized tribe selected by the grant review committee for a grant award.

(3) "Behavioral health" means mental health and substance use disorders.

(4) "Community supports and services" means community-based mental health or substance use disorder treatment programs; community-based services necessary to restore a defendant's fitness to proceed, as described in ORS 161.370; evidence-based and tribal-based programs designed to reduce hospital and jail utilization by the target population; and programs aimed at diverting individuals with nonperson criminal charges experiencing mental illness or substance use disorders from the criminal justice systems.

(5) "County" means a single county or a regional collection of counties.

(6) "Federally recognized Indian tribe" means one of the federally recognized tribes of Oregon, including:

(a) Burns Paiute Tribe;

(b) Confederated Tribes of Coos, Lower Umpqua and Siuslaw;

(c) Confederated Tribes of Grand Ronde Community of Oregon;

(d) Confederated Tribes of Siletz Indians of Oregon;

(e) Confederated Tribes of the Umatilla Indian Reservation;

(f) Confederated Tribes of the Warm Springs Indian Reservation;

(g) Coquille Indian Tribe;

(h) Cow Creek Band of Umpqua Tribe of Indians; and

(i) Klamath Tribes.

(7) "Grant review committee" means the appointed body of persons organized to develop, administer, and evaluate the IMPACTS program.

(8) "Jail" means a local correctional facility used for the reception and confinement of prisoners that is provided, maintained, and operated by a county or multiple counties operating a regional complex, a city, or a tribal government, and holds persons for more than 36 hours.

(9) "Medical assistance" means eligibility for the Oregon Health Plan.

(10) "Outcome measure" means an element or elements to be tracked and quantitatively or qualitatively measured over a given period of time for the purposes of evaluating the efficacy of a program.

(11) "Permanent supportive housing" means lease-based, affordable housing with tenancy supports and other voluntary services that serve vulnerable populations, including people who are homeless or at risk of becoming homeless, and people who are institutionalized or at risk of institutionalization.

(12) "Program" means a program that is cost-effective as defined in ORS 182.515(2) that is an evidence based program as defined in ORS 182.515(3), that is a program as defined in ORS 182.515(4), and that utilizes scientifically based research as defined in ORS 182.515(5).

(13) "Program evaluations" means an assessment or study of community-based treatments, services, supports, or programs funded in whole or in part by IMPACTS funds. This includes assessments of alignment with evidence-based practices; studies, including scientific-based research studies, as defined in ORS 182.515(5); and similar process and outcome methods, models, and approaches.

(14) "Provider" means an individual, organizational provider as defined in ORS 430.637(1)(b), tribal organization, or community mental health provider, that holds a current certificate approved by the Oregon Health Authority, to

provide behavioral health treatment services pursuant to these and applicable service delivery rules.
(15) "Regional consortium" means a regional combination of two or more counties or tribal governments applying for IMPACTS program funding as a single applicant for purposes of sharing resources to improve access to supports and services for the target population.
(16)"Target population" means individuals who receive services and supports funded through the IMPACTS program, have one or more behavioral health disorders, and are booked into a jail an average of four or more times in a one year period or are high utilizers of criminal justice resources, hospital or urgent healthcare resources, or institutional placements.
(17) "Technical assistance" means statewide programmatic support for the design and implementation of community-based supports and services, assistance provided to IMPACTS grantees for the purpose of meeting program goals, and investments to improve the collection of programmatic data and information sharing.
(18) "Treatment" means the planned, medically appropriate, individualized program of medical, psychological, and rehabilitative procedures, and experiences and activities designed to remediate symptoms of a Diagnostic and Statistical Manual of Mental Disorders diagnosis.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0041

RULE TITLE: Grant Applications

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1) The grant application cycle will be determined by the grant review committee.

(2) The grant review committee shall designate a percentage of the funds to be set aside and awarded to at least one federally recognized tribe.

(3) Applicants for IMPACTS funds must include the following in their applications:

(a) Letters of support and commitments from community leaders or organizations that are not members of the local public safety coordinating council, including but not limited to:

(A) Agencies working with homeless individuals;

(B) Behavioral health care providers;

(C) Coordinated care organizations; and

(D) Local hospitals.

(b) A report of the input from the local federally recognized Indian tribe(s) and, to the extent feasible, an explanation of how the input was incorporated into the design of the program, supports and services.

(c) An agreement to screen all participants receiving supports and services funded by the grants for potential eligibility for medical assistance and to assist eligible participants to apply for medical assistance, including an agreement for a process for sharing data and protecting the confidentiality of program participants.

(d) A process for program partners, participating jails and hospitals to:

(A) Provide information upon admission or at intake about the potential risks and benefits of tribal notification; and

(B) Offer tribal members the opportunity to disclose their statuses and situations to the federally recognized Indian tribe of their choosing.

(4) Applications from counties must be submitted by the local public safety coordinating council. Applications from federally recognized tribes must be submitted by the tribal government. Applications from regional consortia may be submitted by either the local public safety coordinating council or the tribal government of the applicant's choosing.

(5) If the local county commission requires county agencies to seek and receive county commission approval prior to applying for grant award funding, counties awarded funding must submit proof of county commission approval prior to receiving a first disbursement of funds.

(6) If a tribal government requires tribal government agencies to seek and receive tribal government approval prior to applying for grant award funding, federally recognized tribes awarded funding must submit proof of tribal government approval prior to receiving a first disbursement of funds.

(7) The grant review committee shall make award decisions based on the grant application review criteria provided in the "Grant Application Review Criteria" section of these rules.

(8) The grant review committee staff may communicate directly with an applicant to clarify the intent of an application's contents or to recommend modifications in furtherance of the purpose of the IMPACTS program.

(9) The grant review committee may, in its sole discretion, waive solicitation requirements or cancel any solicitation requirement in whole or in part if it deems such action to be in the best interests of the IMPACTS program.

(10) Within 75 days following the expiration of the grant application deadline, the grant review committee shall make award notifications to grantees. If there are extenuating circumstances, the grant review committee may, in its sole discretion, extend the deadline for award notification.

(11) If unallocated funds remain at the conclusion of the grant acceptance period, the grant review committee shall distribute all remaining funds in accordance with the "Supplemental Grant Period" section of these rules.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0051

RULE TITLE: Grant Application Review Criteria

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

The grant review committee shall review and evaluate each grant application based on the following criteria:

(1) The completeness of application, including whether the application includes all required information described herein and included within the online application.

(2) A program narrative and local system assessments, including:

(a) The overall responsiveness to IMPACTS program priorities, including but not limited to, the degree to which programs are designed to reduce the number of jail bookings and emergency department hospitalizations for the target population in favor of diversion to coordinated community-based treatment, supports, and services;

(b) The applicant's explanation of a method for identifying and serving members of the target population; and

(c) The applicant's explanation of how requested program supports and services would be integrated into existing behavioral health programs, including how they maximize Coordinated Care Organization engagement and how they do not supplant or duplicate existing sources of funding .

(3) A sustainability narrative, including whether an adequate description of the applicant's plans to sustain IMPACTS programs through multiple sources of program funding was provided; and

(4) Any other criteria included by the grant review committee in the request for grant proposals.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0061

RULE TITLE: Grant Application Processing

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1) The grant review committee will evaluate each application based on the criteria provided in the "Grant Application Review Criteria" section of these rules.

(2) The grant review committee will review each application and the recommendations of grant review committee staff. The grant review committee may reject portions of the application that fail to meet the criteria set forth in OAR 213-030-0050.

(3) The grant review committee will review and evaluate each application and provide a final approval or denial, in whole or in part. The grant review committee will notify applicants of an award decision within 75 days from the expiration of the grant application deadline. If there are extenuating circumstances, the grant review committee may, in its sole discretion, extend the deadline for award notification. The grant review committee staff will prepare a grant award agreement for each grant awarded, which will set forth the terms, conditions, and requirements of the grant award.

(4) The grant review committee may amend a grant award. After the grant is awarded, the grant review committee may amend the amount originally awarded based on non-compliance with the terms of the award or based on awardee's changed circumstances.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0071

RULE TITLE: Supplemental Grant Period

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

If unallocated funds remain at the conclusion of the grant period or become otherwise available, the grant review committee shall establish a supplemental grant period to distribute some or all of those unallocated funds. The grant review committee may:

(1) Use those funds to supplement and expand the scope of one or more grant programs that were awarded, without the need for further grant solicitation, but using the criteria provided in OAR 213-030-0050; or

(2) Issue a supplemental competitive grant application solicitation and allow applicants to submit applications, using the criteria and process provided in OAR 213-030-0040 through 213-030-0060.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0081

RULE TITLE: Subcommittees

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1) The grant review committee shall establish a quality improvement subcommittee, which will:

(a) Establish outcome measures or evaluation tools for programs receiving grants under the IMPACTS program; and

(b) Establish a statewide system for tracking simple, clear, and meaningful outcome data that is timely and easily accessed to inform best practices and improve outcomes for IMPACTS program participants.

(c) Data provided to the subcommittee may be used only for statistical purposes and may not be used for any other purpose. Any data received by the subcommittee that contains personally identifiable information is exempt from public disclosure under ORS 192.311 to 192.478. The subcommittee may enter into agreements with appropriate agencies or other entities to share data for specified purposes and with safeguards to restrict further disclosure

(2) The grant review committee shall establish a policy recommendation subcommittee, which will explore policy areas for further discussion which may include, but need not be limited to, diversion, laws, and other programs or projects intended to prevent the incarceration of individuals with mental health or sub-stance use disorders.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0091

RULE TITLE: Termination

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1) Each program that is funded will be monitored by grant review committee staff on an established basis and evaluated periodically by the grant review committee, based on the awardee's performance and progress towards the goals of IMPACTS program.

(2) The grant review committee may terminate an awardee's grant program award if that awardee fails to meet IMPACTS program requirements. Awardees failing to meet grant requirements during the grant period will be given notice and an opportunity to improve performance. The grant review committee may terminate the applicant's grant award prior to the end of the grant period if the awardee has not satisfactorily improved performance. An awardee's ability to meet grant requirements during the grant cycle in question may be a consideration in future grant cycle funding awards, including the amount of funding to be awarded.

(3) The grant review committee shall terminate an awardee's IMPACTS program award if that awardee has been found to have intentionally misused funds or committed fraud. Remaining undisbursed funds shall be reallocated to other eligible IMPACTS programs.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0101

RULE TITLE: Evaluations of Programs Funded

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1) Up to three percent of the total amount of IMPACTS funds may be used to support outcome measures, evaluations, or both.

(2) The grant review committee may select any or all IMPACTS programs for evaluation. Awardees selected for an evaluation shall partner with the grant review committee in order to successfully complete the evaluation of their program.

(3) Awardees selected for an evaluation shall contract with the grant review committee, or an entity approved by the grant review committee, to conduct such evaluation.

(4) Any evaluation funds not allocated or budgeted by July 1 of an even-numbered year shall be dispersed back to the counties and federally recognized tribes participating in IMPACTS programs.

(5) A program selected for evaluation shall have preference to be funded in future grant application cycles so long as study participants are still in the program.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0111

RULE TITLE: Use of Program Funds for Program Purposes Other Than Grant Awards

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1) The grant review committee shall determine a process for using up to 20 percent of the total amount of IMPACTS funding for operating a statewide program to support the design and implementation of community-based services. Programs may include, but are not limited to:

(a) Technical assistance to prospective grantees in developing proposals, particularly for developing proposals for supportive housing;

(b) Technical assistance to grantees for troubleshooting data collection requirements and sharing information with third parties as necessary for carrying out the programs;

(c) Statewide training, provided in-person and remotely, for grantees and non-grantees, focused on improving outcomes for the target population;

(d) Making resources available to district attorneys and defense attorneys for consultation on cases involving defendants with complex behavioral health issues;

(e) Developing or strengthening a centralized system to make available to communities for practitioners in professional specialties for which there is a shortage, including practitioners of addiction medicine and psychiatry; and

(f) A one-time investment in information technology to support the data system needs for the evaluation, accountability and innovation components of the program.

(2) The grant review committee may enter into contracts for goods and services to implement the program purposes listed in subsection one (1) of this section.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0121

RULE TITLE: Reports

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1) At least once per biennium, the grant review committee shall, in conjunction with the Oregon Health Authority, identify:

(a) The costs to state government that were avoided as a result of the IMPACTS program; and

(b) Any increased costs to local governments as a result of the IMPACTS program.

(2) No later than January 1 of each odd-numbered year, the grant review committee shall submit a report to the Legislative Assembly, in the manner provided by ORS 192.245, which includes the costs described in subsection one (1) of this section and describes the methodology employed by the grant review committee in determining the costs.

(3) Annually, the grant review committee shall submit a report, in the manner provided in ORS 192.245, on the outcome measures or the results of evaluations of the IMPACTS program to the interim committees of the Legislative Assembly related to health and the judiciary and to the Governor.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

ADOPT: 213-030-0131

RULE TITLE: Grant Application and Award Protests; Administrative and Judicial Review

NOTICE FILED DATE: 10/01/2020

RULE SUMMARY: Makes permanent existing temporary rule.

RULE TEXT:

(1)(a) An applicant or potential qualifying applicant may protest or otherwise challenge the grant review committee's application process or award decisions, or both, by first requesting administrative review described herein.

(b) A timely, qualifying request for administrative review is necessary to satisfy the conditions of this section and a condition precedent to judicial review consistent with ORS 183.480.

(c) Failure to file a timely, qualifying request for administrative review with the grant review committee will constitute a failure to exhaust administrative remedies and terminate further rights to protest or otherwise challenge the solicitation process or any related grant review committee decision, including judicial review thereof by the court of competent jurisdiction.

(2)(a) An applicant under this section is a person who, or entity that, makes an application for an IMPACTS program funding award pursuant to a particular grant review committee solicitation.

(b) A potential qualifying applicant is a person who, or entity that, qualifies to make an application for an IMPACTS funding award under the terms of a solicitation with respect to the process of which it requests administrative review consistent with the terms of this section.

(3)(a) An applicant or potential qualifying applicant seeking to protest or otherwise challenge any aspect of the IMPACTS grant application process must request review by the grant review committee within 14 business days of the application due date of the solicitation.

(b) An applicant seeking to protest or otherwise challenge a decision by the grant review committee, such as, but not limited to, a funding award decision, must request review by the grant review committee of such decision within 14 days of the applicant's receiving notice from the grant review committee, or its staff, of that decision.

(4) Any request for review under this section must be in writing, specifically identifying:

(a) The nature of the protest requestor's interest, including the facts demonstrating how the requestor is adversely affected or aggrieved by the grant review committee's solicitation process or decision;

(b) Each of the grounds for review, meaning an explanation of the specific reasons that the grant review committee's solicitation process or decision was in error based on applicable law or rule, or based upon the language of the request for grant proposals;

(c) The relief sought, meaning the specific grant review committee process or decision point that the requestor seeks to change and what the change would provide the requestor;

(d) Any supporting information, relevant to the IMPACTS program application or solicitation, the requestor desires to have considered by the grant review committee.

(5) Protests may be submitted by mail or by email to the IMPACTS grant review committee staff person.

(6) The envelope or email containing the request for review must:

(a) Be marked PROTEST;

(b) Identify the program the request concerns; and

(c) Be received by the grant review committee staff:

(A) By mail at its office: Oregon Criminal Justice Commission, 885 Summer Street NE, Salem, Oregon 97301; or

(B) By email to cjcgrants@oregon.gov no later than 4:00 PM on the 14th day after the solicitation closing date or the applicant's receipt of notice from the grant review committee of the decision from which review is requested, whichever due date is applicable under this section.

(7) The applicant will be deemed to have received notice of a grant review committee decision upon the sooner of:

(a) Three days after the grant review committee's decision is mailed to the applicant;

(b) Two days after such decision is posted to the grant review committee's website;

(c) Two days after the list of successful solicitation applicants is posted to the grant review committee's website; or
(d) One business day after such decision is emailed to the applicant.
(8) The grant review committee may request additional information from the requestor with respect to the request and consider such other information as it deems appropriate.
(9) The grant review committee, upon receipt of notice of a solicitation or award protest, will endeavor to provide a written response to a timely, qualifying request for review within 30 days. If the grant review committee determines a response is not possible within 30 days, the grant review committee will notify the requestor as to when a response may be expected.
(10) Judicial review of the grant review committee's response to a timely, qualifying request for review shall be limited to those grounds the requestor raised with the grant review committee in the requestor's request for review.
(11) The filing of a request for review, or subsequent judicial review, if any, will not preclude the grant review committee from moving forward with the solicitation or the award of IMPACTS program funding thereunder. However, the grant review committee reserves the right to delay, terminate, modify, or take other action it determines to be appropriate with respect to a solicitation or any related award of IMPACTS program funding in response to a request for review or subsequent judicial review.

STATUTORY/OTHER AUTHORITY: SB 973 (2019), Or Laws 2019, ch 563, § 1-14

STATUTES/OTHER IMPLEMENTED: SB 973 (2019), Or Laws 2019, ch 563, § 1-14