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### DIVISION 30

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813-030-0020	Form of Loan Assistance
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#### PASS-THROUGH REVENUE BOND FINANCING PROGRAM

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813-035-0029	Transfer of Ownership
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813-035-0040	Resident Eligibility and Occupancy
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#### SEED MONEY ADVANCE PROGRAM

813-040-0005	General Purpose
813-040-0010	Definitions
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#### HOUSING DEVELOPMENT AND LOAN GUARANTEE PROGRAM

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813-043-0010	Definitions
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### DIVISION 45

#### HOUSING DEVELOPMENT ACCOUNT PROGRAM

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#### EMERGENCY HOUSING PROGRAM

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813-046-0050	Form of Assistance
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#### COMMUNITY DEVELOPMENT CORPORATION PROGRAM

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813-049-0005	Definitions

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813-060-0010 Definitions  
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813-060-0035 Approved Housing Sponsors  
813-060-0040 Processing Procedures  
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813-060-0045 Resident Eligibility and Occupancy  
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813-070-0010 Definitions  
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813-070-0020 Approved Lenders  
813-070-0025 Program Loans  
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#### MORTGAGE CREDIT CERTIFICATE PROGRAM

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813-080-0025 Targeted Area Requirements  
813-080-0030 Allocation of Mortgage Credit Certificates  
813-080-0035 Mortgage Credit Certificate Lender  
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813-080-0045 Eligible Single-Family Residence  
813-080-0050 Lender Reporting and Record Keeping  
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#### LOW-INCOME HOUSING TAX CREDIT PROGRAM

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813-090-0015 Allocation of Credit Authority  
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813-090-0031 Application Requests  
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#### OREGON AFFORDABLE HOUSING TAX CREDIT: AFFORDABLE HOUSING PROJECT CERTIFICATION

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#### HOME INVESTMENT PARTNERSHIPS PROGRAM

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813-120-0020 Eligible Applicants for HOME Funds  
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#### HELP PROGRAM

813-130-0000 Purpose and Objectives  
813-130-0010 Definitions  
813-130-0020 Eligible Applicants for HELP Funds  
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#### LOW-INCOME ENERGY ASSISTANCE PROGRAM (LIEAP)

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813-200-0010 Administration

<b>813-200-0020</b>	Eligibility
<b>813-200-0030</b>	Services Provided
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### **DIVISION 210**

#### **COMMUNITY SERVICES BLOCK GRANT**

<b>813-210-0000</b>	Definitions
<b>813-210-0010</b>	Eligible Activities
<b>813-210-0020</b>	Eligibility
<b>813-210-0030</b>	Application for Financial Assistance
<b>813-210-0040</b>	Review of Applications for Financial Assistance
<b>813-210-0050</b>	Fiscal Management/Fiscal Control/Program Reporting
<b>813-210-0060</b>	Reduction or Termination of Community Services Block Grant Funding

### **DIVISION 220**

#### **EMERGENCY FOOD ASSISTANCE PROGRAM**

<b>813-220-0000</b>	Definitions
<b>813-220-0010</b>	Administration
<b>813-220-0020</b>	Eligibility
<b>813-220-0030</b>	Services Provided
<b>813-220-0040</b>	Requirements
<b>813-220-0050</b>	Fiscal Control/Reporting Requirements/Documents
<b>813-220-0060</b>	Monitoring

### **DIVISION 230**

#### **DESIGNATION AND RESPONSIBILITIES OF COMMUNITY ACTION AGENCIES**

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<b>813-230-0010</b>	Designation of Community Action Agencies
<b>813-230-0015</b>	Monitoring
<b>813-230-0020</b>	Termination of Community Action Agencies

### **DIVISION 240**

#### **HOMELESS ASSISTANCE**

<b>813-240-0000</b>	Definitions
<b>813-240-0010</b>	Administration
<b>813-240-0020</b>	Eligibility
<b>813-240-0030</b>	Service Provided
<b>813-240-0040</b>	Requirements
<b>813-240-0050</b>	Fiscal Control/Reporting Requirements/Documentation
<b>813-240-0060</b>	Monitoring

### **DIVISION 250**

#### **FOOD ASSISTANCE FUNDS**

<b>813-250-0000</b>	Purpose and Objectives
<b>813-250-0010</b>	Definitions
<b>813-250-0020</b>	Administration
<b>813-250-0030</b>	Fiscal Control/Reporting Requirements
<b>813-250-0040</b>	Eligible Activities

### **DIVISION 1**

#### **PROCEDURAL RULES**

<b>813-001-0000</b>
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### **Notification**

Before the adoption, amendment, or repeal of any rule, the Housing and Community Services Department shall give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 15 days before the effective date of the intended action.

(2) By mailing a copy of the notice to persons on the Department's mailing list established pursuant to ORS 183.335(7).

(3) By mailing a copy of the notice to:

- (a) The United Press International;
- (b) Associated Press; and
- (c) The Capitol Press Room.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 4, f. & ef. 3-15-76; 1HD 11, f. & ef. 9-20-76; 1HD 15-1980, f. & ef. 12-4-80; 1HD 6-1981, f. & ef. 3-31-81; 1HD 7-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 4-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### **813-001-0001**

#### **Organization Description**

(1) The Housing and Community Services Department is a state housing finance department, which also serves as the central source of housing data and program information in the state. The powers and duties of the Department are more specifically set out in ORS 456.515 to 456.720 and 91.886.

(2) The State Housing Council develops policies to aid in stimulating and increasing the supply of housing for lower-income Oregonians.

(3) The State Housing Council shall approve or disapprove rules necessary to carry out housing programs the Department is charged with administering.

(4) The Director submits each loan or grant over \$100,000 that the Department proposes to make, to the State Housing Council for review and approval or other action at a public hearing. The State Housing Council may also ratify loans under \$100,000 which the Department makes.

(5) The public may contact the Department for information by telephoning 378-4343 or addressing written correspondence to: Housing and Community Services Department, 1600 State Street, Suite 100, Salem, OR 97310-0161.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 91.886 & ORS 456.515 - ORS 456.720

Hist.: 1HD 7-1984, f. & ef. 9-4-84; HSG 11-1987, f. & ef. 4-16-87; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 4-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### **813-001-0005**

#### **Model Rules of Procedure**

Pursuant to the provisions of ORS 183.341, the Housing and Community Services Department adopts the Attorney General's Model Rules of Procedure including amendments effective March 3, 1988.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or Housing and Community Services Department.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1, f. 10-15-73, ef. 11-16-73; 1HD 2-1978, f. & ef. 7-24-78; 1HD 10-1980, f. & ef. 4-30-80; 1HD 12-1983, f. & ef. 12-20-83; 1HD 7-1984, f. & ef. 9-4-84; 1HD 3-1986, f. & ef. 10-13-86; HSG 2-1989, f. & cert. ef. 5-12-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### **813-001-0008**

#### **Hearings**

(1) To inform itself and the public, the Department may hold public hearings anywhere in the state and may limit the scope of such hearings.

(2) A Person aggrieved by a decision of the Housing Council or the Director may petition in writing for a rehearing or reconsideration of the decision under ORS 183.480. Such petitions must be filed prior to proceedings under ORS Chapter 183.



Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: 1HD 4-1979, f. & ef. 9-11-79; 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 11-1984, f. & ef. 9-4-84; 1HD 13-1984, f. & ef. 9-4-84; HSG 1-1987(Temp), f. & ef. 2-5-87; HSG 5-1987, f. & ef. 3-10-87; Renumbered from 813-030-0015 & 813-60-015; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 4-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-001-0066

#### Subscription Fee for Monthly Status Report

(1) The Department publishes a monthly status report summarizing applications, and Projects in progress and Projects completed under the Multi-Unit Housing Program and the Elderly and Disabled Housing Programs.

(2) The status report shall be distributed by mail to any person requesting it and the Department may collect an annual prepaid subscription fee of \$21. The Department may collect \$2 for a single issue.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: 1HD 1-1982, f. & ef. 1-4-82; 1HD 7-1984, f. & ef. 9-4-84; HSG 1-1987(Temp), f. & ef. 2-5-87; HSG 5-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 4-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-001-0068

#### Subscription Fee for Monthly Building Permit Year-to-Date Report

(1) The Department publishes the Oregon Monthly and Year-to-Date Building Permit Report, which lists building permits, mobile home registrations and condominium permits issued during the month, and for the year-to-date.

(2) The Oregon Monthly and Year-to-Date Building Permit Report shall be distributed by mail to any person requesting it upon payment of an annual subscription fee of \$20. Single issues are available for a fee of \$2.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: 1HD 7-1984, f. & ef. 9-4-84; 1HD 1-1986, f. & ef. 3-7-86; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 4-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-001-0069

#### Miscellaneous Charges

The Department may establish in its policies and procedures, charges in connection with photocopying or other reproduction of information, to offset Department costs in gathering, preparing, copying and transmitting such information. Such charges shall not exceed reasonable and necessary costs incurred by the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: HSG 4-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-001-0080

#### Amendments

OAR Chapter 813 may be amended in whole or in part by the Department with the approval of the Council where appropriate and pursuant to the Administrative Procedures Act. Such amendments shall not adversely affect the rights as set forth in the applicable indenture of trust of the holder of any Bond issued by the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: 1HD 4-1979, f. & ef. 9-11-79; 1HD 7-1984, f. & ef. 9-4-84; Renumbered from 813-030-0065; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 4-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-001-0090

### Separability

If any word, phrase, sentence, section, or part of OAR Chapter 813 is finally judged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of these rules.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: 1HD 2, f. 11-21-73, ef. 12-11-73; 1HD 7-1984, f. & ef. 9-4-84; Renumbered from 813-010-0065; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 5

## GENERAL RULES

### 813-005-0005

#### Definitions

All terms are used in OAR Chapter 813 as defined in the Act. Where a conflict is found to exist between a definition stated in these rules and the corresponding definition in the Act, the statutory definition shall apply. As used in OAR Chapter 813, unless the context indicates otherwise:

(1) Pursuant to ORS 456.553(5)(b) the Housing and Community Services Department is to define, by Administrative Rule, which of the programs it administers are "housing programs." Housing programs, as defined in ORS 456.553(6) and in 456.571(2), are subject to the policies of the Housing Council, to have Administrative Rules that are approved by the Housing Council and to submit any proposed loans or grants in excess of \$100,000 for approval or disapproval by the Housing Council. The following programs administered by the department are housing programs:

- (a) Multi-Unit Housing Program (OAR 813-010);
- (b) Single-Family Mortgage Program (OAR 813-020);
- (c) Elderly Housing Program (OAR 813-030);
- (d) Seed Money Advance Program (OAR 813-040);
- (e) Housing Development and Guarantee Account (OAR 813-043);
- (f) Emergency Housing Account (OAR 813-046);
- (g) Housing Revitalization Program (OAR 813-048);
- (h) Disabled Housing Program (OAR 813-060);
- (i) Home Improvement Loan Program (OAR 813-070);
- (j) Mortgage Credit Certificate Program (OAR 813-080);
- (k) Low-Income Housing Tax Credit (OAR 813-090); and
- (l) Oregon Lender's Tax Credit: Low-Income Housing Project Certification (OAR 813-110);

(m) Any program administered by the department that is not listed here or otherwise defined in statute as a housing program is a "community service program."

(2) "Acquisition Loan" means a Loan for the purpose of financing the purchase of an existing Project.

(3) "Act" means ORS 456.515 to 456.720.

(4) "Approved Lender" means any person authorized to engage in the business of making loans of the general character of Program Loans, who meets the qualifications for an Approved Lender set forth in the applicable Program rules and who contracts with the Department to make Program Loans.

(5) "Approved Servicer" means any person authorized to engage in the business of servicing loans of the general character of Program Loans, who meets the qualifications for an Approved Servicer set forth in the applicable Program rules and who contracts with the Department to service Program Loans.

(6) "Bond" means any bond, note or other evidence of indebtedness issued to obtain funds to provide financing for a Program of the Department as provided in the Act.

(7) "Borrower" means an Eligible Borrower who has received a Program Loan.

(8) "Break-Even Occupancy" means the point in time when a Project's monthly rental income meets its monthly operating expenses and debt service.

(9) "Commitment" means the written obligation of the Department to make, purchase, service or sell a Program Loan.

(10) "Community Service Programs" are defined in section (1) of this rule.

(11) "Contingency Escrow Account" means an account not to exceed 3% of the initial principal amount of the Program Loan, established by the Sponsor in the form of a savings account, time certificate of deposit, or irrevocable letter of credit assigned to the Department.

(12) "Cooperative" is a consumer housing entity formed according to the provisions of ORS Chapter 62, as amended.

(13) "Department" means the Housing and Community Services Department of the State of Oregon established by Enrolled House Bill 3377, Chapter 739, Oregon Laws 1991.

(14) "Director" means the chief administrative officer of the Housing and Community Services Department.

(15) "Elderly Household" means a household residing in the State of Oregon whose head is over the age of 58.

(16) "Eligible Borrower" means a person who satisfies the criteria as set forth in the applicable Program rules to receive a Program Loan.

(17) "Escrow Payments" means the monthly payments made by the Sponsor or Borrower and placed in an escrow reserve account for the payment of property taxes, insurance premiums and reserve for replacements as required by the Program Loan.

(18) "Housing Council" or "State Housing Council" means that seven-member body established by ORS 456.567 which develops policies and approves or disapproves rules for adoption by the Department that are necessary to carry out and enforce housing programs it is charged with administering.

(19) "Housing Programs" are defined in section (1) of this rule.

(20) "Lending Department" means a commercial bank, savings and loan association, savings bank, mortgage banker Federal Housing Administration, Farmers Home Administration or other department which provides permanent or construction mortgage loans.

(21) "Loan Agreement" means a written agreement executed at Loan Closing between the Department and a Sponsor regulating the use of revenues and specifying standards, agreements and provisions relating to the project.

(22) "Loan Closing" means the disbursement by the Department of the Program Loan proceeds after recording of the Loan Documents.

(23) "Loan Documents" means the written agreements between the Sponsor and the Department executed at Loan Closing.

(24) "Mobile Home Park" means a Project consisting of individual lots and mobile homes located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, and which complies with all ordinances, plans and codes in the area.

(25) "Person" means any natural or legal person.

(26) "Procedural Guide" means a manual of written procedures adopted by the Department to carry out a Program.

(27) "Program" means a statutorily authorized program of the Department.

(28) "Program Loan" means a loan made pursuant to a Program of the Department.

(29) "Qualified Insurer" means the Federal Housing Administration, the Veterans' Administration, or any other person who is authorized to insure or guarantee payment of loans and who is approved by the Department.

(30) "Regulatory Agreement and Declaration of Restrictive Covenants" means a written agreement executed at Loan Closing between the Department and a Sponsor regulating the use of revenues pertinent to a tax-exempt bond issue.

(31) "Rent-Up Reserve Account" means an account set up by the Sponsor and under the control of the Department to assure sufficient funds to pay operating expenses and debt service of the Project before Break-Even Occupancy.

(32) "Replacement Cost Reserve Account" means an account established to aid in extraordinary maintenance, repair and replacement of capital items of a Project.

(33) "Seed Money Advance" means an advance given to a Qualified Housing Sponsor to pay Preconstruction Costs.

(34) "Single-Family Residence" means a housing unit intended and used for occupancy by one household and the property on which

it is located. This shall be real property located in the State of Oregon. A Single-Family Residence may include a single-family residence, condominium unit, a dwelling in a Planned Unit Development (PUD), or a mobile or manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and is of a kind customarily used at a fixed location.

(35) "Sponsor" means any Person meeting the legal, financial and credit qualifications set forth in the applicable Program rules.

(36) "Targeted Area" means an area in the state designated by the Department in compliance with the requirements of **Section 143(j) of the Internal Revenue Code of 1986, as amended**, and approved by the United States Departments of Treasury and Housing and Urban Development.

(37) "Trustee" means the State Treasurer or a private financial institution in Oregon acting pursuant to an indenture of trust.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 7-1984, f. & ef. 9-4-84; HSG 1-1987(Temp), f. & ef. 2-5-87; HSG 5-1987, f. & ef. 3-10-87; Renumbered from 813-001-0006; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 5-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-005-0010

#### Submission of Information Regarding Attempts to Defraud the Department

Information submitted to the Department regarding any attempt to defraud the Department by a Person who has directly benefited from a Program Loan is exempt from disclosure under the Public Records Law, ORS 192.410 to 192.505, if the information meets the following tests:

(1) It is submitted to the Department in confidence, and should reasonably be considered confidential.

(2) It is not required to be submitted.

(3) The Department is obliged in good faith not to disclose the information to the public.

(4) The public interest would suffer by disclosing the information or the source of the information.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 15-1980, f. & ef. 12-4-80; 1HD 7-1984, f. & ef. 9-4-84; HSG 1-1987(Temp), f. & ef. 2-5-87; HSG 5-1987, f. & ef. 3-10-87; Renumbered from 813-001-0010; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 5-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-005-0015

#### Conflicts of Interest

(1) No public official, as defined by ORS 244.020(12), shall, during his or her tenure with the Department, have or obtain any direct financial interest in any loan application to the Department over which such official, serving in his or her official capacity, may exert an influence.

(2) No person who has been a public official, as defined in ORS 244.020(9), shall for one year after his or her tenure with the Department, have or obtain any direct financial interest in any loan application over which such official, serving in his or her official capacity for the Department, exerted an influence.

(3) The Department shall require any person submitting a loan application to it to disclose whether or not any past or present public official, as defined in ORS 244.020(12), who is presently or was within one year serving in a governmental capacity for the Department, has a direct financial interest in the loan application.

(4) As used in this rule, "direct financial interest" means:

(a) Ownership interest in a development project proposed for funding by a Program Loan; or

(b) Salary or fee for employment, either as an employee or an independent contractor, for work on a development project proposed for funding by a Program Loan.

(5) If the Department finds any person has violated section (1), (2), or (3) of this rule at any time during the loan processing, the

Department may in its discretion deny the loan application, or refuse to advance loan funds.

(6) The Department shall include with the application forms for Program Loans, information regarding the requirements of this rule and the sanctions in section (5) of this rule.

(7) This rule shall be effective as to any direct financial interest acquired on or after March 11, 1983.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.515 - ORS 456.720  
Hist.: 1HD 4-1983, f. & ef. 8-15-83; 1HD 7-1984, f. & ef. 9-4-84; HSG 1-1987(Temp), f. & ef. 2-5-87; HSG 5-1987, f. & ef. 3-10-87; Renumbered from 813-001-0015; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 5-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-005-0020

#### Sale of Bonds

The Department may from time to time request the State Treasurer to issue Bonds to finance the Department's Programs. Bonds shall be issued in accordance with the provisions of ORS Chapter 286, and the Act.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.515 - ORS 456.720  
Hist.: 1HD 2, f. 11-21-73, ef. 12-11-73; 1HD 7-1984, f. & ef. 9-4-84; Renumbered from 813-010-0600; HSG 1-1987(Temp), f. & ef. 2-5-87; HSG 5-1987, f. & ef. 3-10-87; Renumbered from 813-001-0030; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 5-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-005-0025

#### Purchase of Bonds

No Approved Lender, Mortgage Lender or Sponsor (including any related person, as defined in the **Internal Revenue Code**) may, pursuant to any arrangements, formal or informal, purchase Bonds in an amount related to the commitment or loan made to the person by the Department.

[Publications: The publication(s) referenced to in this rule are available from the agency.]  
Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.515 - ORS 456.720  
Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 5-1983, f. & ef. 9-2-83; 1HD 7-1984, f. & ef. 9-4-84; Renumbered from 813-020-0055 and 813-70-060; HSG 1-1987(Temp), f. & ef. 2-5-87; HSG 5-1987, f. & ef. 3-10-87; Renumbered from 813-001-0040; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 5-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-005-0030

#### Land Use Goal Compliance and Comprehensive Plan Compatibility

(1) In order to approve a loan or grant or other housing assistance for a project, the Department shall find that the project complies with the statewide land use planning goals and is compatible with applicable acknowledged comprehensive plans and land use regulations. To make its compliance and compatibility finding, the Department shall follow the procedures in its state department coordination program which is hereby adopted by reference and shall also rely on one of the following:

(a) A copy of the local land use permit or equivalent documentation from the city or county planning department or the local governing body that the project has received land use approval;

(b) A letter from the local planning department or governing body stating that the project in questions is permitted under the jurisdiction's comprehensive plan but does not require specific land use approval; or

(c) Other information provided equivalent to subsection (a) or (b) of this section including but not limited to testimony presented to the Department or Housing Council from authorized representative from the affected city or county.

(2) In order to approve a loan or grant over \$100,000 for a project, the State Housing Council shall find that the project complies with the statewide land use planning goals and is compatible with the applicable acknowledged comprehensive plans and land use regu-

lations. To make its compliance and compatibility findings the Housing Council shall follow the procedures in the Department's state department coordination program certified under ORS 197.180 and shall also rely on the land use approval information described in subsections (1)(a)-(c) of this rule.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 197.180 & ORS 456.563(2)  
Hist.: HSG 1-1989, f. & cert. ef. 4-7-89; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 5-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 6

### SCREENING AND SELECTION PROCEDURES FOR PERSONAL SERVICE CONTRACTS

### 813-006-0005

#### Purpose

The agency occasionally requires the services of a consulting individual or firm to accomplish all or part of a project. The purpose of these rules is to specify the screening and selection procedures which will be used for personal service contracts.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.515 - ORS 456.720  
Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-006-0010

#### Basic Policy

(1) This procedure will be used in all cases except when the Director determines that an emergency exists which requires immediate action or when the personal service contract involves data processing services. Action taken as a result of an emergency will be subject to later confirmation. The Department will comply with Executive Department OAR 122-031-0005 or 122-036-0005 for data processing personal service contracts.

(2) The agency will contract for consultant services when the specialized skills, knowledge, and resources are not available within the Department; when the work cannot be done in a reasonable time within the Department's own work force; when an independent and impartial evaluation of a situation is required by a consultant with recognized professional expertise and stature in a field; when it will be less expensive to contract for the work; or when the Department is directed by statute to contract for services. Contracts will be awarded only after the approval of the Director or his/her designee.

(3) Agreements for the services of a contractor who is a member of the Public Employees' Retirement System and who is employed in another public department usually will be by interagency agreement. Exceptions may be granted by the Director or his/her designee when such an agreement is impractical and when the work will be done on the contractor's own time. Such exceptions will be processed as a personal service contract.

(4) The Department shall seek to ensure competition to the maximum extent practicable when awarding personal service contracts.

(5) In selecting between two or more equally qualified bidders when awarding contracts, preference shall be given to individuals residing in Oregon and businesses which have their home office or headquarters in Oregon.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.515 - ORS 456.720  
Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 6-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-006-0015

#### Definitions

(1) All word and terms are used in OAR Chapter 813, Division 6 as defined in the Act, and as provided in OAR 813-005-0005 and herein.

(2) As used in these rules, unless otherwise indicated by the context:



(a) "Consultant" means an individual or firm that has been found qualified to do specified types of work for the agency and with whom the Department may contract;

(b) "Competitive Procurement" is a formal procurement method whereby proposals are requested from a number of sources and the Request for Proposals is widely distributed;

(c) "Noncompetitive Procurement" is procurement through solicitation of a proposal from only one source;

(d) "Small Purchase Procurement Procedures" are those relatively simple and informal procurement methods whereby price or rate quotations are obtained from a number of sources and selection made on the basis of costs and other applicable criteria.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89;

HSG 6-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91;

HSG 8-1991, f. & cert. ef. 12-23-91

### 813-006-0020

#### Procurement Method

(1) Small Purchase Procurement Procedures as outlined in OAR 813-006-0030 may be used for the procurement of services estimated to cost not more than \$5,000 per agreement per fiscal year. Price or rate quotations shall be sought from at least three qualified sources.

(2) Competitive Procurement procedures as outlined in OAR 813-006-0025 shall be used for personal service contracts estimated to cost in excess of \$5,000 per agreement per fiscal year. Competitive Procurement may be used for contracts of less than \$5,000 whenever the Department determines that it would be prudent and advantageous to do so. Exceptions may be granted to accommodate one or more of the conditions described in section (3) of this rule with the approval of the Director.

(3) Noncompetitive Procurement procedures may be used for contracts if:

(a) The item or service is available only from a single source, or the sole source has special skills that are only available based upon his/her expertise or situation;

(b) Public need or emergency advises against the delay incurred by competitive solicitation;

(c) After solicitation of a number of sources, competition is determined inadequate; or

(d) The contract is a renewal of an existing contract, subject to approval by all required parties.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89;

HSG 6-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91;

HSG 8-1991, f. & cert. ef. 12-23-91

### 813-006-0025

#### Competitive Procurement Procedures

(1) A Request for Proposals (RFP) shall be prepared for the contracts for which Competitive Procurement procedures will be used. The RFP shall include, at a minimum, the following information:

(a) Date and hour by which proposals must be received;

(b) Return address where proposals must be received;

(c) Description of work;

(d) Evaluation criteria; and

(e) agency project manager's name, address and phone number.

(2) The agency shall, by mail, notify persons who have indicated a desire to be notified of contracting opportunities or that have indicated expertise in the subject area, and any other persons deemed necessary, of projects for which an RFP may be issued. Notification of the project for which an RFP may be issued may be announced to the public and may be advertised in appropriate periodicals. The RFP shall be sent to all persons responding to the notification in the required manner.

(3) Exceptions to section (2) of this rule may be granted by the Director or his/her designee when the RFP is preceded by a Request for Information (RFI). When an RFI is widely distributed to solicit information and interest in a proposed contract, eligibility for the subsequent RFP may be limited to parties responding to the RFI.

(4) Proposals shall be evaluated in accordance with the evaluation criteria included in the RFP. An objective rating system shall be used in the evaluation process. Records pertaining to the procurement process and selection of the consultant shall be maintained in the Department's files.

(5) Exceptions to the notification procedures in sections (2) and (3) of this rule may be granted by the Director or his/her designee if warranted by time or cost considerations.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89;

HSG 6-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91;

HSG 8-1991, f. & cert. ef. 12-23-91

### 813-006-0030

#### Small Purchase Procurement Procedures

(1) A Statement of Work and request for price or rate quotation shall be developed and submitted to prospective contractors with which the Department has had previous successful experience or which are believed by the Department to be qualified to offer the needed services. The Statement of Work and request for quotation may be communicated orally or in writing.

(2) At least three price quotations shall be obtained from qualified sources unless there are fewer than three qualified sources interested in the contract.

(3) Contractor selection shall be made on the basis of the cost estimate and other pertinent information such as qualifications, experience, reference check and project approach.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 2-1991(Temp), f. & cert. ef. 8-7-91;

HSG 8-1991, f. & cert. ef. 12-23-91

### 813-006-0035

#### Contracting Procedure and Responsibility

The procedures for screening and selection of personal service contractors, relating the responsible parties to their actions, are as follows:

(1) Consultants — Action: Submit qualifications, credentials, costs estimates, project approach and other pertinent information relating to the project announcement.

(2) agency project manager — Action:

(a) Determines that work on a project requires the services of a consultant;

(b) Prepares cost estimate for contract;

(c) Determines type of selection and screening process to be used to select a contractor and obtains approval of Director or his/her designee to begin contracting process for consultant services;

(d) Maintains a file on the selection and screening of applicants for consultant services;

(e) Notifies prospective contractors of projects for which Competitive Procurement or Small Purchase Procurement Procedures will be used as required by OAR 813-006-0025 or 813-006-0030;

(f) Completes screening and selection procedure and selects a contractor according to Department rules;

(g) Forwards draft of contract, Personal Service Contract Input Form, and Contractor Selection and Justification Statement for contracts over \$2,500 to the Department's contract officer and to Director or his/her designee for approval;

(h) Forwards draft of contract that totals \$25,000 or more to Attorney General for review and approval of legal sufficiency, unless contract form has previously been approved by Attorney General;

(i) Obtains contractor's signature on approved contract; and

(j) When notified by the contract officer, authorized contractor to begin work.

(3) Agency Director or his/her designee — Action:

(a) Approves each project's scope and budget and use of the contracting process;

(b) Makes direct and emergency appointments and grants exceptions as necessary and in accordance with Department rules;

(c) Approves/disapproves Personal Services Contracts and all subsequent amendments; and



- (d) Signs approved contracts.
- (4) agency contract officer — Action:

(a) Reviews contract and selection process for compliance with Department rules and other applicable state and federal rules and regulations;

(b) Submits recommended contracts over \$1,000 and required forms to Budget and Management Division, Executive Department for review and approval;

(c) Forwards one copy of final approved contract to contractor and retains a copy of the contract with original signatures for the Department's contract file;

(d) Notifies project manager when contractor may begin work.  
Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.515 - ORS 456.720  
Hist.: HSG 14-1987, f. & ef. 12-21-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 6-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 8

### MANUFACTURED DWELLING OR RESIDENTIAL VEHICLE FACILITY CLOSURE

#### 813-008-0005

##### General Purpose

The rules of OAR Chapter 813, Division 8 are established to accomplish the general purpose of ORS 90.630 and specifically ORS 90.630(4) and (6), the latter section requiring the Oregon agency to adopt rules to implement the provisions of ORS 90.630(4).

Stat. Auth.: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Hist.: HSG 4-1988, f. & ef. 10-19-88; HSG 7-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 2-1997, f. & cert. ef. 10-6-97

#### 813-008-0010

##### Definitions

All words and terms used in OAR Chapter 813, Division 8 are as defined in ORS 90.100.

Stat. Auth.: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Hist.: HSG 4-1988, f. & ef. 10-19-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 7-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 2-1997, f. & cert. ef. 10-6-97

#### 813-008-0015

##### Closure Notice

(1) The written notice of termination of the rental agreement because of facility closure and the land or leasehold converted to a different use shall provide at least the following information:

- (a) The landlord's or representative agent's address for contact and communications;
- (b) The firm date set for the facility closure;
- (c) The actions and activities the landlord plans to take in the facility closure which may affect the facility tenants;
- (d) The landlord's obligations under ORS 90.630(4), (5), and (7);

(e) The tenant's rights under ORS 90.630(4) for a 365-day closure notice or 180-day closure notice, as applicable, including the right, if any, for payment of moving expenses under OAR 813-008-0030 and the eligible moving expenses defined under OAR 813-008-0025;

(f) The voluntary benefits, if any, to be provided to the tenant by the landlord or contracted between the parties;

(g) A copy of the statute ORS 90.630 and OAR Chapter 813, Division 8;

(h) Any definitions referenced within these rules applicable to the tenant rights under these rules; and

(i) A description of any city or county regulations, laws, or ordinances which apply to tenant interests in facility closures.

(2) Notices required by this rule shall be delivered personally or by first class mail to each tenant. If served by mail, the minimum period for park closure shall be extended by three days, and the notice shall recite the fact and extent of the extension. The notice shall be delivered to the tenant at the address specified in the lease or rental agreement between the tenant and the landlord. In any sublet unit, the notice shall be delivered to the tenant at his or her current address and to the subtenant in possession. If the tenant's address is unknown, his or her copy shall be delivered to the subtenant with instructions to forward same to the tenant. Failure of the subtenant to deliver such copy to the tenant shall not limit the landlord's right to terminate the rental agreement because of facility closure.

(3) For 365-day closure notices as provided in ORS 90.630(4)(a), the provisions of OAR 813-008-0020 through 813-008-0030 shall not apply.

(4) For 180-day closure notices as provided in ORS 90.630(4)(b), the landlord shall comply with the provisions of OAR 813-008-0020 through 813-008-0030.

Stat. Auth.: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Hist.: HSG 4-1988, f. & ef. 10-19-88; HSG 7-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 2-1997, f. & cert. ef. 10-6-97

#### 813-008-0020

##### Alternate Manufactured Dwelling

(1) The landlord shall notify the tenant, in writing, of alternate space to which the tenant can move the manufactured dwelling 45 days before delivery of a 180-day notice of termination.

(2) The tenant shall determine, solely at the judgment and discretion of the tenant, if the alternate space is acceptable and shall notify the landlord in writing of the decision within 20 days of receiving the notice of the alternative space.

(3) The landlord shall secure the space acceptable to the tenant from the time of acceptance until the date the relocated manufactured dwelling is approved for the tenant's occupancy. Costs to secure the space for this period to assure the manufactured dwelling relocation is moving expense eligible to be included in the landlord-paid moving expenses.

Stat. Auth.: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Hist.: HSG 4-1988, f. & ef. 10-19-88; HSG 7-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 2-1997, f. & cert. ef. 10-6-97

#### 813-008-0025

##### Moving and Set Up Expenses

(1) Actual cost moving and set up expenses shall be paid by the landlord for moving the tenant's manufactured dwelling and possessions to another location. Eligible expenses include:

- (a) Removal and reinstallation of skirting;
- (b) Disconnecting utilities;
- (c) Disconnecting and removing awning(s) and deck(s) from the manufactured dwelling;
- (d) Trip permit and public inspection fees;
- (e) Transportation costs;
- (f) Set up charges;
- (g) Utility connection expenses and fees;
- (h) Unit improvements to meet destination facility space standards;

(i) Costs for packing and unpacking manufactured dwelling or residential vehicle contents as necessary for unit relocation for elderly and disabled persons, as defined in OAR 813-005-0005 and 813-060-0010, respectively;

(j) Temporary housing and meals for the tenant and permanent occupants during unit relocation and set up; and

(k) Landlord expenses to secure the relocation space acceptable to the tenant from the time of tenant acceptance until the date the relocated manufactured dwelling or residential vehicle is approved for occupancy.

(2) The amount of moving and set up expenses to be paid by the landlord shall not exceed actual costs or \$3,500, whichever is less.  
Stat. Auth.: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Hist.: HSG 4-1988, f. & ef. 10-19-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 7-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 2-1997, f. & cert. ef. 10-6-97

### 813-008-0030

#### Payment of Expenses

(1) The tenant and landlord shall agree in writing upon the method and source of services to be provided no less than 20 days before the tenant's moving date.

(2) The tenant shall submit billings or paid receipts for expenses eligible for reimbursement to the landlord within ten days of receipt of the same. The landlord shall pay billings directly to the vendor and shall reimburse the tenant for expenses paid, within 20 days of receipt of the billings and paid receipts.

(3) Based upon written agreement with the tenant, the landlord may contract directly with vendors as may be cost advantageous in accomplishing the tenant's move so long as services are mutually agreed upon and performed by appropriately registered or licensed and bonded tradesmen or agents.

Stat. Auth.: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 90.630, ORS 90.800 - ORS 90.840, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Hist.: HSG 4-1988, f. & ef. 10-19-88; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 2-1997, f. & cert. ef. 10-6-97

## DIVISION 9

### MOBILE HOME PARK PURCHASE PROGRAM

### 813-009-0001

#### Purpose and Objective

The rules of OAR Chapter 813, Division 009, are established to accomplish the general purpose of ORS 90.800 to 90.840 and ORS 456.579 to 456.581, which authorize the Department to provide assistance to qualified tenants' associations to purchase their mobile home park. The Mobile Home Park Purchase Program's objective is to assist mobile home park tenants to gain control over rising rents and declining quality of living through the ownership of their park.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.579 - ORS 456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-009-0005

#### Definitions

All words and terms are used in OAR Chapter 813, Division 009 as defined in the Act, and as provided in OAR 813-009-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Act" means ORS 90.800 to 90.840 and ORS 456.579 through 456.581.

(2) "Park Purchase Association" means a group of three or more tenants who reside in a manufactured dwelling parks and have organized for the purpose of the eventual purchase of the manufactured dwelling or mobile home park.

(3) "Qualified Park Purchase Association" means a Park Purchase Association that:

- (a) Is established pursuant to ORS 90.815;
- (b) Includes more than 50 percent of the tenants residing in the park; and

(c) Shows, in the opinion of the Department, that the purchase is economically feasible.

(4) "Initial Costs" means costs incurred in the purchase of the park by the residents. Such costs may include, but are not limited to:

- (a) Legal fees;
- (b) Appraisal fees;
- (c) Engineering fees;

(d) Professional fees associated with park evaluation and management; and

(e) Other fees approved by the Housing Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.579 - ORS 456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-009-0010

#### Application Procedure and Requirements

(1) A qualified Park Purchase Association may submit to the Department an application for a loan for Initial Costs for purchasing the mobile home park in which they reside.

(2) The Department may provide funds from the Mobile Home Park Purchase Account for Initial Costs for purchasing a mobile home park:

(a) Loan amount limitations; and

(b) Loan(s) to a Qualified Park Purchase Association shall not cumulatively exceed \$20,000. The Department may elect to restrict the availability of Program funds and lend less than requested by a Qualified Park Purchase Association.

(3) All applications for assistance from the Mobile Home Park Purchase Account shall be in writing to the Department, and shall contain at a minimum the following information:

(a) A copy of the article of incorporation for the Qualified Park Purchase Association;

(b) Name, address, and telephone number of the officers of the Qualified Park Purchase Association;

(c) Documentation that the Qualified Park Purchase Association represents at least 50% of the residents; and

(d) A detailed projection of the anticipated expenditures.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.579 - ORS 456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-009-0015

#### Application Review

(1) The Department shall acknowledge receipt of the application and request additional information on the application within 30 calendar days of receipt of the application.

(2) The Department shall advise the applicant in writing of the action taken within 60 calendar days of receipt of the application.

(3) In reviewing the application for a loan, the Department may consider the following:

(a) The Qualified Park Purchase Association's percentage of representation of the residents in the park. Preference will be given to Qualified Park Purchase Association based on the percent of representation over the minimum 50% requirement;

(b) Amount of funds available in the Park Purchase Account;

(c) Availability of other sources of funds or assistance.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.579 - ORS 456.581  
Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-009-0020

#### Type of Loan Assistance

(1) The Department shall confirm to the applicant in writing the amount of assistance, if any, to be provided from the Park Purchase Account. Assistance shall be in the form of a loan under contractual agreement.

(2) The Department shall establish loan terms duration, interest rate and repayment schedule at the time of the loan:

(a) The duration of the loan shall not exceed three years;

(b) The interest rate on the loan shall not exceed 4%;

(c) The loan payment due dates shall be not less than quarterly.

(3) The loan funds shall be disbursed to the Qualified Park Purchase Association upon presentation the bills for approved Initial Costs.

(4) If the terms and conditions upon which the assistance was approved are not met, the Department may, upon written notice in compliance with the agreement terms, revoke approval of the use of the Park Purchase Account funds and require repayment of any or all of the funds advanced.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.579 - ORS 456.581

Hist.: HSG 15-1990, f. & cert. ef. 12-4-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & 12-23-91

## DIVISION 10

### MULTI-UNIT HOUSING

#### 813-010-0006

##### Purpose and Objectives

The rules of OAR Chapter 813, Division 10 are established to administer and enforce ORS 456.515 through 456.720, and specifically ORS 456.615 through 456.720. These rules shall implement the Multi-Unit Housing Program, which has the objective of providing funds to finance the construction, rehabilitation and acquisition of multi-unit housing in the State of Oregon for persons and families of lower income, while providing sufficient safeguards to protect the financial interest of the state.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0011

##### Definitions

(1) All terms are used in OAR Chapter 813, Division 010, as defined in the Act, and as provided in OAR 813-005-0005 and herein.

(2) As used in these rules, unless the context indicates otherwise: "Multi-Unit Project" ("Project") means housing containing more than one living unit for Lower Income Families or Persons, and/or disabled persons, but not providing continuous nursing care.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0016

##### Standard Underwriting Criteria

In approving or disapproving any loan application, the Department and the State Housing Council shall consider, in addition to requirements elsewhere stated in the Program rules, the following criteria:

(1) The location of the Project site, including its proximity to transportation, shopping, social, commercial and recreational facilities, medical services, and such other facilities and services as shall best serve the prospective residents.

(2) Availability of street, sewer, water, utilities and other public services.

(3) Availability of public transportation.

(4) Financial feasibility of the Project.

(5) Architectural design, including aesthetic quality, soundness of construction, energy efficiency, and suitability to the needs of the residents to be served.

(6) Compliance with applicable local comprehensive plan and land use regulations.

(7) Market demand in the area.

(8) The financial strength, credit reputation and history of the Sponsor.

(9) The experience of the developer, contractors, architects, consultants and management agent in developing, constructing and operating housing Projects.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625 & ORS 456.666

Hist.: HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0021

##### Form of Loan Assistance

(1) The Department shall make Loans pursuant to written Commitments made to Sponsors.

(2) Loans shall be made directly with proceeds from the issuance of Bonds or other available funds obtained by the Department. The Department shall establish Loan fees and interest rates based upon:

(a) The cost of borrowing through Bond issuance;

(b) The funds required to carry out the Multi-Unit Housing Program; and

(c) Such other factors as the Director considers appropriate or necessary.

(3) The Sponsor shall comply with the provisions of the Program rules and the Act. If the Department determines that the Sponsor has not complied, appropriate action shall be taken in accordance with the Commitment or trust deed.

(4) If the Department receives loan applications in an amount greater than the amount of funds available, the Department shall select those applications which, in the judgment of the Department, best achieve the purposes of the Program rules and the Act.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 5-1980, f. & ef. 3-19-80; 1HD 8-1980, f. & ef. 4-2-80; 1HD 13-1980, f. & ef. 8-8-80; 1HD 15-1980, f. & ef. 12-4-80; 1HD 2-1981, f. & ef. 1-30-81; 1HD 4-1981, f. & ef. 3-31-81; 1HD 2-1982, f. & ef. 1-4-82; 1HD 11-1983, f. & ef. 12-1-83; 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0023

##### Processing Procedures

(1) Before accepting an application for a Loan, the Department will meet with a prospective Sponsor at a preapplication conference. At the conference, the following items will be discussed:

(a) Type of Loan requested;

(b) Type and formation of Sponsor's company (sole proprietorship, partnership, corporation, nonprofit, etc.) and qualifications;

(c) Requested Loan amount, terms and interest rate;

(d) Any time constraints on Sponsor or Department;

(e) Fees;

(f) Reserve and equity requirements;

(g) Debt service ratio;

(h) Appraisal requirements;

(i) Contractor's cost estimate and qualifications;

(j) Management and maintenance plans;

(k) Project management requirements, reports, qualifications;

(l) Loan servicer requirements, qualifications, procedures, agreement;

(m) Design and related requirements;

(n) Document requirements;

(o) Construction procedures;

(p) Department Loan processing procedures;

(q) Eligibility requirements under federal and State law and regulations;

(r) Reserve and costs for bond issue; and

(s) Any other items pertinent to the proposed Project.

(2) At the conclusion of the preapplication conference, if the prospective Sponsor and the Department agree to proceed with the application process, the Department will give an application package to the prospective Sponsor for completion.

(3) After receiving a completed Loan application package from the prospective Sponsor, the Department shall evaluate each Project



for consistency with the Department's interpretation of sound architectural design and underwriting standards.

(4) In order to qualify for a Loan, a Project shall:

(a) Be approved by the Department with respect to site; location; market demand; financial feasibility; qualifications of general contractor, management agent and developer; appraisal; financial strength and credit worthiness of the Sponsor; management plan; final architectural package; organizational documents; title report; and any other information the Director shall require;

(b) Meet all applicable state and local land use and zoning requirements, housing codes, and similar requirements;

(c) Be in compliance with federal regulations, state statutes and Program rules;

(d) Be located in the State of Oregon; and

(e) If the Loan is for an amount over \$100,000, be approved by the State Housing Council:

(A) The Department shall review each application for a Loan over \$100,000 and prepare a proposal to the Housing Council for approval or disapproval. The Department will send a copy of its proposal to the prospective Sponsor with a notice of the Housing Council meeting at which the application will be considered. Upon receipt of the notice, the prospective Sponsor may request an opportunity to present testimony at the meeting;

(B) After considering the Department's proposal, as well as any other testimony presented, the Housing Council shall approve or disapprove the application or take other appropriate action; and

(C) The prospective Sponsor shall promptly be advised in writing of the Housing Council's decision.

(5) The prospective Sponsor may submit a written request for review and appeal of the Housing Council's decision in accordance with the provisions of ORS Chapter 183. To be considered, the request must be received by the Department within 30 days of the date of the notice of application disapproval.

(6) After the Housing Council has approved the application, the agency shall submit the proposal to HUD for its approval and commitment of rent subsidies to the Project. Upon approval of the proposal by HUD, the Department shall notify the Sponsor and request submission of any necessary additional documentation for loan Commitment. The proposal must be approved by HUD before the Department will issue a loan Commitment.

(7) Upon Department approval of all documents, and if Loan funds are available, it shall issue a Commitment which shall include:

(a) The amount of the Loan;

(b) The maximum rate of interest to be charged on such Loan;

(c) The term of the Loan;

(d) The amount of the Commitment fees, Rent-Up Reserve Account and Contingency Escrow Account;

(e) The dates when the Commitment fee shall be paid, and when the Rent-Up Reserve Account and Contingency Escrow Account shall be funded;

(f) All other conditions of the Commitment, and when they shall be fulfilled;

(g) Provisions concerning construction;

(h) Provisions and conditions of Loan disbursement;

(i) Provisions of Loan Closing; and

(j) Conditions of termination of the Commitment.

(8) If the Commitment conditions are not completed by the dates specified in the Commitment, the Commitment shall expire, unless the Department grants an extension in writing.

(9) Construction and Completion:

(a) During the construction of the Project, the Department shall conduct random inspections for Sponsor's compliance with federal Davis-Bacon wage requirements and for compliance with the plans and specifications previously approved by the Department. The Sponsor's supervising architect shall submit regular inspection reports to the Department. Change orders must be signed by the contractor, supervising architect and the Sponsor before being submitted to the Department for its approval;

(b) Upon completion of construction of a Project, the Department shall perform an inspection to assure the Sponsor's compliance with the approved plans and specifications. If some items of construction remain to be completed due to circumstances beyond the

control of the Sponsor (provided the incomplete items do not detract from livability or safety of the Project), the Department shall require the Sponsor to place in an escrow account, approved by the Department and under Department control, an amount equal to one and one-half times the estimated cost of completion, until the construction item is completed;

(c) The Department shall perform an inspection, along with the Sponsor and the Sponsor's architect, within ten months after the completion of the Project, for the purpose of discovering construction defects. The Sponsor shall be responsible for correcting construction defects within a time period set by the Department;

(d) An architect with an ownership interest in the Project, shall not act as a supervising architect.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-010-0024

#### Loan Closing

Before the Loan Closing takes place, the Department shall provide to the Sponsor written instructions for closing and itemized Loan Closing costs. The Department shall not disburse Loan funds until all conditions of the Commitment are satisfied *and* the Department has received and approved:

(1) Cost certification.

(2) Certificate or policy of insurance for fire and extended coverage, liability, business income and flood insurance (if applicable), with the appropriate loss deductible. All insurance coverage shall be in the amounts set forth in the Department's Regulatory Agreement.

(3) Contingency Escrow Account.

(4) Certificate of occupancy from the local municipality.

(5) Commercial leases.

(6) Ground leases.

(7) All other relevant leases.

(8) Tax abatement approval.

(9) American Land Title Association (ALTA) mortgagee's preliminary title insurance policy from the title company of the Sponsor's choice.

(10) Copies of all relevant licenses required by the state.

(11) Appliance, furniture and fixture list, including serial numbers.

(12) For Acquisition Loans, certification of completion of work on repairs from the general contractor and owner.

(13) All other reasonable requirements of the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-010-0028

#### Commitment Fee

(1) The Department shall charge a non-refundable Commitment fee equal to 2% of the Loan.

(2) The Sponsor shall include the fee with the Sponsor's signed acceptance of the Commitment returned to the Department.

(3) The Commitment fee shall not be deducted from the Sponsor's equity requirement.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-010-0029

#### Transfer of Ownership

(1) A Sponsor who has received a Loan or Commitment from the Department shall not transfer ownership, lease, or otherwise encumber any property which serves or will serve as security for a

Loan from the Department without prior written approval from the Department.

(2) A transfer of ownership means a sale, conveyance or other transfer of:

- (a) Any interest of a general partner;
- (b) Any interest in a joint venture;
- (c) More than 25 percent of the limited partner's interest;
- (d) More than 10 percent of a corporate owner's interest; or
- (e) Any individual interest when the ownership is not a limited partnership, general partnership, joint venture or corporation.

(3) The Department shall collect from the Sponsor a transfer processing fee for a 100-percent transfer of ownership, equal to 1 percent of the outstanding principal balance of the loan or \$3,500, whichever is less. The transfer processing fee shall be payable upon submission of the transfer approval request, and shall be non-refundable.

(4) A 100-percent transfer of ownership means a sale, conveyance or other transfer of:

- (a) All interest of a general partnership;
- (b) All interest of a joint venture;
- (c) All interest of a corporation;
- (d) All general partners' interest in a limited partnership; or
- (e) All individual interest of an ownership entity when ownership entity is not a limited partnership, general partnership, joint venture or corporation.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 11-1980, f. & ef. 6-18-80, ef. 6-20-80; 1HD 2-1981, f. & ef. 1-30-81; 1HD 3-1982, f. & ef. 4-6-82; 1HD 8-1984, f. & ef. 9-4-84; HSG 2-1987(Temp), f. & ef. 2-5-87; HSG 6-1987, f. & ef. 3-10-81; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0032

##### Approved Housing Sponsors

(1) Any person may apply to become a Sponsor.

(2) To help the Department evaluate the financial strength of a Sponsor to develop, own, maintain and manage a Project, the Sponsor shall submit any documents, credit reports and financial statements requested by the Director of the Department and consistent with the provisions of the Equal Credit Opportunity Act as it relates to the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0033

##### Loans

(1) To be eligible to receive a Loan, a Sponsor shall comply with the terms contained in the Commitment issued by the Department and those conditions of eligibility set forth in the Program rules.

(2) Each Loan shall not exceed 80% of the appraised value of the Project.

(3) Except as determined by the Director, each Loan shall be insured by the Federal Housing Administration or be for a Project which is the subject of a Housing Assistance Payments Contract between the Department, the Department of Housing and Urban Development (HUD) and the Sponsor as well as an Annual Contributions Contract between the Department and HUD pursuant to Section 8 of the National Housing Act. Where a Loan is not subject to such insurance or assistance payments, the Project shall be for occupancy by persons eligible for other federal or state assistance payments which would be paid at a level at least commensurate with the Sponsor's annual mortgage payments and operating expenses and which are certified to be likely to continue at least at such level throughout the term of the Loan.

(4) Each Loan shall have a final maturity of not more than 30 years and 62 days from the date of its making and shall be secured by a first lien deed of trust granted by the Sponsor on the property

securing the Loan. Loans may be made to provide financing for a newly constructed or rehabilitated Project.

(5) Loan Documents shall be on forms approved by the Department.

(6) Interest on a Loan shall not exceed the rate stated in the Commitment. In establishing the rates of interest applicable to Loans the Department shall take into account the rates of interest applicable to Bonds. If the Department is able to charge an interest rate lower than that specified in the Commitment, the Department may provide for the reduction of principal and interest payment on the Loan.

(7) Each Loan shall provide for the monthly collection of Escrow Payments to the extent permitted by law together with the monthly installment of principal and interest. All such payments shall be:

(a) Held for the benefit of the Department in an account in a financial institution acceptable to the Department and insured to the full extent legally possible by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or other similar federal insuring department; or

(b) Be held by the State of Oregon as provided and required by law.

(8) The Department shall establish prepayment penalties applicable to Loans. In setting such penalties the Department shall take into account the need to protect the ability of the state to provide for the payment of the Bonds. Any prepayment penalties shall be set forth in the trust deed note.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 5-1980, f. & ef. 3-19-80; 1HD 8-1980, f. & ef. 4-2-80; 1HD 2-1981, f. & ef. 1-30-81; 1HD 8-1984, f. & ef. 9-4-84; Renumbered from 813-010-0027; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0036

##### Eligible Multi-Unit Projects

(1) The Department shall evaluate each Project for consistency with the Department's interpretation of sound architectural and planning principles and underwriting standards.

(2) In order to qualify for a loan, a Project shall:

(a) Be approved by the Department with respect to site; location; market demand; financial feasibility; qualifications of general contractor, management agent, and developer; appraisal; financial strength and credit worthiness of the Sponsor; management plan; final architectural package; Sponsor's organizational documents; title report; and any other information the Director shall prescribe;

(b) If subject to a Federal Housing Assistance Payments contract, comply at least with any standards required by the U.S. Department of Housing and Urban Development (HUD);

(c) Meet all applicable state and local land use and zoning requirements, housing codes, and similar requirements;

(d) Be located in the State of Oregon; and

(e) Meet all applicable HUD regulations provided for in the **Code of Federal Regulations Part 24 Section 883**, and all applicable State statutes and Program rules.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-010-0040

##### Resident Eligibility and Occupancy

(1) To be eligible to occupy a Project, a Person or household shall:

(a) Be a resident of the state at the time of application to the Project;

(b) Have an annualized gross household income which does not exceed the limit established by the Department from time to time in compliance with the Act, and the limits of Section 142(d)(1) of the Code, if applicable.

(c) The project shall conform to the maximum income requirement of ORS 456.620(4). At no time shall the maximum income limits exceed 120 percent of the median family income level, as determined by the Department. No more than 20 percent of the units of a housing project shall have an income level of between 100 and 120 percent. Relating specifically to acquisition/rehabilitation projects only, where tenants already reside in the project, the Department, at its sole discretion, may allow up to a one (1) year grace period for implementation of the standards identified in subsection (c) above in order to reduce the impact of displacement for over-income residents.

(2) No preference shall be given to any particular class or group in renting the residential units in the Project, except to the extent that residential units are required to be leased or rented to lower-income persons or households as outlined in this rule and as required to preserve the tax-exemption on Bonds issued to finance the Project. Rental of units shall not violate the Fair Housing provisions of the 1968 Civil Rights Act.

(3) Lower-income Persons or households residing in the Project shall have equal access and enjoyment to all common facilities of the Project.

(4) The Borrower shall accept as residents in compliance with Section 8 programs, lower-income Persons or households who are holders of certificates for federal housing assistance payments pursuant to Section 8 of the United States Housing Act of 1937 or a successor federal program, on the same basis as all other prospective residents. The Borrower shall not apply resident selection criteria to such Section 8 certificate holders which are more burdensome than the criteria applied to any other prospective resident.

(5) The Borrower shall conduct annual income certifications of residents to assure compliance with the income requirements of the Program.

[Publications: The publications referenced in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 – 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650

Stat. Implemented: ORS 456.620, ORS 456.646 & ORS 456.675

Hist.: OHCS 2-2000(Temp), f. & cert. ef. 9-15-00 thru 3-13-01

### 813-010-0051

#### Loan Security

Notwithstanding any other provision contained in the Program rules, the Department shall not disburse funds for a Loan until:

(1) The Loan is secured by a fully executed trust deed note and trust deed or other evidence of security.

(2) The Sponsor has satisfied all conditions contained in the Commitment.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-010-0700

#### Housing Assistance Payments Request and Certification Processing

(1) The Department shall review and approve forms and other documents relating to Section 8 subsidized Projects. The Department shall establish such reasonable requirements as are necessary to assure timely and accurate submission of such forms and other documents. In order for the Department to disburse Housing Assistance Payments (HAP) to Sponsors of Section 8 Projects, Sponsors shall submit to the Department the following forms:

- (a) Certifications of tenant income;
- (b) Recertifications of tenant income; and
- (c) Requests for HAP.

(2) The following guidelines shall govern the processing of the forms in subsections (1)(a) through (c) of this rule:

(a) Certifications shall be prepared for all new tenants and be signed by the tenant and by the Sponsor or its agent on or before the tenant's move-in date. All certifications shall be sent to the Department for review, before HAP may be paid on the unit. Certifications shall be in the Department offices by the 15th day of the month fol-

lowing the tenant move-in. If the certification is received after that date, the HAP for that unit may begin the date the certification is received by the Department.

**Example 1:** Tenant moves in March 3, certification is received by April 15; HAP starts March 3.

**Example 2:** Tenant moves in March 3, certification is received April 20; HAP starts April 20. (Sponsor lost HAP for period of March 3 through April 19).

(b) Recertification of tenant income shall be completed annually for each tenant by the Sponsor. Recertifications shall be submitted by the Sponsor to the Department by the 15th day of the month before the tenant move-in date (effective date of recertification). Recertifications not received as prescribed may result in forfeiture of the HAP for that unit for each month the recertification is not received by the Department as prescribed.

(c) Sponsors or their agents shall submit HAP requests to the Department for each month, in advance, by the 15th day of the month before the month for which the request is made. Sponsors shall make any necessary adjustments to the HAP request. Any adjustments to a HAP request for a particular month shall be requested within two months after that month. Adjustments for HAP not requested as prescribed may result in forfeiture of those adjustment payments by the Sponsor.

(d) HAP requests, certifications and recertifications shall be correct before submission to the Department. Errors or omissions on a HAP request, certification or recertification increase the time of processing and may result in delays of the disbursement of the HAP. The Department may make any adjustments necessary to comply with HUD requirements, the Housing Assistance Payments Contract, Department requirements and the Program rules.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1983, f. & ef. 5-20-83, 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 1-1996, f. & cert. ef. 3-14-96

### 813-010-0705

#### Loan Servicing

(1) The servicing of Loans shall be performed by servicer(s) selected by the Department. Servicing, unless performed by the Department itself, shall be conducted under the terms and conditions contained in a servicing agreement entered into between the Department and any Approved Servicer. The Department shall prescribe the form of the servicing agreement. The servicing agreement is subject to termination as set forth in OAR 813-010-0710. Under all such servicing agreements the Approved Servicer shall:

(a) Promptly collect all payments due under the Loan and Regulatory Agreement;

(b) Provide the Department with a monthly accounting of Loan payments and disbursements;

(c) Ensure that escrow account balances are maintained at a level sufficient for the payment of the Project's property taxes, insurance premiums and costs of replacement as they become due and payable;

(d) Forward payments to the Department according to the provisions of the servicing agreement;

(e) Forward payments for insurance premiums to the insurance company when due;

(f) Forward payments for property taxes to the county assessor when due;

(g) Assure that all improvements on the mortgaged premises are kept insured against fire and extended coverage, casualty, liability and business income loss in accordance with the Regulatory Agreement;

(h) Provide Sponsors with regular analyses of servicing accounts; and

(i) Perform such other responsibilities as the Department may prescribe.

(2) In order to qualify as an Approved Servicer and continue as such, an entity shall demonstrate to the satisfaction of the Department that:

(a) One of its principal functions is the servicing of multi-unit or commercial loans secured by real estate;



(b) Such servicing is a customary and regular business activity of the applicant;

(c) It is qualified to engage in the servicing of mortgage loans for specified government agencies or private institutions engaged in the secondary market for mortgage investments;

(d) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 to 295.018, and 295.025 and which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or other similar federal insuring agency; and

(e) It shall maintain servicing facilities adequately staffed with personnel familiar with all regulations and requirements pertaining to or affecting Loans serviced for the Department.

Stat. Auth. ORS 456.555

Stats. Implemented: ORS 456.555 & 456.625

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 8-1984, f. & ef. 9-4-84; Renumbered from 813-010-0041; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 4-1990, f. & cert. ef. 5-2-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 5-1995(Temp), f. & cert. ef. 11-8-95; HSG 3-1996, f. & cert. ef. 5-15-96

### 813-010-0710

#### Change of Servicers

(1) The servicing agreement may be terminated or amended as provided in the servicing agreement or these rules.

(2) The Department may direct a change of Approved Servicers at any time consistent with the terms of the servicing agreement and these rules.

Stat. Auth. ORS 456.555

Stats. Implemented: ORS 456.555 & 456.625

Hist.: 1HD 3-1983, f. & ef. 7-20-83; 1HD 8-1984, f. & ef. 9-4-84; HSG 6-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 5-1995(Temp), f. & cert. ef. 11-8-95; HSG 3-1996, f. & cert. ef. 5-15-96

### 813-010-0715

#### Loan Prepayments

(1) It is the general policy of the Department not to accept prepayments. The Department may, however, permit a prepayment if, in its sole discretion, the Department determines that the prepayment is consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550.

(2) The Department must give prior written approval of any loan prepayment. In order to be valid, a written approval of prepayment must be signed by an authorized representative of the Department. In making a decision whether or not to allow prepayment of a loan, the Department may consider criteria that include, but are not limited to, the following:

(a) The financial impact of the prepayment on the Department's programs or on an individual program or Bond indenture;

(b) Economic factors, including, but not limited to, portfolio diversification and relative cost of capital;

(c) The cash flow and other relevant financial considerations of the Project loan for which prepayment is requested;

(d) The ability of the Department to use proceeds of the loan prepayment to increase the availability of housing affordable to low-income Oregonians;

(e) The willingness of the Borrower to execute a written agreement or give other assurances that the Project will continue to be used for the purposes(s) originally intended, as specified in the Loan Documents, or for an alternate use consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550. Such continued use will be for a period of time mutually agreed on by the Department and the Borrower;

(f) Tax law consequences; and

(g) Other factors the Department considers appropriate to insure the security for and the ability of the State to repay the Bonds, and to insure the ongoing financial viability and stability of the Department's programs.

(3) If the Department determines that a loan prepayment is consistent with the best interests of the Department, it only shall authorize the prepayment provided that the sum to be prepaid, computed

as of the date of prepayment, shall equal the unpaid principal balance of the loan plus accrued interest and all other obligations plus, at the Department's discretion, a penalty or premium for the privilege of prepayment. Such prepayment penalty shall be determined based on terms of the original Loan Documents, and amendments thereto which have been mutually agreed on by the Department and the Borrower. The Department may waive all or a portion of such prepayment penalty if it determines in its sole discretion that such waiver is in the best interests of the Department. In making a decision whether or not to waive any or all of a prepayment penalty, the Department may consider, but is not limited to, the criteria identified in OAR 813-010-0715(2)(a) through (g).

(4) Where Section 8 Housing Assistance contracts or other rent subsidies are in place, the Department may approve a loan prepayment request only if such rent subsidies are not unduly impaired, determined at the sole discretion of the Department.

(5) Failure to make timely submission of a prepayment penalty will cause additional interest to accrue at loan rate or statutory rate, whichever is higher.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-27-99; OHCS 1-1999, f. & cert. ef. 6-1-99

### 813-010-0720

#### Disposal of Department-Owned Projects

(1) The Department may transfer ownership of Department-owned projects through sale, gift or other lawful manner to a person or persons whom the Department determines best meets the requirements of this program. The Department shall establish written procedures for selling projects prior to any offering of such projects, as applicable.

(2) The method of transfer of ownership, timing, price, terms and any other factors pertinent to the transfer of ownership shall be effected by the Department, in a manner which, in the opinion of the Department, best preserves the integrity and continuation of the Department's rental programs. Factors the Department may consider include, but are not limited to:

(a) The financial investment of the Department in the project;

(b) Preservation of existing rental housing;

(c) Proposed Owner's ability to manage, market, maintain and protect property used as security for the loan made by the Department, if applicable;

(d) Proposed Owner's capacity to preserve or improve upon the property's safety, sanitation, durability and livability;

(e) Proposed Owner's ability to preserve units which are affordable and suitable to the needs of the residents; and

(f) Continued compliance with State or Federal Laws, rules or regulations, as applicable to the financing or use of the Project.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: HSG 8-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 12

### RENTAL HOUSING

#### 813-012-0010

##### Purpose and Objectives

The Rental Housing Program is established to provide financing for rental housing for persons of lower income, in order to increase the supply of such housing. The Rental Housing Program is established under the authority of ORS 456.550 to 456.720, and is designed to provide financing for construction, acquisition, rehabilitation, and acquisition with rehabilitation for projects which do not qualify for financing through the Department's Elderly and Disabled Housing Program.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0020**

**Definitions**

(1) All terms are used in OAR Chapter 813, Division 012, as defined in the Act, and as provided in OAR 813-005-0005 and herein.

(2) As used in these rules, unless the context indicates otherwise:

(a) "Code" means the **Internal Revenue Code of 1986, as amended**;

(b) "HUD" means U.S. Department of Housing and Urban Development;

(c) "Sponsor" means any person, nonprofit or for profit, meeting the legal financial and credit qualifications set forth in the applicable program rules;

(d) "Program Loan" means a loan by the Department to finance a Rental Housing Project as part of the Rental Housing Program;

(e) "Rental Housing Project" or "Project" means a structure or facility described in OAR 813-012-0030.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0030**

**Eligible Rental Housing Projects**

In order to qualify for a Program Loan, a Project shall:

(1) Be constructed and operated by the Sponsor in accordance with the restrictions set forth in these rules, the commitment, and the Department's Rental Housing Program loan documents. The program documents will require the Sponsor to operate the Project so that all tenants are persons of lower income pursuant to ORS 456.615, and so that the Project qualifies for tax-exempt financing under **Section 103** of the Code;

(2) Be a structure or facility which provides more than one living unit for lower income persons or households, and may provide spaces for common use by the occupants in social, recreational, and daycare activities:

(a) Projects may include, but are not limited to: Mobile home and manufactured dwelling parks in which the manufactured dwellings are rental units;

(b) Projects do not include:

(A) Disabled, elderly, congregate, assisted living facilities, group care homes, nursing homes or hospitals;

(B) Structure primarily for recreational or social activities; and

(C) Single-family detached dwellings except as provided for in tax law.

(3) Be approved by the Department with respect to site; location; market demand; financial feasibility; qualifications of general contractor, management agent and developer; appraisal; financial strength and creditworthiness of the Sponsor; management and tenant support service plans; final architectural package; Sponsor's organizational documents; title report; and any other information the Department shall prescribe;

(4) Comply with all applicable state and local land use and zoning requirements, housing codes, and similar requirements;

(5) Qualify for and receive insurance under HUD/FHA programs 221(d)(4) or 221(d)(3), or obtain other insurance or guarantees which are acceptable to the Department;

(6) Be located in the state of Oregon; and

(7) Qualify for tax-exempt financing under **Section 103** of the Code.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0040**

**Tenant Eligibility and Occupancy**

(1) To be eligible to occupy a Project, a Person or household shall:

(a) Be a resident of the state at the time of application to the Project;

(b) Have an annualized gross household income which does not exceed the limit established by the Department from time to time in compliance with the Act, and the limits of Section 142(d)(1) of the Code, if applicable.

(c) The project shall conform to the maximum income requirement of ORS 456.620(4). At no time shall the maximum income limits exceed 120 percent of the median family income level, as determined by the Department. No more than 20 percent of the units of a housing project shall have an income level of between 100 and 120 percent. Relating specifically to acquisition/rehabilitation projects only, where tenants already reside in the project, the Department, at its sole discretion, may allow up to a one (1) year grace period for implementation of the standards identified in subsection (c) above in order to reduce the impact of displacement for over-income residents.

(2) No preference shall be given to any particular class or group in renting the residential units in the Project, except to the extent that residential units are required to be leased or rented to lower-income persons or households as outlined in this rule and as required to preserve the tax-exemption on Bonds issued to finance the Project. Rental of units shall not violate the Fair Housing provisions of the 1968 Civil Rights Act.

(3) Lower-income Persons or households residing in the Project shall have equal access and enjoyment to all common facilities of the Project.

(4) The Borrower shall accept as residents in compliance with Section 8 programs, lower-income Persons or households who are holders of certificates for federal housing assistance payments pursuant to Section 8 of the United States Housing Act of 1937 or a successor federal program, on the same basis as all other prospective residents. The Borrower shall not apply resident selection criteria to such Section 8 certificate holders which are more burdensome than the criteria applied to any other prospective resident.

(5) The Borrower shall conduct annual income certifications of residents to assure compliance with the income requirements of the Program.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 2-2000(Temp), f. & cert. ef. 9-15-00 thru 3-13-01

**813-012-0050**

**Restrictions Associated with Tax-Exempt Financing**

All projects will be required to comply with the applicable restrictions of **Section 103** and **Sections 141 to 149** of the Code. The Department expects to provide financing for Projects under the Rental Housing Program by issuing bonds, the interest on which is excludable from gross income under the Code. The exclusion is available under **Section 103** of the Code, and is detailed in **Sections 141** through **149** of the Code. These Code provisions impose substantial restrictions on the projects which receive financing, the amount of financing, and the tenants who occupy the projects. The restrictions may vary depending on the type of entity which owns and operates the project; projects owned or operated by private, for-profit entities are subject to the greatest restrictions, as detailed in **Section 142(d)** of the Code and the applicable regulations.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0060**

**Sponsor Reporting and Record Keeping**

(1) The Sponsor shall determine at least annually whether a resident of a unit is a lower income person or household on the basis of the current income of the resident in a manner satisfactory to the Department.

(2) The Sponsor shall make periodic reports to the Department regarding the occupants of the Project in the manner and with the frequency required by the Department.

(3) The Sponsor shall permit at any time during the original term of the program loan, any duly authorized representative of the Department to inspect the books and records of the Sponsor pertaining to the incomes of persons or households residing in the Project.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0070**

**Insurance and Guarantees**

(1) The Sponsor shall be responsible for obtaining HUD/FHA insurance or other guarantee satisfactory to the Department.

(2) The Department shall maintain a list of persons who have notified the Department they are available to assist the Sponsor in obtaining HUD/FHA insurance.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0080**

**Criteria for Selecting Projects**

The Department may select project applications which, in the judgment of the Department best achieve the purposes of the Program and the Act. Preference will be given to Projects which:

(1) Have the lowest rents possible in comparison with local market rents (as determined by the Department) in the community where the Project is to be located.

(2) Have the greatest level of tenant support services (e.g., child care, job training); and

(3) Because of their characteristics, would have the most difficulty obtaining other financing.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0090**

**Processing Procedures**

(1) The Department shall provide a list of Program Loan application content, and shall provide sponsors a reasonable opportunity to discuss the application and the Department's criteria for financing.

(2) After receiving a completed Program Loan application package from the prospective Sponsor, the Department shall evaluate each Project for consistency with the Department's underwriting and policy standards.

(3) Program Loans under \$100,000 may be approved by the Department. Any Program Loan for an amount over \$100,000 must be approved by the Housing Council:

(a) The Department shall review each application for a Program Loan over \$100,000 and prepare a recommendation to the Housing Council for approval or disapproval. The Department will send a copy of its recommendation to the prospective Sponsor with a notice of the Housing Council meeting at which the application will be considered. Upon receipt of the notice, the prospective Sponsor may request an opportunity to present testimony at the meeting;

(b) After considering the Department's proposal, as well as any other testimony presented, the Housing Council shall approve or disapprove the application or take other appropriate action;

(c) The prospective Sponsor shall promptly be advised in writing of the Housing Council's decision.

(4) If an application is approved, the Department shall issue a Commitment. The Commitment shall be conditioned upon the subsequent sale and delivery of bonds at a rate acceptable to the Department, and shall state:

(a) The amount of the Program Loan;

(b) The rate of interest to be charged on such Program Loan expressed as a function of the bond interest rate;

(c) The term of the Program Loan;

(d) The amounts of any commitment fees, reserves and escrow accounts, payments of issuance costs and other amounts which are required by the Department;

(e) The dates when the Sponsor is required to pay the commitment fees, reserves and escrow accounts, payments of issuance costs and other amounts which are required by the Department;

(f) All other conditions and requirements of the Commitment.

(5) If the Sponsor does not complete the requirements by the dates specified in the Commitment, the Commitment shall expire, unless the Department grants an extension in writing. The Department may require payment of an additional fee upon approval of an extension of the dates upon which Commitment conditions shall be met.

(6) If the Department fails to sell bonds at an interest rate which would allow the Department to pay bond debt service and Program costs, and make Program Loans at or below the maximum rate stated in the Commitment, the Commitment shall terminate.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0100**

**Fees and Loan Interest Rate**

(1) The Department may charge a non-refundable commitment fee up to 2% of the committed Program Loan amount. The Sponsor shall include the fee, if any, with the Sponsor's signed acceptance of the Commitment when it is returned to the Department. The Commitment fee shall not be credited toward the required Sponsor's equity determined for the Project.

(2) The Department may charge other fees, as needed, to cover the costs and reduce the financial risk to the Department of issuing Bonds.

(3) The Department shall establish loan rates which are at least sufficient to permit the Department to pay debt service on its bonds, and costs of issuing the bonds and administering the Rental Housing Program.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-012-0110**

**Program Loans**

(1) To be eligible to receive a Program Loan for financing, a Sponsor shall comply with the terms contained in the Commitment issued by the Department and those conditions of eligibility set forth in these Program rules.

(2) Loan Documents shall be on forms approved by the Department.

(3) Notwithstanding any other provision contained in the Program rules, the Department shall not disburse funds for a Program Loan until:

(a) The Project has been completed to the satisfaction of the Department;

(b) The Sponsor executes a loan agreement, trust deed note and first lien trust deed or other evidence of security, and other program documentation satisfactory to the Department;

(c) The Sponsor has satisfied all conditions contained in the Commitment; and



(d) If the Project is subject to requirements which may continue after payment of the Department's loan, a regulatory agreement is recorded which details those requirements.

(4) Each Program Loan shall provide for the monthly collection of Escrow Payments for taxes and insurance plus any other required accounts to the extent permitted by law together with the monthly installment of principal and interest. All such payments shall be held for the benefit of the Department in an account in a financial institution acceptable to the Department and subject to the rules which apply to the deposit of public funds of the State of Oregon, pursuant to ORS Chapter 295.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-012-0120

#### Construction and Completion

(1) During the construction of the Project, the Department may conduct random inspections for Sponsor's compliance with state and federal wage requirements and any other local, state and federal requirements, as applicable, and for compliance with the plans and specifications previously approved by the Department. The Sponsor's supervising architect shall submit regular inspection reports to the Department. Change orders must be signed by the contractor, supervising architect, the Sponsor, and HUD, if applicable, before being submitted to the Department for its approval.

(2) Upon completion of construction of a Project, the Department and other contractual or regulatory entities, as applicable, may perform an inspection to assure the Sponsor's compliance with the approved plans and specifications. If some items of construction remain to be completed due to circumstances beyond the control of the Sponsor (provided the incomplete items do not detract from livability or safety of the Project), the Department may require the Sponsor to place in an escrow account, approved by the Department and under Department control, an amount equal to one and one-half times the estimated cost of completion, until the construction item is completed.

(3) Upon substantial completion of acquisition, construction and equipping of the Project, the Sponsor shall submit to the Department a certificate containing the following:

(a) The Sponsor's statement that the Project has been substantially completed and is ready and available for occupancy as of a specified date (which shall be the Completion Date);

(b) The Sponsor's statement of the aggregate amount, if any, advanced against the Program Loan prior to and upon the Completion Date; and

(c) The Sponsor's certification that as of the Completion Date, there has been full compliance with the provisions of the Regulatory Agreement.

(4) The Department may perform an inspection, along with the Sponsor and the Sponsor's architect, within ten months after completion of the Project, for the purpose of discovering construction defects, if any. The Sponsor shall be responsible for correcting construction defects within a time period set by the Department.

(5) An architect with an ownership interest in the Project shall not act as a supervising architect.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-012-0130

#### Loan Servicing

(1) Program Loans shall be serviced by Approved Servicers or by the Department in accordance with Program rules. Servicing, unless performed by the Department, shall be conducted under the terms and conditions contained in a servicing agreement entered into between the Department and the Approved Servicer. The Department shall prescribe the form of the servicing agreement. The servicing agreement is subject to termination as set forth in OAR 813-010-

0710. Under all such servicing agreements the Approved Servicer shall:

(a) Promptly collect all payments due under the Loan Documents;

(b) Provide the Department with a monthly accounting of Program Loan payments and disbursements;

(c) Ensure that escrow account balances are maintained at a level sufficient for the payment of the Project's property taxes, insurance premiums and costs of replacement as they become due and payable;

(d) Forward payments to the Department according to the provisions of the servicing agreement;

(e) Forward payments for insurance premiums to the insurance company when due;

(f) Forward payments for property taxes to the county assessor when due;

(g) Assure that all improvements on the mortgaged premises are kept insured against fire and extended coverage, casualty, liability and business income loss in accordance with the Loan Agreement;

(h) Provide Sponsors with regular analyses of servicing accounts; and

(i) Perform such other responsibilities as the Department may prescribe.

(2) If the Department does not act as the Approved Servicer, the Sponsor may select the entity to act as Approved Servicer for the Program Loan. In order to qualify as an Approved Servicer and continue as such, an entity shall demonstrate to the satisfaction of the Department that:

(a) One of its principal functions is the servicing of loans secured by real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) It can demonstrate qualifications to engage in the servicing of mortgage loans for specified government agencies or private institutions engaged in the secondary market for mortgage investments and have errors and omissions insurance acceptable to the Department;

(d) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 - 295,018, and 295.025 and which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation, or other federal insuring department; and

(e) It shall maintain servicing facilities adequately staffed with personnel familiar with all regulations and requirements pertaining to or affecting Program Loans serviced for the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-012-0140

#### Change of Approved Servicers

(1) The servicing agreement may be terminated or amended as provided in the servicing agreement.

(2) The Department may direct a change of Approved Servicers upon good cause if:

(a) The Department has received a written request or complaint alleging good cause for termination, and the Approved Servicer has had a reasonable opportunity to respond to the request or complaint; and

(b) It appears, based on the written submission, that good cause exists for termination.

(3) Good cause includes, but is not limited to:

(a) Failure to require sufficient reserve balances to cover taxes and insurance, based on reasonable expectations of tax and insurance rates;

(b) Failure to maintain an accurate accounting of loan account balances;

(c) Failure to make timely payments of insurance premiums or taxes (except that the Approved Servicer shall not be required to advance its own funds for this purpose);

(d) Failure to make timely reports and/or payment remittances to the Department; or

(e) Any material noncompliance with the terms of the servicing agreement.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-012-0150

#### Transfer of Ownership

(1) A Sponsor who has received a Program Loan or Commitment from the Department shall not transfer ownership, lease, or otherwise encumber any property which serves or will serve as security for a Program Loan without prior written approval from the Department. Approval will not be unreasonably withheld.

(2) A transfer of ownership means a sale, conveyance or other transfer of:

(a) Any interest of a general partner;

(b) Any interest in a joint venture;

(c) More than 25 percent of the limited partner's interest;

(d) More than 10 percent of a corporate owner's interest; or

(e) Any individual interest when the ownership is not a limited partnership, general partnership, joint venture or corporation.

(3) The Department may collect from the Sponsor a transfer processing fee for a 100 percent transfer of ownership, equal to 1 percent of the outstanding principal balance of the loan or \$3,500, whichever is less. The transfer processing fee shall be payable upon submission of the transfer approval request, and shall be non-refundable.

(4) A 100 percent transfer of ownership means a sale, conveyance or other transfer of:

(a) All interest of a general partnership;

(b) All interest of a joint venture;

(c) All interest of a corporation;

(d) All general partners' interest in a limited partnership; or

(e) All individual interest of an ownership entity when the ownership entity is not a limited partnership, general partnership, joint venture or corporation.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-012-0160

#### Loan Prepayments

(1) It is the general policy of the Department not to accept prepayments. The Department may, however, permit a prepayment if, in its sole discretion, the Department determines that the prepayment is consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550.

(2) The Department must give prior written approval of any loan prepayment. In order to be valid, a written approval of prepayment must be signed by an authorized representative of the Department. In making a decision whether or not to allow prepayment of a loan, the Department may consider criteria that include, but are not limited to, the following:

(a) The financial impact of the prepayment on the Department's programs or on an individual program or Bond indenture;

(b) Economic factors, including, but not limited to, portfolio diversification and relative cost of capital;

(c) The cash flow and other relevant financial considerations of the Project loan for which prepayment is requested;

(d) The ability of the Department to use proceeds of the loan prepayment to increase the availability of housing affordable to low-income Oregonians;

(e) The willingness of the Borrower to execute a written agreement or give other assurances that the Project will continue to be used for the purposes(s) originally intended, as specified in the Loan Documents, or for an alternate use consistent with the best interests of the Department, including its public purpose as defined in ORS

456.550. Such continued use will be for a period of time mutually agreed on by the Department and the Borrower;

(f) Tax law consequences; and

(g) Other factors the Department considers appropriate to insure the security for and the ability of the State to repay the Bonds, and to insure the ongoing financial viability and stability of the Department's programs.

(3) If the Department determines that a loan prepayment is consistent with the best interests of the Department, it only shall authorize the prepayment provided that the sum to be prepaid, computed as of the date of prepayment, shall equal the unpaid principal balance of the loan plus accrued interest and all other obligations plus, at the Department's discretion, a penalty or premium for the privilege of prepayment. Such prepayment penalty shall be determined based on terms of the original Loan Documents, and amendments thereto which have been mutually agreed on by the Department and the Borrower. The Department may waive all or a portion of such prepayment penalty if it determines in its sole discretion that such waiver is in the best interests of the Department. In making a decision whether or not to waive any or all of a prepayment penalty, the Department may consider, but is not limited to, the criteria identified in OAR 813-012-0160(2)(a) through (g).

(4) Where Section 8 Housing Assistance contracts or other rent subsidies are in place, the Department may approve a loan prepayment request only if such rent subsidies are not unduly impaired, determined at the sole discretion of the Department.

(5) Failure to make timely submission of a prepayment penalty will cause additional interest to accrue at loan rate or statutory rate, whichever is higher.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-27-99; OHCS 1-1999, f. & cert. ef. 6-1-99

### 813-012-0170

#### Disposal of Department-Owned Projects

(1) The Department may transfer ownership of Department-owned Projects through sale, gift or other lawful manner to a person or persons whom the Department determines best meets the requirements of this program. The Department shall establish procedures for selling Projects prior to any offering of such Projects, as applicable.

(2) The method of transfer of ownership, timing, price, terms and any other factors pertinent to the transfer of ownership shall be effected by the Department in a manner which, in the opinion of the Department, best preserves the integrity and continuation of the Department's rental programs. Factors the Department may consider include, but are not limited to:

(a) The financial investment of the Department in the Project;

(b) Preservation of existing rental housing;

(c) Proposed Owner's ability to manage, market, maintain and protect property used as security for the loan made by the Department, if applicable;

(d) Proposed Owner's capacity to preserve or improve upon the property's safety, sanitation, durability and livability;

(e) Proposed Owner's ability to preserve units which are affordable and suitable to the needs of the residents;

(f) Continued compliance with the state or federal laws, rules or regulations, as applicable to the financing or use of the Project.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 20

### SINGLE-FAMILY MORTGAGE PROGRAM

#### 813-020-0005

### Purpose and Objectives

The rules of OAR Chapter 813, Division 20 are established to administer and enforce ORS 456.515 through 456.720, specifically ORS 456.625, 456.635 and 456.640. These Rules, together with the Program's **Procedural Guide**, shall implement the Single-Family Mortgage Program. The Program's objective is to encourage and assist moderate- and lower-income persons in Oregon to purchase, improve, and rehabilitate owner-occupied new and existing residential housing by providing funds for long-term mortgage financing. The Department purchases loans that meet the standards set forth in these Rules and the Program's Procedural Guide.

[Publications: The publication(s) referenced to in this rule are available from the Department.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0010

#### Definitions

(1) All terms are used in OAR Chapter 813, Division 20, as defined in the Act, and as provided in OAR 813-005-0005 and herein.

(2) As used in these Rules, unless otherwise indicated by the context: "Income" means the total of the annualized gross household income, from any source and before taxes and withholding, of all non-minor persons who will reside in the Single-Family Residence.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1981, f. & ef. 8-27-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0015

#### Allocation of Funds to Approved Lenders

Under the Single-Family Mortgage Program, the Department may rely on a commitment system or a first-come first-served reservation system to solicit and monitor participation by Approved Lenders when funds become available from proceeds of Bonds or other sources. The Department solicits commitment requests or participation in the Program by Approved Lenders when the Department determines that the Single-Family Mortgage Program will serve to carry out the purposes of the Act and funds may be available.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.620

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 8-1982, f. & ef. 10-18-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-020-0016

#### Commitment System

Under the commitment system, the Department shall solicit commitment requests by mailing a commitment invitation form to each Approved Lender at the address listed in the records of the Department. The Department shall seek commitment requests before the sale of Bonds or when funds are otherwise expected to become available.

(1) The commitment invitation form shall specify the terms on which the Department will accept commitment requests from Approved Lenders, including:

(a) The minimum commitment amount, if any, which Approved Lenders may request;

(b) The maximum interest rate applicable to Program Loans under the commitment;

(c) The price the Department shall pay for such Program Loans and the origination fees, discounts, appraisal fees, inspection fees, sales fees, and other expenses which may be charged in connection with Program Loan origination;

(d) The period during which the Department will purchase Program Loans;

(e) The commitment fee the Department shall charge Approved Lenders in connection with the commitment requests;

(f) The servicing fees the Department shall pay for Program Loan servicing; and

(g) Such other similar terms as the Department may deem advisable. The Department shall consider:

(A) The cost of borrowing the funds required to carry out the Program;

(B) The costs associated with reserving funds to purchase Program Loans;

(C) The estimated cost of Single-Family Residences in Oregon;

(D) The interest rates the Department estimates Eligible Borrowers are able to pay when purchasing Single-Family Residences;

(E) The availability and cost to Eligible Borrowers of alternative borrowing sources; and

(F) Other similar factors the Department considers appropriate to increase the availability of funds for Eligible Borrowers to purchase Single-Family Residences, and to ensure the security for and the ability of the State to repay the Bonds.

(2) The Department may accept commitment requests as specified in the commitment invitation form. If the Department does not accept any request, the Approved Lender shall be notified promptly.

(3)(a) The Department shall allocate funds, taking into account the following factors:

(A) Geographic area of the Approved Lender's residential lending;

(B) Other participants in the area;

(C) Capacity of the Approved Lender to accomplish Program objectives;

(D) Availability of funds to the Department;

(E) Prior experience with the Approved Lender; and

(F) Participation by the Approved Lender in previous Programs.

(b) No allocation to an Approved Lender shall exceed the amount for which the Approved Lender applied, but may be less than the amount requested. The Department's allocation of funds shall be conclusive. However, an Approved Lender may assign funds to another Approved Lender with the Department's written consent.

(4) To assure that Approved Lenders perform their obligations under commitments entered into with the Department and to defray costs associated with processing and administering commitment requests and commitments, the Department may establish commitment fees in connection with commitment requests under the Single-Family Mortgage Program. The Department may refund a portion of the commitment fee as Program Loans are purchased. If the Department allocates an amount less than the commitment requested by an Approved Lender, the Department shall return a pro rata portion of the commitment fee to the Approved Lender.

(5) Disbursements under the commitment shall be subject to availability of Bond proceeds or other funds. Thereafter, the Department shall disburse funds to purchase Program Loans as specified in the commitment invitation form and the Program's **Procedural Guide**.

(6) The Approved Lender shall submit the Program Loan, related documents and a submission report for the Department's review before loan purchase. The purchase of any Program Loan is subject to the legal, sufficient and proper form of the loan documents, and adequate evidence the Program Loan satisfies all the criteria provided in the Act, the Program Rules and the Program's Procedural Guide.

(7) Approved Lenders shall report periodically during the commitment term. If, in the judgment of the Department, the Approved Lender will not use the amount of the commitment within the commitment period, the Department may reallocate the remaining balance.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.635 & ORS 456.640

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 8-1982, f. & ef. 10-18-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95



**813-020-0017**

**Reservation System**

(1) Under the reservation system, the Department shall purchase Program Loans pursuant to first-come first-served reservations made by Approved Lenders, and in compliance with the Program's **Procedural Guide**.

(2)(a) Program Loan funds shall be reserved on a first-come first-served loan by loan basis. When submitting a reservation, Approved Lenders must provide the applicant's name, property address, loan amount and any other information the Department deems necessary. The Department shall confirm each reservation with the Approved Lender in a timely manner.

(b) As needed, the Department shall maintain a list of standby reservations to be moved to the active reservation list on a first-come first-served basis in the event any confirmed reservation is cancelled by an Approved Lender.

(3) An Approved Lender may assign a reservation to another Approved Lender with the written consent of both Approved Lenders and approval by the Department.

(4) The Department may charge a non-refundable reservation fee to the Approved Lender in connection with each reservation. The Department shall specify the reservation fee rate and remittance instructions in connection with each Program Loan.

(5) The Approved Lender shall submit the Program Loan, related documents and a submission report for the Department's review before loan purchase. The purchase of any Program Loan is subject to the legal, sufficient and proper form of the loan documents, and adequate evidence that the Program Loan satisfies all the criteria provided in the Act, the Program Rules and the Program's **Procedural Guide**.

(6) Periodically, Approved Lenders shall report and confirm to the Department for each reservation, the correct Eligible Borrower name, property address, loan amount, and the dates on which the loan was cancelled or approved and closed.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.640

Hist.: HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

**813-020-0020**

**Approved Lenders**

(1) Any commercial bank, savings and loan association, savings bank, mortgage banker or other Person legally authorized to engage in the business of making secured loans for residential housing may apply to become an Approved Lender. An applicant wishing to become an Approved Lender shall submit for the Department's review:

- (a) An application in the form prescribed by the Department;
- (b) Counsel's opinion regarding power and authority of the applicant to enter into a purchase agreement with the Department;
- (c) List and signatures of authorized officers;
- (d) Most recent audited financial statements;
- (e) Documentation evidencing applicant's bond and insurance coverage; and
- (f) \$25 application fee.

(2) Each Approved Lender shall make loans for Single Family Residences in the regular, usual, and normal course of business.

(3) An applicant may qualify as an Approved Lender if the Department determines that the applicant has the capability and resources to originate Program Loans in a sound and professional manner. The Department shall consider such factors as:

- (a) The number and experience of employees available to originate Program Loans;
- (b) The applicant's financial capability to originate Program Loans;
- (c) The applicant's qualification as a seller/servicer for the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration or as a "Special Lender" under the Servicemen's Readjustment Act;
- (d) Whether the applicant's deposits are insured by the Federal Deposit Insurance Corporation; and

(e) The applicant's reputation, experience and performance in the area of residential lending and any other area of the applicant's business.

(4) To qualify as an Approved Lender, an institution shall enter into an agreement with the Department providing for the manner and terms of sale of Program Loans. This purchase agreement shall be in the standard form prescribed by the Department for all Approved Lenders. Approved Lenders shall carry out such agreement in accordance with procedures set forth in the agreement and the Program's **Procedural Guide**. The Department may revise such procedures from time to time. Any revisions shall not affect the eligibility of any Approved Lender or the terms of sale of Program Loans for any commitment previously made by the Department. The Department may terminate its agreement with an Approved Lender at any time on the terms and conditions stated in such agreement and the Program's **Procedural Guide**.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

**813-020-0024**

**Change of Ownership; Assumptions by Substitution of Liability for a Program Loan**

(1) The Department shall allow transfer of properties by assumption only if such assumption results in a substitution of liability and the purchaser is an Eligible Borrower. Then the Program Loan may be assumed subject to the terms of the existing loan without an interest rate increase. The following requirements shall also be met:

(a) The Approved Servicer shall process the application in accordance with the Department's requirements as set forth in the Program Rules and the Program's **Procedural Guide**;

(b) The Acquisition Cost shall not exceed the limit established by the Department and in effect at the time the assumption application is made. This requirement shall not apply if the original Program Loan was made from the proceeds of Bonds sold on or before September 15, 1982;

(c) An applicant for an assumption on a Program Loan shall not have had a present ownership interest in a principal residence at any time within the three years immediately preceding the date of the assumption unless:

(A) The original Program Loan was made from the proceeds of Bonds sold on or before September 15, 1982; or

(B) The residence is located within a Targeted Area.

(d) The Eligible Borrower must have an annualized gross household income which does not exceed certain limits established by the Department in accordance with the **Internal Revenue Code of 1986, as amended**;

(e) (A) There is no minimum down payment requirement for an assumption if no secondary financing is involved in the transaction. However, the purchaser shall make at least a 5% down payment from liquid assets or cash equity if any part of the down payment is to be provided by secondary financing. The 5% down payment amount shall be calculated on the current purchase price of the Single-Family Residence;

(B) Any secondary financing shall amortize over a specified period; balloon payments are not acceptable. The secondary debt shall be included in calculating the purchaser's debt-to-income ratio to determine if the purchaser qualifies as an Eligible Borrower.

(2)(a) The Approved Servicer may collect a nonrefundable assumption application fee, which shall include the credit report fee, not to exceed \$150. If the assumption is denied, the Approved Servicer may retain the portion of the fee not applied to the costs of the credit report. If the assumption is approved, the portion not applied to the costs of the credit report shall be applied as a credit to the processing fee permitted under OAR 813-020-0024(2)(b);

(b) The Approved Servicer may charge a fee for processing an assumption. Fees on conventional loans may be 1% of the loan balance or \$400, whichever is greater, but shall not exceed the cus-

tomary fees charged in the geographic area for assumptions on mortgage loans owned by private lenders. Processing fees on loans insured by the Federal Housing Administration (FHA) shall not exceed the usual and customary fees allowed. All fees shall be commensurate with the work involved by the Approved Servicer.

(3) The Approved Servicer shall make any necessary disclosures, ensure that all insurance policies reflect the new ownership, and take any action necessary to continue the benefits of the mortgage insurance or guaranty without interruption.

(4) All assumption transactions shall retain the Department's original loan number.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD3-1981, f. & ef. 1-30-81; 1HD 11-1981, f. & ef. 10-5-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 1-1984, f. & ef. 1-3-84; 1HD 9-1984, f. & ef. 9-4-84; 1HD 16-1984, f. 12-31-84, ef. 1-1-85; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0025

#### Program Loans

(1) To be eligible for purchase by the Department a Program Loan must meet the requirements set forth in the purchase agreement between the Department and the Approved Lender and the conditions set forth in the Program Rules and the Program's **Procedural Guide**.

(2)(a) Each Program Loan shall have a final maturity at least fifteen and not more than forty years from the date of its making;

(b) Each Program Loan shall be secured by a first lien deed of trust granted by the Eligible Borrower on the Single-Family Residence being financed. The Eligible Borrower shall hold title to the Single-Family Residence in fee simple;

(c) Program Loans shall only be made to finance the purchase, construction, or purchase and rehabilitation of an existing or newly constructed Single-Family Residence for use as the permanent, principal residence of the Eligible Borrower;

(d) No Program Loan shall be made to refinance an existing loan unless such loan was a temporary loan, with a loan term of 24 months or less, to construct or rehabilitate a Single-Family Residence. The temporary loan shall have been made on or after the commencement date of the commitment term during which the Program Loan is sold to the Department. If a Program Loan is made to refinance such a loan, the Approved Lender shall certify to the Department that construction or rehabilitation has been satisfactorily completed before the delivery of the Program Loan for purchase.

(3) Each Program Loan shall be executed on forms approved by the Department. Such forms shall prescribe Program Loan requirements regarding insurance, escrow payments, late charges, deficiencies, defaults, priority of liens, and similar matters. The Department may purchase Program Loans with a graduated payment schedule based on secured savings deposits or other criteria the Department deems appropriate; in this case the Program Loan forms shall contain provisions for application of the secured savings deposits to the loan balance.

(4) The Department shall require that Program Loans be subject to prepayment at the Department's option if at any time the Eligible Borrower does not reside in the Single-Family Residence financed by the Program Loan and the Eligible Borrower remains the owner of such Single-Family Residence, or if the Eligible Borrower is determined to have been ineligible at the time the loan was made.

(5) To establish the interest rate for Program Loans, the Department shall consider the rates of interest on the Bonds, prevailing rates for similar loans, and the ability of Eligible Borrowers to afford such rates. Interest or other charges established for any Program Loan shall not exceed the limits imposed by any applicable usury laws.

(6) The original principal amount of the Program Loan and any secondary financing shall not exceed 97% of property value, unless the Program Loan is insured by the Federal Housing Administration or a Qualified Mortgage Insurer; or guaranteed by the Veterans'

Administration or Rural Economic and Community Development. Property value shall be calculated on the lesser of the purchase price of the property or its appraised value.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1981, f. & ef. 8-27-81; 1HD7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0030

#### Eligible Borrowers

(1) To be eligible to receive a Program Loan, an Eligible Borrower shall, on the dates of application and loan closing:

(a) Is a resident or intends to be a resident of Oregon;

(b) Be a person whose Income does not exceed the applicable income limit established by the Department pursuant to the Act and the **Internal Revenue Code of 1986, as amended**;

(c) In good faith intend to occupy the Single-Family Residence as a permanent principal residence;

(d) Possess the legal capacity to incur the obligations of the Program Loan;

(e) Have a credit standing acceptable to the Department;

(f) Agree that any other residential property owned will be sold by the time of closing; and

(g) Meet applicable requirements established by Section 143 of the **Internal Revenue Code of 1986, as amended**, if the Program Loan is to be made from the proceeds of Bonds sold after September 15, 1982. These requirements are described in OAR 813-020-0070.

(2) Subject to the provisions of OAR 813-020-0045 regarding refusals of Program Loans, the Approved Lender shall determine the applicant's qualifications as an Eligible Borrower.

(3) If the Program Loan is insured by the Federal Housing Administration or a Qualified Mortgage Insurer; or guaranteed by the Veterans' Administration or Rural Economic and Community Development, approval by these federal agencies or a Qualified Mortgage Insurer is considered satisfactory evidence of the creditworthiness of the applicant. In all other instances, the acceptability of the applicant's credit standing shall be determined after thoroughly evaluating the applicant's credit, taking into account such factors as:

(a) The ratio between the applicant's stable monthly income and estimated housing expenses, including Program Loan repayment;

(b) The ratio between the applicant's stable monthly income and the estimated monthly payments on all indebtedness of the applicant, including the Program Loan;

(c) The applicant's ability to accumulate wealth, including funds needed for down payment and closing costs on the Program Loan;

(d) The history of the applicant's previous ability to meet debt service requirements; and

(e) Any other factors commonly considered by prudent institutional mortgage investors, such as prior bankruptcy of the applicant, history of slow payments on previous obligations, job tenure, frequent changes of residence and the existence of lawsuits, judgments or foreclosures involving the applicant.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 15-1980, f. & ef. 12-4-80; 1HD 9-1981, f. & ef. 8-27-81; 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; 1HD 17-1984, f. 12-31-84, ef. 1-1-85; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0032

### Permissible Use of Property Financed by a Program Loan

The Eligible Borrower shall continuously occupy the Single-Family Residence as his or her permanent and principal residence during the time the Eligible Borrower has a Program Loan, except under the conditions specified in section (2) of this rule. The Eligible Borrower shall not:

(1) Sell, transfer or otherwise dispose of (and may not be a party to any formal or informal arrangement to sell, transfer or otherwise dispose of) the Single-Family Residence financed by a Program Loan prior to repayment or, if permitted, assumption of the Program Loan;

(2) Vacate, rent or agree to rent the Single-Family Residence during the term of the Program Loan except after application to the Approved Servicer and the Department and under the following special conditions:

(a) Where the Eligible Borrower is making a good faith effort to sell the Single-Family Residence; or

(b) Where the circumstances causing the request to move out of the Single-Family Residence are beyond the Eligible Borrower's control, including but not limited to:

(A) When the Eligible Borrower or the Eligible Borrower's spouse is drafted into military service; or

(B) When the Eligible Borrower or the Eligible Borrower's spouse is involuntarily transferred by an employer on a temporary basis; or

(C) If the Eligible Borrower or the Eligible Borrower's spouse becomes disabled and needs medical rehabilitation and cannot live in the Single-Family Residence; or

(D) When the Eligible Borrower or the Eligible Borrower's spouse must move to finish an educational degree requirement, and has taken a temporary leave of absence from his or her job; or

(E) Other circumstances substantially similar to the above.

(c) The Department may require evidence from the Eligible Borrower of continuing sales efforts, or of the specific circumstances, such as an employer's certification of temporary job assignment, a school officials' certification of admission, a physician's certification of rehabilitation needs, or orders of military service and location.

(d) The Eligible Borrower shall submit a request in writing to the Approved Servicer one month before the Eligible Borrower fails to occupy or rents the Single-Family Residence. The Department may grant permission for non-occupancy for a period of time not to exceed one year, with additional one-year extensions possible, if the Department determines that the conditions in this section have been met. The Eligible Borrower shall submit written request for a renewal to the Approved Servicer at least one month before the approved period ends;

(e) If the Program Loan was made from the proceeds of Bonds sold after September 15, 1982, the principal residence requirements of **Section 143 of the Internal Revenue Code of 1986, as amended**, shall be applied to requests under this Section. The Department shall approve such requests only where evidence is provided that the Eligible Borrower will comply with federal residence requirements;

(f) If the Eligible Borrower does not comply with the above provisions, the Approved Servicer or the Department may, at any time and without prior notice, accelerate all payments due under the Program Loan, and exercise any other remedy or civil penalty allowable by law.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 15-1980, f. & ef. 12-4-80; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0033

#### Program Loans After Foreclosure

(1) The Department may finance Program Loans for Eligible Borrowers to purchase properties acquired by the Department through foreclosure or deed-in-lieu of foreclosure. Such Program Loans shall bear the interest rate of the original Program Loan on the property financed. Except as provided in section (2) of this rule, such

Program Loans shall meet all requirements of the Program rules and the Program's **Procedural Guide**.

(2) The Department may waive the provisions of OAR 813-020-0030(1)(b) as necessary to allow Program Loans for the sale of property acquired by the Department through foreclosure or deed-in-lieu of foreclosure. The Department shall make such waiver only when a waiver is required to effect timely disposition of the property acquired, and to ensure the ability of the State to repay the Bonds. A Program Loan made pursuant to such waiver shall have a final maturity not less than five years and not more than 40 years from the date of its making.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.625

Hist.: 1HD 6-1983, f. & ef. 9-8-83; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-020-0035

#### Eligible Single-Family Residences

(1) A Single-Family Residence for a Program Loan shall:

(a) Be located in Oregon;

(b) Be structurally sound and functionally adequate;

(c) Contain only one residential unit;

(d) Conform with all applicable zoning requirements, building codes, and similar requirements; and

(e) Have no more than 15% of the total living area of the residence be of a character subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements (i.e., any use which would qualify as a deduction for federal income tax purposes under Section 280A of the **Internal Revenue Code**). This requirement applies only to Single-Family Residences for Program Loans made from the proceeds of Bonds sold after September 15, 1982.

(2) The Acquisition Cost of the Single-Family Residence shall not exceed the limits established by the Department. The Department shall set such limits after considering:

(a) The cost and condition of housing within the state;

(b) Income levels established for the Single-Family Mortgage Program;

(c) Purchase price limits under applicable federal law; and

(d) Reasonable down payment requirements.

(3) Any deferred, indirect, or non-monetary consideration (except labor of the Eligible Borrower and the Eligible Borrower's family) shall be included in the Acquisition Cost of the Single-Family Residence.

(4) The appraised value of the Single-Family Residence shall not exceed the limits established by the Department. The Department shall set such limits as a percentage of the maximum Acquisition Cost, after considering:

(a) The cost and condition of housing within the state;

(b) The market value of such housing, assuming arms'-length sales transactions;

(c) The probability of non-arms'-length sales transactions;

(d) The effect of such limit on the Approved Lender's ability to originate Program Loans; and

(e) The effect of such limit on the security of Program Loans.

(5) Single-Family Residences which are a part of a condominium or planned unit development shall be subject to prior project approval as set forth in the Program's **Procedural Guide**.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.620 & ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0040



**Mortgage Insurance**

If the amount of the Program Loan is greater than 75% of the original Acquisition Cost (or, if lower, its value according to an appraisal acceptable to the Department), the Eligible Borrower shall obtain and maintain in force mortgage insurance or a guarantee of the Program Loan by a Qualified Mortgage Insurer.

(1) The policy shall be in effect at the time of sale of the Program Loan to the Department;

(2) The Department shall be named as the mortgagee insured or guaranteed; and

(3) The amount, terms, and extent of coverage of the insurance or guaranty, shall meet the requirements of the indenture of trust and the bond indenture declaration governing the bonds used for the acquisition of the Single-Family Residence. These requirements shall be determined by the Department to provide reasonable security against loss in the event of default.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

**813-020-0041**

**Title Insurance**

Each Program Loan shall be covered by a title insurance policy issued in American Land Title Association (ALTA) form by a title insurance company approved by the Real Estate Department of the State of Oregon. Such policy shall be in an amount at least equal to the outstanding principal balance of the Program Loan. The benefits of the policy shall run to the Department, as either named insured or assignee. The policy shall not be subject to any exceptions or conditions other than those previously approved by the Department or by the federal Department insuring or guaranteeing such loan, if any.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

**813-020-0042**

**Hazard Insurance**

The Single-Family Residence securing a Program Loan shall be covered by hazard insurance which meets the requirements of the Program's **Procedural Guide**. Such hazard insurance shall be in effect at the time the Program Loan is made, and shall remain in effect for the term of the Program Loan.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720 & ORS 456.625(7)

Hist.: 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-020-0045**

**Refusal of Program Loans; Disclosure**

(1) An Approved Lender shall proceed in good faith to process a Program Loan application and make the Program Loan if:

(a) Loan funds are available;

(b) The application is complete;

(c) The application appears to comply with the Program Rules and the Program's **Procedural Guide**; and

(d) The applicant appears to be an Eligible Borrower.

(2) Any person who is refused a Program Loan by an Approved Lender may, in writing, demand a written explanation as to the specific reasons for the refusal. The Approved Lender shall comply with such demand within thirty business days.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert.

ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

**813-020-0050**

**Approved Servicers**

(1) Any commercial bank, savings and loan association, savings bank, mortgage banker or other Person legally authorized to engage in the business of servicing loans for residential housing may apply to become an Approved Servicer. An applicant wishing to become an Approved Servicer shall submit the following information for the Department's review:

(a) An application in the form prescribed by the Department;

(b) Counsel's opinion regarding power and authority of the applicant to enter into a servicing agreement with the Department;

(c) List and signatures of authorized officers;

(d) Most recent audited financial statements;

(e) Documentation evidencing bond and insurance coverage; and

(f) \$25 application fee;

(g) Documentation indicating the volume of residential loans produced by the applicant's mortgage lending offices in Oregon.

(2) To qualify as an Approved Servicer and continue as such, a financial institution shall demonstrate to the Department's satisfaction that:

(a) One of its principal functions is servicing loans secured by residential real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) It is qualified to engage in servicing mortgage loans for the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation and is, if required, a mortgagee approved by the Federal Housing Administration or Veterans' Administration;

(d) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 to 295.018, 295.025 and 295.205 which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation or other similar federal insuring Department; and

(e) It will maintain servicing facilities adequately staffed with trained personnel familiar with all rules, regulations and requirements pertaining to or affecting Program Loans.

(3) Approved Servicers may assign Program Loan servicing to other Approved Servicers with the Department's written permission.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 5-1990, f. & cert. ef. 5-2-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

**813-020-0051**

**Program Loan Servicing**

(1) Approved Servicers shall service Program Loans in accordance with the servicing agreement, the Program Rules, and the Program's **Procedural Guide**, as amended by the Department from time to time. The servicing agreement is subject to termination as provided for in such agreement. Compensation for termination, if any, shall be provided in accordance with the terms of the servicing agreement.

(2) The Department shall adopt uniform servicing rates based on the estimated costs of servicing Program Loans and prevailing rates for similar services. Such rates shall apply to the servicing of Program Loans by all Approved Servicers.

(3) Eligible Borrowers shall make monthly Escrow Payments for real estate property taxes and assessments, hazard insurance premiums, and, if necessary, mortgage insurance premiums, except as provided in the Program's **Procedural Guide**. Such Escrow Payments shall continue for the term of the Program Loan. Approved Servicers may pay interest on Program Loan escrow reserve accounts, but are not required by the Department to do so.

(4) On a case-by-case basis, the Department may approve action by the Approved Servicer to protect the Department's security in a Single-Family Residence financed by a Program Loan. Such actions may include, but are not limited to, loan modification, property main-

tenance and repair, foreclosure or deed-in-lieu of foreclosure proceedings, and representation of the Department's interest in bankruptcy proceedings.

(5) In the event an Approved Servicer fails to comply with the Department's servicing, reporting, or remittance requirements, the Department may assess a penalty; or may request the Servicing Agreement with the Approved Servicer be terminated.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 14, f. & ef. 10-3-77; 1HD 3-1979, f. & ef. 6-29-79; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

### 813-020-0060

#### Qualifications as a "Special Purpose Credit Program"

The Program is meant to and does benefit an economically disadvantaged class of persons. As such, the Department establishes the Program as a "special purpose credit program" to satisfy the requirements of Interpretation Section 202.8(a)(1) of Regulation B of the Federal Equal Credit Opportunity Act. (**U.S.C. 15, Chapter 41, Subchapter 4, Paragraph 6091.**)

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550 - ORS 456.720

Hist.: 1HD 1-1980, f. & ef. 2-21-80; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-020-0070

#### Federal Eligibility Requirements

(1) **Section 143 of the Internal Revenue Code of 1986, as amended**, requires the Department to meet certain requirements to preserve the federal tax exemption for Bonds issued to finance Program Loans:

(a) The Single-Family Residence shall be used as a qualifying principal residence by the Eligible Borrower;

(b) Persons who have had a present ownership interest in a principal residence at any time within the preceding three years shall be prohibited from obtaining a Program Loan unless exempted as outlined in sections (2) and (3) of this rule;

(c) The Acquisition Cost shall not exceed the limits established by the Department pursuant to the **Internal Revenue Code of 1986, as amended** for new and existing Single-Family Residences;

(d) Only new mortgages may be financed, except as provided in section 813-020-0025(2)(d) in these Rules; and

(e) Eligible Borrowers must have an annualized gross household income which does not exceed certain limits established by the Department in accordance with the **Internal Revenue Code of 1986, as amended**;

(f) The assumption of Program Loans shall be prohibited unless the above requirements are met by each person assuming a Program Loan.

(2) A limited number of Program Loans may be made to persons who have had a present ownership interest in a principal residence at any time within the preceding three years. The Department shall consider applications for such loans on a case-by-case basis, taking into account:

(a) Federal restrictions on the aggregate dollar volume of such loans for a specific commitment; and

(b) The circumstances of the prior ownership. The Department shall give preference to applicants who have lost prior ownership interests involuntarily, as through divorce settlements, eminent domain proceedings, or similar circumstances.

(3) In certain Targeted Areas, a higher maximum Acquisition Cost may be applicable and the limitation with respect to prior home ownership does not apply. Certain census tract areas are designated as Targeted Areas by **Section 143 of the Internal Revenue Code of 1986, as amended**. The Department may apply for approval of additional or revised Targeted Areas after considering certain statutory

variables. In designating such areas, the Department shall solicit requests from all cities within the state, and apply certain criteria specified by the United States Department of Housing and Urban Development for such purpose to other urban and non-urban areas. The Department shall submit its findings for approval by the Secretary of the United States Department of Housing and Urban Development and the Secretary of the United States Treasury. The Department shall retain a current list of designated Targeted Areas.

(4) The Department is required to establish procedures which ensure compliance with applicable requirements of Section 143 of the **Internal Revenue Code of 1986, as amended**. Any failure to meet these requirements shall be corrected within a reasonable time. The Department shall grant no exceptions or waivers unless allowed by federal law.

(5)(a) Where permitted by federal law, the Department has elected to credit certain amounts which may become available to its Eligible Borrowers, rather than to the United States Treasury. The Department shall periodically determine the overall amounts subject to credit. The Department shall distribute any credits in compliance with federal law, taking into consideration such factors as the security of its Bonds, the ability of Borrowers to repay Program Loans, fluctuations in market interest rates, or such other factors which may affect the Department's ability to achieve its purpose and objectives.

(b) Where required by federal law, the Department shall calculate and rebate certain amounts, if any, to the United States Treasury.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.625

Hist.: 1HD 7-1982(Temp), f. & ef. 9-20-82; 1HD 9-1982, f. & ef. 11-10-82; 1HD 9-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 10-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1995, f. & cert. ef. 9-28-95

## DIVISION 25

### HOUSING COST IMPACT STATEMENT

#### 813-025-0005

##### Purpose and Objectives

The rules of OAR, Chapter 813, Division 025, are established to administer and enforce ORS 183.530 and 183.534. These rules require certain agencies to prepare a housing cost impact statement upon the proposal or repeal of any rule or amendment to an existing rule by certain agencies identified in ORS 183.530.

Stat Auth.: ORS 90.800 - 90.840, 91.886, Ch. 183, 456.515 - 456.723 & 458.210 - 458.650

Stat Implemented: ORS 183.530, 183.534

Hist.: OHCS 4-2000, f. & cert. ef. 11-15-00

#### 813-025-0010

##### Definitions

(1) All terms are used in OAR Chapter 813, Division 025, as defined in ORS 183.530 and 183.534, and as provided in OAR 813-025-0005 and herein.

(2) As used in these rules, unless the context indicates otherwise:

(a) "Agencies" includes those agencies identified in ORS 183.530 that are required to prepare housing cost impact statements.

(b) "Housing Cost Impact" is the estimate of the proposed rule or ordinance on the cost of a detached single family dwelling as described in ORS 183.534.

(c) "Housing Cost Impact Form" is the form prescribed by Oregon Housing and Community Services Department on which to provide a Housing Cost Impact Statement, including any attachments.

Stat Auth.: ORS 90.800 - 90.840, 91.886, Ch. 183, 456.515 - 456.723 & 458.210 - 458.650

Stat Implemented: ORS 183.530, 183.534

Hist.: OHCS 4-2000, f. & cert. ef. 11-15-00

#### 813-025-0015

## Preparation of Statement

(1) Agencies listed in ORS 183.530 who are required to prepare a Housing Cost Impact Statement shall do so on forms prescribed by Oregon Housing and Community Services Department.

(2) The Housing Cost Impact Statement shall be submitted with one of the following:

- (a) Fiscal impact statement as stated in ORS 183.325 (2)(b)(E);
  - (b) A notice of proposed permanent rulemaking action as stated in ORS 183.335(1); or
  - (c) A temporary rule adoption as stated in ORS 183.335(5).
- (3) The Housing Cost Impact Statement shall include:
- (a) A clear and concise statement of the need, objectives and legal basis for the rule;
  - (b) A description and estimate of how the proposed rule will increase the cost or reduce the supply of housing or land for residential development; and,
  - (c) A description of the impact of the proposed rules on the cost of materials, labor, administration and other factors as may be appropriate.

Stat. Auth.: ORS 90.800 – 90.840, 91.886, Ch. 183, 456.515 – 456.723 & 458.210 – 458.650

Stat. Implemented: ORS 183.530, 183.534

Hist.: OHCS 4-2000, f. & cert. ef. 11-15-00

## DIVISION 30

### ELDERLY HOUSING PROGRAM

#### 813-030-0005

##### Purpose and Objectives

The rules of OAR Chapter 813, Division 030 are established to administer and enforce ORS 456.515 to 456.720 specifically ORS 456.515 through 456.547. These rules shall implement the Elderly Housing Program, which has the objective of providing funds to finance the construction, rehabilitation and acquisition of multi-unit housing for elderly households in the State of Oregon, while providing sufficient safeguards to protect the financial interests of the state.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1-1978(Temp), f. & ef. 7-12-78; 1HD 1-1979, f. & ef. 1-16-79; 1HD 4-1979, f. & ef. 9-11-79; 1HD 1-1983, f. & ef. 5-20-83; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-030-0010

##### Definitions

(1) All terms are used in OAR Chapter 813, Division 030 as defined in the Act and as provided in OAR 813-005-0005 and herein.

(2) As used in these rules unless otherwise indicated by the context:

(a) “Elderly Housing Project” (“Project”) means housing containing more than one living unit for elderly households, but not providing continuous nursing care;

(b) “Gross Household Income” means the aggregate income of all persons 18 years of age or older who reside in the household.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1-1978(Temp), f. & ef. 7-12-78; 1HD 1-1979, f. & ef. 1-16-79; 1HD 4-1979, f. & ef. 9-11-79; 1HD 6-1980, f. & ef. 3-19-80; 1HD 9-1980, f. & ef. 4-2-80; 1HD 1-1980, f. & ef. 12-4-80; 1HD 5-1981, f. & ef. 3-31-81; 1HD 7-1981, f. & ef. 4-7-81; 1HD 8-1983(Temp), f. & ef. 11-7-83; 1HD 3-1984(Temp), f. & ef. 5-25-84; 1HD 5-1984, f. & ef. 7-5-84, f. & ef. 7-8-84; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-030-0020

##### Form of Loan Assistance

(1) The Department shall make loans to sponsors under the terms of written commitments.

(2) Loans shall be made directly with proceeds from the issuance of bonds or other available funds obtained by the Department. The Department shall establish fees and interest rates based upon:

- (a) The cost of borrowing through bond issuance;
- (b) The funds required to carry out the Elderly Housing Program; and
- (c) Such other factors as the Department considers appropriate or necessary.

(3) Interest on a loan shall not exceed the rate stated in the commitment. If the Department is able to charge an interest rate lower than that specified in the commitment, the Department may provide for the reduction of interest payment on the loan. The Department may require a reduction on the project rents.

(4) The Department shall not execute a commitment to a sponsor for a loan amount that exceed costs or 85 percent of the appraised value, whichever is less, of the project.

(5) Each loan shall have a final maturity of not more than 42 years from the date of its making and shall be secured by a first lien deed of trust granted by the sponsor on the property securing the loan.

(6) Loan documents shall be on forms approved by the Department.

(7) Each loan shall provide for the monthly collection of escrow payments to the extent provided by law together with the monthly installment of principal and interest. All such payments shall be:

(a) Held for the benefit of the Department in an account with an approved servicer; or

(b) Held by the State of Oregon as provided or required by law.

(8) If the Department receives loan applications in an amount greater than the amount of funds available, the Department shall select those applications which, in the judgment of the Department, best achieve purposes of the program rules and the Act.

(9) The Department shall establish prepayment penalties applicable to loans. In setting such penalties the Department shall take into account the need to protect the ability of the state to provide for the payment of the bonds. Any prepayment penalties shall be set forth in the trust deed note.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1-1978(Temp), f. & ef. 7-12-78; 1HD 1-1979, f. & ef. 1-16-79; 1HD 4-1979, f. & ef. 9-11-79; 1HD 15-1980, f. & ef. 12-4-80; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-030-0025

##### Loan Security

Notwithstanding any other provision contained in the program rules, the Department shall not disburse funds for a loan until:

(1) The loan is secured by a fully executed trust deed note and first lien trust deed or other evidence of security.

(2) The sponsor has satisfied all conditions contained in a commitment.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1-1978(Temp), f. & ef. 7-12-78; 1HD 1-1979, f. & ef. 1-16-79; 1HD 4-1979, f. & ef. 9-11-79; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-030-0030

##### Eligible Elderly Housing Projects

(1) The Department shall evaluate each project for consistency with the Department’s interpretation of sound architectural design and prudent underwriting standards as established in OAR 813-030-0031.

(2) In order to qualify for a loan, a project shall:

(a) Be approved by the Department with respect to site; location; market demand; financial feasibility; qualifications of general contractor, management agent and developer; appraisal; financial



strength and credit worthiness of the sponsor; management plan; final architectural package; sponsor's organizational documents; American Land Title Association (ALTA) title report; and any other information the Department shall require;

(b) Meet all applicable state and local land use and zoning requirements, housing codes, licensing, and similar requirements;

(c) Be in compliance with federal regulations, state statutes and program rules; and

(d) Be located in the State of Oregon.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 4-1979, f. & ef. 9-11-79; 1HD 15-1980, f. & ef. 12-4-80; 1HD 8-1983(Temp), f. & ef. 11-7-83; 1HD 3-1984(Temp), f. & ef. 5-25-84; 1HD 5-1984, f. & ef. 7-5-84, ef. 7-8-84; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0031

#### Standard Underwriting Criteria

In approving or disapproving any loan application, the Department and the Housing Council shall consider, in addition to requirements elsewhere stated in the program rules, the following criteria:

(1) The location of the project site, including its proximity to transportation, shopping, social, commercial and recreational facilities, medical services and such other facilities and services as shall best serve the prospective residents.

(2) Financial feasibility of the project.

(3) Availability of street, sewer, water, utilities and other public services.

(4) Availability of public or private transportation.

(5) Architectural design, including aesthetic quality, soundness of construction, energy efficiency, and suitability to the needs of the residents to be served.

(6) Compliance with applicable local comprehensive plan and land use regulations.

(7) Market demand.

(8) The financial strength, credit reputation and history of the sponsor.

(9) The experience of the developer, contractors, architects, consultants and management agent in developing, constructing and operating housing projects.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1-1983, f. & ef. 5-20-83; 1HD 8-1983(Temp), f. & ef. 11-7-83; 1HD 3-1984(Temp), f. & ef. 5-25-84; 1HD 5-1984, f. & ef. 7-5-84, ef. 7-8-84; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0032

#### Mobile Home Park Projects

(1) To qualify as a mobile home park, the project shall comply with the following standards and conditions:

(a) Site, design and licensing standards of the local government in which the project shall be built;

(b) Regulations of the Building Codes Division, State of Oregon, OAR 918-600-0010 to 918-600-0110;

(c) All mobile homes shall have skirting, unless the home is set on a ground level foundation. If the mobile home is purchased after September 4, 1984, the design, color and texture of the skirting shall appear to be an integral part of the adjacent exterior wall of the mobile home;

(d) All mobile homes purchased after September 4, 1984, shall have a roof with a non-reflective surface at a minimum slope of two inches in 12 inches (16 percent);

(e) The area occupied by the mobile home and any accessory buildings (including porches, car-ports, etc.) shall not exceed 40 percent of the lot area; and

(f) All mobile homes shall be installed in compliance with the State of Oregon, Building Codes Division regulations. Installation inspections shall be completed by the Building Codes Division, or

by a city or county which has contracted to do the inspections. A copy of the final inspection report shall be submitted to the Department together with a copy of a certificate of occupancy.

(2) The sponsor shall establish rules for the residents of the project, to be a required part of each resident's lease. The rules and lease shall be submitted for the Department's review and approval as part of the proposal. The lease shall substantially comply with the standard mobile home rental agreement.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 5-1981, f. & ef. 3-31-81; 1HD 7-1981, f. & ef. 4-7-81; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0034

#### Interim Loans

(1) The Department may from time to time make available funds for construction, acquisition and/or rehabilitation, or other financing of Elderly Housing Projects, for a term not to exceed five years.

(2) Notwithstanding any other requirements of OAR Chapter 813, Division 030, the Department may, as funds are available, solicit applications for the use of such funds. Applications shall specify in writing any terms and conditions of the available funds, as well as criteria or priorities the Department shall use to evaluate and select applications for funding.

(3) The Department shall evaluate applications received in accordance with program policies and priorities approved by the State Housing Council, and with applicable requirements of OAR Chapter 813, Division 30.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0035

#### Approved Housing Sponsors

(1) To be eligible to receive a loan, a sponsor shall comply with the terms contained in the commitment issued by the Department and the conditions of eligibility as set forth in these rules.

(2) Any person may apply to become a sponsor.

(3) To help the Department evaluate the financial strength of a prospective sponsor to develop, own, maintain and manage a project, the prospective sponsor shall submit financial statements, credit reports and any other documents requested by the Department in accordance with the provisions of the Equal Credit Opportunity Act as it relates to the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1-1978(Temp), f. & ef. 7-12-78; 1HD 1-1979, f. & ef. 1-16-79; 1HD 4-1979, f. & ef. 9-11-79; 1HD 6-1980, f. & ef. 3-19-80; 1HD 9-1980, f. & ef. 4-2-80; 1HD 15-1980, f. & ef. 12-4-80; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0040

#### Processing Procedures

(1) Before accepting an application for a loan, the Department will meet with a prospective sponsor at a preapplication conference. At the conference, the following items will be discussed:

(a) Type of loan requested;

(b) Type and formation of prospective sponsor's company (sole proprietorship, partnership, corporation, nonprofit, etc.) and qualifications;

(c) Requested loan amount, terms and interest rate;

(d) Any time constraints on prospective sponsor or Department;

(e) Fees;

(f) Reserve and equity requirements;

(g) Debt service ratio;

(h) Appraisal requirements;

- (i) Contractor's cost estimate and qualifications;
  - (j) Management and maintenance plans;
  - (k) Project management requirements, reports, qualifications;
  - (l) Loan servicer requirements, qualifications, procedures, agreement;
  - (m) Design and related requirements;
  - (n) Document requirements;
  - (o) Construction procedures;
  - (p) Department loan processing procedures;
  - (q) Eligibility requirements under federal and state law and regulations;
  - (r) Reserves and costs for bond issue; and
  - (s) Any other items pertinent to the proposed project.
- (2) At the conclusion of the preapplication conference, if the prospective sponsor and the Department agree to proceed with the application process, the Department will give an application package to the prospective sponsor for completion.
- (3) After receiving a completed loan application package from the sponsor, the Department shall evaluate each project for consistency with the Department's interpretation of sound architectural and planning principles and prudent underwriting standards.
- (4) In order to qualify for a loan, a project shall:
- (a) Be approved by the Department with respect to site; location; market demand; financial feasibility; qualifications of general contractor, management agent and developer; appraisal; financial strength and credit worthiness of the prospective sponsor; management plan; final architectural package; organizational documents; ALTA title report; and any other information the Department shall prescribe;
  - (b) Meet all applicable state and local land use and zoning requirements, housing codes, and similar requirements;
  - (c) Be in compliance with federal regulations, state statutes and program rules;
  - (d) Be located in the State of Oregon; and
  - (e) If the loan is for an amount over \$100,000, be approved by the Housing Council prior to the Department's issuance of a loan commitment:
- (A) The Department shall review each application for a loan over \$100,000 and prepare a proposal to the Housing Council for approval or disapproval. The Department will send a copy of its proposal to the prospective sponsor with a notice of the Housing Council meeting at which the application will be considered. Upon receipt of the notice, the prospective sponsor may request an opportunity to present testimony at the meeting;
- (B) After considering the Department's proposal, as well as any other testimony presented, the Housing Council shall approve or disapprove the application or take other appropriate action;
- (C) The prospective sponsor shall promptly be advised in writing of the Housing Council's decision.
- (5) In approving or disapproving any loan application, the Department and the Housing Council shall consider, in addition to requirements elsewhere stated in the program rules, the following criteria:
- (a) The location of the project site, including its proximity to transportation, shopping, social, commercial and recreational facilities, medical services and such other facilities and services as shall best serve the residents;
  - (b) Financial feasibility of the project;
  - (c) Availability of street, sewer, water, utilities and other public services;
  - (d) Availability of public transportation;
  - (e) Architectural design, including aesthetic quality, soundness of construction, energy efficiency, and suitability to the needs of the residents to be served;
  - (f) Compliance with applicable local comprehensive plan and land use regulations;
  - (g) Market demand;
  - (h) The financial strength, credit reputation and history of the prospective sponsor; and
  - (i) The experience of the developer, contractors, architects, consultants and management agent in developing, constructing and operating housing projects.

(6) The prospective sponsor may submit a written request for review and appeal of the Housing Council's decision in accordance with the provisions of ORS Chapter 183. To be considered, a request must be received by the Department within 30 days of the date of the notice of application disapproval.

(7) Upon Department approval of all documents, it shall issue a commitment, which may be subject to loan funds being available, which shall include:

- (a) The amount of the loan;
- (b) The maximum rate of interest to be charged on the loan;
- (c) The term of the loan;
- (d) The amount of the commitment fee, Rent-Up Reserve Account and Contingency Escrow Account;
- (e) When the commitment fee shall be paid, and when the Rent-Up Reserve Account and Contingency Escrow Account shall be funded;
- (f) All other conditions of the commitment, and when they shall be fulfilled;
- (g) Provisions concerning construction;
- (h) Provisions and conditions of loan disbursement;
- (i) Provisions of loan closing; and
- (j) Conditions of termination of the commitment.

(8) If the commitment conditions are not completed by the dates specified in the commitment, the offer for a commitment shall expire, unless the Department grants an extension in writing.

(9) Construction and Completion:

(a) During the construction of the project, the Department may conduct random inspections for sponsor's compliance with the plans and specifications previously approved by the Department. The sponsor's architect shall submit regular inspection reports to the Department. Change orders must be signed by the contractor, project architect and the sponsor before being submitted to the Department for its approval and prior to the changes being made;

(b) Upon completion of construction of a project, the Department shall perform an inspection to assure the sponsor's compliance with the approved plans and specifications. If some items of construction remain to be completed due to circumstances beyond the control of the sponsor (provided the incomplete items do not detract from livability or safety of the project), the Department shall require the sponsor to escrow as approved by the Department and under Department control, an amount equal to one and one-half times the estimated cost of completion, until the construction item is completed;

(c) The Department may perform an inspection, along with the sponsor and the sponsor's architect, within ten months after the completion of the project, for the purpose of discovering construction defects. The sponsor shall be responsible for correcting construction defects within a time period set by the Department;

(d) An architect with an ownership interest in the project shall not fully disclose such interest. The Department may require independent third party construction inspection reports.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 1-1978(Temp), f. & ef. 7-12-78; 1HD 1-1979, f. & ef. 1-16-79; 1HD 4-1979, f. & ef. 9-11-79; 1HD 2-1980(Temp), f. & ef. 2-22-80; 1HD 4-1980, f. & ef. 3-19-80; 1HD 7-1980, f. & ef. 4-2-80; 1HD 11-1980, f. 6-18-80, ef. 6-20-80; 1HD 13-1980, f. & ef. 8-8-80; 1HD 15-1980, f. & ef. 12-14-80; 1HD 16-1980, f. & ef. 12-15-80; 1HD 1-1981, f. & ef. 1-30-81; 1HD 5-1981, f. & ef. 3-31-81; 1HD 7-1981, f. & ef. 4-7-81; 1HD 2-1982, f. & ef. 1-4-82; 1HD 1-1983, f. & ef. 5-20-83; 1HD 9-1983, f. & ef. 12-1-83; 1HD 2-1984(Temp), f. & ef. 2-10-84; 1HD 5-1984, f. 7-5-84, ef. 7-8-84; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0044 Loan Closing

Before the loan closing takes place, the Department shall provide to the escrow loan closer written instructions for closing the loan. The Department shall not authorize disbursement of loan funds until all conditions of the commitment are satisfied and the Department has received and approved:

- (1) Cost certification.

(2) Certificate or policy of insurance for fire and extended coverage, liability, business income and flood insurance (if applicable), with the appropriate loss deductible. All insurance coverage shall be in the amounts set forth in the Department's Regulatory Agreement.

(3) Contingency Escrow Account.

(4) Certificate of occupancy from the local government.

(5) Commercial leases.

(6) Ground leases.

(7) Any other relevant leases.

(8) Tax abatement approval.

(9) American Land Title Association (ALTA) mortgagee's preliminary title insurance policy from the title company of the sponsor's choice.

(10) Any licenses required by the state.

(11) Appliance, furniture and fixture list including serial numbers.

(12) For acquisition loans:

(a) Certification of completion of work on repairs from the general contractor and owner; and

(b) Certification of completion of work required on dry rot/ termite inspection report by the general contractor and the termite inspector.

(13) All other reasonable requirements of the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91

### 813-030-0046

#### Resident Eligibility and Occupancy

(1) To be eligible to occupy a project, an Elderly Household shall:

(a) Be a resident of the state at the time of application to the Project.

(b) Be a household whose head is over the age of 58 years.

(c) The project shall conform to the maximum income requirement of ORS 456.620(4). At no time shall the maximum income limits exceed 120 percent of the median family income level, as determined by the Department. No more than 20 percent of the units of a housing project shall have an income level of between 100 and 120 percent. Relating specifically to acquisition/rehabilitation projects only, where tenants already reside in the project, the Department, at its sole discretion, may allow up to a one (1) year grace period for implementation of the standards identified in subsection (c) above in order to reduce the impact of displacement for over-income residents.

(2) Where the Project has a Regulatory Agreement and Declaration of Restrictive Covenants which was signed after June 16, 1982, have an annualized Gross Household Income, which does not exceed the income limit as established by the Department from time to time in compliance with the Act.

(3) Where the Project will be financed with proceeds of Bonds issued after August 15, 1986, have an annualized Gross Household Income which does not exceed such other income limit as may be required to assure compliance with Section 142(d)(1) of the Internal Revenue Code of 1986, as amended:

(a) If Section 142(d)(1) of the Code so requires, the Borrower shall elect at Commitment to apply either the "20-50" or "40-60" income requirement under Section 142(d)(1) of the Code, as summarized below, to the Project during the qualified Project period;

(b) If the Borrower elects to meet the "20-50" requirement under Section 142(d)(1) of the Code, at all times during the qualified project period at least 20 percent of the completed residential units in the Project shall be rented to and occupied by (or held available for rent by) Persons whose annualized Gross Household Income is 50 percent or less of area median income, adjusted for family size; and,

(c) If the prospective Borrower elects to meet the "40-60" requirement under Section 142(d)(1) of the Code, at all times during the qualified project period at least 40 percent of the completed residential units in the Project shall be rented to and occupied by (or

held available for rent by) Persons whose annualized Gross Household Income is 60 percent or less of area median income, adjusted for family size.

(4) The Borrower shall conduct annual income certifications of all residents to assure compliance with Section 142(d) of the Code, and shall, where necessary, hold units vacant and available for occupancy by Persons meeting the income requirements elected pursuant to Section 142(d).

(5) The Department may waive the Department's income limits for a household seeking residence in an Elderly Housing Project if a Person in the household is a Disabled Person requiring special housing provisions to accommodate the impairment and whose disability arises from a physical or mental impairment that substantially limits one or more Major Life Activity; however, no such waiver shall be made of the requirements of Section 142(d) of the Code.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675

Hist.: 1HD 1-1978(Temp), f. & ef. 7-12-78; 1HD 1-1979, f. & ef. 1-16-79; 1HD 4-1979, f. & ef. 9-11-79; 1HD 13-1980, f. & ef. 8-8-80; 1HD 5-1981, f. & ef. 3-31-81; 1HD 7-1981, f. & ef. 4-7-81; 1HD 8-1981, f. & ef. 5-12-81; 1HD 11-1984, f. & ef. 9-4-84; Renumbered from 813-030-0050; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; OHCS 2-2000(Temp), f. & cert. ef. 9-15-00 thru 3-13-01

### 813-030-0047

#### Commitment Fee

(1) The Department shall charge a non-refundable commitment fee up to two percent of the loan.

(2) The sponsor shall include the fee with the sponsor's signed acceptance of the commitment returned to the Department.

(3) The commitment fee shall not be deducted from the sponsor's equity requirement.

(4) The Department may charge other fees, as needed, to cover the costs and reduce the financial risk to the Department's of issuing bonds.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0060

#### Loan Servicing

(1) The servicing of Loans shall be performed by servicer(s) selected by the Department. Servicing, unless performed by the Department, shall be conducted under the terms and conditions contained in a servicing agreement entered into between the Department and any Approved Servicer. The Department shall prescribe the form of the servicing agreement. The servicing agreement is subject to termination as set forth in OAR 813-030-0062. Under all such servicing agreements the Approved Servicer shall:

(a) Promptly collect all payments due under the Loan and Regulatory Agreement;

(b) Provide the Department with a monthly accounting of Loan payments and disbursements;

(c) Ensure that escrow account balances are maintained at a level sufficient for the payment of the Project's property taxes, insurance premiums and costs of replacement as they become due and payable;

(d) Forward payments to the Department according to the provisions of the servicing agreement;

(e) Forward payments for insurance premiums to the insurance company when due;

(f) Forward payments for property taxes to the county assessor when due;

(g) Assure that all improvements on the mortgaged premises are kept insured against fire and extended coverage, casualty, liability and business income loss in accordance with the Loan Agreement;



(h) Provide Sponsors with regular analyses of servicing accounts; and

(i) Perform such other responsibilities as the Agency may prescribe.

(2) If the Agency does not act as the Approved Servicer, the Sponsor selects the entity to act as Approved Servicer for the Loan. In order to qualify as an Approved Servicer and continue as such, an entity shall demonstrate to the satisfaction of the Department that:

(a) One of its principal functions is the servicing of multi-family or commercial loans secured by real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) It is qualified to engage in the servicing of mortgage loans for specified government agencies or private institutions engaged in the secondary market for mortgage investments;

(d) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 to 295.018, and 295.025 and which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or other similar federal insuring agency; and

(e) It shall maintain servicing facilities adequately staffed with personnel familiar with all regulations and requirements pertaining to or affecting Loans serviced for the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & 456.625

Hist.: 1HD 4-1979, f. & ef. 9-11-79; 1HD 11-1984, f. & ef. 9-4-84; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 6-1990, f. & cert. ef. 5-2-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 6-1995(Temp), f. & cert. ef. 11-8-95

### 813-030-0062

#### Change of Servicers

(1) The servicing agreement may be terminated or amended as provided for in the servicing agreement or these rules.

(2) The Department may direct a change of approved servicer at any time consistent with the terms of the servicing agreement and these rules.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & 456.625

Hist.: 1HD 3-1983, f. & ef. 7-20-83; 1HD 11-1984, f. & ef. 9-4-84; Renumbered from 813-030-0080; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989 (Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 6-1995(Temp), f. & cert. ef. 11-8-95; HSG 4-1996, f. & cert. ef. 5-15-96

### 813-030-0066

#### Transfer of Ownership

(1)(a) A sponsor who has received a loan or commitment from the Department shall not transfer ownership, lease, or otherwise encumber any property which serves or will serve as security for a loan from the Department without prior written approval from the Department;

(b) The sponsor shall be required to submit underwriting documentation as requested by the Department.

(2) A transfer of ownership means a sale, conveyance or other transfer of:

(a) Any interest of a general partner;

(b) Any interest in a joint venture;

(c) More than 25 percent of a limited partner's interest;

(d) More than ten percent of a corporate owner's interest; or

(e) Any individual interest when the ownership is not a limited partnership, general partnership, joint venture or corporation.

(3) The Department shall collect from the sponsor a transfer processing fee for a 100-percent transfer of ownership, equal to one percent of the outstanding principal balance of the loan or \$3,500, whichever is less. The transfer processing fee shall be payable upon submission of the transfer approval request, and shall be non-refundable.

(4) A 100-percent transfer of ownership means a sale, conveyance or other transfer of:

(a) All interest of a general partnership;

(b) All interest of a joint venture;

(c) All interest of a corporation;

(d) All general partners' interest in a limited partnership; and

(e) All individual interest of an ownership entity when the ownership entity is not a limited partnership, general partnership, joint venture or corporation.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 183, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: 1HD 3-1980(Temp), f. & ef. 3-4-80; 1HD 15-1980, f. & ef. 12-4-80; 1HD 11-1984, f. & ef. 9-4-84, Renumbered from 813-030-0070; HSG 3-1987(Temp), f. & ef. 2-5-87; HSG 7-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-030-0067

#### Loan Prepayments

(1) It is the general policy of the Department not to accept prepayments. The Department may, however, permit a prepayment if, in its sole discretion, the Department determines that the prepayment is consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550.

(2) The Department must give prior written approval of any loan prepayment. In order to be valid, a written approval of prepayment must be signed by an authorized representative of the Department. In making a decision whether or not to allow prepayment of a loan, the Department may consider criteria that include, but are not limited to, the following:

(a) The financial impact of the prepayment on the Department's programs or on an individual program or Bond indenture;

(b) Economic factors, including, but not limited to, portfolio diversification and relative cost of capital;

(c) The cash flow and other relevant financial considerations of the Project loan for which prepayment is requested;

(d) The ability of the Department to use proceeds of the loan prepayment to increase the availability of housing affordable to low-income Oregonians;

(e) The willingness of the Borrower to execute a written agreement or give other assurances that the Project will continue to be used for the purposes(s) originally intended, as specified in the Loan Documents, or for an alternate use consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550. Such continued use will be for a period of time mutually agreed on by the Department and the Borrower;

(f) Tax law consequences; and

(g) Other factors the Department considers appropriate to insure the security for and the ability of the State to repay the Bonds, and to insure the ongoing financial viability and stability of the Department's programs.

(3) If the Department determines that a loan prepayment is consistent with the best interests of the Department, it only shall authorize the prepayment provided that the sum to be prepaid, computed as of the date of prepayment, shall equal the unpaid principal balance of the loan plus accrued interest and all other obligations plus, at the Department's discretion, a penalty or premium for the privilege of prepayment. Such prepayment penalty shall be determined based on terms of the original Loan Documents, and amendments thereto which have been mutually agreed on by the Department and the Borrower. The Department may waive all or a portion of such prepayment penalty if it determines in its sole discretion that such waiver is in the best interests of the Department. In making a decision whether or not to waive any or all of a prepayment penalty, the Department may consider, but is not limited to, the criteria identified in OAR 813-030-0067(2)(a) through (g).

(4) Where Section 8 Housing Assistance contracts or other rent subsidies are in place, the Department may approve a loan prepayment request only if such rent subsidies are not unduly impaired, determined at the sole discretion of the Department.

(5) Failure to make timely submission of a prepayment penalty will cause additional interest to accrue at loan rate or statutory rate, whichever is higher.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625  
Hist.: HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; OHCS 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-27-99; OHCS 1-1999, f. & cert. ef. 6-1-99

### 813-030-0068

#### Disposal of Department-Owned Projects

(1) The Department may transfer ownership of Department-owned projects through sale, gift or other lawful manner to a person or persons whom the Department determines best meets the requirements of this program. The Department shall establish written procedures for selling projects prior to any offering of such project, as applicable.

(2) The method of transfer of ownership, timing, price, terms and any other factors pertinent to the transfer of ownership shall be effected by the Department in a manner which, in the opinion of the Department, best preserves the integrity and continuation of the Department's rental programs. Factors the Department may consider include, but are not limited to:

- (a) The financial investment of the Department in the project;
- (b) Preservation of existing rental housing;
- (c) Proposed owner's ability to manage, market, maintain and protect property used as security for the loan made by the Department, if applicable;
- (d) Proposed owner's capacity to preserve or improve upon the property's safety, sanitation, durability and livability;
- (e) Proposed owner's ability to preserve units which are affordable and suitable to the needs of the residents;
- (f) Continued compliance with state or federal laws, rules or regulations, as applicable to the financing or use of the project.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.515 - ORS 456.720  
Hist.: HSG 11-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 35

### PASS-THROUGH REVENUE BOND FINANCING PROGRAM

### 813-035-0005

#### Purpose and Objectives

The rules of OAR chapter 813, division 035, are established to administer and enforce ORS 456.515 through 456.720, and specifically ORS 456.615 through 456.720. These rules implement the Pass-Through Revenue Bond Financing Program, which has an objective of providing funds to finance the construction, rehabilitation and acquisition of multi-unit housing in the State of Oregon for persons and families of lower income, while providing sufficient safeguards to protect the financial interest of the state. Other objectives of the Program include providing for additional flexibility in the Department's overall financial loan structuring, and providing an efficient process for simplifying underwriting, approval and loan monitoring so as to accommodate pass-through revenue bond financing.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.555 & ORS 456.625  
Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0011

#### Definitions

(1) All terms are used in OAR chapter 813, division 035, as defined in the Act, and as provided in OAR 813-005-0005 and herein.

(2) As used in these rules, unless the context indicates otherwise:

(a) "Pass-Through Revenue Bond Financing Project" or "Project" means housing financed pursuant to the Division containing more than one living unit for Lower Income Families or Persons, and/or Disabled Persons, but not providing continuous nursing care.

(b) "Pass-Through Revenue Bond Financing Program" or "Program" means the Program established pursuant to this division 035.

(c) "Borrower" or "Sponsor" means that legal entity to which bond proceeds are loaned. While the term "Borrower" generally is used in this Division, it and "Sponsor" are used interchangeably in Department rules, statutes, and documents.

(d) "Department" as used in division 035 means the Housing and Community Services Department of the State of Oregon, or its assignee(s), as appropriate.

(e) "Public Offering" as used in this Division means any offering of bonds by the Department to finance Project(s) other than a private placement with a single financial institution.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675  
Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0016

#### Standard Underwriting Criteria

In reviewing any Project financing application for approval, the Department and the State Housing Council, in addition to requirements elsewhere stated in the Program rules, may consider factors including but not limited to the following:

(1) The location of the Project site, including its proximity to transportation, shopping, social, commercial and recreational facilities, medical services, and such other facilities and services as may best serve the prospective residents.

(2) Availability of street, sewer, water, utilities and other public services.

(3) Availability of public transportation.

(4) Financial feasibility of the Project, including any relevant commercial or other elements as they may impact Project viability.

(5) Architectural design, including aesthetic quality, soundness of construction, energy efficiency, and suitability to the needs of the residents to be served.

(6) Compliance with applicable local comprehensive plan and land use regulations.

(7) Market demand in the area.

(8) The financial strength, credit reputation and history of the prospective Borrower.

(9) The experience of the developer, contractors, architects, consultants and management agent in developing, constructing and operating housing Projects.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.625 & ORS 456.666  
Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0018

#### Investment Grade Bonds

The Department has responsibility for several Department bond programs and its Publicly Offered bonds normally must be of investment grade credit quality. To ensure investment grade credit quality for its Publicly Offered bonds or other financing funds, the Department may require that Borrower and its participating institution provide an appropriate credit enhancement device that will secure the bonds in a manner that will result in investment grade credit quality. Any exceptions to this investment grade credit quality standard will only be at the Department's sole determination and must be appropriately supported and documented.

Stat. Auth.: ORS 456.559 & ORS 456.625  
Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675  
Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0021

#### Financing Commitments and Fees

(1) The Department may finance Projects pursuant to written Commitments made to eligible Borrowers.

(2) Projects may be financed directly with proceeds from the issuance of Bonds or other available funds obtained by the Department. The Department may establish fees and interest rates for

financing Projects based upon factors including but not limited to the following:

- (a) The cost of borrowing through Bond issuance; and
- (b) Other funds required to carry out the Program.
- (3) The Borrower shall comply with all provisions of the Program and the Act. The Department may take appropriate enforcement action in accordance with the Commitment and other Project documents, or as otherwise available at law.
- (4) The Department may finance Project applications in such order, as in the sole judgment of the Department, best achieves the purposes of the Program and the Act.

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650  
 Stats. Implemented: ORS 456.515 – ORS 456.720  
 Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0029

#### Transfer of Ownership

(1) Any Borrower who has received Project financing or a Commitment under the Program shall not transfer ownership, lease, or otherwise encumber any Project property which serves as, or will serve as, security for a Program loan without prior written approval from the Department, which approval the Department may give or withhold at its sole discretion.

(2) A transfer of ownership means a sale, conveyance or other transfer of:

- (a) Any interest of a general partner;
- (b) Any interest in a joint venture;
- (c) More than 25 percent of the limited partner's interest;
- (d) More than 10 percent of a corporate or a limited liability company owner's interest; or
- (e) Any individual interest when the ownership is not a limited partnership, general partnership, joint venture, limited liability company, or corporation.

(3) Transfers of Project ownership, if approved, are subject to a Department processing fee of up to one percent of the outstanding principal balance of the loan or up to \$10,000, at the Department's discretion. The transfer processing fee shall be payable upon submission of the transfer approval request, and shall be non-refundable.

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650  
 Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675  
 Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0032

#### Approved Borrowers

(1) Any person or appropriate legal entity may apply to become a Borrower.

(2) In evaluating the capacity of a prospective Borrower to develop, own, maintain and manage a Project, the Department may require, review and use any documents, credit reports, financial statements, or other information consistent with the provisions of the Equal Credit Opportunity Act as it may relate to the Department.

(3) Production of information to the Department by the Borrower or prospective Borrower shall be at the Borrower's own cost and shall be without cost or liability to the Department.

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650  
 Stats. Implemented: ORS 456.555 & ORS 456.625  
 Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0033

#### Project Financing

(1) To be eligible for Project financing, a prospective Borrower shall comply with the terms contained in the Commitment, the Project financing documents, and other Program or Department requirements.

(2) Each Program loan may not exceed that portion of the Project's appraised value appropriate to prudent underwriting, as determined by the Department.

(3) Each Program loan may have a final maturity of not more than 40 years from the date of its making unless allowed by law, and shall be secured by a first lien deed of trust granted by the Borrower, or others as appropriate, in the Project and other property securing the loan. Project loans may provide financing for Projects to be newly constructed or to be acquired and substantially rehabilitated.

(4) Project documents, including all Loan Documents, must be in form and substance as approved or required by the Department at its sole discretion.

(5) The interest rate(s) on a Program loan shall be consistent with the relevant Commitment. In establishing the rates of interest applicable to Program loans, the Department may take into account factors including, but not limited to the rates of interest applicable to the specific Bonds from which Project financing is to be derived. Program interest rates established by the Department may be fixed, variable or a combination of fixed and variable rates to the extent permitted by law. The Department may provide for the reduction or other restructuring of principal and interest payment on Program loans where circumstances, in its sole judgment, may warrant.

(6) Project documents may, among other things, provide for the monthly collection of Escrow Payments to the extent permitted by law, together with the monthly installment of principal, interest and other charges or financing costs. Payments may be:

(a) Held for the benefit of the Department in an account in a financial institution acceptable to the Department and insured to the full extent legally possible by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation or other similar federal insuring department; or

(b) Held by the State of Oregon as provided and required by law.

(7) The Department may establish prepayment and other charges and penalties applicable to Project loans as it, in its sole discretion, deems appropriate.

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650  
 Stats. Implemented: ORS 456.555 & ORS 456.625  
 Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0036

#### Eligible Projects

(1) The Department shall evaluate each Project for consistency with sound architectural and planning principles and underwriting standards.

(2) This Department evaluation may include, but is not limited to the following:

(a) Site; location; market demand; financial feasibility; qualifications of general contractor, management agent, and developer; appraisal; financial strength and credit worthiness of the prospective Borrower; management plan; final architectural package; prospective Borrower's organizational documents; title report; and any other information the Department may prescribe;

(b) If subject to a Federal Housing Assistance Payments contract, whether or not the Project complies with any standards required by the U.S. Department of Housing and Urban Development (HUD);

(c) Whether or not the Project meets all applicable state and local land use and zoning requirements, housing codes, and similar requirements;

(d) Whether or not the Project will or is located in the State of Oregon as required; and

(e) Whether or not the Project meets all applicable laws and other Program requirements.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650  
 Stats. Implemented: ORS 456.555 & ORS 456.625  
 Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0040

#### Resident Eligibility and Occupancy

(1) To be eligible to occupy a Project, a Person or household shall:



(a) Be a resident of the state at the time of application to the Project.

(b) Have an annualized gross household income that does not exceed the limit established by the Department from time to time in compliance with the Act, and the limits of Section 142(d)(1) of the Code, if applicable.

(2) Rental of units shall not violate the Fair Housing provisions of the 1968 Civil Rights Act or other applicable provision of state or federal law.

(3) Lower-income Persons or households residing in the Project shall have equal access to and enjoyment of all common facilities of the Project.

(4) The Borrower shall accept as residents in compliance with Section 8 programs, lower-income Persons or households who are holders of certificates for federal housing assistance payments pursuant to Section 8 of the United States Housing Act of 1937 or a successor federal program, on the same basis as all other prospective residents. The Borrower shall not apply resident selection criteria to such Section 8 certificate holders which are more burdensome than the criteria applied to any other prospective resident.

(5) The Borrower shall conduct timely annual income certifications of residents to the Department's satisfaction to assure compliance with the income requirements of the Program.

Stat. Auth.: ORS 456.559 & ORS 456.625

Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 2-2000(Temp), f. & cert. ef. 9-15-2000 thru 3-13-01; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0045

#### Inspections and Audits

(1) The Department shall have the ability to conduct, and Borrowers shall cooperate fully with the Department in accomplishing, such physical inspections of the Project(s) as the Department may from time to time require.

(2) Borrowers shall provide annual audited financial reports and such other information and documents concerning the Project as the Department from time to time may require, and in form and substance satisfactory to the Department at its sole discretion.

(3) The purposes of inspections, audited financial reports and other requested information may include, but are not limited to reviews of tenant occupancy income verification procedures and documents, maintenance and reserves compliance verification, and financial management of the Project.

(4) The Borrower shall at all times manage the Project so as to comply with Program requirements, the terms of the Project documents and all applicable laws.

Stat. Auth.: ORS 456.559 & ORS 456.625

Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0051

#### Loan Security

Notwithstanding any other representation or provision contained in the Program rules or otherwise, financing funds shall not be disbursed for the Project loan until:

(1) A fully executed trust deed note, trust deed, or other adequate instrument as required by the Department fully secures the Project loan.

(2) The Eligible Borrower and other necessary parties have executed all Project documents required by the Department at its sole discretion.

(3) The Eligible Borrower and other necessary parties have satisfied all conditions contained in the Commitment as well as the requirement for assuring investment grade credit quality bond-financing for the Project as determined by the Department at its sole discretion.

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0700

#### Housing Assistance Payments Request and Certification Processing

(1) The Department shall review and approve documents and electronic transmissions relating to Section 8 subsidized Projects. The Department may establish such reasonable requirements as are necessary to assure timely and accurate submission of such documents and transmissions. In order for the timely disbursement of Housing Assistance Payments (HAP) to Borrowers of Section 8 Projects, Borrowers shall submit to the Department the following information:

- (a) Electronic certifications of resident income;
- (b) Electronic recertifications of resident income; and
- (c) Electronic and paper requests for HAP.

(2) The following guidelines shall govern the processing of information in subsection (1)(a) through (c) of this rule:

(a) Certifications shall be prepared for all new residents and be signed by the resident and by the Borrower or its agent on or before the resident's move-in date. All certifications shall be transmitted to the Department for review, before HAP may be paid on the unit. Certifications shall be transmitted by the 15th day of the month following the resident move-in. If the certification is received after that date, the HAP for that unit may begin the date the certification is received by the Department.

**EXAMPLE 1:** Resident moves in March 3, certification is received by April 15; HAP starts March 3.

**EXAMPLE 2:** Resident moves in March 3, certification is received April 20; HAP starts April 20. (Borrower lost HAP for period of March 3 through April 19).

(b) Recertification of resident income shall be completed and transmitted annually for each subject resident by the Borrower. Recertifications shall be transmitted by the Borrower to the Department by the 15th day of the month before the resident move-in date (effective date of recertification). Recertifications not received as prescribed may result in forfeiture of the HAP for that unit for each month the recertification is not received by the Department as prescribed;

(c) The Borrower or its agent[s] shall submit HAP requests to the Department for each month, in advance, by the 15th day of the month before the month for which the request is made. The Borrower shall make any necessary adjustments to the HAP request each month;

(d) HAP requests, certifications and recertifications shall be correct before submission to the Department. The Department may make any adjustments necessary to comply with HUD requirements, the Housing Assistance Payments Contract, Department requirements and the Program rules.

Stat. Auth.: ORS 456.555.

Stats. Implemented: ORS 456.620, ORS 456.645 & ORS 456.675

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0705

#### Loan Servicing

(1) The servicing of loans may be performed by servicer(s) approved by the Department. Servicing, unless performed by the Department (or its assignee) itself, may be conducted under the terms and conditions contained in a servicing agreement entered into between the Department and any Approved Servicer. The Department may prescribe the form of the servicing agreement. The servicing agreement is subject to termination as set forth in OAR 813-035-0710 or as otherwise provided in the agreement. Under all such servicing agreements, the Approved Servicer may:

(a) Promptly collect all payments due under the Loan Agreement, Regulatory Agreement, Declaration of Restrictive Covenants, and other applicable loan instruments.

(b) Provide the Department with a periodic accounting of loan payments and disbursements as required by the Department.

(c) Where applicable, ensure that escrow account balances are maintained at a level sufficient for the payment of the Project's property taxes, insurance premiums and costs of replacement as they become due and payable.

(d) Forward payments to the Department according to the provisions of the servicing agreement.

(e) Forward payments for insurance premiums to the insurance company when due.

(f) Forward payments for property taxes to the county assessor when due.

(g) Assure that all improvements to the Project are kept insured against fire and extended coverage, casualty, liability and business income loss in accordance with the applicable loan instruments.

(h) Provide the Borrower with regular analyses of servicing accounts.

(i) Perform such other responsibilities and take such other action as the Department may prescribe or require.

(2) In order to qualify as an Approved Servicer and continue as such, an entity shall demonstrate to the satisfaction of the Department, if required, that:

(a) One of its principal functions is the servicing of multi-unit or commercial loans secured by real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) It is qualified to engage in the servicing of mortgage loans for specified government agencies or private institutions engaged in the secondary market for mortgage investments;

(d) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 to 295.018 and 295.025 and which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or other similar federal insuring agency; and

(e) It shall maintain servicing facilities adequately staffed with personnel familiar with all regulations and requirements pertaining to or affecting loans serviced for the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0710

#### Change of Servicers

(1) The servicing agreement may be terminated or amended as provided in the servicing agreement or these rules.

(2) The Department may direct a change of Approved Servicers at any time consistent with the terms of the servicing agreement and these rules.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0715

#### Loan Prepayments

(1) It is the general policy of the Department not to accept prepayments. However, on any Program loan(s) retained by the Department, the Department may permit a prepayment if, in its sole discretion, the Department determines that the prepayment is consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550.

(2) The Department must give prior written approval of any loan prepayment. In order to be valid, a written approval of prepayment must be signed by an authorized representative of the Department. In making a decision whether or not to allow prepayment of a loan, the Department may consider criteria that include, but are not limited to, the following:

(a) The financial impact of the prepayment on the Department's programs or on an individual program or Bond indenture;

(b) Economic factors, including, but not limited to, portfolio diversification and relative cost of capital;

(c) The cash flow and other relevant financial considerations of the Project loan for which prepayment is requested;

(d) The ability of the Department to use proceeds of the loan prepayment to increase the availability of housing affordable to low-income Oregonians;

(e) The willingness of the Borrower to execute a written agreement or give other assurances that the Project will continue to be used for the purpose(s) originally intended, as specified in the Loan Documents, or for an alternate use consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550 (continued use will be for a period of time mutually agreed on by the Department and the Borrower);

(f) Tax law consequences; and

(g) Other factors the Department considers appropriate to insure the security for and the ability of the State to repay the Bonds, and to insure the ongoing financial viability and stability of the Department's programs.

(3) If the Department determines that such a loan prepayment is consistent with the best interests of the Department, it may authorize the prepayment provided that the sum to be prepaid, computed as of the date of prepayment, shall equal the unpaid principal balance of the loan plus accrued interest and all other obligations plus, at the Department's discretion, a penalty or premium for the privilege of prepayment. Such prepayment penalty shall be determined based on terms of the original Loan Documents, and amendments thereto which have been mutually agreed on by the Department and the Borrower. The Department may waive all or a portion of such prepayment requirements if it determines, in its sole discretion, that such waiver is in the best interests of the Department. In making a decision whether or not to waive any or all prepayment requirements, the Department may consider, but is not limited to, the criteria identified in OAR 813-035-0715(2)(a) through (g).

(4) Where Section 8 Housing Assistance contracts or other rent subsidies are in place, the Department may approve a loan prepayment request only if such rent subsidies are not unduly impaired, determined at the sole discretion of the Department.

(5) Failure to make timely submission of a prepayment penalty will cause additional interest to accrue at loan rate or statutory rate, whichever is higher.

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650.

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

### 813-035-0720

#### Disposal of Department-Owned Projects

(1) The Department may transfer ownership of a Department-owned Project under this Division through sale, gift or other lawful manner to a Person or Persons whom the Department determines best meets the requirements of this Program. The Department may establish written procedures for selling a Project prior to any offering of such Project, as applicable.

(2) The method of transfer of ownership, timing, price, terms and any other factors pertinent to the transfer of ownership shall be effected by the Department, in a manner which, in the opinion of the Department, best preserves the integrity and continuity of the Department's rental programs. Factors the Department may consider in making a transfer may include, but are not limited to:

(a) The financial investment of the Department in the Project;

(b) Preservation of existing rental housing;

(c) Proposed owner's ability to manage, market, maintain and protect property used as security for the loan made by the Department, if applicable;

(d) Proposed owner's capacity to preserve or improve upon the property's safety, sanitation, durability and livability;

(e) Proposed owner's ability to preserve units which are affordable and suitable to the needs of the residents; and

(f) Continued compliance with state or federal laws, rules or regulations, as applicable to the financing or use of the Project.

Stat. Auth.: ORS 90.800 – ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 – ORS 456.723 & ORS 458.210 – ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: OHCS 1-2000(Temp), f. 6-8-00, cert. ef. 6-8-00 thru 12-4-00; OHCS 3-2000, f. & cert. ef. 9-15-00

## DIVISION 40

## SEED MONEY ADVANCE PROGRAM

**813-040-0005****General Purpose**

The rules of OAR Chapter 813, Division 40 are established to administer ORS 456.515 to 456.720, specifically ORS 456.550, 456.559, 456.574, and 456.710, which authorize the agency to provide non-interest bearing advances to Qualified Nonprofit Housing Sponsors or interest-bearing advances to other Qualified Housing Sponsors to stimulate the production of housing for persons and families of lower income in the State of Oregon. These advances shall be called Seed Money Advances and shall be used only to cover Preconstruction Costs.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-040-0010****Definitions**

(1) All words and terms are used in OAR Chapter 813, Division 040 as defined in the Act, and as provided in OAR 813-005-0005 and herein.

(2) As used in these rules, unless otherwise indicated by the context:

(a) "Feasibility Proposal" means an application or other documentation submitted to the Lending Department which describes the proposed housing Project and provides information which enables the agency to assess the probability of the Seed Money Advance being repaid;

(b) "Letter of Notice to Mortgagee" means a letter from the agency to the proposed Lending Department which provides notification of the Department's approval of the Seed Money Advance. The letter also requires the Lending Department's agreement to repay the Seed Money Advance with disbursement of proceeds of the permanent mortgage loan or with the first construction draw;

(c) "Preconstruction Costs" means expenses for architectural design, legal fees, survey and soils boring, appraisal, consultant fees, land option carrying charges, land acquisition costs, federal or state application fees or other recoverable development costs approved by the agency;

(d) "Qualified Housing Sponsors" means, subject to the approval of the Department, a consumer housing cooperative, a limited dividend housing sponsor, a nonprofit housing corporation, a for-profit housing sponsor including, but not limited to, an individual operating in compliance with the criteria adopted by the Department under ORS 456.620(1), a housing authority created by ORS 456.075, an urban renewal department created by ORS 457.035 and any city or county governing body or department or department designated by the governing body;

(e) "Qualified Nonprofit Housing Sponsor" means a Qualified Housing Sponsor who is non-profit housing corporation, a housing authority created by ORS 456.075, an urban renewal department created by ORS 457.035, and any city or county governing body or department or department designated by the governing body;

(f) "Seed Money Advance Agreement" means the agreement between the agency and a Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor which establishes the terms, conditions and procedures governing the Seed Money Advance.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-040-0015****Eligibility for the Seed Money Advance**

The Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor shall demonstrate need of a Seed Money Advance to pay Preconstruction Costs as set forth in the application and shall satisfy the standards of the agency for financial responsibility and stability.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-040-0020****Limitation on Size of Advance; Source of Funds**

(1) The Seed Money Advance amount shall not exceed two percent of the project cost or \$40,000 whichever is less, except upon a finding by the agency and Housing Council that special circumstances justify a greater Seed Money Advance amount. Seed Money Advances shall be made from the agency's Revolving Account in the General Fund of the State Treasury, subject to the availability of funds and limitations otherwise prescribed by law.

(2) The Department shall charge no interest on a Seed Money advance provided Qualified Nonprofit Sponsors.

(3) Interest on a Seed Money Advance provided other Qualified Housing Sponsors shall be determined by the Department at 50 percent of the set prime lending rate established by New York commercial banks and in effect at the time the Advance is made.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-040-0025****Application Procedure**

(1) The applicant shall submit to the agency the following:

(a) An application for Seed Money Advance in form prescribed by the Department;

(b) Articles of incorporation, bylaws and borrowing resolution of the corporation;

(c) Legal description of the site, preliminary title report and location map;

(d) Copy of Feasibility Proposal;

(e) Financial statements of the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor;

(f) Statement describing the experience of the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor and its ability to develop the proposed project.

(2) The agency shall review the application materials, inspect the site and prepare a proposal for approval, disapproval or other action at the next regularly scheduled meeting of the Housing Council occurring at least two weeks after completion of the Department's proposal. The applicant shall be informed of the Department's proposal at least ten days before the Council meeting and shall be invited to appear personally. The Housing Council shall approve or deny the proposal or take any other appropriate action.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-040-0030****Approval and Closing**

(1) Upon approval by the Housing Council of the Qualified Nonprofit Housing Sponsor's or other Qualified Housing Sponsor's application for the Seed Money Advance, the Department shall issue a letter listing the documents that must be provided or executed by



the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor before a Letter of Notice to Mortgagee is issued. Funds shall be reserved for a maximum of six months, during which time the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor shall provide the Department with copies of the documents listed in section (2) of this rule. If these documents are not received within six months, the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor may be required to submit a new application. If a written request for an extension is submitted to and approved by the agency before the expiration date of the approval letter the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor shall not be required to submit a new application.

(2) The Seed Money Advance approval letter shall be subject to the following documents executed or provided by the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor:

- (a) Seed Money Advance Agreement;
- (b) Note (non-interest-bearing) for the Qualified Nonprofit Housing Sponsor and interest-bearing for other Qualified Housing Sponsors) in the amount of the Seed Money Advance; and
- (c) Other documents unique to the application or required by the Department.

(3) If the applicant holds title to the Project site the following additional items shall be required:

- (a) Mortgage or trust deed showing the Department as mortgagee or beneficiary;
- (b) A title insurance policy in the amount of the Seed Money Advance issued by an approved title company in a form acceptable to the Department and in favor of the Department;
- (c) An insurance policy naming the Department as a loss payee, with comprehensive general liability coverage in the amount of \$100,000 single injury and \$500,000 in the aggregate; and
- (d) Other documents unique to the application or required by the Department.

(4) Upon receipt of the documents the Department may disburse the Seed Money Advance.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-040-0035

#### Distribution of Funds

The Qualified Nonprofit Housing Sponsor shall submit for approval by the agency vouchers, billings or paid receipts for Pre-construction Costs as stated in the application. Upon approval by the Department proceeds shall be disbursed to the vendors or the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-040-0040

#### Repayment

(1) The Seed Money Advance, plus a processing fee equal to two percent of the Seed Money Advance amount, shall be due and payable within six months from the date of the initial disbursement of the Seed Money Advance. The Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor shall make repayment from the initial draw against the construction loan, from the proceeds of the permanent mortgage loan or other available funds. If the initial draw of the construction loan or the proceeds from the permanent loan are not disbursed within the six-month period, the Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor shall make this known to the agency. The Department may require the Qualified Nonprofit Housing Sponsor or other Qualified

Housing Sponsor to repay the Seed Money Advance in full on demand from other sources of funds. The term of the Seed Money Advance may be extended by the agency.

(2) The Qualified Nonprofit Housing Sponsor or other Qualified Housing Sponsor shall report to the agency on the progress of the project and status of the permanent or construction loan at any time as required by the agency.

(3) Any amount of the Seed Money Advance remaining unpaid after the maturity date of the note shall be subject to a late fee of 1-1/2% of the unpaid balance for each month that the Seed Money Advance remains unpaid.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 10-1981(Temp), f. & ef. 8-27-81; 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-040-0045

#### Waiver

The agency may, with the concurrence of the Housing Council, waive or modify any requirement of these Seed Money Advance Program rules, unless such waiver or modification would violate applicable statutes.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 12-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-040-0050

#### Equal Opportunity

No person receiving a Seed Money Advance under these rules shall make any distinction, discrimination, or restriction against any purchaser, occupant lessee, or prospective purchaser, occupant or lessee, relating to the sale, rental, lease or occupancy of real property, because of race, color, creed, sex, marital status or national origin.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.550, ORS 456.559, ORS 456.574 & ORS 456.710  
Hist.: 1HD 5-1982, f. & ef. 6-28-82; 1HD 15-1984, f. & ef. 9-4-84; HSG 8-1987, f. & ef. 3-10-87; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 43

### HOUSING DEVELOPMENT AND LOAN GUARANTEE PROGRAM

### 813-043-0000

#### Purpose and Objectives

The rules of OAR Chapter 813, Division 043, are established to accomplish the general purpose of 1991 Legislative Session law; Chapter 740, the Oregon Housing Fund and the Housing Development and Guarantee Account therein, which authorizes the Department to establish a program to expand the state's supply of housing for low and very low income families and individuals including, but not limited to, persons more than 65 years of age, disabled persons, farm workers, and Native Americans. These rules describe the Housing Development and Loan Guarantee Program and its objective to provide grants and loan guarantees to construct new housing or to acquire and/or rehabilitate existing structures for housing for persons of Low and/or Very Low Income.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600 - ORS 458.650 & Ch. 740, OL 1991  
Hist.: HSG 4-1991(Temp), f. & cert. ef. 10-10-91; HSG 4-1992, f. & cert. ef. 4-28-92

### 813-043-0010

**Definitions**

(1) All words and terms are used in OAR Chapter 813, Division 43, as defined in the Act, and as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(a) "Account" means the Housing Development and Guarantee Account;

(b) "Council" means the State Housing Council established in ORS 456.567;

(c) "Department" means the Oregon agency established under 1991 Legislative Session Law, Chapter 739;

(d) "Disabled" means those persons described as such by the Fair Housing Amendments Act of 1988;

(e) "In-Kind Contribution" means a supportive project contribution other than cash. In-Kind Contributions include, but are not limited, to office equipment, working space, office supplies, staff time, telephone, support staff time, auto use, donated project materials or labor, and non-Board volunteer time;

(f) "Low Income" means a household with an adjusted annual household income that is more than 50 percent but less than 80 percent of the area median income, as determined by the council, based on information from the United States Department of Housing and Urban Development, with allowances for family size;

(g) "Organization" means a:

(A) Nonprofit corporation established under ORS Chapter 65;

(B) Housing authority established under ORS 456.055 to 456.230; or

(C) Local government as defined in ORS 197.015.

(h) "Very Low Income" means a household with an adjusted annual household income that is less than 50 percent of the area median income, as determined by the council, based on information from the United States Department of Housing and Urban Development, with allowances for family size.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600 - ORS 458.650 & Ch. 740, OL 1991

Hist.: HSG 4-1991(Temp), f. & cert. ef. 10-10-91; HSG 4-1992, f. & cert. ef. 4-28-92; HSG 1-1995, f. & cert. ef. 5-4-95

**813-043-0020**

**Eligibility for Housing Development and Guarantee Account Funds**

(1) The Department shall provide grants from Account revenue subject to the availability of funds and limitations otherwise prescribed by law for any or all of the following purposes:

(a) To Organizations and for-profit business entities to construct new housing or to acquire and/or rehabilitate existing structures for housing households with low and/or very low income;

(b) To nonprofit organizations, as set forth in ORS 458.210 to 458.240, to provide technical assistance and/or predevelopment costs. Pre-development costs include but are not limited to, site acquisition, architectural services and project consultants. Pre-development costs do not include costs described in subsection (c) of this section;

(c) For costs to develop nonprofit organizations that show sufficient evidence of having strong community support and a strong likelihood of producing Low and/or Very Low Income housing. No account funds shall be used by an Organization for its general operations;

(d) To match public and private moneys available from other sources for purposes of production of Low and/or Very Low Income housing.

(2) The Department shall provide guarantees of repayment of loans made to finance the construction, acquisition and/or rehabilitation of Low and/or Very Low Income housing. The loan guarantees shall be secured by the principal of the Account, subject to the Account balance and limitations otherwise prescribed by law. The Department shall not:

(a) Issue any loan guarantee that guarantees the repayment of more than 25 percent of the original principal balance of any loan;

(b) At any time allow the aggregate dollar total of all loan guarantees issued to exceed the total amount then in the account.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600 - ORS 458.650 & Ch. 740, OL 1991

Hist.: HSG 4-1991(Temp), f. & cert. ef. 10-10-91; HSG 4-1992, f. & cert. ef. 4-28-92; HSG 6-1994, f. & cert. ef. 9-9-94

**813-043-0030**

**Distribution of Funds**

(1) The Department shall develop a distribution formula which takes into account the relative housing needs of regions and shall concentrate funds in those areas of the state with the greatest housing need, as may be evidenced by factors including but not limited to, the unmet housing need, extent of overcrowding, and number of poverty households.

(2) The distribution formula shall provide for a minimum amount of funds to regions of the state. If an inadequate number of applications are submitted from a particular region to use the minimum regional amount, then the funds may be redistributed to other regions.

(3) The maximum project award to an Organization or for-profit business from the program shall be \$300,000.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600 - ORS 458.650 & Ch. 740, OL 1991

Hist.: HSG 4-1991(Temp), f. & cert. ef. 10-10-91; HSG 4-1992, f. & cert. ef. 4-28-92

**813-043-0040**

**Application Procedure and Requirements**

(1) The Department may provide grant funds subject to the availability of funds in the program through a process which may include, but is not limited to, a first come—first reviewed or a competitive review process. The applicant shall submit, in an application form and process prescribed by the Department, project information including, but not limited to:

(a) A written description of the project including, but not limited to, the number of units, unit mix, proposed rents, site location, the proposed program of services to occupants and the availability of these services in the future, project amenities, and any other information pertinent to the project;

(b) A statement of project purpose indicating the housing type and tenants to be housed, and the length of time the units will be committed available for Low or Very Low Income households;

(c) A proforma of project expenses and income;

(d) Grant amount requested and total project development costs, including a description of all additional project funding and funding sources;

(e) A description of the sponsor/developer/owner/manager experience in developing and operating housing projects;

(f) Such other documentation as the Department may require.

(2) A lender may submit a request for a loan guarantee to the Department for a project that needs a credit enhancement in order to obtain a loan. Only projects that serve Low and/or Very Low Income households are eligible for loan guarantees, including construction loans. The lender's request shall include, but is not limited to:

(a) A written description of the project including but not limited to, the number of units, unit mix, proposed rents, site location and amenities and any other information pertinent to the project;

(b) A statement of project purpose indicating the housing type and tenants to be housed;

(c) A proforma of project expenses and income;

(d) The Loan Guarantee amount requested and total project development costs, including a description of all additional project funding and funding sources;

(e) A description of the sponsor/developer/owner/manager experience in developing and operating housing projects;

(f) Such other documentation as the Department may require;

(g) A \$100 non-refundable application fee;

(h) A non refundable construction loan application fee not to exceed \$350.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600 - ORS 458.650 & Ch. 740, OL 1991

Hist.: HSG 4-1991(Temp), f. & cert. ef. 10-10-91; HSG 4-1992, f. & cert. ef. 4-28-92; HSG 6-1994, f. & cert. ef. 9-9-94

**813-043-0050**

### Criteria for Funding or Guarantee

(1) A project grant award or loan guarantee shall be given preference based on:

(a) Providing the greatest number of Low and Very Low Income housing units for the least amount of account funds expended or committed toward matching funds from other loans, grants, or eligible In-Kind Contributions;

(b) Insuring the longest possible use as Low or Very Low Income housing units; or

(c) Including a program of services for occupants of proposed housing including, but not limited to, programs that address home health care, mental health services, alcohol and drug treatment and post-treatment care, child care and case management;

(d) Other subordinate criteria as determined by the Department including, but not limited to:

(A) Providing housing for a seasonal workforce, where a critical need for housing such a workforce exists in the community;

(B) Providing housing for specific populations which have top priority for that region in the state's Comprehensive Housing Affordability Study (CHAS) or in the CHAS for that community, and have historically faced barriers in finding housing.

(2) Among relatively equivalent applications for grant awards or loan guarantees for farmworker housing, the Department shall give preference to projects which are not under the control of employers. "Control" in this section means the ownership, management, or maintenance of the housing projects. "Employers" in this section includes relatives, agents, or associations of employers.

(3) In evaluating housing projects that serve a predominantly non-English speaking population, the Department shall give subordinate preference to projects which mitigate the language barrier impact in the provision of supportive services.

(4) A grant to a project shall be conditioned upon the continued use of the project for the targeted tenant group and provision of supportive services for the duration and to the extent indicated in the grant application. The Department, at its discretion, may require repayment of the grant if all or part of the commitments to tenant groups, supportive services, or period of use for Low or Very Low Income housing are withdrawn from the project. Grant terms and conditions shall be established in a project use agreement and recorded.

(5) At least 75 percent of the revenue derived from the Account in any calendar year shall be used to produce housing for the Very Low Income persons, and no more than 25 percent of the revenue derived in any calendar year shall be used to produce housing for Low income households.

(6) At least 75 percent of the Account shall be used to guarantee loans made to finance the construction, development, acquisition or rehabilitation of housing for Very Low Income households. No more than 25 percent of the Account shall be used to guarantee loans made to finance the construction, development, acquisition or rehabilitation of housing for Low Income households.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600 - ORS 458.650 & Ch. 740, OL 1991

Hist.: HSG 4-1991(Temp), f. & cert. ef. 10-10-91; HSG 4-1992, f. & cert. ef. 4-28-92

### 813-043-0060

#### Fees

(1) A lender receiving a loan guarantee shall be charged an annual fee up to .25 percent on the original loan balance. Payment shall be remitted to the Department not less than annually.

(2) If the guarantee coverage is less than the maximum 25 percent, then the fee will be reduced proportionally (e.g., a ten percent guarantee shall have an annual fee of ten percent). Line of credit guarantee fees shall be based on the total credit line.

(3) A non refundable extension fee shall be charged to extend a loan guarantee reservation. The fee shall be 25% of the estimated annual loan guarantee fee for every 180 days extension.

(4) A \$100 non refundable assumption/transfer fee shall be charged when a loan is assumed or transferred and the loan guarantee is to remain in place.

(5) Fees collected by the Department shall be used for the Loan Guarantee Program operations including, but not limited to, funding a loan loss reserve.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600 - ORS 458.650 & Ch. 740, OL 1991

Hist.: HSG 4-1991(Temp), f. & cert. ef. 10-10-91; HSG 4-1992, f. & cert. ef. 4-28-92; HSG 6-1994, f. & cert. ef. 9-9-94

## DIVISION 44

### HOME OWNERSHIP ASSISTANCE PROGRAM OF THE OREGON HOUSING FUND

#### 813-044-0000

##### Purpose and Objectives

The rules of OAR Chapter 813 Division 044, are established to accomplish the general purpose of 1995 Legislative Session law Chapter 174; House Bill 2133, the Home Ownership Assistance Program (Account) of the Oregon Housing Fund, which authorizes the Department to establish a program to expand the state's supply of home ownership housing for low and very low income families and individuals including, but not limited to housing for persons more than 65 years of age, disabled persons, farm workers, and Native Americans. These rules describe the Home Ownership Assistance Program and its objective to provide grants to organizations which will use the funds, in conjunction with other resources, to enable Low and Very Low Income Oregon households to purchase housing. Home ownership may be achieved for participating program households through lease-to-own programs, construction of new home ownership housing, or acquisition of existing housing with or without rehabilitation. Program funding will be consistent with the intent to provide eligible home purchasers with assistance for down payment/ closing costs, or other means to make ownership feasible, as well as assure home ownership education.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.600, ORS 458.605, ORS 458.620 & ORS 458.625

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96

#### 813-044-0010

##### Definitions

All words and terms are used in OAR Chapter 813, Division 44, as defined in the Act, and as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Account" means the Home Ownership Assistance Account of the Oregon Housing Fund

(2) "Council" means the State Housing Council established in ORS 456.567.

(3) "Department" means the Oregon agency established under 1991 Legislative Session Law, Chapter 739.

(4) "Disabled" means those persons described as such by the Fair Housing Amendments Act of 1988.

(5) "In-Kind Contribution" means a supportive project contribution other than cash. In-Kind Contributions include, but are not limited to, office equipment, working space, office supplies, staff time, telephone, support staff time, auto use, donated project materials or labor, and non-Board volunteer time.

(6) "Low Income" means a household with an adjusted annual household income that is more than 50 percent but less than 80 percent of the area median income, as determined by the Council, based on information from the United States Department of Housing and Urban Development, with allowances for family size.

(7) "Organization" means a:

(a) Nonprofit corporation established under ORS chapter 65;

(b) Housing authority established under ORS 456.055 to 456.230; or

(c) Local government as defined in ORS 197.015.

(8) "Very Low Income" means a household with an adjusted annual household income that is less than 50 percent of the area median income, as determined by the Council, based on information from the United States Department of Housing and Urban Development, with allowances for family size.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.610

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96



**813-044-0020**

**Eligibility for Housing Development and Guarantee Account Funds**

(1) The Department shall provide grants from Account revenue subject to the availability of funds and limitations otherwise prescribed by law for any or all of the following purposes:

(a) To aid low income home ownership programs, including program administration, in purchasing land, providing assistance with down payment costs which includes closing costs, or providing home ownership training and qualification services or any combination thereof. No Home Ownership Assistance Account funds shall be used by an organization for its general operations or for a substantial portion of construction or rehabilitation costs (i.e., program funds shall not be used by the grantee as a source for project construction and/or rehabilitation financing);

(b) To match public and private moneys available from other sources for purposes of the provision of low or very low income home ownership housing.

(2) Eligible applicants are Organizations that both sponsor and manage low income home ownership programs.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.625

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96

**813-044-0030**

**Distribution of Funds**

(1) The Department shall distribute funds statewide and shall concentrate funds in those areas of the state with the greatest housing need, as determined by the Council.

(2) The maximum project award to an Organization from the Program shall be \$100,000; no organization shall receive more than \$200,000 per biennium.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.625

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96

**813-044-0040**

**Application Procedure and Requirements**

The Department may provide grant funds subject to the availability of funds in the program through a process which may include, but is not limited to, receipt and response to individual proposals or submission of proposals subject to a competitive review process. The applicant organization shall submit, in an application form and process prescribed by the Department, project information including, but not limited to:

(1) A written description of the project including, but not limited to, the number of units, site locations, the proposed program of services to program participants, project amenities, criteria for selecting prospective homeowners, and any other information pertinent to the project;

(2) A statement of project purpose indicating the housing type and target occupants to be housed, and the length of time and method whereby the units will be committed available for Low or Very Low Income households;

(3) A proforma of project expenses, income (if applicable) and financing;

(4) Grant amount requested and total project development costs, including a description of all additional project funding and funding sources;

(5) A description of the sponsor/manager experience in developing, managing, and operating home ownership programs;

(6) A description of the Organization's program management responsibilities; and

(7) Such other documentation as the Department may require.

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.625

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96

**813-044-0050**

**Criteria for Funding or Guarantee**

(1) A project grant award or loan guarantee shall be given preference based on:

(a) Providing the greatest number of Low and Very Low Income home ownership housing units for the least amount of

Account funds expended or committed toward leveraged funds from other loans, grants, or eligible In-Kind Contributions;

(b) Insuring the longest possible use as Low or Very Low Income home ownership housing units; or

(c) Including a program of services for occupants and proposed occupants of proposed housing including, but not limited to, programs that address home health care, mental health services, alcohol and drug treatment and post-treatment care, child care, home ownership training, mortgage qualification service, credit repair, and case management;

(d) Other subordinate criteria as determined by the Department and included in a competitive proposal solicitation.

(2) Down payment, including closing cost, assistance programs shall include home ownership education/training as a requisite for program participant eligibility to receive assistance funds. The Department will establish and maintain a list of approved home ownership education/training programs.

(3) A grant to a project shall be conditioned upon the continued use of the project for the targeted ownership group and provision of supportive services for the duration and to the extent indicated in the grant application. Programs should target recapture of assistance resulting from owner's home sale. Recycling recaptured funds is an acceptable program provision. The Department, at its discretion, may require repayment of the grant if all or part of the commitments to occupant groups, supportive services, or period of use for Low or Very Low Income housing are withdrawn from the project. Grant terms and conditions shall be established in a program use agreement and recorded (if applicable).

Stat. Auth.: ORS 458.600 - ORS 458.650

Stats. Implemented: ORS 458.625

Hist.: HSG 2-1996, f. & cert. ef. 4-15-96

**DIVISION 45**

**HOUSING DEVELOPMENT ACCOUNT PROGRAM**

**813-045-0005**

**General Purpose**

The rules of OAR Chapter 813, Division 45 are established to accomplish the general purpose of ORS 456.515 to 456.720, specifically ORS 456.720(7), which authorizes the Department to establish a Housing Development Account to carry out the purposes of the Act by contract, grant, loan, or as otherwise determined necessary by the Department.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 2-1988(Temp), f. & cert. ef. 4-5-88; HSG 3-1988, f. & cert. ef. 9-2-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 13-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-045-0010**

**Definitions**

All words and terms are used in OAR Chapter 813, Division 45 as defined in the Act, and as provided by OAR 813-005-0005.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 2-1988(Temp), f. & cert. ef. 4-5-88; HSG 3-1988, f. & cert. ef. 9-2-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 13-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-045-0015**

**Eligibility for Housing Development Account Funds**

(1) The Department may provide funds from the Housing Development Account subject to the availability of funds in the Account and limitations otherwise prescribed by law, and only for the purposes specified or allowed in the Act.

(2) The Department may from time to time restrict use of available funds for specific housing projects or purposes, restrict the type of assistance available, or restrict the type of applicant eligible for assistance.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: HSG 2-1988(Temp), f. & cert. ef. 4-5-88; HSG 3-1988, f. & cert. ef. 9-2-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 13-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-045-0020

#### Application Procedure

(1) The Department may from time to time solicit applications for Housing Development Account funds, and may, in its discretion, consider for funding only applications received as a response to such solicitation.

(2) All applications for assistance from the Housing Development Account shall be in writing to the Department, and shall contain at a minimum the following information:

- (a) Name, address, and telephone number of the applicant;
- (b) Amount and type of assistance requested; and
- (c) A description of how the assistance will be used, including the type of housing project or program involved; number of housing units to be provided or the number of persons to be housed; the estimated time period from start to completion of the project or program; the geographic area where the assistance will be used; and the federal, state, or local agencies or organizations involved.

(3) If the Department receives applications in an amount greater than the amount of funds available, the Department shall select those applications which, in the judgment of the Department, best achieve the purposes of the Housing Development Account Program rules and the Act.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: HSG 2-1988(Temp), f. & cert. ef. 4-5-88; HSG 3-1988, f. & cert. ef. 9-2-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 13-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-045-0025

#### Application Review

(1) For loans or grants where the amount requested from the Housing Development Account does not exceed \$100,000, or any other form of assistance, the Department shall consider the application and approve, disapprove, or request additional information on the application within 30 calendar days of receipt of the application.

(2) For loans or grants where the amount requested from the Housing Development Account is in excess of \$100,000, the Department shall consider the application and approve, disapprove or request additional information on the application within 30 calendar days of receipt of the application. If the Department proposes to make the loan or grant, it shall submit the loan or grant it proposes to make to the State Housing Council for review. The State Housing Council shall approve or disapprove the loan or grant at a public hearing of the Council, pursuant to ORS 456.571(2). The Department shall advise the applicant in writing of the action taken by the State Housing Council within 15 calendar days of such meeting.

(3) In reviewing applications for assistance, the Department and the State Housing Council, as appropriate, may consider, but are not limited to, the following:

- (a) Amount of available funds in the Housing Development Account;
- (b) Availability of other sources of assistance;
- (c) Ability to leverage public or private funds;
- (d) Involvement of federal, state or local government agencies, nonprofit housing or social service agencies;
- (e) Geographic area affected;
- (f) Number and type of housing units to be provided or number of persons to be housed;
- (g) Administrative costs and/or responsibilities imposed on the Department in connection with the assistance provided; and
- (h) Type and number of households to be assisted.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720

Hist.: HSG 2-1988(Temp), f. & cert. ef. 4-5-88; HSG 3-1988, f. & cert. ef. 9-2-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 13-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-045-0030

#### Form of Assistance

(1) The Department shall confirm to the applicant in writing the type of assistance, if any, to be provided from the Housing Development Account. Assistance may be in the form of, but is not limited to, loans, grants, contract agreements, or insurance.

(2) The Department may establish fees, premiums, interest rates, repayment terms, performance criteria and reporting requirements as the Department considers appropriate or necessary for the type and use of assistance provided. The Department shall specify such terms and conditions to the applicant in writing before funds are advanced or contractual agreements signed.

(3) The Department may require the applicant to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided, and any terms and conditions agreed to in connection with such assistance.

(4) If the terms and conditions upon which the assistance was approved or provided are not met, the Department may, upon written notice, immediately revoke approval of the use of the Housing Development Account funds, and/or require repayment of all or a portion of the funds advanced, if any.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: HSG 2-1988(Temp), f. & cert. ef. 4-5-88; HSG 3-1988, f. & cert. ef. 9-2-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 13-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-045-0035

#### Waiver for Other Sources

If the Department has applied for and received funds on deposit in the Housing Development Account from other sources or on behalf of another person, the provisions of Chapter 813, Division 45 may be waived by the Director as necessary or convenient to comply with the rules, regulations or procedures prescribed by the source of funds, unless such waiver would violate applicable statutes.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
 Stats. Implemented: ORS 456.515 - ORS 456.720  
 Hist.: HSG 2-1988(Temp), f. & cert. ef. 4-5-88; HSG 3-1988, f. & cert. ef. 9-2-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 13-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 46

### EMERGENCY HOUSING PROGRAM

### 813-046-0010

#### Purpose and Objectives

The rules of OAR Chapter 813, Division 46, are established to accomplish the general purpose of 1991 Legislative Session Law; Chapter 740, the Oregon Housing Fund and the Emergency Housing Account therein, which authorizes the Department to establish a program to assist homeless persons and those persons who are at risk of becoming homeless including, but not limited to, persons more than 65 years of age, disabled persons, farm workers and Native Americans. The rules describe the Emergency Housing Program and its objective to assist homeless and at risk homeless by providing funding to supplement existing programs to establish new programs.

Stat. Auth.: ORS 458.650  
 Stats. Implemented: ORS 458.650  
 Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

### 813-046-0020

## Definitions

All words and terms are used in OAR Chapter 813, Division 46 as defined in the Act, and as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Community Action Agency" means a private nonprofit corporation incorporated under ORS Chapter 65, or office or agency of a political subdivision designated as a Community Action Agency pursuant to the Economic Opportunity Act of 1964 by the Department of Health and Human Services.

(2) "Eligible Services" means shelter, supportive, and attendant services for the homeless or at risk of becoming homeless provided under these rules.

(3) "Homeless" means an individual or family, as a household, that does not have the means to secure and maintain decent, safe shelter.

(4) "Lead Agency" means agencies responsible for coordinating homeless program resources and workplans for their service area. In a service area where a Community Action Agency exists, they will have the first right refusal for lead agency status.

(5) "Low Income" means a household with an adjusted annual household income that is more than 50 percent but less than 80 percent of the area median income as determined by the United States Department of Housing and Urban Development, with allowances for family size.

(6) "Self-sufficiency" means meeting basic needs and achieving stability in such areas as, but not limited to, housing, household income, nutrition and health care and accessing needed services.

(7) "Service Area" means the specific geographic area or region within which the lead agency provides services directly or by contract.

(8) "Subgrantee" means local public or private, nonprofit entities which contract for operation of programs providing Eligible Services.

(9) "Very Low Income" means a household with an adjusted annual household income that is less than 50 percent of the area median income as determined by the U.S. Department of Housing and Urban Development, with allowances for family size.

Stat. Auth.: ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94

## 813-046-0030

### Use of Funds

(1) The Department shall provide grants to lead agencies to provide directly or through subgrantees:

(a) Emergency shelter and attendant services;

(b) Transitional housing services designed to assist persons to make the transition from homelessness to permanent housing and economic independence;

(c) Supportive housing services to enable persons to continue living in their own homes or to provide in-home services for such persons for whom suitable programs do not exist in their geographic area; or

(d) Programs that provide emergency payment of home payments, rents or utilities;

(e) Programs, activities and projects that expand community shelter capacity and transitional housing.

(2) Program assistance shall be available to low and very low income homeless or at risk of becoming homeless.

(3) All recipients of assistance under subsections (1)(b) and (c) of this rule will participate in programs or activities that will increase household self-sufficiency.

(4) The amount of Emergency Housing Program funds used for facility rehabilitation, acquisition or other capital expenditures shall be limited to 15% of the Department's Annual Emergency Housing Account allocation.

(5) Funds granted shall not be used to replace existing funds but may be used to supplement existing funds. An organization may use funds to establish new programs.

Stat. Auth.: ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92; HSG 9-1994, f. & cert. ef. 11-9-94

## 813-046-0040

### Client Eligibility

(1) Program assistance shall be available to homeless or at risk of being homeless.

(2) Eligibility may be determined through self-declaration or by referral from such agencies as police, AFS field offices, or other human service agencies.

(3) Residency within a designated service area or legal status shall not be a client eligibility criterion.

Stat. Auth.: ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

## 813-046-0050

### Form of Assistance

(1) Fund allocation will be by formula to service areas based upon established factors.

(2) Lead agencies shall be responsible for coordinating and establishing area plans for use of funds and shall assure meaningful opportunity for participation in the plan by local service interests. Coordinated plans shall be submitted to the Department within established time frames.

(3) All workplans for the program shall be in writing to the Department, and shall contain at a minimum the following information:

(a) Name, address, and telephone number of the applicant;

(b) Amount of assistance requested;

(c) A description of how the assistance will be used;

(d) Demonstration that the lead agency and any designated subgrantees has the capacity to deliver any service proposed in the application;

(e) Acknowledgement by other local service providers and other interest groups of support for the proposed use of the funds;

(f) A geographic description of the Program service area.

Stat. Auth.: ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

## 813-046-0060

### Application Review

The Department shall review the workplans, make preliminary approval, and may request additional information on the application within 15 calendar days of receipt of the application.

Stat. Auth.: ORS 458.620, ORS 458.630 & ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

## 813-046-0070

### Appeal Procedure

Local interest groups, service providers, or representatives thereof who oppose the use of funds reflected in area plans submitted to the Department lead agency may submit written comments to the Department Director after proceeding with the local appeals process. The Director, following review and investigation of circumstances shall respond to the comments within 20 days.

Stat. Auth.: ORS 458.620, ORS 458.630 & ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

## 813-046-0080

### Fiscal Control/Reporting Requirements/ Documentation

(1) Each lead agency shall maintain records which document the receipt and dispersal of all funds provided through the program.

(2) Each lead agency shall maintain records which document the clients receiving services through the program. Such records shall include client signatures, the coordination of other services provided to meet other client needs, and client status upon service termination.



(3) Each lead agency shall provide the Department with not less than an annual report of program fiscal transactions within 120 days after the close of the Department's fiscal year.

(4) Program activity records including client records and fiscal transactions shall be maintained by each lead agency for a period of three years and shall be available to the Department and other authorized staff for inspection.

Stat. Auth.: ORS 458.620, ORS 458.630 & ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

#### 813-046-0090

##### Monitoring

(1) The Department shall monitor local agencies' activities to verify program compliance for eligible client expenditures and administrative costs.

(2) Monitoring may include, but not be limited to, inspection of client files, program records, fiscal records including original receipts for expenditures and facilities used for provision of services.

Stat. Auth.: ORS 458.620, ORS 458.630 & ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

#### 813-046-0100

##### Waiver for Other Sources

If the Department has applied for and received or otherwise received funds on deposit for the program from other sources, the provisions of OAR Chapter 813, Division 46 may be waived by the Director as necessary or convenient to comply with the rules, regulations or procedures prescribed by the source of funds, unless such waiver would violate applicable statutes.

Stat. Auth.: ORS 458.620, ORS 458.630 & ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: HSG 5-1991(Temp), f. & cert. ef. 10-10-91; HSG 5-1992, f. & cert. ef. 6-16-92

### DIVISION 47

#### COMMUNITY DEVELOPMENT CORPORATION PROGRAM

#### 813-047-0001

##### Purpose and Objectives

The rules of OAR Chapter 813, Division 47, are established to accomplish the general purpose of ORS 456.515 to 456.725 and ORS 458.210 to 458.240, specifically ORS 458.210 through 458.240, which authorize the Department to establish a program to provide assistance to qualified nonprofit community-based organizations to establish Community Development Corporations (CDC) and expand the capacity of Community Development Corporations to meet housing as a community development need of their service area, and to provide Community-Based Social Services which involve training and/or employment for low and moderate income residents within a Targeted Area. The Community Development Corporation (CDC) Program's objectives are to develop local organizational capacity to build, rehabilitate and manage low and moderate income housing through the formation and expansion of Community Development Corporations, and to expand the Local Capacity of Community Development Corporations to provide Community-Based Social Services within a Targeted Area.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92

#### 813-047-0005

##### Definitions

All words and terms are used in OAR Chapter 813, Division 47 as defined in the Act, and as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Act" means ORS 456.515 to 456.725 and ORS 458.210 to 458.240, particularly ORS 458.210 through 458.240.

(2) "Capacity Building Grant" means an award of funds not subject to repayment when used for an authorized purpose within a stipulated time, if any, which is used to increase or broaden a Community Development Corporation's Local Capacity to meet the housing needs of the service area. Eligible fund uses for this purpose may include, but are not limited to, adding staff for development or expansion of projects or programs, expanding the CDC's organizational capacity, training, or capital outlay.

(3) "Community-Based Social Services" means comprehensive client-centered services delivered within a Targeted Area which promote Community Economic Revitalization. The purpose of these services is to assist individuals and families to become more functional and self-reliant.

(4) "Community Development Corporation" or "CDC" means an organization that:

(a) Is established under the provisions of ORS Chapter 65 as a nonprofit corporation;

(b) Has qualified for tax exempt status in accordance with the Internal Revenue Code of 1986, as amended, Section 501(c)(3), and applicable regulations thereunder;

(c) Has a purpose, stated in the articles of incorporation, to serve low and moderate income people's needs for community development and community self-help;

(d) Has a board of directors, of not fewer than five members, that is locally controlled by including 51 percent of the board members from the service area; and

(e) Has a defined Geographic Service Area.

(5) "Community Economic Revitalization" is a community-oriented strategy of targeting resources which emphasizes a comprehensive approach to addressing problems in a Targeted Area, is controlled by residents of the Targeted Area, and uses tangible development activities to increase the amount of investments made and retained in the Targeted Area.

(6) "Geographic Service Area" means the particular area or region which the Nonprofit Community-Based Organization or Community Development Corporation has identified and/or targeted to receive development activity.

(7) "Human Investment Strategies Grant" means an award of funds not subject to repayment when used for an authorized purpose within a stipulated time, if any, which is used to increase or broaden a Community Development Corporation's local capacity to deliver Community-Based Social Services through the training and/or employment of local residents within a Targeted Area. A proposed project under this category must demonstrate how the delivery of Community-Based Social Services will promote Community Economic Revitalization within a Targeted Area. Eligible fund uses for this purpose may include, but are not limited to, training and employment programs for residents of the Targeted Area which are directly involved with the delivery of Community-Based Social Services including, but not limited to, early childhood development, health care, services for the elderly, services for youth, services for substance abuse, and services for the developmentally disabled; adding staff for the development of a project for a Human Investment Strategies Grant; expanding the CDC's organizational capacity to administer a Human Investment Strategies Grant; and overhead expenses, training, or capital outlay costs associated with the development of a Human Investment Strategies Grant project.

(8) "Initial Planning Grant" means an award of funds not subject to repayment when used for an authorized purpose within a stipulated time, if any, which is used to initiate and establish a Community Development Corporation. Eligible fund uses for this purpose may include, but are not limited to, payment of rent, staff salaries and benefits, office supplies and expenses, legal fees, and filing fees.

(9) "In-Kind Contribution" means a supportive project contribution other than cash. In-Kind Contributions include, but are not limited to, office equipment, working space, office supplies, staff time, telephone, support staff time, automobile use, donated project materials or labor, and non-Board volunteer time.

(10) "Local Capacity" means the ability or competency of individuals in organizations in an identified limited area to address a

housing, human services, or Community Economic Revitalization issue or problem.

(11) "Low Income" means an adjusted annual household income, as defined in **24 CFR, Part 91.5**, which does not exceed 80 percent of the median household income for the area, as determined by the Department of Housing and Urban Development with allowances for family size.

(12) "Moderate Income" means an adjusted annual household income, as defined in **24 CFR, Part 91.5**, which is between 81 and 95 percent of the median household income for the area, as determined by the Department of Housing and Urban Development with allowances for family size.

(13) "Nonprofit Community-Based Organization" means an organization which is established under the provisions of ORS Chapter 65, or a Housing Authority, or a Community Action Agency, or other nonprofit or governmental entity representing or seeking to serve the housing, human services and/or Community Economic Revitalization needs of a clearly-defined population and area.

(14) "Targeted Area" means a defined county or multi-county area, a town or city, or a neighborhood or neighborhoods.

(15) "Very Low Income" means an adjusted annual household income, as defined in **24 CFR, Part 91.5**, which does not exceed 50 percent of the median household income for the area, as determined by the Department of Housing and Urban Development with allowances for family size.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92

### 813-047-0010

#### Application Procedure and Requirements

(1) The Department shall, from time to time as program funds support, solicit applications for Community Development Corporation Program funds, and shall consider for funding only applications received in response to such solicitation.

(2) The Department may provide funds for Initial Planning Grants, Capacity Building Grants and/or for Human Investment Strategies Grants. The Department may restrict the availability of Program funds for each such category of grant at the time it solicits applications:

(a) Initial Planning Grants: In order to qualify for an Initial Planning Grant, a qualified Nonprofit Community-Based Organization shall obtain, and provide evidence of, matching funds or In-Kind Contributions in an amount established by the program solicitation. The matching funds or in-kind requirement shall not exceed 50 percent of the grant request; greater in-kind amounts may be voluntarily contributed in support of proposal rating criteria. The maximum grant award shall be \$5,000;

(b) Capacity Building Grants: The Department shall not award grants to cover complete costs or activities. CDC applicants shall be required to demonstrate the usefulness and supportive effect a Capacity Building Grant provides to the anticipated project/activity over-all realization. The maximum grant award shall be \$30,000;

(c) Human Investment Strategies Grants: The Department shall not award grants to cover complete costs or activities. CDC applicants shall be required to demonstrate how the proposed project supports the service needs of individuals and families residing in a Targeted Area and how training and/or employment programs will be provided to low and moderate income residents of the Targeted Area through the delivery of Community-Based Social Services. The maximum grant award shall be \$50,000.

(3) The Department may further restrict the use of available funds for specific capacity building activities related to housing needs in the service area, for specific Human Investment Strategies Grant activities, restrict the amount and/or type of assistance available, or restrict the type of applicant eligible for assistance.

(4) Grant recipients are limited to one grant per biennium under each category of grant.

(5) All applications for assistance from the Community Development Corporation Program shall be in writing to the Department, and shall contain at a minimum the following information:

(a) Name, address, and telephone number of the applicant;

(b) Amount and type of assistance requested;

(c) A description of how the assistance will be used including whether the funds are:

(A) To expand an existing Community Development Corporation; or

(B) For an Initial Planning Grant to start up a Community Development Corporation; or

(C) To expand an existing Community Development Corporation's Local Capacity to provide Community-Based Social Services within a Targeted Area; and

(d) A description of the Community Development Corporation's present or proposed Geographic Service Area and/or a description of the Targeted Area as it applies to Human Investment Strategies Grant requirements.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92

### 813-047-0015

#### Application Review

(1) The Department shall consider the application and make application approval, deny application approval, or request additional information on the application within 30 calendar days of receipt of the application.

(2) In reviewing applications for assistance, the Department, as appropriate, may consider, in addition to any special solicitation evaluation criteria, the following:

(a) Amount of available funds in the Community Development Corporation Program;

(b) Availability of other sources of assistance including In-Kind Contributions in excess of the minimum required;

(c) Applicant's ability to leverage public or private funds;

(d) Compliance with any statutorily-required geographic preferences;

(e) For the purposes of the Human Investment Strategies Grants, the Department may consider the effectiveness of the proposed activities for a CDC's Targeted Area;

(f) Appropriateness of organizational development and Human Investment Strategies Grant activities proposed;

(g) Appropriateness of proposed activities to meet the housing, human services, and/or Community Economic Revitalization needs of residents within the service area;

(h) Number of low and moderate income persons to be assisted for the amount of funds requested;

(i) Documentation of local coordination efforts focused at avoiding duplication of existing services and meeting unmet needs; and

(j) For the purposes of the Human Investment Strategies Grants, a CDC shall demonstrate coordination with local housing interests including, but not limited to, housing authorities, community action agencies, community development corporations, housing development corporations, and the local governing jurisdiction or jurisdictions.

(3) If the Department receives applications in an amount greater than the amount of funds available, the Department shall select those applications which, in the judgment of the Department, best achieve the purposes of the Community Development Corporation Program rules, the Act, and any evaluation criteria outlined in the program solicitation.

(4) In dispersing CDC Program funds, the Department shall give preference within the solicitation rating criteria as established in statutory provision ORS 458.225 to a community development corporation that:

(a) Has a defined geographic service area in Multnomah, Washington, Clackamas, Lane, Linn, Douglas, Jackson and Marion Counties which does not include more than 50,000 people; or

(b) Has a defined geographic service area in all other counties which does not include more than 75,000 people; and

(c) Can demonstrate support from the community. Acceptable demonstrations of support must be in writing and may include, but are not limited to, organizational letters, personal statements, or written commitments of project contributions.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-4-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92

### 813-047-0020

#### Form of Grant Assistance

(1) The Department shall confirm to the applicant in writing the amount of assistance, if any, to be provided from the Community Development Corporation Program. Assistance shall be in the form of grants under contractual agreement. In the grant award letter the Department shall inform grant recipients of their eligibility to apply for additional grant funding from the program within the same biennium.

(2) The Department may establish performance criteria and reporting requirements as the Department considers appropriate or necessary for the type and use of assistance provided. The Department shall specify such terms and conditions to the applicant in writing before funds are advanced or contractual agreements signed. The Department may require the applicant to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided, and any terms and conditions agreed to in connection with such assistance.

(3) If the terms and conditions upon which the assistance was approved or provided are not met, the Department may, upon written notice in compliance with the agreement terms, immediately revoke approval of the use of the Community Development Corporation Program funds.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-24-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92; HSG 7-1992, f. & cert. ef. 6-16-92

### 813-047-0025

#### Waiver for Other Sources

If the Department has applied for and received funds on deposit for the Community Development Corporation Program from other sources or on behalf of another person, the provisions of OAR Chapter 813, Division 047 may be waived by the Director as necessary or convenient to comply with the rules, regulations or procedures prescribed by the source of funds, unless such waiver would violate applicable statutes.

Stat. Auth.: ORS 458.210 - ORS 458.240

Stats. Implemented: ORS 458.210 - ORS 458.240

Hist.: HSG 2-1990, f. & cert. ef. 2-5-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 3-1991, f. & cert. ef. 9-24-91; HSG 2-1992(Temp), f. & cert. ef. 1-9-92

## DIVISION 48

### HOUSING REVITALIZATION PROGRAM

### 813-048-0005

#### General Purpose

The rules of OAR Chapter 813, Division 048 are established to accomplish the general purpose of ORS 458.305 to 458.310, specifically ORS 458.310, which authorize the Department to establish a Housing Revitalization Program to carry out the purposes of the Act by contract, grant, loan, or as otherwise determined necessary by the Department. The Housing Revitalization Program's objective is to provide assistance to nonprofit organizations, housing authorities, units of local government, or any other organization which may be eligible under the provisions of ORS 458.310(1)(a)(D) to develop housing revitalization programs using vacant, abandoned, or rehabilitable substandard property to increase affordable housing for persons earning 80% or less of the median income level. The Housing

Revitalization Program may provide assistance for low income home ownership, and for affordable rental properties.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 458.305 - ORS 458.310

Hist.: HSG 8-1991, f. & cert. ef. 12-23-91

### 813-048-0010

#### Definitions

All words and terms are used in OAR Chapter 813, Division 48 as defined in the Act, and as provided by OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Act" means ORS 458.305 to 458.310.

(2) "Applicant" means a unit of local government, a housing authority, a Nonprofit Corporation, or an applicant which is eligible pursuant to ORS 458.310(D), who contracts with another entity, including a private for-profit corporation.

(3) "Low Income" means an adjusted annual household income, as defined in **42 U.S.C. 1437**, which does not exceed 50 percent of the median household income for the area, as determined by the Department of Housing and Urban Development with allowances for family size.

(4) "Moderate Income" means an adjusted annual household income, as defined in 42 U.S.C. 1437, which does not exceed 80 percent of the median household income for the area, as determined by the Department of Housing and Urban Development with allowances for family size.

(5) "Multifamily Housing" means housing containing more than one living unit for Low and Moderate income families or persons, and/or disabled persons, but not providing licensed care.

(6) "Nonprofit Corporation" means an organization which is established under the provisions of ORS Chapter 65, or a Housing Authority, or a Community Action Department, or a Community Development Corporation, or other nonprofit or governmental entity representing or seeking to serve the housing needs of a clearly-defined population and area.

(7) "Rural Area" means an incorporated or unincorporated area with a population area of 20,000 or less.

(8) "Single Family Housing" means a housing unit intended and used for occupancy by one household and the property on which it is located. This shall be real property located in the State of Oregon. Single family housing may include a single-family residence, condominium unit, a dwelling in a Planned Unit Development (PUD), or a mobile or manufactured home which has a minimum of 400 square feet of living space and minimum width in excess of 102 inches and is of a kind customarily used at a fixed location.

(9) "Substandard Property" means a housing unit or units which meet the definition of dilapidated housing pursuant to the U.S. Department of Housing and Urban Development (HUD) Section 8 Housing Assistance Program which includes, but is not limited to the following:

(a) Does not provide safe and adequate shelter; and

(b) Endangers the health, safety, or well-being of a family; or

(c) Has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect or lack of repair, or from serious damage to the structure; or

(d) A comparable local definition of substandard housing.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 458.305 - ORS 458.310, specifically ORS 458.310(1)(a)(D)

Hist.: HSG 8-1991, f. & cert. ef. 12-23-91

### 813-048-0015

#### Eligibility for Housing Revitalization Program Funds

(1) The Department may provide funds from the Housing Revitalization Program subject to availability of funds in the Program and limitations otherwise prescribed by law, and only for the purposes specified or allowed in the Act.



(2) The Department may from time to time restrict use of available funds for specific housing projects or purposes, restrict the type of assistance available, or restrict the type of applicant eligible for assistance.

(3) Projects or programs eligible for assistance from the Housing Revitalization Program shall bring into use vacant and abandoned property or rehabilitate Substandard Property, or both. Eligible activities include, but are not limited to, the following:

- (a) Purchase of property;
- (b) Rehabilitation of housing units;
- (c) New construction to replace units for which rehabilitation is infeasible;
- (d) Mortgage interest subsidies or reduction of principal loan amounts; or

(e) Other activities that have the effect of making properties available to and occupied by persons of Low and Moderate Income, such as loan guarantees.

(4) Eligible properties include owner-occupied or rental Single Family or Multifamily Housing.

(5) Rental housing provided under the program shall have rent levels no higher than 30 percent of 80 percent of median income levels.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 458.305 - ORS 458.310, specifically ORS 458.310(1)(a)(D)

Hist.: HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-048-0020

##### Application Procedure and Requirements

(1) The Department may from time to time solicit applications for Housing Revitalization Program funds, and may, in its discretion, consider for funding only applications received as a response to such solicitation.

(2) All applications for assistance from the Housing Revitalization Program shall be in writing to the Department, and shall contain at a minimum the following information:

- (a) Name, address, and telephone number of the Applicant;
- (b) Amount and type of assistance requested; and
- (c) A description of how the assistance will be used, including the type of housing project or program involved; number of housing units to be provided or the number of persons to be housed; the estimated time period from start to completion of the project or program; the geographic area where the assistance will be used; and the federal, state, or local agencies or organizations involved.

(3) If the Department receives applications in an amount greater than the amount of funds available, the Department shall select those applications which, in the judgement of the Department, best achieve the purposes of the Housing Revitalization Program rules and the Act.

(4) In disbursing Housing Revitalization Program funds, the Department shall give priority within the solicitation rating criteria as established in statutory provision ORS 458.310(2) and (3) to:

(a) Rental Housing which has rent levels no higher than 30 percent of 50 percent of median income levels, or less;

(b) Rental Housing which is owned and operated by a nonprofit or governmental unit; and

(c) Projects or programs which demonstrate a coordinated local effort to integrate housing, job placement, and social services. Documentation of local efforts shall include, but is not limited to written agreements, or letters outlining coordination efforts between participants; and

(d) Projects that provide opportunities for Low and Moderate Income persons to own their housing units.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 458.305 - ORS 458.310, specifically ORS 458.310(1)(a)(D)

Hist.: HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-048-0025

##### Application Review

(1) For loans or grants where the amount requested from the Housing Revitalization Program does not exceed \$100,000, or any other form of assistance, the Department shall consider the application and approve, disapprove, or request additional information on the application within 30 calendar days of receipt of the application.

(2) For loans or grants where the amount requested from the Housing Revitalization Program is in excess of \$100,000, the Department shall consider the application and approve, disapprove or request additional information on the application within 30 calendar days or receipt of the application. If the Department proposes to make the loan or grant, it shall submit the loan or grant it proposes to make to the State Housing Council for review. The State Housing Council shall approve or disapprove the loan or grant at a public hearing of the Council, pursuant to ORS 456.571(2). The Department shall advise the Applicant in writing of the action taken by the State Housing Council within 15 calendar days of such meeting.

(3) In reviewing applications for assistance, the Department and the State Housing Council, as appropriate, may consider, but are not limited to, the following:

(a) Amount of available funds in the Housing Revitalization Program;

(b) Availability of other sources of assistance;

(c) Ability to leverage public or private funds;

(d) Involvement of federal, state or local government agencies, nonprofit housing or social service agencies;

(e) Geographic area affected;

(f) Number and type of housing units to be provided or number of persons to be housed;

(g) Administrative costs and/or responsibilities imposed on the Department in connection with the assistance provided; and

(h) Type and number of households to be assisted.

(4) In accordance with ORS 458.310(4), the State Housing Council shall assure a reasonable geographic distribution of funds among different regions of the state and shall place special emphasis on assuring that funds are available to projects in Rural Areas.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 458.305 - ORS 458.310, specifically ORS 458.310(1)(a)(D)

Hist.: HSG 8-1991, f. & cert. ef. 12-23-91

#### 813-048-0030

##### Form of Assistance

(1) The Department shall confirm to the Applicant in writing the type of assistance, if any, to be provided from the Housing Revitalization Program. Assistance may be in the form of, but is not limited to, loans, grants, or contract agreements.

(2) The Department may establish fees, premiums, interest rates, repayment terms, performance criteria and reporting requirements as the Department considers appropriate or necessary for the type and use of assistance provided. The Department shall specify such terms and conditions to the Applicant in writing before funds are advanced or contractual agreements signed.

(3) The Department may require the Applicant to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided, and any terms and conditions agreed to in connection with such assistance.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 458.305 - ORS 458.310, specifically ORS 458.310(1)(a)(D)

Hist.: HSG 8-1991, f. & cert. ef. 12-23-91

### DIVISION 49

#### LOW INCOME RENTAL HOUSING FUND PROGRAM

##### 813-049-0001

##### Purpose and Objectives

The rules of OAR Chapter 813, Division 49 administer the provisions of Sections 1 through 10, Chapter 716, Oregon Laws 1991.

## Chapter 813 Oregon Housing and Community Services

These rules implement the Low Income Rental Housing Fund Program, which shall provide rental housing assistance for very low income households.

Stat. Auth.: ORS 458.355

Stats. Implemented: Ch. 716, OL 1991

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92

### 813-049-0005

#### Definitions

(1) Unless otherwise defined in this rule, any term used in OAR Chapter 813, Division 49, is used as defined in Sections 1 through 10, Chapter 716, Oregon Laws 1991, or as provided in OAR 813-005-0005, or elsewhere in OAR Chapter 813, respectively.

(2) As used in this Division:

(a) "Department" means the Oregon agency;

(b) "Fund" means the Low Income Rental Housing Fund;

(c) "Fund Participant" or "Participant" means a Licensee who deposits Refundable Deposits or a Non-Licensee who deposits into a Low Income Housing Account;

(d) "Household" means any person or persons who will reside together in a rental dwelling unit (e.g., married couples with or without children, unmarried persons who will share the same unit, a single person, etc.);

(e) "Income" means income from all sources of each member of the Household not including income from employment of children under the age of 18;

(f) "Interest-Bearing Client Trust Account" ("CTA") means an interest-bearing client trust account into which a Licensee deposits Refundable Deposits;

(g) "Interest-Bearing Trust Account" ("TA") means an interest-bearing account into which a Non-Licensee deposits Tenant Deposits;

(h) "Lease" means a lease or other rental or occupancy agreement relating to a specific rental unit;

(i) "Licensee" means any person licensed under ORS 696.020;

(j) "Low Income Housing Account" ("LIHA") means a CTA, TA or other account that accrues interest to be paid to the Fund;

(k) "Net Interest" means the interest payable upon funds deposited in an account, less any fees imposed with respect to such account;

(l) "Non-Licensee" means an owner or other person exempted under ORS 696.030 from licensing requirements otherwise imposed under ORS 696.020;

(m) "Program" or "Fund Program" in the singular only means the process by which:

(A) Fund Participants establish and maintain LIHAs; and

(B) The Department or its delegates provide rental housing assistance to Very Low Income Households from the Net Interest earned on the LIHAs. "To Participate in the Program" means to establish and maintain a LIHA.

(n) "Refundable Deposit" means any sum of money relating to residential rental property, but not including earnest money or escrow funds held in conjunction with the sale of real property, which is:

(A) Paid to a Licensee;

(B) Required to be deposited in the Licensee's Client Trust Account under ORS 696.241; and

(C) Conditionally or unconditionally refundable to the payer at some future time.

(o) "Self-sufficiency" means meeting basic needs and achieving stability in such areas as, but not limited to, housing, household income, nutrition and health care and accessing needed services.

(p) "Tenant Deposit" means any sum of money which is conditionally or unconditionally refundable to the payer at some future time paid by or on behalf of a tenant to a Fund Participant;

(q) "Very Low Income Household" means a Household with Income that does not exceed 50 percent of the area median Income by Household size as the Secretary of the United States Department of Housing and Urban Development describes for very low income families pursuant to the United States Housing Act of 1937.

Stat. Auth.: ORS 458.650

Stats. Implemented: Ch. 716, OL 1991

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94

### 813-049-0010

#### Criteria for Use of the Fund

(1) The Department or its delegates shall review and may approve requests to make payments to defray the cost of rent for dwelling units for Very Low Income Households based on the criteria established herein. In considering such requests, the Department or its delegates shall:

(a) Restrict the payment of funds to programs that defray the cost of rent for dwelling units for Very Low Income Households; and

(b) Exclude a housing authority as described and established under ORS 456.055 to 456.235 from receiving such funds for the purpose of defraying the cost of rents on property owned or actively managed by a housing authority;

(c) Maximize coordination of services at the local level to carry out the provisions of Sections 1 through 10, Oregon Laws 1991.

(2) In reviewing requests to make payment to defray the cost of rent for dwelling units for Very Low Income Households, the Department or its delegates may provide a preference in directing such payments to households not eligible for other public housing assistance.

(3) Ensure that all households receiving assistance through the Fund participate in programs or activities that will increase household self-sufficiency.

Stat. Auth.: ORS 458.650

Stats. Implemented: Ch. 716, OL 1991

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92; HSG 9-1994, f. & cert. ef. 11-9-94

### 813-049-0020

#### Participation in the Program

(1) Any person may establish a LIHA.

(2) Any TA a Non-Licensee establishes under these rules must be a LIHA.

(3) A Non-Licensee may deposit into a LIHA any Tenant Deposits but may not deposit into a

LIHA any sums constituting operating expenses or other non-tenant deposits.

(4) Nothing in these rules shall be construed to require a Non-Licensee to establish a LIHA.

Stat. Auth.: ORS 458.355

Stats. Implemented: Ch. 716, OL 1991

Hist.: HSG 13-1990(Temp), f. 10-26-90, cert. ef. 10-29-90; HSG 1-1991, f. & cert. ef. 4-26-91; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 1-1992, f. & cert. ef. 1-2-92

## DIVISION 60

### DISABLED HOUSING PROGRAM

### 813-060-0005

#### Purpose and Objectives

The rules of OAR Chapter 813, Division 60 are established to administer and enforce ORS 456.515 to 456.720, specifically Sections 456.515 through 456.547. These rules shall implement the Disabled Housing Program, which has the objective of providing funds to finance the construction, rehabilitation and acquisition of Multi-family Housing for Disabled Persons in the State of Oregon, while providing sufficient safeguards to protect the financial interests of the State.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & 456.625

Hist.: IHD 6-1982(Temp), f. & ef. 9-20-82; IHD 10-1982, f. & ef. 12-14-82; IHD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

### 813-060-0010

## Definitions

(1) All terms are used in OAR Chapter 813, Division 60 as defined in the Act and as provided in OAR 813-005-0005 and herein.

(2) As used in these rules unless otherwise indicated by the context:

(a) "Department" means the agency established under ORS 456.555;

(b) "Disabled Housing Program" ("Program") means the program established under ORS 456.539;

(c) "Disabled Housing Project" ("Project") means housing containing more than one living unit for Disabled Persons and their family members and such other persons who reside therein to maintain the housing or provide services or companionship for Disabled Persons, but not providing continuous nursing care.

(d) "Disabled Person" means a person who has a physical or mental impairment that substantially limits one or more Major Life Activities.

(e) "Gross Household Income" means the anticipated total income from all sources received by the family head and by each additional member of the family of 18 years of age and over, including all net income derived from assets for the twelve-month period following the date of certification of income, in accordance with the U.S. Department of Housing and Urban Development (HUD) in **24 CFR 813**.

(f) "Major Life Activity" includes but is not limited to self-care, ambulation, communication, transportation, education, socialization, employment and ability to acquire, rent or maintain property.

(g) "Multifamily Housing" for Disabled Persons means a structure or facility which provides more than one living unit, and may provide spaces for common use by the occupants in social and recreational activities including, but not limited to individual living units within such structures, mobile home and manufactured dwelling parks and residential facilities licensed under ORS 443.400 to 443.455 and other congregate care facilities with or without domiciliary care.

(h) "State Housing Council" means the council established under ORS 456.567. Hearings (OAR 813-060-0015 renumbered to 813-001-0008)

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 7-1983(Temp), f. & ef. 11-7-83; 1HD 4-1984(Temp), f. & ef. 5-25-84; 1HD 6-1984, f. & ef. 7-5-84, ef. 7-8-84; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 15-1989, f. & ef. 11-3-89; HSG 2-1991(Temp), f. & ef. 8-7-91; HSG 8-1991, f. & ef. 12-23-91; HSG 4-1993(Temp), f. & ef. 10-1-93; HSG 6-1996, f. & ef. 6-14-96

## 813-060-0020

### Form of Loan Assistance

(1) The Department shall make loans to Sponsors under the terms of written Commitments.

(2) Loans shall be made directly with proceeds from the issuance of Bonds or other available funds obtained by the Department. The Department shall establish fees and interest rates based upon:

(a) The cost of borrowing through Bond issuance;

(b) The funds required to carry out the Disabled Housing Program; and

(c) Such other factors as the Department considers appropriate or necessary.

(3) Interest on a loan shall not exceed the rate stated in the Commitment. If the Department is able to charge an interest rate lower than that specified in the Commitment, the Department may provide for reduction of the interest rate on the loan. The Department may require a reduction in the Project rents.

(4) The Department shall not execute a Commitment to a Sponsor for a loan amount that exceeds costs or 85% of the appraised value, whichever is less, of the Project.

(5) Each loan shall have a final maturity of not more than forty-two years from the date of its making and shall be secured by a first

lien deed of trust granted by the Sponsor on the property securing the loan.

(6) Loan Documents shall be on forms approved by the Department.

(7) Each loan shall provide for the monthly collection of Escrow Payments to the extent permitted by law together with the monthly installment of principal and interest. All such payments shall be:

(a) Held for the benefit of the Department in an account with an Approved Servicer; or

(b) Held by the State of Oregon as provided or required by law.

(8) If the Department receives loan applications in an amount greater than the amount of funds available, the Department shall select those applications which, in the judgment of the Department, best achieve the purposes of the Program rules and the Act.

(9) The Department shall establish prepayment penalties applicable to loans. In setting such penalties the Department shall take into account the need to protect the ability of the state to provide for the payment of the Bonds. Any prepayment penalties shall be set forth in the trust deed note.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 15-1989, f. & ef. 11-3-89; HSG 2-1991(Temp), f. & ef. 8-7-91; HSG 8-1991, f. & ef. 12-23-91; HSG 4-1993(Temp), f. & ef. 10-1-93; HSG 6-1996, f. & ef. 6-14-96

## 813-060-0025

### Loan Security

Notwithstanding any other provisions contained in the Program rules, the Department shall not disburse funds for a loan until:

(1) The loan is secured by a fully executed trust deed note and first lien trust deed or other evidence of security; and

(2) The Sponsor has satisfied all conditions contained in a Commitment.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 15-1989, f. & ef. 11-3-89; HSG 2-1991(Temp), f. & ef. 8-7-91; HSG 8-1991, f. & ef. 12-23-91; HSG 4-1993(Temp), f. & ef. 10-1-93; HSG 6-1996, f. & ef. 6-14-96

## 813-060-0030

### Eligible Disabled Housing Projects

(1) The Department shall evaluate each Project for consistency with the Department's interpretation of sound architectural design and prudent underwriting standards, as established in OAR 816-060-0031.

(2) In order to qualify for a loan, a Project shall:

(a) Be approved by the Department with respect to: site; location; market demand; financial feasibility; qualifications of general contractor; management agent, and developer; appraisal; environmental survey; financial strength and creditworthiness of the Sponsor; management plan; Sponsor's organizational documents; American Land Title Association (ALTA) title report; and any other information the Department shall require;

(b) Meet all applicable Federal, State and local land use and zoning requirements, housing codes, licensing, and similar requirements;

(c) Be in compliance with federal regulations, State statutes and Program rules;

(d) Be located in the State of Oregon; and

(e) Remain affordable in terms of the monthly rental or mortgage costs.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1978(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & ef. 6-8-89; HSG 15-1989, f. & ef. 11-3-89; HSG 2-1991(Temp), f. & ef. 8-7-91; HSG 8-1991, f. & ef. 12-23-91; HSG 4-1993(Temp), f. & ef. 10-1-93; HSG 6-1996 f. & ef. 6-14-96



**813-060-0031**

**Standard Underwriting Criteria**

In approving or disapproving any loan application, the Department and the State Housing Council shall consider, in addition to requirements elsewhere stated in the Program rules, the following criteria:

- (1) The location of the Project site, including its proximity to transportation, shopping, social, commercial and recreational facilities, medical services, and such other facilities and services as shall best serve the prospective residents;
- (2) Financial feasibility of the Project;
- (3) Availability of street, sewer, water, utilities and other public services;
- (4) Availability of public and private transportation;
- (5) Architectural design, including aesthetic quality, soundness of construction, energy efficiency, and suitability to the needs of the residents to be served;
- (6) Compliance with applicable local comprehensive plan and land use regulations;
- (7) Market demand;
- (8) The financial strength, credit reputation and history of the Sponsor; and
- (9) The experience of the developer, contractors, architects, consultants and management agent in developing, constructing and operating housing projects.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

**813-060-0032**

**Mobile Home Park Projects**

- (1) To qualify as a mobile home park, the Project shall comply with the following standards and conditions:
  - (a) Site, design and licensing standards of the local government;
  - (b) Regulations of the Building Codes Department, State of Oregon, OAR 918-600-0010 to 918-600-0110;

(c) All mobile homes shall have skirting, unless the home is set on a ground level foundation. If the mobile home is purchased after September 4, 1984, the design, color and texture of the skirting shall appear to be an integral part of the adjacent exterior wall of the mobile home;

(d) All mobile homes purchased after September 4, 1984 shall have a roof with a non-reflective surface at a minimum slope of two inches in 12 inches (16 percent);

(e) The area occupied by the mobile home and any accessory buildings (including porches, carports, etc.) shall not exceed 40 percent of the lot area; and

(f) All mobile homes shall be installed in compliance with the State of Oregon, Building Codes Department regulations. Installation inspections shall be completed by the Building Codes Department, or by a city or county which has contracted to do the inspections. A copy of the final inspection report shall be submitted to the Department together with a copy of a certificate of occupancy.

(2) The Sponsor shall establish rules for the residents of the Project, to be a required part of each resident's lease. The rules and lease shall be submitted for the Department's review and approval as part of the proposal. The lease shall substantially comply with the standard mobile home rental agreement.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

**813-060-0035**

**Approved Housing Sponsors**

(1) To be eligible to receive a loan, a Sponsor shall comply with the terms contained in the Commitment issued by the Department and the conditions of eligibility as set forth in these rules.

(2) Any Person may apply to become a Sponsor.

(3) To help the Department evaluate the financial strength of a prospective Sponsor to develop, own, maintain and manage a Project, the prospective Sponsor shall submit financial statements, credit reports and any other documents requested by the Department in accordance with the provisions of the Equal Credit Opportunity Act as it relates to the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82, 1HD 10-1982, f. & ef. 12-14-82; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

**813-060-0040**

**Processing Procedures**

(1) Before accepting a project for the application process, the Sponsor shall submit an application to the Department on forms acceptable to the Department. If the Project meets the Program requirements, an application conference with the Sponsor shall be scheduled. At the conference, the following items will be discussed:

- (a) Type of loan requested;
- (b) Type and formation of prospective Sponsor's company (sole proprietorship, partnership, corporation, nonprofit, etc.) and qualifications;
- (c) Requested loan amount, terms and interest rate;
- (d) Any time constraints on prospective Sponsor or Department;
- (e) Fees;
- (f) Reserve and equity requirements;
- (g) Debt service ratio and other contingency requirements;
- (h) Appraisal requirements;
- (i) Environmental survey;
- (j) Contractor's cost estimate and qualifications;
- (k) Management and maintenance plans;
- (l) Project management requirements, reports, qualifications;
- (m) Loan servicer requirements, qualifications, procedures, agreement;
- (n) Design and related requirements;
- (o) Document requirements;
- (p) Construction procedures;
- (q) Department Loan processing procedures.
- (r) Eligibility requirements under federal and State law and regulations;
- (s) Site Control;
- (t) Reserves and costs for bond issue; and
- (u) Any other items pertinent to the proposed Project.

(2) At the conclusion of the application conference, if the prospective Sponsor and the Department agree to proceed with the application process, prospective Sponsor shall provide the necessary application documentation.

(3) After receiving a completed loan application package from the prospective Sponsor, the Department shall evaluate each Project for consistency with the Department's interpretation of sound architectural and planning principles and prudent underwriting standards.

(4) In order to qualify for a loan, a Project shall:

(a) Be approved by the Department with respect to site; location; market demand; financial feasibility; qualifications of general contractor; management agent and developer; appraisal; environmental survey; financial strength and creditworthiness of the prospective Sponsor; management plan; final architectural package; organizational documents; ALTA title report; and any other information the Department shall prescribe;

(b) Meet all applicable state and local land use and zoning requirements, housing codes, and similar requirements;

(c) Be in compliance with federal regulations, state statutes and Program rules; and

(d) Be located in the State of Oregon;

(e) If the loan is for an amount over \$100,000, be approved by the Housing Council prior to the Department's issuance of a loan commitment:

(A) The Department shall review each application for a loan over \$100,000 and prepare a proposal to the State Housing Council for approval or disapproval. The Department will send a copy of its proposal to the prospective Sponsor with a notice of the State Housing Council meeting at which the application will be considered. Upon receipt of the notice, the prospective Sponsor may request an opportunity to present testimony at the meeting;

(B) After considering the Department's proposal, as well as any other testimony presented, the State Housing Council shall approve or disapprove the application or take other appropriate action;

(C) The prospective Sponsor shall promptly be advised in writing of the State Housing Council's decision.

(5) In approving or disapproving any loan application, the Department and the State Housing Council shall consider, in addition to requirements elsewhere stated in the Program rules, the following criteria:

(a) The location of the Project site, including its proximity to transportation, shopping, social, commercial and recreational facilities, medical services and such other facilities and services as shall best serve the residents;

(b) Financial feasibility of the Project;

(c) Availability of street, sewer, water, utilities and other public services;

(d) Availability of public transportation;

(e) Architectural design, including aesthetic quality, soundness of construction, energy efficiency, and suitability to the needs of the residents to be served;

(f) Compliance with applicable State and local comprehensive plan and land use regulations;

(g) Market demand;

(h) The financial strength, credit reputation and history of the prospective Sponsor; and

(i) The experience of the developer, contractors, architects, consultants and management agent in developing, constructing and operating housing Projects.

(6) The prospective Sponsor may submit a written request for review and appeal of the State Housing Council's decision in accordance with the provisions of ORS Chapter 183. To be considered, the request must be received by the Department within 30 days of the date of the notice of initial loan disapproval.

(7) Upon loan approval, the Department shall issue a Commitment, which may be subject to loan funds being available, which shall include:

(a) The amount of the loan;

(b) The maximum rate of interest to be charged on such loan;

(c) The term of the loan;

(d) The amount of the Commitment fee, Rent-Up Reserve Account and Contingency Escrow Account;

(e) When the Commitment fee shall be paid, and when the Rent-Up Reserve Account and Contingency Escrow Account shall be funded;

(f) All other conditions of the Commitment, and when they shall be fulfilled;

(g) Provisions concerning construction;

(h) Provisions and conditions of loan disbursement;

(i) Provisions of Loan Closing; and

(j) Conditions of termination of the Commitment.

(8) If the Commitment conditions are not completed by the dates specified in the Commitment, the offer for a Commitment shall expire, unless the Department grants an extension in writing.

(9) Construction and completion:

(a) During the construction of the Project, the Department may conduct random inspections for Sponsor's compliance with the plans and specifications previously approved by the Department. The Sponsor's architect shall submit regular inspection reports to the Department. Change orders must be signed by the contractor, Project architect and the Sponsor before being submitted to the Department for its approval and prior to the changes being made;

(b) Upon completion of construction of a Project, the Department shall perform an inspection to assure the Sponsor's compliance with the approved plans and specifications. If some items of construction remain to be completed due to circumstances beyond the

control of the Sponsor (provided the incomplete items do not detract from livability or safety of the Project), the Department shall require the Sponsor to escrow as approved by the Department and under Department control an amount equal to one and one-half times the estimated cost of completion, until the construction item is completed;

(c) The Department shall perform an inspection, along with the Sponsor and the Sponsor's architect, within ten months after the completion of the Project, for the purpose of discovering construction defects. The Sponsor shall be responsible for correcting construction defects within a time period set by the Department;

(d) An architect with an ownership interest in the Project shall fully disclose such interest. The Department may require independent third party construction inspection reports.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 10-1983, f. & ef. 12-1-83; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

### 813-060-0044

#### Loan Closing

Before the Loan Closing takes place, the Department shall provide to the escrow loan closer written instructions for closing the loan. The Department shall not authorize disbursement of loan funds until all conditions of the Commitment are satisfied and the Department has approved:

(1) Cost certification;

(2) Certificate or policy of insurance for fire and extended coverage, liability, business income and flood insurance (if applicable), with the appropriate loss deductible.

(3) Contingency Escrow Account;

(4) Notice of Completion;

(5) Certificate of occupancy from the local government;

(6) Commercial leases;

(7) Ground leases;

(8) All other relevant leases;

(9) Tax abatement approval;

(10) American Land Title Association (ALTA) mortgagee's preliminary title insurance policy from the title company of the Sponsor's choice;

(11) Any licenses required by the State;

(12) Appliance, furniture and fixture list, including serial numbers and proof of ownership;

(13) For Acquisition Loans:

(a) Certification of completion of work on repairs from the general contractor and owner;

(b) Certification of completion of work required on dry rot/termite inspection report by the general contractor and the termite inspector; and

(14) All other reasonable requirements of the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

### 813-060-0045

#### Resident Eligibility and Occupancy

(1) To be eligible to occupy a Project, a household shall:

(a) Be a resident of the state at the time of application to the Project;

(b) At least one member of the household must meet the definition of Disabled Person as provided in OAR 813-060-0010;

(c) Have an annualized Gross Household Income which does not exceed the income limit as established by the Department from time to time in compliance with the Act; and

(d) The project shall conform to the maximum income requirement of ORS 456.620(4). At no time shall the maximum income lim-

its exceed 120 percent of the median family income level, as determined by the Department. No more than 20 percent of the units of a housing project shall have an income level of between 100 and 120 percent. Relating specifically to acquisition/rehabilitation projects only, where tenants already reside in the project, the Department, at its sole discretion, may allow up to a one (1) year grace period for implementation of the standards identified in subsection (d) above in order to reduce the impact of displacement for over-income residents.

(2) Where the Project will be financed with proceeds of Bonds issued after August 15, 1986, have an annualized Gross Household Income which does not exceed such other income limit as may be required to assure compliance with Section 142(d)(1)[(A)] of the Internal Revenue Code of 1986, as amended.

(3) If Section 142(d)(1) of the Internal Revenue Code so requires, the Borrower shall elect at Commitment to apply either the "20-50" or "40-60" income requirement under Section 142(d)(1) of the Code, as summarized below, to the Project during the qualified Project period.

(a) If the Borrower elects to meet the "20-50" requirement under Section 142(d)(1) of the Internal Revenue Code, at all times during the qualified Project period at least 20 percent (20%) of the completed residential units in the Project shall be rented to and occupied by (or held available for rent by) Persons whose annualized Gross Household Income is 50 percent (50%) or less of area median income, adjusted for family size; and

(b) If the Borrower elects to meet the "40-60" requirement under Section 142(d)(1) of the Internal Revenue Code, at all times during the qualified Project period at least 40 percent (40%) of the completed residential units in the Project shall be rented to and occupied by (or held available for rent by) Persons whose annualized Gross Household Income is 60 percent (60%) or less of area median income, adjusted for family size.

(4) The Borrower shall conduct annual income certifications of all residents to assure compliance with Section 142(d) of the Internal Revenue Code, and shall, where necessary, hold units vacant and available for occupancy by persons meeting the income requirements elected pursuant to Section 142(d).

(5) The Department may waive the Department's income limits for an elderly household seeking residence in a Disabled Housing Project if a Person in the household is a Disabled Person requiring special housing provisions to accommodate the impairment and whose disability arises from a physical or mental impairment that substantially limits one or more Major Life Activity. However, no such waiver shall be made of the requirements of Section 142(d) of the Internal Revenue Code.

[Publications: The publication(s) referenced to in this rule are available from the office of the agency.]

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96; OHCS 2-2000(Temp), f. & cert. ef. 9-15-00 thru 3-13-01

### 813-060-0047

#### Commitment Fee

(1) The Department shall charge a non-refundable Commitment fee up to 2% of the loan amount.

(2) The Sponsor shall include the fee with the Sponsor's signed acceptance of the Commitment returned to the Department.

(3) The Commitment fee shall not be deducted from the Sponsor's equity requirement.

(4) The Department may charge other fees, as needed, to cover the costs and reduce the financial risk to the Department of issuing Bonds.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-

1991, f. & cert. ef. 12-23-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

### 813-060-0055

#### Loan Servicing

(1) The Servicing of Loans shall be performed by servicer(s) selected by the Department. Servicing, unless performed by the Department itself, shall be conducted under the terms and conditions contained in a servicing agreement entered into between the Department and any Approved Servicer. The Department shall prescribe the form of the servicing agreement. The servicing agreement is subject to termination as set forth in OAR 813-060-0056. Under all such servicing agreements the Approved Servicer shall:

(a) Promptly collect all payments due under the Loan and Regulatory Agreement;

(b) Provide the Department with a monthly accounting of loan payments and disbursements;

(c) Ensure that escrow account balances are maintained at a level sufficient for the payment of the Project's property taxes, insurance premiums and costs of replacement as they become due and payable;

(d) Forward payments to the Department according to the provisions of the servicing agreement;

(e) Forward payments for insurance premiums to the insurance company when due;

(f) Forward payments for property taxes to the county assessor when due;

(g) Assure that all improvements on the mortgaged premises are kept insured against fire and extended coverage, casualty, liability and business income loss in accordance with the Regulatory and Loan Agreement;

(h) Provide Sponsors with regular analyses of servicing accounts; and

(i) Perform such other responsibilities as the Department may prescribe.

(2) In order to qualify as an Approved Servicer and continue as such, an entity shall demonstrate to the satisfaction of the Department that:

(a) One of its principal functions is the servicing of multi-unit or commercial loans secured by real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) It is qualified to engage in the servicing of mortgage loans for specified government agencies or private institutions engaged in the secondary market for mortgage investments;

(d) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 to 295.018 and 295.025 and which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or other similar federal insuring agency; and

(e) It shall maintain servicing facilities adequately staffed with personnel familiar with all regulations and requirements pertaining to or affecting Loans serviced for the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 6-1982(Temp), f. & ef. 9-20-82; 1HD 10-1982, f. & ef. 12-14-82; 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 7-1990, f. & cert. ef. 5-2-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 7-1995(Temp), f. & cert. ef. 11-8-95; HSG 5-1996, f. & cert. ef. 5-15-96; HSG 6-1996, f. & cert. ef. 6-14-96

### 813-060-0056

#### Change of Approved Servicers

(1) The servicing agreement may be terminated or amended as provided in the servicing agreement or these rules.

(2) The Department may direct a change of Approved Servicers at any time consistent with the terms of the servicing agreement and these rules.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 3-1983, f. & ef. 7-20-83; 1HD 13-1984, f. & ef. 9-4-84; Renumbered from 813-060-0070; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-



3-89; HSG 2-1991(Temp; HSG 7-1995(Temp), f. & cert. ef. 11-8-95; HSG 5-1996, f. & cert. ef. 5-15-96

### 813-060-0061

#### Transfer of Ownership

(1) A Sponsor who has received a loan or Commitment from the Department shall not transfer ownership, lease, or otherwise encumber any property which serves or will serve as security for a loan from the Department without prior written approval from the Department. The Sponsor shall be required to submit underwriting documentation as requested by the Department.

(2) A transfer of ownership means a sale, conveyance or other transfer of:

- (a) Any interest of a general partner;
- (b) Any interest in a joint venture;
- (c) More than 25% of the limited partner's interest;
- (d) More than 10% of a corporate owner's interest; or
- (e) Any individual interest when the ownership is not a limited partnership, general partnership, joint venture or corporation.

(3) The Department shall collect from the Sponsor a transfer processing fee for a 100% transfer of ownership, equal to one percent (1%) of the outstanding principal balance of the loan or \$3,500, whichever is less. The transfer processing fee shall be payable upon submission of the transfer approval request, and shall be non-refundable.

(4) A 100% transfer of ownership means a sale, conveyance or other transfer of:

- (a) All interest of a general partnership;
- (b) All interest of a joint venture;
- (c) All interest of a corporation;
- (d) All general partners' interest in a limited partnership; or
- (e) All individual interest of an ownership entity when the ownership entity is not a limited partnership, general partnership, joint venture or corporation.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 13-1984, f. & ef. 9-4-84; HSG 4-1987(Temp), f. & ef. 2-5-87; HSG 10-1987, f. & ef. 3-10-87; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

### 813-060-0062

#### Loan Prepayments

(1) It is the general policy of the Department not to accept prepayments. The Department may, however, permit a prepayment if, in its sole discretion, the Department determines that the prepayment is consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550.

(2) The Department must give prior written approval of any loan prepayment. In order to be valid, a written approval of prepayment must be signed by an authorized representative of the Department. In making a decision whether or not to allow prepayment of a loan, the Department may consider criteria that include, but are not limited to, the following:

- (a) The financial impact of the prepayment on the Department's programs or on an individual program or Bond indenture;
- (b) Economic factors, including, but not limited to, portfolio diversification and relative cost of capital;
- (c) The cash flow and other relevant financial considerations of the Project loan for which prepayment is requested;
- (d) The ability of the Department to use proceeds of the loan prepayment to increase the availability of housing affordable to low-income Oregonians;
- (e) The willingness of the Borrower to execute a written agreement or give other assurances that the Project will continue to be used for the purposes(s) originally intended, as specified in the Loan Documents, or for an alternate use consistent with the best interests of the Department, including its public purpose as defined in ORS 456.550. Such continued use will be for a period of time mutually agreed on by the Department and the Borrower;
- (f) Tax law consequences; and

(g) Other factors the Department considers appropriate to insure the security for and the ability of the State to repay the Bonds, and to insure the ongoing financial viability and stability of the Department's programs.

(3) If the Department determines that a loan prepayment is consistent with the best interests of the Department, it only shall authorize the prepayment provided that the sum to be prepaid, computed as of the date of prepayment, shall equal the unpaid principal balance of the loan plus accrued interest and all other obligations plus, at the Department's discretion, a penalty or premium for the privilege of prepayment. Such prepayment penalty shall be determined based on terms of the original Loan Documents, and amendments thereto which have been mutually agreed on by the Department and the Borrower. The Department may waive all or a portion of such prepayment penalty if it determines in its sole discretion that such waiver is in the best interests of the Department. In making a decision whether or not to waive any or all of a prepayment penalty, the Department may consider, but is not limited to, the criteria identified in OAR 813-060-0062(2)(a) through (g).

(4) Where Section 8 Housing Assistance contracts or other rent subsidies are in place, the Department may approve a loan prepayment request only if such rent subsidies are not unduly impaired, determined at the sole discretion of the Department.

(5) Failure to make timely submission of a prepayment penalty will cause additional interest to accrue at loan rate or statutory rate, whichever is higher.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96; OHCS 1-1998(Temp), f. & cert. ef. 9-1-98 thru 2-27-99; OHCS 1-1999, f. & cert. ef. 6-1-99

### 813-060-0065

#### Disposal of Department-Owned Projects

(1) The Department may transfer ownership of Department-owned Projects through sale, gift or other lawful manner to a person or persons whom the Department determines best meets the requirements of this program. The Department shall establish written procedures for selling Projects prior to any offering of such Projects, as applicable.

(2) The method of transfer of ownership, timing, price, terms and any other factors pertinent to the transfer of ownership shall be effected by the Department in a manner which, in the opinion of the Department, best preserves the integrity and continuation of the Department's rental programs. Factors the Department may consider include, but are not limited to:

- (a) The financial investment of the Department in the Project.
- (b) Preservation of existing rental housing.
- (c) Proposed Sponsor's ability to manage, market, maintain and protect property used as security for the loan made by the Department, if applicable.
- (d) Proposed Sponsor's capacity to preserve or improve upon the property's safety, sanitation, durability and livability.
- (e) Proposed Sponsor's ability to preserve units which are affordable and suitable to the needs of the residents.
- (f) Continued compliance with State or Federal laws, rules or regulations, as applicable to the financing or use of the Project.

Stat. Auth.: ORS 456.555

Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: HSG 15-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

## DIVISION 70

### HOME IMPROVEMENT LOAN PROGRAM

### 813-070-0005

#### Purpose and Objectives

The rules of OAR Chapter 813, Division 70 are established to administer and enforce ORS 456.515 through 456.720, specifically

ORS 456.690. These rules, together with the Program's **Procedural Guide**, shall implement the Home Improvement Loan Program. The Program's objective is to provide funds to finance the rehabilitation or improvement of residential housing, thereby providing adequate, safe and sanitary residential housing for occupancy by moderate and lower-income persons in Oregon. Through the Home Improvement Loan Program, the agency increases the availability of funds for such housing by making commitments to financial institutions to purchase, and by purchasing pursuant to such commitments, loans which meet the standards set forth in these rules and the Program's **Procedural Guide**.

[Publications: The publication(s) referenced to in this rule are available from the agency.]  
Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.690  
Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0010

#### Definitions

(1) All terms are used in OAR Chapter 813, Division 70 as defined in the Act, and as provided in OAR 813-005-0005 or herein.

(2) As used in these rules, unless otherwise indicated by the context:

(a) "Income" means the total of the gross annualized income, from any source and before taxes and withholding, of all non-minor persons who will occupy a Residential Dwelling, except for non-owner occupants of a two-to-four family dwelling;

(b) "Participating Local Government" means the cities and counties located in the state which meet the requirements of the Home Improvement Loan Program and which agree to participate in the Program pursuant to the **Procedural Guide** and the conditions set forth in these rules;

(c) "Reinvestment Neighborhood" means a geographical area in Oregon, as designated by the related Participating Local Government;

(d) "Residential Dwelling" means a residential unit designed for occupancy by one to four households, and the property on which it is located. This shall be real property located in Oregon. This may include a site-built or manufactured detached residence, or one unit in an attached or multi-unit structure. One unit of such dwelling shall be occupied by the owner of the property.

[Publications: The publication(s) referenced to in this rule are available from the agency.]  
Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.690  
Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0015

#### Allocation of Funds to Approved Lenders

Under the Home Improvement Loan Program, the Department may rely on a commitment system or a first-come first-served reservation system to solicit and monitor participation by Approved Lenders when funds become available from the proceeds of Bonds or other sources. The Department solicits commitment requests or participation in the Program by Approved Lenders when the Department determines that the Home Improvement Loan Program will serve to carry out the purposes of the Act and funds may be available.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650  
Stats. Implemented: ORS 456.690  
Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; Sections (2), (3) & (4); Renumbered to 813-070-0016; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0016

#### Commitment System

Under the commitment system, the Department shall solicit commitment requests by mailing a commitment invitation form to each Approved Lender at the address listed in the records of the Department. The Department shall seek commitment requests before the sale of Bonds or when funds are otherwise expected to become available.

(1) The commitment invitation form shall specify the terms on which the Department will accept commitment requests from Approved Lenders, including:

(a) The minimum commitment amount, if any, which Approved Lenders may request;

(b) The maximum interest rate applicable to Program Loans under the commitment;

(c) The price the Department shall pay for such Program Loans and the origination fees, discounts, appraisal fees, inspection fees, and other expenses which may be charged in connection with Program Loan origination;

(d) The period during which the Department will purchase Program Loans;

(e) The commitment fee the Department shall charge Approved Lenders in connection with commitment requests;

(f) The servicing fees the Department shall pay for Program Loan servicing; and

(g) Such other similar terms as the Department may deem advisable. The Department shall consider:

(A) The cost of borrowing the funds required to carry out the Home Improvement Loan Program;

(B) The estimated cost of improvements to Residential Dwellings within Oregon;

(C) The interest rates the Department estimates Eligible Borrowers can afford to pay when financing improvements of such Residential Dwellings;

(D) The availability and cost to Eligible Borrowers of alternative borrowing sources; and

(E) Other similar factors the Department considers appropriate to increase the availability of funds for financing improvements of Residential Dwellings by Eligible Borrowers and to ensure the security for and the ability of the State to repay the Bonds.

(2) The Department may accept commitment requests as specified in the commitment invitation form. If the Department does not accept any request, the Approved Lender shall be notified promptly.

(3) The Department shall allocate funds, taking into account the following factors:

(a) Geographic area in which the Approved Lender is engaged in residential lending;

(b) Other participants in such area;

(c) Capacity of the Approved Lender to accomplish Program objectives;

(d) Availability of funds to the Department;

(e) Prior experience with the Approved Lender; and

(f) Participation by the Approved Lender in previous Programs.

(4) No allocation to an Approved Lender shall exceed the amount of funds for which the Approved Lender applied, but may be less than the amount requested. The Department's allocation of funds shall be conclusive. However, Approved Lenders may assign allocations to other Approved Lenders with the Department's written consent.

(5) To assure that Approved Lenders perform their obligations under commitments entered into with the Department and to defray costs associated with processing and administering commitment requests and commitments, the Department may establish commitment fees in connection with commitment requests under the Home Improvement Loan Program. Commitment fees may be refunded or reduced in accordance with the terms and conditions of the Program Loan purchase agreement.

(6) Disbursements under the commitment shall be subject to availability of Bond proceeds or other funds. Thereafter, the Department shall disburse funds to purchase Program Loans as specified in the commitment invitation form and the Program's **Procedural Guide**. The Approved Lender shall submit the Program Loan, relat-

ed documents and a submission report for the Department's review before loan purchase. The purchase of any Program Loan is subject to the legal, sufficient and proper form of the loan documents, and adequate evidence the Program Loan satisfies all the criteria provided in the Act, the Program rules and the Program's Procedural Guide.

(7) Approved Lenders shall report periodically during the commitment term. If, in the judgment of the Department, the Approved Lender will not use the amount of the commitment within the commitment, period, the Department may reallocate the remaining balance.

[Publications: The publication(s) referenced in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; Sections (2), (3) & (4) renumbered to 813-070-0015; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0017

#### Reservation System

(1) Under the reservation system, the Department purchases Program Loans pursuant to first-come first-served reservations made by Approved Lenders, and in compliance with the Program's **Procedural Guide**. The Department shall solicit participation in the Program by mailing a reservation invitation and request form to each Approved Lender at the address listed in the records of the Department. The Department shall solicit participation in the Program before the sale of Bonds or when funds are otherwise expected to become available.

(2) The reservation invitation form specifies the terms on which the Department will accept participation in the Program by Approved Lenders, including:

(a) The date by which requests to participate must be received by the Department;

(b) The term during which Program Loan fund reservations may be placed and during which Program Loans may be purchased by the Department;

(c) The maximum interest rate which Program Loans purchased shall bear;

(d) Any fees payable by an Approved Lender to the Department;

(e) The price the Department shall pay for such Program Loans and the origination fees, discounts, and other expenses which may be charged in connection with Program Loan origination;

(f) The servicing fees the Department shall pay for Program Loan servicing; and

(g) Any special terms or conditions of the Program.

(3)(a) The Department may accept requests to participate as specified in the reservation invitation and request form. With each Program, the Department may take into consideration the following factors:

(A) Geographic area of the Approved Lender's residential lending;

(B) Other participants in the area;

(C) Capacity of the Approved Lender to accomplish Program objectives;

(D) Availability of funds to the Department;

(E) Prior experience with the Approved Lender; and

(F) Participation by the Approved Lender in previous Programs.

(b) If the Department does not accept any request, the Approved Lender shall be notified promptly.

(4)(a) Program Loan funds shall be reserved on a first-come first-served loan by loan basis. Approved Lenders must place reservations as instructed in the invitation, and must provide the applicant's name, property address, loan amount and any other information the Department deems necessary. The Department shall confirm each reservation with the Approved Lender in a timely manner;

(b) As needed, the Department shall maintain a list of standby reservations to be moved to the active reservation list on a first-come first-served basis in the event any confirmed reservation is cancelled by an Approved Lender.

(5) An Approved Lender may assign a reservation to another Approved Lender with the written consent of both Approved Lenders and approval by the Department.

(6) The Department may charge a non-refundable reservation fee to the Approved Lender in connection with each reservation. The Department shall specify the reservation fee rate and remittance instructions in connection with each Program in the invitation.

(7) The Approved Lender shall submit the Program Loan, related documents and a submission report for the Department's review before loan purchase. The purchase of any Program Loan is subject to the legal, sufficient and proper form of the loan documents, and adequate evidence that the Program Loan satisfies all the criteria provided in the Act, the Program rules and the Program's Procedural Guide.

(8) Approved Lenders shall report periodically during the Program term on a form designated by the Department. The Approved Lender shall report and confirm to the Department for each reservation, the correct borrower name, property address, loan amount, and the dates on which the loan was cancelled or approved and closed.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0020

#### Approved Lenders

(1) Any commercial bank, savings and loan association, savings bank, mortgage banker or other Person legally authorized to engage in the business of making secured loans for residential housing may apply to become an Approved Lender. An applicant wishing to become an Approved Lender shall submit for the Department's review:

(a) An application in the form prescribed by the Department;

(b) Counsel's opinion regarding power and authority of the applicant to enter into a purchase agreement with the Department;

(c) List and signatures of authorized officers;

(d) Most recent audited financial statements;

(e) Documentation evidencing applicant's bond and insurance coverage; and

(f) \$25 application fee.

(2) An applicant may qualify as an Approved Lender if the Department determines that the applicant has the capability and resources to originate Program Loans in a sound and professional manner. The Department shall consider such factors as:

(a) The number and experience of employees available to originate Program Loans;

(b) The applicant's financial capability to originate Program Loans;

(c) The applicant's qualifications as holder of a valid Contract of Insurance under Title I of the National Housing Act;

(d) Whether the applicant's deposits are insured by the Federal Deposit Insurance Corporation;

(e) The applicant's reputation, experience and performance in the area of residential lending and any other area of the applicant's business; and

(f) The applicant's geographical service area. Each Approved Lender shall make loans for the improvement of Residential Dwellings in the regular, usual and normal course of business.

(3) To qualify as an Approved Lender, an institution shall enter into an agreement with the Department providing for the manner and terms of sale of Program Loans. This purchase agreement shall be in the standard form prescribed by the Department for all Approved Lenders. Approved Lenders shall carry out such agreement in accordance with procedures set forth in the agreement and the Program's **Procedural Guide**. The Department may revise these procedures from time to time. Any such revisions shall not affect the eligibility of any Approved Lender or the terms of sale of Program Loans for any commitment previously made by the Department. The Department may terminate its agreement with an Approved Lender at any time on the



terms and conditions stated in such agreement and the Program's Procedural Guide.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0025

#### Program Loans

(1) To be eligible for purchase by the Department pursuant to a commitment to or agreement with an Approved Lender, a Program Loan shall be made by the Approved Lender during the term of the Program. The Program Loan shall comply with the terms of such commitment or agreement, the requirements set forth in the purchase agreement between the Department and the Approved Lender and the conditions set forth in the Program rules and the Program's **Procedural Guide**.

(2)(a) Each Program Loan shall have a final maturity at least 24 months and not more than fifteen years and 32 days from the date of its making;

(b) The Program Loan shall be secured by a recorded deed of trust granted by the Eligible Borrower and any additional persons in title, on the Residential Dwelling for which improvements are being financed. Title shall be held by the Eligible Borrower in fee simple, life estate or under a contractual interest. Program Loans shall only be made to finance alterations, repairs or improvements which substantially protect or improve the basic livability or energy efficiency of a Residential Dwelling;

(c) Such Residential Dwelling shall be used as a permanent, primary residence of the Eligible Borrower; and

(d) No Program Loan shall be made to refinance an existing loan unless such loan was a temporary loan for the improvement of a Residential Dwelling. Such loan shall have been made during the commitment under which the Program Loan is sold to the Department.

(3) Each Program Loan shall:

- (a) Be executed on forms approved by the Department;
- (b) Be originated according to normal lending procedures;
- (c) Meet the standards set forth in the Program rules; and

(d) Comply with applicable rules and regulations for Title I insurance.

(4) There shall be no penalties or charges for prepayment of a Program Loan.

(5) Interest on each Program Loan shall be at the rate stated in the applicable commitment. To establish the interest rate for Program Loans, the Department shall consider the rates of interest on the Bonds, prevailing rates for similar loans and the ability of Eligible Borrowers to afford such rates. The Department shall also take into account the community development objectives of the Participating Local Governments. Interest or other charges established for any Program Loan shall not exceed the limits imposed by any applicable usury laws.

(6) The principal amount of a Program Loan shall not exceed \$15,000.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0030

#### Permissible Use of Property Improved by a Program Loan

(1) Borrower shall continuously occupy the Residential Dwelling improved by a Program Loan as a permanent and primary residence during the time the Program Loan is outstanding. Borrower shall not sell, transfer, or otherwise dispose of (and may not be a party to any formal or informal arrangement to sell, transfer or

otherwise dispose of) the Residential Dwelling improved by a Program Loan before repaying the Program Loan in full.

(2) Program Loans shall not be assumed by a subsequent purchaser but shall be due upon sale or transfer of the property.

(3) If the Borrower does not comply with the provisions of this rule, at the request of the Department the Approved Servicer may, at any time and without prior notice, accelerate all payments due under the Program Loan and exercise any other remedy allowable by law.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0035

#### Eligible Borrowers

(1) To be eligible to receive a Program Loan, an Eligible Borrower shall, on the date of application:

(a) Be a resident of Oregon, and, unless otherwise approved by the Department, a resident of a Reinvestment Neighborhood designated by the relevant Participating Local Government, or a resident of a Target Area;

(b) Be a person whose total household Income does not exceed the lesser of:

(A) Median family income in the area where the housing is to be provided, as established by the Department pursuant to the Act; or

(B) The maximum established by the relevant Participating Local Government for Eligible Borrowers residing in a Reinvestment Neighborhood.

(c) Possess the legal capacity to incur the obligations of the Program Loan;

(d) Have a credit standing acceptable to the Department;

(e) Have at least a one-third interest in one of the following types of ownership in the property to be improved:

(A) A fee title;

(B) A life estate;

(C) A fee title or life estate subject to a mortgage, deed of trust, or other lien securing a debt; or

(D) A mutually binding contract for the purchase of the property where the Borrower is rightfully in possession and has the benefits and burdens of ownership of the property, and the purchase price of which is payable in installments.

(f) Agree to occupy the property to be improved as a principal residence by the date of completion of the improvements or 60 days from the date of the note, whichever is earlier;

(g) Meet requirements established by **Section 143 of the Internal Revenue Code of 1986, as amended**, which requirements are described in OAR 813-070-0065; and

(h) Not have a prior outstanding Program Loan.

(2) Applications for Program Loans shall be made on forms prepared or approved by the Department. Approved Lenders shall provide such forms to prospective applicants and take normal and appropriate measures to verify the information given. Subject to the provisions of OAR 813-070-0050 regarding refusals of Program Loans, the Approved Lender shall determine qualifications of an applicant as an Eligible Borrower.

(3) The acceptability of the applicant's credit standing shall be determined after thoroughly evaluating the applicant's credit, taking into account such factors as:

(a) The ratio between the applicant's stable monthly income and estimated housing expenses, including repayment of the Program Loan;

(b) The ratio between the applicant's stable monthly income and the estimated monthly payments on all indebtedness of the applicant, including the Program Loan;

(c) The applicant's ability to accumulate wealth or equity in real property;

(d) The history of the applicant's previous ability to meet debt service requirements; and

(e) Any other factors commonly considered by prudent institutional mortgage investors, such as prior bankruptcy of the applicant, history of slow payments on previous obligations, job tenure, frequent changes of residence and the existence of lawsuits, judgments or foreclosures involving the applicant.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0040

#### Eligible Residential Dwellings

A Residential Dwelling for a Program Loan shall:

(1) Be located in Oregon and, unless otherwise designated by the Department, in a Reinvestment Neighborhood or a Target Area.

(2) Be a permanent structure used primarily for year-round residential use.

(3) If two or more units, have been constructed and initially occupied as a residence five years before the closing of the Program Loan.

(4) Be structurally sound and functionally adequate upon completion of improvements to be financed with the proceeds of a Program Loan, and meet all applicable zoning requirements, rehabilitation codes, housing codes and similar requirements.

(5) Have no more than 15 percent of the total living area of the residence be of a character subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements (i.e., any use which would qualify as a deduction for federal income tax purposes under **Section 208A** of the **Internal Revenue Code**).

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0045

#### Mortgage Insurance

All Program Loans to be purchased by the Department under the Home Improvement Loan Program shall be insured under the Title I Property Improvement Loan Insurance Program of the Federal Housing Administration (FHA). The designated Trustee, on behalf of the Department, shall be named as the insured. The Approved Lender shall be responsible for reporting the loan to FHA for insurance, and shall originate and process the Program Loan in compliance with the Program's **Procedural Guide**, the Program rules, and rules and regulations of FHA to ensure that the Trustee will receive FHA insurance on the Program Loan.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0050

#### Refusal of Program Loans; Disclosure

(1) An Approved Lender shall proceed in good faith to process a Program Loan application and make the Program Loan if:

(a) Loan funds are available;

(b) The application is complete;

(c) The application appears to comply with the Program rules, the Program's **Procedural Guide**, and the rules and regulations of the Federal Housing Administration; and

(d) The applicant appears to be an Eligible Borrower.

(2) Any person who is refused a Program Loan by an Approved Lender may, in writing, demand a written explanation as to the spe-

cific reasons for the refusal. The Approved Lender shall comply with such demand within thirty business days.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0055

#### Approved Servicer

(1) Any commercial bank, savings and loan association, savings bank, mortgage banker or other Person legally authorized to engage in the business of servicing loans for residential housing may apply to become an Approved Servicer. An applicant wishing to become an Approved Servicer shall submit the following information for the Department's for review:

(a) An application in the form prescribed by the Department;

(b) Counsel's opinion regarding power and authority of the applicant to enter into a Loan servicing agreement with the Department;

(c) List and signatures of authorized officers;

(d) Most recent audited financial statements;

(e) Documentation evidencing bond and insurance coverage; and

(f) \$25 application fee.

(2) To qualify as an Approved Servicer and continue as such, a financial institution shall demonstrate to the Department's satisfaction that:

(a) One of its principal functions is servicing loans secured by residential real estate;

(b) Such servicing is a customary and regular business activity of the applicant;

(c) It holds a valid Title I Contract of Insurance;

(d) It will maintain servicing facilities adequately staffed with trained personnel familiar with all rules, regulations and requirements pertaining to or affecting Program Loans; and

(e) It deposits funds to accounts in depositories which comply with the requirements of ORS 295.005, 295.015 to 295.018 and 295.025 which are insured to the full extent legally possible by the Federal Deposit Insurance Corporation or other similar federal insuring department.

(3) The Department shall adopt uniform servicing rates as specified by the Department in the **Procedural Guide** which shall apply to the servicing of Program Loans by all Approved Servicers. In setting these rates, the Department shall consider the estimated costs of servicing Program Loans and prevailing rates for similar services.

(4) The Department may allocate Program Loans to Approved Servicers after considering the area in which the mortgaged property is located. To encourage participation in the Program and for convenience, the Department ordinarily requests that the Approved Lender originating a Program Loan continue to service the Program Loan for the Department.

(5) Approved Servicers shall service Program Loans in accordance with the servicing agreement, the Program rules, and the Program's **Procedural Guide**. The servicing agreement is subject to termination as provided for in such agreement. Any compensation for termination will be provided in accordance with the terms of the agreement.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 295 & ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 8-1990, f. & cert. ef. 5-2-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-070-0065

#### Federal Eligibility Requirements

(1) **Section 143** of the **Internal Revenue Code of 1986**, as amended, requires the Department to meet certain requirements in

order to preserve the federal tax exemption for Bonds issued to finance Program Loans. These requirements:

(a) Require the Residential Dwelling to be improved to be owned and occupied by the Eligible Borrower as a principal residence;

(b) Require that the proceeds of a Program Loan be used to finance alterations, repairs and improvements of a Residential Dwelling which substantially protect or improve the basic livability or energy efficiency of such dwelling; and

(c) Limit the maximum amount of a Program Loan to \$15,000.

(2) The Department is required to make available for qualified loans in Targeted Areas a specified portion of the lendable proceeds of Bonds sold. Certain census tracts are designated as Targeted Areas by **Section 143 of the Internal Revenue Code of 1986, as amended**. The Department may apply for approval of additional or revised Targeted Areas after taking into account certain statutory variables. In designating such areas, the Department shall solicit requests from all cities within the state, and apply certain criteria specified by the United States Department of Housing and Urban Development for such purpose to other urban and non-urban areas. The Housing Division shall submit its findings for approval by the Secretary of the United States Department of Housing and Urban Development and the Secretary of the United States Treasury. The Department shall retain a current list of designated Targeted Areas.

(3) The Department is required to establish procedures which ensure compliance with the requirements of **Section 143 of the Internal Revenue Code of 1986, as amended**. Any failure to meet these requirements shall be corrected within a reasonable time. The Department shall grant no exceptions or waivers unless allowed by federal law.

(4) Where required by federal law, the Department shall calculate and rebate certain amounts, if any, to the United States Treasury.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.690

Hist.: 1HD 5-1983, f. & ef. 9-2-83; 1HD 12-1984, f. & ef. 9-4-84; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 16-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 80

### MORTGAGE CREDIT CERTIFICATE PROGRAM

#### 813-080-0005

##### Purpose and Objectives

(1) The rules of this Division, are established to administer and enforce ORS 456.515 through 456.725, specifically ORS 456.605. These rules, together with the Program's **Procedural Guide**, shall implement the Mortgage Credit Certificate Program. The program's objective is to assist and encourage moderate and lower-income persons in the State of Oregon to purchase, improve, or rehabilitate new and existing single-family residences through the issuance of a Mortgage Credit Certificate.

(2) The Mortgage Credit Certificate allows the certificate holder, subject to certain limitations, a federal income tax credit. A Mortgage Credit Certificate is issued in connection with a mortgage that a certificate holder obtains to purchase, improve, or rehabilitate a single-family residence.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 5-1993(Temp), f. & cert. ef. 10-1-93; HSG 5-1994, f. & cert. ef. 8-26-94

#### 813-080-0010

## Definitions

All terms are used in this Division, as defined in the Act, and as provided in OAR 813-005-0005 and herein. As used in these rules, unless otherwise indicated by the context:

(1) "Acquisition Cost" has the meaning given that term under **Section 143(k)(3) of the Internal Revenue Code of 1986, as amended**, and applicable regulations thereunder. This includes but is not limited to the cost of acquiring a residence (purchase price) from the seller as a completed residential unit.

(2) "Adjusted Basis" has the meaning given that term under **Section 1221 of the Internal Revenue Code of 1986, as amended**, and applicable regulations thereunder in effect on December 2, 1986. It is determined in the same manner as a capital asset: The original cost of a property plus the value of any capital expenditures for improvements to the property, minus any depreciation taken.

(3) "Affidavit" means a sworn statement in writing made under oath and subject to the penalties of perjury.

(4) "Certificate" means a written document authorizing and verifying the amount of the tax credit allowed under the Mortgage Credit Certificate Program. The document shall include the information required by the **Internal Revenue Code of 1986, as amended**, and **Section 1.25-6T(b)(1) through (20)** of the regulations thereunder.

(5) "Certificate Holder" means an eligible borrower(s) meeting the criteria and requirements set forth in these rules and to whom a Mortgage Credit Certificate has been issued.

(6) "Certification" means a signed written statement confirming the truth and accuracy of the information provided.

(7) "Certified Indebtedness Amount" means the amount of indebtedness incurred by the taxpayer to acquire the principal single-family residence, or as a Qualified Home Improvement Loan, or as a Qualified Rehabilitation Loan, and is specified in the Mortgage Credit Certificate.

(8) "Eligible Borrower" means any person meeting the criteria set forth in OAR 813-080-0040 who has been determined to be eligible but has not been issued a Mortgage Credit Certificate.

(9) "Existing Home" means a single-family residence that has been occupied previously.

(10) "Household" mean any person or persons living together in a single-family residence (e.g., married couples, two-unmarried persons sharing the same single-family residence, a single person, etc.).

(11) "Income" means the total of the gross annualized income, from any source and before taxes and withholding, of all non-minor persons who will reside in the single-family residence.

(12) "Issuer" means the agency of the State of Oregon.

(13) "Lender" means any person, including an issuer of Mortgage Credit Certificates, who provides financing for the acquisition, Qualified Rehabilitation, or Qualified Home Improvement of a single-family residence, and who has entered into a Mortgage Credit Certificate Lender Agreement with the Department.

(14) "Mortgage" means any instrument which evidences the conveyance of an interest in a single-family residence as defined under these rules. This includes but is not limited to mortgages, deeds of trust, land sale contracts, pledges, agreements to hold title in escrow, and any other form of owner financing.

(15) "New Home" means a single-family residence which has not been occupied previously.

(16) "Principal Residence" means the primary dwelling in which one lives.

(17) "Qualified Home Improvement" means financing (whether or not secured by a mortgage), in an amount which does not exceed \$15,000 in relation to any residence, of alterations, repairs, and improvements by the owner on or in connection with an existing owner-occupied single-family residence, but only if such items substantially protect or improve the basic livability or energy efficiency of the residence. It does not include financing of luxury items such as swimming pools, saunas, hot tubs, or hobby shops.

(18) "Qualified Rehabilitation" means financing of any rehabilitation of a residence if there is a period of at least 20 years between the date on which the building was first used and the date physical work on the rehabilitation begins; if in the rehabilitation process, 50 percent or more of the existing external walls of such build-



ing are retained in place as external walls, 75 percent or more of the existing external walls of the building are retained in place as internal or external walls, 75 percent or more of the existing internal structural framework of such building is retained in place; and the expenditures of such rehabilitation are 25 percent or more of the mortgagor's adjusted basis in the single-family residence (including the land on which the residence is located). It does not include financing of luxury items such as swimming pools, saunas, hot tubs or hobby shops.

(19) "Related Person" has the meaning given that term under **Section 144(a)(3) of the Internal Revenue Code of 1986, as amended**, and **Section 1.103-10(e)(1)** of the regulations thereunder. This includes, but is not limited to, mother; father; son; daughter; grandmother; grandfather; brother; sister; other lineal descendants by full or partial blood, marriage, or contract of law; or persons with an ownership interest in a business.

(20) "Single-Family Residence" means a housing unit intended and used for occupancy by one household. This shall be real property or manufactured housing located in Oregon. A single-family residence may include a single-family residence, condominium unit, a dwelling in a Planned Unit Development (PUD), a mobile or manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and is of a kind customarily used at a fixed location, or a unit in a housing cooperative.

(21) "Tax Credit Rate" means the percentage rate specified by the issuer on the Mortgage Credit Certificate which the certificate holder shall use in calculating the allowable tax credit.

(22) "Total Proceeds" means the sum of the products determined by multiplying the certified indebtedness amount of each Mortgage Credit Certificate issued pursuant to such issue by the tax credit rate specified in such certificate.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 5-1993(Temp), f. & cert. ef. 10-1-93

### 813-080-0015

#### Tax Credit

(1) The Mortgage Credit Certificate shall authorize the certificate holder to claim a federal income tax credit in connection with a mortgage loan on a single-family residence which is the certificate holder's principal residence. The amount of the tax credit is determined by multiplying the amount of the mortgage interest paid or accrued on the principal residence of the certificate holder during the taxable year by the tax credit rate.

(2) The issuer shall determine the Tax Credit Rate in accordance with **Section 25(d) of the Internal Revenue Code of 1986, as amended**, and applicable regulations thereunder.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0020

#### Public Notice Requirement

The issuer shall issue Mortgage Credit Certificates only after making generally available a notice of the proposed plan of distribution of the certificates at least 90 days before the Mortgage Credit Certificates are made available. The notice shall include all information required by **Section 25 of the Internal Revenue Code of 1986, as amended**, and **Section 1.25-7T** of the regulations thereunder. The notice shall also provide a brief description of the methods by which the certificates are to be issued and the address and telephone number for obtaining further information.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0025

#### Targeted Area Requirements

(1) A portion of the total proceeds of any issue shall be reserved for one year after the date on which Mortgage Credit Certificates are first made available to provide Mortgage Credit Certificates in connection with financing of Targeted Area single-family residences.

(2) Mortgage Credit Certificates shall be considered first made available on the date the issuer first begins to accept applications for Mortgage Credit Certificates provided under that issue.

(3) The reserved portion of the total proceeds of an issue shall be the lesser of:

(a) Twenty percent of the total proceeds;

(b) Eight percent of the average annual aggregate principal amount of Mortgages executed during the immediately preceding three calendar years for owner-occupied single-family residences in Targeted Areas within the jurisdiction of the issuing authority; or

(c) To compute the required portion of the total proceeds, the issuer may rely on the formulas provided in **Section 143(h) of the Internal Revenue Code of 1986, as amended**, and the regulations thereunder.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0030

#### Allocation of Mortgage Credit Certificates

(1) Under the program, the issuer may issue Mortgage Credit Certificates to eligible borrowers.

(2) An applicant wishing to participate in the program may apply through any lender who is not a related person. The Lender shall sign and agree to the terms of the issuer's Mortgage Credit Certificate Lender Agreement before a Mortgage Credit Certificate will be issued to the eligible borrower.

(3) Mortgage Credit Certificate application shall be made on forms prepared or approved by the issuer. The lender shall provide such forms to prospective applicants and take normal and appropriate measures to verify the information given. The lender shall determine the qualifications of an applicant as an eligible borrower for a Mortgage Credit Certificate.

(4) If the applicant meets the Program requirements, the lender shall obtain a completed and signed Application Affidavit from the applicant. Upon receipt of the signed Application Affidavit, the lender shall place with the issuer a reservation for tax credit authority for that applicant in the manner prescribed by the issuer. The issuer shall issue a letter which confirms that tax credit authority has been reserved, and lists the program requirements the applicant must meet to qualify for the Mortgage Credit Certificate. The lender shall notify the issuer, in writing, of any changes in the information furnished in the letter. The issuer shall issue Mortgage Credit Certificates only to applicants for whom a reservation for tax credit authority has been made, and who, at loan closing, meet the program requirements listed in the letter.

(5) If a lender determines that an applicant does not qualify for a Mortgage Credit Certificate, the lender shall instruct the issuer to cancel that applicant's reservation for tax credit authority.

(6) The lender shall provide to the issuer evidence of closing and other information the issuer may require within ten working days of loan closing unless the issuer approves a later submission upon written request of the lender. Upon review and approval of the information submitted, the issuer shall issue the Mortgage Credit Cer-

tificate. If the issuer disapproves issuance of a Mortgage Credit Certificate, the issuer shall cancel that applicant's reservation for tax credit authority and notify the lender immediately of the actions taken.

(7) The issuer may establish reasonable fees in connection with the issuance of a Mortgage Credit Certificate:

(a) The lender shall charge and remit to the issuer a fee of one-half of one percent of the Certified Indebtedness Amount (original loan amount) to cover the issuer's administrative costs of operating the Mortgage Credit Certificate Program. The lender may retain a discretionary fee from the above administrative fee, of up to \$50 to cover the administrative costs of processing the Mortgage Credit Certificate package. The fees are non-refundable unless the issuer or lender, on a case-by-case basis, waives all or part of its fee;

(b) The issuer shall charge the borrower a \$10 fee for a replacement copy of their Mortgage Credit Certificate;

(c) Applicants may be required to pay other fees which are customarily associated with a mortgage or contract loan provided the fees are usual and reasonable.

(8) The availability of Mortgage Credit Certificates issued under the Mortgage Credit Certificate Program shall be subject to the issuer's election not to sell qualified mortgage bonds.

(9) The issuer may adopt procedures to allocate Mortgage Credit Certificates to lower-income before higher-income applicants.

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 5-1988(Temp), f. 11-15-88, cert. ef. 11-22-88; HSG 6-1988, f. & cert. ef. 12-19-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 16-1990, f. & cert. ef. 12-27-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91; HSG 9-1992, f. & cert. ef. 9-2-92; HSG 5-1993(Temp), f. & cert. ef. 10-1-93; HSG 5-1994, f. & cert. ef. 8-26-94

### 813-080-0035

#### Mortgage Credit Certificate Lender

(1) A lender may be any person, including an issuer of Mortgage Credit Certificates, who provides financing for the acquisition, Qualified Rehabilitation, or Qualified Home Improvement of a single-family residence. This includes, but is not limited to, any commercial bank, savings and loan association, savings bank, mortgage banker, credit union, finance company or other person. A lender shall not provide financing under this program to any certificate holder who is a related person to that lender.

(2) A person wishing to become a lender shall sign and agree to the terms of the Department's Mortgage Credit Certificate Lender Agreement. A lender who has signed this Mortgage Credit Certificate Lender Agreement may provide financing for the purchase, improvement, or rehabilitation of a single-family residence in connection with the issuance of a Mortgage Credit Certificate to an eligible borrower.

(3) A lender shall agree to provide financing to the eligible borrower in accordance with the following criteria:

(a) The mortgage shall not be used for the acquisition or replacement of an existing mortgage unless such mortgage was a construction loan, bridge loan, or similar temporary financing of 24 months or less;

(b) The mortgage may not have any portion of the financing from the proceeds of a tax-exempt mortgage bond or a tax-exempt veteran's mortgage bond;

(c) The purchaser shall not, directly or indirectly, be prohibited or required to obtain financing from one or more lenders;

(d) There shall not be any interest on the certified indebtedness amount paid to a related person to the eligible borrower;

(e) A Mortgage Credit Certificate shall not be transferable.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0040

#### Borrower Eligibility

(1) A borrower, to be eligible to receive a Mortgage Credit Certificate, shall, on the date of application:

(a) Be a resident of Oregon;

(b) If acquiring a single-family residence, be a person who has had no present ownership interest in a principal residence at any time during the three-year period prior to the execution date of the mortgage in connection with the Mortgage Credit Certificate. A principal residence, as used in this subsection, includes a single-family residence, condominium unit, a dwelling in a Planned Unit Development (PUD), a mobile or manufactured home, a unit in a housing cooperative, or occupancy of a unit in a multifamily building owned by the applicant. This requirement does not apply to any residence located in a Targeted Area:

(A) Examples of interests that are considered present ownership interest in a principal single-family residence:

(i) Fee simple interest;

(ii) As an individual (in severalty);

(iii) Tenants by the entirety (husband and wife);

(iv) Tenants in common (each has an undivided interest whose portion of ownership will revert to their heirs);

(v) With the right of survivorship (each has an undivided interest whose portion of ownership will revert to the other owners in the property);

(vi) Interest of a tenant shareholder in a cooperative;

(vii) Life estate;

(viii) Land sales contract (i.e., a contract pursuant to which possession and the benefits and burden of ownership are transferred although legal title is not transferred until some later date);

(ix) Interest in a mobile or a manufactured home located on land owned by the borrower and considered part of the real property;

(x) Interest in a mobile or manufactured home located on leased or rented land.

(B) Examples of interests that are *not* considered present ownership interests:

(i) Applicants who have had an ownership interest in, but not occupied, a residential property for the three years prior to executing a mortgage in connection with the Mortgage Credit Certificate;

(ii) Remainder interest;

(iii) Lease with or without an option to purchase;

(iv) Mere expectancy to inherit an interest in a principal residence;

(v) Interest that a purchaser of a residence acquires upon execution of a purchase or sales agreement;

(vi) Interest in unimproved land or business property.

(c) Be a person who in good faith intends to use or continues to use the single-family residence for a Principal Residence;

(d) Be a person whose total Household Income, as defined in **Section 143(f) of the Internal Revenue Code of 1986, as amended**, and the regulations thereunder, does not exceed the limit established by the issuer pursuant to the Act.

(2) The eligible borrower shall meet the requirements established by the lender for the particular mortgage made in connection with a Mortgage Credit Certificate.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0045

#### Eligible Single-Family Residence

A single-family residence, to be eligible for the program, shall:

(1) Be located in Oregon.

(2) Consist of only one residential unit.

(3) Have no more than 15 percent of the total living area of the residence be of a character subject to being rented for or used in the operation of a trade or business conducted on any part of the land or improvements (i.e., any use which would qualify as a deduction for

federal income tax purposes under **Section 280A** of the **Internal Revenue Code**).

(4) Have an acquisition cost (purchase price) which does not exceed the limit established by the issuer pursuant to the latest average purchase price limitations for mortgage subsidy bonds published by the Internal Revenue Service. The issuer shall publish these acquisition costs annually.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986, f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0050

#### Lender Reporting and Record Keeping

(1) The following are the Internal Revenue Service regulations in effect on the effective date of these rules.

(2) Any lender who makes a mortgage that is a certified indebtedness amount with respect to a Mortgage Credit Certificate is required by the Internal Revenue Service to file an annual report with the Internal Revenue Service on their Form 8329:

(a) This report shall be filed on or before January 31 for the year following the calendar year to which the report relates;

(b) A separate Internal Revenue Service Form 8329 shall be filed for each issue of Mortgage Credit Certificates with respect to which the lender made mortgages during the preceding calendar year.

(3) Any lender who makes a mortgage that is a certified indebtedness amount with respect to any Mortgage Credit Certificate shall retain the following information for six years following the year in which the mortgage was made:

(a) The name, address, and Tax Identification Number (TIN) of each Certificate Holder;

(b) The name, address, and TIN of the issuer of the Mortgage Credit Certificate; and

(c) The date the mortgage for the certified indebtedness amount closed, the certified indebtedness amount, and the certificate credit rate.

(4) Any person required to file a report with respect to any Mortgage Credit Certificate who fails to file the report at the time and in the manner required may be subject to a penalty imposed by the Internal Revenue Service of \$200 for each Mortgage Credit Certificate not reported. This penalty shall not apply if failure is due to reasonable cause and not willful neglect:

(a) The aggregate amount of the penalty shall not exceed \$2,000 for any one report;

(b) The required reports shall be filed at the Internal Revenue Service Center, Philadelphia, Pennsylvania 19225.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, f. & cert. ef. 11-3-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0055

#### Revocation

(1) The issuer may revoke a Mortgage Credit Certificate when the certificate holder no longer occupies the single-family residence to which the Mortgage Credit Certificate relates as a Principal Residence. Mortgage Credit Certificates shall not transfer with the property.

(2) A Mortgage Credit Certificate may be revoked if it is found the certificate Holder did not meet the program requirements for a Mortgage Credit Certificate when certified.

(3) Upon revocation the issuer shall notify the certificate holder and the Internal Revenue Service in writing of the revocation.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

### 813-080-0060

#### Penalties for Misstatement

(1) If any person makes a material misstatement in any affidavit or certification made in connection with the application for, or the issuance of, a Mortgage Credit Certificate and such misstatement is due to negligence of that person, that person shall be subject to a fine of \$1,000, imposed by the Internal Revenue Service for each Mortgage Credit Certificate for which a misstatement was made.

(2) If any person makes a material misstatement in any affidavit or certification made in connection with application for, or issuance of, a Mortgage Credit Certificate and such misstatement is due to fraud, then that person shall be subject to a penalty imposed by the Internal Revenue Service of \$10,000 for each Mortgage Credit Certificate with respect to which the fraudulent misstatement was made.

(3) A lender shall inform any applicant required to sign a Program Affidavit or certification that any fraudulent statement may result in the revocation of the individual's Mortgage Credit Certificate and a \$10,000 penalty imposed by the Internal Revenue Service. Other persons required by a lender to provide affidavits or certifications must receive a similar notice.

(4) The above-described penalties shall be imposed in addition to any other criminal penalty provided by the law.

Stat. Auth.: ORS 90.800 - ORS 90.840, ORS 91.886, ORS 183, ORS 456.515 - ORS 456.723 & ORS 458.210 - ORS 458.650

Stats. Implemented: ORS 456.605

Hist.: 1HD 2-1986(Temp), f. & ef. 6-17-86; 1HD 4-1986, f. & ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 8-1991, f. & cert. ef. 12-23-91

## DIVISION 90

### LOW-INCOME HOUSING TAX CREDIT PROGRAM

### 813-090-0005

#### Purpose and Objectives

The rules of OAR Chapter 813, Division 090, are established to administer and enforce ORS 456.515 through 456.720, and specifically ORS 456.559(1)(f). These rules implement the Low-Income Housing Tax Credit Program. The Program's objective is to assist and encourage the development of affordable housing rental units for low-income households through the allocation of housing tax credits as provided by **Section 42** of the **Internal Revenue Code (IRC)**.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0010

#### Definitions

All words and terms used in OAR Chapter 813, Division 090 are as provided in OAR 813-005-0005 and herein. As used in these rules:

(1) "Applicant" means a person or entity that applies for an allocation of Housing Credit from the Department by completing an application provided by the Department.

(2) "Carryover Allocation" means an allocation of Housing Credit made to a proposed Project owner by the Department for a proposed Project which is not yet eligible to receive an allocation Form 8609 and which is over ten percent completed as of the end of the calendar year in which the allocation is made.

(3) "Credit Authority" means the dollar amount of Housing Credit available for allocation by the Department for any calendar year and may include estimates of future amounts.

(4) "Housing Credit" means the low-income housing tax credit available to a Project pursuant to IRC Section 42. The amount of low income housing tax credit available for allocation to a Project is that amount which the Department determines is necessary to make the Project financially feasible but in no instance may it be



greater than the applicable percentage of the qualified basis of each qualified low income building.

(5) "IRC" means the **Internal Revenue Code of 1986, as amended**.

(6) "Oregon agency" and "Department" mean the Oregon agency of the State of Oregon.

(7) "Project" means a qualified low income housing project as defined in **IRC Section 42(g)**. A Project may include one or more buildings and any associated common area and may be located on scattered sites, if each of the dwelling units within each building is rent-restricted as required in **IRC Section 42(g)**.

(8) "REF" means request for proposals.

(9) "Reservation and Extended Use Agreement" is a contract between the Department and the proposed Project owner whereby the proposed Project owner agrees, among other things, to provide and maintain the Project and to guarantee its compliance with the requirements of **IRC Section 42** and the Department by executing and recording the Declaration of Land Use Restrictive Covenants on the Project in return for an allocation of Housing Credit in accordance with **IRC Section 42(h)(6)**.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0015

#### Allocation of Credit Authority

(1) The Department may, to the extent of its Credit Authority, allocate Housing Credits pursuant to a qualified allocation plan of the Department approved by Executive Order.

(2) The Department shall allocate the Housing Credit in compliance with the requirements of **IRC Section 42**, applicable regulations and revenue procedures enacted or adopted thereunder, ORS 456.559(1)(f) and the rules of this division.

(3) The Department shall maintain a record of allocations and the balance of Credit Authority remaining for each calendar year. The records shall account separately for Credit Authority set-aside under OAR 813-090-0025 and 813-090-0027.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0025

#### Non-Profit Set Aside

Ten percent of the Credit Authority for any calendar year shall be reserved for allocations to Projects involving a qualified non-profit low-income housing organization.

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0027

#### Farmers Home Administration 515 Program Set Aside

(1) Ten percent of the Credit Authority for any calendar year may be set aside for Projects financed through the Farmers Home Administration (FmHA) 515 Program.

(2)(a) To qualify for Housing Credit set aside under OAR 813-090-0025(1), Applicants shall submit documentation from FmHA substantiating they are approved for financing under the FmHA 515 Program. A completed Form AD622, or its equivalent will be acceptable for this purpose if the Form AD622 indicates that the project has

been determined to be eligible for funding in competition with similar applications and the Applicant has been invited to file a formal application with FmHA in time to be funded by November 1st of the year from which Housing Credit will be allocated. The Department may revoke an offer of Housing Credit allocation to an FmHA 515 Project or terminate a Reservation and Extended Use Agreement under OAR 813-090-0060 if FmHA funding is not committed to by November 1st of the Housing Credit allocation year;

(b) If the full set aside is not allocated through an application process, other rural housing (as defined by FmHA rules) will have first priority for the balance of the set aside with any unused tax credit added to non-rural projects.

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0029

#### Extended Use Period Low-Income Commitment

(1) No allocation shall be made by the Department to an Applicant until or unless the Department and the Applicant enter into a Reservation and Extended Use Agreement. The Reservation and Extended Use Agreement shall specify, among other things, a minimum applicable unit fraction as defined by **IRC Section 42(c)(1)(B)** and the rent formula to be maintained for the Project to continue to qualify for Housing Credit.

(2) An executed Reservation and Extended Use Agreement shall be enforceable in any State court by any individual who qualified for occupancy by virtue of the income limitation set for such buildings; shall be binding on all successors of the Applicant; and the Declaration of Land Use Restrictive Covenants incorporated within the Reservation and Extended Use Agreement shall be recorded pursuant to State law as a restrictive covenant.

(3) The Housing Credit allocation may not exceed the amount necessary for the financial feasibility of those units of the Project represented by the applicable fraction at the restricted rents specified in the Reservation and Extended Use Agreement.

(4) The Reservation and Extended Use Agreement shall include a commitment to meet the applicable fraction and restricted rent requirements for 15 years or more beyond the initial 15 year compliance period and may postpone for a specific time the project owner's rights under IRC Section 42(h)(6) to terminate the commitment after the initial 15 year compliance period.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0030

#### Qualified Allocation Plan and Project Evaluation

(1) The Department shall develop and maintain a qualified allocation plan for the allocation of Housing Credit.

(2) The Department may periodically solicit applications or select projects from a pool of qualified applications for the allocation of Housing Credit pursuant to the Department's qualified allocation plan. Applications will be evaluated consistent with **IRC Section 42**, ORS 456.559(1)(f), the rules of this division and procedures consistent with the Department goals to provide long term affordable housing.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist. HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0031

#### Application Requests

(1) The Department may solicit applications for an allocation of Housing Credit from interested parties when such credit is available.

(2) The Department may require a non-refundable application fee, not to exceed \$25 plus \$5 per unit, for submission of an application.

(3) The Department shall evaluate completed applications based on a ranking system consistent with **IRC Section 42(m)(l)**, established by the Department and set forth in the Department's qualified allocation plan.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0035

#### Applications for Low-Income Housing Tax Credits

(1) Applicants must submit an application form to qualify for an allocation of Housing Credit. The application required by the Department may request, among other information, the following:

(a) The amount of Housing Credit requested;

(b) Building location: state, county, town, street address and legal description;

(c) An initial statement based on waiting list information from the local public housing authority indicating whether or not there is a need for the proposed project;

(d) The qualified basis as defined in **IRC Section 42**, including the amount of substantial rehabilitation, if any;

(e) What elections under Section 42 the proposed Project owner will be making or has made to qualify for an allocation of Housing Credit, and when the housing units will be/were placed in service;

(f) Complete financial information about the proposed Project showing all sources and uses of funds;

(g) Operating proforma statement on a cash flow basis showing net operating income before debt service;

(h) Evidence of a commitment for financing, federal loan insurance, or other major source of funds;

(i) A detailed summary of the proceeds or receipts expected to be generated by reason of tax benefits; and

(j) Other financial information regarding grants, subsidies, or tax-exempt financing for the proposed Project.

(2) Before the Department makes an offer of a Housing Credit allocation to a proposed Project owner it shall:

(a) Review all applications;

(b) Determine the amount of Housing Credit each proposed Project needs to receive to be financially feasible;

(c) Rank the applications pursuant to the Department's qualified allocation plan and IRC Section 42;

(d) Notify the chief executive officer (or the equivalent) of the local jurisdiction with in which the proposed Project is located and provide such individual a reasonable opportunity to comment on the proposed Project to the Department. When a proposed Project is located outside an incorporated community, the county commissioners for the county of jurisdiction shall be contacted; and

(e) Notify Applicants whether or not they will receive an offer to execute a Reservation and Extended Use Agreement with the Department.

(3) Applicants who wish to execute the Reservation and Extended Use Agreement must first submit a reservation fee equal to 5% of the annual Housing Credit as determined by the Department and provide information regarding Project feasibility satisfactory to the Department.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0036

#### Procedures for Allocation of Low-Income Housing Tax Credit

(1) Applicants selected for an offer under OAR 813-090-0035 must execute with the Department a Reservation and Extended Use Agreement in a form satisfactory to the Department. The Reservation and Extended Use Agreement will include, among other things, a provision for financial evaluation of the Project based on cost certification and will incorporate a Declaration of Land Use Restrictive Covenants to be executed and recorded prior to the Department completing a Form 8609 and delivering a copy thereof to the Applicant.

(2) If the Housing Credit cannot be used in the year of allocation but the proposed Project is over 10% completed, a Carryover Allocation of Housing Credit may be made. If a Carryover Allocation has been made, the owner shall submit the application for final allocation of Housing Credit when the Project is placed in service. No additional fee is charged for allocation. The Department shall limit at the time of the extension of a Carryover Allocation the maximum credit which the proposed Project may receive.

(3) Upon receipt of a certified copy of the recorded Declaration of Land Use Restrictive Covenants in a form satisfactory to the Department, the Department shall complete and issue Part I of Internal Revenue Service Form 8609 to confirm final allocation of Housing Credits.

(4) The Project owner shall be responsible for filing the required IRS Form with his or her tax return.

(5) An allocation may not be rescinded or reduced by the Department except as provided under OAR 813-090-0060. Proposed Project owners may return unneeded Housing Credit by completing and filing with the Department, forms supplied by the Department. The Department may refund one-fifth of the reservation fee if the Housing Credit is used subsequently to meet requests within the Credit Authority.

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0040

#### Qualified Basis Limited by Application

The qualified basis established for the Project at the time the Housing Credit is allocated may not be increased without the Applicant submitting another application for an additional Housing Credit allocation in accordance with OAR 813-090-0031.

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0060

#### Revocation or Reduction of Housing Credit

(1) The Department may refuse to make an offer, may revoke an offer of a Housing Credit allocation, or may terminate a Reservation and Extended Use Agreement, if the Department determines that:

(a) The proposed Project owner will not obtain a construction loan or building permit, or close its equity agreement for the proposed Project in a timely manner;

(b) The proposed Project will not be placed in service by the date mutually agreed upon;

(c) The proposed Project financing is not committed as indicated; or

(d) The Applicant has supplied misleading information.

(2) The Department may reduce the allocation amount identified in the Reservation and Extended Use Agreement prior to the issuance of a copy of a Carryover Allocation or Form 8609 to the project owner if the Department determines that the project requires a lesser amount of Housing Credit to be financially feasible.

(3) When the Department has issued a Carryover Allocation, the Department may reduce the allocation amount identified in the Carryover Allocation prior to the delivery of a copy of a Form 8609 to the Project owner if the Department determines that the project

requires a lesser amount of Housing Credit than previously determined to be financially feasible.

(4) The Department may revoke a Carryover Allocation if the Department determines that at least 10% of the total project cost will not be expended by the end of the calendar year in which the Carryover Allocation is made, or that the Project will not be placed in service within two years following the calendar year in which a Carryover Allocation is made or by the dates mutually agreed upon.

Stat. Auth.: ORS 183 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 13-1987(Temp), f. & cert. ef. 9-28-87; HSG 1-1988, f. & cert. ef. 3-8-88; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 18-1989, f. & cert. ef. 11-3-89; HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0065

#### Representations

The Department shall rely on representations of the Applicant, including all agents and parties of interest, in reviewing applications and evaluating the amount of Housing Credit needed and whether a proposed Project qualifies for a Housing Credit allocation, and shall not validate the financial feasibility of a proposed or established Project, credit worthiness of the Applicant, or tax consequences of the Housing Credit for the Project, the Applicant or any other interest-party.

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

### 813-090-0070

#### Monitoring

(1) The Department shall notify the Internal Revenue Services (IRS) in writing of the non-compliance of any Project with the provisions of **IRC Section 42** as they may apply to such Project and the Department shall not be liable to the Project or Project owner for any adverse consequences resulting from the Department notifying the IRS.

(2) The Department shall send a copy to the Project owner of any notification of non-compliance sent to the IRS regarding the project.

(3) The Department may require annual reports from the Project owner in order to facilitate the Department's monitoring of Project compliance.

(4) The Department may charge the Project owner a reasonable fee for the Department's costs of monitoring the project owner's compliance with restrictions established by the Department and IRC Section 42.

(5) The Declaration of Land Use Restrictive Covenants and Reservation and Extended Use Agreement, of which it is a part, may be enforced by the Department or its designee in the event the Owner fails to satisfy any of the requirements therein.

(6) The Declaration of Land Use Restrictive Covenants shall be deemed a contract enforceable by one or more tenants as third-party beneficiaries of the Declaration of Land Use Restrictive Covenants and Reservation and Extended Use Agreement.

(7) In the event the Project owner fails to satisfy the requirements of the Declaration of Land Use Restrictive Covenants and Reservation and Extended Use Agreement and legal costs are incurred by the Department or one or more tenants or beneficiaries, such legal costs, including legal fees and court costs (including costs of an appeal), are the responsibility of and may be recovered from the project owner.

[Publications: The publication(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 12-1990(Temp), f. & cert. ef. 5-29-90; HSG 14-1990, f. & cert. ef. 10-26-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 7-1991, f. & cert. ef. 12-19-91

## DIVISION 110

### OREGON AFFORDABLE HOUSING TAX CREDITS: AFFORDABLE HOUSING PROJECT CERTIFICATION

#### 813-110-0005

##### Purpose and Objectives

The rules of OAR Chapter 813, Division 110, are established to define and carry out the provisions of ORS 317.097 as amended by 1995 Legislation (the Act), as they pertain to the Department. The Department certifies Projects sponsored by government entities, non-profit corporations and certain persons as identified in ORS 317.097 to allow a Lending Institution to claim a tax credit against Oregon taxes as provided in the Act. The Department also certifies that loans to qualifying Projects falls within the Cap identified in ORS 317.097(6) and designates the period, not to exceed 20 years, for which the credit will be allowed. The purpose of the program is to encourage the provision of housing for lower-income Oregonians.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

#### 813-110-0010

##### Definitions

All terms used in OAR Chapter 813, Division 110 are as provided in the Act and as used in these rules:

(1) "Application" means a request signed by a Sponsor for Certification of a Project.

(2) "Cap" means the maximum amount of tax credits as set by the Legislature in ORS 317.097(6).

(3) "Certification" means the written verification by the Department to a Lender that a Project is a qualified Project for which the Lending Institution may claim a tax credit under the provisions of the Act.

(4) "Department" means the Oregon agency of the State of Oregon.

(5) "Firm Commitment of Financing" means the Lending Institution's agreement to make a loan to a specific borrower on a specific property and which will contain all of the terms and conditions that the borrower has to satisfy before said loan can be funded. Payment of a commitment fee by the borrower to the Lending Institution may be required as a condition precedent to issuance of such an agreement.

(6) "Housing Payments" as used in the Act means rent, or purchase price for a Sponsored Project.

(7) "Consolidated Plan" means the plan approved by HUD which describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs.

(8) "Lending Institution" means any bank, mortgage banking company, federal savings bank, savings bank, stock savings bank, savings and loan association, national bank or federal savings and loan association maintaining an office in this state. "Lending Institution" also includes any community development corporation, as defined in ORS 708.444(4), that is organized under the Oregon Non-profit Corporation Law, and that meets the conditions described in ORS 708.444(2)(a) and (e).

(9) "Letter of Intent" means a proposal for financing by the Lending Institution subject to the borrower's compliance with certain terms stipulated by the Lending Institution.

(10) "Median Income" shall be the area median family income, adjusted for family size, as published from time to time by the US Department of Housing and Urban Development.

(11) "Project" means one or more units of housing including refinanced housing which will be sold or rented to or owned by households whose incomes are less than 80 percent of Median Income. The use of a Project for eligible occupants shall be maintained for the term of the credits, in accordance with the Act unless terminated at the discretion of the Department. If there is a foreclosure, deed-in-lieu, or an involuntary transfer where title transfers to



the Lending Institution, that Lending Institution may dispose of the property at their sole discretion.

(12) "Rents Charged at the Market Interest Rate" means the rents that would be required, if the lender charged the market interest rate, in order to make the project financially feasible.

(13) "Rent Reduction" means the amount rents are reduced from the Rents Charged at the Market Interest Rate as a result of the OAHTC subsidy.

(14) "Rent Pass Through" means the amount of Rent Reduction made available to the tenants because of the reduced interest rate attributable to the OAHTC subsidy.

(15) "Sponsor" is a borrower who is a nonprofit corporation, state or local government entity including but not limited to a housing authority, which may be a controlling general partner in a limited partnership. A Sponsor may be any person, including a nonprofit or local government entity but not limited to a housing authority, that enters into restrictive covenants regarding the rents on the property and eligibility of occupants. A Sponsor may be an authorized agent of a Lending Institution in a local owner occupied community rehabilitation program. A Sponsor may also be a borrower which reloans the proceeds of a loan to participating individuals in a community rehabilitation program.

(16) "Tenant" is a renter who occupies or will occupy a unit in a Project or a homeowner who is the borrower in an owner occupied community rehabilitation program.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0015

#### Application Requirements

(1) The Department may provide credits from the OAHTC Program subject to availability of credits in the program through a process which may include, but is not limited to, a first come first reviewed or competitive review process. At the time credits are made available, the Sponsor shall submit a written Application for Certification to the Department. The Application shall provide information, including, but not limited to:

(a) Name, address, and telephone number of the Sponsor;

(b) Proof of eligible nonprofit corporation or governmental organizational status;

(c) Background and experience with housing for low-income persons of Sponsor and management agent, if applicable;

(d) A firm Commitment of Financing including an estimated comparable market interest rate for the proposed loan, and the estimated reduced interest rate, and the estimated amount of savings which will be passed on to Tenants as reduced housing payments;

(e) Name, address, and contact person of the eligible Lending Institution making the loan;

(f) A description of the Project, including the type of housing or program involved; number and type of housing units to be provided including the number of bedrooms; the address where the Project is or will be located; and the federal, state, or local agencies or organizations involved in financing or managing the Project; and

(g) A Certification that all statements in the Application are true, correct and complete, and that the statements are made expressly for the benefit of the State of Oregon, acting by and through the Department, or otherwise, and the Tenants of the Project.

(2) In addition, the Sponsor shall demonstrate in writing that at the time the Project is initially rented or purchased, and thereafter for the term of the credits, the Sponsor will pass the benefits of the Project's reduced loan interest rate to Tenant households whose earnings are less than 80% of Median Income at the time of initial occupancy and shall execute restrictive covenants to be recorded at the time of the permanent loan closing.

(3) The Sponsor shall pay a \$100 non-refundable fee to the Department for reviewing the Sponsor's Application. The fee must accompany the Sponsor's Application to the Department.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0020

#### Application Review

(1) The Department shall review the Application and decline or certify the Project, request additional information or reserve tax credits, within 90 calendar days of receiving the Application.

(2) In reviewing Applications for Certification, the Department, as appropriate, may consider, but is not limited to, the following:

(a) Sponsor, property management agent and other involved person's experience in providing low-income housing;

(b) Estimated Rents Charged at the Market Interest Rate or purchase price at market interest rate for the type and location of housing to be provided;

(c) Dollar amount of estimated savings from the Rent Reduction;

(d) Estimated Rent Reduction or purchase price;

(e) How long the tax credits are needed to meet the Sponsor's goals of long term affordable housing;

(f) The Sponsor's statement that proposed Rent Reduction or reduced purchase price will be maintained for or offered to households whose annual incomes are less than 80% of Median Income;

(g) Restrictive covenants which provide for, but are not limited to, affordability and income and rent restrictions; and

(h) Certifying statement from the agent for the Lending Institution of a local owner occupied community rehabilitation program, if applicable.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0021

#### Reservation in Lieu of Certification

(1) In place of a Commitment of Financing the applicant may submit a Letter of Intent to lend.

(2) Applications acceptable under OAR 813-110-0015 substituting a Letter of Intent for a Commitment of Financing and passing the Department review under OAR 813-110-0020 may, subject to the availability under the Cap, receive a Reservation of tax credits.

(3) A Reservation shall be valid for 180 days.

(4) If a firm Commitment of Financing is received by the Department prior to the expiration of a Reservation, a Certification may be issued. Once the Reservation is issued it is a confirmed Reservation unless the Lending Institution modifies the original Letter of Intent.

(5) A Reservation may be extended by the Department at its sole discretion.

(6) A Reservation may be made for a local government entity providing a community rehabilitation program for the period of proposed financing with extensions granted at the discretion of the Department.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0022

#### Set-Aside

(1) The Department may set aside a portion of the Cap for rural projects and projects with special needs.

(2) The Department if directed by the State Housing Council, shall establish other set asides to meet housing needs in various economic or geographic regions of the state from time to time.

(3) The Department shall publicize its intent to establish set asides prior to initiating the set aside.

(4) In view of findings in conjunction with Oregon's Consolidated Plan study, the Department may exclude certain uses of the tax credits when the Cap is insufficient to meet special needs.

(5) The Department requests Sponsors of projects not meeting priority standards to show cause for prioritizing tax credits including criteria similar to that used in the needs assessment of Oregon's Consolidated Plan.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0023

#### Standby Applications

(1) Applications approved under OAR 813-110-0015 or OAR 813-110-0021 and received in excess of the Cap or a set aside amount may be placed on a standby list.

(2) The non-refundable Application fee is required to be on the standby list.

(3) The Department may prioritize Applications on the standby list at its discretion.

(4) When a standby Application is selected to receive a Reservation or Certification of tax credits the Department shall notify the applicant and allow a reasonable time for the applicant to update their Application to reflect current conditions.

(5) The expiration period of a Reservation as described in OAR 813-110-0021(3) shall begin when the updated Application is received within the time allowed by the Department in its notification.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1994(Temp), f. & cert. ef. 3-25-94; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0025

#### Certification of Eligible Projects

(1) When the requirements of OAR 813-110-0015 are met and the total outstanding tax credits do not exceed the Cap, the Department shall provide Certification to a Lending Institution that:

(a) The proposed borrower is an eligible Sponsor;

(b) The proposed borrower has met the requirements of the Act and these rules to demonstrate the required benefits will be passed on to households earning less than 80% of Median Income;

(c) The length of the period eligible for tax credits; and

(d) The loan complies with the Cap.

(2) Such Certification shall be based on the information provided by the Sponsor in the Application and accumulated from lender's annual reports as required by OAR 813-110-0030. The Certification shall be valid only if such information, other than estimates based on interest rates and other changes made with the approval of the Department, is unchanged at the time of loan closing for the Project and documentation that OAHTC restrictive covenants have been recorded.

(3) To establish the use of a certificate for a term loan, a lender shall complete the loan closing information section of the certificate and send the original to the Department along with evidence that OAHTC restrictive covenants have been recorded against the project property.

(4) To establish the use of a certificate for a construction loan, a lender shall complete the loan closing information section of the certificate and send the original to the Department and may record OAHTC restrictive covenants.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0030

#### Reporting Requirements

Lending Institutions claiming the state tax credits shall be sent a report form by the Department annually to assist the lending institution

to notify the Department annually by May 1 that the Lending Institution has conformed with all requirements imposed by law to qualify for tax credits under the Act. Such notification shall not include any representation as to performance by the Sponsor. Such report shall be signed by an officer of the Lending Institution, and shall include the name and address of the institution, name and phone number of a contact person, the number of loans for which tax credits will be claimed, the amount of credits claimed, the annual fee payment, the date the loans were closed, the location of the Projects financed by those loans, the amount loaned for each project, and the outstanding balances of all loans.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 1-1990(Temp), f. & cert. ef. 1-5-90; HSG 3-1990(Temp), f. & cert. ef. 3-1-90; HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0033

#### Fees

(1) A base fee of 5% of the annual tax credits claimed by an eligible Lending Institution plus \$100 per month for each full month the annual report is delayed shall be paid by the Lending Institution to the Department.

(2) On projects certified prior to September 29, 1991, all annual fees required in OAR 813-110-0033, except for any fees charged for delayed reports, shall be waived.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 7-1994, f. & cert. ef. 9-9-94; HSG 2-1995, f. & cert. ef. 9-25-95

### 813-110-0035

#### Community Rehabilitation Project Certification

(1) OAR 813-110 does not establish requirements for certifications to households participating in a community rehabilitation program as provided in ORS 317.097(4)(b). The Department does not establish rules for local governments or their designated agents for certifying participants in a community rehabilitation program under their jurisdiction.

(2) A participant in a community rehabilitation program includes both individuals and nonprofit corporations or units of local government which reloan proceeds to individuals participating in a community rehabilitation program. When a local government or its designated agent certifies a participant in a community rehabilitation program, a copy shall be sent to the Department certifying that the loans included in a loan certification fall within the Cap.

(3) The local government entity shall certify to the Department that the local community rehabilitation standards will be met for all loans that will be included in the certified loan.

(4) A fee of \$100 will cover each such application accompanied by the designated agent's Certification and preferred listing for multiple lenders, if applicable.

(5) A separate application is required to be submitted for each lender certification form requested.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097(4)(b)

Hist.: HSG 9-1990, f. & cert. ef. 5-11-90; HSG 2-1991(Temp), f. & cert. ef. 8-7-91; HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92

### 813-110-0040

#### Monitoring

(1) If the owner of a Project is found to be out of compliance the Department shall promptly notify the Lending Institution, the owner and its Sponsor, if applicable, and stipulate the problem, the required correction to the problem, and the date by which the problem shall be corrected.

(2) The Director of the Department shall determine the penalty to be paid by the owner and the date upon which further penalties may be further assessed if the problem is not corrected to the satisfaction of the Director.

(3) Penalties shall not exceed three times the eligible tax credits per year.

(4) Reports of misconduct shall be available to the owner/Sponsor for their review and comment within a reasonable time and further assessed following receipt of written explanation and documentation.

(5) Any penalties assessed shall be the liability of the owner and not the liability of the Lending Institution, a successor or assign.

Stat. Auth.: ORS 317.097 & ORS 456.515 - ORS 456.720

Stats. Implemented: ORS 317.097

Hist.: HSG 6-1991(Temp), f. & cert. ef. 11-5-91; HSG 3-1992, f. & cert. ef. 2-4-92; HSG 2-1995, f. & cert. ef. 9-25-95

## DIVISION 120

### HOME INVESTMENT PARTNERSHIPS PROGRAM

#### 813-120-0001

##### Purpose and Objectives

The rules of OAR Chapter 813, Division 120, are established to accomplish the general purpose of **24 CFR Part 92**, the U.S. Department of Housing and Urban Development (HUD) Interim Rules for the HOME Investment Partnerships Program. Pursuant to **24 CFR, Section 92.105** the Department was designated a Participating Jurisdiction upon receiving HUD approval of Oregon's Consolidated Plan and shall establish the HOME Investment Partnerships Program to address the priority needs outlined in the Consolidated Plan or the development and rehabilitation of decent, safe, sanitary and affordable housing for Low and Very Low Income individuals and families. These administrative rules describe the HOME Investment Partnerships Program and its objective to provide funds to acquire, construct and rehabilitate housing, to provide tenant-based rental assistance for individuals and families of Low and Very Low Income, and to leverage local and private monies available from other sources for the purposes of production of Low and Very Low Income housing.

[Publications: The publication(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95

#### 813-120-0010

##### Definitions

All words and terms are used in OAR Chapter 813, Division 120 as defined in **24 CFR Part 92**, and as provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Adjusted Income" means annual income less specified allowances determined by HUD, including allowances for dependents, elderly family members, handicapped or disabled members and child care expenses.

(2) "Administrative Costs" means reasonable and necessary costs, as described in OMB Circular A-87, incurred by a participating jurisdiction in carrying out its eligible program activities in accordance with prescribed regulations.

(3) "Applicant" means a unit of general local government, a nonprofit or for-profit organization, or an individual.

(4) "Commitment to a Specific Project" means a commitment of HOME funds as outlined under OAR 813-120-0060 of these rules, and in **24 CFR Part 92.2**.

(5) "Community Housing Development Organization (CHDO)" means a nonprofit organization registered with the Oregon Secretary of State that meets the requirements as defined in **24 CFR 92.2** and has among its stated purposes the provision of decent and affordable housing for low and moderate income persons as evidenced in its articles of incorporation or by-laws, has been designated a tax-exempt corporation under Internal Revenue Code Section 501(c)(3) or (4), and that maintains accountability to the lower income community by:

(a) Maintaining at least one-third of the organization's governing membership as low income residents, or elected representatives of low-income neighborhood organizations;

(b) Maintaining not more than one-third of its governing board membership for government public officials;

(c) Maintaining not more than one-third of its governing board membership directly appointed from or representative of a for-profit corporation;

(d) Providing a formal process for program beneficiaries to advise the CHDO in design, siting, development, and management decisions;

(e) Having a demonstrated capacity to carry out the proposed program;

(f) Having at least a one year history of serving the proposed program community, or, for newly created CHDOs, a parent organization that can satisfy such requirement; and

(g) After meeting the above requirements has received official CHDO designation from the Department.

(6) "Consolidated Plan" means the plan approved by HUD which describes the needs, resources, priorities and proposed activities to be undertaken with respect to HUD programs, including the HOME program.

(7) "Department" means the agency.

(8) "Director" means the Director of the agency.

(9) "Displaced Person" means any person who moves involuntarily from real property or moves his or her personal belongings from the real property as a direct result of an activity undertaken with HOME fund assistance.

(10) "Expenditure of Funds" means the process of requesting the Department draw down HOME funds from the HOME Investment Trust Account for a specific Project.

(11) "For-profit Organization" means an individually or cooperatively owned organization for profit, which is not a foreign corporation, incorporated under or subject to the provisions of ORS Chapter 60.

(12) "HOME" means the HOME Investment Partnerships Program established by the Cranston-Gonzalez National Affordable Housing Act of 1990, and amended by the Housing and Community Development Act of 1992.

(13) "HOME Investment Trust Account" means the account established by the U.S. Treasury and managed through HUD's Cash and Management Information System for the HOME Investment Partnerships Program.

(14) "Homeownership" means ownership in fee simple title or 99 year leasehold interest in a one to four unit dwelling or in a condominium unit, ownership or membership in a cooperative, or equivalent form of ownership approved by HUD. The ownership interest may be subject only to the restrictions on resale required under federal rule, mortgages, deeds of trust, or other liens of instruments securing debt on the property as approved by the participating jurisdiction, or any other restrictions or encumbrances that do not impair the good and marketable nature of title to the ownership interest.

(15) "Household" means one or more persons occupying a housing unit.

(16) "Housing" includes but is not limited to, manufactured housing and manufactured housing lots. Housing also includes permanent housing for disabled persons, transitional housing, single room occupancy housing, group homes, elder cottage housing opportunities (ECHO) units that are small, free-standing, barrier free, energy efficient, removable, and designed to be installed adjacent to existing single-family dwellings. Housing must be permanent or transitional and does not include emergency shelters or facilities as described in **24 CFR 92.2**.

(17) "HUD" means the U.S. Department of Housing and Urban Development.

(18) "HUD Section 8 Housing Quality Standards (HQS)" means those occupancy standards as contained in **24 CFR 982.401**.

(19) "Integrated Disbursement and Information System (IDIS)" means the U.S. Department of Housing and Urban Development's computerized disbursement and information system which disburses, collects, and reports information on fund use which shall apply to fiscal management in accordance with **24 CFR 92.502**.

(20) "Layering" means the use of HOME funds with other federal funds which would result in excessive subsidy to a specific project. Layering provisions are outlined in **813-120-0060** of these rules.



(21) "Local Partnership Program" means local agencies, approved through the Department's Low Income Rental Housing Fund Program, acting in partnership to provide tenant-based rental assistance within a specific geographical service area.

(22) "Low Income" means annual household income which does not exceed 80 percent of the median household income for the area, as determined by the Department of Housing and Urban Development with allowances for family size.

(23) "Low-income Neighborhood" means a Neighborhood in which at least 51 percent of its households are Low Income.

(24) "Match" means the mandatory use of non-federal sources as defined in 24 CFR Parts 92.218 to 92.222.

(25) "Neighborhood" means a geographic location designated in comprehensive plans, ordinances, or other local documents as neighborhood, village, or similar geographical designation that is within the boundary but does not encompass the entire area of a unit of general local government. If the unit of general local government has a population under 25,000, the neighborhood may, but need not, encompass the entire area of a unit of general local government.

(26) "New Construction and Substantially Rehabilitated Housing Standards" means the HUD Section 8 Housing Quality Standards as contained in 24 CFR 982.401, all local codes, standards and ordinances, and zoning ordinances. Newly constructed housing must meet the current edition of the Model Energy Code published by the Council of American Building Officials.

(27) "Nonprofit Organization" means an organization which is established under the provisions of ORS Chapter 65, or a Community Development Corporation as defined in ORS 458.210, or a Housing Authority as defined in ORS 456.005, or a Community Action Agency as established by the federal Economic Opportunity Act of 1964 and ORS 184.802(4), or other nonprofit entity representing or seeking to serve the housing, human services and community economic revitalization needs of a clearly-defined population and area.

(28) "Participating Jurisdiction" means a HUD recognized direct recipient of federal HOME funds.

(29) "Project" means a site or sites together with any building (including a manufactured housing unit), or buildings located on the site(s) that are under common ownership, financing and management and are to be assisted with HOME funds as a single undertaking.

(30) "Project Completion" means all necessary construction, reconstruction, or title transfer has been accomplished and in the Department's judgment complies with the requirements of these rules, applicable federal requirements, and the final financial disbursement and project completion reports have been entered into IDIS as established by HUD.

(31) "Public Agency" means a State, County, municipality or other governmental entity. Nonprofit organizations which are organized as a public nonprofit corporation may also be considered public agencies as determined by the Department.

(32) "Public Housing Agency (PHA)" means any state, county, municipality or other governmental entity that is authorized to engage in or assist in the development or operation of low-income housing.

(33) "Recipient" means any entity under contract with the Department to undertake activities funded by the Department's HOME Program. For the purposes of HOME Tenant-Based Rental Assistance, Home buyer assistance, and HOME homeowner rehabilitation, a Recipient may include the tenant or homeowner receiving assistance.

(34) "Reconstruction" means the rebuilding, on the same lot, of housing standing on a site at the time of Project commitment. The number of units may not decrease or increase but the number of rooms per unit may decrease or increase. Reconstruction also includes replacing an existing substandard unit of manufactured housing.

(35) "State Recipient" means a unit of general local government designated by the Department to administer HOME funds.

(36) "Subrecipient" means an eligible public agency or nonprofit organization as identified in these rules, selected by a participating jurisdiction to administer or implement all or a portion of its

activities. They are not considered subrecipients if they receive funds solely as a developer or owner.

(37) "Tenant-Based Rental Assistance" is a form of assistance awarded to a household to defray the costs of renting a housing unit. Assistance may include, but is not limited to, rent and security deposits. Assistance provided to households may be transferable to another housing unit as approved by the Local Partnership Program or other agency providing tenant-based rental assistance and the Department.

(38) "Transitional Housing" means housing that is designed to provide housing and appropriate supportive services to persons, including (but not limited to) deinstitutionalized individuals with disabilities, homeless individuals with disabilities, and homeless families with children; and has as its purpose facilitating the movement of individuals and families to independent living within a time period that is set by the participating jurisdiction or project owner before occupancy.

(39) "Very Low Income" means annual Household income which does not exceed 50 percent of the median household income for the area, as determined by the Department of Housing and Urban Development with allowance for family size.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

## 813-120-0020

### Eligible Applicants for HOME Funds

Eligible Applicants for HOME funds include:

(1) Units of general local government, for-profit and nonprofit organizations, and individuals to construct new housing for Low and Very Low Income persons, or to acquire and/or rehabilitate existing structures for housing for households with Low and Very Low Income, or to sponsor local programs to construct, acquire, or rehabilitate homes owned and occupied by households with Low and Very Low Income;

(2) Local Partnership Programs, approved for participation through the Department's Low Income Rental Housing Fund Program, and other approved agencies to provide Tenant-Based Rental Assistance to qualified Households with Low and Very Low Income;

(3) CHDOs, to provide funds for the construction of housing for rental and homeownership opportunities by Low and Very Low Income persons, or to acquire and/or rehabilitate existing structures for rental and homeownership opportunities by Households with Low and Very Low Income.

(a) The Department shall set aside 15% of the HOME allocation for housing developed, owned or sponsored by CHDOs.

(b) Funds from the CHDO set aside may also include project-specific predevelopment and technical assistance loans.

[Publications: The publications(s) referenced to in this rule are available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

## 813-120-0030

### Eligible Activities for HOME Funds

The Department shall provide funds for the acquisition, construction, and rehabilitation of affordable housing, including transitional housing, affordable to Low and Very Low Income households, and the provision of tenant-based rental assistance to Low and Very Low Income households subject to limitations otherwise prescribed by these rules and 24 CFR Part 92;

(1) Acquisition of vacant land or demolition is an eligible activity only when proposed as a portion of a particular project intended to provide affordable housing;

(2) New construction of housing is an eligible activity only when the initial certificate of occupancy was issued not more than one year prior to the commitment of program funds, and is otherwise approved by the Department. Building conversion is considered new construction if new units are being added beyond the existing walls of the structure.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0040

#### Eligible Costs for HOME Funds

Costs are determined as eligible to be paid with HOME funds to the extent that they promote housing affordability. Eligible costs include:

(1) Development hard costs such as the actual costs of constructing or rehabilitating housing including, but not limited to:

(a) For new construction, costs to construct new housing, as determined eligible by the Department and HUD, in conformance with New Construction Housing Standards, costs of existing structure demolition, costs to make utility connections, and improvements to the Project site.

(b) For rehabilitation, costs to meet applicable standards or correcting substandard conditions to a condition not less stringent than HUD Section 8 Housing Quality Standards, to make essential improvements including energy efficiency activities, improvements to permit use by handicapped persons, the abatement of lead-based paint hazards, and to correct or replace major housing systems in danger of failure, costs to refinance existing debt when rehabilitating owner-occupied single family units, costs to make utility connections, and costs of existing structure demolition and improvements to the project site. A project shall be documented to have complied with these standards prior to the submission of a Cash and Management Information System Project Completion Report.

(c) Costs associated with project site improvements including demolition of existing structures and costs of connection to existing public utilities. Site improvements shall be comparable to those found in similar projects in the geographic area surrounding the project and shall be accomplished for the primary use of the proposed project residents.

(2) Development soft costs incurred by the owner and or sponsor. These costs include reasonable and necessary costs associated with financing and development of new construction, rehabilitation, or acquisition including, but not limited to:

(a) Architectural, engineering and/or related professional services required for preparing plans, specifications, or work write-ups;

(b) Costs to process and settle project financing including private lender origination fees, credit reports, fees for title evidence, legal document recording, attorneys, private appraisals, building permits, independent cost estimates, builder and developer fees;

(c) Costs associated with services provided in connection with affirmative marketing and fair housing information, in conformance with 24 CFR Part 92.

(3) Costs of acquiring improved or unimproved real property, including acquisition by homebuyers.

(4) Costs of relocation payments and other related assistance for permanently or temporarily displaced persons, families, businesses, farm operations or other entities determined appropriate by the Department, and staff and overhead costs directly related to providing advisory and other relocation services.

(5) Costs of rent or rental deposits for tenants receiving HOME tenant-based rental assistance.

(6) Costs of project or program administration up to ten percent (10%) of the participating jurisdiction's fiscal year allocation. Allowable administrative costs include, but are not limited to, activities involving the coordination, monitoring and evaluation of HOME-assisted projects or programs such as preparing program budgets, schedules and amendments; evaluating program results against stated objectives; developing systems for assuring compliance with pro-

gram requirements; monitoring program activities for progress and compliance with program requirements; preparing reports and other compliance documents related to the HOME Program; and coordinating the resolution of audit and monitoring findings.

(7) Costs of a project audit.

(8) For new construction or rehabilitation, the cost of funding an initial operating deficit reserve.

(9) For new construction and rehabilitation, costs for the payment of impact fees that are charged for all projects within a jurisdiction.

(10) The participating jurisdiction's staff and overhead costs directly related to carrying out the project.

(11) CHDO project specific technical assistance and site control loans, and project-specific seed money loans as outlined in 24 CFR 92.301.

(12) Up to five percent of a fiscal year HOME allocation may be used for the operating expenses of a CHDO as outlined in 24 CFR, Part 92.208.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0050

#### HOME Affordability Requirements

HOME Affordability Requirements vary according to the amount of HOME funds invested and the activity involved. The Department may choose to include one or all of the activities in its program design. Affordability is defined as follows:

(1) For rental housing projects:

(a) Initial and continuing contract rents shall not exceed the lesser of the HUD periodically determined Fair Market Rent (FMR) for comparable sized units, or a contract rent that does not exceed 30% of adjusted income of a household whose income is 65% of the area median income as determined by HUD, adjusted for the number of bedrooms in the unit; and

(b) If the project contains five or more HOME assisted units, or if a HOME Recipient owns multiple one to two unit projects assisted with HOME funds, the Project shall not have less than 20% of the HOME assisted units occupied by Very Low Income households not paying more than 30% of adjusted income for rent, or occupied by Very Low Income households having contract rents not greater than 30% of gross income when income equals 50% of area median income, as determined by HUD and adjusted for family size, but in no circumstance shall it exceed the rent limits identified in (a) above; and

(c) The HOME assisted units shall be occupied only by Low and Very Low Income households; and

(d) The project does not refuse leasing to a household participating in the HUD Section 8 rental certificate or voucher program or a HOME tenant-based rental assistance contract funded under this chapter; and

(e) The project shall remain affordable after project completion, enforced by deed restrictions or covenants running with the land, for periods not less than the following based on the amount of HOME assistance per unit regardless of other mortgage terms or ownership transfer.

(f) For rehabilitation and/or acquisition of existing housing: under \$15,000 — 5 years; \$15,000 to \$40,000 — 10 years; over \$40,000 — 15 years.

(g) For acquisition of newly constructed housing which is acquired within one year of the date of the certificate of initial occupancy, or for new construction, the Project must remain affordable for 20 years.

(h) The affordability restrictions may terminate upon foreclosure or other transfer in lieu of foreclosure. If at any time following transfer by foreclosure or transfer in lieu of foreclosure, but still during the term of the affordability period, the owner of record prior to the foreclosure or transfer in lieu of foreclosure, or any newly

formed entity that includes the former owner or those with whom the former owner has or had family or business ties, obtains an ownership interest in the Project or property, the affordability period shall be revived according to its original terms.

(2) For acquisition and/or rehabilitation of existing housing for homebuyer assistance:

(a) Has an initial purchase price that does not exceed 95% of the median purchase price for the type of single-family housing for the jurisdiction as determined by HUD;

(b) Is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;

(c) Is subject to resale restriction or recapture provisions as defined at 24 CFR, Part 92.254 for minimum periods based upon the amount of HOME assistance provided: less than \$15,000 — 5 years; \$15,000 to \$40,000 — 10 years; over \$40,000 — 15 years.

(3) For homeowner rehabilitation projects:

(a) The household assisted must be at or below 80% of area median income determined by HUD and adjusted for family size; and

(b) The property assisted must be owned and occupied by the household assisted with HOME funds; and

(c) The after rehabilitation value of the property shall not exceed 95% of the median purchase price for the type of single-family housing for the jurisdiction as determined by HUD.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0060

#### Program Information

(1) The Department will adopt guidelines for the HOME Program which address application procedures, project selection criteria, project eligibility, financial assistance available, and other applicable information. Program guidelines shall be published in the program's application materials.

(2) The guidelines and the rules set forth in 24 CFR Part 92 are hereby adopted by reference.

(3) The Department shall require applicants to document how the proposed project activities are consistent with Oregon's Consolidated Plan, or document why the highest priority in their community differs from the highest priorities outlined in Oregon's Consolidated Plan.

(4) The Department shall require applicants to minimize layering in projects proposed for HOME funding in accordance with HUD guidelines and the Department will not invest any more HOME funds in combination with other federal governmental assistance than is necessary to provide affordable housing to the targeted population.

(5) All affordable housing assisted with HOME funds shall have the percentage of match as outlined in 24 CFR 92.218.

(6) Expenditure of Funds by Recipients shall begin within six months of the date a HOME agreement is executed. Extensions may be allowed on a case-by-case basis as documented by the Recipient and approved by the Department.

(7) The Department shall make commitment to a specific project funded in a specific fiscal year within two years of the date the HOME allocation is approved for said fiscal year. All HOME funds committed to a project shall be expended within five years of the date the HOME allocation is approved for each fiscal year.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0070

#### Distribution of Funds

(1) The Department will follow the allocation strategies as outlined in the Consolidated Plan and the Consolidated Funding Cycle which may distribute funds on a formula that takes into account the relative housing needs of regions or other factors, distribute funds on a statewide basis, or may consider some other means of distribution.

(2) As opportunities arise, the Department may use HOME funds for the demonstration and development of new activities.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0080

#### Application Procedure and Requirements

(1) The Department may provide funds from the HOME Program subject to availability of funds in the program through a process which may involve but is not limited to a first come—first reviewed, demonstration program, a competitive review process, or as necessary to maintain an on-going concern.

(a) Applications for HOME funds may include a pre-application and a final application. The completeness of information in pre-applications shall be the basis for inviting final applications.

(b) Each application submitted shall be reviewed by Department staff or their designees according to program requirements and detailed project evaluation criteria.

(2) The Department may provide funds for acquisition, rehabilitation, new construction, tenant-based rental assistance, CHDO operating expenses, and for project-specific CHDO predevelopment, technical assistance, and site control loans. The Department may restrict the availability of Program funds for each such category of funds at the time it solicits applications.

(a) Homeowner Rehabilitation: For rehabilitation of single-family structures owned by Households at 80% of median income or below who occupy the home as their principal residence. Homeowner Rehabilitation programs shall be administered by a local government or a Nonprofit Organization.

(b) Homebuyer Assistance: For acquisition, rehabilitation and/or construction of housing to be owned and occupied by Low and Very Low Income households.

(c) Rental Rehabilitation: For acquisition and/or rehabilitation of existing structures for rental housing affordable to Low and Very Low Income households. The initial and long-term affordability requirements outlined in OAR 813-120-0050 shall apply to rental housing assisted with HOME funds. Rental rehabilitation projects may be sponsored by a local government, nonprofit organization, for-profit organization, individual or CHDO;

(d) New Construction: For the construction of new rental housing or the acquisition of rental housing which is acquired within one year of the date of certificate of initial occupancy. New Construction projects may be sponsored by a local government, nonprofit organization, for-profit organization, individual or CHDO.

(e) Tenant-Based Rental Assistance: For rental assistance to Low and Very Low Income households.

(f) CHDO Predevelopment and Technical Assistance: loans for project-specific predevelopment or technical assistance and site control activities performed by CHDOs may be authorized for up to 10% of the CHDO set-aside pool.

(3) The Department may further restrict the amount and/or type of assistance available, or restrict the type of applicant eligible for assistance.

(4) The Applicant shall submit, in an application form and process prescribed by the Department, project information including but not limited to:

(a) Name, address, and telephone number of the applicant;

(b) Category of assistance requested;

(c) A written description of the project including but not limited to, the number of units, unit mix, proposed rents, site location,



project amenities, and any other information required in the application materials, program guidelines, or 24 CFR Part 92;

(d) A statement of project purpose indicating the housing type and tenants to be housed, and the length of time the units will be committed for occupancy by Low and Very Low Income Households;

(e) A description of how the proposed project meets the regional or statewide needs and priorities addressed in Oregon's Consolidated Plan;

(f) A pro forma of project expenses and income;

(g) Amount requested and total project development costs, including a description and documentation of all additional project funding and funding sources.

(h) A narrative of the experience of the sponsor/developer/owner/manager in developing and operating housing projects;

(i) A description of the applicant's readiness to proceed on project activities. Applicants should expect to begin construction activities within six months of HOME agreement execution; and

(j) A schedule for completion of project activities.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0090

#### Application Review

(1) For applications where the amount requested from HOME does not exceed \$100,000, the Department shall consider the application and make application approval, deny application approval, or request additional information within the timeframe set forth in the application materials.

(2) For applications where the amount requested from HOME is in excess of \$100,000, the Department shall consider the application and approve, disapprove or request additional information within the timeframe set forth in the application materials. If the Department proposes to award funds on an application in excess of \$100,000, it shall submit the application request to the State Housing Council for review. The State Housing Council shall approve or disapprove the application at a public hearing of the Council, pursuant to ORS 456.571(2).

(3) In reviewing applications for assistance, the Department and the State Housing Council, as appropriate, may consider, in addition to any special evaluation criteria, the following:

(a) Amount of available funds in the HOME Program;

(b) Availability of other sources of assistance; and

(c) Applicant's efforts to leverage public or private funds.

(4) The Department shall select those applications which, in the judgment of the Department, best achieve the purposes of the HOME Program rules, **24 CFR Part 92**, and any evaluation criteria outlined in the program application forms and handbooks. Applicants must document consistency with Oregon's Consolidated Plan priorities, or document why the highest priority in their community differs from the highest priorities outlined in Oregon's Consolidated Plan. Projects that are not financially feasible shall not be funded.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 8-1994, f. & cert. ef. 9-9-94; HSG 3-1995, f. & cert. ef. 9-25-95

### 813-120-0100

#### Form of Assistance

(1) The Department shall confirm to the applicant in writing the amount and form of assistance, if any, to be provided from the HOME Program.

(2) The Department may establish fees, interest rates, repayment terms, performance criteria and reporting requirements according to **24 CFR, Part 92**, and as the Department considers

appropriate or necessary for the type and use of assistance provided. The Department shall specify such terms and conditions to the applicant in writing before funds are advanced or contractual agreements signed. The Department may require the applicant to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided, and any terms and conditions agreed to in connection with such assistance, subject to federal policy or regulatory direction.

[Publications: The publication(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.559(1)(f)

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93

### 813-120-0110

#### General Administrative and Monitoring Requirements

The following general administrative and monitoring requirements apply under the HOME Program:

(1) The requirements of OMB Circular A-87 and the requirements of 24 CFR Part 85 apply to the Department, state recipients and any governmental subrecipient receiving HOME funds.

(2) All nonprofit organizations receiving HOME funds under this chapter shall be governed by the requirements of OMB Circulars A-122 and 24 CFR Part 84.

(3) All for-profit organizations or individuals receiving HOME funds under this chapter are subject to audit in accordance 24 CFR 92.506 and with applicable federal and state law, including the procurement of services and payment of costs.

(4) Each recipient shall submit periodic performance reports as required by the Department, and at HOME agreement completion the recipient shall submit a summary performance report in form and detail as prescribed by the Department. Contents will generally require those items included under 24 CFR 92.508.

(5) The Department may perform reviews or field inspections it deems necessary to ensure program compliance. When problems of compliance are noted the Department may require remedial actions be taken as described in OAR 813-120-0120 and 813-120-0130.

(6) Financial records, supporting documents, and all other pertinent records shall be retained by the recipient for the applicable five year period as described in 24 CFR 92.508, or after any litigation or audit claim is resolved, whichever is later. Representatives of the Department, HUD, the Inspector General, the General Accounting Office, and State Auditor's Office shall have access to all books, accounts, documents, records and other property belonging to or in use by recipients pertaining to the receipt of HOME funds.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620

Stats. Implemented: ORS 456.559(1)(f)

Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 3-1995, f. & cert. ef. 9-25-95; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0120

#### Remedies for Noncompliance

(1) At any time before the expiration of affordability terms, as contained in OAR 813-120-0050, the Department may, for cause, find that the recipient is not in compliance with the requirements of HOME. Remedies for noncompliance may include penalties up to and including the repayment of HOME funds. Reasons for findings of noncompliance include, but are not limited to, use of funds for activities not approved in the HOME agreement, failure to complete activities in a timely manner, failure to comply with applicable rules or regulations, or the lack of a continued capacity by the recipient to carry out the approved activities.

(2) If the recipient's HOME agreement terminates prior to project completion, the recipient shall repay to the Department's HOME Investment Trust Account all HOME funds disbursed on the project. Repayment of HOME funds to the Department's HOME Investment Trust Account shall not relieve the recipient from fulfilling its obli-

gation to keep the project affordable for the term of the HOME period of affordability.

Stat. Auth.: ORS 456.559(1)(f)  
 Stats. Implemented: ORS 456.559(1)(f)  
 Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93

### 813-120-0130

#### Sanctions

(1) The Department may invoke sanctions against recipients that fail to comply with HOME agreement provisions. Sanctions will not be imposed by the Department until the recipient has been notified in writing of deficiencies and has been given a reasonable time to respond and correct the deficiencies noted. The following circumstances may warrant sanctions:

- (a) None of the project activities have begun within six months after Project award; or
- (b) Any local or private party agreements related to the project are not executed within ninety (90) days of the HOME award; or
- (c) There is a significant deviation from the HOME agreement; or

(d) The Department finds that significant corrective actions are necessary to protect the integrity of the project funds, and those corrective actions are not, or will not be, made within a reasonable time.

(2) Sanctions imposed by the Department may include but are not limited to one or more of the following:

- (a) Bar a recipient from applying for future HOME assistance;
- (b) Revoke an existing HOME award;
- (c) Withhold unexpended HOME funds;
- (d) Require return of unexpended HOME funds;
- (e) Require repayment of expended HOME funds;
- (f) Other remedies that may be incorporated into HOME agreements.

(3) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the HOME agreement.

(4) The recipient which has signed the HOME agreement shall be responsible for taking all action necessary to enforce the terms of the HOME agreement against any private participant that fails to comply with the agreement, and to recover on behalf of the Department liabilities that may arise as the result of the breach of such agreement by a private participant. The Department's right to enforce independently the terms of any HOME agreement or to recover any sums that may become due as the result of a breach of such agreement shall not be restricted.

[Publications: The publications(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.620  
 Stats. Implemented: ORS 456.559(1)(f)  
 Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93; HSG 1-1997, f. & cert. ef. 4-15-97

### 813-120-0140

#### Appeals Procedure

(1) The Director shall consider appeals of the Department's funding decisions. Only the applicant may appeal. The Director's decision on matters relating to HOME administrative processes is final.

(2) The Director may waive nonstatutory requirements of HOME if it is demonstrated such a waiver would serve to further the goals and objectives of the program.

Stat. Auth.: ORS 456.559(1)(f)  
 Stats. Implemented: ORS 456.559(1)(f)  
 Hist.: HSG 6-1992(Temp), f. & cert. ef. 6-15-92; HSG 10-1992, f. & cert. ef. 11-20-92; HSG 1-1993(Temp), f. & cert. ef. 2-19-93; HSG 3-1993, f. & cert. ef. 8-18-93

## DIVISION 130 HELP PROGRAM

### 813-130-0000

#### Purpose and Objectives

The rules of OAR Chapter 813, Division 130, are established according to ORS 456.555(2) to implement the HELP Program. The Department receives HELP funds from the U.S. Department of Housing and Urban Development (HUD) under Section 1012 of the Steward B. McKinney Homeless Assistance Act of 1988. The HELP Program is funded by monies realized from the HUD-authorized refunding of existing bonds issued by the agency and originally used to finance housing projects. Funding of the HELP Program is subsidized by agreement with the U.S. Department of Housing and Urban Development (HUD) under HUD's Financing Adjustment Factor (FAF) program. HUD shares such monies with bond issuers such as the agency on an equal basis, and attaches certain restrictions and requirements upon the use of funds realized from such refundings. The HELP Program's objective is to provide financial assistance for the construction, acquisition and/or rehabilitation of rental housing for individuals and families of Very Low Income for the purposes of expanding the supply of affordable, decent, safe, and sanitary housing in Oregon.

Stat. Auth.: ORS 456.555(2)  
 Stats. Implemented: ORS 456.555  
 Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

### 813-130-0010

#### Definitions

All words and terms used in OAR Chapter 813, Division 130, are provided in OAR 813-005-0005 and herein. As used in these rules, unless the context indicates otherwise:

(1) "Annual Household Income" means the anticipated total income from all sources received by the family head and by each additional member of the family of 18 years of age and over, including all net income derived from assets for the twelve-month period following the effective date of certification of income, in accordance with HUD in **24 CFR 813**.

(2) "Applicant" means a unit of general local government, a housing authority, or a Nonprofit Organization.

(3) "Department" means the agency established under ORS 456.555.

(4) "Director" means the Director of the agency.

(5) "Household" means one or more persons occupying a housing unit.

(6) "HUD" means the U.S. Department of Housing and Urban Development.

(7) "Low Income" means annual household income which does not exceed 80 percent of the median household income for the area, as determined by the U.S. Department of Housing and Urban Development (HUD) with allowances for family size.

(8) "Non profit Organization" means an organization which has obtained tax-exempt status under **Section 501(c)(3)** of the **Internal Revenue Code** and is established under the provisions of ORS Chapter 65, or a Community Development Corporation as defined in ORS 458.210, or a Housing Authority as defined in ORS 456.005, or a Community Action Agency as established by the federal Economic Opportunity Act of 1964 and ORS 184.802(4), or other nonprofit entity representing or seeking to serve the housing, human services and community economic revitalization needs of a clearly-defined population and area.

(9) "Use Agreement" means the legal agreement between the grantee or borrower receiving HELP funds and the agency which is called the Financing Adjustment Factor Savings Funds Use Agreement.

(10) "Very Low Income" means annual Household income which does not exceed 50 percent of the median Household income for the area, as determined by the U.S. Department of Housing and Urban Development (HUD) with allowances for family size.

[Publications: The publication(s) referenced to in this rule is available from the agency.]

Stat. Auth.: ORS 456.555(2)  
 Stats. Implemented: ORS 456.555  
 Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0020**

**Eligible Applicants for HELP Funds**

Eligible Applicants for HELP funds include: Units of general local government, housing authorities, and Nonprofit Organizations to construct, acquire and/or rehabilitate rental housing for Households with Very Low Income;

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0030**

**Eligible Activities for HELP Funds**

The Department shall provide funds for the acquisition, construction, and rehabilitation of rental housing to be occupied by Households with Very Low income.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0040**

**Eligible Costs for HELP Funds**

Costs are determined as eligible to be paid with HELP funds to the extent that they promote housing affordability. Eligible costs include:

- (1) Development hard costs such as the actual costs of construction or rehabilitating rental housing;
- (2) Costs of acquiring improved or unimproved real property; and
- (3) Predevelopment costs which have been pre-approved by the Department.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0050**

**HELP Affordability Requirements**

(1) The HELP Program requires projects assisted with HELP funds to remain affordable to Very Low Income tenants for a period of at least 10 years from the date the Use Agreement is executed between the Department and the HELP recipient. The Use Agreement shall include covenants and restrictions running with land which will be binding upon the HELP recipient and any successors in title to the project. Upon expiration of the Use Agreement those covenants and restrictions outlined therein shall also expire.

(2) The Use Agreement shall require HELP recipients to obtain tenant income certifications at the time of initial occupancy of the HELP-assisted unit and on an annual basis during the minimum 10 year affordability period to document to the Department that units assisted with HELP funds continue to serve Very Low Income Households.

(3) The Use Agreement may provide that incomes of tenants initially eligible as Very Low Income can rise to Low Income without becoming ineligible for occupancy.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0060**

**Program Requirements**

The Department shall adopt guidelines for the HELP program which address application procedures, project selection criteria, project eligibility, financial assistance available, and other applicable information. Program guidelines shall be contained in the HELP application materials.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0070**

**Distribution of Funds**

The Department shall distribute HELP funds according to the program administrative rules for the targeted clients as endorsed by the State Housing Council and in accordance with program application materials.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0080**

**Application Procedure and Requirements**

(1) The Department may provide funds from the HELP Program subject to availability of funds in the program through a process which may include, but is not limited to, a first come—first reviewed or a competitive review process. Applications for HELP funds may include a pre-application and a final application as outlines in the HELP application materials. The completeness of information in pre-applications shall be the basis for inviting final applications. The Department review process shall determine the completeness of final applications.

(2) The Department may further restrict the amount and/or type of assistance available, or restrict the type of Applicants eligible for assistance.

(3) To be considered for funding, an Applicant shall submit, in an application form and process prescribed by the Department, project information including but not limited to:

(a) Name, address and telephone number of Applicant;

(b) Type of assistance requested;

(c) A written description of the project including but not limited to, the number of units, unit mix, proposed rents, site location, project amenities, and any other information required in the HELP application materials, program guidelines, and application forms;

(d) A statement of project purpose indicating the housing type and tenants to be housed, and the length of time the units will be committed for occupancy by Very Low Income Households;

(e) A pro forma of project income and expenses;

(f) Amount requested and total project development costs, including a description and documentation of all additional project funding and funding sources;

(g) A narrative of the Applicant's experience in developing affordable housing including the experience of all members of the project development team;

(h) A narrative of the experience of the Applicant's management agent as it relates to operating affordable housing projects;

(i) A description of the Application's readiness to proceed on project activities; and

(j) A schedule for completion of project activities.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

**813-130-0090**

**Application Review**

(1) For applications where the amount requested from the HELP Program does not exceed \$100,000, the Department shall consider the application and make application approval, deny application approval, or request additional information on the application within the timeframe set forth in the HELP application materials.

(2) If the Department proposes to award funds on an application requesting more than \$100,000, it shall submit the application request to the State Housing Council for review. The State Housing Council shall approve or disapprove the application at a public hearing of the Council, pursuant to ORS 456.571(2).

(3) In reviewing applications for financial assistance, the Department and the State Housing Council, as appropriate, may consider, in addition to any special evaluation criteria, the following:

(a) Amount of available funds in the HELP Program;

(b) Availability of other sources of assistance; and

(c) Applicants efforts to leverage public or private funds.

(4) The Department shall select those applications which, in the judgement of the Department, best achieve the purposes of the HELP



Program, and any evaluation criteria outlined in the program application forms and handbooks. Projects that are not financially feasible shall not be funded.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

### 813-130-0100

#### Form of Assistance

(1) The Department may provide HELP funds in the form of grants or loans, or a combination of both. Loan rates and terms if applicable, shall be determined by the Department's Finance Committee based on the project's needs and capacity to repay HELP funds. Preference shall be given to those Applicants requesting loans which show sufficient project cash flow to repay the loan.

(2) The Department shall confirm to the Applicant in writing the amount and form of assistance, if any, to be provided from the HELP Program.

(3) The Department may establish fees, interest rates, repayment terms, performance criteria and reporting requirements as the Department or HUD considers appropriate or necessary for the type and use of assistance provided. The Department shall specify such terms and conditions to the Applicant in writing and recorded in the Use Agreement before funds are advanced, in whole or in part, and contractual agreements signed. The Department may require the Applicant to execute such documents as the Department considers appropriate or necessary to evidence the type and amount of financial assistance provided, and any terms and conditions agreed to in connection with such assistance, subject to State or Federal policy or regulatory direction.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

### 813-130-0110

#### General Administrative and Monitoring Requirements

The following general administrative and monitoring requirements apply under the HELP Program:

(1) The Department or HUD may perform reviews or field inspections it deems necessary to ensure program compliance. When problems of compliance are noted the Department may require remedial actions be taken as described in this rule and OAR 813-130-0120.

(2) Financial records, supporting documents, and all other pertinent records shall be retained by the HELP recipient for three years after the project is complete, or after any litigation or audit claim is resolved, whichever is later. Representatives of the Department, HUD, the Inspector General, the General Accounting Office, and State Auditor's office shall have access to all books, accounts, documents, records and other property belonging to or in use by the recipient of HELP funds which relate to the use of HELP funds.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

### 813-130-0120

#### Remedies for Noncompliance

At any time before the expiration of HELP affordability terms, as contained in OAR 813-130-0050, the Department may, for cause, find that the HELP recipient is not in compliance with the requirements of the program. Remedies for noncompliance may include penalties up to and including the repayment of HELP funds. Reasons for findings of noncompliance include, but are not limited to, use of funds for activities not approved in the Use Agreement, failure to complete activities in a timely manner, failure to comply with applicable rules or regulations, or the lack of a continued capacity by the HELP recipient to carry out the approved activities.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

### 813-130-0130

#### Sanctions

(1) The Department may invoke sanctions against HELP recipients that fail to comply with the provisions of the Use Agreement. Sanctions will not be imposed by the Department until the HELP recipient has been notified in writing of deficiencies and has been given a reasonable time to respond and correct the deficiencies noted. The following circumstances may warrant sanctions:

(a) HELP funds have not been expended within 6 months of disbursement by the Department to the HELP recipient; or

(b) Any local or private party funding agreements related to the project are not executed within 90 days of the award of HELP funds; or

(c) There is a significant deviation from the Use Agreement; or

(d) The Use Agreement was not recorded on the property as agreed; or

(e) The Department finds that significant corrective actions are necessary to protect the integrity of the project funds, and those corrective actions are not, or will not be, made within a reasonable time.

(2) One or more of the following sanctions may be imposed by the Department:

(a) Prohibit a HELP recipient from applying for future HELP assistance or other Department assistance;

(b) Revoke an existing HELP award;

(c) Withhold unexpended HELP funds;

(d) Require return of unexpended HELP funds;

(e) Require repayment of expended HELP funds;

(f) Invoke other remedies that may be incorporated into the Use Agreement.

(3) The sanctions and remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the Use Agreement.

Stat. Auth.: ORS 456.555(2)

Stats. Implemented: ORS 456.555

Hist.: HSG 6-1993(Temp), f. & cert. ef. 10-1-93; HSG 4-1994, f. & cert. ef. 8-1-94

## DIVISION 200

### LOW-INCOME ENERGY ASSISTANCE PROGRAM (LIEAP)

### 813-200-0000

#### Definitions

(1) "Account Payments" are payments which the state pays to the home energy suppliers and includes both prepayment for fuel prior to its delivery as well as payment for bills incurred prior to the date of application for the program.

(2) "Client Education" means activities and instruction designed to help low income clients make appropriate decisions and life style changes to effectively reduce energy consumption.

(3) "Direct Cash Assistance" means energy assistance payments which are made directly to eligible households.

(4) "Elderly" means those persons 60 years of age and over.

(5) "Emergency Assistance" will be LIEAP funds reserved to meet crisis situations such as supply shortages, loss of household heat, minor fuel source repairs and other situations, with approval at state level.

(6) "HCS" means the agency.

(7) "Home Energy" means the type of energy or fuel supplying the major portion of the household's heat.

(8) "Home Energy Supplier" means companies who either deliver fuel in bulk, such as oil, propane, wood, etc., or provide electric or natural gas continuously via wire or pipes.

(9) "Household" means any individual or group of individuals who are living together as one economic unit and purchase residential energy in common.

(10) "Incidental Fees" include reconnection charges, deposits and other charges from home energy suppliers.

(11) "Income" means the total household receipts before taxes from all sources. Income does not mean assets or funds over which the applicant has no control.

(12) "Indirect Heaters" are renters whose heating costs are included as an undifferentiated part of their rent payments.

(13) "125 Percent of Poverty Level" means the income poverty guidelines for the non-farm population of the United States as prescribed by the U.S. Department of Health and Human Services as updated annually.

(14) "LIEAP" means the Low-Income Energy Assistance Program.

(15) "Local Service Providers" means those local agencies with whom HCS has contracted to provide energy assistance.

(16) "Vendor Payments" means energy assistance payments made to fuel suppliers in behalf of an eligible household.

Stat. Auth.: ORS 184 & ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0000; HSG 2-1993, f. & cert. ef. 4-2-93

### 813-200-0010

#### Administration

(1) The agency (HCS) has been designated as the administering agency for the implementation of Energy Assistance Block Grant.

(2) Local service providers will be selected by HCS. Unless other factors intervene, HCS shall select those agencies which provided energy assistance services in previous years. Upon completion of the program, an evaluation of each local agency's performance will be made. Factors that will be considered in this evaluation will be the level of service provided, ease of access to the applicants, error rate and compatibility with the community service. If an agency is deemed to be deficient, HCS will either be assured of improvement or another local service provider will be identified for future program operation.

(3) Local service providers will take applications, verify income for applicants, write the payment authorizations and make contact with the local home energy suppliers to determine that the applicants are receiving proper benefits and services.

(4) Local service providers will attempt to make recovery of overpayments made to applicants. When recovery from the applicant is not possible, the name and social security number will be turned over to the Department of Revenue for recovery through their S.O.I.L. Program.

Stat. Auth.: ORS 184 & ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0005; HSG 2-1993, f. & cert. ef. 4-2-93

### 813-200-0020

#### Eligibility

(1) Those households with an income at or below 125 percent of the poverty guideline in effect at the start of the program and with a demonstrated utility cost, will be determined eligible.

(2) The period for determining eligibility will not be more than the past 12 months from the date of application or less than the past 30 days preceding the request for assistance, except in the case of clients of the Adult and Family Services Division of the Department of Human Resources. These persons will have an income verification notification compiled by AFS and will present these at time of application. This notification will serve as the household's verified income.

(3) Both renters and homeowners will be eligible and those households in similar circumstances will receive similar benefits.

(4) Eligible households may make an application for energy assistance with the local service provider which serves the geographic area in which they reside.

(5) Those persons who reside in congregate care or group homes shall not be eligible for energy assistance.

(6) Those persons who reside in governmental subsidized housing may be eligible for 50 percent of a regular assistance payment depending on household size and income level.

Stat. Auth.: ORS 184 & ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0010; HSG 2-1993, f. & cert. ef. 4-2-93

### 813-200-0030

#### Services Provided

The following services will be provided to eligible participants. Local agencies will help the applicants determine which is most beneficial to the applicant:

(1) Payments to Home Energy Suppliers for Applicant's Home Energy Costs:

(a) Energy costs are those services which relate to the heating of dwelling units. They include, but are not limited to, electricity, natural gas, fuel oil, propane and wood. Payments to home energy suppliers may include payments for pre-enrollment or post-enrollment charges. Pre-enrollment charges are for those services delivered before the applicant is determined to be eligible for LIEAP benefits. Post-enrollment charges are those charges for services delivered after a client is determined to be eligible for LIEAP benefits;

(b) All suppliers will sign contracts agreeing not to discriminate against the eligible households, to charge the household in their normal billing process the difference between the actual cost of the home energy and the amount received or due from the LIEAP program, and not to treat the applicant household any differently because they are receiving LIEAP benefits. Any supplier unwilling to sign an agreement will not be able to receive payments from the LIEAP program.

(2) Direct Cash Assistance. Direct cash assistance payments will be used in three cases:

(a) Payments to indirect heaters. Such payments will be equal to those made on behalf of homeowners in similar circumstances;

(b) Payments to households if the household supplier of the energy service has not signed a contract with the state;

(c) Reimbursements. Applicants who have already paid for their home energy usage for the heating season as in the case of bulk oil or wood deliveries may receive a direct payment to reimburse the applicant for money which has already been expended up to the amount for which they are eligible. Receipts will be required.

(3) Emergencies:

(a) If sufficient funds are available, requests for emergency assistance will be considered by HCS;

(b) All emergency payments shall be approved by the local service provider before assistance can be provided;

(c) Examples of emergencies include, but are not limited to, households who can demonstrate that their annual heating costs exceed 20 percent of their annual household income; households who need energy-related repairs; and households who suffer a serious, unexpected hardship, including residents of subsidized housing.

(4) Client Education. All LIEAP eligible households will be offered information designed to help them make appropriate decisions and life style choices to effectively reduce energy consumption.

Stat. Auth.: ORS 184 & ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HR 1-1982, f. & ef. 1-11-82; HR 4-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0015; HSG 2-1993, f. & cert. ef. 4-2-93

### 813-200-0040

#### Assistance Levels

Energy assistance payments are limited to the amount of funds made available under the Omnibus Reconciliation Act of 1981, Public Law 97-35, Sections 2601-11.

Stat. Auth.: ORS 184 & ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0020; HSG 2-1993, f. & cert. ef. 4-2-93

### 813-200-0050

#### Coordination with Home Energy Suppliers

(1) Contracts will be required from all suppliers participating in the program specifying they will:

- (a) Not discriminate against eligible households;
- (b) Not treat the applicant household any differently because they are receiving LIEAP benefits;
- (c) Charge the household in the normal billing process the difference between the actual cost of the home energy and the amount of the LIEAP payment;

(d) Promptly apply notice to the eligible household's account as soon as notification is received of authorization for payment from HCS;

(e) Attempt to make payment arrangements for any balances owing after LIEAP payments are applied to past due bills; and

(f) Return funds to HCS in the event that services cannot be delivered because of a death or customer cannot be located after services are discontinued.

(2) Any suppliers who do not sign a contract will not be able to receive payments under LIEAP.

Stat. Auth.: ORS 184 & ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0025; HSG 2-1993, f. & cert. ef. 4-2-93

### 813-200-0060

#### Fair Administrative Hearings

Local service providers shall provide a fair administrative hearing to individuals whose claims for assistance are denied or not acted upon with reasonable promptness.

Stat. Auth.: ORS 184 & ORS 456.555

Stats. Implemented: ORS 456.555

Hist.: HR 1-1982, f. & ef. 1-11-82; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-050-0030; HSG 2-1993, f. & cert. ef. 4-2-93

## DIVISION 210

### COMMUNITY SERVICES BLOCK GRANT

#### 813-210-0000

##### Definitions

(1) "Administrator" means the Administrator of the Community Development and Finance Division.

(2) "Board" means the local policy making body which directs the CAA.

(3) "Community Action Agency (CAA)" means an organization which has been established to carry out the goals of OAR 813-210-0010.

(4) "Department" means the Department of Housing and Community Services (HCS).

(5) "Director" means the Director of the Department of Housing and Community Services.

(6) "Low-Income" means families or persons whose gross annual income is at or less than the poverty line, or, a person or family who because of circumstances are susceptible to the conditions of poverty.

(7) "Migrant and Seasonal Farmworker Organization" means a private non-profit agency that serves migrant and seasonal farmworkers and their families.

(8) "Political Activity" means attempts to influence or affect elections and/or nominations; attempts to directly or indirectly coerce contributions for use on elections; activities to provide voters and prospective voters with transportation to polls or similar activities; or provide similar assistance with an election or voter registration activity.

(9) "Population" means inhabitants of a political subdivision as enumerated by the 1990 Census, or official state estimates prepared by the Center for Population Research and Census at Portland State University.

(10) "Poverty Line" means the official standard established by the Director of the federal Department of Health and Human Services.

(11) "Private CAA" means a private nonprofit Community Action Agency incorporated under ORS Chapter 61.

(12) "Program" means a plan or system of activities undertaken to meet a goal or objective or set of goals and/or objectives.

(13) "Public CAA" means a Community Action Agency which is an office, division or agency of a political subdivision.

(14) "Service Area" means the area under the jurisdiction of a CAA and where the CAA's services are available.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0000; HSG 7-1993, f. & cert. ef. 10-1-93

#### 813-210-0010

##### Eligible Activities

(1) By reducing or eliminating poverty conditions associated with the eligible activity areas listed in section (2) of this rule, it is intended to remove obstacles and solve problems which block the achievement of self-sufficiency for the poor and near poor. All CSBG grantees are free to use different strategic approaches to reduce or eliminate one or more of these poverty conditions. They may include a range of services, both direct and/or indirect, and activities all of which must have a measurable and potentially major impact on causes of poverty in Oregon communities where poverty is a particularly acute problem. Strategies that may be used include but are not limited to: Increasing the participation of the poor in the affairs of the community, coordinating and establishing linkages between governmental and other social services programs to assure the effective delivery of such services to low income individuals, and encouraging the use of entities in the private sector of the community to ameliorate poverty in the community.

(2) Therefore, funds made available under the Community Services Block Grant may be used for programs to assist low income participants including the elderly poor:

(a) To secure and retain meaningful employment;

(b) To attain an adequate education;

(c) To make better use of available income;

(d) To obtain and maintain adequate housing and a suitable living environment;

(e) To obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing and employment related assistance;

(f) To make effective use of other programs related to the purpose of this section;

(g) To provide on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services as may be necessary to counteract conditions of starvation and malnutrition among the poor;

(h) To remove obstacles and solve problems that block the achievement of self-sufficiency;

(i) To achieve greater participation in the affairs of the community;

(j) To coordinate and establish linkages between government and other social service programs to assure the effective delivery of such services to low income individuals; and

(k) To encourage the use of entities in the private sector of the community in efforts to ameliorate poverty in the community.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0005; HSG 7-1993, f. & cert. ef. 10-1-93

#### 813-210-0020

##### Eligibility

(1) Community Action Agencies (CAAs) recognized by the Director shall be eligible to receive financial assistance through the Community Services Block Grant Program. Oregon Human Development Corporation, a migrant seasonal farmworker organization, also shall be eligible to receive assistance through the Community Services Block Grant Program.

(2) The Director shall recognize all existing Community Action Agencies which have been designated as CAAs by the Community Services Administration pursuant to the Economic Opportunity Act of 1964.



(3) Organizations which are not now presently recognized as Community Action Agencies may seek such recognition from the Director.

(4) In order to be recognized as a Community Action Agency, an organization must have both the programmatic and administrative capabilities of carrying out the activities as set forth in OAR 813-210-0010.

(5) All Community Action Agencies shall:

(a) Be an office, division or agency of the designating political subdivision(s), or a non-profit organization in compliance with ORS Chapter 61;

(b) All eligible agencies shall have a Community Action Board constituted so that:

(A) One-third of the members of the board are elected public officials, currently holding office, or their representatives, except that if the number of elected officials reasonably available and willing to serve is less than one-third of the membership, membership on the board of appointive public officials may be counted in meeting such one-third requirement;

(B) At least one-third of the members are persons chosen in accordance with democratic selection procedures adequate to assure that they are representatives of the poor in the areas served; and

(C) The remainder of the members are officials or members of business, industry, labor, religious, welfare, education or other major groups and interests in the community.

(c) The Community Action Boards shall have a minimum of nine members, but no more than 33;

(d) If the organization is a non-profit organization, the Community Action Board shall be the governing board with all duties, responsibilities and powers normally associated with such boards. Their powers shall include, but not be limited to, selection, appointment and dismissal of the executive director of the agency; approve all contracts, grant applications and budgets and operational policies of the agency; evaluation of programs; and, secure an annual audit of the agency;

(e) If the organization is an office, division or agency of a political subdivision(s), the board shall be an administering board which shall provide for the operation of the agency and be directly responsible to the governing board of the political subdivision(s). The administering board as a minimum, shall:

(A) Review and advise on program policy;

(B) Be involved in and consulted on the hiring and firing of the agency director;

(C) Monitor and evaluate program effectiveness;

(D) Insure the effectiveness of community involvement in the planning process; and

(E) Assume all duties delegated to it by the governing board.

(f) All Community Action Agencies shall:

(A) Have a clearly defined, service area;

(B) Have an accounting system which meets generally accepted accounting principles and be so certified by an independent certified accountant;

(C) Provide assurances which prohibit using Community Service Block Grant funds for political activity by the CAA;

(D) Provide assurances that no person shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available through the Community Services Block Grant Program;

(E) Provide assurances the CAA shall comply with any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973;

(F) Permit and cooperate with federal investigations.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0010; HSG 7-1993, f. & cert. ef. 10-1-93; HSG 3-1994, f. & cert. ef. 7-6-94

### 813-210-0030

### Application for Financial Assistance

Each application for assistance shall include:

(1) A narrative for each program describing goals, objectives and any other information required by HCS.

(2) An administrative narrative and budget describing the administrative activities. Any activity which is not directly related to the activities as specified in OAR 813-210-0010 shall be deemed to be an administrative activity.

(3) Administrative expenditures as determined by HCS shall not exceed 15 percent of the costs for the total proposal.

(4) A detailed annual budget for each program.

(5) An evaluation plan describing how the results of each objective of the program will be measured in terms of specific data and/or products shall be collected and reported quarterly. These reports shall be submitted to HCS within 15 working days following the end of each calendar quarter. To be measured shall be the degree of achievement of the goals and objectives, the impact of the activities, the degree of coordination achieved with other agencies as well as the amount and value of other resources applied to the programs.

(6) Forms needed for making an application shall be in the format prescribed and/or provided by HCS.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0015; HSG 7-1993, f. & cert. ef. 10-1-93

### 813-210-0040

#### Review of Applications for Financial Assistance

(1) Applications for continued funding shall be submitted to HCS 90 days prior to the beginning of the CAAs program year. Within 45 days of receipt of applications, HCS shall notify all applicants of the results of the review, in writing, with stated reasons for modification or denial if such situations exist.

(2) After notification, any applicant shall have 30 days to appeal to the Administrator any decision made on an application. Such appeals shall be made in writing specifying items under appeal and reason for appeal. The Administrator shall cause all such appeals to be reviewed within 15 days and shall notify appellants of the results. Within ten days of such notification, the appellant may request a meeting with the Administrator to discuss the appeal. The Administrator's decision resulting from the meeting shall be made known to the appellant in writing and shall be final.

(3) HCS shall annually evaluate programs and/or receive annual evaluation reports from the grantee based upon goals and objectives as stated in the grantee's approved work plan.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0020; HSG 7-1993, f. & cert. ef. 10-1-93

### 813-210-0050

#### Fiscal Management/Fiscal Control/Program Reporting

(1) Fiscal control shall be accomplished by maintaining a Financial Management System containing the following elements: Budgeting, accounting system and records, reporting, auditing/monitoring, method of funding and system certification:

(a) Budgeting:

(A) A subsidiary (program) budget for each program, including Administration, along with a Summary Grant Budget must be included in the "Application for CSBG Funding." When approved by HCS, the budgets shall control the program expenditures in each budget category. Approved budget amounts should be entered in the subgrantee accounting records for the purposes of budgeting control. (Forms shall be provided by HCS);

(B) Subgrantees must submit "Program Amendment Requests" to HCS for approval before major budget changes can be made. (Form shall be provided by HCS). Subgrantees may transfer a total of ten percent or \$5,000, whichever is less, within programs once in any program year without HCS prior approval. Subgrantees shall notify HCS of such changes within 30 days. Subgrantees may transfer a total of ten percent or \$10,000, whichever is less, between pro-

grams once in any program year without HCS prior approval. Subgrantees shall notify HCS of such changes within 30 days.

(b) Accounting System (Implementation):

(A) Subgrantee accounting records shall be kept on an accrual basis. Accrual method for the purposes herein shall be a system that includes the program related "receivable," "prepaid costs," and "unpaid obligation" of the subgrantee. Modified accrual systems may be employed provided the system reflects the results of operating the program;

(B) Budgetary control shall be an integral part of the system by budget category. Adjustments made to the general ledger to arrive at reported amounts should be documented by accounting work papers, i.e., a working trial balance, and subject to examination by the subgrantee's external auditor.

(c) Reports: The subgrantee shall provide HCS with a Quarterly Financial Report within 15 working days following the end of each calendar quarter. Any differences between the reports submitted to HCS and the annual audit report must be reconciled and adjusted. Adjustments made by the external auditor must be provided with the annual audit report;

(d) Auditing (Monitoring):

(A) An annual audit shall be made of program operations, including delegated funds, as part of the subgrantee's normal audit cycle. Completed audit shall be submitted to HCS within six months after the close of the program year. The audit shall be conducted by a qualified and independent auditor and meet the standards established by the Comptroller General of the United States and published in "Standards for Audit of Governmental Organizations, Programs, Activities and Functions" (USGPO Stock No. 2000-00110) "Guidelines for Financial and Compliance Audits of Federally Assisted Program" (USGPO Stock No. 020-000-0081-0) published by the United States General Accounting Office and the audit standards supplements series of publications. The publications are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402;

(B) To meet the standard stated herein, the "Management Letter" will be required as part of the audit. The audit report must agree with the financial statements submitted to HCS quarterly. The auditor, or subgrantee, must furnish reconciling information if the Audit Statements and Quarterly Financial Statements are in disagreement. Audit adjustments must be made to the financial reports for the second quarter following the period of the audit report and detailed explanation of the adjustments made;

(C) Audit reports received by HCS will be examined and a timely response made by HCS. The audit response will address the auditor's statements contained in the report along with any other problems reflected in the audit report, i.e., differences between the audit report financial statements and the reports submitted to HCS. It will be the subgrantee's responsibility to correct all audit deficiencies. The subgrantee's corrective actions must be made promptly. Subgrantees must attempt to complete corrective actions and audit closure process with 90 days of date HCS receives the subgrantee audit report. If necessary, HCS may extend the 90 day period.

(e) Method of Funding: If necessary, funds required for program operations will be advanced to the subgrantees. Subsequent reimbursements for expenditures will be based upon the timely receipt of quarterly reports and audits, and upon the subgrantees conformance to budget estimates;

(f) System Certification: The subgrantee financial management system must be certified as adequate to safeguard and account for CSBG funds and that the system is being maintained at an acceptable level. The certification must be made by a qualified and independent accountant. Recertification shall be made annually by statements contained in the subgrantee's annual audit report and management letter prepared by the external auditor. Existing subgrantees having systems in place and certified by "preaudit surveys" and acceptable annual audits, will not be required to obtain certifications. New or first time subgrantees must obtain certification by the external accountant/auditor before funds can be expended or obligated from CSBG awards. If audit comments indicate significant system or system maintenance weaknesses, the subgrantee may be required to make corrections to reestablish system certification.

(2) Program progress reports will be submitted quarterly covering items such as goal achievement, program impact, etc., in a format as prescribed by HCS. Such reports will be coded in such a way as to allow the linking and analysis of expenditures and activities for each separate program in the annual funding application.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 5-1982, f. & ef. 2-5-82; HR 3-1983, f. & ef. 11-25-83; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-060-0025; HSG 7-1993, f. & cert. ef. 10-1-93

### 813-210-0060

#### Reduction or Termination of Community Services Block Grant Funding

(1) No CAA or migrant and seasonal farmworker organization which received CSBG funding in the previous federal fiscal year will have its present or future CSBG funding terminated or reduced below the proportional share of funding it received in the previous federal fiscal year unless, and after notice and opportunity for hearing on the record, the Administrator determines that cause existed for such termination or reduction subject to the procedures and review by the Director and Secretary for the United States Department of Health and Human Resources.

(2) For purposes of making a determination with respect to a funding reduction, the term "cause" includes:

(a) A statewide redistribution of CSBG funds to respond to:

(A) The results of the most recently available census or other appropriate data;

(B) The establishment of a new eligible entity;

(C) Severe economic dislocation; and

(b) The failure of an eligible entity to comply with the terms of its CSBG contract with the Department or the Community Services Block Grant Act as amended by Public Law 101-501.

Stat. Auth.: ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HSG 7-1993, f. & cert. ef. 10-1-93

## DIVISION 220

### EMERGENCY FOOD ASSISTANCE PROGRAM

#### 813-220-0000

##### Definitions

(1) "Department" means the agency (HCS).

(2) "Director" means the Director of agency (HCS).

(3) "Eligible Services" means services which can be provided under these rules.

(4) "Needy" means a person with an income at or below 130 percent of the federal poverty guidelines as established by the Department of Health and Human Services.

(5) "Program" means the Emergency Food Assistance Program authorized by Public Law 98-8 and extended by Public Law 98-92.

(6) "Regional Coordinating Agencies (RCAs)" means any public or private, nonprofit agency which has subcontracted with the State Coordinating Agency to relieve situations of emergency and distress through provision of food to needy persons and includes Community Action Agencies, congregate meal sites, temporary shelters, hunger centers for the indigent and food banks.

(7) "State Coordinating Agency" means Oregon Food Bank, a private, nonprofit organization designated by HCS to coordinate distribution of USDA commodities provided through this program in the state.

(8) "Storage Distribution Costs" means HCS, SCA or RCA direct costs for the operation of the program including intrastate storage and distribution of commodities donated under this program.

(9) "Title II" means Emergency Food Assistance Program commodities provided to needy individuals under Public Law 98-8 as extended by Public Law 98-92.

(10) "Value of Commodities Distributed" means the United States Department of Agriculture's cost for acquiring commodities for distribution under this program.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515  
 Stats. Implemented: ORS 458.505 - ORS 458.515  
 Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0000; HSG 8-1993, f. & cert. ef. 10-1-93

### 813-220-0010

#### Administration

(1) The agency has been designated as the agency responsible for administering the Emergency Food Assistance Program, through the Oregon Food Bank.

(2) Oregon Food Bank, a private, nonprofit organization, incorporated under the law of the State of Oregon has been designated through letter of agreement with HCS as the program's State Coordinating Agency.

(3) Regional Coordinating Agencies (RCAs) shall be selected by the State Coordinating Agency (SCA). Subcontracts shall be developed between the SCA and RCAs for carrying out program activities at the local level. The RCAs shall be recognized by HCS.

(4) RCAs shall coordinate, in as much as it is practical and responsible to do so, with other service agencies in their locale.

(5) RCAs shall complete monthly progress reports as specified by HCS and SCA.

(6) The amount of funds available for covering SCA and RCA storage and distribution costs will be established by the level of USDA allocations to HCS, but in no case shall these funds exceed five percent of the value of commodities distributed by the SCA.

(7) The SCA shall be responsible for allocating funds to RCAs as reimbursement for program storage and distribution costs.

(8) RCAs shall use such public and quasi-public sites and facilities as schools, churches and government buildings for distribution of commodities. No private sites shall be used for distribution of commodities unless a waiver has been granted by the RCA, SCA and HCS.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515  
 Stats. Implemented: ORS 458.505 - ORS 458.515  
 Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0005; HSG 8-1993, f. & cert. ef. 10-1-93

### 813-220-0020

#### Eligibility

(1) Commodities under Title II of Public Law 98-8, as extended by Public Law 98-92, shall be made available to households with incomes at or below 130 percent of the federal poverty level. Participation in such programs as Food Stamps, Aid to Dependent Children, SSI, State General Assistance, Low-Income Energy Assistance and the Oregon Supplemental Income Program, shall establish household eligibility.

(2) Individuals and families also may establish their eligibility to participate through a self-declaration of income at or below 130 percent of the poverty level. The period for determining eligibility through self-declaration shall not be more than the past 12 months nor less than one month preceding receipt of assistance.

(3) The SCA and RCAs shall maintain records as required by federal and state rules.

(4) RCAs shall publicize the availability of commodities and distribute those commodities in their respective service areas in such a manner that a maximum number of potential eligible individuals and households shall be reached.

Stat. Auth.: ORS 184  
 Stats. Implemented: ORS 458.505 - ORS 458.515  
 Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0010

### 813-220-0030

#### Services Provided

(1) SCA and RCAs shall distribute program commodities to needy recipients through emergency food box programs and participating soup kitchens.

(2) The SCA and RCAs shall assist program participants to access services designed to meet other, existing needs whenever possible.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515  
 Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0015; HSG 8-1993, f. & cert. ef. 10-1-93

### 813-220-0040

#### Requirements

(1) Prior to providing services, an RCA shall sign a contract with the SCA. That contract shall include, but not be limited to, the projected level of funds and commodities available to the RCA for the program, the time period during which the contract is in effect, the time period during which the RCA can obligate funds, program eligibility requirements, eligible activities and services, fiscal report, program report and audits requirements.

(2) The RCA shall provide monthly reports and one final report to the SCA in a format prescribed by the SCA and HCS. This report shall include, but not be limited to, the number of needy to whom services were provided, the type of services provided, problems encountered, corrective action taken, value of commodities distributed and storage and distribution costs for the month.

(3) Under no circumstances shall recipients be required to make any payments in money, materials, or services for, or in connection with, participation in this program, nor shall donations of any kind be solicited from program recipients.

(4) If the SCA or a RCA receives a shipment containing damaged or spoiled commodities and such spoilage total less than 5,000 pounds, a local or state health inspector will be notified and asked to examine the spoilage. If the spoilage is declared unfit for human consumption, it will be destroyed or disposed of as specified by the USDA. If the damaged or spoiled commodities in a shipment total 5,000 or more pounds, a federal health inspection will be requested by the SCA or RCA and if the spoilage is declared unfit for human consumption, the commodities in question will be reclaimed by the USDA.

(5) The SCA and RCAs shall comply with pertinent state and federal rules and regulations.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515  
 Stats. Implemented: ORS 458.505 - ORS 458.515  
 Hist.: HR 1-1983(Temp), f. & ef. 4-21-83; HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0020; HSG 8-1993, f. & cert. ef. 10-1-93

### 813-220-0050

#### Fiscal Control/Reporting Requirements/Documents

(1) The SCA and all RCAs shall maintain records which document the receipt, disposal and inventory of commodities received through this program.

(2) At every transfer point (e.g., from SCA to RCA and from RCA to recipient) a receipt documenting the transfer must be signed by a responsible person. The transfer of commodities from an RCA (or an RCA's distribution site) to a client may either be documented by client receipt or through signature of the staff/volunteer responsible for distribution.

(3) Individual recipients' signature on distribution sheets may serve as a receipt for commodities provided to them.

(4) The SCA and RCAs will document spoilage received in commodity shipments including the extent of such spoilage and its disposition.

(5) The SCA will provide HCS with an annual audit of program and fiscal transactions within 120 days after the close of its agency fiscal year.

(6) Records of program activities and fiscal transactions shall be maintained by the SCA and RCAs for a period of three years and shall be made available to federal, state and, in the case of the RCAs, the SCA on request. The SCA and RCAs shall insure that proper records are kept at all distribution sites.

Stat. Auth.: ORS 184 & ORS 458.505 - ORS 458.515  
 Stats. Implemented: ORS 458.505 - ORS 458.515  
 Hist.: HR 2-1983(Temp), f. & ef. 7-28-83; HR 1-1984, f. & ef. 5-30-84; HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0025; HSG 8-1993, f. & cert. ef. 10-1-93

### 813-220-0060

#### Monitoring

(1) Staff from agency shall conduct on-site evaluations of each designated Regional Coordinating Agency once during each Federal Fiscal Year.



(2) During these evaluations, agency staff shall examine records and facilities which document eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, sub-distribution site approval processes, reporting and recordkeeping requirements. Sub-distribution sites within a Regional Coordinating Agency shall be included, on a sampling basis, as part of these evaluations.

(3) Should Regional Coordinating Agency be found out of compliance with applicable State or Federal regulations, agency staff shall submit to the State Coordinating Agency and the effected Regional Coordinating Agency a corrective notice. The corrective notice shall be submitted within seven working days following the monitoring and shall include:

- (a) A description of the identified deficiency;
  - (b) The possible causes of the deficiency;
  - (c) The time frame within which corrective action must be taken;
  - (d) Any requirements for documenting corrective action taken.
- Stat. Auth.: ORS 184.082 & ORS 458.505 - ORS 458.515  
 Stats. Implemented: ORS 458.505 - ORS 458.515  
 Hist.: HR 2-1985, f. & ef. 2-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-090-0030; HSG 8-1993, f. & cert. ef. 10-1-93

## DIVISION 230

### DESIGNATION AND RESPONSIBILITIES OF COMMUNITY ACTION AGENCIES

#### 813-230-0000

##### Definitions

(1) "Administrator" means the Community Services Division administrator of HCS.

(2) "CAAs" means public or private nonprofit Community Action Agencies as defined under U.S. Public Law 97-35, ORS 456.555 and Community Services Block Grant Administrative Rules.

(3) "CADO" means Community Action Directors of Oregon.

(4) "Department" means the Oregon Department of agency (HCS).

(5) "Director" means the Director of HCS.

(6) "Division" means the Community Services Division located in agency (HCS).

(7) "Federal Anti-Poverty Programs" means the Community Services Block Grant, Low-Income Energy Assistance Block Grant, United States Department of Energy Weatherization Assistance Program and other federally funded programs which benefit low-income populations.

(8) "Governor" means the Governor of the State of Oregon.

(9) "Monitor" means the Community Services Division staff designated by the Administrator to carry out field reviews of CAAs and other subgrantees.

(10) "OHDC" means Oregon Human Development Corporation, a private, nonprofit agency which serves migrant workers and families.

(11) "Program Manager" means those Division staff designated by the Administrator to administer specific anti-poverty programs.

Stat. Auth.: ORS 184.082 & ORS 458.505 - ORS 458.515  
 Stats. Implemented: ORS 458.505 - ORS 458.515  
 Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0000; HSG 9-1993, f. & cert. ef. 10-1-93

#### 813-230-0005

##### Administration

(1) The Division has been designated by the Governor as the state agency responsible for administration of federal anti-poverty programs.

(2) The Division shall administer those programs through subcontracts with CAAs, OHDC and other eligible local entities.

(3) In those areas of the state served by a CAA, the CAA shall have the right of first refusal in contracts for anti-poverty program administration, unless it has been determined by the Division that a CAA is incapable of effective program administration.

(4) In areas of the state not served by a CAA, federal anti-poverty funds, other than the Community Service Block Grant, may be dis-

tributed to agencies which HCS has identified because of their established service delivery systems as being able to effectively serve poverty populations.

(5) CADO shall provide advice and recommendations to the Division regarding administration and funding of anti-poverty programs.

Stat. Auth.: ORS 184.082 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0005; HSG 9-1993, f. & cert. ef. 10-1-93

#### 813-230-0010

##### Designation of Community Action Agencies

(1) CAAs established under the Economic Opportunity Act of 1964 or the direct successor to such CAAs, have been recognized by the Division as designated CAAs for established service areas.

(2) Agencies eligible for recognition as a CAA are political subdivisions of the state: Private, nonprofit community organizations and migrant/seasonal farm worker organizations. An applicant agency must demonstrate its programmatic and administrative capabilities for implementing and operating anti-poverty programs and must be able to document that the agency service area has a population of at least 50,000 individuals.

(3) New CAAs will be designated by the Division for unserved areas of the state only if CAAs contiguous with or closest to the unserved areas decline to serve such areas.

(4) Except in situations where an agency's status as a CAA is terminated voluntarily or involuntarily, changes in service area designations shall be initiated at the local level and submitted to the Division for approval.

(5) Efforts to establish new CAAs in unserved areas of the state shall be initiated at the local level and submitted to the Division for approval.

Stat. Auth.: ORS 184.082 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0010; HSG 9-1993, f. & cert. ef. 10-1-93

#### 813-230-0015

##### Monitoring

(1) The Administrator shall designate Division staff to monitor subgrantees' activities. Each subgrantee shall be monitored at least once during its program year.

(2) Monitoring shall include, but not be limited to: Entrance interview, inspection of client files, program records and reports, fiscal records including original receipts for expenditures, compliance with contract provisions, compliance with state and federal regulations and exit interview.

(3) Each subgrantee shall be advised within 30 days after the monitoring's conclusion of problem finding resulting from the monitoring of its program. If the monitor believes that the subgrantee's record keeping or reporting system is deficient, that the program is out of compliance with contract provisions or that the program is out of compliance with state or federal regulations, the Program Manager shall issue preliminary findings which provide specific examples of each such issue, request corrective action on each deficiency and offer assistance to the subgrantee in developing a corrective action plan.

(4) Subgrantees shall respond to preliminary finding corrective action request within 30 days from receipt of the request. The response either shall include a corrective action plan which specifically addresses identified deficiencies or explain why the preliminary findings were in error.

(5) The Administrator shall notify the subgrantee within ten days of the Division's acceptance or rejection of all or parts of the subgrantee's response. The subgrantee shall be given an additional 20 days from the receipt of the Administrator's notification to provide an acceptable corrective action plan for any remaining, unresolved deficiencies.

(6) If unresolved deficiencies remain, the Administrator shall transmit to the subgrantee a finding of facts detailing the specific deficiencies, required corrective actions and establishing a 30-day time period for corrective action to take place.

(7) If at the end of that 30-day period, specific corrective actions have not been effected, the Administrator shall inform the subgrantee of the sanctions which shall be applied due to non-compliance. Such sanctions shall include withholding of funds, disallowance of costs, suspension of contract, or termination of contract. The Administrator shall inform the subgrantee of any appeal rights and procedures to state and federal authorities in the sanction transmittal.

Stat. Auth.: ORS 184.082 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0015; HSG 9-1993, f. & cert. ef. 10-1-93

#### 813-230-0020

##### Termination of Community Action Agencies

(1) A CAA shall not be terminated by the State of Oregon unless, and after notice and opportunity for hearing, it has been determined that cause existed for termination.

(2) Such notice shall be sent to a CAA by the Administrator and a hearing shall be held before the Administrator when in his or her opinion probable cause for termination exists.

(3) A CAA may appeal the Administrator's decision to the Director for hearing on the record.

(4) A CAA may appeal the Director's decision to the Governor for hearing on the record.

(5) The decision to terminate a CAA will be transmitted to the Secretary for the U.S. Department of Health and Human Services for review within ten working days of that decision being finalized.

Stat. Auth.: ORS 184.082 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: HR 3-1987, f. & ef. 12-30-87; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 410-110-0020; HSG 9-1993, f. & cert. ef. 10-1-93

### DIVISION 240

#### HOMELESS ASSISTANCE

#### 813-240-0000

##### Definitions

(1) "Administrative Costs" means all costs which are not directly related to delivery of services under these rules.

(2) "Division" means the Community Services Division located in the agency.

(3) "CAAs" means the Community Action Agencies operating anti-poverty programs through subcontracts with State Community Services.

(4) "Department" means the agency (HCS).

(5) "Eligible Services" means emergency shelter services for the homeless provided under these rules.

(6) "Emergency Shelter" means shelter assistance provided to homeless populations in each subgrantee's service area.

(7) "Homeless" means individuals or families without the means to secure and maintain decent, safe shelter.

(8) "Director" means the Director of agency (HCS).

(9) "Program" means the Emergency Shelter Program for the homeless.

(10) "Program Costs" means those costs directly associated with eligible services.

(11) "Request for Proposals (RFP)" means the application format prescribed by HCS to be used in competing for program funding.

(12) "Subgrantee" means local public or private, nonprofit entities with which HCS subcontracts for operation of anti-poverty programs.

Stat. Auth.: ORS 411 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0000; HSG 10-1993, f. & cert. ef. 10-1-93

#### 813-240-0010

##### Administration

(1) The Community Services Division of HCS has been designated by the State Legislature as the agency responsible for administering the program.

(2) HCS shall select local lead agencies to administer this program. The Director of HCS shall approve all lead agencies' work plans regarding use of homeless funds.

(3) Lead agencies shall be responsible for conducting local planning processes to establish homeless needs and potential strategies. Lead agencies shall also provide technical assistance to agencies receiving any Emergency Shelter funds.

Stat. Auth.: ORS 411 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0005; HSG 10-1993, f. & cert. ef. 10-1-93

#### 813-240-0020

##### Eligibility

(1) Emergency Shelter Assistance through this program shall be available to homeless individuals and families.

(2) Eligibility may be determined through self-declaration or by referral from such agencies as police, AFS field offices or other human service agencies.

(3) Assistance through this program shall not be utilized for purposes of rent or house payment.

(4) Residency within a designated service area shall not be an eligibility criterion.

Stat. Auth.: ORS 411

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0010

#### 813-240-0030

##### Service Provided

(1) Services funded under this program shall include emergency shelter and auxiliary activities directly related to emergency shelter. Such activities may include nutritional assistance, personal hygiene and referral.

(2) Lead agencies shall assist program participants to access other services, on an intra or interagency basis to meet other, longer term needs whenever possible.

Stat. Auth.: ORS 411 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0015; HSG 10-1993, f. & cert. ef. 10-1-93

#### 813-240-0040

##### Requirements

(1) Prior to providing services under the program, lead agencies shall sign a contract with HCS. That contract shall include, but not be limited to, the level of funding available to each lead agency, the time period during which the local agency can obligate funds, a description of services to be provided, the minimum number of clients to be served by the agency, program reporting requirements, fiscal reporting requirements and audit requirements.

(2) Each lead agency shall provide quarterly program and fiscal reports, one final program report and one final fiscal report to HCS in a format prescribed by HCS. The program reports shall include, but not be limited to, the number of clients served, client characteristics (i.e., single adults, families, youth eighteen and younger, etc.), the type of service provided, problems encountered and corrective actions taken. The fiscal reports shall include, but not be limited to, a line item description of costs incurred, other funds used in assisting homeless, value of in-kind contributions to the program and the value of volunteer assistance provided to the program.

(3) Lead agencies shall comply with pertinent local ordinances, state rules and regulations, and federal rules and regulations.

(4) Administrative costs for the program shall be limited to ten percent of each lead agency's funding award.

Stat. Auth.: ORS 411 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; AFS 37-1988, f. 5-12-88, ef. 5-12-88 (and corrected 5-18-88); HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0020; HSG 10-1993, f. & cert. ef. 10-1-93

#### 813-240-0050

**Fiscal Control/Reporting Requirements/Documentation**

(1) Each lead agency shall maintain records which document the receipt and dispersal of all funds provided through the program.

(2) Each lead agency shall maintain records which document the situation of clients receiving services through the program. Such records shall include client signatures and the referral of clients to other services designed to meet longer term needs.

(3) Each lead agency shall provide HCS with an annual audit of program and fiscal transactions within 180 days after the close of the agency's fiscal year.

(4) Records of program activities including client files and fiscal transactions shall be maintained by each lead agency for a period of three years and shall be available to HCS and other authorized state staff for inspection.

Stat. Auth.: ORS 411 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; AFS 37-1988, f. 5-12-88, cert. ef. 5-12-88 (and corrected 5-18-88); HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0025; HSG 10-1993, f. & cert. ef. 10-1-93

**813-240-0060**

**Monitoring**

(1) The Community Services Division Administrator shall designate HCS staff to monitor local agencies' activities.

(2) Monitoring shall include, but not be limited to, inspection of client files, program records, fiscal records including original receipts for expenditures and facilities used for provision of services.

Stat. Auth.: ORS 411 & ORS 458.505 - ORS 458.515

Stats. Implemented: ORS 458.505 - ORS 458.515

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0030; HSG 10-1993, f. & cert. ef. 10-1-93

**DIVISION 250**

**FOOD ASSISTANCE FUNDS**

**813-250-0000**

**Purpose and Objectives**

The rules of OAR chapter 813, division 250, are established to accomplish the general purpose of Chapter 725, Oregon Laws 1993, which authorizes the agency to allocate funds to the statewide network of emergency food programs. These funds are to be used to establish grants for food distribution agencies to develop and implement linkage activities and to demonstrate the benefits of local control of commodity purchasing.

Stat. Auth.: ORS 456.555 & OL 1993 Ch. 725

Stats. Implemented: OL 1993 Ch. 725

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94

**813-250-0010**

**Definitions**

(1) "Department" means the agency (HCS).

(2) "Eligible Activities" means services that can be provided under these rules.

(3) "Emergency Food Program" means a private, non-profit organization which has subcontracted with the Regional Coordinat-

ing Agency (RCA) to relieve situations of emergency and distress through provision of food to needy persons.

(4) "Linkages" means activities and/or information designed to ensure that participants in food assistance programs are made aware of and directed to other services and resources for which they may be eligible and that may be of assistance in reducing their need for emergency food.

(5) "Local Control of Commodity Purchasing" means the acquisition of food through a coordinated statewide effort designed to demonstrate the efficiency of such a process.

(6) "Regional Coordinating Agencies (RCAs)" means any public or private, nonprofit agency which has subcontracted with the State Coordinating Agency to relieve situations of emergency and distress through provision of food to needy persons.

(7) "State Coordinating Agency (SCA)" means Oregon Food Bank, a private nonprofit organization designated by HCS to coordinate distribution of food in Oregon.

Stat. Auth.: ORS 456.555 & OL 1993 Ch. 725

Stats. Implemented: OL 1993 Ch. 725

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94

**813-250-0020**

**Administration**

(1) The Housing and Community Services Department has been designated as the state agency responsible for administering emergency food assistance programs.

(2) Oregon Food Bank, a private, non-profit organization, incorporated under the law of the State of Oregon, has been designated through letter of agreement with HCS as the State Coordinating Agency.

(3) Regional Coordinating Agencies (RCAs) shall be selected by the State Coordinating Agency (SCA). Subcontracts shall be developed between the SCA and RCAs for carrying out program activities at the local level. The RCAs shall be recognized by HCS.

(4) Prior to providing services, an RCA shall sign a contract with the SCA. That contract shall include, but not be limited to, the time period during which the contract is in effect, eligible activities and services, fiscal and program report requirements and audit requirements.

(5) The SCA and RCAs shall comply with pertinent state and federal rules and regulations.

Stat. Auth.: ORS 456.555 & OL 1993 Ch. 725

Stats. Implemented: OL 1993 Ch. 725

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94

**813-250-0030**

**Fiscal Control/Reporting Requirements**

(1) The SCA and RCAs shall maintain records which document the use of these funds for linkage activities and the receipt and distribution of food.

(2) The SCA and RCAs will document spoilage received in food shipments including the extent of such spoilage and its disposition.

(3) The SCA will provide HCS with an annual audit of program and fiscal transactions within 180 days after the close of its fiscal year.