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(LIEAP)**

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813-350-0060	Fees
813-350-0070	Waiver

DIVISION 1

PROCEDURAL RULES

813-001-0000

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 90.800-90.840, 91.886, 183.456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183.456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.515-ORS 456.720

Hist.: 1HD 1, f. & ef. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650

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 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 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: Publications referenced are available from the agency.]

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

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

Stats. Implemented: ORS 456.515-ORS 456.720

Hist.: 1HD 4-1983, f. 8-4-83, 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.515-ORS 456.720

Hist.: IHD 2, f. & ef. 11-21-73, ef. 12-11-73; IHD 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: Publications referenced are available from the agency.]

Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.515-ORS 456.720

Hist.: IHD 14, f. & ef. 10-3-77; IHD 5-1983, f. & ef. 9-2-83; IHD 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 regulations. To make it 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.515-456.720

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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

OAR 813, division 008 is promulgated to accomplish the general purpose of ORS 90.630 and specifically 90.630(5), (6), (7) and (8), and with ORS 90.630(7) requiring the Housing and Community Services Department to adopt rules to implement the provisions of ORS 90.630(5).

Stat. Auth.: ORS 90.630, 90.800-90.840, 183, 456.515-456.723 & 458.210-458.650

Stats. Implemented: ORS 90.630, 90.800-840, 183, 456.515-723 & 458.210-.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; OHCS 17-2002, f. & cert. ef. 12-5-02

813-008-0010

Definitions

Words and terms used in OAR 813, division 008 are consistent with the definitions in ORS 90.100.

Stat. Auth.: ORS 90.630, 90.800-90.840, 183, 456.515-456.723 & 458.210-458.650

Stats. Implemented: ORS 90.630, 90.800-840, 183, 456.515-723 & 458.210-650

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; OHCS 17-2002, f. & cert. ef. 12-5-02

813-008-0015

Closure Notice

(1) Any written notice by the landlord of termination of a rental agreement because of facility closure and the land or leasehold being converted to a different use shall conform with the requirements of ORS 90.630 and 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 closure of the facility or of the relevant portion of the facility;

(c) The actions and activities the landlord plans to take in the facility closure that may affect the facility tenants;

(d) The landlord's obligations under ORS 90.630(5), (6), (7) and (8);

(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, together with any shortened period between notice and termination of the rental agreement arising therefrom;

(g) A copy of the statute ORS 90.630 and of this OAR 813, division 008;

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

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

(2) Notices required by ORS 90.630 or by these rules shall be delivered personally or by first class mail to each affected tenant. If served by mail, the minimum period before facility 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 and not reasonably discoverable, his or her copy shall be delivered to the subtenant with written instructions to forward it 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(5)(a), the provisions of OAR 813-008-0020 through 813-008-0030 do not apply.

(4) For 180-day closure notices as provided in ORS 90.630(5)(b), the landlord shall comply with the provisions of OAR 813-008-0020 through 813-008-0030.

Stat. Auth.: ORS 90.630, 90.800-90.840, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 90.630, 90.800-840, 183, 456.515-723 & 458.210-650
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; OHCS 17-2002, f. & cert. ef. 12-5-02

813-008-0020

Alternate Manufactured Dwelling or Floating Home Space

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

(2) The tenant shall determine, solely at the judgment and discretion of the tenant, if the alternate space identified in the 45-day notice described above is acceptable and shall notify the landlord in writing of his or her 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 or floating home is approved for the tenant's occupancy. Costs to secure the space for this period shall be included in the landlord-paid moving expenses.

Stat. Auth.: ORS 90.630, 90.800-90.840, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 90.630, 90.800-840, 183, 456.515-723 & 458.210-650
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; OHCS 17-2002, f. & cert. ef. 12-5-02

813-008-0025

Moving and Set Up Expenses

(1) Actual moving and set-up expenses shall be paid or reimbursed by the landlord, as agreed by the parties, for moving the tenant's manufactured dwelling or floating home, together with all possessions, to another acceptable location. Eligible expenses include, but are not limited to:

(a) Costs for removing and reinstalling skirting;

(b) Costs for disconnecting and reconnecting utilities, including fees related thereto;

(c) Costs for disconnecting and reinstalling awning(s) and deck(s);

(d) Trip permit and public inspection fees;

(e) Transportation costs;

(f) Set-up charges;

(g) Costs for manufactured dwelling or floating home improvements necessary to meet destination facility space standards;

(h) Costs for packing and unpacking manufactured dwelling or floating home contents as necessary for unit relocation for elderly and disabled persons, as those persons are defined in this Chapter;

(i) Costs for temporary housing and meals for the tenant during unit relocation and set up; and

(j) 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 floating home is approved for occupancy.

(2) Notwithstanding the foregoing, the amount of moving and set-up expenses required to be paid by the landlord under these rules shall not exceed actual costs or \$3,500, whichever is less, unless otherwise agreed to by the landlord.

Stat. Auth.: ORS 90.630, 90.800-90.840, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 90.630, 90.800-840, 183, 456.515-723 & 458.210-650
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; OHCS 17-2002, f. & cert. ef. 12-5-02

813-008-0030

Payment of Expenses

(1) The tenant and landlord shall agree in writing upon the moving and set-up method and source of services to be provided for same not less than 20 days before the tenant's required 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 same. The landlord shall timely pay unpaid billings directly to the vendor and shall reimburse the tenant for appropriate expenses paid directly by the tenant. The landlord shall make payment for or reimbursement of appropriate expenses not later than 20 days following receipt of any such billings or 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 such services are mutually agreed upon by landlord and tenant and performed by appropriately registered or licensed and bonded tradesmen or agents.

(4) If no agreement is timely reached between landlord and tenant prior to a tenant's required moving date, the landlord shall timely reimburse the tenant for appropriate moving and set-up expenses consistent with these rules.

Stat. Auth.: ORS 90.630, 90.800-90.840, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 90.630, 90.800-840, 183, 456.515-723 & 458.210-650
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; OHCS 17-2002, f. & cert. ef. 12-5-02

813-008-0040

Waiver

The Director may waive or modify any requirements of OAR 813, division 008, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 90.800-90.840, 183, 456.515-456.723 & 458.210-456.650
Stats. Implemented: ORS 90.800-840, 183, 456.515-723 & 458.210-650
Hist.: OHCS 17-2002, f. & cert. ef. 12-5-02

DIVISION 9

MOBILE HOME PARK PURCHASE PROGRAM

813-009-0001

Purpose and Objective

The rules of OAR 813, division 009, are established to accomplish the general purpose of ORS 90.800 to 90.840 and 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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

DIVISION 10

MULTI-UNIT HOUSING PROGRAM

813-010-0006

Purpose and Objectives

The rules of OAR 813, division 10 are established to administer and enforce ORS 456.515 through 456.720, and specifically 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

Stats. Implemented: ORS 456.515-ORS 456.720

Hist.: 1HD 2-1979, f. & ef. 6-29-79; 1HD 5-1980, f. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 8-1984, f. & cf. 9-4-84; HSG 6-1987, f. & cf. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.625

Hist.: 1HD 8-1984, f. & cf. 9-4-84; HSG 6-1987, f. & cf. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.625

Hist.: 1HD 8-1984, f. & cf. 9-4-84; HSG 6-1987, f. & cf. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 11-1980, f. 6-18-80, ef. 6-20-80; 1HD 2-1981, f. & cf. 1-30-81; 1HD 3-1982, f. & cf. 4-6-82; 1HD 8-1984, f. & cf. 9-4-84; HSG 2-1987(Temp), f. & cf. 2-5-87; HSG 6-1987, f. & cf. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.555 & ORS 456.625

Hist.: 1HD 2-1979, f. & cf. 6-29-79; 1HD 8-1984, f. & cf. 9-4-84; HSG 6-1987, f. & cf. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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

813-010-0042

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.

(d) 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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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; OHCS 1-2001, f. & cert. ef. 2-15-01

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 following 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 effective.

ed 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
 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 PROGRAM

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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 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 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: Publications referenced are available from the agency.]
 Stat. Auth.: ORS 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 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: Publications referenced are available from the agency.]

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

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.

(d) 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: Publications referenced are available from the agency.]

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

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; OHCS 1-2001, f. & cert. ef. 2-15-01

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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 Pro-

gram 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 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 813, division 20 are established to administer and enforce ORS 456.515 through 456.720, specifically 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: Publications referenced are available from the agency.]

Stat. Auth.: ORS 456.555
 Stats. Implemented: ORS 456.555 & ORS 456.625
 Hist.: 1HD 14, f. & cf. 10-3-77; 1HD 9-1984, f. & cf. 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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 con-

clusive. 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: Publications referenced 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: Publications referenced 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: Publications referenced 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 customary 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: Publications referenced 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: Publications referenced 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; 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

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: Publications referenced 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: Publications referenced 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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced 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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced 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 maintenance 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: Publications referenced 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: Publications referenced are available from the agency.]

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

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: Publications referenced 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 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 813, division 030 are established to administer and enforce ORS 456.515 to 456.720 specifically 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 90.800-90.840, 91.886, Ch. 183, 456.515-456.723 & 458.210-458.650

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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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, 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 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 813, division 30.

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

(d) 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: Publications referenced are available from the agency.]

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

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; OHCS 1-2001, f. & cert. ef. 2-15-01

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
 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 90.800-90.840, 183, 91.886, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 813, division 035, are established to administer and enforce ORS 456.515 through 456.720, and specifically 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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: Publications referenced are available from the agency.]

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

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.

(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.

(d) 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) 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.

[Publications: Publications referenced are available from the agency.]

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; OHCS 1-2001, f. & cert. ef. 2-15-01

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650.
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 39

Oregon Administrative Rules Compilation

FARMWORKER HOUSING DEVELOPMENT ACCOUNT

813-039-0005

General Purpose

OAR 813, division 039, is promulgated to accomplish the general purposes of ORS 458.600 to 458.660, and more specifically, 458.620(1), (2), and (3)(d) and 458.660. 458.620(1), among other things, establishes the Farmworker Housing Development Account as part of the Oregon Housing Fund. ORS 458.660 authorizes the Department to disburse moneys in the Farmworker Housing Development Account to expand the state's supply of housing for low and very low income Farmworkers.

Stat. Auth.: ORS 456.515, 456.547, 456.550, 456.555, 456.559, 456.571, 456.625, 458.620 & 458.660

Stats. Implemented: ORS 456.555, ORS 456.625, ORS 458.620 & ORS 458.660
Hist.: OHCS 13-2002, f. & cert. ef. 10-10-02

813-039-0010

Definitions

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

(1) "Account" means the Farmworker Housing Development Account established in ORS 458.620(1).

(2) "Application" means the application form(s) and other information required by the Department to initiate a request for moneys from the Account by a Sponsor to finance a specific Project.

(3) "Approve" or "Approval" means the Department, having considered the information provided in a particular Application, together with such other information as the Department considered necessary or appropriate, has reached a preliminary decision that the Application is adequate for review and that the Project described therein is appropriate for funding from the Account and, having obtained Council consent as necessary, has communicated a written offer to the Sponsor to fund the Project as conditioned by the Department, the Council, these rules, ORS 458.600 through 458.660, and other applicable law.

(4) "Council" means the State Housing Council established in ORS 456.567.

(5) "Department" means the Housing and Community Services Department established in ORS 456.555.

(6) "Farmworker" means any person working in connection with cultivating the soil, raising or harvesting any agricultural or aquacultural commodity; or in catching, netting, handling, planting, drying, grading, storing, or preserving in its unmanufactured state any agriculture or aquaculture commodity; or delivering to storage, market, or a carrier for transportation to market or to processing any agriculture or aquaculture commodity; or in the forestation or reforestation of land, including but not limited to, the planting, transportation, tubing, precommercial thinning of trees and seedlings, the clearing, pulling and disposal of brush and slash and other related activities; or as otherwise determined by the Department in the exercise of its authority.

(7) "Project" means a particular development of Farmworker housing, including but not limited to the construction, acquisition or rehabilitation of such housing, or other efforts that facilitate the expansion of the supply of Farmworker housing, in whole or in part, as further detailed in these rules.

(8) "Sponsor" means nonprofit and for-profit corporations or other business entities or individuals authorized to conduct business in the State of Oregon, state and local government entities and housing authorities in Oregon who make Application to finance a Project, in whole or in part, from the Account.

Stat. Auth.: ORS 456.515, 456.547, 456.550, 456.555, 456.559, 456.571, 456.625, 458.620 & 458.660

Stats. Implemented: ORS 456.555, ORS 456.625, ORS 458.620 & ORS 458.660
Hist.: OHCS 13-2002, f. & cert. ef. 10-10-02

813-039-0015

Eligibility

(1) Sponsors must demonstrate to the Department's satisfaction that a proposed Project will expand the state's supply of housing for low and/or very low income Farmworkers. To expand the state's supply of such housing means increasing the amount of qualifying residential housing or extending the use as qualifying residential housing of units or structures that otherwise would be lost for that purpose because of deteriorating habitability or other circumstances. The Department, in ascertaining the efficacy of a proposed Project to expand the state's supply of such housing, may consider factors including, but not limited to the following:

- (a) The likelihood of the Project resulting in expanded housing for low or very low income Farmworkers;
- (b) The likelihood of the Project developing increased capacity in Oregon communities to create and operate additional qualifying housing;
- (c) The immediacy between funding of assistance from the Account and the expansion of housing;
- (d) The quality of the intended housing;
- (e) The duration of such housing and any assurances of same;
- (f) The quantity of the intended housing;
- (g) The amount of requested Account assistance; and
- (h) The location and demand for the intended housing.
- (2) Assistance from the Account normally is available to Sponsors only for the following purposes:
 - (a) To acquire or lease land;
 - (b) To construct new or to acquire and/or rehabilitate existing structures for housing low and/or very low income Farmworkers;
 - (c) To match public or private moneys available from other sources for the purposes of developing appropriate Farmworker housing;
 - (d) To provide training and technical assistance that in the Department's judgment will promote the development of appropriate Farmworker housing; and
 - (e) To assist with operational costs or with the provision of services as a last resort to prevent the loss of existing housing for low and very low income Farmworkers.

(3) The Department may further restrict or expand the purposes for which Account assistance may be used with respect to a particular Project.

(4) Sponsors must demonstrate to the Department's satisfaction that they have the capacity, experience and dedication to utilize properly any assistance from the Account for its intended purposes. The Department, in ascertaining whether or not a particular Sponsor has such capacity, experience and dedication, may consider factors including, but not limited to the following:

- (a) The number of personnel and depth of other resources available to the Sponsor for the Project;
- (b) The training and other qualifications of such personnel and the quality and relevance of other resources;
- (c) The organizational structure and effectiveness of the Sponsor, including its cost accounting procedures;
- (d) The reputation and standing of the Sponsor, and any of its personnel, among knowledgeable parties;
- (e) The experience of the Sponsor in developing or operating similar Projects;
- (f) The experience of the Sponsor in developing or operating low-income housing generally;
- (g) The Department's past experience with the Sponsor or any of its personnel;
- (h) The Sponsor's involvement in other housing and community services projects or programs; and
- (i) The Sponsor's cooperation with the Department in the Application process or otherwise.

Stat. Auth.: ORS 456.515, 456.547, 456.550, 456.555, 456.559, 456.571, 456.625, 458.620 & 458.660
 Stats. Implemented: ORS 456.555, ORS 456.625, ORS 458.620 & ORS 458.660
 Hist.: OHCS 13-2002, f. & cert. ef. 10-10-02

813-039-0020

Application Process

(1) The Department may from time to time solicit Applications and may, in its sole discretion, consider for funding only Projects identified in Applications received in response to such solicitations. The Department, in its sole discretion, also may fund Projects on its own initiative or consider for funding Projects identified in Applications not received in response to a Department solicitation.

(2) All Applications for assistance from the Account shall be in writing to the Department, and shall contain at a minimum the following information:

- (a) The name, address, and telephone number of the Sponsor, together with a contact person;
- (b) The amount and type of Account assistance requested;
- (c) A description of the Project for which Account assistance is requested, including the purpose of the Project, its location, its owner(s) and ownership structure, its total cost, its funding sources, the type of housing or program involved, the number of low and very low income Farmworker housing units to be provided, the number of Farmworkers to be housed, the duration of such housing, the man-

agement plan for such housing, and the willingness to execute and record restrictive covenants to ensure continued availability of such housing;

(d) A description of how the Account assistance will be used with respect to the Project, including how such assistance will be leveraged and secured, if applicable; and

(e) An estimate of the time period from start to completion of the Project.

(3) The Department will not Approve Project requests in excess of Account funds then currently available. The Department, in its sole discretion, may determine the amount of available Account funds to be disbursed at any particular time. Notwithstanding any such determination, the Department shall not be obligated to Approve Projects sufficient to disburse fully such available funds. Within such discretion, and its discretion to consider or to initiate Applications, the Department will Approve those eligible Projects from eligible Sponsors requesting eligible assistance that, in its judgment, best achieve the purposes of ORS 458.660, these rules, and other applicable law, including orders of the Department.

(4) An Application may be obtained by contacting the Department at: **Oregon Housing and Community Services, Farmworker Housing Development Account, PO Box 14508, Salem, OR 97309-0409.**

Stat. Auth.: ORS 456.515, 456.547, 456.550, 456.555, 456.559, 456.571, 456.625, 458.620 & 458.660
 Stats. Implemented: ORS 456.555, ORS 456.625, ORS 458.620 & ORS 458.660
 Hist.: OHCS 13-2002, f. & cert. ef. 10-10-02

813-039-0025

Application Review

(1) In reviewing Applications for Approval, the Department and the Council, as appropriate, may consider factors including, but not limited to, the following:

- (a) The Eligibility of Project, Sponsor and requested assistance;
- (b) The amount, type, source, timing of and restrictions on any leverage funding or other assistance available for the Project;
- (c) The nature of requested assistance;
- (d) The willingness of Sponsor to execute and record restrictive covenants and other instruments ensuring ongoing availability of the low and/or very low income Farmworker housing;
- (e) The amount of available funds in the Account;
- (f) The involvement of federal, state or local government agencies, nonprofit housing or social service agencies, or other beneficial parties;
- (g) The geographic area and need affected;
- (h) The number, type and duration of housing units to be provided or preserved and number of Farmworkers to be housed;
- (i) The social services to be provided or needed with respect to the housing, if appropriate; and
- (j) The impacts of the Project on the local community;
- (k) Local opinion regarding the Project;
- (l) The feasibility of the Project; and
- (m) The Administrative costs and/or responsibilities imposed on the Department in connection with the assistance provided.

(2) For Project assistance from the Account less than \$100,000, the Department may initiate or consider Applications and Approve or not such Projects as it, in its sole discretion deems appropriate. The Department may alter proposed Projects and place such conditions upon its Approval as it deems appropriate or as required by these rules or applicable law. The Department also may stay consideration of any Application pending further investigation or return any Application to its Sponsor for additional information or for required corrections or changes.

(3) For Project assistance from the Account equal to or greater than \$100,000, the Department will initiate or consider Applications and Approve or not such Projects as it deems appropriate with the consent of the Council. The Department or Council may alter proposed Projects or place such conditions upon the Department's Approval as either deems appropriate or as required by these rules or applicable law. The Department or Council also may stay consideration of any Application pending further investigation or return any Application to its Sponsor for additional information or for required corrections or changes.

Stat. Auth.: ORS 456.515, 456.547, 456.550, 456.555, 456.559, 456.571, 456.625, 458.620 & 458.660
 Stats. Implemented: ORS 456.555, ORS 456.625, ORS 458.620 & ORS 458.660
 Hist.: OHCS 13-2002, f. & cert. ef. 10-10-02

813-039-0030

Form of Assistance

(1) The Department will confirm in its Approval to the Sponsor the type of assistance, if any, to be provided from the Account for the Project. Assistance may be provided as a loan, a grant, a combination of a loan and grant, or in such other form as determined by the Department.

(2) The Department, inter alia, may require the Sponsor to execute such documents as the Department considers appropriate or necessary, in its sole discretion, to evidence the type and amount of assistance provided, and any terms and conditions required by the Department or Council in connection with such assistance.

(3) If any term or condition in the Approval of Account assistance, or in the documents related thereto, is not timely performed by Sponsor — or upon the discovery by the Department of any misrepresentation or omission of a material fact by the Sponsor — the Department may immediately revoke its Approval, require repayment of all or any portion of Account assistance previously advanced, if any, and effect any other remedy available to it at law or otherwise.

Stat. Auth.: ORS 456.515, 456.547, 456.550, 456.555, 456.559, 456.571, 456.625, 458.620 & 458.660

Stats. Implemented: ORS 456.555, ORS 456.625, ORS 458.620 & ORS 458.660

Hist.: OHCS 13-2002, f. & cert. ef. 10-10-02

813-039-0040

Waiver

The Department may waive or modify any requirements of OAR 813, division 039, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 456.515, 456.547, 456.550, 456.555, 456.559, 456.571, 456.625, 458.620 & 458.660

Stats. Implemented: ORS 456.555, ORS 456.625, ORS 458.620 & ORS 458.660

Hist.: OHCS 13-2002, f. & cert. ef. 10-10-02

DIVISION 40

SEED MONEY ADVANCE PROGRAM

813-040-0005

General Purpose

The rules of OAR 813, division 40 are established to administer ORS 456.515 to 456.720, specifically 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 occur-

ring 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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 41

FARMWORKER HOUSING TAX CREDIT PROGRAM

813-041-0000

Purpose and Objectives

OAR 813, division 41, is promulgated to carry out the provisions of ORS 315.164 through 315.167, in particular 315.167, as they pertain to the Oregon Housing and Community Services Department. The purpose of the Farmworker Housing Tax Credit Program is to encourage the rehabilitation of existing housing, and the construction or placement of additional housing, for farmworkers.

Stat. Auth.: ORS 315.167 & ORS 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02

813-041-0005

Definitions

All terms used in OAR 813, division 41, are defined in the Act, in OAR 813-005-0005, in ORS 315.164, and herein.

(1) "Annual Notice" means the Department's notice of details of the Program for that year, including any changes the Department may have made to the Program from the previous year pursuant to ORS 315.164 through 315.167 and OAR 813, division 41.

(2) "Application" means the application filed by an Owner with the Department on the Department's prescribed application form(s), together with the attached information, as required by the Department in OAR 813-041-0010, and as the Department may specify in an Annual Notice or by other means, which has been signed by the Owner requesting approval for Tax Credit for a Project.

(3) "Approval" means issuance by the Department of a letter of credit approval for a Project.

(4) "Cap" means the maximum aggregate amount of Estimated Eligible Costs for all Projects approved for the calendar year pursuant to letters of credit approval issued by the Department, as set forth in ORS 315.167(4).

(5) "Condition of Habitability" means a condition that is in compliance with:

(a) The applicable provisions of the state building code under ORS Chapter 455 and the rules adopted thereunder; or

(b) If determined on or before December 31, 1995, section 12 and 13, chapter 964, Oregon Laws 1989.

(6) "Eligible Costs" includes finance costs, construction costs including development costs as well as hard construction costs, excavation costs, installation costs, and permit costs, but excludes land costs.

(7) "Estimated Eligible Costs" is the lesser of:

(a) A forecast of the actual Eligible Costs;

(b) An amount less than such forecasted amount that the Owner is requesting for approval for a specific Project; or

(c) A voluntary ceiling for the forecasted Eligible Costs for large Projects as may be announced in an Annual Notice.

(8) "Farmworker" means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in the production of farm products or in the planting, cultivating or harvesting of seasonal agricultural crops or in the forestation or reforestation of lands, including but not limited to planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

(9) "Farmworker Housing" means housing:

(a) Limited to occupancy by Farmworkers and their immediate families; and

(b) No dwelling unit of which is occupied by a Relative of the Owner or Operator of such farmworker housing;

(c) Consisting, if located in an exclusive farm use zone, of housing that is in compliance with any applicable local zoning ordinance and that is:

(A) A manufactured dwelling, as that term is defined in ORS 446.003, or

(B) Any other dwelling unit in existing Farmworker Housing, if the Project for which the Tax Credit is being claimed, consists of the Rehabilitation of such existing Farmworker Housing.

(10) "Farmworker Housing Project" or "Project" means construction, installation or Rehabilitation of Farmworker Housing located in the State of Oregon.

(11) "Firm Commitment of Financing" means an agreement by a lending institution to make funds available to the Owner for the Project, which agreement contains all of the terms and conditions that the Owner has to satisfy prior to closing.

(12) "Owner" means a person, corporation, including a nonprofit corporation or state or local government entity including but not limited to a housing authority, which holds legal title to the Farmworker Housing and will develop and manage (whether directly or through an Operator) the Farmworker Housing. The Owner may be the controlling general partner in a limited partnership which holds legal title to the Farmworker Housing and will develop and manage (whether directly or through an Operator) the Farmworker Housing in accordance with all applicable state and federal statutes and regulations and any other requirement as set forth by the Department.

(13) "Operator" means a person or entity other than Owner who operates and manages Farmworker Housing.

(14) "Program" means the Farmworker Housing Tax Credit Program.

(15) "Rehabilitation" means to make repairs or improvements to a building that improve its livability and are consistent with applicable building codes.

(16) "Relative" means a brother or sister (whether by the whole or by half blood), spouse, ancestor (whether by law or by blood), or lineal descendant of an individual.

(17) "Taxpayer" means a resident individual, corporation or financial institution, including, but not limited to, an Owner or Operator of Farmworker Housing.

(18) "Tax Credit" means a credit against taxes allowed a Taxpayer for a Farmworker Housing Project pursuant to ORS 315.164.

(19) "Tenant" is a person or a renter (including any family members) who occupies or will occupy a unit in Farmworker Housing.

Stat. Auth.: ORS 315.167 & ORS 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02

813-041-0010

Program Description and Application Requirements

(1) Prior to submitting any Application, Applicants are encouraged to read ORS 315.164 through 315.167, the Annual Notice, and the general information regarding this Program. This information will be provided, along with Application form(s), upon request addressed to: Farmworker Housing Tax Credit Program, Oregon Housing and Community Services Department, 1600 State St., Salem, Oregon 97301-4246.

(2) The Department reserves the right to establish the initial date on which Applications may be filed in any year, the Application form(s) and required supporting documentation, and evaluation criteria. The Department also reserves the right to request additional information and to request applicants with large Projects to agree to a voluntary ceiling on the Estimated Eligible Costs included in their Applications.

(3) An Application for Tax Credit for a Project shall be filed no later than the date construction for the Project commences. During the period of time an Application may be filed, the Owner may submit a written Application for approval in the manner prescribed by the Department. The Application shall contain all information required by the Department, including, but not limited to:

(a) Name, address, telephone number, and taxpayer identification number of the Taxpayer and Owner;

(b) Location of the proposed Farmworker Housing;

(c) A description of the Project, including:

(A) The type of housing (seasonal or year around housing); and

(B) Number and type of housing units to be provided and the projected occupancy and square footage per unit;

(d) The Estimated Eligible Costs of the Project, broken down by cost type (Note that an Annual Notice may request that Owners of large Projects voluntarily limit the amount of the Estimated Eligible Costs requested in their Applications); and

(e) Any other information as the Department may require, including but not limited to:

(A) Information about the current zoning of the proposed site, including at a minimum, an accompanying letter signed by the appropriate community development or planning agency indicating the current zoning designation and that the proposed Project complies with the allowable uses for the zone designation, to confirm both the eligibility of the Project proposed and its ability to proceed;

(B) An accompanying letter or form specifying the sources of the funds, including at a minimum any outside sources of funds, and Firm Commitments of Financing for funds from sources not in the Owner's name;

(C) Information on the readiness of the Project to proceed to construction in the current calendar year, such as:

(i) Projected date on-site construction activity will begin or necessary permits will be secured; and

(ii) The projected construction time;

(D) Information on the projected occupancy date;

(E) Information on the projected life of the Project for Farmworker Housing purposes;

(F) A commitment to the timely completion of the Project, which shall either be evidenced by the execution of the Application by the Owner if the Project will be completed and ready for occupancy in the calendar year of the Approval or evidenced by a specific letter of commitment stating that the Project will proceed to construction in the calendar year of Approval and will be completed and ready for occupancy during the following calendar year; and

(G) Any other information the Department may specify in an Annual Notice.

(4) Once an Application has been filed, an Owner may begin construction and incur costs at the Owner's own risk. Projects that have

started construction after an Application has been filed and have not been awarded Tax Credits will not be eligible for future tax credits after December 31 of the year construction began.

(5) To claim a Tax Credit under this Division, a Taxpayer must show in each year following the completion of a Farmworker Housing Project that the Project is continuing to be operated as Farmworker Housing for a period of at least ten years after such completion, unless the Department grants the Taxpayer a waiver from this requirement after the Taxpayer has successfully met this requirement for the first five years after completion. Factors necessary for the Department to grant such a waiver may include, but are not limited to, the following:

- (a) A documented decline in a particular area for Farmworker Housing; and
- (b) Other factors as may be outlined in the Application form(s), informational materials, or Annual Notice(s).

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 315.167 & ORS 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02

813-041-0015

Filing, Consideration and Evaluation of Applications.

(1) Unless otherwise indicated by the Department in an Annual Notice, Applications may be filed after January 2 for a given calendar year. Applications for a calendar year submitted before the initial date Applications may be filed for that calendar year will not be considered and will be returned. Applications will be considered filed on the date of the USPS postmark if mailed; on the date printed out by Department devices on which they arrive if sent electronically by facsimile (FAX); and on the date they are stamped in at the Department if hand delivered.

(2) The Department may, subject to availability under the Cap, consider Applications through any reasonable process which may include, but is not limited to, a first come-first reviewed process, competitive review process, as a demonstration program, or as necessary to meet an on-going concern.

(3) The Department's evaluation of Applications for approval may include, but is not limited to, the following criteria:

(a) Completeness, level of detail and accuracy of the information included in the Application;

(b) The Owner's readiness to proceed, as evidenced by:

(A) Estimated time to complete the Project following Approval; and

(B) Projected date the Project will be completed and ready for occupancy;

(c) Financial feasibility, as evidenced by the existence of funds for the Project, including but not limited to:

(A) Identified sources of funds for the Project; and

(B) Firm Commitments of Financing for funding sources not in the Owner's name; and

(d) Other criteria as may be established in the Application form(s) and announced in the Annual Notice. In the evaluation process the Department may determine the qualifying status of the Taxpayer, the proposed Project and the costs included in the Estimated Eligible Costs.

(4) The Department may:

(a) Return as not filed any Application determined in the evaluation process not to include specific or substantial information about the Project or determined by the Department to be incomplete in any respect; or

(b) Request the Owner to provide, within 15 calendar days, any information deemed missing, and if such information is not timely submitted, the Application may be returned as not filed.

(5) Upon determining that an Application has successfully met the evaluation criteria, the Application will be further processed for approval in the chronological order in which it was filed.

Stat. Auth.: ORS 315.167 & ORS 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02

813-041-0020

Standby Applications

(1) Any Application requesting approval for Estimated Eligible Costs, which, when aggregated with the Estimated Eligible Costs of

all Projects approved to that date for that calendar year, is in excess of the Cap must be declined unless the Owner elects to reduce the Estimated Eligible Costs for the Project to an amount that would, when aggregated with the Estimated Eligible Costs of all Projects approved to that date for that calendar year, not exceed the Cap, or unless the Owner asks to be placed on a standby list.

(2) The Department may maintain Applications on a standby list in any order determined by the Department if they are otherwise determined in the evaluation process to be appropriate for approval.

(3) Whenever, for any reason, there is availability under the Cap later in a given calendar year, the Department will select a standby Application for further processing for approval, and will notify the Owner, and allow the Owner a reasonable time to update its Application to reflect current conditions.

(4) All outstanding standby Applications shall expire on December 31 of the calendar year of application. If an Application expires and construction on the Project has not commenced, a new Application may be submitted for the next calendar year.

Stat. Auth.: ORS 315.167 & ORS 458.650

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02

813-041-0025

Approval of Eligible Projects

(1) Subject to availability under the Cap, the Department may approve an Application for Tax Credit, provided that all occupied units in the Farmworker Housing for which the Tax Credit is being claimed are occupied by Farmworkers and their immediate family. Relatives of the Owner or Operator may not occupy any dwelling unit in such Farmworker Housing.

(2) An Owner who files an Application and meets the requirements set forth in ORS 315.164 through 315.167, OAR 813, division 41, and the applicable Annual Notice will be issued a letter of credit approval. A letter of credit approval designates by its date of issuance the earliest tax year in which the Tax Credit may be claimed for the completed Project. The letter of credit approval will indicate that:

(a) A Tax Credit may, subject to disallowance by the Department of Revenue, be claimed based on the Estimated Eligible Costs specified in the letter, or actual costs, whichever are lower, following completion of the Project and a pre-occupancy inspection where applicable;

(b) Other criteria apply to the Project and must be met for the full term of the Tax Credit to assure continued eligibility for claiming the Tax Credit by the Owner, Taxpayer, or financial institution; and

(c) The Estimated Eligible Costs for all Projects approved to date in the calendar year (including the Project which is the subject of the letter of credit approval) do not exceed the Cap.

Stat. Auth.: ORS 315.167

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02

813-041-0030

Monitoring

If, after issuance of a letter of credit approval and during the term the Tax Credit is being used, the Project is found to be out of compliance with the requirements, including but not limited to ORS 315.164 through 315.167, OAR 813, division 41, or the commitments contained in the Application, the Department will promptly notify the Department of Revenue, and the Department of Revenue will take any appropriate action based on Department of Revenue statutes, rules and procedures.

Stat. Auth.: ORS 315.167

Stats Implemented: ORS 315.617

Hist.: OHCS 7-2001(Temp), f. & cert. ef. 12-13-01 thru 6-10-02; OHCS 1-2002(Temp), f. & cert. ef. 3-15-02 thru 6-10-02; OHCS 8-2002, f. & cert. ef. 6-6-02

DIVISION 43

HOUSING DEVELOPMENT AND LOAN GUARANTEE PROGRAM

813-043-0000

Purpose and Objectives

The rules of OAR 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

All words and terms are used in OAR 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:

(1) "Account" means the Housing Development and Guarantee Account;

(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 458.600-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. Predevelopment 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 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 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 813, division 45 are established to accomplish the general purpose of ORS 456.515 to 456.720, specifically 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 813, division 45 as defined in the Act, and as provided by OAR 813-005-0005.

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

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
 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.

opment Account funds, and/or require repayment of all or a portion of the funds advanced, if any.

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

813-046-0000

Purpose and Objectives

OAR 813, division 46, is promulgated to accomplish the general purpose of ORS 458.505 and 458.600 to 458.650, specifically 458.650, which authorizes the Department to establish a program to assist low- and very-low-income 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, farmworkers and Native Americans. These rules describe the Emergency Housing Program. The objective of the Emergency Housing Program is to assist homeless persons and those persons at risk of becoming homeless by providing funds to supplement existing programs or to establish new programs of Subgrantee Agencies.

Stat. Auth.: ORS 458.505 & ORS 458.600-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; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0010; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0011

Definitions

All words and terms that are used in OAR 813, division 46, are defined in the Act, and in OAR 813-005-0005 and 813-005-0015 and below. As used in OAR 813, division 46, unless the context indicates otherwise:

(1) "Account" means the Emergency Housing Account, revolving account within the Oregon Housing Fund created under ORS 458.620.

(2) "Administrative Costs" means all costs which are not directly related to delivery of Eligible Services under OAR 813, division 46.

(3) "Eligible Services" means shelter and support services for the Homeless or those at risk of becoming Homeless.

(4) "Emergency Shelter" means any facility whose primary purpose is to provide temporary or transitional shelter for the Homeless in general or for specific populations of the Homeless.

(5) "Funding Application" means a Subgrantee Agency's application to the Department for a Program grant.

(6) "Homeless" means an individual, family or Household that lacks a fixed, regular residence or has a nighttime residence that is an Emergency Shelter or institution, and that is without the means to secure and/or maintain affordable, safe shelter.

(7) "Household" means an individual living alone or a group of individuals who are living together as one economic unit.

(8) "Household Income" means the total Household receipts before taxes from all sources. Income may be reduced by deductions allowed by the Department. Income does not include assets or funds over which the applicant has no control.

(9) "Low Income Household" means a Household with an annual Household Income that is more than 50 percent but less than 80 percent of the area median income based on information from the federal grantors, as adjusted for family size.

(10) "Organization" means a nonprofit corporation established under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or local government as defined in ORS 197.015.

(11) "Self-sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to, housing, Household Income, nutrition and health care and accessing needed services.

(12) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services directly or by contract.

(13) "Subgrantee Agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015, with whom the Department has contracted to administer Program activities and services at the local level.

(14) "Work Plan" or "Plan" means part of a Subgrantee Agency's Funding Application, which is a part of contract between the Department and the Subgrantee Agency.

(15) "Very Low Income Household" means a Household with an annual Household Income that is less than 50 percent of the area median income based on information from the federal grantors, adjusted for family size

Stat. Auth.: ORS 458.505 & ORS 458.600-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; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-046-0020; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0021

Administration

(1) The Department shall allocate Program funds to Service Areas through a formula established by the Department prior to the allocation process. However, the Department reserves the right to modify that formula at any time in its sole discretion.

(2) The Department may contract with Subgrantee Agencies, to provide Program services and activities at the local level. In a Service Area where a Community Action Agency exists, this Community Action Agency will have the right of first refusal to serve as the Subgrantee Agency for the Service Area.

(3) A Subgrantee Agency may subcontract with another Organization to provide a Program service or activity in the Subgrantee Agency's Service Area.

(4) Each Subgrantee Agency shall identify potential applicants, certify eligibility and provide Eligible Services to eligible Households within its Service Area.

(5) The Department shall normally fund only one Subgrantee Agency within any Service Area. However, the Department may, in its sole and absolute discretion, allow two Subgrantee Agencies to operate within a common Service Area. In such a case the Department and the two Subgrantee Agencies shall enter into a Memorandum of Agreement in order to insure full access to the Program's Eligible Services for all eligible persons within the Service Area to prevent duplication of services.

(6) The Department may conduct a review of each Subgrantee Agency at least once every two years to assure compliance with applicable state and federal regulations involving administrative, financial and programmatic activities of the Program and that the Work Plan objectives are being achieved.

(7) If the Department deems the performance of a Subgrantee Agency to be deficient and the Subgrantee Agency does not give the Department adequate assurance of satisfactory performance in the future, the Department may terminate its contract with the non-performing Subgrantee Agency and contract with another Subgrantee Agency to provide the Program's Eligible Service going forward.

(8)(a) The Department may expend no more than five percent of the Account appropriation for the purpose of Administrative Costs.

(b) A Subgrantee Agency may expend for Administrative Costs of the Program no more than ten percent of its Program award from the Department.

(c) If a Subgrantee Agency subcontracts with another Organization to provide a Program service or activity, that Organization may expend for Administrative Costs no more than five percent of its Program award from the Subgrantee Agency.

(9) A Subgrantee Agency shall comply with all applicable state and federal laws, rules, regulations and executive orders and local ordinances and codes.

Stat. Auth.: ORS 458.505 & ORS 458.600-ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0030

Use of Funds

(1) The Department may provide assistance in the form of a grant to a Subgrantee Agency to provide the following Program services directly or through contracts with other Organizations:

(a) Emergency shelter and support services;

(b) Housing services designed to assist Households to make the transition from homelessness to permanent housing and economic independence;

(c) Supportive housing services designed to enable persons to continue living in their own homes or to provide in-home services for persons for whom suitable programs do not exist in their geographic area;

(d) Programs that provide emergency payment of home payments, rents or utilities; and

(e) Programs, activities and projects that expand community shelter capacity and transitional housing.

(2) Program services shall be available to Low- and Very-Low-Income Households, including but not limited to, persons more than 65 years of age, disabled persons, farmworkers and Native Americans, that are Homeless or at risk of becoming Homeless.

(3) Subgrantee Agencies shall require all recipients of Program services described in OAR 813-046-0040(1) to participate in programs or activities that will increase Household Self-sufficiency.

(4) Funds granted shall not be used by a Subgrantee Agency to replace existing funds but may be used to supplement existing funds or to support existing programs or establish new programs.

Stat. Auth.: ORS 458.505 & ORS 458.600-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; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0040

Client Eligibility

(1) Program services shall be available to Households that are Homeless or at risk of being Homeless and that are otherwise eligible.

(2) A Subgrantee Agency may consider a Household's self-declaration or referral of a Household from local, state or federal human service agencies to determine eligibility of that Household for Program services.

(3) A Subgrantee shall not require residency within its Service Area or legal status as a client eligibility criterion.

Stat. Auth.: ORS 458.505 & ORS 458.600-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; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0050

Funding Application

(1) Prior to providing any Eligible Services under the Program, a Subgrantee Agency shall submit on a biennial basis, and the Department shall approve, a Funding Application (including a Work Plan) which shall remain on file with the Department. The Subgrantee Agency shall adhere to the Department's requirements and deadlines for obtaining approval of this Application.

(a) A Subgrantee Agency's Funding Application shall include details on how the Subgrantee Agency provided a meaningful opportunity for participation in the development of the Work Plan by local providers, advocates, clients, businesses, churches, citizens, governments, and other local service interests.

(b) The Funding Application shall contain a section detailing how the Subgrantee Agency will administer the Program. This section shall contain at a minimum the following information:

(A) Name, address and telephone number of the Subgrantee Agency;

(B) Amount of funding allocation requested;

(C) A description of how the funds will be used;

(D) Demonstration that the Subgrantee Agency and any designated contractors have the capacity to deliver any Eligible Services proposed in the Funding Application;

(E) Details on how the Subgrantee Agency will coordinate with other local service providers and interest groups; and

(F) A geographic description of the Program Service Area.

(2) The Subgrantee Agency's Work Plan shall contain a clear and detailed description of the Subgrantee Agency's Program activities, and the Department may request additional information, if applicable, within 20 business days of receipt of the Work Plan.

Stat. Auth.: ORS 458.505 & ORS 458.600-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; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0061

Reporting and Recordkeeping

(1) A Subgrantee Agency shall, at a minimum, maintain accurate financial records which document the receipt and disbursement of all funds provided through the Program and have an accounting system in place which meets generally accepted accounting principles.

(2) A Subgrantee Agency shall maintain accurate records which document the clients receiving Eligible Services through the Program. Such records shall be in a format designated by the Department and shall include client signatures and describe the coordination of other service providers to meet other client needs, and client status upon service termination.

(3) A Subgrantee Agency shall provide the Department with the following reports, in form and substance satisfactory to the Department:

(A) Within 15 working days following the end of each calendar quarter, a Program report detailing the progress made toward the Program objective(s);

(B) Within 90 days after the close of the Subgrantee Agency's fiscal year, an annual Program and fiscal reports;

(C) Within 90 days after the close of the Program, final Program and fiscal reports.

(4) Program activity records including but not limited to client files and fiscal records shall be available to the Department. The Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Subgrantee Agency that are pertinent to the Program to perform examinations and audits and make excerpts and transcripts. A Subgrantee Agency shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of the Program, or until the conclusion of any audit, controversy or litigation arising out of or related to the Program, whichever date is later.

Stat. Auth.: ORS 458.505 & ORS 458.600-ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0065

Audit

(1) The Department may from time to time audit a Subgrantee Agency's activities to verify fiscal compliance with requirements regarding eligible client expenditures and Administrative Costs.

(2) Such audit may include, but not be limited to, fiscal records including general ledger and all supporting journals.

Stat. Auth.: ORS 458.505 & ORS 458.600-ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0070

Appeal Procedure

Local interest groups, service providers or representatives thereof who oppose the use of funds reflected in a Work Plan submitted to the Department by a Subgrantee Agency may submit written comments to the Department after first proceeding with the local appeals process. Following review and investigation of the circumstances, the Department shall respond to the comments within 20 business days of receipt of such comments.

Stat. Auth.: ORS 458.505 & ORS 458.600-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; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0081

Administrative Review

The Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 458.620, ORS 458.630 & ORS 458.650

Stats. Implemented: ORS 458.650

Hist.: OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

813-046-0100

Waiver

The Director may waive or modify any requirements of OAR 813, division 46, unless such waiver or modification would violate applicable federal or state statutes or regulations.

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; OHCS 3-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 3-2002, f. & cert. ef. 5-15-02

DIVISION 47

COMMUNITY DEVELOPMENT CORPORATION PROGRAM

813-047-0001

Purpose and Objectives

OAR 813, division 47, is promulgated to accomplish the general purpose of ORS 456.515 to 456.725 and 458.210 to 458.240, specifically 458.210 through 458.240, which authorize the Department to establish the Community Development Corporation Program. The objective of this Program is to assist qualified nonprofit Community-Based Organizations (CBOs) to establish Community Development Corporations (CDCs). This objective:

(1) Expands the capacity of Community-Based Organizations to meet the housing and community development needs of their respective service areas by building, rehabilitating, and managing low- and moderate- income housing, and

(2) Provides Community-Based Social Services which provide training or employment for low- and moderate- income residents within targeted areas.

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; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

813-047-0005

Definitions

All words and terms used in OAR 813, division 047 are defined in the Act, in OAR 813-005-0005 and below. As used in OAR 813, division 047, unless the context indicates otherwise:

(1) "Capacity Building Grant" means a grant that is used to increase or broaden a Community Development Corporation's Local Capacity to meet the housing needs of the service area.

(2) "Community-Based Organization" or "CBO" means a nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, a Community Action Agency, a Community Development Corporation, or other nonprofit or governmental entity representing or seeking to serve the housing, human services or Community Economic Revitalization needs of a clearly-defined population and area.

(3) "Community-Based Social Services" means comprehensive client-centered services delivered within a Targeted Area that promotes 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 a nonprofit 501(c)(3) corporation organized (under ORS Chapter 65 which has its purpose, as stated in its articles of incorporation, to serve the needs of low and moderate income people for community development and self-help; is governed by a board of directors that has no fewer than five members, 51 percent of which are from the CDC's Service Area; and which has a clearly defined geographic Service Area.

(5) "Community Economic Revitalization" means community-oriented strategy that targets resources in order to address problems in a Targeted Area, that is controlled by residents of the Targeted Area, and that uses tangible development activities to increase the amount of investments made and retained in the Targeted Area.

(6) "Service Area" means the specific area or region which the nonprofit Community-Based Organization or Community Development Corporation has identified or targeted to receive development activity.

(7) "Human Investment Strategies Grant" means a grant that is used to increase or broaden a Community Development Corporation's Local Capacity to deliver Community-Based Social Services through the training or employment of residents of a Targeted Area.

(8) "Initial Planning Grant" means a grant that is used to incorporate and establish a Community Development Corporation.

(9) "In-Kind Contribution" means a contribution to a project other than cash, including, but not limited to, office equipment, working space, office supplies, staff time, telephone and automobile use, donated project materials or labor, and non-board volunteer time.

(10) "Local Capacity" means the ability or competency of organizations in an identified geographic area to address housing, human services, or Community Economic Revitalization issues or problems.

(11) "Low Income" means an adjusted annual household income, as defined in **24 CFR, Part 91.5**, which exceeds 50 percent but 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, 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 U.S. Department of Housing and Urban Development, with allowances for family size.

(13) or "Program" means the Community Development Corporation Program.

(14) "Targeted Area" means a defined county or multi-county area, a town or city, or neighborhoods that receives public program services.

(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 U.S. Department of Housing and Urban Development, with allowances for family size.

[Publications: Publications referenced 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, m 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; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

813-047-0006

Administration

(1) The Department may provide Initial Planning Grants, Capacity Building Grants or Human Investment Strategies Grants. The Department may restrict the availability of Program funds for each grant category at the time it solicits applications.

(a) Initial Planning Grants. The maximum award for an Initial Planning Grant will be \$5,000.

(b) Capacity Building Grants. The Department will not award Capacity Building Grants to cover 100 percent of the costs of the activities funded by the grant. The maximum award for a Capacity Building Grant will be \$50,000.

(c) Human Investment Strategies Grants. The Department will not award grants to cover 100 percent of the costs of the activities funded by the grant. The maximum award will be \$50,000.

(2) The Department may further restrict the use of available funds for specific Local Capacity building activities related to housing needs or for specific Human Investment Strategies Grant activities in the Service Area of a CBO, restrict the amount or type of assistance available, or restrict the type of applicant eligible for assistance.

(3) A CBO may not receive more than one grant per biennium under each category of grant.

Stat. Auth.: ORS 458.210-ORS 458.240

Stats Implemented: ORS 458.210-ORS 458.240

Hist.: OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

813-047-0010

Application Procedure and Requirements

(1) The Department will, as Program funds are available, support or solicit applications for Program grants and will consider only applications received in response to such solicitations.

(2) All applications for Program grants shall be submitted 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) For an Initial Planning Grant to start up a Community Development Corporation;

(B) For a Capacity Building Grant to expand an existing Community Development Corporation; or

(C) For a Human Investment Strategies Grant 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 desired outcomes and how the applicant will achieve those outcomes:

(A) In the case of a Capacity Building Grant, a CDC applicant must demonstrate the usefulness and supportive effect such a grant provides to the realization of overall objectives of the anticipated project/activity;

(B) In the case of a Human Investment Strategies Grant, a CDC applicant must demonstrate how the proposed project supports the needs of individuals and families residing in a Targeted Area; how the proposed project will promote Community Economic Revitalization through the delivery of Community-Based Social Services within the Targeted Area; and how the Community-Based Social Services funded by such a grant will provide training or employment programs to Low- and Moderate-Income residents of the Targeted Area;

(e) A description of the Community Development Corporation's present or proposed Service Area or a description of the Targeted Area as it applies to a Human Investment Strategies Grant; and

(f) In the case of an Initial Planning Grant, evidence of matching funds or In-Kind Contributions in a minimum amount (expressed as a percentage of a grant request) that will be specified in the applicable Program solicitation, which minimum amount shall not exceed 50 percent of a grant request. However, a CBO may indicate greater In-Kind Contributions in support of its application.

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; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

813-047-0015

Application Review

(1) The Department may, within 30 calendar days of receipt of an application, approve the application or request additional information from the applicant. If within this 30-day period, the Department takes no formal action on the application or has not requested additional information, the application will be deemed denied.

(2) In reviewing applications, the Department may consider, in addition to any special evaluation criteria described in the applicable solicitation, the following (as appropriate or required):

(a) Amount of available funds in the Program;

(b) Availability of other sources of assistance, including In-Kind Contributions, in excess of the minimum required;

(c) An applicant's ability to leverage public or private funds;

(d) Compliance with any statutorily-required geographic preferences;

(e) In the case of the Human Investment Strategies Grants, the appropriateness and effectiveness of the proposed activities for the Targeted Area;

(f) Appropriateness of the organizational develop proposed;

(g) Appropriateness of the proposed activities to meet the housing, human services, or Community Economic Revitalization needs of residents within the Service Area;

(h) The number of Low and Moderate Income persons to be assisted;

(i) Documentation of local coordination efforts focused at avoiding duplication of existing services and meeting the unmet needs; and

(j) In the case of the Human Investment Strategies Grants, documentation of coordination with local housing interests including, but not limited to, Community Action Agencies, Community Development Corporations, housing development corporations, and the local governing jurisdiction or jurisdictions.

(3) The Department will select those applications which, in the judgment of the Department, comply with the requirements and best achieve the purposes of the Program, the Act, OAR 813, division 047, and any evaluation criteria outlined in the applicable program solicitation.

(4) The Department will give preference to a Community Development Corporation that:

(a) Has a defined geographic service area in Multnomah, Washington, Clackamas, Lane, Linn, Douglas, Jackson or Marion counties that does not include more than 50,000 people; or

(b) Has a defined geographic service area in any other county that 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; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

813-047-0020 Grant

(1) The Department will confirm to the applicant in writing the amount of assistance, if any, to be provided from the Program. In the grant award letter, the Department will inform grant recipients of their eligibility to apply for additional grant funding from the Program within the same biennium. A grant is awarded subject to execution by the grant recipient and the Department of a grant award contract in form and substance satisfactory to the Department and such other documents as the Department considers appropriate or necessary to evidence the type and amount of assistance provided.

(2) Grant funds will be used:

(a) In the case of Initial Planning Grants, to provide funds for the purpose of payment of rent, staff salaries and benefits, office supplies and expenses, legal fees, filing fees, and other such expenses incurred by or on behalf of a CBO during its initial planning phase;

(b) In the case of Capacity Building Grants, to provide funds for the purpose of payment of expenses incurred by or on behalf of a CBO for development or expansion of projects or programs, or expanding the organizational capacity of a CBO, such as expenses for additional staff, training, or capital outlay; and

(c) In the case of Human Investment Strategies Grants, to provide funds for training and employment programs 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 substances abuse, and services for the developmentally disabled) to residents of a Targeted Area; additional staff for the development of a Human Investment Strategies Grant project; expanding a CBO's organizational capacity to administer a Human Investment Strategies Grant; and overhead, training, or capital outlay costs associated with the development of a Human Investment Strategies Grant project.

(3) The Department may establish such performance criteria, reporting requirements, termination provisions, remedies, including but not limited to suspension or termination of funding, and any other terms and conditions as the Department considers appropriate or necessary for the type and use of assistance provided.

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; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

813-047-0025 Waiver

The Director may waive or modify any requirements of OAR 813, division 047, including any waiver or modification as may be necessary or convenient to comply with the rules, regulations or proce-

dures prescribed by any source of funds for the Program, unless such waiver or modification would violate applicable federal or state statutes or regulations.

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; OHCS 14-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 7-2003, f. & cert. ef. 5-16-03

DIVISION 48

HOUSING REVITALIZATION PROGRAM

813-048-0005

General Purpose

The rules of OAR 813, division 048 are established to accomplish the general purpose of ORS 458.305 to 458.310, specifically 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 non-profit 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650

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 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: Publications referenced are available from the agency.]
 Stat. Auth.: ORS 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 Stats. Implemented: ORS 458.305-ORS 458.310, specifically 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 Stats. Implemented: ORS 458.305-ORS 458.310, specifically 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 Stats. Implemented: ORS 458.305-458.310, specifically 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 Stats. Implemented: ORS 458.305-458.310, specifically 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 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
 Stats. Implemented: ORS 458.305-458.310, specifically 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. 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 51

HOUSING STABILIZATION PROGRAM

813-051-0000

Purpose and Objectives

OAR 813, division 51 is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically 458.505, which designates the Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. These administrative rules describe the HOUSING STABILIZATION PROGRAM. Although this Program is partially funded through the Children, Adult and Family Services Division of the Oregon Department of Human Resources, the Department has entered into an agreement with the Children, Adult and Family Services Division to administer this Program through the Department's network of social service providers. The Program's objective is to help meet the emergency needs of the homeless or those at risk of becoming homeless.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0010

Definitions

All words and terms that are used in OAR 813, division 51, are defined in the Act, and in OAR 813-005-0005 and below. As used in OAR 813, division 51, unless the context indicates otherwise:

(1) "Administrative Costs" means all costs which are not directly related to delivery of Eligible Services under OAR 813, Division 51.

(2) "CAFS" means the Children, Adult and Family Services Division of the Oregon Department of Human Resources.

(3) "Community Action Agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division 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, which meets the requirements of ORS 458.505(4).

(4) "Eligible Services" means shelter and support services for the Homeless or those at risk of becoming Homeless.

(5) "Emergency Shelter" means any facility whose primary purpose is to provide temporary or transitional shelter for the Homeless in general or for specific populations of the Homeless.

(6) "Funding Application" means a Subgrantee Agency's application to the Department for a Program grant.

(7) "Homeless" means an individual, family or Household that lacks a fixed, regular residence or has a nighttime residence that is an Emergency Shelter or institution and that is without the means to secure and/or maintain affordable, safe shelter.

(8) "Household" means an individual living alone or a group of individuals who are living together as one economic unit.

(9) "Oregon resident" is an individual who at the time of determination lives in Oregon and intends to remain in Oregon for the foreseeable future as a permanent resident. There is no minimum amount of time which an individual must live in Oregon to be considered a resident. An individual is not considered an Oregon resident if the individual is in Oregon solely for vacation or is returning to a state of former residence.

(10) "Poverty Line" means the official standard established by the Secretary of the U.S. Department of Health and Human Services.

(11) "Program" means the Housing Stabilization Program.

(12) "Program Costs" means those costs directly associated with Eligible Services.

(13) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services directly or by contract.

(14) "Subgrantee Agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015, with whom the Department has contracted to administer Program activities and services at the local level.

(15) "Work Plan" means the Subgrantee Agency's plan for the use of Program funds which is part of its Funding Application and which has been approved by the Department and included in its contract with the Department.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0020

Administration

(1) The Department shall contract with Subgrantee Agencies to provide Program services and activities at the local level. In a Service Area where a Community Action Agency exists, it will have the right of first refusal to serve as the Subgrantee Agency.

(2) The Department may allocate Program funds to Service Areas through a formula established by the Department prior to the allocation process.

(3) A Subgrantee Agency may subcontract with another organization which meets the requirements of ORS 458.505(4) to provide a Program service or activity in the Subgrantee Agency's Service Area.

(4) A Subgrantee Agency shall assist Program participants to access other services designed to meet other, longer-term needs whenever possible.

(5) The Department shall normally fund only one Subgrantee Agency within any Service Area. However, the Department may, in its sole and absolute discretion, allow two Subgrantee Agencies to operate within a common Service Area. In such a case the Department and the two Subgrantee Agencies shall enter into a Memorandum of Agreement in order to insure full access to the Program's Eligible Services for all eligible persons within the Service Area and to prevent duplication of services.

(6) The Department may conduct an annual review of each Subgrantee Agency to assure compliance with applicable state and federal regulations involving administrative, financial, and programmatic activities of the Program and to assure that the Subgrantee Agency is achieving its Work Plan objectives.

(7) If the performance of a Subgrantee Agency is deemed to be deficient and the Subgrantee Agency does not give the Department adequate assurance of satisfactory performance in the future, the Department may terminate its contract with the non-performing Subgrantee Agency and contract with another Subgrantee Agency to provide the Program's Eligible Services going forward.

(8) A Subgrantee Agency shall comply with all applicable state and federal laws, rules, regulations and executive orders and local ordinances and codes.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0030

Applicant Eligibility

(1) A Subgrantee Agency shall determine whether an applicant is eligible to receive Eligible Services under the Program pursuant to section (2) or (3) below.

(2) An applicant is eligible to receive Eligible Services under the Program if the applicant:

(a) Is Homeless or at imminent risk of becoming Homeless;

(b) Is a dependent child who is under 18 years of age, or who is 18 years of age and a full-time student; a caretaker relative of an eligible dependent child; or the mother of an unborn child;

(c) Is a United States citizen or a legal alien;

(d) Is an Oregon resident; and

(e) Has a Household income of less than 150 percent of Poverty Line.

(3) An applicant who is not Homeless may still be eligible to receive Eligible Services under the Program if, for the calendar month of application and the immediately preceding calendar month, the applicant has an emergency need because of:

(a) A natural disaster;

(b) Circumstances beyond the applicant's control, including, but not limited to, loss of income due to theft or use of income for unexpected need;

(c) No income or food stamps available to meet the nutritional needs of the members of the Household;

(d) No medical resources available to meet the medical needs of member(s) of the Household; or

(e) Loss of shelter. An emergency need does not include a need which results from the applicant's failure to use available income to prevent the emergency.

(4) An applicant is ineligible to receive Eligible Services under the Program if any of the following shall occur within the 30 days period before requesting any benefits under the Program:

(a) Applicant without cause quit or refused a job;

(b) Applicant without cause refused a referral to a job or training;

(c) Applicant was dismissed for cause from a job; or

(d) Applicant voluntarily and without cause reduced his or her earnings.

(5) An applicant may receive Eligible Services under the Program for a maximum of one (1) year; provided, however, that the Department, in its sole and absolute discretion and upon review, may grant a 1-year extension so that the applicant may receive additional Eligible Services. If any member of a Household has received Eligible Services under the Program at any time during the 12-month period prior to application for benefits under the Program, every member of the Household shall be deemed to have received Eligible Services during that time.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0040

Use of Funds

(1) Eligible Services under the Program to an eligible applicant may include payment of one or more of the following Program Costs:

(a) Shelter costs, including but not limited to:

(A) Rent, mortgage and utility costs;

(B) Costs for room and board at a domestic violence shelter, emergency shelter or "safe home";

(C) Moving costs;

(D) Property taxes for up to one year, if necessary to avoid foreclosure;
(E) Transportation costs to another area or residence; and
(F) Cost of repairs necessary to make the applicant's housing habitable.

(b) Food costs.

(c) Medical costs, not covered by another source, that are incurred because of medical care:

(A) For a medical problem that appeared to be life-threatening at the time of occurrence;

(B) Necessary to prevent a medical problem from becoming life-threatening; or

(C) Deemed necessary by the Subgrantee Agency.

(d) Costs incurred for support services deemed necessary by the Subgrantee Agency to stabilize an applicant's housing situation, including, but not limited to, child care, transportation, counseling, job training, education, and life skills training.

(e) Case management costs.

(2) A Subgrantee Agency may not expend more than ten percent of its Program funding for Administrative Costs.

(3) If a Subgrantee Agency subcontracts with another organization to provide a Program service or activity, that organization may not expend more than five percent of its Program funding for Administrative Costs.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0050

Funding Application

(1) Prior to providing Eligible Services under the Program, a Subgrantee Agency shall, on a biennial basis, submit to and obtain the approval of the Department for a Funding Application (including a Work Plan) which shall remain on file with the Department. The Subgrantee Agency shall adhere to the Department's requirements and deadlines for obtaining approval of this Funding Application.

(2) A Subgrantee Agency's Funding Application shall include details on how the Subgrantee Agency provided a meaningful opportunity for participation in the Work Plan by local service interests including CAFS.

(3) The Funding Application shall contain a section detailing how the Subgrantee Agency will administer the Program. This section shall contain, at a minimum, the following information:

(a) Name, address, and telephone number of the Subgrantee Agency;

(b) Amount of assistance requested;

(c) A description of how the assistance will be used;

(d) Demonstration that the Subgrantee Agency and any designated contractor(s) have the capacity to deliver the Eligible Service proposed in the Funding Application;

(e) Details on how the Subgrantee Agency will coordinate with other local service providers and interest groups; and

(f) A geographic description of the Subgrantee Agency's Service Area.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0060

Reporting; Recordkeeping

(1) To insure accurate reporting, proper documentation and compliance with state guidelines for fiscal procedures, a Subgrantee Agency shall, at a minimum:

(a) Maintain accurate financial records which document the receipt and disbursement of all funds provided through the Program and ensure that its accounting system is in accordance with generally accepted accounting principles.

(b) Maintain accurate records which document the clients receiving Eligible Services through the Program. Such records shall be in a format designated by the Department.

(c) Provide the Department with the following reports, in form and substance satisfactory to the Department:

(A) Within 15 working days following the end of each calendar quarter, a Program report detailing the progress made toward the Program objective(s), and a fiscal report detailing all Administrative and

Program Costs. Such reports shall be in a format designated by the Department;

(B) Within 90 calendar days after the close of the Subgrantee Agency's fiscal year, annual Program and fiscal reports;

(C) Within 90 days after the close of the Program, final Program and fiscal reports.

(2) Records of Program activities, including but not limited to client files and fiscal records, shall be available to the Department and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Subgrantee Agency that are pertinent to the Program to perform examinations and audits and make excerpts and transcripts. A Subgrantee Agency shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of the Program, or until the conclusion of any audit, controversy or litigation arising out of or related to the Program, whichever date is later.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0070

Audit

(1) The Department shall, at a minimum, audit a Subgrantee Agency's activities to verify a Subgrantee Agency's fiscal compliance with the fiscal requirements regarding eligible client expenditures and Administrative Costs.

(2) Such audits may include, but not be limited to, fiscal records including general ledger and all supporting journals.

(3) If a Subgrantee Agency receives federal funds in excess of \$300,000 in a fiscal year, the Subgrantee Agency shall conduct a single audit in compliance with Office of Management and Budget (OMB) Circular A-133, as revised June 24, 1997. If the Subgrantee Agency receives federal funds between \$100,000 and \$300,000 in a fiscal year, the Subgrantee Agency may elect to have a "program only" audit as provided in the same circular. A copy of the audit must be submitted to the Department after its completion

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0080

Appeal Procedure

Local interest groups, service providers or representatives thereof who oppose the use of funds reflected in a Work Plan submitted to the Department by a Subgrantee Agency may submit written comments to the Department after first proceeding with the local appeals process. Following review and investigation of the circumstances, the Department shall respond to the comments within 20 business days of receipt of such comments.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0090

Administrative Review

The Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

813-051-0100

Waiver

The Director may waive or modify any requirements of these rules in OAR 813, division 51, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 6-2001(Temp), f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 4-2002, f. & cert. ef. 5-15-02

DIVISION 60

DISABLED HOUSING PROGRAM

813-060-0005

Purpose and Objectives

The rules of OAR 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 Multifamily 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.: 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

813-060-0010

Definitions

(1) All terms are used in OAR 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. 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. & 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

813-060-0020

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. & 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

813-060-0025

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. & 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

813-060-0030

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. & 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

813-060-0031

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; HSG 4-1993(Temp), f. & cert. ef. 10-1-93; HSG 6-1996, f. & cert. ef. 6-14-96

& 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 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.

(e) 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) 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: Publications referenced are available from 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; OHCS 1-2001, f. & cert. ef. 2-15-01

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 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), 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

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.: 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

813-060-0062

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 813, division 70 are established to administer and enforce ORS 456.515 through 456.720, specifically 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: Publications referenced are available from the agency.]

Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.690

Hist.: IHD 5-1983, f. & ef. 9-2-83; IHD 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 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: Publications referenced are available from the agency.]

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

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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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, 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: Publications referenced are available from the agency.]

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

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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 456.515-456.723 & 458.210-458.650
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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.690
Hist.: 1HD 5-1983, f. & cert. ef. 9-2-83; 1HD 12-1984, f. & cert. 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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.690
Hist.: 1HD 5-1983, f. & cert. ef. 9-2-83; 1HD 12-1984, f. & cert. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced are available from the agency.]

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

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: Publications referenced are available from the agency.]

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

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: Publications referenced are available from the agency.]

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

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 specific reasons for the refusal. The Approved Lender shall comply with such demand within thirty business days.

[Publications: Publications referenced are available from the agency.]

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

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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 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: Publications referenced 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 building 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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
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 Certificate. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650

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 referenced are available from the agency.]

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

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: Publications referenced are available from the agency.]
Stat. Auth.: ORS 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.605
Hist.: 1HD 2-1986, f. & cert. ef. 6-17-86; 1HD 4-1986, f. & cert. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.605
Hist.: 1HD 2-1986(Temp), f. & cert. ef. 6-17-86; 1HD 4-1986, f. & cert. 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.605
Hist.: 1HD 2-1986(Temp), f. & cert. ef. 6-17-86; 1HD 4-1986, f. & cert. ef. 12-3-86; HSG 3-1989(Temp), f. & cert. ef. 6-8-89; HSG 17-1989, 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 90.800-90.840, 91.886, 183, 456.515-456.723 & 458.210-458.650
Stats. Implemented: ORS 456.605
Hist.: 1HD 2-1986(Temp), f. & cert. ef. 6-17-86; 1HD 4-1986, f. & cert. 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 813, division 090, are established to administer and enforce ORS 456.515 through 456.720, and specifically 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: Publications referenced 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. & 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

813-090-0010

Definitions

All words and terms used in OAR 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: Publications referenced 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: Publications referenced 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: Publications referenced 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: Publications referenced 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: Publications referenced 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: Publications referenced 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. & 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

813-090-0036

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 Credit.

(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. & 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

813-090-0060

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 interested 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: Publications referenced 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 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, nonprofit 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 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 Nonprofit 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 reloan 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 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 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: Publications referenced 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

813-120-0010

Definitions

All words and terms are used in OAR 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: Publications referenced 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

813-120-0020

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: Publications referenced 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: Publications referenced 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 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 standard 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 program 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: Publications referenced 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

813-120-0050

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: Publications referenced 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

813-120-0060

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 Consolidat-

ed 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: Publications referenced 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

813-120-0070

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: Publications referenced 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

813-120-0080

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: Publications referenced 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

813-120-0090

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: Publications referenced 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

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: Publications referenced are 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: Publications referenced 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 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 non-compliance 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 obligation 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: Publications referenced 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 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 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 Stewart 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 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: Publications referenced are 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 complete-ness 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 time-frame 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 140

COMMUNITY DEVELOPMENT INCENTIVE PROJECT FUND

813-140-0000

Purpose and Objectives

OAR 813, division 140, is promulgated to accomplish the purpose of ORS 458.705 through 458.740, specifically 458.720 through 458.740, which implement the Community Development Incentive Project Fund. The Community Development Incentive Project Fund holds the proceeds of lottery bonds issued to make grants or loans to Oregon municipalities, businesses and individuals; provides credit enhancements to commercial banks and private lenders in order to encourage real estate development that promotes downtown and community center areas; provides affordable housing and other infill developments; or funds projects that promote business opportunities in Oregon's distressed areas and rural communities.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0010

Definitions

All terms used in OAR 813, division 140, are defined in the Act, in OAR 813-005-0005, and as provided herein. As used in OAR 813, division 140, unless the context indicates otherwise:

(1) "Board" means the Community Development Incentive Advisory Board established pursuant to ORS 458.710.

(2) "Fund" or "Incentive Fund" means the Community Development Incentive Project Fund.

(3) "Gap Financing" means financing provided by the Fund when other state or private financing sources are inadequate or unavailable to finance a development project.

(4) "Governor's Quality Development Objectives", as articulated in Executive Order 00-23, means a set of principles designed to guide the investment of state resources in a manner that will result in better use of state funds and lead to quality communities. These principles are:

(a) Less sprawl;

(b) The right mix of development;

(c) Energy efficient development with greater choice in modes of transport;

(d) Adequate public service;

(e) Protection of the environment;

(f) Balance between jobs and housing in proximity to one another; and

(g) Promote sustainability.

(5) "Oregon Livability Initiative" means the effort by the State through its Community Solutions Team to complement land use tools with economic incentives, to build a stronger partnership between state and local governments to better manage how and where Oregon grows, and to protect the quality of life in Oregon.

(6) "Regional Community Solutions Team" means a regional team of five state agencies listed in ORS 458.710(1)(a) through (e) that administer programs directly affecting the livability of Oregon communities. These five agencies are Economic and Community Development Department, Department of Environmental Quality, Oregon Housing and Community Services Department, Department of Land Conservation and Development, and Oregon Department of Transportation.

(7) "Rural Community" and "Rural Service Center," as defined in OAR 660-022-0010, mean an unincorporated community which consists of permanent residential dwellings, and commercial, industrial or (in the case of a Rural Community) public uses to the com-

munity, the surrounding rural area, or to persons traveling through the area.

(8) "Small Community Incentive Fund" means a program that provides loans and grants of \$50,000 or less for development projects, which loans and grants meet the criteria of the Incentive Fund program except as described in OAR 813-140-0110.

(9) "Urban Unincorporated Community," as defined in OAR 660-022-0010, means an unincorporated community which has at least 150 permanent residential dwelling units, contains a mixture of land uses, and includes areas served by a community sewer system and water system.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0020

Fund Purposes

(1) The primary purpose of the Fund is to provide Gap Financing to help local communities meet the Oregon Livability Initiative or to use as an incentive to obtain additional funding commitments from other sources.

(2) The Fund is not intended to provide financing to replace other financing from private or public sources that could be available within 12 months of the date of the award to fund a proposed development project. Rather it is intended to be a flexible resource that promotes worthy projects by bridging funding gaps which prevent a project either from moving forward or from moving forward in a manner which achieves the objectives of the Oregon Livability Initiative.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0030

Fund Administration

(1) The Board will develop program guidelines, including specific project criteria and financing mechanisms.

(2) The Department will administer the Fund in accordance with ORS 458.735. The Department's Administration of the Fund is not subject to State Housing Council policy, rules or standards.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02

813-140-0040

Eligible Uses of the Fund

(1) The Fund may make grants and loans for the purpose of financing capitalized project costs (including but not limited to project management or consultant fees that are related to project development) but not for the purpose of financing planning or technical assistance or other administrative or operating costs.

(2) The Fund may make a grant for a project which otherwise complies with the requirements of this OAR 813, division 140 where repayment of the amount disbursed by the Fund for the project is inappropriate or the recipient would have insufficient capacity to repay an equivalent loan.

(3) The Fund may pay for the costs and expenses of the Department necessary for the administration of the Fund and the grants and loans made by the Fund. These costs and expenses also include the amounts necessary for the administration of the Fund through the Small Community Incentive Fund or the servicing of loans and grants made by the Fund, pursuant to a contract with the Department.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0050

Eligible Applicants and Eligible Projects

(1) Eligible applicants include local governments and nonprofit and for-profit organizations.

(2) To be eligible for funding, a proposed project must meet the following criteria:

(a) The project must be located within the urban growth boundary of an incorporated Oregon city, or in an Urban Unincorporated

Community, Rural Community, or Rural Service Center that is served by a community sewer system and water system.

(b) The project must achieve at least two of the following four main objectives of the Oregon Livability Initiative:

(A) To revitalize a downtown or mainstreet area,

(B) To facilitate affordable housing near jobs or transit,

(C) To encourage efficient use of land and mitigate sprawling development patterns, and/or

(D) To create jobs in an economically distressed community or Rural Community in a manner consistent with the other objectives contained in the Oregon Livability Initiative.

(c) The project must demonstrate financial feasibility and soundness.

(d) The project must promote achievement of the Governor's Quality Development Objectives.

(e) The project must comply with local comprehensive plans and land use ordinances or other regional or local plans.

(f) The project sponsor must demonstrate capacity to fully implement the project. Capacity may be provided by outside consultants or developers.

(g) The project must be locally supported and serve to further the community's goals related to livability and growth.

(h) The for-profit developer that is or will be the owner of the project must demonstrate investment or equity in the project.

(3) Eligible projects include but are not limited to:

(a) A development project that has joint public and private sponsorship and/or ownership; and

(b) A project listed on the Oregon Economic and Community Development Department's "Needs and Issues Inventory."

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0060

Funding Preferences

Among proposed projects that meet the requirements of OAR 813-140-0050, preference will be given to projects that:

(1) Are designed in a manner that maximizes long-term sustainability through use of recycled materials, attention to energy efficiency, and long term economic viability of the project;

(2) Facilitate pedestrian and other non-automobile travel;

(3) Serve to further the economic vitality of the local community;

(4) Address a specific unmet need for affordable housing;

(5) Leverage, to the maximum extent, public and private funding sources (including tax incentives), as demonstrated by local and/or private commitment and investment;

(6) Are designed in a manner to be consistent with or complementary to the character of the surrounding community or neighborhood; and/or

(7) Demonstrate ability to expend Incentive Fund resources within 12 months after award.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0070

Application Process

(1) The application process for obtaining a grant or loan from the Fund may involve, but is not limited to, a competitive review process, a first come-first reviewed process, or such expedited process as is necessary or appropriate to further the goals of the Fund.

(2) An applicant must contact the appropriate Department Regional Advisor to the Director to discuss its proposal. The Regional Advisor to the Director will provide technical assistance; input on the viability of the project; and will work with the applicants to analyze and project the financial needs to determine the appropriate mix of grants and/or loans.

(3) An applicant must submit its application in a manner satisfactory to the Department. The Regional Community Solutions Team in consultation with regional partnerships (in areas where partnerships exist), Regional Community Solutions Team Coordinators and Department/Oregon Economic and Community Development Department financial reviewers will review the applications. This review may include a prescreening, as well as an in-depth review.

(4) The applications that, in the judgement of the Regional Community Solutions Team, best meet Fund thresholds and preferences will be submitted to the Department along with comments from the reviewers in the Regional Community Solutions Team. The number of applications submitted to the Department may be limited at the discretion of the Director.

(5) The Department will forward a description of these projects, along with comments from the Regional Community Solutions Team, to the Board for their consideration. At the same time, a committee of representatives from the Regional Community Solutions Teams, in conjunction with the Department's senior management, will develop a funding proposal. A finalized funding proposal will be presented to the Director and the Board for their review and recommendations.

(6) Projects will be selected for financing which, in the judgement of the Board, as evidenced by its recommendation to the Director, and the Director, best achieve the purposes of the Incentive Fund, based on the criteria outlined in OAR 813-140-0100, division 140.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0080

Rating Criteria

In addition to evaluation of a proposed project's compliance with the requirements of OAR 813-140-0050 and taking into consideration the preferences set forth in OAR 813-140-0060, the evaluation of a proposed project may include, but is not limited to, consideration of the following:

(1) Any conditional or firm funding commitments or efforts to work with other funders to leverage all available resources;

(2) The readiness of the project to proceed once financing has been committed by the Department;

(3) In comparison with other proposed projects, the greatest impact on communities;

(4) Demonstration of realistic financial assumptions, including the need for a loan guarantee or grant funds, and the ability to repay loans;

(5) The strength of the development team as it relates to the scope of the project;

(6) Community support for the project as demonstrated by funding or fee waivers, resolution of support, or participation of community groups; and

(7) Appropriateness and uniqueness of the design of the project.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0090

Lending Criteria

(1) The Department's lending criteria allows the Fund to create quality development patterns, produce a sound loan portfolio and create a sustainable loan fund.

(2) The Department shall permit the assumption of an appropriate level of risk, maintain a reserve for losses, and provide for the periodic monitoring of reserve adequacy as follows:

(a) An applicant for a loan shall demonstrate an ability to repay the debt. When applicable, the Department may offer a combination of grants and loans as well as a combination of loan products and terms, as it, in its sole discretion, deems appropriate.

(b) A loan may be for an income-producing project or for a project in an urban renewal district with available tax increment financing.

(c) A loan may be subordinate to other loans both in terms of payment and lien securing repayment.

(3) The Department may make the following types of loans:

(a) Predevelopment loans for projects that are in the early stage. The purpose of these loans is to finance eligible predevelopment expenses as determined by the Department. A predevelopment loan shall have maximum term of 12 months and shall be 100% secured by collateral acceptable to the Department. The borrower shall pay a loan fee of 1% of the principal amount of the loan.

(b) Short-term loans having terms not to exceed 5 years. These loans shall accrue interest at the rate of 1% per annum and shall require minimum annual interest payments.

(c) Long-term loans having terms exceeding 5 years but not exceeding 15 years. These loans shall accrue interest at a rate of 3% per annum and shall require minimum annual interest payments.

(4) A borrower shall execute such agreements, instruments and other documents that are required by the Department and that are in form and substance satisfactory to the Department. These documents may contain terms and provisions regarding required insurance coverage, loss reserve and periodic reporting requirement, financial ratios, escrow payments, late charges, defaults, priority of liens, and such other matters as the Department deems prudent or appropriate.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0100

Award

(1) The Director shall announce the applicants receiving Fund awards. An applicant who receives a Fund award will be issued a reservation and conditional award.

(2) Except upon the written approval of the Department, no moneys will be disbursed from the Fund until all conditions of the reservation and conditional award (including submission of the required documents) have been met to the satisfaction of the Department.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 7-2002(Temp), f. & cert. ef. 5-30-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

813-140-0110

Small Community Incentive Fund

(1) The Small Community Incentive Fund may provide loans and grants to eligible projects which require a financial incentive or gap financing. The maximum amount of financing that may be provided by the Small Community Incentive Fund for a project, whether in the form of a grant or loan or a combination of both, is \$50,000.

(2) In order to be eligible for financing by the Small Community Incentive Fund, a project must meet the parameters of OAR 813-140 with the following exceptions:

(a) The project must be located within the urban growth boundary of an incorporated Oregon city, or in an Urban Unincorporated Community, Rural Community, or Rural Service Center that is served by a community sewer system and/or a community water system.

(b) The project must achieve at least one of the four main objectives of the Oregon Livability Initiative.

(3) The Department may make the following types of loans:

(a) Predevelopment loans which shall be fully secured with collateral acceptable to the Department and shall:

(A) Accrue interest at the rate of 0% per annum and have a term not to exceed 6 months or

(B) Accrue interest at the rate of 1% per annum and have a term of more than 6 months but not to exceed 12 months.

(b) Short-term 1-5 year loans which shall accrue interest at the rate of 3% per annum, have a term not to exceed five years, and require a minimum annual payment of interest.

(4) The Regional Community Solutions Team for the region in which a project is located and other experts (representatives from the Regional Partnerships where Partnerships exist), as appropriate will review the funding requests for projects in its region. The Regional Community Solutions Teams will determine if other Community Solutions Team agency resources are available to fund a project and if so, will direct the applicant to the appropriate agency. The Regional Community Solution Team will, in evaluating the project, consider factors such as how well a project meets the Fund's threshold criteria, the Fund's preferences, and the financial feasibility of the project. Projects selected by the Regional Community Solutions Team will be forwarded to the Department, along with the Regional Community Solutions Team's comments and recommended conditions of award. The forwarded projects will be submitted to the Board. The Board will provide comments to the OHCS director before funding approval is made. The Director, or his designee, shall make all final funding determinations and announce conditional awards.

Stat. Auth.: ORS 458.705-ORS 458.740

Stats. Implemented: ORS 458.705-ORS 458.740

Hist.: OHCS 11-2002(Temp), f. & cert. ef. 9-5-02 thru 11-25-02; OHCS 16-2002, f. & cert. ef. 11-25-02

DIVISION 145

EMERGENCY SHELTER GRANT PROGRAM

813-145-0000

Purpose and Objectives

OAR 813, division 145, are promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. These administrative rules describe the Emergency Shelter Grant Program, which operates through a network of service agencies at the local level. The Program's objective is to increase assistance available to those who are homeless so that they have access to safe shelter and to other services designed to improve their situations.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0010

Definitions

All words and terms are used in OAR 813, division 145, are defined in the Act and in OAR 813-005-0005 and below. As used in OAR 813, division 145, unless the context indicates otherwise:

(1) "Administrative Costs" mean all costs which are not directly related to delivery of Program services under OAR 813, division 145.

(2) "Community Action Agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in ORS 458.505(4).

(3) "Conversion" means a change in the use of a building to an Emergency Shelter for the Homeless, where the cost of conversion and any rehabilitation costs exceed 75 percent of the value of the building before conversion.

(4) "Eligible Services" means services related to providing emergency shelter for the Homeless under this Program.

(5) "Emergency Shelter" means any facility whose primary purpose is to provide temporary or transitional shelter for the Homeless in general or for specific populations of the Homeless.

(6) "Essential Services" means services provided to the Homeless that are deemed essential by the Subgrantee Agency, including, but not limited to, services concerned with employment, health, drug abuse, and education.

(7) "Funding Application" means the Subgrantee Agency's application to the Department for a Program grant.

(8) "Homeless" means an individual, family or Household that lacks a fixed, regular residence or has a nighttime residence that is an Emergency Shelter or institution, and that is without the means to secure and/or maintain affordable, safe shelter.

(9) "Homeless Prevention" means activities or programs designed to prevent the incidence of homelessness.

(10) "Household" means an individual living alone or a group of individuals who are living together as one economic unit.

(11) "Household Income" means the total Household receipts before taxes from all sources. Income may be reduced by deductions allowed by the Department. Income does not include assets or funds over which the applicant has no control.

(12) "Major Rehabilitation" means Rehabilitation where the cost of Rehabilitation exceeds 75 percent of the value of the building before Rehabilitation.

(13) "Operating Costs" means the expenses incurred by a Subgrantee Agency in operating an Emergency Shelter, including but not limited to maintenance, repairs, insurance, rent, utilities, fuel, furnishings, equipment and security.

(14) "Operational Staff Costs" means Operating Costs related to the staff whose salaries and benefits are paid under the Program

(15) "Rehabilitation" means the labor, material, tools and other costs of improving a building other than minor or routine repairs.

(16) "Renovation" means Rehabilitation where the cost of Rehabilitation is 75 percent or less of the value of the building before Rehabilitation.

(17) "Self-Sufficiency" means meeting basic needs and achieving stability in areas including, but not limited to, housing, Household Income, nutrition and health care, and accessing needed services.

(18) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services directly or by contract.

(19) "Subgrantee Agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the Department has contracted to administer Program activities and services at the local level.

(20) "Work Plan" means the Subgrantee Agency's plan for the use of Program funds which is part of its Funding Application and which has been approved by the Department and included in its contract with the Department.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0020

Administration

(1) The Department may contract with Subgrantee Agencies, to provide Program services and activities at the local level. In a Service Area where a Community Action Agency exists, it will have the right of first refusal to serve as the Subgrantee Agency.

(2) The Department may allocate Program funds to the Subgrantee Agency through a formula established by the Department prior to the allocation process.

(3) A Subgrantee Agency may subcontract with another organization which meets the requirements of ORS 458.505(4) to provide a Program service or activity in the Subgrantee Agency's Service Area.

(4) The Department shall normally fund only one Subgrantee Agency within any Service Area. However, the Department may, in its sole and absolute discretion, allow two Subgrantee Agencies to operate within a common Service Area. In such a case the Department and the two Subgrantee Agencies shall enter into a Memorandum of Agreement in order to insure full access to the Program's Eligible Services for all eligible persons within the Service Area and to prevent duplication of services.

(5) The Department may conduct an annual review of a Subgrantee Agency to assure compliance with applicable state and federal statutes and regulations involving administrative, financial, and programmatic activities of the Program and to assure that the Subgrantee Agency is achieving its Work Plan objectives.

(6) If the Department deems the performance of a Subgrantee Agency to be deficient and the Subgrantee Agency does not give the Department adequate assurance of satisfactory performance in the future, the Department may terminate its contract with the non-performing Subgrantee Agency and contract with another Subgrantee Agency to provide the Program's services going forward.

(7) A Subgrantee Agency shall comply with all applicable state and federal laws, rules, regulations and executive orders and local ordinances and codes.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0030

Eligible Activities

(1) Program funds may be used for one or more of the following activities relating to Emergency Shelter for the Homeless:

(a) Renovation, Major Rehabilitation or Conversion of buildings for use as Emergency Shelters for the Homeless;

(b) Provision of Essential Services to the Homeless;

(c) Payment of maintenance and operating costs of a Homeless Shelter, including but not limited to rent, repair, security, insurance, fuel, utilities, equipment and furnishings; and

(d) Developing and implementing Homeless Prevention activities.

(2) A building being converted to an Emergency Shelter or an Emergency Shelter receiving Major Rehabilitation must be used as an Emergency Shelter for at least 10 years after such conversion or Major Rehabilitation. An Emergency Shelter undergoing Renovation must be used as an Emergency Shelter for at least 3 years after such Renovation.

(3) The following are the maximum amounts of Program funds that the Department can allocate on a statewide basis to certain Program activities:

(a) Essential Services — 30 percent of the State appropriation for the Program;

(b) Homeless Prevention — 30 percent of the State appropriation for the Program; and

(c) Administrative Costs — 5 percent of the State appropriation for the Program.

(A) The Department will expend no more than 2.5 percent of the State appropriations for the Program on Administrative Costs.

(B) The remaining amount (i.e., 5 percent of the State appropriations for the Program minus the amount expended by the Department pursuant to OAR 813-145-0030(3)(c)(A)) shall be allocated to the Subgrantee Agencies for Administrative Costs through a formula established by the Department

(4) A Subgrantee Agency shall expend no more than 10% of its allocation for Operational Staff Costs.

(5) A Subgrantee Agency must match the Program grant with an equal amount of funds from local, private or other State General Funds.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0040

Funding Application

(1) Prior to providing Program services, a Subgrantee Agency shall submit on a biennial basis and the Department shall approve a Funding Application (including a Work Plan) which shall remain on file with the Department.

(2) A Subgrantee Agency's Funding Application shall identify the needs of the Homeless and potential strategies to address those needs.

(3) The Funding Application shall contain a section detailing how the Subgrantee Agency will administer the Program. This section shall contain, at a minimum, the following information:

(a) Name, address, and telephone number of the Subgrantee Agency;

(b) Amount of assistance requested;

(c) A description of how the assistance will be used, including the minimum number of clients to be served;

(d) Demonstration that the Subgrantee Agency and any designated contractor(s) have the capacity to deliver the Program service proposed in the Work Plan;

(e) Details on how the Subgrantee Agency will coordinate with other local service providers and interest groups;

(f) A geographic description of the Subgrantee Agency's Service Area; and

(g) A certification letter executed by the appropriate local jurisdiction approving the Subgrantee Agency's use of Program funds as proposed in the Subgrantee Agency's Funding Application.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0050

Reporting; Recordkeeping

(1) A Subgrantee Agency shall, at a minimum:

(a) Maintain accurate records which document the receipt and disbursement of all funds provided through the Program;

(b) Maintain financial accurate records, in a format designated by the Department, which document the clients receiving services through the Program and ensure that its accounting system is in accordance with generally accepted accounting principles;

(c) Provide the Department with the following reports, which shall be in form and substance satisfactory to the Department:

(A) Within 90 days after the close of the Subgrantee Agency's fiscal year, annual Program and fiscal reports;

(B) Within 90 days after the close of the Program, final Program and fiscal reports;

(C) Within 15 working days following the end of each calendar quarter, a Program report detailing the progress made by the Subgrantee Agency toward Program objectives; and

(D) Promptly upon request, any annual report requested by the U.S. Department of Urban Development.

(2) Records of Program activities including client files and fiscal records shall be available to the Department and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Subgrantee Agency that are pertinent to the Program to perform examinations and audits and make excerpts and transcripts. A Subgrantee Agency shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of four (4) years, or such longer period as may be required by applicable law, following final payment and termination of the Program, or until the conclusion of any audit, controversy or litigation arising out of or related to the Program, whichever date is later.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0060

Audit

(1) The Department shall, at a minimum, audit a Subgrantee Agency's activities to verify a Subgrantee Agency's compliance with the fiscal requirements regarding eligible client expenditures and Administrative Costs.

(2) Such audit may include, but not be limited to, fiscal records including general ledger and all supporting journals.

(3) If a Subgrantee Agency receives federal funds in excess of \$300,000 in a fiscal year, the Subgrantee Agency shall conduct a single audit in compliance with Office of Management and Budget (OMB) Circular A-1333, as revised June 24, 1997. If a Subgrantee Agency receives federal funds between \$100,000 and \$300,000 in a fiscal year, the Subgrantee Agency may elect to have a "program only" audit as provided in the same circular. A copy of the audit must be submitted to the Department after its completion.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-051-0070

Appeal Procedure

Local interest groups, service providers or representatives thereof who oppose the proposed use of funds reflected in a Work Plan submitted to the Department by a Subgrantee Agency may submit written comments to the Department after first proceeding with the local appeals process. Following review and investigation of the circumstances, the Department shall respond to the comments within 20 business days of receipt of such comments.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0080

Administrative Review

The Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

813-145-0090

Waiver

The Director may waive or modify any requirements of the rules in OAR 813, division 145, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 5-2001(Temp), f & cert. ef. 12-7-01 thru 5-26-02; OHCS 5-2002, f. & cert. ef. 5-15-02

DIVISION 200

LOW-INCOME ENERGY
ASSISTANCE PROGRAM (LIEAP)

813-200-0001

Purpose and Objectives

OAR 813, division 200, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. The Department has been designated as the state agency responsible for implementing the Low Income Home Energy Assistance Act in Oregon. OAR 813, division 200, described the Low-Income Energy Assistance Program (LIEAP), which operates through a network of service agencies at the local level. The objective of the Program is to assist low-income persons with their energy needs through a variety of means, including assistance payments, client education and weatherization activities.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

813-200-0005

Definitions

All terms used in OAR 813, division 200, are defined in the Act, in OAR 813-005-0005 and below. As used in OAR 813, division 200, unless otherwise indicated by the context:

(1) "Crisis Assistance" means the assistance provided to help Low-Income Households to meet crisis situations such as supply shortages, loss of Household heat, minor fuel source repairs, furnace repairs and other situations approved by the Department as described in the state plan.

(2) "Eligible Services" means the services described in OAR 813-200-0040.

(3) "Energy Assistance Payment" means a payment made under this Program to or on behalf of an eligible Household.

(4) "Funding Application" means a Subgrantee Agency's application to the Department for Program funds.

(5) "Home Energy" means the type of energy or fuel, including but not limited to fuel oil, natural gas, electricity, wood or propane, supplying the major portion of the Household's heat.

(6) "Home Energy Supplier" means a supplier who either delivers Home Energy in bulk to Households, or provides Home Energy continuously via wire or pipe.

(7) "Household" means any individual residing alone or groups of individuals who are living together as one economic unit and purchase residential energy in common.

(8) "Household Income" means the total Household receipts before taxes from all sources. Income may be reduced by deductions allowed by the Department. Income does not include assets or funds over which the members of the Household have no control.

(9) "Incidental Fees" means charges imposed by the Home Energy Suppliers other than the actual cost of energy or fuel and includes reconnection charges and deposits.

(10) "Indirect Heaters" means renters whose heating costs are included as an undifferentiated part of their rent payments.

(11) "Poverty Line" means the official standard as established by the U.S. Department of Health and Human Services.

(12) "LIEAP" or the "Program" means the Low-Income Energy Assistance Program.

(13) "Low-Income Household" means a Household whose gross annual income is at or less than 60% of statewide median income as defined by Health and Human Services for the State of Oregon.

(14) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services directly or by contract.

(15) "Subgrantee Agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the Department has contracted to administer Program activities and services at the local level.

(16) "Work Plan" or "Plan" means the Subgrantee Agency's plan for the use of Program funds which is part of its Funding Application and which has been approved by the Department and included in its contract with the Department.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: HR 1-1982, f. & cert. 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; Renumbered from 813-200-0000; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

813-200-0010

Administration

(1) The Department may contract with a Subgrantee Agency to provide Program services and activities at the local level.

(a) In order to be eligible to administer the Program at the local level, a Subgrantee Agency shall submit, on a biennial basis, a Funding Application (including a Work Plan) which the Department must approve. The Work Plan shall outline how the Subgrantee Agency determines its needs, including what forum the Subgrantee Agency uses to solicit input and who participates; summarizes the needs of the Service Area and the goals and outcome-based objectives of the Program administered by the Subgrantee Agency; and requires quarterly reporting. The approved Funding Application shall be on file with the Department.

(b) A Subgrantee Agency may subcontract with another organization to provide a Program service or activity in its Service Area. The Department may conduct a periodic evaluation of a Subgrantee Agency's Program performance. Factors that the Department may consider in this evaluation include, but are not limited to, the level of Eligible Service provided by the Subgrantee Agency, ease of access to Eligible Services for eligible Households, error rate, and compatibility with other community service programs.

(3) If the Department deems the performance of a Subgrantee Agency to be deficient and the Subgrantee Agency does not give the Department adequate assurance of satisfactory future performance, the Department may terminate its contract with the non-performing Subgrantee Agency and contract with another Subgrantee Agency to provide the Program's Eligible Services going forward.

(4) A Subgrantee Agency shall take applications, verify Household eligibility and contract with and monitor local Home Energy Suppliers to determine that the clients are receiving proper benefits and services.

(5) A Subgrantee Agency shall follow the procedures outlined in the LIEAP Operations Manual. These procedures govern accurate completion of intake documentation and entry of the resultant data into a Department-approved system, authorizing payments, writing checks to Home Energy Suppliers and clients, and requirements for reports of request draws and end-of-year Program reports to the Department.

(6) A Subgrantee Agency shall make good faith attempts to recover any overpayment made to an applicant or Home Energy Supplier. When recovery from an applicant is not commercially reasonable, the Subgrantee Agency shall promptly give the name and social security number of the applicant to the Department for submission to the Department of Revenue and recovery through the Department of Revenue's S.O.I.L. Program.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: HR 1-1982, f. & cert. ef. 1-11-82; HR 4-1983, f. & cert. 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; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

813-200-0020

Eligibility

To be eligible to receive Eligible Services under the Program, a Household shall meet the requirements outlined in the LIEAP Operations Manual.

(1) These requirements include, but are not limited to:

(a) Meeting income guidelines for the Program; and

(b) A demonstrated utility cost.

(2) The period for determining a Household's eligibility shall be no more than the past 12 months or less than the 30 days immediately preceding the date of application unless the Department gives prior approval.

(3) A client of the Oregon Department of Human Services may use an income verification notification sent by that agency as verification of the applicant's Household Income for the Program.

(4) An eligible Households may apply for assistance with the Subgrantee Agency in the Service Area in which the Household resides.

(5) Households in similar circumstances shall receive similar benefits.

(a) Both renters and homeowners may be eligible under the Program.

(b) An applicant living in an institution is not eligible for assistance under the Program. Institutions include hospitals, licensed domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, and temporary protective facilities such as domestic violence shelters and homeless shelters.

(c) Residents of governmental subsidized housing may be eligible for up to 50 percent of a regular Energy Assistance Payment depending on Household size and Household Income and be eligible for a crisis payment under Crisis Assistance guidelines in the LIEAP State Plan or the LIEAP Operations Manual.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

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; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

813-200-0030

Eligible Services

One or more of the following services may be provided to an Eligible Household. A Subgrantee Agency shall help an applicant determine which service(s) is most beneficial to the Household:

(1) Heating assistance, including:

(a) Payments to Home Energy Suppliers for Household's Home Energy Costs and for services which relate to the heating of the Household's dwelling units. Payments to Home Energy Suppliers may include payments for Incidental Fees and for pre-enrollment or post-enrollment charges. Pre-enrollment charges are incurred by a Household for Eligible Services delivered before the Household is determined to be eligible for LIEAP benefits. Post-enrollment charges are those charges incurred by a Household for Eligible Services after the Household is determined to be eligible for LIEAP benefits; and

(b) The following direct payments to an Eligible Household:

(A) Payments to an Indirect Heater equal to Energy Assistance Payments made to or on behalf of homeowners in similar circumstances;

(B) Payments to a Household if the Household's Home Energy Supplier has not signed a contract with the Subgrantee Agency in the Service Area; and;

(C) Reimbursement of prepayment for Home Energy Costs as in the case of bulk oil or wood deliveries, up to the amount for which the Household is eligible. A Household must provide applicable receipts prior to reimbursement.

(2) Weatherization assistance, including, but not limited to, insulation, water pipe wrap, air sealing and storm windows.

(3) Crisis Assistance. In order to qualify for Crisis assistance under the Program, a Household shall:

(a) Have been evaluated for, and received, an Energy Assistance Payment (regular or subsidized in the same program year) other than for Crisis Assistance; and;

(b) Meet the guidelines for Crisis Assistance outlined in the LIEAP Operations Manual. The following are examples of Households that are eligible for Crisis Assistance; a Household whose annual heating cost exceeds 20 percent of Annual Household Income; a Household needs energy-related repairs; and a Household (including a resident of government subsidized housing that suffers a serious, unexpected hardship.

(4) Client Education. All eligible Households shall be offered information designed to help them make appropriate decisions and life-style choices that will effectively reduce energy consumption.

(5) Leveraging Incentive Fund assistance. Leveraging Incentive Fund assistance is subject to the Department receiving funds under the LIEAP Leveraging Incentive Program and obtaining Legislative approval to accept and spend such funds.

(a) Leveraging Incentive Funds may be used to increase or maintain heating, crisis and/or weatherization assistance benefits in conjunction with the LIEAP or to provide a benefit after LIEAP funds have been depleted.

(b) Leveraging Inactive Funds provided by the Department under the Program to a Subgrantee Agency shall be subject to the rules, regulations or procedures prescribed by the source of such funds.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

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; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

813-200-0040

Assistance Levels

Energy Assistance Payments made under this Program shall not exceed the amount of funds made available to the Department under the Omnibus Reconciliation Act of 1981, Public Law 97-35, Sections 2601-11, as amended.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

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; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

813-200-0050

Coordination with Home Energy Suppliers

(1) In order to be eligible to receive Energy Assistance Payments, a Home Energy Supplier must execute a contract with a Subgrantee Agency.

(2) This contract shall provide, among other things, that the Home Energy Supplier agrees that:

(a) It shall not discriminate against an eligible Household;

(b) It shall not treat a Household receiving LIEAP benefits any differently than any other similarly situated Household;

(c) It shall not charge a Household receiving LIEAP benefits the difference between the actual cost of the Home Energy and the amount of the LIEAP payment for such Home Energy;

(d) It shall not make payment arrangements for any balances owing after LIEAP payments are applied to past due bills; and

(e) It shall refund to the Subgrantee Agency any Energy Assistance Payments for services that cannot be delivered because of a death or because Home Energy services are discontinued and the client cannot be located. The refund is the property of the client first.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

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; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

813-200-0060

Administrative Review

A Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.545

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; OHCS 15-2002(Temp), f. & cert. ef. 11-20-02 thru 5-17-03; OHCS 5-2003, f. & cert. ef. 5-15-03

DIVISION 202

OREGON ENERGY ASSISTANCE PROGRAM

813-202-0005

Definitions

All terms used in OAR 813, division 202, are defined in the Act, in OAR 813-005-0005, and in this OAR 813-202-0005. As used in OAR 813, division 202, unless the context indicates otherwise:

(1) "CAP agency" means a private nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in ORS 458.505(4).

(2) "DHS" means the Oregon Department of Human Services.

(3) "Energy assistance" means the services provided under the Program and may include energy bill payment assistance and client education.

(4) "Energy assistance payments" means payments for the energy costs of eligible households which the Department pays to energy suppliers, households and may include any of the following:

(a) Prepayment for electricity prior to its delivery;

(b) Payment for pre-enrollment charges for those services delivered before a household is determined to be eligible for OEAP benefits;

(c) Payment for post-enrollment charges for services delivered after a household is determined to be eligible for OEAP benefits; and

(d) Payment of incidental fees and costs of maintaining or reestablishing service such as reconnection charges, deposits and other required charges of energy suppliers.

(5) "Energy costs" means costs related to the heating of dwelling units with electricity.

(6) "Expenditure area" means the utility service territory of the Originating Utility. This expenditure area may include multiple counties.

(7) "Energy supplier" means a company that provides electricity continuously via wires as the source of energy supplying heat to a household.

(8) "Household" means any individual living alone or group of individuals who are living together as one economic unit and who purchase residential energy in common.

(9) "Income" means the total annual household receipts before taxes from all sources. Income does not include assets or funds over which the applicant has no control.

(10) "Local service providers" means those a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the Department has contracted to administer Program activities and services at the local level.

(11) "OEAP" or "Program" means the Oregon Energy Assistance Program, the low-income electric bill payment assistance program.

(12) "Originating Utility" means the utility from which the funds being expended under the Program were collected.

(13) "Service area" means the specific geographic area or region within which a local service provider provides Program services.

(14) "Utility service territory" means the geographic area in Oregon within which a utility provides electricity service.

(15) "Oregon median income" means the median income in Oregon, based on the guideline for the non-farm population of the State of Oregon produced by the United States Department of Health and Human Services,

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
Stats. Implemented: ORS 456.555
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

813-202-0010

Administration

(1) The Department has been designated as the administering agency for the Oregon Energy Assistance Program.

(2) The Department may select those CAP agencies or local service providers, which have satisfactorily provided the Department with energy assistance services in prior years as local service providers. The Department shall enter into a contract with each of the agencies selected to provide Program services within its service area, on such terms as the Department shall determine. Upon completion of a local service provider's contract, the Department shall conduct an evaluation of such local service provider's performance. Factors that the Department may consider are the level of service provided, error rate and ease of access to the services for eligible households within the service area. If the performance of a local service provider is found by the Department to be deficient, the Department may either require that the local service provider provide assurance of improvement by a written corrective action plan, or may select another local service provider.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
Stats. Implemented: ORS 456.555
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

813-202-0015

Responsibilities of Local Service Providers

(1) Local service providers shall provide Program services to or on behalf of those households and residents within its service area. Local service providers shall take applications, verify the income of applicants, complete payment authorizations and contract with and monitor energy suppliers to ensure that eligible households within their service areas receive proper benefits and services. Local service providers are responsible to ensure that disbursed funds are expended in the utility service territory of the Originating Utility.

(2) Local service providers are responsible to ensure funds are disbursed in a timely manner. Funds not expended by a local service provider in a timely manner are subject to being reallocated and redistributed to statewide service providers of the Originating Utilities for distribution within the utility service territory of these Originating Utilities.

(3) Local service providers shall attempt to recover overpayments made to energy suppliers on behalf of eligible households within their service areas. When recovery from a energy supplier is not possible, the name and social security number of the customer receiving uncovered overpayments shall be turned over by OHCS to the Oregon Department of Revenue for recovery through the Set Off Individual Liability (SOIL) program.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
Stats. Implemented: ORS 456.555
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

813-202-0020

Eligibility

(1) An eligible household is a household, including homeowners and renters whose utility cost is included in their rent on an undifferentiated basis, with an income at or below 60 percent of the Oregon median income in effect at the start of the Program year, with demonstrated energy costs.

(2) Except as provided in the next sentence, the period for determining a household's income eligibility shall not be more than the 12 months preceding the date of application or less than the 30 days immediately preceding the date of application. A DHS income verification notification may be presented by a DHS client at the time of application as evidence of the household's verified income.

(3) A resident of government subsidized housing may be eligible for up to 50 percent of a regular energy assistance payment, depending on household size and income, and may be eligible to receive a crisis energy assistance payment.

(4) A resident of an institution is not eligible for energy assistance under the Program. Institutions include hospitals, licenses domiciliary care facilities, intermediate care facilities, skilled nursing facilities or homes, alcohol and drug rehabilitation centers or treatment programs, dormitories, fraternities, sororities, and temporary protective facilities such as domestic violence shelters and homeless shelters.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
Stats. Implemented: ORS 456.555
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

813-202-0030

Program Services

(1) A household may apply for energy assistance at the local service provider that serves its geographic area. Priority assistance shall be given to low-income consumers who are in danger of having their electricity service disconnected.

(2) Local service agencies shall help applicants determine which energy assistance service is most appropriate. The following services may be provided to eligible households:

(a) Regular Energy Assistance. Regular energy assistance includes payments for the energy costs of eligible households which the Department makes to the energy suppliers for these eligible households.

(b) Emergency Energy Assistance: If sufficient funds are available, requests for emergency energy assistance payments may be considered by the local service providers. Each emergency energy assistance payment shall be approved by an authorized person other than an intake worker at the local service provider before disbursement. Households eligible for emergency energy assistance payments include a household with annual energy costs exceeding 20 percent of its household income, and a household that suffer a serious, unexpected hardship.

(c) Client Education: All eligible households may be offered information designed to help them make good decisions and life style choices to effectively reduce energy consumption.

(3) Households in similar circumstances shall receive similar benefits.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
Stats. Implemented: ORS 456.555
Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

813-202-0040

Limitation on Energy Assistance Payments

Energy assistance payments are limited to the amount of funds made available under ORS 757.612(7)(b), (c) and (d).

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
 Stats. Implemented: ORS 456.555
 Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

813-202-0050

Responsibilities of Energy suppliers

- (1) Energy suppliers shall not:
 - (a) Discriminate against eligible households; or
 - (b) Treat any applicant households any differently because they are receiving OEAP benefits.
- (2) Energy suppliers shall:
 - (a) Charge a household in the normal billing process the difference between the actual energy costs and the amount of the energy assistance payment;
 - (b) Promptly apply energy assistance payments to the eligible household's account upon receipt of notification of authorization for payment from the local service provider of the Program ;
 - (c) Attempt to make payment arrangements for any balances owing after energy assistance payments are applied to past due bills; and
 - (d) Return any undisbursed funds to the Department in the event that utility services cannot be delivered because of death or if the customer cannot be located after utility services are discontinued.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
 Stats. Implemented: ORS 456.555
 Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

813-202-0060

Administrative Hearings

A local service provider shall provide an administrative hearing, if requested, for any resident within its service area whose application for energy assistance is denied or not acted upon by a local service provider (local agency) in a timely manner.

Stat. Auth.: ORS 184, ORS 456.555, ORS 757.612 & ORS 757.617
 Stats. Implemented: ORS 456.555
 Hist.: OHCS 6-2003, f. & cert. ef. 5-15-03

DIVISION 205

LOW-INCOME WEATHERIZATION ASSISTANCE PROGRAM

813-205-0000

Purpose and Objectives

The rules of OAR 813, division 205, are established to accomplish the general purpose of ORS 458.505 to 458.545, specifically 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. These administrative rules describe the Weatherization Programs, which operate at the local level through a network of service-provider agencies. The Program's objective is to provide weatherization assistance to lower-income households, with priority given to the elderly, those with disabilities and households with children under six years of age.

Stat. Auth.: ORS 458.505-ORS 458.545
 Stats. Implemented: ORS 458.505-ORS 458.515
 Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0010

Definitions

All terms are used in OAR 813, division 205, 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) "Client Energy Education" means the activities and instruction designed to help low-income clients make appropriate decisions and life-style changes to effectively reduce energy consumption.
- (2) "Department" means the Housing and Community Services Department of the State of Oregon.
- (3) "Director" means the Director of the Department of Housing and Community Services.
- (4) "Disabled" means a physical or mental impairment as outlined in Section 504 of the Rehabilitation Act of 1973, as amended.
- (a) Households with persons receiving Supplemental Security Income SSI are automatically eligible regardless of household income.
- (5) "Elderly" means those Persons 60 years of age and over.
- (6) "Household" means any individual or group of individuals who are living together as one economic unit and purchase residential energy in common.

(7) "Income" means the total Household receipts before taxes from all sources. Income may be reduced by deductions allowed by the Department. Income does not mean assets or funds over which the applicant has no control.

(8) "Low-Income" means a Household or Person whose gross annual income is at or less than 60 percent of statewide median income.

(9) "Statewide Median Income" means the "median" family income in the state determined by the Department. In determining median family income in the state, the Department may, in its discretion, use the official standard established by the Secretary of the U.S. Department of Health and Human Services, adjusted for family size.

(10) "Oregon State Plan" means the DOE State Plan and/or the LIEAP State Plan.

(11) Community Resources Department (CRD) Grant Application" means the biennial planning document approved by the Department that outlines how each Subgrantee Agency determines its community's needs, including what forum is used to solicit input and who participates; summarizes each area's needs, goals and outcome-based objectives; and contains a quarterly reporting requirement that lets the Department and the agency know how it is doing.

(12) "Special Population Agency" means an organization formed to serve the unique needs of an identified segment of the population.

(13) "Subgrantee Agency" means a local agency or organization with whom the Department has contracted to administer Program activities and services at the local level.

(14) "T&TA Activities" means training and technical assistance activities designed to maximize energy savings, minimize production costs, improve program management, and/or reduce the potential for waste, fraud and abuse.

Stat. Auth.: ORS 458.505-ORS 458.545
 Stats. Implemented: ORS 458.505-ORS 458.515
 Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0020

Program Administration

(1) The Department has been designated by the Governor of the State of Oregon as the state agency that shall have responsibility to apply for, receive and administer federal funds available from the U.S. Department of Energy under the Energy Conservation in Existing Building Act of 1976. The funds are available to provide weatherization assistance for low-income Persons.

(2) The Department receives funding for the Program from a number of sources in addition to the DOE. These include the Low-Income Home Energy Assistance Act (i.e., LIEAP), the Bonneville Power Administration (BPA), Petroleum Violation Escrow (PVE) funds and Energy Conservation Helping Oregonians (ECHO) as established through SB1149.

(3) The Department intends to utilize the existing network of service-provider agencies to administer Program services and activities at the local level.

(a) For the purpose of the Program, these agencies, which include Community Action Agencies, Limited Purpose Organizations, Area Agencies on Aging and Special Population Organizations, shall be identified as Subgrantee Agencies.

(b) In order to be eligible to administer the Program at the local level, a Subgrantee Agency shall have an approved Refunding Application and/or Biennium Grant Application on file with the Department. A Subgrantee Agency may contract with another organization to provide a Program service or activity in the Subgrantee Agency's service area.

(c) Each Subgrantee Agency shall follow the procedures outlined in the Oregon State Plan unless specific rules exist related to a particular grant that overrides the Oregon State Plan. These procedures include identifying potential applicants, certifying eligibility and providing weatherization services to eligible dwelling units within its geographic service area.

(d) The Department shall fund only one Subgrantee Agency within any geographical area.

(A) The Department may make an exception to this policy for a Special Population Organization.

(B)(i) If the Department makes an exception for a Special Population Organization and allows two Subgrantee Agencies to operate within a common geographical area, a Memorandum of Agreement

shall first be negotiated to insure full access to the Program for all persons within the geographical area to prevent duplication of services.

(ii) The Department shall conduct a periodic evaluation of each Subgrantee Agency's Program performance. Factors that may be considered in this evaluation include, but are not limited to, the level of service provided, ease of access to applicants, error rate, and compatibility with other community service programs.

(iii) If an agency is deemed to be deficient and the Department is not assured of improvement in its performance, the Department may contract with another Subgrantee Agency for future Program operation.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0030

Eligible Applicants

To be eligible to receive assistance under the Program, a Household shall meet the requirements outlined in the Oregon State Plan, which shall include, but is not limited to:

(1) Income guidelines for the Program, as follows:

(a) A Household whose Income is at or below 60 percent of Statewide Median Income is eligible to participate in the Program.

(b) A Household who has a member receiving Supplemental Security Income (SSI) is eligible regardless of income.

(c) The period for determining eligibility shall not be more than the past 12 months from the date of application or less than the past 30 days from the date of application.

(d) A Person or Household who has applied for and been found eligible for the Low Income Home Energy Assistance Program (LIHEAP) shall be considered eligible for assistance under the Low-Income Weatherization Program. A LIHEAP income certification shall serve as evidence of income eligibility for the Program.

(2) Both renters and homeowners shall be eligible and those Households in similar circumstances shall receive similar benefits.

(3)(a) 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 activity funded in whole or in part with funds made available from the Program.

(b) A Subgrantee Agency shall provide assurances to the Department that it complies 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.

(4) Each Subgrantee Agency shall establish a waiting list to receive weatherization services.

(a) The Subgrantee Agency shall identify criteria for determining applicant priority on the waiting list. Priority shall be given to those who are:

(A) Elderly;

(B) Disabled Persons; and

(C) Households with children under six (6) years of age.

(b) Additional applicant priority criteria may be developed and may include, but is not limited to, those that encourage leveraging additional resources or the potential for energy savings.

(c) The criteria must be in writing and on file with the Subgrantee Agency.

(d) The priority criteria must be used consistently for all applicants unless the Subgrantee Agency is involved in a Department-sanctioned special project.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0040

Eligible Activities

(1) Under the Low Income Weatherization Program, a Subgrantee Agency may provide one or more of the following services to an eligible applicant:

(a) General weatherization measures, which include, but are not limited to general heat waste, insulation, heating system repair and replacement, health and safety inspections and improvements, baseload measures, and Client Energy Education.

(b) Repair measures, which are measures necessary for the effective energy savings performance or preservation of weatherization materials.

(2) The Department shall allocate up to 5 percent of the Program's funds (unless specified by the Grantor) for T&TA Activities intended to maintain or increase the efficiency, quality and effectiveness of the Program at all levels.

(3) Department staff shall provide technical assistance to a Subgrantee Agency on a variety of issues designed to assist a Subgrantee Agency to improve its management of Program activities and increase the effectiveness of its customer service efforts.

(4) The property owner may sell multifamily Business Energy Tax Credits generated through the weatherization of investment property.

(5)(a) Buildings (5 or more units in one building) and mobile home parks (three or more mobile homes that pay space rent on a single parcel of land) can be weatherized if 66.2/3% of the units are occupied by income eligible households.

(b) Prior to weatherizing a Mobile Home Park, subgrantees must submit a work plan to the Department and have the work plan approved.

(6) Multifamily buildings and Mobile Home Park where the owner pays 25% or more of the total cost of weatherization may qualify buildings where 50% of the occupants meet income eligibility guidelines.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0050

Fund Uses (Federal)

The Department shall allocate funds received under the Program(s) through an allocation formula.

(1) The Department may set aside up to ten percent of the Program's funds for farmworkers. A Subgrantee Agency may receive an allocation based on the percent of farmworker population measured in the state as a whole.

(2) The Department may set aside up to three percent of the Program's funds for Native American populations:

(a) The Department may provide direct funding to Native American Tribes; or

(b) The Department may allocate funds to a Subgrantee Agency with recognized Native American populations.

(3) Funds remaining after administrative, T&TA and set-asides monies have been removed shall be allocated to Subgrantee Agencies using an allocation formula, outlined in the Oregon State Plan, based on percent of poverty Households in a service area and heating degree days.

(4)(a) No DOE funds shall be expended for the items or services not listed or do not comply with the standards in 10 CFR part 440.21. The Department may move grant funds from Subgrantee Agencies who are having difficulty spending in a timely manner to Subgrantees who have spent out their funds prior to the end of the grant period.

(b) At least once a year (no later than March 15th) the Department will review the spending patterns of subgrantee Agencies for the purpose of reallocating funds.

(5) Lead SafeWork Practices shall be practiced on all dwellings constructed prior to 1978.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0051

Fund Uses (ECHO)

The Department shall allocate funds received under public purposes.

(1)(a) Allocation shall be based on the number of residential meters of a participating utility within the service territory of a weatherization subgrantee as a percentage of that utilities total residential meters statewide.

(b) Once a year on July 1st the Department will contact each utility and request a residential meter count by county. This information will be used to adjust allocations to participating weatherization agencies.

(2)(a) Households must receive electric service from Pacific Power or Portland General Electric.

(b) Only households that use hard wired electrical systems as their primary heat source are eligible to receive weatherization, baseload and educational services. Households that heat with other

fuels may receive baseload measures and energy-education services only.

(3) No Bonneville Power Administration (BPA) funds shall be used in conjunction with ECHO funds.

(4)(a) The Department shall work with Subgrantee Agencies to reallocate funds from agencies unable to spend out within the allotted grant period to agencies who have spent out early.

(b) At least once a year (no later than March 15th) the Department will review the spending patterns of subgrantee Agencies for the purpose of reallocating funds.

(5) The Department may reallocate funds to programs outside the existing services network (Subgrantee Agencies) for special projects and pilots once all Subgrantee Agencies funding needs have been met.

(6) Lead SafeWork Practices shall be practiced on all dwellings constructed prior to 1978.

(7)(a) Subgrantees shall follow the approved ECHO Low Income Weatherization Guidelines when delivering ECHO services.

(b) The ECHO Low Income Weatherization Guidelines shall be reviewed yearly, any changes must be reviewed by the Advisory Committee on Energy (ACE).

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0060

Authorizations

(1) Prior to weatherizing residential units, the owner or authorized agent shall give written permission for the weatherization assistance. Such written authorization must include:

- (a) Location of dwelling, i.e., physical street address;
- (b) Name of eligible tenant, if applicable; and
- (c) Specific work to be done.

(2) If the dwelling to be weatherized is a rental unit, the Subgrantee Agency has the responsibility to:

(a) Insure that no rental dwelling unit shall be weatherized without first obtaining the written permission of the owner or the owner's authorized agent;

(b) Establish procedures to be approved by the Department to insure that:

(A) The benefits of weatherization assistance shall accrue primarily to the low-income residents;

(B) Rents shall not be raised as a result of the weatherization assistance;

(C) No undue or excessive enhancement shall occur to the value of the dwelling unit(s). If a dwelling is sold within one year after being weatherized, the subgrant may require the seller to reimburse the subgrantee agency for actual cost of weatherization on a prorated basis determined based on the energy cost buyback of measures; and

(D) Weatherization services shall not be provided to eligible clients who pay their energy cost as part of their rent, unless the landlord agrees to make reductions in rent to reflect the reductions in fuel costs associated with the weatherization activities, or there are health or safety reasons which justify weatherization.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0070

Fiscal Control/Reporting Requirements/Documentation

A Subgrantee Agency has a number of responsibilities under the Program. These responsibilities, which are detailed in the Oregon State Plan and the Refunding Application/Biennium Grant Application including, but are not limited to, the following:

(1) A Subgrantee Agency shall maintain records which document the receipt and dispersal of all funds provided through the Program.

(2) A Subgrantee Agency shall maintain records which document the clients receiving services through the Program. Such records shall be in a format designated by the Department.

(3) A Subgrantee Agency shall have in place an inventory control system, travel regulations and a financial operations manual.

(4) A Subgrantee Agency shall receive authorization from the Department for purchases or lease of acquisitions in excess of \$5,000.

(5) A Subgrantee Agency shall, within 15 working days following the end of each calendar quarter, provide the Department with a report detailing the progress made toward the Program objective(s),

and all administrative and Program expenditures. Such reports shall be in a format designated by the Department.

(6) A Subgrantee Agency shall, within 90 days after the close of the agency's fiscal year, provide the Department with an annual audit of weatherization funds. The audit shall be conducted by a Certified Public Accountant.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0080

Monitoring

(1) The Department shall monitor the Subgrantee Agency's annual audit to verify information received on the quarterly reports and clarify questions raised by the Department, the Subgrantee Agency or the auditor.

(2) The Department shall monitor all quarterly reports to determine compliance with program requirements, monitor spending patterns and chart program progresses. Any irregularities or questions raised by the in-house review shall be sufficient reason to schedule an on-site review.

(3) The Department may conduct an on-site review of a Subgrantee Agency on an annual basis and when required in 813-205-0080(2). During an on-site review, the following, at a minimum, shall be reviewed:

- (a) Financial records;
- (b) Inventory system;
- (c) Client files;
- (d) Work completed;
- (e) Subgrantee Agency post-installation inspection;
- (f) Subgrantee Agency review; and
- (g) Provide training and technical assistance.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

813-205-0090

Waiver

The Director may waive or modify any requirements of these Program rules, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat Auth.: ORS 458.505-ORS 458.545

Stats. Implemented: ORS 458.505-ORS 458.515

Hist.: OHCS 9-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 19-2002, f. & cert. ef. 12-13-02

DIVISION 210

COMMUNITY SERVICES BLOCK GRANT PROGRAM

813-210-0001

Purpose and Objectives

OAR 813, division 210, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically 458.505 to 458.515, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverty programs in Oregon. OAR 813, division 210, describes the Community Services Block Grant Program, which operates at the local level through a network of Subgrantee Agencies. The Program's objective is to remove obstacles and solve problems which block the achievement of self-sufficiency for Low-Income Households.

Stat. Auth.: ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 2-2002, f. & cert. ef. 4-15-02

813-210-0009

Definitions

All terms used in OAR 813, division 210, are defined in the Act, in OAR 813-005-0005 and in this 813-210-0010. As used in OAR 813, division 210, unless otherwise indicated by the context:

(1) "CSBG" means Community Services Block Grant.

(2) "Community Action Agency" or "CAA" means a private nonprofit corporation organized under ORS Chapter 65, or an office, division or agency of a political subdivision designated by the Department of Health and Human Services as a community action agency

pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in ORS 458.505(4).

(3) "Household" means an individual living alone or a group of individuals who are living together as one economic unit.

(4) "Low-Income Household" means a Household whose gross annual income is at or less than the Poverty Line, or a Household who, because of circumstances, is susceptible to the conditions of poverty.

(5) "Migrant and Seasonal Farmworker Organization" means a private nonprofit organization organized under ORS Chapter 65 that serves migrant and seasonal farmworkers and their families.

(6) "Funding Application" means the grant request (including the Subgrantee Agency's biennial planning document) submitted by a Subgrantee Agency to the Department.

(7) "Political Activity" means an attempt or activity to influence or affect elections and/or nominations; to directly or indirectly coerce contributions for use on elections; to provide voters and prospective voters with transportation to polls or similar activities; or to provide assistance with an election or voter registration activity.

(8) "Population" means inhabitants of a political subdivision as enumerated by the U.S. Census, or official state estimates prepared by the Center for Population Research and Census at Portland State University.

(9) "Poverty Line" means the official standard established by the Secretary of the U.S. Department of Health and Human Services.

(10) "Program" means the Community Services Block Grant Program.

(11) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services and activities directly or by contract.

(12) "Subgrantee Agency" means a local Community Action Agency or organization with whom the Department has contracted to administer Program services and activities at the local level.

Stat. Auth.: ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: HR 5-1982, f. & cf. 2-5-82; HR 3-1983, f. & cf. 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; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02, Renumbered from 813-210-0000

813-210-0010

Eligible Activities

(1) A Subgrantee Agency is free to use different strategic approaches to reduce or eliminate one or more conditions that block the achievement of self-sufficiency for Low-Income Households. These strategies and activities, which may include a range of services, both direct and/or indirect, must have a measurable and potentially major impact on the causes of poverty in communities in the Service Area where poverty is a particularly acute problem.

(2) Funds made available under the Program may be used for services and activities that assist Low-Income Households, including the elderly poor. These services and activities may include, but are not limited to, those that help members of Low-Income Households:

- (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 remove obstacles and solve problems that block the achievement of self-sufficiency;

(g) To achieve greater participation in the affairs of the community; and

(h) To make effective use of other programs related to the purpose of this OAR 813, division 210.

(3) A Subgrantee Agency may also use the funds for a variety of services and activities intended to reduce or eliminate poverty conditions in communities in the Service Area, including but not limited to:

(a) 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;

(b) To coordinate and establish linkages between government and other social service programs to assure the effective delivery of such services to Low Income Households; and

(e) 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 458.545

Hist.: HR 5-1982, f. & cf. 2-5-82; HR 3-1983, f. & cf. 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; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02

813-210-0030

Funding Application

(1) In order to be eligible for Program funds, a Subgrantee Agency shall, within 90 days prior to the beginning of the Program's year submit a Funding Application to the Department. All Funding Applications approved by the Department shall remain on file with the Department.

(2) A Subgrantee Agency's Funding Application shall contain, at a minimum, the following:

(a) A description of both the programmatic and administrative capabilities of the Subgrantee Agency to carry out the activities as set forth in OAR 813-210-0020;

(b) A description of how the Subgrantee Agency determines its community's needs, including what forum it used to solicit input and who participated in the forum;

(c) A needs assessment for the Service Area;

(d) A narrative for each service or activity of the Subgrantee Agency funded by the Program describing with specificity the goals, objectives and any other information required by the Department, which shall include, but not be limited to:

(A) Achievement of the Program's goals and objectives;

(B) The impact of the Subgrantee Agency's services and activities that are funded by the Program;

(C) Coordination by the Subgrantee Agency with other agencies; and

(D) The amount and value of other resources applied to the Subgrantee Agency's services and activities;

(e) A detailed annual budget for each service or activity funded by the Program;

(f) A narrative and budget which details any proposed activity not directly related to the activities as specified in OAR 813-210-0020 ("administrative activity");

(g) An evaluation plan describing:

(A) The methodology to measure the results (i.e., outcomes) of each of the services and activities funded by the Program in terms of the Program's goals and objectives; and

(B) how that the specific data and/or products used to measure outcomes shall be collected and reported; and

(h) A quarterly reporting requirement that requires the Subgrantee Agency to deliver to the Department, within 15 working days after the end of each calendar quarter, a detailed and accurate report (including unaudited financial statements) of the Subgrantee Agency's activities during the just completed calendar quarter.

(3) Within 45 days of receipt of a completed Funding Application from a Subgrantee Agency, the Department shall notify in writing all applicants in the Service Area of the results of its review, including its request(s) for additional information if necessary.

(4) A Funding Application shall be in the format prescribed and/or provided by the Department.

(5) The Department shall contract with Subgrantee Agencies to administer the Program at the local level. In a Service Area where a Community Action Agency exists, it will have the right of first refusal to serve as the Subgrantee Agency. A Subgrantee Agency may, with the prior written approval of the Department, subcontract with another organization to provide a service or activity in the Subgrantee Agency's Service Area.

Stat. Auth.: ORS 184 & ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: HR 5-1982, f. & cf. 2-5-82; HR 3-1983, f. & cf. 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; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02

813-210-0040

Review of a Funding Application

(1) A Subgrantee Agency shall submit to the Department a report covering the matters described in OAR 813-210-0030(2)(h) within 15 working days following the end of each calendar quarter.

(2) Each calendar quarter the Department may evaluate a Subgrantee Agency's services and activities in accordance with the evaluation plan described in OAR 813-210-00030(1)(d) and/or receive an evaluation report from the Subgrantee Agency that complies with the requirements of the evaluation plan described in OAR 813-210-00030(2)(g) based upon the goals and objectives stated in the Subgrantee Agency's approved Funding Application.

Stat. Auth.: ORS 184 & ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505-ORS 458.545

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; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02

813-210-0050

Fiscal Management/Fiscal Control/Program Reporting

(1) A Subgrantee Agency shall maintain a financial management system containing, at a minimum, the following elements:

(a) Budgeting including but not limited to:

(A) The summary grant budget; and

(B) A separate subsidiary budget for each service or activity funded by the Program, including a budget for Administrative Costs.

Forms for budgets shall be provided by the Department. When approved by the Department, these budgets shall control the Program expenditures by the Subgrantee Agency. The Subgrantee Agency shall enter the approved budget amounts in its accounting records for the purposes of budgeting control.

(C) A Subgrantee Agency must submit to and obtain approval from the Department for a Program budget amendment request before any major budget change can be made by the Subgrantee Agency. Forms for this request shall be provided by the Department. A Subgrantee Agency may transfer between line items of a subsidiary budget a total of ten percent of that budget or \$5,000, whichever is less, once in any program year with 30 days written notice to the Department. A Subgrantee Agency may transfer a total of ten percent of the budget or \$10,000, whichever is less, between subsidiary budgets once in any program year with 30 days prior written notice to the Department.

(b) Accounting System:

(A) A Subgrantee Agency's accounting records shall be kept on an accrual basis and shall include the Program-related receivables, prepaid costs, and unpaid obligations of the Subgrantee Agency on an accrual basis. A Subgrantee Agency may use a modified accrual method, provided this method accurately reflects the results of the operations of the Subgrantee Agency funded by the Program; and

(B) Any adjustments made to the general ledger to arrive at reported amounts shall be documented by accounting work papers (i.e., a working trial balance) and subject to examination by the Subgrantee Agency's external auditor.

(c) Reports: Any differences between the quarterly reports and the annual audit report submitted by the Subgrantee Agency to the Department must be reconciled and adjusted in the annual audit report by the external auditor of the Subgrantee Agency;

(d) Audits:

(A) An annual audit shall be made of the operations of the Subgrantee Agency funded by the Program, including delegated funds, as part of the Subgrantee Agency's normal audit cycle. An audit report of the Subgrantee Agency's program year just ended shall be submitted by the Subgrantee Agency to the Department within six months after the close of that program year. The audit shall be conducted by a qualified and independent certified public accountant and shall 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" (USGOP Stock No. 2000-00110), "Guidelines for Financial and Compliance Audits of Federally Assisted Program" (USGOP Stock No. 020-000-0081-0) published by the United States General Accounting Office and the audit standards supplements series of publications. These publications are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402;

(B) The annual audit must include a management letter.

(C) The Department may, in its sole and absolute discretion, comment on the auditor's statements contained in an annual audit report,

along with any other problems reflected in the report, such as any differences between the annual audited financial statements and the quarterly unaudited financial statements submitted by the Subgrantee Agency to the Department. A Subgrantee Agency must correct all audit deficiencies promptly but in any event within 90 days of date the Department receives the Subgrantee Agency's audit report, unless the Department, in its sole and absolute discretion, grants a 90 day extension.

(2) System Certification:

(a) A Subgrantee Agency's financial management system shall be certified as adequate to safeguard and account for Program funds by a qualified independent certified public accountant. A Subgrantee Agency's financial management system shall be maintained at an acceptable level and recertified annually by its outside auditors in the Subgrantee Agency's annual audit report

(b) Subgrantee Agencies having financial management systems in place that are certified by "pre-audit surveys" and recertified by acceptable annual audits will not be required to obtain the certifications described in OAR 813-210-0050(2)(a).

(c) First time Subgrantee Agencies must obtain certification as required by OAR 813-210-0050(2)(a) before Program funds can be expended or obligated by it.

(d) If, in the Department's opinion, an annual audit report submitted by a Subgrantee Agency indicates significant financial management system or system maintenance weakness, the Department may, in its sole and absolute discretion, withhold further disbursement of Program funds until it receives from the Subgrantee Agency satisfactory recertification of its financial management system from a qualified and independent certified public accountant.

(3) A Subgrantee Agency shall submit to the Department quarterly reports covering items set forth in OAR 813-210-0030(2) which shall be in a format prescribed by the Department. Such reports shall be coded in such a way as to allow the linking and analysis of expenditures for each separate service or activity funded by the Program in the annual Funding Application.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 184 & ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505-ORS 458.545

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; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 4-15-02

813-210-0055

Funding

(1) Reimbursement by the Department for a Subgrantee Agency's Program expenditures will be based upon the timely receipt by the Department of the Subgrantee Agency's quarterly and annual audit reports and upon the Subgrantee Agency's conformance to its budget estimates.

(3) The Department may, in its sole and absolute discretion, advance to a Subgrantee Agency funds required by that Subgrantee Agency for operations funded by the Program.

Stat. Auth.: ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505-ORS 458.545

Hist.: OHCS 2-2002, f. & cert. ef. 4-15-02

813-210-0060

Reduction or Termination of CSBG Funding

(1) No Migrant and Seasonal Farmworker Organization which received CSBG funding in the previous federal fiscal year shall 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, after notice and opportunity for hearing on the record, the Department 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 CSBG funding reduction or termination, the term "cause" includes but is not limited to:

(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 Migrant and Seasonal Farmworker Organization; or

(C) Severe economic dislocation; and

(b) The failure of a Migrant and Seasonal Farmworker Organization to comply with the terms of its CSBG contract with the Department.

ment 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 458.545
 Hist.: HSG 7-1993, f. & cert. ef. 10-1-93; OHCS 2-2001(Temp), f. & cert. ef. 10-3-01 thru 4-1-02; Administrative correction 4-12-02; OHCS 2-2002, f. & cert. ef. 8-15-02

813-210-0065

Waiver

The Director may waive or modify any requirements of the rules in OAR 813, division 210, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 458.505-ORS 458.515
 Stats. Implemented: ORS 458.505-ORS 458.545
 Hist.: OHCS 2-2002, f. & cert. ef. 8-15-02

DIVISION 220

EMERGENCY FOOD ASSISTANCE PROGRAM

813-220-0001

Purpose and Objectives

OAR 813, division 220, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically 458.525 to 458.530, which designates the Housing and Community Services as the lead agency to coordinate state efforts in meeting the problem of hunger. OAR 813, division 220, describes the Emergency Food Assistance Program, which operates through a network of service-provider agencies at the local level. The Department has been designated as the state agency responsible for administering the Emergency Food Assistance Program. The Program's objective is to provide lower-income households with food for home use.

Stat. Auth.: ORS 458.505-ORS 458.545
 Stats. Implemented: ORS 458.525-ORS 458.530
 Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03

813-220-0005

Definitions

All terms used in OAR 813, division 220, are defined in the Act, and in OAR 813-005-0005. As used in OAR 813, division 220, unless otherwise indicated by the context:

- (1) "Eligible Services" means services provided in accordance with the rules and regulations governing the Program.
- (2) "Low Income Household" means a Household with an income at or below 185 percent of the Poverty Line.
- (3) "Program" means the Emergency Food Assistance Program authorized by Public Law 98-8 as extended by Public Law 98-92.
- (4) "Regional Coordinating Agency or "RCA" means any public or private, nonprofit agency which has subcontracted with the State Coordinating Agency to relieve situations of emergency and distress through distribution of Title II Commodities to local designated food assistance programs such as congregate meal sites, temporary shelters, and emergency food pantries and through those programs to Low Income Households.
- (5) "State Coordinating Agency" or "SCA" means a private, nonprofit organization designated by the Department to coordinate in Oregon the distribution of Title II Commodities provided through the program.
- (6) "Storage and Distribution Costs" means direct costs incurred by the Department, SCA and/or RCA for the operation of the Program, including but not limited to, intrastate storage and distribution of Title II Commodities.
- (7) "Title II Commodities" means commodities provided to Low Income Households under the Program.
- (8) "USDA" means the United States Department of Agriculture.
- (9) "Value of Commodities Distributed" means the USDA's cost of acquiring Title II 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; OHCS 3-2003, f. & cert. ef. 5-12-03, Renumbered from 813-220-0000

813-220-0010

Administration

(1) The agency has been designated, through a letter agreement, has designated the Oregon Food Bank, a private, nonprofit corporation,

organized under ORS Chapter 65, as the Program's State Coordinating Agency.

(2) The State Coordinating Agency shall select and subcontract with Regional Coordinating Agencies to carry out Program activities at the local level.

(3) The RCAs shall coordinate, in as much as it is practical and responsible to do so, with other service agencies in their specific service areas.

(4) Reimbursement by the Department of the Storage and Distribution Costs of the SCA and RCA shall be limited to USDA allocations to the Department and further shall not exceed five percent of the Value of Commodities Distributed by the SCA.

(5) The reimbursement described in OAR 813-220-0010(4) above shall be paid by the Department to the SCA. The SCA shall be responsible for paying to each RCA its proportionate share of the monies received from the Department as reimbursement for Program Storage and Distribution Costs.

(6) If the SCA or RCA receives a shipment containing damaged or spoiled Title II Commodities and such damage or spoilage totals less than 5,000 pounds, a local or state health inspector shall be notified and asked to examine the damage or spoilage. If because of damage or spoilage, Title II Commodities are declared unfit for human consumption, they shall be destroyed or disposed of as specified by the USDA. If the damaged or spoiled Title II Commodities in a shipment total 5,000 or more pounds, a federal health inspection shall be requested by the SCA or RCA. If the damaged or spoiled Title II Commodities are declared unfit for human consumption, the Title II Commodities in questions shall be reclaimed by the USDA.

(7) The RCAs shall use public and quasi-public sites and facilities, such as schools, churches and government buildings, for distribution of Title II Commodities. The RCAs shall not use any private sites to distribute Title II Commodities unless a waiver has been granted by the SCA and the Department.

(8) The SCA and RCA's shall comply with all applicable 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 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; OHCS 3-2003, f. & cert. ef. 5-12-03

813-220-0015

Requirements Imposed on RCAs

(1) Prior to providing services, an RCA shall sign a contract with the SCA. That contract shall include information on, but not be limited to, the following:

- (a) The projected level of funds and Title II Commodities available to the RCA under the Program;
- (b) The contract effective date and term;
- (c) The time period during which the RCA can obligate funds;
- (d) Program eligibility requirements;
- (e) Eligible Services; and
- (f) Fiscal report, Program report and audit requirements.

(2) The RCA shall provide monthly reports to the SCA in a format prescribed by the SCA and the Department. This report shall include, but not be limited to:

- (a) The number of Low Income Households to whom services were provided;
- (b) The type of services provided;
- (c) Problems encountered;
- (d) Corrective action taken; and
- (e) Storage and Distribution Costs for the month.

(3) Under no circumstances shall program 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.

Stat. Auth.: ORS 183 & ORS 458.505-ORS 458.515
 Stats. Implemented: ORS 458.525-ORS 458.530
 Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03

813-220-0020

Client Eligibility

(1) Title II Commodities shall be made available to Low Income Households. Participation in such programs as Food Stamps, Temporary Assistance to Low Income Families, SSI, State General Assistance, Low-Income Energy Assistance and the Oregon Supplemental

Income Program shall establish Household's eligibility under the Program.

(2) Households may also may establish their eligibility to participate in the Program through a self-declaration of income at or below 130 percent of the Poverty Line. The period for determining eligibility shall not be more than 12 months nor less than one month preceding receipt of assistance under the Program.

Stat. Auth.: ORS 183 & 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 410-090-0010; OHCS 3-2003, f. & cert. ef. 5-12-03

813-220-0030

Services Provided

(1) The SCA and RCAs shall distribute Title II Commodities under the Program to Low Income Households through emergency food box programs and participating soup kitchens.

(2) The SCA and RCAs shall assist Low Income Households to access services designed to meet other, existing needs, whenever possible.

(3) RCAs shall publicize the availability of Title II Commodities and distribute those Title II Commodities in their respective Service Areas in such a manner that a maximum number of potential eligible Households are reached.

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; OHCS 3-2003, f. & cert. ef. 5-12-03

813-220-0050

Fiscal Control/Reporting Requirements/Documents

(1) The SCA and all RCAs shall maintain records which document the receipt, disposition and inventory of Title II 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 Title II Commodities from an RCA (or an RCA's distribution site) to a client may either be documented by client receipt or by record of such distribution signed by the staff/volunteer responsible for such distribution.

(3) The signature of individual recipients on distribution sheets may serve as a receipt for Title II Commodities provided to them.

(4) The SCA and RCAs shall document spoilage received in Title II Commodity shipments, including the extent of such spoilage and its disposition.

(5) The RCAs shall submit monthly progress reports to Oregon Food Bank and the Department.

(6) The SCA's shall provide the Department with an annual audit of Program and fiscal transactions within 120 days after the close of its fiscal year.

(7) 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.

(8) The SCA and each RCA shall maintain records as required by federal and state rules.

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; OHCS 3-2003, f. & cert. ef. 5-12-03

813-220-0060

Monitoring

(1) The Department may conduct on-site evaluations once per federal fiscal year of RCAs and all Community Action Partner (CAP) related agencies.

(2) During these evaluations, the Department may examine records and facilities which document eligibility determinations, food ordering procedures, storage and warehousing practices, inventory controls, sub-distribution site approval processes, reporting and record keeping requirements and a sampling of the RCAs sub-distribution sites.

(3) If the Department determines that an RCA is not in compliance with applicable state or federal regulations, the Department shall, within 30 working days of the close of the on-site evaluation, send to

the RCA and the SCA a corrective action notice which shall include at a minimum:

- (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;

and

- (d) Any requirements for documenting corrective action taken.

Stat. Auth.: ORS 184 & 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; OHCS 3-2003, f. & cert. ef. 5-12-03

813-220-0070

Waiver

The Director may waive or modify any requirements of OAR 813, division 220, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 183 & ORS 458.505-ORS 458.515

Stats Implemented: ORS 458.525-ORS 458.530

Hist.: OHCS 3-2003, f. & cert. ef. 5-12-03

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 sub-contracts 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 distributed 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[Renumbered to 813-240-0005]

813-240-0001

Purpose and Objectives

OAR 813, division 240, is promulgated to accomplish the general purpose of ORS 458.505 to 458.545, specifically 458.505, which designates the Housing and Community Services Department as the state agency responsible for administering state and federal antipoverity programs in Oregon. OAR 813, division 240, describes the State Homeless Assistance Program, which is administered through a network of Subgrantee Agencies at the local level. The Program's objective is to help meet the emergency needs of the Homeless by providing funds for Emergency Shelters and the supportive services directly related to them.

Stat. Auth.: ORS 458.505-ORS 458.545
Stats. Implemented: ORS 458.505
Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0005

Definitions

All words and terms used in OAR 813, division 240, defined in the Act, in OAR 813-005-0005 and in this 813-240-0005. As used in OAR 813, division 240, unless the context indicates otherwise:

(1) "Administrative Costs" means all costs which are not directly related to delivery of Program services.

(2) "Community Action Agency" or "CAA" means a private, nonprofit corporation organized under ORS Chapter 65, or office, division or agency of a political subdivision designated by the Department of Health and Human Services as a community action agency pursuant to the Economic Opportunity Act of 1964, which meets the requirements outlined in ORS 458.505(4).

(3) "Eligible Services" means activities related to the running of Emergency Shelter Programs, including, but not limited to, operational costs, shelter conversion or rehabilitation, education and salaries for staff, and counseling and other support services for clients.

(4) "Emergency Shelter" means any facility whose primary purpose is to provide temporary or transitional shelter for the Homeless in general or for specific populations of the homeless.

(5) "Funding Application" means a Subgrantee Agency's application to the Department for a Program grant.

(6) "Homeless" means an individual, family or Household that lacks a fixed, regular residence or has a nighttime residence that is a shelter or institution, i.e., without the means to secure and/or maintain affordable, safe shelter.

(7) "Household" means an individual living alone or a group of individuals who are living together as one economic unit.

(8) "Program Costs" means those costs directly associated with Eligible Services.

(9) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services directly or by contract.

(10) "Subgrantee Agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015, with whom the Department has contracted to administer Program activities and services at the local level.

(11) "Work Plan" or "Plan" means part of a Subgrantee Agency's Funding Application, which is a part of the contract between the Department and the Subgrantee Agency.

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; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; Renumbered from 813-240-0000; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0010

Administration

(1) The Department may allocate Program funds to Service Areas through a formula established by the Department prior to the allocation process. The Department reserves the right to modify that formula at any time at its sole discretion.

(2) The Department may contract with a Subgrantee Agency to provide Program services and activities at the local level.

(3) In a Service Area where a Community Action Agency exists, it will have the first right of refusal to serve as the Subgrantee Agency.

(4) A Subgrantee Agency may subcontract with another organization which meets the requirements of ORS 458.505(4) to provide a Program service or activity in the Subgrantee Agency's Service Area.

(5) A Subgrantee Agency shall assist Program participants to access other services designed to meet other, longer-term needs whenever possible.

(6) The Department shall normally fund only one Subgrantee Agency within any Service Area. However, the Department may, in its sole and absolute discretion, allow two Subgrantee Agencies to operate within a common Service Area. In such a case, the Department and the two Subgrantee Agencies shall enter into a Memorandum of Agreement in order to insure full access to the Program's Eligible Services for all persons within the Service Area and to prevent duplication of services.

(7) The Department may conduct a review of a Subgrantee Agency at least once every two years to assure compliance with applicable state and federal regulations involving administrative, financial and programmatic activities of the Program and to assure that the Subgrantee Agency is achieving its Work Plan objectives.

(8) If the Department deems the performance of a Subgrantee Agency to be deficient and the Subgrantee Agency does not give the Department adequate assurance of satisfactory performance in the future, the Department may terminate its contract with the non-performing Subgrantee Agency and contract with another Subgrantee Agency to provide the Program's Eligible Services going forward.

(9) A Subgrantee Agency shall comply with pertinent local ordinances, state rules and regulations, and federal rules and regulations.

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; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0020

Eligibility

(1) A Subgrantee Agency shall make a determination of an applicant's eligibility to receive Eligible Services under the Program. A Subgrantee Agency may make such a determination based on an applicant's self-declaration or by referral from local, state or federal human service agencies.

(2) An applicant is eligible for Emergency Shelter assistance through the Program if the applicant is Homeless.

(3) Residency within a Subgrantee Agency's Service Area shall not be an eligibility requirement.

Stat. Auth.: ORS 458.505

Stats. Implemented: ORS 458.505

Hist.: AFS 65-1985, f. & ef. 11-5-85; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0010; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0030

Use of Funds

(1) Eligible Services funded under this Program includes shelter and auxiliary activities designed to stabilize the housing situation of the participant or lead the participant out of the shelter. Such activities may include, but are not limited to, case management, nutritional assistance, personal hygiene and referral.

(2) Eligible Services obtained through the Program shall not be utilized for purposes of rent or house payment to prevent eviction or foreclosure.

(3) The Department may expend for Administrative Costs no more than five percent of the appropriation for this Program.

(a) A Subgrantee Agency may expend for Administrative Costs of the services and activities funded by the Program no more than ten percent of its funding award.

(b) If a Subgrantee Agency subcontracts with another organization to provide a Program service or activity, that organization may expend for Administrative Costs of the service and activity funded by the Program no more than five percent of its Program 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; HSG 8-1992, f. & cert. ef. 7-29-92; Renumbered from 461-100-0015; HSG 10-1993, f. & cert. ef. 10-1-93; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0041

Funding Application

(1) Prior to providing Eligible Services under the Program, a Subgrantee Agency shall submit on a biennial basis, and the Department shall approve, a Funding Application (including a Work Plan) which shall remain on file with the Department.

(a) A Subgrantee Agency's Funding Application shall contain a needs assessment of the Homeless in its Service Area and potential strategies to address those needs.

(b) The Funding Application shall contain a section detailing how the Subgrantee Agency will administer the Program. This section shall contain, at a minimum, the following information:

(A) Name, address, and telephone number of the Subgrantee Agency;

(B) Amount of assistance allocation requested;

(C) A description of how the assistance will be used, including the minimum number of Homeless to be served;

(D) Demonstration that the Subgrantee Agency and any designated contractor(s) have the capacity to deliver any Eligible Services proposed in the Funding Application;

(E) Details on how the Subgrantee Agency will coordinate with other local service providers and interest groups; and

(F) A geographic description of the Subgrantee Agency's Service Area.

(2) The Department may review a Subgrantee Agency's Funding Application for compliance with the requirements of the Program and may request additional information, if applicable, within 20 business days of receipt of the Funding Application.

Stat. Auth.: ORS 411 & 458.505-458.515

Stats. Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0050

Fiscal Control/Reporting Requirements/Documentation

(1) A Subgrantee Agency shall, at a minimum:

(a) Maintain accurate financial records which document the receipt and disbursement of all funds provided through the Program; and have an accounting system in place which meets generally accepted accounting principles.

(b) Maintain accurate records which document the clients receiving Eligible Services through the Program;

(c) Provide the Department with the following reports, in form and substance satisfactory to the Department:

(A) Within 15 working days following the end of each calendar quarter, a Program report detailing the Subgrantee Agency's progress made toward Program objectives.

(B) Within 90 calendar days after the close of the Subgrantee Agency's fiscal year, annual Program and fiscal reports; and

(C) Within 90 days after the close of the Program, final Program and fiscal reports.

(2) Records of Program activities including but not limited to client files and fiscal records shall be available to the Department and the Oregon Secretary of State's Office and the federal government and

their duly authorized representatives shall have access to such fiscal records and other books, documents, papers, plans and writings of Subgrantee Agency that are pertinent to the Program to perform examinations and audits and make excerpts and transcripts. A Subgrantee Agency shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three (3) years, or such longer period as may be required by applicable law, following final payment and termination of the Program, or until the conclusion of any audit, controversy or litigation arising out of or related to the Program, whichever date is later.

Stat. Auth.: ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505

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; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0060

Audit

(1) The Department may from time to time audit a Subgrantee Agency's activities to verify a Subgrantee Agency's compliance with the fiscal requirements regarding eligible client expenditures and Administrative Costs.

(2) Such audits may include, but not be limited to, fiscal records including general ledger and all supporting journals.

Stat. Auth.: ORS 411 & ORS 458.505-ORS 458.515

Stats. Implemented: ORS 458.505

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; OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0070

Appeal Procedure

Local interest groups, service providers or representatives thereof who oppose the use of funds reflected in a Work Plan submitted to the Department by a Subgrantee Agency may submit written comments to the Department after first proceeding with the local appeals process. Following review and investigation of the circumstances, the Department shall respond to the comments within 20 business days of receipt of such comments.

Stat. Auth.: ORS 411 & 458.505-458.515

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0080

Administrative Review

The Subgrantee Agency shall provide an administrative review process, which shall include an administrative hearing, to individuals whose claims for assistance under the Program are denied or deemed denied because of the failure of the Subgrantee Agency to process a request for assistance.

Stat. Auth.: ORS 411 & 458.505-458.515

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

813-240-0090

Waiver

The Director may waive or modify any requirements of OAR 813, division 240, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 411 & 458.505-458.515

Stats Implemented: ORS 458.505

Hist.: OHCS 4-2001(Temp) f. & cert. ef. 12-7-01 thru 5-26-02; OHCS 6-2002, f. & cert. ef. 5-15-02

DIVISION 250

FOOD ASSISTANCE FUNDS PROGRAM

813-250-0000

Purpose and Objectives

OAR 813, division 250, is promulgated to accomplish the general purpose of ORS 485.505 to 458.545, specifically 458.525 to 458.530. The Housing and Community Services has been designated as the state agency responsible for administering emergency food assistance programs in Oregon. OAR 813, division 250, describe the Foods Assistance Funds Program, and authorizes the Housing and

Community Services Department to allocate funds to the statewide network of emergency food programs in the form of grants to develop and implement linkage activities and to demonstrate the benefits of local control of commodity purchasing.

Stat. Auth.: ORS 456.505-ORS 458.545

Stats. Implemented: ORS 456.505-ORS 458.545

Hist.: HSG 1-1994, f. & cert. ef. 3-2-94; OHCS 4-2003, f. & cert. ef. 5-12-03

813-250-0010

Definitions

All words and terms used in OAR 813, division 250, are defined in the Act, in OAR 813-005-0005 and 813-250-0010 and below. As used in OAR 813, division 250, unless the context indicates otherwise:

(1) "EFA Program" means the Emergency Food Assistance Program established pursuant to OAR 813, division 220.

(2) "Eligible Services" means services that are provided in accordance with the rules and regulations of the Program.

(3) "Emergency Food Organization" means a private, non-profit organization that is subcontracted with an RCA to relieve situations of emergency and distress through provision of food under the Program to Low Income Households.

(4) "Food Assistance Funds" means the U.S. Department of Agriculture and State administrative support for state and local agencies for the sole purpose of the distribution of commodities to programs serving Low-Income Households.

(5) "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.

(6) "Local Commodity Purchasing" means the acquisition of food by Emergency Food Organizations through a coordinated statewide effort designed to demonstrate the efficiency of such a process.

(7) "Low Income Household" means a Household with an income at or below 185 percent of the Poverty Line.

(8) "Program" means this Food Assistance Funds Program.

(9) "Regional Coordinating Agency" or "RCA" 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 under the Program to Low Income Households.

(10) "State Coordinating Agency" or "SCA" means a private nonprofit organization designated by the Department to coordinate distribution of food in Oregon to Low Income Households.

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; OHCS 4-2003, f. & cert. ef. 5-12-03

813-250-0020

Administration

(1) The Department has, through a letter agreement, designated the Oregon Food Bank, a private, non-profit corporation organized under ORS Chapter 65, as the State Coordinating Agency.

(2) The State Coordinating Agency has selected and subcontracted with, under the EFA Program Regional Coordinating Agencies to carry out Program activities at the local level.

(3) Prior to receiving grant funds, an RCA shall sign a contract with the SCA. That contract shall include, but not be limited to, provisions regarding the grant amount and conditions, effective date and the term of the contract, Eligible Services, fiscal and Program report requirements and audit requirements.

(4) The SCA and RCA's shall comply with all applicable 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; OHCS 4-2003, f. & cert. ef. 5-12-03

813-250-0030

Eligible Activities

(1) The Department shall allocate Food Assistance Funds for grants to Emergency Food Organizations to develop and implement Linkage activities and Local Commodity Purchasing.

(2) Food Assistance Funds shall be used to supplement, not supplant, existing funds used in supporting the work of the emergency food assistance network and its member agencies.

(3) Food Assistance Funds shall be used in a manner which maximizes resources and services available for Low Income Households statewide.

(4) RCA's, and Emergency Food Organizations, through their respective RCA's, shall advise the SCA as to the type and amount of food acquired with the Local Commodity Purchasing funds.

(5) RCA's shall recommend to the SCA the guidelines for the uses, disbursement and reporting requirements for Linkage and Local Community Purchasing funds.

(6) RCA's shall coordinate, in as much as it is practical and responsible to do so, with other service agencies in their locale.

(7) Under no circumstances shall individual recipients be required to make any payments in money, materials, or services for, or in connection with, the receipt of emergency food.

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; OHCS 4-2003, f. & cert. ef. 5-12-03

813-250-0040

Fiscal Control/Reporting Requirements

(1) The SCA and RCA's shall maintain records that document the use of these funds for Linkage activities and the receipt and distribution of locally purchased commodities.

(2) The SCA shall provide the Department with an annual audit of Program activities and fiscal transactions within 180 days after the close of its fiscal year.

(3) Each RCA shall provide quarterly reports and one final report to the SCA in a format prescribed by the SCA and the Department.

(4) Records of Program activities and fiscal transactions shall be maintained by the SCA and RCA's for a period of three years and shall be made available to the Department or its agents upon request.

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; OHCS 4-2003, f. & cert. ef. 5-12-03

813-250-0050

Waiver

The Director may waive or modify any requirements of OAR 813, division 250, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 184 & ORS 458.505-ORS 458.515

Stats Implemented: ORS 458.525-ORS 458.530

Hist.: OHCS 4-2003, f. & cert. ef. 5-12-03

DIVISION 280

ENERGY RATED HOMES OF OREGON PROGRAM

813-280-0000

Purpose and Objectives

OAR 813, division 280, is promulgated to accomplish the general purpose of ORS 456.550 to 456.725, specifically 456.550, which designates the Department as the central source of information, planning, educational services and technical assistance on housing issues for persons and families of lower-income. OAR 813, division 280, describes the Energy Rated Homes of Oregon Program, which provides an assessment service to existing and prospective homeowners on the relative efficiency of the various components of a house which contribute to a household's utility bills. The Program's objective is to increase a home's energy efficiency and reduce a household's consumption — and therefore cost — of energy and also provide a household that participate in the program with a more comfortable and affordable home.

Stat. Auth.: ORS 456.550-ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

813-280-0010

Definitions

All terms are used in OAR 813, division 280, are defined in the Act, in OAR 813-005-0005 and below. As used in OAR 813, division 280, unless otherwise indicated by the context:

(1) "Energy Efficient Mortgage" means a mortgage that secures repayment of a home loan that credits a home's energy efficiency or includes energy efficient upgrades.

(2) "EPA" means the U.S. Environmental Protection Agency.

(3) "FHA" means the Federal Housing Administration of the U.S. Department of Housing and Urban Development.

(4) "Home Energy Rating" means the measurement of a home's energy efficiency or its energy efficiency rating ("EER").

(5) "Home Energy Rater" means residential energy efficiency professional certified by the Department to inspect homes and measure their energy characteristics.

(6) "Household" means an individual residing alone, or a group of individuals living together as one economic unit, for all or part of the next 12 months in a dwelling (which may be single-family housing or a unit in multi-family housing) assisted with Program funds.

(7) "HUD" means the U.S. Department of Housing and Urban Development.

(8) "Service Area" means the specific geographic area or region within which a Subgrantee Agency provides Program services directly or by contract.

(9) "Subgrantee Agency" means a private, nonprofit corporation organized under ORS Chapter 65, a housing authority established under ORS 456.055 to 456.235, or a local government as defined in ORS 197.015 with whom the Department has contracted to administer Program activities and services at the local level.

(10) "VA" means the U.S. Department of Veterans Affairs.

Stat. Auth.: ORS 456.550 - ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

813-280-0020

Program Administration

(1) As part of its mission to provide technical assistance on housing issues for lower income Households, the Department has implemented a Home Energy Rating Program designed to encourage cost effective energy saving improvements and, as a result, decrease a Household's utility costs and increase its disposable income.

(2) Wherever feasible, the Department intends to use the existing network of community-based, service-provider agencies to conduct the Home Energy Rating assessments.

(3) The Department has entered into a Memorandum of Understanding ("MOU") with HUD and the EPA with regard to Program requirements and Home Energy Rating criteria.

Stat. Auth.: ORS 456.550 - ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

813-280-0030

Home Energy Assessments

(1) A homeowner, prospective homeowner, builder or other individual may submit a request to the Department for a Home Energy Rating.

(2) If appropriate, the Department shall arrange for a Home Energy Rater to conduct an on-site inspection of a home and assess its energy characteristics.

(3) In conducting an assessment of a home, a Home Energy Rater shall measure its energy characteristics, including, but not limited to, the following:

(a) Insulation levels;

(b) Window efficiency;

(c) Wall-to-window ratios;

(d) Heating and cooling system efficiency;

(e) Solar orientation of the home; and

(f) Water heating system efficiency. The Home Energy Rater shall do diagnostic testing, such as blower door for air leakage and duct leakage testing.

(4) Based on the results of an assessment done on a home, the Department will assign a Home Energy Rating to the dwelling between 1 and 100 points. The dwelling's Home Energy Rating will then be equated to a star rating that ranges from 1 Star for a very inefficient home to 5 Star for a highly efficient home.

(5) Along with the rating sheet indicating a dwelling's Home Energy Rating and star rating, the homeowner, prospective homeowner, builder or other individual submitting the Home Energy Rating request will receive an estimate of the home's energy costs and a report listing cost-effective options for improving the dwelling's Home Energy Rating. If a Home Energy Rater makes recommendations on

cost-effective energy improvements, the report shall also provide information on the relative economic return on the improvements.

(6) A Home Energy Rating may be requested by a the homeowner, prospective homeowner, builder or other appropriate individual to assess improvements made to a home pursuant to a Home Energy Rating report.

Stat. Auth.: ORS 456.550 - ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

813-280-0040

Financing Cost Effective Improvements

Under programs as the mortgage energy improvement programs offered by the FHA and VA, an Energy Efficient Mortgage may be used at the time of sale or refinancing to finance cost-effective improvements recommended in a Home Energy Rating report.

(1) If the improvements recommended by a Home Energy Rater are economically feasible, the funds for such improvements may be included in the mortgage and be placed into an escrow by the lending institution, title company or other appropriate entity.

(2) The homeowner has up to 90 days after loan closing (in the case of a FHA Energy Efficient Mortgage), or 180 days after loan closing (in the case of a VA Energy Efficient Mortgage), to make the improvements.

(3) Once the improvements are made, a post-improvement Home Energy Rating shall be performed to confirm that the improvements were properly installed:

(a) If the improvements have been properly made, the escrow account funds will be released to pay for materials and contracted labor for the improvements; or

(b) If the improvements have not been made as required, the escrow funds shall be applied as a prepayment of the principal balance of the loan.

Stat. Auth.: ORS 456.550 - ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

813-280-0050

Home Energy Rater Certification

In order to be certified by the Department as a Home Energy Rater, an individual shall meet the following requirements:

(1) Attend training as specified by the Department; and

(2) Receive a satisfactory evaluation on both a field and written examination.

Stat. Auth.: ORS 456.550 - ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

813-280-0060

Fees

The Department may establish such fees, performance criteria or reporting requirements, as the Department as the Department determines is appropriate or necessary may consider appropriate or necessary.

Stat. Auth.: ORS 456.550 - ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

813-280-0070

Waiver

The Director may waive or modify any requirements of this OAR 813, division 280, unless such waiver or modification would violate applicable federal or state statutes or regulations.

Stat. Auth.: ORS 456.550 - ORS 456.725

Stats. Implemented: ORS 456.550

Hist.: OHCS 10-2002(Temp), f. & cert. ef. 6-19-02 thru 12-15-02; OHCS 18-2002, f. & cert. ef. 12-13-02

DIVISION 300

INDIVIDUAL DEVELOPMENT ACCOUNTS

Oregon Administrative Rules Compilation

813-300-0005

General Purpose

OAR 813, division 300, is promulgated to accomplish the general purposes of ORS 315.271 and 458.670 through 458.700, as they pertain to the Housing and Community Services Department and its supervision of individual development accounts ("IDAs"). These statutes, among other things, authorize the creation of IDAs between lower income account holders and authorized fiduciary organizations. Through these IDAs, account holders may deposit funds into cooperating financial institutions so as to accumulate assets that may be used by them in a manner consistent with personal development plans developed in conjunction with their participating fiduciary organization. The fiduciary organizations, in turn, deposit matching funds through the corresponding IDAs into financial institutions so as to augment account holder assets. The fiduciary organizations also provide their expertise in coordination of the personal development plans. Fiduciary organizations largely obtain their matching funds from contributors. Contributions to fiduciary organizations for use as IDA matching deposits may qualify the contributor for a tax credit under ORS 315.271.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0010

Definitions

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

(1) "Account holder" means a member of a lower income household that has a net worth of less than \$20,000 who is the named depositor of an individual development account.

(2) "Contributor" means a person or entity contributing funds to the Department or to a fiduciary organization for the purpose of matching IDA deposits by an account holder or for funding program plan operations.

(3) "Department" means the Housing and Community Services Department established in ORS 456.555 and, where applicable, its designee.

(4) "Designated beneficiary" means a minor-age member of the account holder's household who is the beneficiary of an IDA used to pay the member's extracurricular non-tuition expenses designed to prepare the member for post-secondary education or job training.

(5) "Fiduciary organization" means a non-profit, fund raising organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code as amended and in effect on January 1, 1999, or a federally recognized Indian tribe or band, as selected by the department under these rules.

(6) "Fiduciary organization program plan" or "program plan" means a mission statement by a fiduciary organization and the corresponding detailed plan by it for the solicitation of contributions (tax credit or otherwise) and prospective account holders, the management of IDA's and their associated personal development plans, and the operation of the fiduciary organization itself — all as approved by the Department and with such modifications as the Department may require. A prospective program plan must accompany any application to the Department for its approval of a fiduciary organization.

(7) "Financial institution" means an organization regulated under ORS Chapters 706 to 716, 722 or 723, or in the case of an account established for the purpose described in ORS 458.685(1)(c) related to college savings plans, a financial institution as defined in ORS 348.841.

(8) "Individual development account (IDA)" or "account" means a contract between an account holder and a fiduciary organization, for the deposit of funds into a financial institution by the account holder, and the deposit of matching funds into a financial institution by the fiduciary organization, to allow the account holder to accumulate assets for use toward achieving a specific purpose approved by the fiduciary organization.

(9) "Lower income household" means a household having an income equal to or less than 80 percent of the median household income for the area as determined by the Department, giving consideration to area household data published by the United States Department of Housing and Urban Development.

(10) "Net worth" means the value of all assets owned in whole or part by household members other than equity in a residence, minus

the total debts and obligations of household members, all as measured at the time the prospective account holder applies to establish the IDA.

(11) "Oregon individual development account tax credit" or "tax credit" means a credit against taxes otherwise due under ORS Chapter 316, 317, or 318, as allowed in return for contributions to a fiduciary organization for eventual distribution to individual development accounts established under ORS 458.685.

(12) "Personal development plan" means a written plan developed jointly by the fiduciary organization and the prospective account holder for an IDA that is designed to provide the account holder with appropriate financial and asset training, counseling, career or business planning and other services that will increase the independence of the account holder and his/her household through achievement of the IDA's approved purposes. The personal development plan must be in conformance with ORS 458.680, these rules and other requirements of the Department.

(13) "Related funds" means contributions to fiduciary organizations for IDA program purposes that do not qualify for tax credits and supplemental funding from the Department for IDA program purposes.

(14) "Reverted funds" means matching IDA deposits that devolve to a fiduciary organization because of the termination or revocation of a person as an account holder or unused tax credit contributions or supplemental funds upon termination or revocation of a fiduciary organization or at the expiration of its program plan.

(15) "Supplemental funding" means funds provided by the Department to fiduciary organizations for program plan purposes.

(16) "Tax credit contributor" means a contributor who receives a corresponding tax credit as allowed in ORS 315.271.

(17) "Tax credit contributions" means funds obtained from tax credit contributors who, in return, earn a tax credit

(18) "Trust Land" means all lands held in trust by the United States on behalf of an Indian Tribe or individual Indian.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 9-2003, f. & cert. ef. 12-19-03

813-300-0020

Fiduciary Organization Application Process

(1) The Department from time to time may solicit applications from entities desiring to be authorized as fiduciary organizations. The Department, in its sole discretion, may choose to consider for approval only proposed fiduciary organizations identified in applications received in response to such solicitations. The Department, in its sole discretion, also may approve fiduciary organizations on its own initiative or consider for approval proposed fiduciary organizations identified in applications received outside of a Department solicitation.

(2) All applications for approval of a proposed fiduciary organization shall be in writing to the Department in such form and with such content as the Department may require. In addition to any other information required by the Department, an application must include the following:

(a) The name, address, telephone number, Fax number, tax identification number of the proposed fiduciary organization, and key program contact person;

(b) A description of the proposed fiduciary organization entity, its officers, and ownership structure;

(c) Copies of the organic documents of the proposed fiduciary organization and proof, satisfactory to the Department, that such entity is in good standing and is authorized to transact business in the State of Oregon;

(d) A statement of the proposed fiduciary organization's capacity to act as a fiduciary organization, including relevant experience;

(e) A description of the geographic area to be served;

(f) A description of the key personnel who will specifically administer the individual development account program in the proposed fiduciary organization;

(g) The proposed program plan of the proposed fiduciary organization;

(h) A description of proposed third-party contractors and others, if any, by which the proposed fiduciary organization intends to accomplish program plan responsibilities;

(i) Signed agreements with one or more financial institutions to hold and operate individual development accounts;

(j) The entity's proposed program plan budget through the entity's first full fiscal year of its program plan identifying, at a minimum, projected revenues and expenses.

(k) If applicable, an application for supplemental funding from the Department for the period of the proposed program plan budget.

(3) The Department, in its sole discretion, may determine the number of fiduciary organizations to be authorized at any particular time. Consistent with such discretion, and its discretion to solicit, to consider and to initiate applications, the Department will approve as fiduciary organizations those entities that, in its judgment, best suit the purposes of ORS 458.670 through 458.700 and these rules.

(4) The Department, in its sole discretion, may establish time limits upon the duration of any approval of a fiduciary organization.

(5) Application information may be obtained by contacting the Department at: **Oregon Housing and Community Services, Individual Development Account Program, PO Box 14508, Salem, OR 97309-0409**. Application information also may be available on the Department website at: **www.hcs.state.or.us**.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0030

Fiduciary Organization Application Review

(1) In reviewing applications for authorization as a fiduciary organization, the Department shall consider the following factors:

(a) The ability of the prospective fiduciary organization to implement and administer the individual development account program, including the ability to verify account holder eligibility, certify that matching deposits are used only for approved purposes and exercise general fiscal accountability;

(b) The capacity of the prospective fiduciary organization to provide or raise matching funds for the deposits of accountholders;

(c) The capacity of the prospective fiduciary organization to provide financial counseling and other related services to account holders; and

(d) The links that the prospective fiduciary organization has to other activities and programs designed to increase the independence of this state's lower income households through education and training, home ownership and small business development.

(2) In reviewing applications for authorization as a fiduciary organization, the Department may consider additional factors including, but not limited to, the following:

(a) The eligibility of the entity;

(b) The sufficiency and accuracy of the application;

(c) The geographic area of proposed program plan operation and the need to be addressed;

(d) The performance of the entity in providing additional information, as requested;

(e) The quality of the proposed program plan, including the range and quality of potential personal development plans;

(f) The willingness and ability of the prospective fiduciary organization to effect modifications to its proposed program plan;

(g) The capacity of the prospective fiduciary organization to work together with third-party contractors and other program plan partners to accomplish its proposed program plan as modified, if at all, by the Department;

(h) The Department's past experience with the entity, its proposed third-party contractors, other proposed program plan partners, and identified personnel;

(i) Public opinion or other input; and

(j) Department administrative interests.

(3) The Department may condition authorization of an entity as a fiduciary organization upon Department required changes in the terms of the entity's application including, but not limited to its proposed program plan. The Department also may condition its authorization upon such other requirements as the Department determines to be appropriate.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0040

Fiduciary Organization General Responsibilities

(1) All entities must satisfy applicable legal standards, including these rules as modified from time to time as well as orders and other directives of the Department, and be authorized in writing by the Department, prior to and during all times that such entities function as fiduciary organizations.

(2) Authorized fiduciary organizations must operate in a manner consistent with the program plan and organizational documents submitted by them to the Department as approved by the Department. Fiduciary organizations may amend program plans and organizational documents from time to time with the prior written approval of the Department. The Department, from time to time, also may require changes to a program plan.

(3) Subject to Department approval, fiduciary organizations may engage third-party contractors or otherwise partner with others to perform program plan duties. Any contract or other agreement between a fiduciary organization and a third-party contractor or other partner must provide that the terms thereof and performance by the parties is subject to applicable law, these rules as amended from time to time, and the orders and directives of the Department.

(4) Fiduciary organizations assume full responsibility to the Department for operation of their program plan and the use of tax credit contributions and related funds. Such assumption does not limit the Department's rights or powers with respect to, or the responsibility of, third-party contractors, fiduciary organization partners, account holders, designated beneficiaries, or others.

(5) The program plan duties of a fiduciary organization include, but are not necessarily limited to:

(a) Complying with applicable law, including these rules as amended from time to time, and orders and other directives of the Department;

(b) Preparing, updating, and complying with an applicable program plan as authorized by the Department;

(c) Correlating with account holders and designated beneficiaries in preparing and effecting the preparation of appropriate personal development plans consistent with the program plan;

(d) Managing personal development plans including where relevant, but not limited to, counseling account holders and designated beneficiaries, providing financial and asset literacy training, and conducting required verification and compliance activities;

(e) Arranging for, coordinating with, remunerating, auditing, and otherwise ensuring compliance by appropriate third-party contractors and others;

(f) Marketing to, evaluating applications by, and signing individual development account agreements with appropriate potential account holders;

(g) Establishing agreements with appropriate financial institutions to operate IDA accounts;

(h) Marketing tax credits, soliciting contributions, and providing other funding as necessary to cover those and other program plan costs including, without limitation, the management of personal development programs and the matching of IDA deposits by account holders;

(i) Maintaining records with respect to all program plan activities in a manner satisfactory to the Department, and providing the Department access to such records as required by the Department;

(j) Providing annual reports of IDA activity acceptable to the Department within 90 days after the end of the fiscal year of the fiduciary organization;

(k) Providing such other informational reporting to the Department as the Department may require in the form and at the times required by the Department; and

(l) Fully and timely complying with all verification and compliance requirements of the Department.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0050

Fiduciary Organization Selection of Account Holders and Designated Beneficiaries

(1) Each fiduciary organization must establish an application process for potential account holders and designated beneficiaries satisfactory to the Department. At a minimum, the application process must accomplish the following objectives:

(a) Verify the eligibility of each prospective account holder and of any prospective designated beneficiary;

(b) Assist each selected account holder and designated beneficiary, if any, to prepare an appropriate personal development plan;

(c) Execute an IDA with each selected account holder;

(d) Engage a financial organization for maintenance of appropriate IDA accounts; and,

(e) Assure the collection of other information necessary for appropriate record keeping and reporting requirements.

(2) Subject to the approval of the Department and the limitations of applicable law, each fiduciary organization may impose such other criteria and require such other information in the selection of account holders and designated beneficiaries as that fiduciary organization deems to be appropriate.

(3) Additional selection criteria may include, but are not limited to the following:

(a) The capacity and funding of the fiduciary organization to accommodate prospective account holders and designated beneficiaries;

(b) The availability of necessary or appropriate third-party contractors and other partners;

(c) The extent to which the income and net worth of the prospective account holders are lower than the income and net worth limitations established in ORS 458.670(5) and 458.680(2);

(d) The accuracy, substance, and completeness of submitted applications;

(e) Any identified ability or inability of the prospective account holder or the prospective designated beneficiary to fulfill the terms of an appropriate IDA and the corresponding personal development plan;

(f) The cost and feasibility of an appropriate personal development plan;

(g) Past experience with prospective account holders and designated beneficiaries; and

(h) Such other considerations as the Department may identify.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0060

Fiduciary Organization Suspension or Termination of Account Holders

(1) Subject to these rules, fiduciary organizations, for cause, may suspend or terminate a person's status as an account holder or designated beneficiary and may suspend or terminate any related IDA and personal development plan.

(2) Factors that fiduciary organizations may consider as sufficient cause for any such suspension or termination include the following:

(a) If an account holder or designated beneficiary moves from the area where the personal development program is conducted or is otherwise unable to continue in the personal development program.

(b) The withdrawal of funds by an account holder from an account for other than a purpose approved by the fiduciary organization;

(c) The failure by an account holder to make a timely reimbursement to an account after an emergency withdrawal pursuant to ORS 458.685(2);

(d) A material misrepresentation or omission by the account holder or designated beneficiary to the fiduciary organization in the application or otherwise;

(e) A material failure by the account holder or designated beneficiary to comply with applicable law, these rules, orders or directives of the Department, the terms of the IDA or the terms of the personal development plan;

(f) Ineligibility of the account holder or designated beneficiary; and

(g) Failure by the account holder or designated beneficiary to cooperate reasonably with the fiduciary organization or its third-party contractors or other partners in the performance or evaluation of the personal development plan or in the performance, evaluation, or audit of the IDA and the funds related thereto.

(3) In conjunction with the termination of any person's status as an account holder based on factors identified above in Section 813-300-0060(2)(a), (b), or (c), all matching IDA deposits and all interest earned on such matching IDA deposits shall revert to the fiduciary organization.

(4) In conjunction with the termination of any person's status as an account holder or designated beneficiary based on other factors

identified or allowed in Section 813-300-0060(2), fiduciary organizations may rescind any right or interest of account holders in, and assume sole ownership of, any or all matching IDA deposits and the interest earned on such matching IDA deposits.

(5) Fiduciary organizations must provide thirty (30) days written notice delivered by mail to an account holder at their last known address, any designated beneficiary, at their last known address, receiving assistance through the account holder's personal development plan, and to the Department before suspending or terminating the person's status as an account holder. The notice must include a provision satisfactory to the Department advising the account holder of his/her right to obtain administrative review by the Department of any determination by the fiduciary organization to suspend or terminate his/her status as an account holder. The administrative review provision also must advise the account holder and any designated beneficiary receiving assistance through the account holder's personal development plan of their right to obtain administrative review by the Department of any determination by the fiduciary organization to suspend or terminate the related personal development plan or to rescind any right or interest of the account holder in, and to assume sole ownership of, any or all matching IDA deposits and the interest earned on such matching IDA deposits.

(6) A fiduciary organization may provide a shorter written notice of suspension or termination if the fiduciary organization identifies in the notice the exigent circumstances reasonably requiring such shorter notice period.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0070

Fiduciary Organization Funding

(1) Fiduciary organizations must solicit contributions and otherwise generate funding to finance their operations and to effectuate their program plan.

(2) Fiduciary organizations may apply to the Department for supplemental funding. Applications for supplemental funding must be in form, timing, and content satisfactory to the Department.

(3) The Department may provide supplemental funding and the conditions thereof in response to such applications, or on its own initiative, as the Department deems appropriate. In making supplemental funding determinations the Department may consider factors including, but not limited to the following:

- (a) The financial need of the fiduciary organization;
- (b) The progress of the fiduciary organization in implementing its program plan;
- (c) Factors relevant to the Department's review of the fiduciary organization's application for authorization;
- (d) The fiduciary organization's own fundraising efforts;
- (e) The availability of Department funds for this purpose; and
- (f) The need for services in the area addressed by the fiduciary organization.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0080

Fiduciary Organization Use of Tax Credit Contributions and Related Funds

(1) Oregon individual development account tax credit contributions to fiduciary organizations, other contributions to fiduciary organizations specifically for their program plan, and any supplemental funds from the Department to fiduciary organizations shall be used by fiduciary organizations solely for reasonable and documented program plan purposes consistent with these rules.

(2) In addition to any other limitations on supplemental funds imposed by the Department when providing such supplemental funds to fiduciary organizations, the following limitations apply to the use of tax credit contributions and related funds:

(a) Fiduciary organizations only may expend tax credit contributions and related funds in a manner consistent with their budget as approved by the Department;

(b) Fiduciary organizations may expend a maximum of 2% of their received tax credit contributions for administering the solicitation of tax credit contributions;

(c) Fiduciary organizations may not expend supplemental funds for administering the solicitation of tax credit contributions;

(d) Fiduciary organizations may expend a maximum of 5% of tax credit contributions and, without additional specific written authority from the Department, 5% of supplemental funds for administering and evaluating their program plan;

(e) Fiduciary organizations may expend a maximum of 20% of tax credit contributions and, without additional specific written authority from the Department, 20% of supplemental funds for the costs of providing assistance to account holders and their beneficiaries to develop and fulfill personal development plans;

(f) Fiduciary organizations may expend tax credit contributions and related funds for appropriate matching of account holder IDA deposits as follows:

(A) Allowable matching IDA deposits by fiduciary organizations must equal at least \$1, but not exceed \$5, for each \$1 of IDA deposits by the account holder;

(B) Matching IDA deposits must be placed in:

(i) A savings account with an approved financial institution jointly held by the account holder and the fiduciary organization and requiring the signatures of both for withdrawals;

(ii) A savings account with an approved financial institution that is controlled by the fiduciary organization and is separate from the savings account of the account holder; or

(iii) In the case of an account established for the purpose described in ORS 458.685(1)(c), a qualified tuition savings program account under ORS 348.841 to 348.873, in which the fiduciary organization is the account owner as defined in ORS 348.841.

(C) The aggregate maximum amount of matching IDA funds that a fiduciary organization may deposit with respect to a specific account holder shall not exceed more than \$2,000 in a 12-month period; and

(D) The aggregate maximum amount of matching IDA funds that a fiduciary organization may deposit with respect to a specific account holder during the existence of that account holder's IDA shall not exceed more than \$20,000.

(g) Supplemental funds not expended, obligated or deposited consistent with these rules within one year from the date that such supplemental funds are received from the Department shall be returned immediately to the Department; and,

(3) Reverted matching IDA deposits must be used by fiduciary organizations to make matching IDA deposits for eligible account holders consistent with these rules as soon as is reasonably practicable.

(4) A fiduciary organization that is the account owner of a qualified tuition savings program account:

(a) May make a qualified withdrawal only at the direction of the designated beneficiary and only after the qualified tuition savings program account of the account holder that was established for the designated beneficiary has been reduced to a balance of zero exclusively through qualified withdrawals by the designated beneficiary; and

(b) May make nonqualified withdrawals only if the qualified tuition savings program account of the account holder that was established for the designated beneficiary has a balance of less than \$100 or if the account holder or designated beneficiary has granted permission to make the withdrawal. Moneys received by a fiduciary organization from such a nonqualified withdrawal must be used for program plan purposes.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0090

Fiduciary Financial Controls; Audit and Repayment Responsibilities

(1) Fiduciary organizations, third-party contractors and other program plan partners shall maintain appropriate financial controls, acceptable to the Department and using generally accepted accounting principles, in the receipt and expenditure of tax credit contributions and related funds.

(2) Fiduciary organizations by contract shall require third-party contractors and other program plan partners to maintain appropriate financial controls acceptable to the fiduciary organization and to the Department.

(3) Fiduciary organizations, third-party contractors and other program plan partners only shall charge reasonable and necessary costs

to the program plan consistent with the approved program plan budget.

(4) All costs charged to the program plan by a fiduciary organization, third-party contractors, and other program plan partners shall be supported properly by vouchers and other records satisfactory to the Department that indicate in proper detail the nature and propriety of the costs.

(5) Fiduciary organizations, third-party contractors and other program plan partners shall cooperate fully with all audits of them by the fiduciary organization, the Department, the Office of the Secretary of State or the Department of Justice with respect to relevant program plans.

(6) Fiduciary organizations are responsible to the Department for the immediate repayment of all unused or improperly expended tax credit contributions and supplemental funds.

(7) Fiduciary organizations and any relevant third-party contractor or other program plan partner are jointly and severally responsible to the Department for the immediate repayment of all tax credit contributions and supplemental funds improperly retained or improperly expended by any such third-party contractor or other program plan partner of a fiduciary organization

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0100

Fiduciary Organization Records and Reporting Requirements

(1) Fiduciary organizations shall prepare and maintain appropriate, accurate and complete program plan record-keeping systems and records satisfactory to the Department. Such record-keeping systems also must cover and include records generated by third-party contractors and other program plan partners.

(2) A fiduciary organization must maintain separate files for each account holder that, at a minimum, include the following records:

- (a) Documentation of income eligibility;
- (b) The personal development plan;
- (c) The IDA;
- (d) Records of all IDA deposits, withdrawals, and other financial information;
- (e) Evidence of training received;
- (f) Documentation of any determination with respect to the status of the account holder or any beneficiaries;
- (g) Documentation of any exit interviews; and
- (h) Any other information required by the Department.

(3) Fiduciary organizations shall maintain such program plan record-keeping systems and records at their principal place of business in Oregon.

(4) Fiduciary organizations shall maintain program plan records for a period of six (6) years from the date of completion or termination of each account holder's or designated beneficiary's personal development plan and the expiration of the IDA. The Department may require fiduciary organizations to maintain records for longer periods including, without limit, for unresolved audit matters.

(5) The Department, the Office of the Secretary of State, and the Department of Justice shall be permitted to inspect, copy, and audit any and all program plan records and take other action that to them seems appropriate in the conduct of such inspections or audits.

(6) Fiduciary organizations shall file quarterly reports with the Department in form, substance and timing acceptable to the Department.

(7) Quarterly reporting periods end on March 31, June 30, September 30, and December 31 of each calendar year. Unless indicated otherwise by the Department, fiduciary organizations shall deliver quarterly reports to the Department no later than 5:00 p.m. on the last working day within 30 days following the last day of that quarterly reporting period.

(8) In addition to any other information required by the Department, quarterly reports shall include the following:

- (a) Summary demographic data and cumulative totals regarding current account holders;
- (b) IDA deposit and withdrawal data (approved and non-approved) by month, including separately identified matching IDA deposits and withdrawals;
- (c) Documentation of administrative, third-party contractor and other program plan partner costs and disbursements; and

(d) Documentation of tax credit contributions and related funds receipts.

(9) Fiduciary organizations also shall file annual reports with the Department in form, substance and timing acceptable to the Department.

(10) The annual report shall cover the fiscal year of the fiduciary organization and shall be filed by the fiduciary organization with the Department not later than ninety (90) days following the end of each fiscal year of the fiduciary organization. Unless otherwise expressly approved in writing by the Department, each fiduciary organization's fiscal year shall run concurrently with the calendar year, i.e., January 1 through December 31.

(11) At a minimum, fiduciary organization annual reports shall include:

- (a) The number of IDAs administered by the fiduciary organization;
- (b) The amount of deposits and matching deposits for each account;
- (c) The purpose of each account;
- (d) The number of withdrawals made from each account; and
- (e) Any other information the Department may require for the purpose of making a return on investment analysis or for any other purpose of the Department.

(12) Fiduciary annual reports must be in a format approved by the Department that, in addition to providing aggregate and individual IDA data, also collectively identifies and tracks IDAs by the year of their creation and provides collective data for each such yearly class until the last IDA account holder or designated beneficiary of a particular class completes his/her personal development plan and the related IDA expires.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0110

Account Holder and Beneficiary Responsibilities

(1) To be an account holder, eligible persons must apply to a fiduciary organization authorized by the Department and in a manner established by the fiduciary organization as approved by the Department.

(2) Persons selected to be account holders must execute an IDA with their fiduciary organization and, as necessary, with a financial institution, in form and content satisfactory to the Department before they may act as account holders.

(3) Account holders and beneficiaries at all times must comply with applicable law, these rules, applicable orders and directives of the Department and their fiduciary organization, the provisions of their IDA, and their personal development plan.

(4) Account holders at all times must be residents of the State of Oregon. When the account is opened, the applicant to become an account holder must be a member of a lower income household.

(5) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries qualify by residence, income, and age (if applicable) to be account holders or beneficiaries.

(6) Account holders, upon request by the Department or their fiduciary organization, and as otherwise required by the terms of their IDA, must provide evidence satisfactory to the Department and to their fiduciary organization that they and any beneficiaries are complying with the terms of their IDA and its associated personal development plan.

(7) Account holders and their beneficiaries must cooperate fully with the Department and their own fiduciary organization in any review or audit of the IDA, of their personal development plan, or of their eligibility.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0120

Account Holder Use of Funds

(1) Account holders only may withdraw and use IDA deposits in a manner consistent with their IDA, the relevant personal development plan, these rules and any relevant directives of the Department.

(2) Account holders only may withdraw and use IDA deposits for the following purposes as approved by their fiduciary organization:

(a) For the acquisition of post-secondary education or job training;

(b) If the account holder has established the account for the benefit of a designated beneficiary, for the payment of extracurricular non-tuition expenses designed to prepare the designated beneficiary for post-secondary education or job training;

(c) To capitalize a small business;

(d) For the purchase of a primary residence;

(e) With respect to account holder deposits only, for an emergency as set forth in ORS 458.685(2)(a); and

(f) If the account holder has established a qualified tuition savings program account under ORS 348.841 to 348.873 on behalf of a designated beneficiary, the establishment of an additional qualified tuition savings program account on behalf of the same designated beneficiary.

(3) IDA deposits, including the interest earned thereon, withdrawn by the account holder for an emergency as set forth in ORS 458.685 and OAR 813-300-0120(2)(e) above, must be repaid by the account holder within 12 months.

(4) In addition to payment on the purchase price of a residence pursuant to OAR 813-300-0120(2)(d) above, appropriate account moneys may be used to pay any usual or reasonable settlement, financing or other closing costs with respect to such residence.

(5) Account holders may not use IDA deposits to purchase a primary residence if they have owned or held any interest in a residence during the three years prior to making the purchase for which they intend to use IDA deposits. This three year restriction shall not apply in the following:

(a) For displaced homemakers or other individuals who have lost homeownership as a result of divorce.

(b) For a tribal member who has an interest in trust land and still has rights to an allotment under the Dawes Act Public Law 280 and amended in 1891, the 1906 Burke Act and the 1910 Omnibus Act Statutes at Large 24, 388-91, NADP Document A1887, but the tribal member faces multiple ownership of his or her land status and cannot successfully achieve sole ownership in order to receive any equity or collateral from that allotment. If the tribal member solely owns a residence on land known as an allotment and has successfully received sole ownership including the receipt of title status report (TSR) through the Bureau of Indian Affairs, they may not use IDA deposits to purchase a primary residence. If the person can receive more than \$2500 in equity or collateral of their allotment, the value over \$2500 shall be included in their asset limit.

(6) In capitalizing a small business pursuant to OAR 813-300-0120(2)(c) above, IDA deposits may be used for capital, plant, equipment and inventory expenses or for working capital pursuant to a business plan approved by the fiduciary organization. To qualify for fiduciary organization approval, the business plan must have been developed by a financial institution, a nonprofit microenterprise program or other qualified agent demonstrating business expertise. The business plan also must include a description of the services or goods to be sold, a marketing plan and projected financial statements.

(7) Account holders must repay moneys improperly taken from IDA deposits including the interest earned thereon, when required by their fiduciary organization or by the Department.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 458.670-458.700

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03; OHCS 9-2003, f. & cert. ef. 12-19-03

813-300-0130

Voluntary Termination of a Fiduciary Organization

(1) Any fiduciary organization and the Department may terminate that fiduciary organization's program plan and its authorization as a fiduciary organization upon thirty (30) days notice by written mutual consent.

(2) In determining whether or not to provide its termination consent, the Department may consider factors including, but not limited to the following:

(a) The financial and organizational capacity of the fiduciary organization to continue;

(b) The impact of the termination upon account holders and designated beneficiaries;

(c) The past performance of the fiduciary organization;

(d) The current eligibility of the fiduciary organization;

(e) The ability and willingness of the fiduciary organization to transfer account holder IDAs and related personal development plans, and the management and funding of same, to other fiduciary organizations;

(f) The ability and willingness of the fiduciary organization to transfer tax credit contributions, related funds, and other moneys to other fiduciary organizations in support of the transfer of account holder IDAs and related personal development plans;

(g) The willingness of account holders and designated beneficiaries with respect to termination of the fiduciary organization; and

(h) Whether or not the fiduciary organization has delivered to the Department any unused tax credit contributions, related funds and any other moneys.

(3) The Department may condition its consent upon such terms and conditions as seems reasonable, including without limit, that the fiduciary organization continue to perform with respect to any or all existing IDAs.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0140

Financial Institutions

Financial Institutions shall secure and maintain IDA deposits in accordance with law and the terms of the applicable IDA.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0150

Tax Credit Contributor

(1) Contributors to an approved fiduciary organization may qualify for an Oregon IDA tax credit.

(2) The maximum contribution from a single taxpayer within a particular year that may qualify for an Oregon IDA tax credit is \$100,000.

(3) The maximum amount of tax credit allowable to a single taxpayer within a particular year is \$75,000.

(4) Contributions from contributors not utilizing an Oregon IDA tax credit may be eligible for a charitable deduction against taxable income.

(5) The Department makes no representation on whether or not specific contributions qualify for an Oregon IDA tax credit. In all cases, contributors are encouraged to seek professional advice to determine the actual tax ramifications of their contribution.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0160

Department Regulation and Enforcement

(1) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(2) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(3) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(4) The Department may limit, suspend, revoke or terminate its authorization of a fiduciary organization. In addition to, or in lieu of, such action, the Department may require the fiduciary organization to take appropriate remedial action including, without limitation, to complete any or all IDA's current at the time of revocation or termination, to return supplemental funds to the Department, to transfer contributions as required by the Department, and to meet such other requirements and submit to such audits and reviews as the Department deems appropriate.

(5) The Department may refuse to approve any proposed fiduciary organization action requiring such approval. The Department also may condition its approval of any proposed fiduciary organization action requiring such approval.

(6) The Department may require fiduciary organizations to terminate or revise contracts or other engagements with any financial institution, third-party contractor or other program plan partner.

(7) The Department may require the termination of any individual development account. The Department may require the transfer of any individual development account, including related deposits, from one fiduciary organization to another or to such other fiduciary as the Department determines to be appropriate.

(8) The Department may audit any fiduciary organization, any third-party contractor, and any other program plan partner. The Department also may inspect and copy IDA program documents in the possession or under the control of such entities including, without limitation, any individual development account, any contract or other IDA program agreement, and any personal development plan.

(9) The Department may suspend, terminate or require modifications in personal development plans.

(10) The Department, on its own initiative or at the request of an aggrieved party, may review fiduciary organization decisions with respect to individual development accounts, including but not limited to decisions to withdraw matching funds from individual development accounts or to suspend or terminate matching deposits to deposits made by the account holder.

(11) The Department may suspend, overturn or modify fiduciary organization decisions with respect to individual development accounts including, but not limited to funding decisions.

(10) The Department, on its own initiative or at the request of any aggrieved party, may review other fiduciary organization decisions with respect to program plan matters including, without limitation, decisions made through third-party contractors and other program plan partners.

(11) The Department may suspend, overturn or modify fiduciary organization program plan decisions.

(12) The Department may limit the number of authorized fiduciary organizations eligible to collect tax credit contributions and may limit the amount of tax credit contributions that specific fiduciary organizations may receive in any particular time-period.

(13) The Department may take such other action to regulate and enforce compliance with the IDA program, including these rules, as the Department determines to be necessary or appropriate.

(14) Factors that the Department may consider in taking any regulatory or enforcement action under these rules may include, but are not limited to the following:

(a) Those factors identified in these rules for the authorization of fiduciary organizations;

(b) A person or entity's compliance with these rules and other relevant law;

(c) The efficient and effective operation of the IDA program;

(d) The integrity of account management; and

(e) The best interests of account holders and designated beneficiaries.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0170

Administrative Review

(1) Account holders and designated beneficiaries aggrieved by any decision of a fiduciary organization to suspend or terminate the account holder's IDA, any decision by the fiduciary organization to suspend or terminate a personal development plan, any decision by the fiduciary organization to withdraw matching IDA deposits, or any decision by the fiduciary organization requiring the account holder to repay withdrawn IDA deposits, may request administrative review by the Department.

(2) The request for administrative review must be in writing, stating the nature of the decision, the reasons why the aggrieved party disagrees with the decision, and the nature of the requested relief.

(3) The request for administrative review must be delivered to the Department within thirty (30) days from the date that the aggrieved party receives written notice of the decision by the fiduciary organization.

The aggrieved party simultaneously shall provide a copy of the request for administrative review to the fiduciary organization.

(4) Upon receipt of an appropriate request for administrative review, the Department will make such investigation of the matter as it determines to be appropriate. In making any such investigation, the Department may require and receive from the parties or other participants in the program plan any additional information or require such other proceedings as it deems appropriate.

(5) The Department will provide its written determination on the request for administrative review following the completion of its investigation. The Department also may issue such preliminary orders as it deems appropriate pending the issuance of its written determination.

(6) In its written determination, or in any preliminary order, the Department may reverse, revise, stay, or approve the decision at issue made by the fiduciary organization.

(7) The Department also may enforce its written determinations and preliminary orders by such action as it deems appropriate.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

813-300-0180

Waiver

The Department may waive or modify any requirements of OAR 813, division 300, unless such waiver or modification would violate applicable federal or state law.

Stat. Auth.: ORS 456.555, ORS 456.625 & ORS 458.700.

Stats. Implemented: ORS 315.271 & ORS 458.670-ORS 458.700.

Hist.: OHCS 12-2002(Temp), f. & cert. ef. 10-8-02 thru 4-5-03; OHCS 1-2003, f. & cert. ef. 4-4-03

DIVISION 310

SUBSIDIZED DEVELOPMENT VISITABILITY

813-310-0005

Purpose and Objective

OAR 813, division 310 is promulgated to accomplish the general purposes of ORS 456.506 through 456.514, visitability requirements for subsidized development.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0010

Applicability

These rules apply to the new construction of one or more rental housing units receiving development subsidies from the Department as described in ORS 456.508(7). Covered housing units include Department subsidized townhouses as well as other forms of rental housing. These rules also apply to group homes. These rules do not apply to homeownership housing, to farmworker housing located on a farm or to the acquisition, alteration, renovation or remodeling of existing structures. The visitability requirements are not the same as federal, or state accessibility or adaptability requirements.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0015

Federal and State Requirements Resolution

Where other state and federal accessibility requirements apply, including but not limited to the Americans with Disabilities Act requirements, that differ from these visitability requirements and both apply to a subsidized development project, the more stringent requirements shall control. It should be noted that there are other accessibility requirements established in state and federal law. Chief among these are the **Oregon Structural Speciality Code**, and when applicable, the Americans with Disabilities Act or Uniform Federal Accessibility Standards. Pursuant to state code requirements, public and common use areas and facilities such as recreational facilities, laundry facilities, garbage and recycling collection areas, mailbox locations, lobbies, foyers and management offices shall be accessible in applicable multifamily housing. (chapter 11, division I — Building Accessibility, New Construction, Group R Occupancies, Section 1106.1.10—General, Oregon Structural Speciality Code).

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183 & 456.514
Stats. Implemented: ORS 456.506 – 456.514
Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0020

Definitions

All words and terms used in OAR 813, division 310, are defined as follows:

(1) “Accessible” means, as defined in ORS 456.508(1), that housing complies with federal accessibility guidelines implementing the Fair Housing Amendments Act of 1988, 42 U.S.C. 3601 et seq., as amended and in effect on January 1, 2004.

(2) “Accessible powder room” means a powder room that meets the requirements for accessibility set forth in the Oregon Structural Specialty Code as of July 1, 2004, and where applicable, the Americans with Disabilities Act or Uniform Federal Accessibility Standards as of July 1, 2004. Accessibility requirements include the provision of greater maneuverability in a powder room than is provided by visibility requirements.

(3) “Adaptable powder room” means a powder room in which the fixture design, clear floor space, and wall reinforcing meet the requirements set forth in Division III — Covered Multifamily Dwellings, Section 1110.6.4 Toilet and Bathing Fixtures of the Oregon Structure Specialty Code as of July 1, 2004.

(4) “Common living space” means, as defined in ORS 456.508(2), a living room, family room, dining room or kitchen.

(5) “Contiguous units” means, as defined in ORS 456.508(3), units that are on the same tax lot or on contiguous tax lots that have a common boundary. Tax lots that are separated by a public road are contiguous tax lots for purposes of these rules.

(6) “Curb ramp” means a short ramp cutting through curb or built up to it.

(7) “Group home” means a single-family residence intended to house eight or fewer unrelated people as determined by the Department on a case by case basis. For purposes of this division, a group home is defined as a single dwelling unit.

(8) “Maximum threshold height” for an entrance or doorway means the maximum vertical distance between the top of the threshold and the adjacent interior or exterior floor surface.

(9) “New” means, as defined in ORS 456.508(4), that the housing being constructed did not previously exist in residential or non-residential form. “New” does not include the acquisition, alteration, renovation or remodeling of an existing structure.

(10) “Oregon Housing and Community Services,” “Department” and “OHCS” mean the Oregon Housing and Community Services Department of the State of Oregon.

(11) “Powder room” means, as defined in ORS 456.508(5), a room containing at least a toilet and a sink.

(12) “Ramp” means a traveling surface that has a running slope of greater than one unit vertical in 20 units horizontal.

(13) “Ramp slope” means the ratio of vertical rise (y) of a ramp to its horizontal run (x).

(14) “Rental housing” means, as defined in ORS 456.508(6), a dwelling unit designed for non-owner occupancy under a tenancy typically lasting six months or longer. For purposes of this division, rental housing also means month to month and fixed-term tenancies and transitional housing, but not emergency housing.

(15) “Shared community room” means an indoor space for common use by tenants or visitors that can be used for tenant meetings, education or recreation. A shared living room in a group home is not considered to be a shared community room.

(16) “Significant amount of financial aid” as contributed by another government agency to a subsidized development means either:

(a) 25 percent or more of the anticipated total development cost at the time of initial funding, or

(b) Project based rental assistance for a minimum of 50 percent of the units for an anticipated period of multiple years.

(17) “Subsidized development” means:

(a) As defined in ORS 456.508(7), rental housing that receives one or more of the following development subsidies from the Oregon Housing and Community Services Department.

(A) The federal low-income housing tax credit under 26 U.S.C. 42(a), if no part of the eligible basis prior to the application of 26 U.S.C. 42(i)(2)(B) was financed with an obligation described in 26 U.S.C. 42(h)(4)(A), all as amended and in effect on January 1, 2004;

(B) A farmworker housing tax credit, as described in ORS 315.164;

(C) A loan that qualifies the lending institution for a subsidized housing loan tax credit, as described in ORS 317.097;

(D) Funding under the federal HOME Investments Partnership Act, 42 U.S.C. 12721 to 12839, as amended and in effect on January 1, 2004;

(E) Moneys from the Oregon Housing Trust Fund created under ORS 458.620; or

(F) Moneys from other grant or tax incentive programs administered by the Oregon Housing and Community Services Department under ORS 456.559.

(b) Does not include housing that is not receiving funding from a development subsidy described in OAR 813-310-0020(17)(a) and has been subsidized with OHCS bond financing, for purposes of these rules.

(18) “UBC Requirements” means requirements found in Chapter 11 of the State of Oregon Structural Specialty Code, as of July 1, 2004. (Based on the Uniform Building Code).

(19) “Undue costs” means construction costs that, as determined by the Department, are unreasonably in excess of the costs normally associated with meeting the Department’s architectural requirements, but otherwise would be necessary to meet the requirements of these rules. Undue costs include without limitation those costs that exceed \$1,000 above the costs necessary to meet Department architectural standards without the requirement of this division when calculated on a unit by unit basis. (For example, the Department has the expectation that town homes have both a front and rear exterior entrance. The cost of providing a clear visible path to a visible entrance would not include the door itself. The cost could include ramping and the incremental cost of a larger door.) Undue costs for a community powder room includes costs that exceed \$2,000 for visitability alterations. The Department may grant an exemption or partial exemption from any part of the visitability requirements for undue cost reasons even when excess costs are below \$1,000 per unit or \$2,000 for a community powder room, if the Department determines the situation is justified based on factors including, but not limited to:

(a) The cost of a specific alteration relative to the visitability achieved thereby.

(b) The existence of alternative visitability comparable to that to be achieved by the alteration.

(20) “Undue constraints” means financial or other factors that in the determination of the Department may inappropriately limit the development or its operation. An oddly shaped property, for example, may justify consideration for exemption from the visitability requirements regarding external ramps. Another example may be the security or staffing associated with having 24-hour availability for the community powder room. Factors the Department may consider in making such a determination include, but are not limited to:

(a) Whether applying these rules may result in a loss of units.

(b) Whether applying these rules may result in a need to raise rents by a significant amount (loss of affordability);

(c) Whether applying these rules may result in a significant increase in maintenance or ongoing expense.

(21) “Visitable” means, as defined by ORS 456.508(8), capable of being approached, entered and used by individuals with mobility impairments, including but not limited to individuals using wheelchairs.

(22) “Visitable exterior route” means a visitable route of travel between the site perimeter and a visitable unit entrance. For example, in a multistory structure with an elevator, this means a route from the building entrance to a specific unit entrance. It also refers to a route of travel between a visitable unit and common use areas such as parking, lobbies, mailboxes, management offices, recreational facilities, laundries, and garbage and recycling areas.

(23) “Visitable interior route” means a visitable route inside a visitable unit.

(24) “Walk” means an exterior pathway with a prepared surface intended for pedestrian use including general pedestrian areas such as plazas and courts.

[Publications: Publications referenced are available from the agency.]
Stat. Auth.: ORS 183 & 456.514
Stats. Implemented: ORS 456.506 – 456.514
Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0025**Visitability Requirements**

Except as provided in ORS 456.513 and consistent with these rules, the Department may not provide funding for the development of new rental housing that is a subsidized development unless:

(1) Each dwelling unit of the housing meets the following requirements:

(a) At least one visitable exterior route leading to a dwelling unit entrance that is stepless and has a minimum clearance of 32 inches.

(b) One or more visitable routes between the visitable dwelling unit entrance and a visitable common living space.

(c) At least one visitable common living space.

(d) One or more visitable routes between the dwelling unit entrance and a powder room.

(e) A powder room doorway that is stepless and has a minimum clearance of 32 inches.

(f) A powder room with walls that are reinforced in a manner suitable for handrail installation. For purposes of this paragraph, handrail means grab bar.

(g) Light switches, electrical outlets and environmental controls that are at a reachable height.

(2) For a development that has a shared community room or that has 20 or more contiguous units, there is at least one community powder room available for all tenants and guests that is accessible, except as provided by OAR 813-310-0030(2). This requirement does not apply to group homes.

(3) For a multi-story structure without an elevator, this section applies only to dwelling units on the ground floor of the structure.

(4) The visitability requirements of ORS 456.510 enumerated in this section do not apply to farmworker housing located on a farm.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0030**Community Powder Room**

(1) Except as provided by subsection (2) of this section, the required community powder room shall be available for use 24-hours per day, 7 days per week. This availability may be provided by on-site or on-call staff, through the use of keys, keypads or electronic code locks, or by other means, as approved by the Department.

(2) Group homes are exempt from the community powder room requirements.

(3) A subsidized development shall also be exempt from the requirement to make the required community powder room available for use 24-hours per day if justification is provided to the Department demonstrating that all of the visitable units in the development include an adaptable powder room that meets the requirements of OAR 813-310-0025 and also has at least one grab bar. The grab bar shall be installed on the wall beside the toilet and shall meet ADA standards as of July 1, 2004, for proper installation, diameter and length. (In considering whether all the units of a subsidized development have met the provisions of this subsection, the Department will exclude units that have already been given a full exemption from the powder room visitability requirements.) In addition to providing adaptable powder rooms in visitable units, an applicant requesting this exemption shall provide a list to OHCS of the hours that the community powder room will be available. Where the Department grants an exemption under this provision, the Department shall encourage that subsidized development to provide access upon request to any community powder room, where feasible.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0035**Visitable Exterior Route Requirements**

Each visitable unit must be connected to common use areas (such as parking, lobbies, mailboxes, management offices, recreational facilities, laundries and garbage and recycling areas) by a visitable exterior route.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0040**Walk, Ramp, Handrail and Curb Ramp Requirements**

To satisfy the visitability requirements of this division, relevant walks, ramps, handrails and curbs must meet requirements as follows:

(1) Walks. Walks along a visitable exterior route shall meet the following criteria:

(a) Width. The minimum clear width of a walk shall not be less than 36 inches.

(b) Slope and Rise. The slope of a walk shall not exceed one unit vertical in 20 units horizontal (5% slope).

(c) Cross Slope. The cross slope of a walk shall not exceed one unit vertical in 33 units horizontal (3% slope).

(d) Edge Protection. Along a visitable exterior route, a continuous 2 inch high curb shall be required on both sides of walks that are 12 inches or higher above the adjacent grade. This applies to both flat and sloped portions of walks, regardless of size, as well as flat areas such as plazas and courts. Along a sloped walk, a portion of which requires a curb, the height of the curb shall gradually taper until the walk is no higher than 2 inches above adjacent grade.

(2) Ramps. Ramps along a visitable exterior route shall meet the following criteria:

(a) Width. The minimum clear width of a ramp shall not be less than 36 inches.

(b) Slope. The maximum slope of a ramp shall not exceed one unit vertical in 12 units horizontal (8.33% slope). The maximum rise for any run shall be 30 inches.

(c) Cross Slope. The cross slope of a ramp shall be a maximum of one unit vertical in 33 units horizontal (3% slope).

(d) Surface. Ramps along a visitable exterior route shall have a firm, stable, slip resistant surface.

(e) Landings. Ramps along a visitable route shall have landings at the top and bottom, and at least one intermediate landing for each 30 inches of rise. Landings shall have a minimum dimension, measured in the direction of travel of 60 inches. The width of any landing may not be less than the width of the ramp. Where the ramp changes direction, the minimum size of the ramp shall be 60 inches by 60 inches.

(3) Curb Ramps. Curb ramps shall be required where curbs lie along a visitable route.

(a) Width. Curb ramps shall have a minimum width of 36 inches.

(b) Slope. Curb ramps shall have a maximum slope of 1 unit vertical to 12 units horizontal. Transitions from curb ramps to walks, gutters and vehicular ways shall be flush and free of abrupt changes in height.

(c) Side Slopes. Curb ramps located where pedestrians must walk across the ramp shall have sloped sides whose slope does not exceed 1:10.

(d) Surfaces. Curb ramps along visitable exterior routes shall have a firm, stable, slip resistant surface.

(e) Location. Curb ramps shall be built so as not to project into vehicular ways or be located within accessible parking spaces.

(4) Handrails. Ramps with a total rise of 12 inches or less or a horizontal projection of 144 inches or less are not subject to the handrail requirement. The handrail requirement must be met on all other ramps. Where handrails are required, the handrail must meet the requirements set forth in chapter 11, division II-Element Requirements, Section 1109.10.11.3, Structural Strength, of the Oregon Structural Specialty Code as of July 1, 2004. Handrails shall have an outside diameter of not less than 1 1/4 inches or more than 2 inches, a 1 1/2 inch clear distance between the handrail and an adjacent wall, and must extend the full length of the ramp, including the landing. Unless otherwise required by federal or state code, a handrail on one side of the exterior visitable route is sufficient and need not include extensions beyond the length of the ramp and landing.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0045**Visitable Exterior Unit Entrance Requirements**

Visitable exterior unit entrances to dwelling units shall meet the following criteria:

(1) Adjacent Surfaces. Each visitable entrance shall have a flat surface immediately adjacent to and level with the entrance. On the exterior, the surface may be sloped for drainage at a rate of no greater than 1 unit vertical to 50 units horizontal (2% slope). The surface shall

be at least 36 inches wide. It shall be at least 48 inches deep in the direction of travel on the push side of the door and not less than 60 inches deep in the direction of travel on the pull side of the door. Where the door is not in the direction of travel, the minimum size of the flat surface shall be 60 inches by 60 inches.

(2) Exterior Door Width. An exterior door shall have a clear opening of at least 32 inches.

(3) Threshold. The maximum threshold height shall be 3/4 inch for exterior sliding doors and 1/2 inch for all other exterior doors. The threshold shall be beveled down to the adjacent surface at a slope not steeper than 1:2.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0050

Visible Interior Route and Doorway Requirements

(1) Hallways along a visitable route shall have a minimum clearance of 36 inches, and doorways along that route shall have a minimum clearance of 32 inches.

(2) The maximum threshold height for visitable interior doors shall be 1/2 inch. The threshold shall be beveled down to the adjacent surface at a slope not steeper than 1:2.

(3) The visitable powder room doorway shall have either an exterior swing door, a pocket door, or an interior swing door. An exterior swing door shall not block access along the visitable interior route, in the Department's determination. An interior swing door shall not block the reasonable use of the fixtures in the powder room, in the Department's determination.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0055

Light Switches, Electrical Outlets and Environmental Control Requirements

Light switches, electrical outlets and environmental controls in the dwelling units shall be installed no lower than 15 inches, or any higher than 48 inches, above the adjacent floor level.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0060

Group Home Visitability Requirements

Group homes are generally considered to be a single unit. Consequently, as with a single unit, these rules require only one visitable exterior route, one visitable entrance, and one powder room with a visitable interior route and a visitable doorway for a group home. The shared space in a group home is not considered to be a shared community room as defined in OAR 813-310-0020(15) and is not subject to the visitability and availability requirements outlined in OAR 813-310-0025(1)(b) and 813-310-0030 for shared community rooms.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0065

Exemptions

The Department shall exempt new rental housing that is a subsidized development from compliance with the requirements of OAR 813-310 if the Department determines that the exemption is warranted by:

(1) The topography at the construction site. An exemption or partial exemption from these rules may be considered where topography or other considerations (flood plains, conservation areas) are determined by the Department to make compliance impracticable. Undue expense resulting from adjustments to accepted construction methods arising from specific site conditions might also qualify for an exemption. For example, providing both an exterior visitable route and adequate drainage at the building perimeter on a flat site may require unusual foundation design that unreasonably adds to project cost.

(2) Community and design standards. Community and design standards, refer to local government development codes or to previously adopted and binding CCRs (covenants, conditions and restrictions). They do not refer to neighborhood or project management design preferences. Where possible, projects should adapt to meet the community and design standards and all visitability requirements. If

new community and design standards are imposed after a project has already been submitted for funding by the Department and the Department determines that the new standards conflict with the visitability requirements of this division, an exemption may be granted for the project.

(3) Undue costs or constraints (see the definitions at OAR 813-310-0020(19) and (20)); or

(4) Conflicting funding requirements of another government agency if the agency contributes a significant amount of financial aid for the housing (see the definition at OAR 813-310-0020(16)).

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0070

Application for Exemptions from Visitability Requirements

(1) To request an exemption from any rule under Chapter 813-310, the applicant must complete an OHCS Exemption Request Form. Exemption Request Forms may be obtained by contacting the OHCS Housing Resources Section. They are also available on the OHCS website at: <http://www.hcs.state.or.us/>.

(2) In requesting an exemption, an applicant must list the category of each visitability exemption as described in OAR 813-310-0080 and must submit a written statement providing thorough justification about why each exemption is needed. An applicant may seek exemption pursuant to more than one exemption category. Consistent with the category of the requested exemption or exemptions, the written statement should include information regarding topographic conditions, community and design standards, construction costs, constraints, sources of funding or other matters as necessary to adequately describe the circumstances relating to the exemption request. If the exemption request is based upon design standards, the written statement shall address whether it would be reasonably possible to obtain from the local government an exemption from the local design standard. In addition, the statement shall indicate whether the applicant is seeking a full or partial exemption.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0075

Approval or Disapproval of Requested Visitability Exemptions

(1) The Department may grant exemptions to the visitability requirement of this division in a manner and to a degree consistent with these rules, acting on its own initiative or at the request of an applicant for a development subsidy.

(2) The final approval of an exemption or partial exemption request may be given for more or less than requested. Partial exemptions may be granted as follows:

(a) Partial exemption from meeting all of the visitability requirements. The Department may grant an exemption for one aspect of the visitability requirements without granting exemption from other visitability requirements. For example, an exemption from exterior visitability requirements may be granted for topographical reasons, without exempting interior visitability requirements.

(b) Partial exemption from full compliance with visitability requirements — The Department may grant a partial exemption from full compliance with any visitability requirement. For example, a ramp that cannot meet the visitability standard may be given a partial exemption that still requires the ramp to meet a certain standard which in the determination of the Department is the best that can be achieved under the circumstances.

(c) Partial exemption for one or more units. The Department may grant an exemption or partial exemption for one or more of the units in a development. For example, it may be that one unit in a development requires an exemption while others do not merit such an exemption.

Stat. Auth.: ORS 183 & 456.514

Stats. Implemented: ORS 456.506 – 456.514

Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0080

Classifying Exemptions

For administrative purposes including without limitation, for purposes of justification, record keeping and analysis of exemptions, the Department may classify exemptions into the following categories, or combination of such categories:

(1) Topography.

- (2) Funding conflicts.
- (3) Undue cost.
- (4) Undue constraint.
- (5) Initial project rejection (see OAR 813-310-0095).
- (6) Community and design standards.
- (7) With regard to the availability of the community powder room, the provision of adaptable powder rooms with grab bars in each visitable unit.

Stat. Auth.: ORS 183 & 456.514
 Stats. Implemented: ORS 456.506 – 456.514
 Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0085

Exemption Request Timing

(1) Exemptions may be requested by an applicant or allowed by the Department at any time during the development of a project prior to the issuance of a certificate of occupancy. The Department encourages exemption requests prior to the submittal of Consolidated Funding Cycle applications as this enables more realistic budgeting. However, this may not always be possible. For example, a city may impose a design standard through the plan review process after the Consolidated Funding Cycle awards have been made.

(2) An exception to this timing deadline will be allowed to request an exemption from the 24-hour availability requirement for a community powder room, as there may be operational issues that arise after occupancy that were not considered during the design or building stages of the project. Such an exemption request may be made and considered at any time during the life of the project.

Stat. Auth.: ORS 183 & 456.514
 Stats. Implemented: ORS 456.506 – 456.514
 Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0090

Good Faith

An applicant who requests an exemption from the requirements of these rules must act in good faith in making the request and in performing any action prior to and related to the request, including the creation of the conditions that support the need or justification for an exemption.

Stat. Auth.: ORS 183 & 456.514
 Stats. Implemented: ORS 456.506 – 456.514
 Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0095

Exemption for Funding Rejection Prior to July 1, 2004; Continued Funding

Until July 1, 2006, the Department may exempt projects that were submitted and rejected for Consolidated Funding Cycle funding prior to the effective date of these rules, July 1, 2004, if compliance with these rules would add significant cost to development of the re-submitted project. The Department may continue to provide funding after July 1, 2006, to complete any project approved for funding prior to July 1, 2006.

Stat. Auth.: ORS 183 & 456.514
 Stats. Implemented: ORS 456.506 – 456.514
 Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0100

Remedies

At their own expense, applicants, owners or developers of any development subject to the rules of this division shall prepare, execute and record, in form, manner and content as the Department may require, such documents as the Department may require, including but not limited to restrictive covenants addressing among other things the development and maintenance of visitability standards. In addition to any other rights arising thereunder, or otherwise available at law, the Department may withhold the reimbursement of development subsidies because of noncompliance with the terms of those documents.

Stat. Auth.: ORS 183 & 456.514
 Stats. Implemented: ORS 456.506 – 456.514
 Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0105

Effective Date

The rules in OAR 813-310 become operative July 1, 2004.

Stat. Auth.: ORS 183 & 456.514
 Stats. Implemented: ORS 456.506 – 456.514
 Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

813-310-0110

Waiver

The Department may waive or modify any requirement of OAR 813-310, unless such waiver or modification would violate applicable state or federal statutes or regulations.

Stat. Auth.: ORS 183 & 456.514
 Stats. Implemented: ORS 456.506 – 456.514
 Hist.: OHCS 3-2004, f. & cert. ef. 6-28-04

DIVISION 350

GENERAL GUARANTEE PROGRAM

813-350-0005

Purpose and Objectives

OAR 813, division 350 is promulgated to accomplish the general purposes of ORS 456.515 to 456.725, and more specifically, of 456.625(12) and 456.625(16), which respectively authorize the Department to implement actions that the Department deems necessary or appropriate to carry out housing and community services programs, and to employ certain funds, *inter alia*, for loan guarantees. The General Guarantee Program as set forth in this Division establishes the process by which the Department may provide such loan guarantees to lenders, and lease guarantees to sponsors and leasing companies for the development of suitable housing for low and very-low income families and individuals including, but not limited to, disabled persons, farmworkers, and ex-offenders.

Stat. Auth.: ORS 183, 456.555(2), 456.625(12)(16)
 Stats. Implemented: ORS 456.625(12)(16)
 Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

813-350-0010

Definitions

(1) Words and terms are used in OAR 813, division 350, consistently with definitions in the Act, in OAR 813-005-0005 and herein.

(2) As used in OAR 813, division 350, unless otherwise indicated by the context:

(a) “Control” means the ownership, management, or maintenance of a housing project;

(b) “Employer(s)” also means relatives, agents, or associations of employers;

(c) “Ex-Offender” means an offender returning to the community from prison or from local control jail sentences.

(d) “Farmworker” means any person working in connection with: cultivating the soil, raising or harvesting any agricultural or aquacultural commodity; catching, netting, handling, planting, drying, grading, storing, or preserving in its unmanufactured state any agriculture or aquaculture commodity; delivering to storage, market, or a carrier for transportation to market, or to processing, any agriculture or aquaculture commodity; forestation or reforestation of land, including but not limited to, the planting, transportation, tubing, precommercial thinning of trees and seedlings, the clearing, pulling, and disposal of brush and slash, and other related activities; or as otherwise determined by the Department in the exercise of its authority;

(e) “Leasing Company” means a bank, finance company, or other person or entity, that in the ordinary course of business, acquires goods or the right to possession and use of goods and transfers the right to possession and use of such goods under a lease;

(f) “Lender” means financial institutions, including but not limited to, state and federal regulated banks, credit unions, savings and loans, savings banks, finance companies, life insurance companies, pension funds, mortgage bankers, and other public or private lending consortiums;

(g) “Low Income” means an individual or 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 Department based on information including, but not limited to data from the United States Department of Housing and Urban Development, with allowances for family size;

(h) “Very-Low Income” means an individual or household with an adjusted annual household income that is 50 percent or less of the area median income, as determined by the Department based on information including, but not limited to data from the United States Department of Housing and Urban Development, with allowances for family size.

Stat. Auth.: ORS 183, 456.555(2), 456.625(12)(16)

Stats. Implemented: ORS 456.515–456.725
Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

813-350-0020

Source of Guarantee Funding

The Department may provide loan and lease guarantees under this Division from:

(1) Unrestricted cash and investments of the Department made available for use as loan and lease guarantees, not needed for operations of the Department and not otherwise determined by the Director to be a necessary or prudent reserve;

(2) Resources made available to the Department for loan and lease guarantees from other financial institutions, including but not limited to, Federal Home Loan Bank and Fannie Mae; and,

(3) Appropriations for this purpose.

Stat. Auth.: ORS 183.456.555(2), 456.625(12)(16)

Stats. Implemented: ORS 456.515–456.725

Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03

813-350-0030

Eligibility for Guarantees

(1) The Department may provide guarantees for the partial repayment of loans made by lenders to finance the construction, development, acquisition, and/or rehabilitation of, and/or for the partial repayment of leases made by sponsors or leasing companies to facilitate the equipping, development or operation of:

(a) Suitable housing for low and/or very-low income persons and households including, but not limited to, suitable housing for disabled

persons, farmworkers, and suitable transitional housing for ex-offenders;

(b) The commercial component of a structure that contains both commercial property and suitable housing for low and/or very-low income individuals and households; or

(c) Both (a) and (b).

(2) The Department may not:

(a) Issue any loan guarantee under this Division that guarantees the repayment of more than 25 percent of any qualifying loan obligation;

(b) Issue any loan or lease guarantee under this Division equal to or in excess of \$100,000 without obtaining the prior approval of the Housing Council;

(c) Issue any single loan or lease guarantee under this Division in excess of \$1,000,000;

(d) Issue loan and lease guarantees under this Division in an aggregate outstanding amount in excess of \$4,000,000; and

(3) The Department may choose at any time not to maximize its loan and/or lease guarantee authority under this Division.

Stat. Auth.: ORS 183.456.555(2), 456.625(12)(16)

Stats. Implemented: ORS 456.515–456.725

Hist.: OHCS 2-2003, f. & cert. ef. 5-1-03; OHCS 8-2003(Temp), f. & cert. ef. 10-13-03 thru 4-9-04; OHCS 1-2004, f. & cert. ef. 4-8-04

813-350-0040