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### DIVISION 1

#### PROCEDURAL RULES

##### 695-001-0000

###### Notice Rule

Prior to adoption, amendment or repeal of any rule, the Oregon Watershed Enhancement Board will give notice of the intended action:

(1) In the Secretary of State's Bulletin referred to in ORS 183.360 at least 21 days before the effective date of the intended action.

(2) By mailing a copy of the notice to persons on the Oregon Watershed Enhancement Board's mailing list established pursuant to ORS 183.335(8) at least 28 days prior to the effective date.

(3) By mailing or furnishing a copy of the notice at least 28 days prior to the effective date to:

(a) Organizations:

(A) Watershed Councils and Watershed Interest Groups;

(B) Soil and Water Conservation Districts;

(C) Such other environmental and resource interests who have expressed an interest in the Oregon Watershed Enhancement Board Program; and

(D) The Nine Federally Recognized Indian Tribes.

(b) State Agencies:

(A) Agriculture, Department of;

(B) Environmental Quality, Department of;

(C) Fish and Wildlife, Department of;

(D) Forestry, Department of;

(E) Water Resources Department;

(F) Geology and Mineral Industries, Department of;

(G) Governor's Office, Assistant for Natural Resources;

(H) Health Division, Department of Human Resources;

(I) Land Conservation and Development;

(J) Parks and Recreation Department;

(K) Department of Transportation;

(L) Oregon Department of Education;

(M) State Lands, Department of; and

(N) Oregon State University Extension Service Watershed Group.

(c) Federal Agencies:

(A) Bureau of Land Management;

(B) Corps of Engineers;

(C) Bureau of Reclamation;

(D) Forest Service;

(E) Environmental Protection Agency;

(F) Natural Resources Conservation Service;  
(G) NOAA Fisheries;  
(H) The US Fish and Wildlife Service;  
(I) The Bonneville Power Administration;  
(J) The Northwest Power and Conservation Planning Council;  
and

(K) Other public agencies with similar resource responsibilities or who have expressed an interest in the OWEB Program.

(d) News Media.

(4) By mailing or furnishing a copy of the notice at least 49 days prior to the effective date to the appropriate legislators under 183.335(15).

Stat. Auth.: ORS 183

Stats. Implemented: ORS 541.890 - 541.965

Hist.: GWEB 2-1987(Temp), f. & ef. 8-27-87; GWEB 4-1987, f. & ef. 10-20-87; GWEB 1-1997, f. & cert. ef. 10-29-97; OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

##### 695-001-0005

###### Model Rules of Procedure

The *Oregon Attorney General's Model and Uniform Rules of Procedure*, January 2004 edition, were adopted by the Oregon Watershed Enhancement Board on September 14, 2004 and will be followed in all matters except where a different procedure is prescribed by statute.

[ED. NOTE: The full text of the Attorney General's Model Rules of Procedure is available from the office of the Attorney General or the Watershed Enhancement Board.]

Stat. Auth.: ORS 183, 541 & Ch. 734, OL 1987

Stats. Implemented:

Hist.: GWEB 1-1987, f. & ef. 8-27-87; GWEB 1-1989, f. & cert. ef. 3-9-89; GWEB 1-1992, f. & cert. ef. 6-29-92; OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

### DIVISION 3

#### PUBLIC RECORDS ACCESS AND REPRODUCTION

##### 695-003-0010

###### Purpose

These rules govern implementation by the Oregon Watershed Enhancement Board (OWEB) of the public records law, ORS 192.410 to 192.505, including fees for recovery of the actual costs involved in making public records available and in providing copies of public records, pursuant to ORS 192.440.

Stat. Auth.: ORS 541.906, 192.430 & 192.440

Stats. Implemented: ORS 192.410 - 192.505

Hist.: OWEB 1-2008, f. & cert. ef. 3-25-08

##### 695-003-0020

###### Requests to Inspect or Obtain Copies of Public Records

(1) The right to review public records includes the right to review the original public record where practicable. The requester does not have a right to personally locate the public record or to review portions of the public record that are exempt from disclosure pursuant to ORS 192.501 to 192.505.

(2) A request to inspect or obtain copies of a public record or information from public records must be made in writing to the Public Records Coordinator at the Oregon Watershed Enhancement Board, 775 Summer Street NE, Suite 360, Salem, OR 97301-1290, and must include:

(a) The name, mailing address, email address, and telephone number of the requester;

(b) Identification of the needed public record or of the type and format of needed public record information, if known to the requester;

(c) The time period the records or information were produced, and the officials involved in producing the records or relevant information, if known to the requester; and

(d) The number of copies for each item requested of the record, if copies are requested.

(3) OWEB will make all its public records, not otherwise exempt from disclosure by law, available for inspection and copying during regular business hours.

(4) OWEB may condition the time and manner of inspection or copying as necessary under the circumstances to protect the records and prevent interference with the regular discharge of the duties of the OWEB Board, OWEB, and OWEB's employees.

(5) OWEB will accommodate public records requests from persons with disabilities in accordance with the Americans with Disabilities Act.

Stat. Auth.: ORS 541.906, 192.430 & 192.440

Stats. Implemented: ORS 192.410 - 192.505

Hist.: OWEB 1-2008, f. & cert. ef. 3-25-08

### 695-003-0030

#### Fees for Inspections or Copies of Public Records

(1) A person inspecting a public record or receiving a copy of a public record or information from a public record must pay OWEB's actual costs, as follows:

(a) The cost of staff time necessary to locate and handle the records, to delete material exempt from disclosure and to supervise the inspection by the requester;

(b) The cost of producing the copy or the information; and

(c) The cost of other supplies or services necessary to furnish the copy or information.

(2) The OWEB Board shall establish the agency's list of fees for inspection and copying of public records. The list of fees shall be posted on OWEB's website and shall be available on request from OWEB. The OWEB Board shall review the list of fees adopted from time to time in order to ensure that the fees reflect current actual costs.

(3) If the request appears to require services for which no fee has been established, the actual costs will be determined or estimated by OWEB, and the requester will be notified of those costs before OWEB complies with the request.

(4) OWEB may require that all or a portion of the estimated fees be paid before the public record is made available for inspection or copies provided.

(5) Payment for public record requests may be made in the form of cash, check, or money order.

Stat. Auth.: ORS 541.906, 192.430 & 192.440

Stats. Implemented: ORS 192.410 - 192.505

Hist.: OWEB 1-2008, f. & cert. ef. 3-25-08

### 695-003-0040

#### Exception to Fee Charge; Fee Waivers and Reductions

(1) There is no fee for obtaining one or more copies of a public record, if providing one or more copies of that particular public record without charge is part of OWEB's programs at the time of the request, including but not limited to the public distribution of OWEB reports, news releases and public notices, and the routine provision of public records or information from public records related to grant administration or the Oregon Plan.

(2) Subject to the exception described in subsection (1), no fee waiver or reduction will be given for OWEB's actual costs in providing access for inspection or furnishing copies of public records, if those actual costs would be otherwise paid from funds dedicated to watershed protection under Article IV, Section 4b, of the Oregon Constitution, federal funding allocated by intergovernmental agreement to salmon recovery efforts, or license plate revenues statutorily dedicated to salmon recovery projects.

Stat. Auth.: ORS 541.906, 192.430 & 192.440

Stats. Implemented: ORS 192.410 - 192.505

Hist.: OWEB 1-2008, f. & cert. ef. 3-25-08

## DIVISION 4

### WATERSHED ENHANCEMENT PROGRAM

### 695-004-0010

#### Purpose

The Oregon Watershed Enhancement Board has broad authority to carry out a watershed enhancement program under the provisions of ORS 541.890 to 541.969. The Board may allocate funds to support projects for restoration, monitoring, technical assistance, small grants, education and outreach, watershed council support, land

acquisition, instream water leases and transfers, research and other related activities that advance the purposes of the watershed enhancement program.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

### 695-004-0020

#### Definitions

(1) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.900.

(2) "Director" means the Executive Director of the Oregon Watershed Enhancement Board or the Executive Director's designee.

(3) "OWEB" means the Oregon Watershed Enhancement Board state agency.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

### 695-004-0030

#### Process and Criteria

The Board shall approve standards and guidance for application requirements and processing, evaluation criteria, agreement conditions, and distribution of funds.

(1) Guidance and criteria for accepting and reviewing applications for watershed enhancement projects proposed under the regular grant program are contained in OAR chapter 695, divisions 5 through 50.

(2) For watershed enhancement project requests for initiatives or programs that are separate or distinct from the programs referenced in subsection (1), the Board shall approve additional necessary guidance and criteria.

(3) Board allocations under subsections (1) and (2) may be distributed through grant agreements, interagency agreements, and contracts for services.

(4) The Director shall enter into the grant agreements, interagency agreements, or contracts necessary to carry out the standards approved by the Board.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

## DIVISION 5

### OWEB GRANT PROGRAM

### 695-005-0010

#### Purpose

These rules guide the Oregon Watershed Enhancement Board in accepting applications and considering grant proposals for funding under the provisions of ORS 541.890, et seq. The regular Board grant program includes grants for watershed restoration, monitoring, watershed assessment and action planning, watershed council support, watershed education and outreach, land and water acquisition, and small grants. In addition, the Board may from time to time, as funds are available, request proposals for technical assistance and research.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

### 695-005-0020

#### Definitions

(1) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.900.

(2) "Director" means the Executive Director of the Oregon Watershed Enhancement Board or the Executive Director's designee.

(3) "Grant Agreement" is the legally binding contract between the Board and the grant recipient. It consists of the conditions specified in these rules, the notice of grant award, special conditions to the agreement, a certification to comply with applicable state and federal regulations, the project budget and the approved application for funding the project.



(4) “Regional Review Team” is a team, appointed by the Director, of designated personnel with regional knowledge and interdisciplinary expertise drawn from agencies represented on the Board and other entities to evaluate regional grant applications. The Director may change the composition of regional review teams.

(5) “Partners” are non-governmental or governmental persons or entities that have committed funding, expertise, materials, labor, or other assistance to a proposed project.

(6) “Match” is any contribution to a project that is non-Board funds. Match may include:

(a) Cash on hand or cash that is pledged to be on hand prior to commencement of the project;

(b) Secured funding commitments from other sources;

(c) Pending commitments of funding from other sources. In such instances, Board funding will not be released prior to secured commitment of the other funds. Pending commitments of the funding must be secured within 12 months from the date of the award; or

(d) The value of in-kind labor, equipment rental and materials essential to the project, based on local market rates.

(7) “OWEB” means the Oregon Watershed Enhancement Board state agency.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

### 695-005-0030

#### Application Requirements

(1) Applications must be submitted on the most current form prescribed by the Board. Current applications are available on the OWEB website. An explanation must accompany the application if any of the information required on the application cannot be provided. In addition to the information required in the application, and the required attachments, an applicant may submit additional information that will aid the Board in evaluating the project.

(2) All applicants for Board grants shall supply the following information:

(a) Names, physical and email addresses, fax and telephone numbers of the applicant contact person(s) and the fiscal officer(s);

(b) Name and address of involved landowner(s);

(c) The name and location of the proposed project. The location shall be described in reference to the public land survey, latitude and longitude using decimal degrees, North American Datum 1983, county, watershed, and stream mile, if appropriate;

(d) Estimated line item budget for the project using the most current budget form prescribed by the Board. Current budget forms are available on the OWEB website;

(e) Identification of specific project elements for which Board funds will be used;

(f) A list of any non-Board funds, services or materials available or secured for the project and any conditions which may affect the completion of the project;

(g) If the project is part of a multi-year project, and a new funding request continues a previously Board-funded activity, a description of the previous project accomplishments and results as well as an accounting of past expenditures and revenues for the project;

(h) Identification of volunteers and partners and the contribution they will make to the project;

(i) A project schedule including times of project beginning and completion; and

(j) Any information requested that is necessary to evaluate the project based on the evaluation criteria for that project type.

(3) All applicants shall demonstrate at least 25% match is being sought, on a form prescribed by the Board, based on the total Board grant request, at the time of application.

(4) All applications that involve physical changes or monitoring on private land must include certification from the applicant that the applicant has informed all landowners involved of the existence of the application and has also advised all landowners that all monitoring information obtained on their property is public record. If con-

tact with all landowner was not possible at the time of application, explain why.

(5) Fiscal administration costs, which may include accounting, auditing, contract management and fiscal reporting expenses for the project, for a grant awarded by the Board may not exceed 10% of the total Board funds expended for the project.

(6) Applications will be considered complete as submitted. Clarification of information may be sought from the applicant during the evaluation process but additional, new information will not be accepted after the application deadline.

(7) Applicants are encouraged to submit requests for up to \$10,000 for watershed restoration projects to the Small Grant Team in their Small Grant Area, unless the project is not eligible for funding under the Small Grant Program or the Small Grant Program has no funds available at the time of application. Applicants may not submit the same proposal to both the Board and the Small Grant Team.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

### 695-005-0040

#### Application Processing

(1) The Board shall announce deadlines for submitting applications, except for the Small Grant Program.

(2) Project applications will be reviewed based on application completeness and the evaluation criteria adopted by the Board for each grant type in these rules.

(3) A regular grant applicant may be any person, tribe, watershed council, soil and water conservation district, not-for-profit institution, school, community college, state institution of higher education, independent not-for-profit institution of higher education, or political subdivision of this state that is not a state agency. A state agency or federal agency may apply for funding under this section only as a co-applicant with one of the other eligible entities. Any of these applicants or co-applicants may also serve as a fiscal agent for grants.

(4) The Board may require additional information to aid in evaluating and considering a proposed watershed project.

(5) The Board may use a regional review team or other technical team to review grant applications and make funding recommendations to the staff or Board.

(6) The Board may rank projects in selecting projects for funding.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

### 695-005-0050

#### Grant Agreement Conditions

(1) The Board will enter into new agreements or amendments to existing agreements for time extensions and award amounts with prior Grantees only if all reporting obligations under earlier agreements have been met.

(2) If the grant agreement has not been fully executed by all the parties within one year of Board approval, funding shall be terminated. The money allocated to the grant shall be available for reallocation by the Board.

(3) The Director shall establish grant agreement conditions for each grant type. Grantees shall comply with all grant agreement conditions.

(4) The Grantee shall comply with all federal, state and local laws and ordinances applicable to the work to be done under the agreement.

(5) All project activities must demonstrate, to the extent possible, consistency with local community workforce and economic development plans and policies.

(6) Following project completion, equipment purchased with Board funds shall reside with any of the following: watershed council, soil and water conservation district, tribe, local government, state agency, institution of higher learning, or a school district. These entities will make the equipment available to others at no cost, other than nominal operation and maintenance costs.

(7) Upon notice to the Grantee in writing, the Director may terminate funding for projects not completed in the prescribed time and manner. The money allocated to the project but not used will be available for reallocation by the Board.

(8) The Grantee will account for funds distributed by the Board, using project expense forms provided.

(9) The Grantee will obtain the necessary permits and licenses from local, state or federal agencies or governing bodies and provide a copy to the Board.

(10) The Board may place additional conditions in the Grant Agreement as necessary to carry out the purpose of the watershed enhancement program. Such conditions may include:

(a) A commitment by the landowner for continued access for monitoring the project after completion;

(b) A commitment by the Grantee to maintain the project for a period of time as deemed appropriate by the Board;

(c) A commitment to supply future reports on the project as required;

(d) Such other conditions as the Board deems appropriate to the particular circumstances of the project.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

#### **695-005-0060**

##### **Distribution of Funds**

(1) The Board will not reimburse the Grantee for any expenditures incurred prior to the signing of the grant agreement by all parties, except for fees charged by an affected city or county for processing the required Land Use Information Sheet.

(2) The Director may withhold payments to a Grantee in a situation where there are significant and persistent difficulties with satisfying Board requirements.

(3) Prior to disbursement of Board funds, the Grantee must provide proof that the 25% required match, based on the total Board award, has been secured.

(4) Prior to disbursement of Board funds for projects involving private lands, the Board must receive certification from the Grantee that they will obtain, prior to expending Board funds on a property, a cooperative agreement from the landowner that, at a minimum, includes:

(a) Permission to access the private land, at times agreeable to the landowner, to implement the project, inspect the project, track the status of the project, or perform repairs or maintenance;

(b) Permission for the Board or its representatives to access the private land for inspection and evaluation of the project; and

(c) Identification of the party responsible for repairs and maintenance of the project.

(5) Funds shall not be disbursed until the Board receives satisfactory evidence that necessary permits and licenses have been granted and documents required by the Board have been submitted.

(6) Funds will be released upon presentation of a completed fund release request form accompanied by receipts or invoices, and proof of completion of specific work elements of the project as identified in the Grant Agreement.

(7) Advance funds may be released upon presentation of a detailed estimate of expenses for up to 120 days. Within 120 days of the date of the advance check, receipts or invoices for the advance must be submitted, a justification to extend the advance must be approved, or the unexpended advance funds must be returned to the Board. Additional funds will not be released until receipts for expenditures of previous fund releases are submitted, or an estimate of expenditures is approved by the Director.

(8) The Board shall retain ten percent of project funds until the final report, as required in the grant agreement, has been approved. Final reports are due within 60 days of project completion. Any unexpended Board funds must be returned to the Board with the final report. Upon receipt of the final report, the Board shall have 90 days to approve the completed report or notify the Grantee of any concerns that must be addressed or missing information that must be

submitted before the report is considered complete and reviewed for approval. Once the final report has been approved the final payment shall be promptly processed.

(9) All Grantees shall account for at least 25% in actual match, on a form prescribed by the Board, based on the total Board grant expenditures, upon project conclusion and final reporting.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

#### **695-005-0070**

##### **Waiver of Rules**

The Director may waive the requirements of division 5, unless they are required by statute, for individual grants, when doing so will result in more efficient or effective implementation of the Board's grant program. Any waiver granted shall be in writing and included in the permanent file of the individual grant for which the waiver was granted.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

#### **695-005-0080**

##### **Periodic Rules Review and Program Evaluation**

The Board shall review the grant program and rules at least once every five years and make changes as needed to carry out a high quality and effective program.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

## **DIVISION 10**

### **RESTORATION GRANTS**

#### **695-010-0010**

##### **Purpose**

The Board shall provide grants, as funds are available, for watershed projects that protect or restore watershed functions.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

#### **695-010-0020**

##### **Definitions**

(1) "Affected City and County" means any city or county within which all or part of a watershed enhancement project funded by the Board would be located.

(2) "Maintenance" means those activities and actions necessary to sustain the useful life of a constructed watershed improvement. Maintenance does not include those activities necessary to establish the improvement.

(3) "Non-Structural Methods" are those that rely on strategies other than the creation and installation of permanent structures, except livestock fencing, to meet the project goals.

(4) "Watershed Restoration Project" means a project that involves an on-the-ground element such as: riparian planting, fish habitat construction, wetland restoration, livestock grazing plans, water conservation projects utilizing the state Conserved Water Program, etc.

(5) "Watershed Function" means the hydrologic and geomorphic processes that support a healthy watershed ecosystem.

(6) "Watershed Health" means the condition of a watershed as measured by the ability of the watershed to capture, store and release water, and transport sediment and nutrients in order to provide clean water, high quality fish and wildlife habitat, and adequate stream-flows to support instream uses.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-010-0030**

**Watershed Restoration Priorities**

For grant applications to be funded by the Watershed Conservation Grant Fund, the following preferences will apply:

(1) Projects that address altered watershed functions affecting water quality, water flow volume and duration, and the production capacity for fish over projects that address site-specific land use problems where the greatest benefit is to a private resource or land.

(2) Projects that include removal or remediation of human-caused alterations (roads, culverts, channelization, etc.) to improve water quality and/or fish habitat over projects that enhance naturally functioning systems.

(3) Projects that change land management practices to address the causes of chronic disturbances to the watershed over projects that address only symptoms of disturbance.

(4) Projects with direct evidence of collaboration between stakeholders and agencies over single-party projects.

(5) Projects focusing on upslope and upstream treatments over projects focusing on downslope and downstream treatments, unless the project addresses tidal-driven systems or addresses other specific issues (e.g. historic losses) that encompass whole watershed conditions.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 1-2011, f. & cert. ef. 10-18-11

**695-010-0040**

**Ineligible Project Types**

The Board will not consider:

(1) A watershed improvement project that consists solely of construction of a water storage structure for an out-of-stream use not related to watershed restoration or protection; or

(2) A fish screening project eligible for funding through the Oregon Department of Fish and Wildlife's fish screening program; or

(3) A watershed improvement project constructed solely to comply with a state or federal agency enforcement order, legal judgment or mitigation requirement; or

(4) Routine project maintenance costs; or

(5) A water conservation project, unless there is a measurable instream flow benefit, groundwater benefit or water quality improvement.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-010-0050**

**Application Requirements**

Applications must be submitted on the most current form prescribed by the Board. An explanation must accompany the application if any of the following information required under this section cannot be provided:

(1) Land use information from affected counties and cities as referenced in OAR chapter 695, division 50;

(2) A statement that required permits or licenses from federal, state, or local government will be applied for;

(3) A commitment from a state, federal or local agency to inspect the completed project work to ensure it complies with the funding requirements;

(4) A plan to monitor and evaluate project results including identification of responsible parties;

(5) A plan for operation and maintenance of the project for the projected life including identification of the responsible parties; and

(6) Additional information that will aid the Board in evaluating the project under OAR 695-010-0060.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-010-0060**

**Evaluation Criteria**

(1) Project applications will be reviewed for compliance with the items in OAR 695-005-0030 and 695-010-0050.

(2) Watershed restoration projects funded from the Watershed Conservation Grant Fund must provide a public benefit by supporting improved:

(a) Water quality;

(b) Native fish or wildlife habitat; or

(c) Watershed or ecosystem function.

(3) Watershed restoration project proposals must meet the following criteria to be considered for funding by the Board:

(a) The project demonstrates sound principles of watershed management;

(b) The project uses methods adapted to the project locale;

(c) The project complies with state land use planning goals and is compatible with acknowledged comprehensive plans as required under ORS 197.180; and

(d) The project meets the requirements in the *Oregon Aquatic Habitat Restoration and Enhancement Guide*.

(4) Watershed restoration projects meeting the criteria established by subsection (1) above will be further evaluated on the basis of the extent to which the project:

(a) Is based on a watershed assessment or other analytical tool that identifies specific watershed health problems;

(b) Is part of a watershed action plan or other strategic plan that prioritizes subwatersheds or project types within subwatersheds;

(c) Clearly defines and addresses a watershed health problem or known limiting factors;

(d) Has clearly stated objectives and is likely to meet these;

(e) Will be implemented using a clearly defined method to address the problem;

(f) Provides educational opportunities or promotes public awareness of watershed enhancement benefits;

(g) Fits within the context of past and planned future restoration efforts in the watershed;

(h) Improves watershed function;

(i) Treats the causes of the identified problems, rather than treating symptoms;

(j) Encourages the use of non structural methods to enhance riparian areas and associated uplands;

(k) Includes funds or in-kind services from non-Board sources;

(l) Is proposed in the context of fish and wildlife species life stages, upland conditions and year-round watershed functions;

(m) Takes into consideration the quality of the watershed above and below the project area;

(n) Takes into consideration known potential future events that may affect the success of the project;

(o) Takes into consideration potential impacts to other properties and streams in the area;

(p) Is ready to be implemented; and

(q) Identifies and evaluates alternatives to address the identified problem.

(5) Watershed restoration projects shall also be evaluated based on the following administrative and fiscal criteria:

(a) The amount of the administrative costs relative to the project's fiscal management complexity;

(b) The applicant's past grant record with regard to timely project completeness, accounting and reporting as well as whether past projects were completed as proposed, using information provided by Board staff;

(c) The extent to which the personnel costs reflect the tasks involved in implementing the project;

(d) Whether the direct costs and match values reflect local market rates; and

(e) Whether the overall budget reflects the expected watershed health benefit.

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

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 1-2011, f. & cert. ef. 10-18-11



### 695-010-0070

#### Regional Review Process

(1) Prior to the regional review team meeting the regional review team:

(a) Shall receive each application, past evaluations for projects resubmitted in the current grant cycle, and an evaluation sheet to complete for each application;

(b) Is encouraged to visit proposed project sites to enhance the understanding of the proposal. Priority for visitations will be placed on acquisitions, complex projects, new types of projects and projects with a significant budget; and

(c) Shall read and score each application using the evaluation sheets provided. During this process, team members are encouraged to contact the applicants, Board staff, or other agency staff to clarify information in the application or to get expert review.

(2) At the regional review team meeting, the team shall:

(a) Review and evaluate each project individually based on how well the proposed project meets the criteria in 695-010-0060;

(b) Recommend the project as;

(A) Do fund;

(B) Do fund with conditions;

(C) Do not fund; or

(D) Defer to staff or the Board with an explanation, if there is a policy issue or budget issue that needs to be addressed by the Board prior to a funding decision; and

(c) Rank order all projects recommended for funding based on;

(A) How well the project meets the criteria established in 695-010-0030 and 695-010-0060;

(B) The certainty of success, based on the organizational capacity of the applicant and the likelihood the project will meet its ecological objectives;

(C) The benefit to the *Oregon Plan for Salmon and Watersheds*, as evidenced by its expected benefits to watershed functions, fish habitat or water quality; and

(D) The project costs relative to the anticipated watershed health benefits.

(3) The project description, summary evaluation and funding recommendation for all projects, and the rank order of projects recommended for funding shall be forwarded from the regional review team to Board staff for their consideration. This information will be sent to all applicants within a region for their region and for all regions to the Board.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

### 695-010-0080

#### Staff Funding Recommendation Process

(1) Prior to the finalization of a staff recommendation to the Board, the staff may meet with a Board subcommittee to discuss projects with major policy or budget issues that need to be resolved prior to a final Board decision.

(2) Staff shall review the recommendations from each regional review team and make a statewide funding recommendation to the Board based on available resources for the grant period and type. The recommendation shall include any conditions placed on individual projects and may include proposed budget adjustments. The staff recommendation, as represented in the staff report to the Board, shall be sent to applicants and members of the Regional Review Teams at least two weeks before the Board meeting where funding decisions are to be made.

(3) Applicants may provide written or oral comment to the Board on the staff recommendation prior to the Board decision.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

### 695-010-0090

#### Board Funding Decision

(1) The Board may fund a project in whole or in part.

(2) Projects not funded may be resubmitted during application submission periods prescribed by the Board.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

### 695-010-0100

#### Grant Agreement Conditions

(1) The Grantee must submit a report at completion of the project describing the work done and placing it in its larger watershed context.

(2) The Grantee will track the status of the project, and continue its maintenance, submitting periodic reports on a schedule set by the Board. All reports will be filed with the Board or at a location specified by the Board.

(3) The Grantee must agree to complete the project as approved by the Board and within the timeframe specified in the grant agreement unless proposed modifications are submitted and approved by the Director prior to the beginning of any work proposed in the modification.

(4) The Director will consider project modifications including expansion of funded projects with moneys remaining from the original project allocation if the purpose and intent of the amendment remains the same as the original project, the proposed activity is within the same watershed, and the modification would be compatible with acknowledged comprehensive plans.

(5) The Director may authorize minor changes within the scope of the original project plan.

(6) The Grantee will allow Board members or designated representatives access to the project area at a mutually agreeable time to monitor and evaluate the project.

(7) The Grantee must submit as part of their final report a completed Oregon Watershed Restoration Reporting form, using the most current form available on the OWEB website.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

### 695-010-0110

#### Waiver of Rules

The Director may waive the requirements of division 10, unless they are required by statute, for individual grants, when doing so will result in more efficient or effective implementation of the Board's grant program. Any waiver granted shall be in writing and included in the permanent file of the individual grant for which the waiver was granted.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

## DIVISION 15

### EDUCATION AND OUTREACH GRANTS

### 695-015-0020

#### Definitions

"Watershed Education Project" means a project whose primary purpose is to communicate information about watersheds. It may be a workshop, demonstration project, a planned course of study, or the implementation of a public awareness strategy.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

### 695-015-0030

#### Education and Outreach Priorities

For grant applications to be funded by the Watershed Conservation Grant Fund, the following preference shall apply: Watershed and riparian education projects that provide education and awareness about watershed processes for landowners over projects that create curriculum materials.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 1-2011, f. & cert. ef. 10-18-11

**695-015-0070**

**Evaluation Criteria**

Watershed Education projects shall be evaluated on the basis of the extent to which they:

- (1) Further the broad goal of developing and maintaining healthy watersheds;
  - (2) Provide information on alternative management practices that support watershed enhancement efforts by landowners, watershed council members and other local groups;
  - (3) Raise awareness of the citizens of the State of Oregon;
  - (4) Teach about the long-term benefits of healthy watersheds;
  - (5) Have well-defined instructional goals and objectives;
  - (6) Have the potential for being accomplished;
  - (7) Apply learning strategies that are appropriate for the target audience; and
  - (8) Can be used at other locations without major modifications.
- Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-015-0130**

**Special Watershed Educational Project Grants**

The Board may:

- (1) Solicit proposals for specific projects which meet the needs of the watershed enhancement program; and
  - (2) Provide grants to agencies or organizations for educational projects to increase public awareness of watershed enhancement principles or provide training in watershed management concepts or techniques.
- Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**DIVISION 25**

**MONITORING GRANTS**

**695-025-0090**

**Definitions**

“Watershed Monitoring Project” means a project that identifies conditions in the watershed. It may be for the purpose of gathering baseline data on current conditions, for evaluation of the specific effects of management actions, or for comparing similar watershed components before and after a project.

Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-025-0120**

**Application Requirements**

Applicants must demonstrate conformance with the following provisions:

- (1) Demonstrate knowledge of state and/or federally accepted monitoring protocols;
- (2) Provide assurance that an appropriate protocol will be used; and
- (3) Acknowledge that the results will be available to a state database.

Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-025-0140**

**Evaluation Criteria**

Watershed Monitoring projects will be funded on the basis of the extent to which they:

- (1) Are developed in the context of the entire watershed;
  - (2) Follow appropriate protocols developed by the Board; and
  - (3) Use the information to implement or direct projects to enhance or sustain the health of watersheds.
- Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**DIVISION 30**

**ASSESSMENT AND ACTION PLAN GRANTS**

**695-030-0050**

**Definitions**

- (1) “Watershed Action Plan Project” means a project that identifies and prioritizes potential action that would benefit watershed conditions based on problems identified in a watershed assessment.
- (2) “Watershed Assessment Project” means a project that systematically reviews existing information about watershed conditions and processes such as erosion rates, pollution sources, fish habitat conditions, riparian conditions, culvert fish passage problems, etc., and relates those conditions and processes to desired future conditions.

Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-030-0060**

**Assessment and Action Plan Priorities**

For grant applications to be funded by the Watershed Conservation Grant Fund, the following preferences will apply:

- (1) Watershed assessment projects that address whole basin conditions to focus restoration needs over single-function research projects; and
- (2) Projects developed from a watershed-level assessment and analysis of conditions that includes an action plan for restoration or enhancement of watershed functions.

Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 1-2011, f. & cert. ef. 10-18-11

**695-030-0100**

**Evaluation Criteria**

Watershed Assessment and/or Action plan projects will be funded on the basis of the extent to which they:

- (1) Are developed in the context of the entire watershed;
- (2) Follow appropriate protocols developed by the Board; and
- (3) Use the information to implement or direct projects to enhance or sustain the health of watersheds.

Stat. Auth.: ORS 541.906  
 Stats. Implemented: ORS 541.890 - 541.969  
 Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**DIVISION 35**

**SMALL GRANT PROGRAM**

**695-035-0010**

**Small Grant Program**

(1) The Oregon Watershed Enhancement Board (OWEB) may provide funding for a locally administered Small Grant Program from its Watershed Conservation Grant Fund. Funds may be allocated for the Small Grant Program in amounts and at times decided by the Board.

(2) The goals of the Small Grant Program are to:

(a) Support implementation of the Oregon Plan for Salmon and Watersheds.

(b) Support projects designed to improve water quality, water quantity, and fish and wildlife habitat. Such projects include, but are not limited to, those developed to address Total Maximum Daily Loads (TMDLs), Agricultural Water Quality Management Area Plans, urban nonpoint source pollution management plans, and the Board of Forestry’s Forestry Program for Oregon.

(c) Make funds available to local Small Grant Teams to address local priority resource concerns, habitat values, and watershed functions.

(d) Encourage landowner participation in watershed improvement by making funds available more quickly than is possible through OWEB’s Regular Grant Program.



(e) Treat the source of watershed health problems through technically sound projects that use proven techniques from one of the approved sources listed in OAR 695-035-0030(3), and that demonstrate benefits to aquatic species, wildlife, or watershed health across all land uses.

(f) Encourage partnerships among watershed councils, soil and water conservation districts (SWCDs), and tribes.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2005, f. & cert. ef. 6-8-05; OWEB 1-2011, f. & cert. ef. 10-18-11

## 695-035-0015

### Definitions

(1) "Small Grant" is a grant of \$10,000 or less for an eligible watershed restoration project awarded by OWEB on the recommendation of a Small Grant Team.

(2) "Small Grant Team" (Team) is composed of representatives of watershed councils, soil and water conservation districts, and tribes formed in each Small Grant Area to recommend funding for watershed restoration projects.

(3) "Small Grant Area" is a geographic area established by the OWEB Board based upon hydrologic boundaries, existing watershed restoration partnerships, and similarities in resource concerns.

(4) "Program Grant" is a grant from OWEB to a Small Grant Team to recommend as eligible Small Grants of up to \$10,000 within the Small Grant Area.

(5) "Program Grant Agreement" is a grant agreement between OWEB and a Small Grant Team regarding the allocation of Small Grant funds within a Small Grant Area by the Small Grant Team using OWEB funds.

(6) "Project Evaluation Committee" (Committee) is a group of Small Grant Team members designated by vote of the Team to evaluate Small Grant Project applications received and to make Small Grant Project award recommendations based upon the Team's adopted priority watershed concerns and eligible project types. A Team may by unanimous vote decide not to designate a Committee.

(7) "Program Administration" refers to all efforts made by Teams or individual team members on behalf of applicants or the Small Grant Team prior to a project grant award recommendation. No program administration costs may be included in Small Grant project grant awards.

(8) The "Small Grant Fiscal Agent" is responsible for managing all expenses associated with a Small Grant Project and for reporting those expenses to OWEB in a manner consistent with OWEB fiscal reporting standards. Fiscal Agents will be councils, districts, tribes, or entities designated as eligible by the Small Grant Team in their operating procedures. A Small Grant project's eligible fiscal agent will be identified on the Small Grant Project application and in the OWEB Small Grant Project grant agreement.

(9) "Project Manager for the Grantee" is the individual (typically, but not necessarily, the grantee) who will shepherd the project from start to finish. This person will serve as the Team's and OWEB's main point of contact for a project.

(10) "Team Contact" is OWEB's main point of contact for the Small Grant Team, and is also the person authorized by the Team to sign OWEB Small Grant agreements.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 3-2005, f. & cert. ef. 6-8-05

## 695-035-0020

### Small Grant Program Administered by Small Grant Teams

(1) The OWEB Board may award program grants to eligible Small Grant Teams to enable the Teams to administer a Small Grant Program within a Small Grant Area. A Small Grant Team must submit a program grant application to OWEB on a designated form at times designated by the OWEB Board to be eligible to receive a program grant to administer a Small Grant program.

(2) Small Grant Program funds not used in one biennium may not be carried over by the Small Grant Team to the next biennium unless otherwise determined by the Board.

(3) The Board will only enter into new Small Grant Team agreements once Teams have submitted on a standard OWEB form, and to OWEB's satisfaction, the revised Team bylaws for the coming biennium, a revised list of the Team's priority watershed concerns and eligible project types, a revised Application Evaluation Worksheet, and all Year-Two Status Reports due in the previous biennium.

(4) Small Grant Teams will invite in writing each soil and water conservation district (SWCD) and watershed council located partially or entirely within the Small Grant Area, and each tribe with reservation, tribal, aboriginal, or ceded lands, or usual and accustom sites located partially or entirely within the Small Grant Area to appoint one representative to a Small Grant Team. Participation on a Team is voluntary. A Small Grant Team must have at least one actively participating watershed council representative and one soil and water conservation district representative to be eligible to allocate Small Grant funds. Each eligible Team may receive a program grant from OWEB to allocate Small Grant Project awards of up to \$10,000 for eligible watershed restoration projects consistent with local priority watershed concerns and eligible project types adopted by the Team.

(5) Members of each Small Grant Team are encouraged to invite individuals with expertise in a watershed restoration discipline or other watershed restoration interests to consult with the Team on its priorities, program elements, and recommendations for project grant awards.

(6) The OWEB Board will establish Small Grant Areas for the Small Grant Program. The boundaries of the Small Grant Areas will be drawn based upon hydrologic boundaries, existing watershed restoration partnerships, and similarities in resource concerns. Only one Small Grant Team may administer a Small Grant Program in each Small Grant Area. A copy of the Small Grant Area map is available upon request from OWEB and can also be viewed on the OWEB website.

(7) A Small Grant Team may petition the OWEB Board to adjust the boundaries of Small Grant Areas. If a Team has not been formed in a Small Grant Area, an organization eligible to appoint a member to a Small Grant Team may petition the Board to adjust the boundaries of Small Grant Areas. Written approval from all Small Grant Teams affected, or if a Small Grant Team has not been formed, all entities eligible to appoint a member to the Small Grant Team in that area, is required before a boundary adjustment petition may be filed with the Board.

(8) The OWEB Board will consider all boundary-adjustment petitions once a biennium at the time it considers reauthorizing Small Grant Program funds for the next biennium. The OWEB Board may choose to consider a boundary adjustment upon a valid motion by Board members, without petition by a Small Grant Team or organization that is an eligible Small Grant Team member. However, the OWEB Board will consult with affected Small Grant Teams, and if a Team has not been formed, eligible Team members in the area before considering the boundary adjustment. A decision by the OWEB Board to approve a boundary adjustment will consider one of the following:

(a) The current Small Grant Area boundaries fragment existing watershed restoration partnerships; or

(b) The current Small Grant Area boundaries fragment hydrologically connected areas or ecologically similar landscapes in a way that would make setting local restoration priorities difficult; or

(c) The current Small Grant Area boundaries encompass many different limiting factors for water quality, water quantity, and fish and wildlife habitat. Adjusting boundaries would improve the ability of watershed restoration partners to focus their efforts on the limiting factors with which they have expertise.

(9) Prior to submitting a program grant application to OWEB, the Small Grant Team will adopt the following program elements that will be attached as part of the program grant application:

(a) Rules of operation for administration of the Small Grant Team and the Small Grant Program, including:

(A) Rules governing decision-making and membership;

(B) Application processing and project grant agreement procedures;

(C) Designation of a Team contact, and a member with authority to sign project grant agreements on behalf of the Small Grant Team;

(D) Record keeping;

(E) Processes and criteria for recommending project grant awards;

(F) Processes for evaluating the technical feasibility of projects;

(G) Processes and formats for biennial reporting;

(H) Entities, in addition to watershed councils, soil and water conservations districts, and tribes, designated by the Small Grant Team as being eligible fiscal agents; and

(I) Application acceptance windows.

(b) Priority watershed concerns to be addressed by the Small Grant Team;

(c) A list of project types most likely to effectively address the local watershed concerns adopted by the Small Grant Team. This list must be consistent with the list of eligible project types in OAR 695-035-0050(4). Teams wishing to add project types not on the list need to petition OWEB for their eligibility in their Small Grant Area. The proposed project type needs to demonstrate to the satisfaction of the OWEB Director a clear watershed benefit for the Small Grant Area. It must also be consistent with the Team's adopted priority watershed concerns, and must be referenced to one of the approved technical guidance sources listed in OAR 695-035-0030(3).

(10) The program elements adopted by the Small Grant Team will be included as an attachment to the program grant application to OWEB from the Small Grant Team. A program grant to a Small Grant Team to administer a Small Grant Program will not be awarded until the Team has adopted the required program elements.

(11) In identifying priority watershed concerns, the Small Grant Team will consider current information on the condition of the watershed and its limiting factors to support native fish and to meet water quality standards. The priority watershed concerns should be adopted with reference to documents addressing the limiting factors to:

(a) Clean Water Act standards as identified in Total Maximum Daily Load Water Quality Management Plans and in Agricultural Water Quality Management Area Plans; and

(b) Watershed assessments and action plans, other watershed analyses, the Oregon Forest Practices Act, and soil and water conservation district annual work plans and long-range business plans. Priority watershed concerns and the list of eligible project types adopted by the Small Grant Team will address the source of watershed health problems, and not the effects.

(12) Small Grant Teams may designate members of the Team as a Project Evaluation Committee to evaluate Small Grant Project applications in lieu of the entire Team. If established, this Committee will have equal representation from soil and water conservation district and watershed council Team members. The Team, or if designated, its Committee, will select applications to recommend for funding based on its priority watershed concerns, eligible project types, and the technical merits of the project. The Small Grant Team, or if designated, the Committee, is encouraged to invite technical experts to assist in the evaluation of proposed projects.

(13) Each Small Grant Team will develop application evaluation criteria that will be based on the questions asked in the application, as well as on additional evaluation considerations listed by Teams in their operating procedures. Evaluation criteria will be attached to a Team's operating procedures. Teams will make available to applicants the evaluation criteria along with the Team's list of priority watershed concerns and eligible project types.

(14) Small Grant Teams will establish in their operating procedures the terms by which they receive and act on applications. At a minimum, Teams will establish two-week windows four times in the State fiscal year (July 1 through June 30) during which they or their designated committee will receive applications. Teams may also accept applications at any time throughout the State fiscal year. All Teams must act within 30 days of receiving a complete application.

(15) Small Grant Teams will write their own project grant agreements, using an OWEB-provided template. Teams will create

one original grant agreement and secure all relevant signatures before forwarding it to OWEB for final signature. In case of discrepancy, the OWEB signed original supersedes all other signed copies. The OWEB Director reserves the discretion to alter this arrangement as necessary.

(16) OWEB has 20 working days after receipt of the application materials to verify that the approved application is consistent with the Team's local priorities and with OWEB's statutes and administrative rules. Upon verification, OWEB will return fully executed copies of the project grant agreement to the Team Contact, listed in the Team Bylaws. OWEB will keep the original project grant agreement on file, and the Team Contact will be responsible for providing copies to all signatories. Signatories to the grant agreement will include the Grantee; Landowner; Team Contact; a representative of OWEB; and a Fiscal Agent for the Grantee, if different from the Grantee. A project grant agreement is not valid until all signatories to the agreement have signed. Project grant agreements must be signed within 90 days of the first signature on the grant agreement, or they will be considered void. Work will not begin on a project until a project grant agreement is valid. OWEB will make Small Grant Project award payments directly to the fiscal agent designated in the Small Grant Project agreement.

(17) Project maintenance and effectiveness monitoring are the responsibility of the landowner. OWEB will not pay for either, and applicants may not use any planned post-project maintenance and effectiveness monitoring as match for the OWEB project grant. However, applicants may budget for plant establishment (i.e., weeding and watering of plants over time to improve chances of successful establishment) in the Small Grant Project application, or they may put the amount estimated for plant establishment toward the required 25 percent match. OWEB will pay for no more than two years of post-project plant establishment, or up to \$1,000 for two years, which is paid for in the final payment request.

(18) The Small Grant Team will be responsible for providing the Oregon Watershed Enhancement Board and the Soil and Water Conservation Commission with a summary Biennial Report, due no later than 60 days after the close of each OWEB biennium that:

(a) Addresses:

(A) How the Team's funded projects demonstrated clear watershed benefit to aquatic species, wildlife, or watershed health.

(B) Which specific projects met the Team's high-priority watershed concerns that it identified for the biennium (show award amounts for each project).

(C) Which specific projects the Team awarded for other priority watershed concerns (show award amounts for these projects, as well).

(b) Evaluates the effectiveness of the Team's:

(A) External interactions with landowners, applicants, Grantees, project partners, and OWEB Small Grant Program staff (i.e., the challenges that faced the Team with each of these groups and whether the Team was successful at resolving them).

(B) Internal interactions with each other (i.e., the challenges that faced the Team and whether the Team was successful at resolving them).

(c) Attaches the following:

(A) Tracking sheets for recommended and denied applications for the current biennium.

(B) Revised operating procedures, priority watershed concerns, eligible project types for the coming biennium, and application evaluation worksheet, if any.

(19) The OWEB Director may authorize an independent performance audit of any Small Grant Team, and if the Director determines the Team is not complying with the rules of the Small Grant Program, may restrict future Team funds.

(20) Small Grant Teams will retain for a period of five years unsuccessful applications and copies of successful applications, as well as meeting records.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2005, f. & cert. ef. 6-8-05

**695-035-0030**

**Small Grant Program Application**

(1) A Small Grant applicant may be a tribe, watershed council, or soil and water conservation district. These entities may act on behalf of private landowners, not-for-profit institutions, schools, community colleges, state institutions of higher education, independent not-for-profit institutions of higher education, local agencies, state agencies, or federal agencies.

(2) When reviewing applications, Team members will abide by the same conflict of interest standards that apply to Oregon's public officials, as detailed in ORS 244.020.

(3) Small Grant Project applications submitted to the Small Grant Team will include a completed application form provided by OWEB, and will use technical guidance from at least one of the sources listed below in this subsection. Small Grant Project applicants will cite in the application the practice code(s), or the page number and paragraph, for the technical guidance source listed. The Small Grant Team will verify the citation. If technical guidance and standards for a project are not available from one of these sources, the project is not eligible for funding under the Small Grant Program.

(a) The Natural Resources Conservation Service (NRCS) Field Office Technical Guide, and local cost share list.

(b) A Guide to Placing Large Wood in Streams (Oregon Department of Fish and Wildlife and Oregon Department of Forestry, 1995).

(c) The Oregon Road/Stream Crossing Restoration Guide (Oregon Department of Forestry, Spring 1999).

(d) Forest Practices Technical Note No. 4: Fish Passage Guidelines for New and Replacement Stream Crossing Structures (Oregon Department of Forestry, May 10, 2002).

(e) Forest Practices Technical Note No. 5: Determining the 50-Year Peak Flow and Stream Crossing Structure Size for New and Replacement Crossings Structures (Oregon Department of Forestry, May 10, 2002).

(f) The Nonpoint Source Pollution Control Guidebook for Local Government (Oregon Department of Environmental Quality and Oregon Department of Land Conservation and Development, 1994).

(g) Urban Subwatershed Restoration Manual Series #4: Urban Stream Repair Practices (Center for Watershed Protection, November 2004).

(h) Tribal Natural Resource Plans or Water Plans on Tribal Trust Lands.

(4) Only watershed councils, soil and water conservation districts, tribes, and entities designated as eligible by the Small Grant Team in their operating procedures may serve as fiscal agents for a Small Grant Project.

(5) The application budget is the Small Grant applicant's statement of how OWEB funds will be spent. Should the Small Grant Team approve the application for funding, the Grantee will only be able to bill OWEB for the line items appearing in the OWEB column in the application budget. Changes in line item amounts are permissible, with the exception of Project Management, which may change only with prior approval from OWEB. Grantees wishing to add new line items must also request prior permission from OWEB.

(6) The applicant, landowner, and fiscal agent will sign the application. Teams may write a separate cooperative agreement where multiple landowners are involved. Teams will keep the original cooperative landowner agreement on file, and all signatories, plus OWEB, will be provided copies. Project funds will not be released until OWEB has a signed copy of the cooperative landowner agreement.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2005, f. & cert. ef. 6-8-05

**695-035-0040**

**Small Grant Program Grants**

(1) Prior to the disbursement of any Small Grant Project funds, the Grantee must sign a Small Grant Project agreement containing such terms and conditions as may be deemed necessary by the OWEB Director to ensure that the expected benefits of the project

are realized, and that applicable legal requirements and any special conditions of the Board with regard to particular grants are met.

(2) Each Small Grant Project awarded will be limited to a maximum of \$10,000 per project, per landowner, per OWEB fiscal year, including technical assistance and fiscal administrative expenses.

(3) The Board will only enter into new Small Grant project agreements with a grantee once that grantee has addressed to OWEB's satisfaction all active Small Grants with outstanding advances and all expired Small Grants with outstanding advances.

(4) Fiscal administrative expenses included in each Small Grant Project may not exceed 10 percent of the OWEB grant amount for direct project costs. However, project grants for a total of \$2,000 or less may include fiscal administrative expenses up to \$200, not to exceed the total amount awarded.

(5) A change in fiscal agent requires an amendment to the original grant agreement, and must be requested in writing of the OWEB Small Grant Program.

(6) Travel expenses directly related to project implementation are eligible for funding under the Small Grant Program, subject to OWEB review and approval. Travel expenses will be reimbursed only in accordance with rates approved by the Department of Administrative Services and which are in effect at the time the expense was incurred. The Grantee must identify the reason or purpose for all travel expense reimbursement requests. No mileage reimbursement will be paid for the use of motorcycles or mopeds. The Small Grant Program will not reimburse for meals, lodging, or out-of-state travel.

(7) Equipment purchases directly related to project implementation are eligible for funding under the Small Grant Program, subject to OWEB review and approval. However, OWEB discourages the use of limited Small Grant Project funds on equipment purchases, and instead encourages Teams to work with applicants to obtain equipment through other means, such as borrowing or renting. Following project completion, equipment purchased with OWEB funds will reside with any of the following: watershed council, soil and water conservation district, tribe, local government, or a school district. These entities will make the equipment available to each other at no cost, other than nominal maintenance costs.

(8) Small Grant Project award recipients must provide evidence of at least 25 percent secured match for the Small Grant Project award prior to disbursement of grant funds by including a signature of commitment from the entity(ies) providing match on the OWEB Secured Match Form. Match must be current and specific to the Small Grant Project. The same match may not be used for multi-phased projects, unless it is divided among the phases. Applicants may attach the completed match form to their application or they may submit the form with their first grant award payment request. Disbursement of the final grant award payment requires evidence of actual match contributed, shown on the Actual Match Form. Match may include labor, volunteer time, technical assistance, materials or services provided, donated property, or cash. OWEB funding may not be used as match for a Small Grant Project funded by OWEB.

(9) All Small Grant Projects will be completed within 24 months from the date of Team approval of the application. No project completion extensions beyond 24 months will be allowed.

(10) Upon project completion, the Grantee will provide OWEB and the Small Grant Team with a copy of the Project Completion Report and color photographs with captions. Final project accounting and reporting are due no later than 60 days following the project completion date.

(11) The following standards will be applied to each Small Grant Project payment:

(a) OWEB will not pay for activities that were not covered under the project grant agreement, or did not receive prior approval from OWEB per OAR 695-035-0030(5).

(b) Each Small Grant award will be disbursed in no more than two payments.

(c) The Board will retain ten percent of project funds until the final report, as required in the grant agreement, has been approved.

(d) The first payment may consist either of an advance of up to 60 percent of the Small Grant award upon presentation of a detailed estimate of expenses for a specified time period, or of a reimburse-



ment of expenses to date upon presentation of receipts and invoices.

(e) No funds will be released until evidence is submitted to OWEB that all required permits and licenses for the project have been granted.

(f) Receipts for the full advance amount are due within 120 days of the date OWEB issues the advance check.

(g) The second and final payment will not be disbursed until OWEB receives from the Grantee through the designated fiscal agent:

(A) Receipts and invoices for expenditures of previous fund releases, and receipts and invoices supporting the new fund release request;

(B) A spreadsheet documenting all project expenses;

(C) A completed Actual Match Form, showing all project match, which must total at least 25 percent of the amount of OWEB funds actually spent on the Small Grant Project;

(D) A satisfactory Project Completion Report and color photographs with captions of the project site; and

(E) A current Oregon Watershed Restoration Reporting Form, showing among other things, evidence of actual match contributed.

(12) Two years following receipt by OWEB of the project completion report, the individual designated in the project application will provide OWEB and the local Small Grant Team with a Year-Two Status Report. Applicants may budget for this as an expense to OWEB in the application (not to exceed \$200), or they may put the amount toward the required 25 percent match funds by showing the amount in the cost share column.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2005, f. & cert. ef. 6-8-05

#### 695-035-0050

##### Eligible Small Grant Projects

(1) The Small Grant Program will fund only those projects that:

(a) Demonstrate in the Small Grant Project application a clear watershed benefit to aquatic species, wildlife, or watershed health.

(b) Are consistent with the local Small Grant Team's priority watershed concerns, as identified in their program grant agreements with OWEB.

(c) Adhere to OWEB administrative rules, OAR 695-005-0010–695-005-0060 and 695-050-0010–695-050-0050.

(d) Implement a project to restore, enhance, or protect native fish or wildlife habitat, watershed or ecosystem functions, or water quality.

(e) Are implemented in a manner consistent with the Oregon Aquatic Habitat Restoration and Enhancement Guide.

(f) Use and clearly identify in the small grant application technical guidance from at least one of the approved sources in OAR 695-035-0030(3), and cite in the application the practice code(s), or the page number and paragraph, for the technical guidance source listed.

(g) Where applicable, have been approved for technical sufficiency by the appropriate state agency, or by the appropriate tribal government for projects on Tribal Trust Lands.

(2) Small Grant Projects to be completed in phases on the same property are eligible for Small Grant Project funding, provided only one phase is submitted for funding consideration per OWEB fiscal year, and provided all phases occur at different locations on the property. In general, OWEB encourages multi-phased project applications to be submitted through the OWEB Regular Grant Program.

(3) Teams must select from the following list when identifying priority watershed concerns for their Small Grant Area:

(a) Instream Process and Function;

(b) Fish Passage;

(c) Urban Impact Reduction;

(d) Riparian Process and Function;

(e) Wetland Process and Function;

(f) Upland Process and Function;

(g) Water Quantity and Quality/Irrigation Efficiency;

(h) Road Impact Reduction.

(4) The following project types are eligible for funding. Teams are encouraged to be strategic in identifying eligible project types in an effort to better support salmon recovery objectives and Agricultural Water Quality Management Area Plans. Teams may petition OWEB to allow project types not appearing on the list, as described in OAR 695-035-0020(9)(c).

(a) Instream Process and Function.

(A) Improve Instream Habitat: place large wood, boulders, or salmon carcasses;

(B) Manage Erosion: bioengineer stream banks, slope stream banks, or develop water gaps, streambank barbs;

(C) Eradicate or Control Exotic Aquatic Species.

(b) Fish Passage.

(A) Remove Irrigation or Push-Up Dams: install alternatives (e.g., infiltration galleries, point-of-diversion transfers) or convert from gravity diversion to pumps;

(B) Remove and/or Replace Culverts (as a condition of funding, such projects require ODFW or ODF technical review and approval, or tribal government review and approval for projects on Tribal Trust Lands, using a standard OWEB form; and for culverts under state roads, a 50 percent ODOT match);

(C) Remove or Replace Stream Crossings (as a condition of funding, such projects require ODFW or ODF technical review and approval, or tribal government review and approval for projects on Tribal Trust Lands, using a standard OWEB form).

(c) Urban Impact Reduction.

(A) Install Stormwater Runoff Treatments (e.g., create bioswales, pervious surfaces, native plant buffers, green roofs);

(B) Create Off-Channel Flood Storage;

(C) Employ Integrated Pest Management.

(d) Riparian Process and Function.

(A) Manage Nutrient and Sediment Inputs through managed grazing (e.g., fencing and developing off-channel watering) and plantings;

(B) Manage Vegetation: plant or seed native riparian species, propagate native riparian plants, or control weeds in conjunction with a restoration project;

(C) Employ Integrated Pest Management.

(e) Wetland Process and Function.

(A) Manage Nutrient and Sediment Inputs: fence out livestock or develop alternative watering sites;

(B) Manage Vegetation: control weeds (in conjunction with a restoration project), or plant native wetland species;

(C) Restore Wetlands: excavate or remove fill, or eliminate drainage structures;

(D) Employ Integrated Pest Management.

(f) Upland Process and Function.

(A) Manage Erosion on Agricultural Lands: terrace land; employ laser leveling; create windbreaks; install water and sediment control basins (WASCBs); develop filter strips/grassed waterways; manage mud (e.g., gravel high-use areas, develop paddocks); seed bare areas (WEB may require a grazing management plan, if appropriate, prior to release of funds. For post-fire areas, seed only where natural regeneration is unlikely — e.g., on slopes of 30 percent or more — or where it can be demonstrated that seeding would retard or prevent the spread of noxious weeds); or reduce tillage.

(B) Manage Nutrient and Sediment Inputs to Streams through the management of grazing, vegetation cover, animal waste, or irrigation runoff.

(C) Manage Vegetation: prescribed burning, except when conducted as part of a commercial harvest; non-commercial thinning; control/remove juniper (except late-seral/old growth); plant or seed (native upland species or native beneficial mixes preferred); or control weeds (in conjunction with a restoration project). Projects for prescribed burning to reduce fuel loads require ODF technical review and approval, or tribal government review and approval for projects on Tribal Trust Lands, using a standard OWEB form.

(D) Manage Wildlife: install water guzzlers.

(E) Employ Integrated Pest Management.

(g) Water Quantity and Quality/Irrigation Efficiency.

(A) Recharge Groundwater: roof water harvesting;

(B) Implement Irrigation Practices (e.g., pipe existing ditch, install drip or sprinkler systems, install automated soil moisture sensors where water and electrical savings can be documented, or recover or eliminate tail water). Such projects must either not adversely impact the current level of groundwater in a Groundwater Management Area, or must measurably reduce the diversion of water at the point of diversion. As a condition of funding, irrigation efficiency projects require local watermaster technical review and approval, or tribal government review and approval for projects on Tribal Trust Lands, using a standard OWEB form.

(h) Private Road Impact Reduction.

(A) Decommission Roads;

(B) Improve Surface Drainage: surface road drainage improvements, gravel surfacing, stream crossings.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2005, f. & cert. ef. 6-8-05; OWEB 1-2011, f. & cert. ef. 10-18-11

### 695-035-0060

#### Ineligible Small Grant Projects

(1) The Small Grant Program will not fund projects that:

(a) Do not demonstrate a clear watershed benefit to aquatic species, wildlife, or watershed health.

(b) Are not consistent with the local Small Grant Team's priority watershed concerns, as identified in their program grant agreements with OWEB.

(c) Do not adhere to OWEB administrative rules: OAR 695-005-0010–695-005-0060, 695-035-0010–695-035-0070, and 695-050-0010–695-050-0050.

(d) Do not implement a project to restore, enhance, or protect native fish or wildlife habitat, watershed or ecosystem functions, or water quality.

(e) Do not use and clearly identify in the small grant application technical guidance and standards from one of the approved sources listed in OAR 695-035-0030(3).

(f) Are at the same location as, and are identical to, projects that have already been funded, are currently being funded, or are currently being considered for funding through either the Small Grant Program or the OWEB Regular Grant Program.

(2) The following project types are ineligible for funding through the Small Grant Program:

(a) Project planning and design not done in conjunction with the implementation of funded restoration or enhancement activities.

(b) Routine maintenance.

(c) Trash removal.

(d) Fish screens and trash racks.

(e) Tide gate removal, replacement, or installation.

(f) Constructed stream bank armoring.

(g) Development of off-channel watering systems not done in conjunction with fencing a riparian area or managing nutrient and sediment inputs in upland areas.

(h) Pond cleaning and pond creation (does not include off-channel watering systems and pump-back systems).

(i) Residential landscaping not done in conjunction with the implementation of funded riparian restoration or enhancement activities.

(j) Weed control not done in conjunction with the implementation of funded restoration or enhancement activities.

(k) Projects required as a condition of a local, state, or federal permit, order, or enforcement action (e.g., mitigation projects, manure storage and management projects that are required by a permit from ODA).

(l) Irrigation practices that adversely impact the current level of groundwater in a Groundwater Management Area, or do not measurably reduce the diversion of water at the point of diversion.

(m) Irrigation water conservation projects that propose any of the following activities:

(A) Irrigation system maintenance or renovation of existing pipe.

(B) Restoring a system that has deteriorated due to lack of maintenance and/or inadequate design.

(C) Portable pipe (does not include gated pipe) or ditch cleaning.

(D) Electrical costs resulting from conversion to pump from flood irrigation.

(n) Western juniper management that involves the removal of late-seral/old growth juniper.

(o) Reforestation or tree planting on lands following a commercial harvest.

(p) Prescribed burning when conducted as part of a commercial operation.

(q) Commercial thinning.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2005, f. & cert. ef. 6-8-05; OWEB 1-2011, f. & cert. ef. 10-18-11

### 695-035-0070

#### Periodic Review and Evaluation of the Small Grant Program

Once a biennium, and in consultation with representatives of the Soil and Water Conservation Commission, tribes, and Small Grant Teams, OWEB will review annual reports submitted by Small Grant Teams and evaluate the need for program improvements and administrative rule changes.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05; OWEB 3-2005, f. & cert. ef. 6-8-05

### 695-035-0080

#### Waiver of Rules

The Director may waive the requirements of division 35, unless they are required by statute, for individual grants, when doing so will result in more efficient or effective implementation of the Board's grant program. Any waiver granted shall be in writing and included in the permanent file of the individual grant for which the waiver was granted.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

## DIVISION 40

### WATERSHED COUNCIL SUPPORT

### 695-040-0010

#### Purpose

These rules guide the Oregon Watershed Enhancement Board in accepting, reviewing for merit and considering applications for funding watershed council support under the provisions of ORS 541.918, 541.926(1)(e), 541.923, and 541.910.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 3-2004, f. & cert. ef. 9-20-04

### 695-040-0020

#### Definitions

(1) "Watershed Council Support" means a grant for the purpose of supporting the capacity of a watershed council or group of watershed councils to conduct the activities necessary for the watershed protection, enhancement, and restoration work of the council(s). This support may include coordinator salary and benefits, operating costs, risk management and accountability assurance, and fiscal grant management costs.

(2) "Council Coordinator" means the lead person or persons employed by or on behalf of a watershed council or a group of watershed councils to assist the council(s) in achieving the watershed protection, enhancement, and restoration objectives of the council(s). The activities carried out by a coordinator may include support to a council's board, coordination among sub-councils, development of projects, work with landowners, grant writing, fiscal management, work plan development, volunteer recruitment and supervision, communications, education, and outreach.

(3) "Hydrologic unit" means any geographic area drained by a river system, a reach of a river and its tributaries in that reach, a

closed basin(s), or a group of streams forming a coastal drainage basin. Hydrologic units are divided into size classifications, or fields, as defined by USGS codes, where the first field, such as the Columbia Basin, is a region.

(4) “Umbrella Watershed Council” means a watershed organization that (a) provides support to and coordination for at least three watershed groups or councils, and has a coordinating council, shared staff and a single Watershed Council Support grant, or (b) provides service to a watershed area containing three or more 4th field hydrologic units.

(5) “Merit Category” means a classification of Watershed Council Support applicants by similar qualities, achievements, or abilities, as determined by an evaluation of the grant application submitted, based on the criteria described in OAR 695-040-0050. The distribution of applicants in each merit category, the available funding, and other factors as described in OAR 695-040-0060(4) will determine the grant funding level for individual applicants. Within merit categories there may be different funding levels.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

### 695-040-0030

#### Eligibility Criteria

(1) A watershed council, or a group of watershed councils, is eligible to apply for Watershed Council Support if:

(a) The council serves a unique geographic area. A unique geographic area is one that is not or has not been located entirely or partially within the boundaries of another existing watershed council support grantee that has received council support funding from OWEB;

(A) In the situation where a watershed council has been awarded shared funding for watershed council support, but serves a watershed area that is not served by another watershed council, that council may be eligible to apply independently if it receives prior approval from the Board.

(b) Council membership reflects the balance of interests or is actively seeking a balance of interests in the affected watershed as defined in ORS 541.910(2); and

(c) The council has been designated by a local government as provided by ORS 541.910. This eligibility criterion applies if the council formed after September 9, 1995.

(2) The following costs are eligible for funding through a watershed council support grant:

(a) Council Coordinator salary and benefits;

(b) Operating costs including, but not limited to, supplies and materials, utilities, rent, travel and per diem, printing, postage, facilitation, safety equipment, office equipment, and training;

(c) Risk management and accountability assurance costs including audit, tax preparation, risk management and insurance; and,

(d) Fiscal management of the council support grant award not to exceed 10% of direct costs.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

### 695-040-0040

#### Application Requirements

(1) Applications for Watershed Council Support grants shall include information on the following:

(a) A scope of work as identified in OAR 695-040-0050(1);

(b) The organizational capacity of the watershed council(s);

(c) The past accomplishments of the watershed council(s);

(d) A description of the complexity of the watershed as described in OAR 695-040-0050(1)(f);

(e) A proposed biennial budget for the watershed council(s); and,

(f) Other information necessary to apply the merit-based criteria described in OAR 695-040-0050.

(2) Applications for Watershed Council Support must also comply with OWEB’s generally applicable grant application requirements.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

### 695-040-0050

#### Evaluation Criteria

(1) Applications for Watershed Council Support will be evaluated on a scope of work submitted by the applicant that:

(a) Demonstrates the extent to which the applicant is furthering the goals of the Oregon Plan for Salmon and Watersheds;

(b) Proposes measurable objectives and priorities for the upcoming biennium;

(c) Proposes council actions and outcomes for the upcoming biennium;

(d) Addresses how the council:

(A) Identifies and addresses the priority protection, restoration and enhancement needs of the watershed(s) served.

(B) Monitors and evaluates watershed conditions and functions and the efforts to improve watershed health, including the methods and data sources to be used.

(C) Encourages and tracks citizen participation in watershed projects and activities.

(D) Promotes and evaluates citizen learning about watershed science and key resource issues.

(E) Builds partnerships, organizational capacity, and council effectiveness.

(e) Identifies the council coordinator’s role;

(f) Addresses the complexity of the watershed(s) including:

(A) Total population;

(B) Land use including total acres and a general characterization of land ownership within the watershed(s);

(C) Hydrologic units served;

(D) Total stream miles within the watershed and miles of stream on the Department of Environmental Quality’s 303(d) list or in a completed Total Daily Maximum Load;

(E) The kind and number of species listed as Threatened or Endangered under the Endangered Species Act within the watershed;

(F) Total area of watershed jointly identified by Oregon Water Resources Department and Oregon Department of Fish and Wildlife as high priority for streamflow restoration;

(G) Municipal drinking water issues;

(H) Stormwater management issues; and,

(I) Groundwater areas with water quality and water quantity concerns, as identified by Oregon Water Resources Department and Department of Environmental Quality.

(g) Is reflected in the applicant’s proposed budget.

(2) Watershed council support grant applications will also be evaluated based on the following factors:

(a) Whether the applicant has previously received a watershed council support grant from OWEB and the extent to which the watershed council(s) has made progress in accomplishing the goals of previous biennium’s work plan, which reflects the level of council support funding received for that biennium.

(b) The extent to which the watershed council(s) takes a leadership role in achieving watershed restoration projects and activities within the watershed(s).

(c) The extent to which the watershed council(s) is following the currently accepted techniques of watershed management or is using innovative science-based watershed restoration techniques in addressing key watershed issues.

(d) How the watershed coordinator is supervised and evaluated and the role of the watershed council(s) in the supervision and evaluation of the coordinator.

(e) The organizational and fiscal administration capacity of the council and its fiscal agent, including employment, risk management, fiscal accountability, and decision-making.

(f) Whether the council(s) has or is seeking active participation of a diversity of interests in the watershed.



(g) Whether the council(s) has developed collaborative partnerships as shown by:

(A) Cooperative working relationships with local government, soil and water conservation districts, other watershed councils, landowners and other entities in the watershed.

(B) Sharing resources, staff, or project responsibilities with other entities.

(h) Whether the applicant has completed a watershed council self-evaluation, following an OWEB approved methodology, within the past 18 months and is implementing the results of the self-evaluation completed within the past 18 months.

(i) Whether the applicant has completed a watershed assessment(s), or is using an assessment(s) completed by others, consistent with the OWEB Assessment Manual.

(j) Whether the applicant has an action plan that identifies resource concerns, limiting factors, priorities, and the measures needed to address the issues identified.

(k) Whether the applicant has demonstrated how OWEB funds have been used to leverage other investments in the watershed(s).

(l) The age of the watershed council.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

#### 695-040-0060

##### Grant Evaluation Process

(1) Watershed council support applications will be reviewed and evaluated by a Council Support Advisory Committee.

(a) The Committee shall be appointed by the Director and be comprised of:

(A) At least two representatives from each of OWEB's regions. These regional representatives shall have technical knowledge of their region's watershed functions and values and watershed council needs; and

(B) At least three statewide representatives with expertise about watershed council roles and responsibilities under the Oregon Plan.

(b) OWEB regional program representatives may provide comments on the criteria identified in OAR 695-040-0050 to the Council Support Advisory Committee regarding watershed council support applications.

(2) The Council Support Advisory Committee will evaluate Watershed Council Support applications submitted and make merit category recommendations to the Director. The Committee will make its merit category recommendations based on the quality of response in the application to the evaluation criteria described in OAR 695-040-0050.

(3) Information provided by the applicant, the evaluation criteria in OAR 695-040-0050, the recommendation of the Council Support Advisory Committee, the recommendation of the Director, and the applicant's response to these recommendations will be used by the Board to determine an applicant's merit category placement and grant funding level.

(4) Individual watershed council support grant funding levels will be based on:

(a) An applicant's merit category.

(b) Whether the applicant is an umbrella watershed council as defined in OAR 695-040-0020(4).

(c) Whether the applicant is two or more watershed councils serving unique geographic areas in a single Watershed Council Support grant where the application demonstrates operational economies of scale over two separate grant applications.

(d) Available funding.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

#### 695-040-0070

##### Grant Agreement Conditions

The Watershed Council Support Grantee will be required:

(1) To complete a self-assessment as provided by the Board or a similar evaluation method approved by OWEB for each watershed council receiving support;

(2) To submit an annual report to OWEB and local government entities;

(3) To obtain insurance or bonding providing coverage for financial decisions and actions as identified by OWEB if the Grantee is its own fiscal agent, or if the Grantee's fiscal agent does not have such insurance or bonding; and,

(4) To assure that expenditures of OWEB funds are subject to an audit by an entity independent of the council or its fiscal agent.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04; OWEB 3-2004, f. & cert. ef. 9-20-04

#### 695-040-0080

##### Waiver of Rules

The Director may waive the requirements of division 40, unless they are required by statute, for individual grants, when doing so will result in more efficient or effective implementation of the Board's grant program. Any waiver granted shall be in writing and included in the permanent file of the individual grant for which the waiver was granted.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

Hist.: OWEB 3-2008, f. 11-14-08, cert. ef. 1-1-09

### DIVISION 45

#### LAND ACQUISITION GRANTS

#### 695-045-0010

##### Definitions

(1) "Management Plan" is a description of the planned future management of a property proposed for acquisition that addresses species and habitat management practices, proposed restoration projects, stewardship or monitoring, land uses, public access, and educational or research opportunities on the property.

(2) "Profit" means the positive difference between the original purchase price for the property interest acquired with OWEB grant funds and a subsequent purchase price for the same property interest, minus the owner's property improvement costs that, from an accounting or tax perspective, are capitalized and not expensed.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2005, f. & cert. ef. 2-1-05; OWEB 1-2013, f. & cert. ef. 1-30-13

#### 695-045-0020

##### Purpose

The purpose of this rule is to supplement the OWEB Grant Program rules under OAR 695-005 and to add specific guidance regarding the OWEB land acquisition grant program.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2005, f. & cert. ef. 2-1-05; OWEB 1-2013, f. & cert. ef. 1-30-13

#### 695-045-0160

##### Nature of Application

In accordance with Section 4(b)(4) of Article XV of the Oregon Constitution, OWEB may consider grant applications that propose the acquisition of interests in lands from willing sellers for the purpose of maintaining or restoring watersheds and habitat(s) for native fish or wildlife. Applications must address the conservation needs of habitat(s) and species consistent with conservation priorities and principles identified by the Board. Interests in land include a lease, purchase of a conservation easement, or purchase of fee simple title.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

**695-045-0165**

**Application and Subsequent Grant Processing and Agreement Requirements**

(1) Land acquisition grant applications must be submitted on the most current form that conforms with the process prescribed by the Board.

(2) The Board may consider proposals that are received for properties that were acquired by the applicant after the previous application deadline.

(3) In the event of any conflict between these requirements and requirements identified in OAR 695-005, the land acquisition requirements in this division will take precedence.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

**695-045-0170**

**Use of Grant Funds**

Land acquisition grant funds may be applied towards costs related to the purchase of the property, including:

(1) The purchase price and the purchase option fees associated with the property or conservation easement. The purchase price shall be based on an appraisal and review appraisal completed in accordance with applicable appraisal standards, including the Uniform Standards of Professional Appraisal Practice, and if required, the Uniform Appraisal Standards for Federal Land Acquisitions.

(2) The interest on loans.

(3) The staff costs incurred as part of the acquisition process related to the property.

(4) The cost of due diligence activities, including appraisal, environmental site assessment, survey, title review and other customary due diligence activities.

(5) The cost of baseline inventory preparation.

(6) The cost of preparation of the initial management plan, including consideration of any restoration needs.

(7) The legal fees incurred.

(8) The closing fees, including recording and title insurance costs.

(9) The cost of securing and maintaining the conservation values associated with the property in accordance with the application or a Management Plan approved by the Director.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

**695-045-0175**

**Matching Contributions**

(1) All applicants shall demonstrate at least 25% of the actual land acquisition project cost is being sought as match, with the grant applicant required to provide matching funds and efforts necessary to complete the purchase. The following costs and activities will qualify as match:

(a) All costs listed under OAR 695-045-0170, including in-kind contributions of those costs.

(b) Funding commitments made by others as a result of grant applicant efforts.

(c) The donated portion of a bargain sale.

(d) Funds deposited in a stewardship endowment, before the time that OWEB funds are released for acquisition of the property.

(2) OWEB funds provided under OAR 695-045-0170 shall not qualify as matching contributions.

(3) The Director retains the discretion to determine that specific matching costs are unreasonable in a particular grant context and will not be recognized as qualifying matching costs.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

**695-045-0180**

**Application Evaluation Process**

(1) Land acquisition grant applications shall be evaluated in accordance with guidance adopted and periodically reviewed by the

Board and made available to the public via the agency's website and Board meeting materials.

(2) The grant application evaluation process shall include reviews for:

(a) The consistency of the project with the Board's established priorities and principles for land acquisitions.

(b) The significance of the projected ecological outcomes.

(c) The capacity of the grant applicant, or intended property manager, to complete the acquisition and to achieve and sustain the proposed ecological outcomes over time.

(d) The soundness of the legal and financial terms of the proposed real estate transaction.

(e) The community impacts or benefits resulting from the project, including those related to jobs, agricultural land use, local property taxes, public access and education.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

**695-045-0185**

**Board Approval and Delegation of Authority**

The Board shall approve grants in accordance with guidance adopted by the Board and made available to the public. The Director is delegated the responsibility of ensuring that funding conditions required by the Board are fully satisfied by the grant applicant. Conditionally approved grant funds shall be encumbered for disbursement only after all conditions are fulfilled. The encumbered funds may be made available for other uses by OWEB if all conditions required by the Board are not satisfied within 18 months of the conditional Board approval.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

**695-045-0190**

**Public Involvement**

The public shall be provided with meaningful opportunities to comment on grant applications being considered by the Board. In a manner consistent with this requirement, the governing bodies of cities and counties with jurisdiction in the area of the proposed acquisition, as well as affected governmental agencies, will be provided with written notice of the Board's intent to consider:

(1) Written comments received at least 14 days before the Board meeting at which the application is to be considered by the Board.

(2) Comments made at public hearings held and publicized in accordance with ORS 271.735.

(3) Comments made at the Board meeting at which the grant application is considered.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

**695-045-0195**

**Director Funding Approval and Distribution of Funds**

(1) The Director may approve the distribution of grant funds when:

(a) The funding conditions, if any, imposed by the Board are satisfied to the full satisfaction of the Director.

(b) The legal and financial terms of the proposed real estate transaction are approved by the Director.

(c) The title restrictions required under ORS 541.960 are approved by the Director.

(d) A grant agreement is executed by the Director and the grant applicant.

(e) The Director has reconciled conditionally approved funding with actual project costs.

(f) The grant applicant has satisfied the match requirements under 695-045-0175.

(g) The Board is notified in writing of the Director's intent to distribute the grant funds or hold the grant funds pending Board consideration under 695-045-0200.

(2) Notwithstanding OAR 695-005-0060(1), for grants established under these rules the Director is authorized to reimburse the

grant applicant for allowable costs identified in 695-045-0170 and to recognize matching contributions under 695-045-0175 that were incurred no earlier than 18 months before the applicable grant application deadline.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

### 695-045-0200

#### Funding Decision Reconsideration by Board

In the event that the Director determines an applicant has not met conditions imposed by the Board, the Director shall forward the determination in writing to the Board for its consideration. The applicant will be provided a copy of the written determination. The conditionally encumbered grant funds will remain encumbered until the Board either affirms the Director's determination or authorizes the continued encumbrance of all or part of the funds in accordance with a modified decision of the Board.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

### 695-045-0205

#### Compliance and Enforcement

(1) The ongoing use of the property acquired with OWEB land acquisition grant funds shall be consistent with the purposes specified in section 4(b) Article XV of the Oregon Constitution. If significant compliance issues cannot be resolved to the full satisfaction of the Director, the Director, after informing the Board and providing reasonable written notice to the recipient of the grant, may in his or her discretion initiate any and all legal remedies available to OWEB, including recovery of the OWEB grant funds that were used to purchase the property, and reasonable interest and penalties at the option of the Director.

(2) OWEB, its contractors and cooperating agencies will be provided sufficient legal access to property acquired with OWEB funds, for the purpose of completing inspections and evaluations required under ORS 541.906(2)(c)(A).

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

### 695-045-0210

#### Subsequent Conveyances

Subsequent conveyances of property acquired with OWEB grant funds must strictly comply with the requirements of ORS 541.960, including but not limited to the requirement that subsequent conveyances be made subject to Board approval and that subsequent conveyances shall not result in profit.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

### 695-045-0215

#### Waiver and Periodic Review of Rules

The Director may waive the requirements of division 45 for individual grant applications unless required by statute, when doing so will result in more efficient or effective implementation of the Board's land acquisition grant program. Any waiver must be in writing and included in the grant file to which the waiver applies.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 1-2013, f. & cert. ef. 1-31-13

## DIVISION 46

### WATER LEASE AND TRANSFER GRANTS

### 695-046-0010

#### Purpose

The purpose of this rule is to supplement the OWEB Grant Program rules under OAR 695-005 and to add specific guidance regarding the OWEB water acquisition grant program. The Oregon Watershed Enhancement Board does not itself hold an interest in water

rights in grants authorized under these rules, but rather allocates funding for water allocation projects to other entities to hold the interest in water rights, subject to their contractual and statutory obligations and the compliance requirements set forth in OAR 695-046-0220.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 2-2005, f. & cert. ef. 2-1-05; OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0020

#### Definition of Water Acquisition Project

(1) "Water Acquisition Project is a program or project that plans for or implements, or both, the acquisition of an interest or interests in water from a willing seller for the purpose of increasing instream flow to do either or both of the following:

- (a) Address the conservation needs of habitats and species;
  - (b) Improve water quality in a water-quality-limited area as determined by the Oregon Department of Environmental Quality.
- (2) A water acquisition project may include the following activities:

- (a) Strategic planning and development, project design, landowner outreach, and other activities associated with water acquisitions in a given basin or other defined area;
- (b) Acquisition of an interest in water and associated due diligence;
- (c) Monitoring and other associated activities to ensure the interest is maintained through time.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 2-2005, f. & cert. ef. 2-1-05; OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0175

#### Nature of Application

In accordance with Section 4(b) of Article XV of the Oregon Constitution, OWEB may consider grant applications in partnership with other funders for projects that plan or implement the acquisition of an interest in water from willing sellers for the purpose of maintaining or restoring watersheds and habitat(s) for native fish or wildlife. Interest in water includes, but is not limited to, instream leases (including split season use instream leases), water use agreements that result in protectable instream flows, conserved water projects as determined by the Oregon Water Resources Department's Allocation of Conserved Water Program, and permanent and time-limited instream transfers. These projects must be designed to increase instream flow to do either or both of the following:

- (1) Address the conservation needs of habitats and species; or
- (2) Improve water quality in a water-quality-limited area as determined by the Oregon Department of Environmental Quality. Applications must address the conservation and restoration needs of habitat(s) and species consistent with ecological priorities and principles identified by the Board.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0180

#### Application and Subsequent Grant Processing Requirements

(1) Grant applications for water acquisition projects must be submitted on the most current form that conforms with the process prescribed by the Board.

(2) This Board-prescribed process may be conducted in cooperation with other funders of water acquisition projects.

(3) In the event of any conflict between these requirements and requirements identified in OAR 695-005, the water acquisition requirements in this division will take precedence.

Stat. Auth.: ORS 541.906  
Stats. Implemented: ORS 541.932(9)  
Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0185

#### Use of Grant Funds

Water acquisition grant funds may be applied towards reasonable costs, as determined by OWEB, related to the planning and/or



implementation of acquisition of interest in water from willing sellers, including:

- (1) The purchase price and the purchase option fees associated with acquisition of an interest in water.
- (2) The monetary interest on loans.
- (3) The staff costs incurred as part of acquiring the interest in water.
- (4) The cost of water-owner outreach activities necessary for the funded project.
- (5) The cost of due diligence activities, including appraisal or valuation of the interest to be acquired, title report, assessment of the timing and extent of water use and regulation associated with the interest in water, Oregon Water Resources Department application costs, and other customary due diligence activities.
- (6) The legal fees incurred.
- (7) The transfer and closing fees related to the acquisition of an interest in water.
- (8) The cost of monitoring the acquisition to certify that the water interest is being used and managed consistent with Section 4(b), Article XV of the Oregon Constitution.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0190

#### Matching Contributions

(1) All applicants shall demonstrate at least 25% of the actual water acquisition project cost is being sought as match, with the grant applicant required to provide matching funds and efforts necessary to complete the purchase. The following costs and activities will qualify as match:

- (a) All costs listed under OAR 695-046-0185, including in-kind contributions of those costs.
- (b) Funding commitments made by others as a result of grant applicant efforts (including funding to be secured from other funders as part of a Board-prescribed process conducted in cooperation with other funders).
- (c) Any donated portion of the interest in water.
- (2) OWEB funds provided under OAR 695-046-0185 shall not qualify as matching contributions.
- (3) The Director retains the discretion to determine that specific matching costs are unreasonable in a particular grant context and would not be recognized as qualifying matching costs.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0195

#### Coordinating and Partnering with Other Funders

OWEB may consider grant applications in partnership with other funders for the purpose of creating operational efficiencies and better coordinating investments in water acquisitions to maintain or restore watersheds and habitat(s) for native fish or wildlife that are designed to increase instream flow to do one or both of the following:

- (1) Address the conservation needs of habitats and species; or
- (2) Improve water quality in a water-quality-limited area as determined by the Oregon Department of Environmental Quality.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0200

#### Application Evaluation Process

(1) Grant applications for water acquisition projects shall be evaluated in accordance with guidance (including priorities, principles, and process) adopted and periodically reviewed by the Board and made available to the public via the agency's website and Board meeting materials.

(2) The evaluation may be conducted in cooperation with other funders.

(3) The grant application evaluation process shall include reviews for:

- (a) The consistency of the water acquisition project with the Board's established priorities and principles for water acquisitions.
- (b) The significance of the projected ecological outcomes.
- (c) The business plan for the water acquisition project, including:

(A) Socio-economic strategy, including the community impacts or benefits resulting from the project (including, but not limited to, description of both current and proposed water uses, potential effects on existing water rights and uses, and other relevant socio-economic information).

(B) The capacity of the grant applicant to complete the acquisition and to achieve and sustain the proposed ecological outcomes over time.

(C) The soundness of the planning and of the legal and financial terms of the proposed water acquisition project, and its feasibility to achieve the projected ecological outcomes.

(D) Priority will be given to projects that are planned or implemented, or both, by grant applicants with a sound program to acquire interests in water rights to address the conservation needs of habitats and species and improve water quality in a water-quality-limited area, as determined by the Oregon Department of Environmental Quality.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0205

#### Public Involvement

The public shall be provided with opportunities to comment on grant applications for water acquisition projects being considered by the Board. OWEB will provide written notice through its website of the Board's intent to consider water acquisition grant applications. The Board will accept:

(1) Written comments received at least 14 days before the Board meeting at which the application is to be considered by the Board; and

(2) Oral comments made at the Board meeting at which the grant application is considered.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0210

#### Board Approval and Delegation of Authority

The Board shall conditionally approve grants in accordance with guidance adopted by the Board and made available to the public. The Director is delegated the responsibility of ensuring that funding conditions required by the Board are fully satisfied by the grant applicant.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

### 695-046-0215

#### Director's Funding Approval and Distribution of Funds

The Director may approve the distribution of grant funds when:

(1) The terms of the proposed acquisition of an interest in water are approved by the Director.

(2) A grant agreement is executed by the Director and either the grant applicant or the entity or entities identified under the Board-prescribed process for other funders as referenced under OAR 695-046-0180. In the latter case, the other funder(s) must subsequently execute a grant agreement with the applicant to utilize OWEB funds in support of a water acquisition project. The Director has reconciled conditionally-approved funding with actual costs.

(3) The grant applicant has satisfied the match requirements under 695-046-0190.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

**695-046-0220**

**Compliance and Enforcement**

(1) The ongoing use of the water interest acquired with OWEB water acquisition grant funds shall be consistent with the purposes specified in section 4(b) Article XV of the Oregon Constitution. If significant compliance issues cannot be resolved to the full satisfaction of the Director, the Director, after informing the Board and providing reasonable written notice to the recipient of the grant, may in his or her discretion initiate any and all legal remedies available to OWEB, including recovery of the OWEB grant funds that were used to purchase the water interest, and reasonable interest and penalties at the option of the Director.

(2) OWEB, its grantees, contractors and cooperating agencies must be provided sufficient legal access to property to which the water interest acquired with OWEB funds is appurtenant, for the purpose of monitoring to certify that the water interest is being used and managed consistent with Section 4(b), Article XV of the Oregon Constitution.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

**695-046-0225**

**Subsequent Conveyances**

A water interest acquired with OWEB grant funds shall not be conveyed to another party unless the conveyance is approved by the Board, and may not be conveyed for the purpose of consumptive uses.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

**695-046-0230**

**Waiver and Periodic Review of Rules**

The Director may waive the requirements of Division 46 for individual grant applications, not including mandatory statutory requirements, when doing so is reasonably calculated to result in more efficient or effective implementation of the Board's water acquisition grant program. Any waiver must be in writing and included in the grant file to which the waiver applies. The administrative rules for water acquisition grants shall be periodically reviewed by the Board and revised as necessary and appropriate.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.932(9)

Hist.: OWEB 2-2013, f. & cert. ef. 6-19-13

**DIVISION 50**

**COMPLIANCE, COMPATIBILITY, COORDINATION,  
AND CONDITIONS**

**695-050-0010**

**Purpose**

These rules establish policies and procedures for assuring that Board actions that affect land use comply with Statewide Planning Goals and are compatible with acknowledged comprehensive plans. These rules also prescribe measures for providing technical assistance to local governments, participation in periodic review of comprehensive plans, resolution of land use disputes and other aspects of state agency coordination required by OAR chapter 660, division 30. These rules and coordination rules in OAR chapter 695, constitute the Board's state agency coordination program pursuant to ORS 197.180.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0015**

**Definitions**

(1) "Action" means grant-related activities governed by OAR chapter 695, or the adoption, amendment, or implementation of any future Board rule or program found to affect land use pursuant to OAR 660-030-0005(2).

(2) "Land Use Approval" means a final decision or determination made by a local government that concerns the adoption, amendment, or application of the goals or comprehensive plan provisions or implementing ordinances.

(3) "Planning Director" means the director of county or city planning departments, an appropriate designee, or other local official responsible for carrying out land use planning functions.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0020**

**Policy**

State law establishes a complementary relationship between state and local management of watersheds. The Board is required by statute to fund restoration, maintenance, and enhancement of watersheds to protect the well-being of the state and its citizens. Board programs will, however, be planned and implemented by responsible parties at the local level. Local comprehensive plans must provide inventories of local watersheds as well as measures for protecting and managing those watersheds in order to comply with Statewide Planning Goals. In order to carry this out, local governments are encouraged to use watershed council assessments and action plans where appropriate. The Board recognizes that coordination between state, local and federal agencies responsible for land management is essential to meeting policy objectives for watershed enhancement established in ORS 541.890 through 541.969. In carrying out its mandate, the Board will maximize the effectiveness of its watershed enhancement efforts by incorporating and accommodating land use objectives as prescribed in acknowledged comprehensive plans.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0025**

**Applicability**

These rules will apply to Board actions authorized and governed by OAR chapter 695.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0030**

**Compliance with Statewide Planning Goals**

(1) Except as provided in section (2) of this rule, Board actions will comply with the Statewide Planning Goals by ensuring compatibility with acknowledged comprehensive plans as described in these rules and OAR chapter 695.

(2) The Board will adopt findings that its actions comply with the Statewide Planning Goals if:

(a) An acknowledged comprehensive plan does not contain:

(A) Requirements or conditions specifically applicable to a Board action; or

(B) General provisions, purposes, or objectives which would be substantially affected by the action; or

(b) Other conditions outlined in OAR 660-030-0065 exist.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0035**

**Compatibility with Acknowledged Comprehensive Plans**

(1) The Board will assure that its actions are compatible with acknowledged comprehensive plans by following provisions established in OAR chapter 695. These provisions will:

(a) Require grant applicants to obtain and submit land use information with the application package; and

(b) Preclude the distribution of grant awards until the planning directors of affected counties or cities verify that: the project is allowed by and compatible with comprehensive plans; and, all local land use approvals have been issued.

(2) The Board will avoid land use disputes with local government agencies following procedures prescribed in section (1) of this rule. However, the Board will provide for appropriate resolution

measures as required by OAR 660-030-0070(4) and (7) through (12) if warranted.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0040****Compliance of New or Amended Rules and Programs and their Compatibility with Acknowledged Comprehensive Plans**

(1) The Board will examine proposals to amend or add to its rules and programs to determine if they affect any use as prescribed in OAR 660-030-0005(2). The Board may approve supplementary criteria for use in making its determination.

(2) The Board will notify the Department of Land Conservation and Development and any local governments relying on the Board for goal compliance as provided in OAR 660-030-0085 of all pending rule or program changes which are found to affect land use as described in section (1) of this rule. The notice will describe:

- (a) The proposal;
- (b) How the proposal affects land use;
- (c) How the proposal provides for compliance with the Goals and compatibility with comprehensive plans; and
- (d) A date until which the Board will accept written and oral comment on the proposal.

(3) The Board will not approve any rule or program changes, which have been identified in responses to the notice provided pursuant to section (2) of this rule, as out of compliance with the Goals or incompatible with acknowledged comprehensive plans.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0045****Coordination with State and Federal Agencies and Special Districts**

The Board will coordinate its actions with state and federal agencies and special districts as required in OAR 660-030-0060(c) by complying with the interagency coordination provisions in ORS 541.350 through 541.420. These provisions include:

(1) Encouraging individuals, organizations and agencies to work jointly on watershed enhancement programs.

(2) Coordinating the development of local watershed enhancement programs and projects.

(3) Coordinating the implementation of enhancement projects with the activities of the Natural Resources Division of the Oregon Department of Agriculture, and other affected local, state and federal agencies.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05

**695-050-0050****Cooperation with, and Technical Assistance to, Local Governments**

(1) The Board will place a high priority on cooperating with and providing technical assistance to participating agencies as prescribed in ORS 541.890 through 541.972.

(2) The Board will maintain information relating to watershed management and enhancement.

(3) The Board will coordinate its participation in periodic review of comprehensive plans with the Water Resources Department pursuant to provisions in the Department's certified state agency coordination program.

Stat. Auth.: ORS 541.906

Stats. Implemented: ORS 541.890 - 541.969

Hist.: OWEB 4-2004, f. 11-2-04, cert. ef. 2-1-05