

OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

DIVISION 028

**HOUSING AND COMMUNITY SERVICES DEPARTMENT
HOUSING PRESERVATION FUND PROGRAM**

813-028-0001

Purpose and Objectives

The rules of OAR chapter 813, division 028, are adopted for the purpose of administering section 5, chapter 906, Oregon Laws 2009, which establishes the Housing and Community Services Department Housing Preservation Fund and authorizes the Department to provide financial assistance to aid in the acquisition, renovation or maintenance of section 8 housing or other housing with federal rent subsidies.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0010

Definitions

All terms are used in OAR 813, division 028, as defined in the Act and as provided in OAR 813-005-0005 and herein. As used in this Division, unless the context indicates otherwise:

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

(2) "Fund" means the Housing and Community Services Department Housing Preservation Fund established in section 5, chapter 906, Oregon Laws 2009.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0020

Eligibility for Moneys from Fund

The Department may disburse moneys in the fund by grant, loan or otherwise as determined by the Department, subject to the availability of funds and limitations otherwise prescribed by law. The purposes for which the moneys may be disbursed include but are not limited to that of avoiding the expiration of federally contracted rent subsidies for affordable housing. These subsidies include but are not limited to subsidies under contracts with the U. S. Department of Housing and Urban Development and U.S. Department of Agriculture Rural Development that enable community organizations, for-profit entities and individuals to do the following:

(1) Acquire or rehabilitate existing structures; and

(2) Maintain housing with federally contracted rent subsidies.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0030

Application Procedure and Requirements

- (1) The Department may provide a reservation of an award from the fund through a process that may include but is not limited to any of the following:
 - (a) A direct Department award;
 - (b) An application according to a first-come, first-reviewed process; or
 - (c) An application according to a competitive review process.
- (2) In the case of a direct award under section (1)(a) of this rule, the Department may request information that the Department determines appropriate to support the award. An applicant for an award under section (1)(b) or (c) of this rule shall submit, in an application form and according to a process prescribed by the Department, a proposal as required by the Department. The proposal shall include all of the following items, subject to waiver of one or more of the items by the Department:
 - (a) A written description that includes the number of units, the unit mix, proposed rents, the site location, the proposed program of services to occupants, amenities and any other pertinent information.
 - (b) A statement of purpose indicating the housing type and residents to be housed, and the length of time the units will be available as affordable.
 - (c) A pro forma of expenses and income.
 - (d) The requested amount of funds, with proposed loan repayment terms if the funds are requested as a loan.
 - (e) Total development costs, with a description of all additional funding and funding sources.
 - (f) A description of the experience of the sponsor, developer, owner or manager in developing and operating housing.
 - (g) Any other documentation requested by the Department.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0040

Criteria for Funding

- (1) As the Department determines to be possible and appropriate, moneys from the fund are subject to distribution throughout the state and on the basis of identified needs and financial feasibility.
- (2) Specific criteria for distributing moneys from the fund include but are not limited to the following:
 - (a) The Department may give preference to an application that does one or more of the following:
 - (A) Provides the greatest number of low and very low income housing units for the least amount of account funds expended from or committed toward matching funds available from other loans, grants or eligible in-kind contributions.
 - (B) Ensures the longest possible use as low or very low income housing units, as determined by the State Housing Council.
 - (C) Provides housing for specific populations that historically have faced barriers in finding housing and that are identified as having a priority in the Department's Consolidated Plan or its successor, or in a state-acknowledged initiative.
 - (D) Meets other criteria established by the Department with respect to a particular project.

(b) The Department may condition funding for a development on the continued use of the development for the targeted population, on the provision of supportive services for the duration of the development and to the extent indicated in the funding application.

(c) Terms and conditions of an award must be established in the funding agreement or other documents required by the Department and shall be recorded against the property. If the applicant does not own the property at the time of fund disbursement or is a long-term lessee, the applicant or the lessor shall open an escrow account and have the funding agreement or other required documents placed in escrow and recorded immediately upon obtaining title to or control of the property.

(3) The Department may require repayment of funding provided under this rule if all or part of the commitments to residents, supportive services or period of use for low- or very-low income housing is withdrawn or reduced.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0050

Application Review

(1) An application is subject to the Department's approval, denial or modification, in whole or in part, and is also subject to review by the State Housing Council as appropriate.

(2) When a funding award is in excess of an applicable threshold established by the State Housing Council and the Council's review and approval are required under ORS 456.561, the Council shall approve or disapprove the application at a public hearing pursuant to ORS 456.571.

(3) When reviewing an application, in addition to any specific evaluation criteria, the Department or the Council, as appropriate, may consider the following matters:

(a) The amount of available funds in the program;

(b) The ability of the applicant to meet proposed terms of loan repayment, when funding is awarded as a loan;

(c) The availability of other sources of assistance;

(d) The applicant's efforts to leverage public or private funds; and

(e) Any other criteria that the Department or Council determines to be appropriate.

(4) The Department or the Council at any time may request additional information with respect to an application or award at any time.

(5) Approval or denial of an application under this rule is subject to the Department's judgment as to which applications will best achieve the purposes of the program and will best meet applicable evaluation criteria in the program application forms and handbooks.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0060

Charges

(1) The Department may charge an applicant for costs incurred by the Department in evaluating and taking action on an application, and may also:

(a) Impose a transfer application charge on an owner who receives a contract, grant, loan or tax credit through the Department or who requests the Department's approval of a change in ownership; or

(b) Impose a transfer review charge on an owner and transferee who effects a change in ownership without prior written approval by the Department.

(2) The Department may charge for costs incurred by the Department for review of a transaction by the Department of Justice, including but not limited to a change requested by the applicant to a required document.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0070

General Administrative and Monitoring Requirements

(1) A recipient of fund moneys shall furnish annual reports and other materials to the Department as required by the Department.

(2) A recipient of fund moneys is subject to reviews or field inspections, or both, by the Department that the Department determines to be appropriate for ensuring compliance.

(3) A recipient of fund moneys shall retain financial records, supporting documents and all other pertinent records for six years after affordability expires or after any litigation or audit claim is resolved, whichever is later. The recipient shall provide the Department access to all books, accounts, documents, records and other property belonging to or in use by the recipient and relating to the use of the fund moneys.

(4) A recipient must certify final uses of preservation proceeds for tax exempt eligible uses.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0080

Noncompliance

(1) At any time before the expiration of the affordability period, if the Department determines that a recipient is not in compliance with applicable requirements, the recipient shall take corrective actions required by the Department. Examples of noncompliance include but are not limited to the use of fund moneys for activities not approved in the funding agreement, the failure to complete activities in a timely manner, the failure to comply with applicable rules or regulations or the lack of a continued capacity by the recipient to carry out the approved activities. The Department may take one or more of the actions described in section (3) of this rule against a recipient who does not take the required corrective actions to the satisfaction of the Department.

(2) In addition to or in lieu of a requirement of corrective action under section (1) of this rule, the Department may take one or more of the actions described in section (3) of this rule against a recipient who is not in compliance with applicable requirements if the Department determines that one or more of the following circumstances exist:

(a) The Department or recipient has not disbursed moneys within one year of award by the Department.

(b) A public or private party funding agreement that is related to the project is not executed within six months of the award of moneys from the fund.

(c) A material breach of the funding agreement occurs, such as a failure to use the funds for eligible costs or a failure of the recipient to serve the population stated in the funding agreement.

(d) The funding agreement is not recorded on the property as required by OAR 813-0---0090 or pursuant to agreement.

(e) The Department finds that significant corrective actions are necessary to protect the integrity of the award money and that the corrective actions are not or will not be made within a reasonable time.

- (3) The Department may take one or more of the following actions under this rule:
- (a) Prohibit a recipient from applying for future moneys from the fund or for other Department assistance;
 - (b) Revoke an existing award.
 - (c) Withhold unexpended moneys.
 - (d) Require return of moneys disbursed to the recipient but not yet expended by the recipient.
 - (e) Require repayment of expended moneys.
 - (f) Payment of any legal cost associated with a review of non-compliance.
 - (g) Invoke other remedies that may be incorporated into the funding agreement.
- (4) Actions that the Department may take under this rule are cumulative and not exclusive and are in addition to any other rights and remedies provided by law or under a funding agreement.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009

813-028-0090

Waiver

The Department may waive or modify any requirements of these rules, unless such waiver or modification would violate applicable federal or state law.

Stat. Auth.: ORS 456.555

Stats. Implemented: section 5, chapter 906, Oregon Laws 2009