Oregon

Tina Kotek, Governor

Independent Housing Finance Agency
HPAC Finance Work Group Recommendation

Recommendation:

Create an independent or semi-independent Housing Finance Agency (HFA) governed and led by a commission of experts appointed by the Governor, and transfer OHCS's existing housing finance programs to the HFA for administration.

Transferred programs to include all those related to the financing of real estate.

1. Single-family mortgage programs
    a. Down payment assistance programs
    b. Manufactured home replacement programs
    c. Wildfire survivor home loans funded by federal disaster relief funds (CDBG-DR)
2. Multifamily rental housing programs
    a. State and federal tax credits
    b. Bond and loan programs
        i. Conduit bonds
        ii. Elderly and disabled bonds
    c. Gap financing programs and funding sources
        i. LIFT
        ii. GHAP
        iii. Document recording fees
        iv. HOME
    d. Manufactured housing park finance programs
    e. Wildfire-related housing production funded with federal disaster relief funds (CDBG-DR)
3. Loan servicing and asset management

This recommendation, which would require considerable analysis, study, and stakeholder engagement in order to carry out, would essentially split OHCS as it's known today into two separate entities: one focused on the specialized housing finance arena with a mandate to expedite production of low- and moderate-income housing of all types; and the other providing grant funding to anti-poverty and homeless services programs, which requires its own focus and expertise. It would eliminate the need for a separate disaster recovery division within OHCS.

The thesis for how this recommendation would serve to expedite housing production is provided in the body of this document. The Finance Workgroup identified some key questions for additional study but recognized that fuller analysis falls outside the scope of what the HPAC workgroup process can reasonably provide.

Related Work Plan Topics

- Governance and a new Housing Production Administrative Entity
- All topics related to streamlining OHCS production-related programs and services, including revisions to NOFA processes, removing obstacles created by DOJ, and general responsiveness of the agency.
- Would also allow for the update of statutes that currently prohibit OHCS from providing financial assistance to properties that serve households about 80% AMI.

Adoption Date:

October 4, 2023

Method of Adoption:

Meeting Consensus

Co-chairs Guidance: Standards for Analysis

1. Clearly describe the housing production issue that the recommended action(s) will address.

Creation of a Commission-led HFA could improve delivery of the real estate- and finance-related functions of the State in several ways. The quasi-independent nature of the HFA could add value through the following:

a. The ability to attract and retain professionals with real estate finance experience and expertise through a market-based compensation system;
b. The ability to retain specialized and market-responsive legal counsel to facilitate transactions while still protecting the State’s interests;
c. Greater sophistication would enhance the ability to nimbly partner with regulated banks, CDFI’s, mortgage bankers, investors, State Treasury, and others in the financial sector;

d. With a strong grasp of risks and opportunities, fair and transparent procurement processes can be deployed to expedite partnerships that lead to deal flow;
e. An ability to act with creativity and responsiveness to efforts designed to bring new and innovative types of housing solutions to Oregon, i.e. modular housing solutions, mass timber housing initiatives, MH park development, and more; and
f. A governing commission with elevated skills and experience that is well-suited to provide fiduciary oversight of financing and long-term asset management functions associated with the specialized housing finance sector.

With imbedded knowledge, skills, and sophistication with housing finance matters the State's reputation with providers of capital can be strengthened, which potentially could lead to strengthened negotiation on behalf of the State, faster time to deal-closing, and more favorable pricing. The Finance Workgroup has learned (through SME participation) that national developers and capital providers hold the perception that quasi-independent, commission-led HFAs are more sophisticated than are those operating inside the executive branch of state government. This notion should be tested and evaluated as part of the due diligence necessary to advance the recommendation beyond HPAC's tenure.

Separate and apart from reputational considerations, an HFA possessing the attributes described here would facilitate greater production of both traditional affordable housing (0 – 60%), and middle- or moderate-income housing (60 – 120% AMI).

> In the ***affordable housing*** space, improved technical expertise and responsiveness will expedite deal flow. It will also maximize leveraging of scarce public resources through strong underwriting and deal structuring expertise.
>
> In the ***middle-income*** space, the State will have the ability to structure new programs that provide relatively shallow capital subsidy to transactions, with confidence in the underlying analysis of economic feasibility and an appropriate ongoing monitoring mechanism. This is an increasingly recognized need which OHCS is unable to fulfill.

Two keys to deriving the benefits are (i) the ability to attract and retain skilled real estate finance professionals, which has been problematic for OHCS for many years; and (ii) the ability to nimbly work with private sources of capital in a way that leverages – rather than competes with – private investors and lenders.

2. **Provide a quantitative, if possible, and qualitative overview of the housing production issue.**

These aspects are described above.

3. **To assess the issue and potential action(s), include subject matter experts representing all sides of the issue in work group meetings, including major government, industry, and stakeholder associations.**

Catherine Such, Head of Operations for Region's Bank and a long-time affordable housing practitioner with experience in both the public and private sectors, participated in the 10/4 Finance Workgroup meeting. Her insights are not Oregon-specific, but rather from a national lender and investor perspective. Such's observations are summarized here:

a. State agencies within the executive branch are inherently hamstrung, in part because the allocation of scarce AH resources is hyper-politicized.
b. There's a perception within the capital markets world that there is a more sophisticated partner in a commission-led HFA. Especially when issuing tax-exempt bonds with agency lenders, Fannie, Freddie, etc.
c. Bond volume cap also political.
d. Most states are organized as quasi-independent, Commission-led HFAs.
e. They can pay more, attract stronger talent.
f. Perception that OHCS people are state employees first and foremost.
g. Ability to attract sophisticated commissioners who would also bring value and help by virtue of their own reputation and experience.
h. Stronger fiduciary responsibility at commission level.
i. Among national AH developers, much corporate consolidation is taking place. Big hotel owners; insurance companies. These corporations are very concerned about CF and back end. Bring big balance sheets. Will start to see developer partners who are very institutional in nature, must meet them with equally sophisticated underwriters.
j. Increased sophistication of staff and commissioners creates a better understanding of overall risk. The big ones are very quick to examine pricing, scrutinize deals more rigorously. Also not afraid to use weight of their own resources when necessary to plug holes.
k. These agencies are equal partners in terms of their ability to drive deal flow with state resources. Far more willing to go back to their own boards with things that change. Hold developer and financing partners accountable.

l. From an asset management perspective, they also work to mitigate and do restructuring without being expected to write the check.
m. Must reconcile the degree to which the independent commission makes policy, vs the public sector. Legislature would need to provide public policy goals.

The Oregon Bankers Association has expressed interest in engaging this topic, but was not available in time to consult with the workgroup.

If HPAC and the Governor find that the idea has merit, considerable additional analysis and study would need to be undertaken, including with a variety of SMEs.

4. Provide an overview of the expected outcome of the recommended action(s), including quantitative/qualitative context if available.

See question 1, above.

5. Estimate of the time frame *(immediate, short, medium, long-term)*, feasibility *(low, medium, high)*, and cost *(low, medium, high)* for implementation of the recommended action(s).

Timeframe: Long-term. Recommend commissioning an independent study of the concept in 2024, with initial implementation following legislative approval in 2025.

Cost: unknown. Cost of initial study in the ~$100k range.

Feasibility: From the perspective of other states, there are models that could be adopted that technically would not be challenging. From the perspective of those inside OHCS, including its Housing Stability Council, as well as some stakeholders, considerable bargaining unit negotiations and change management complexities will arise.

6. Provide a general overview of implementation, the who and how for the recommended action(s).

The complexity and degree of change this recommendation suggests will require time and deliberation. A first action should be a bill in the 2024 short legislative session calling for an analysis of the potential benefits and risks through an independently conducted study.

Going in, it's important to recognize that accountability will be essential. While HFAs around the country are structured in various ways, all entail a **governing board appointed by the governor**. These boards have a concentration of market- and industry-based expertise, as well as a knowledge of the overall policy objectives of the HFA.

Oregon is one of a small handful of outliers across the country insofar as its HFA sits directly within the executive branch. One implication is that the legislature approves the entirety of its vast and complex budget, even though a relatively small portion of that budget derives from State sources. Mechanisms would need to be created to ensure an appropriate level of accountability to the legislature, particularly for revenue sources like Article X1Q bonds (LIFT), general fund, Oregon Affordable Housing Tax Credits (OAHTC), and document recording fees. Budget oversight for federal sources including tax exempt bonds, LIHTC, HOME, National Housing Trust Fund, etc. could be simplified and streamlined.

7. Outline the data and information needed for reporting to track the impact and implementation of the recommended action(s).

- Average time between initial application for competitive funds and certificate of occupancy for State-assisted projects.
- Satisfaction surveys by stakeholders and customers
- Units produced – as measured by occupancy, NOT by awarded funds

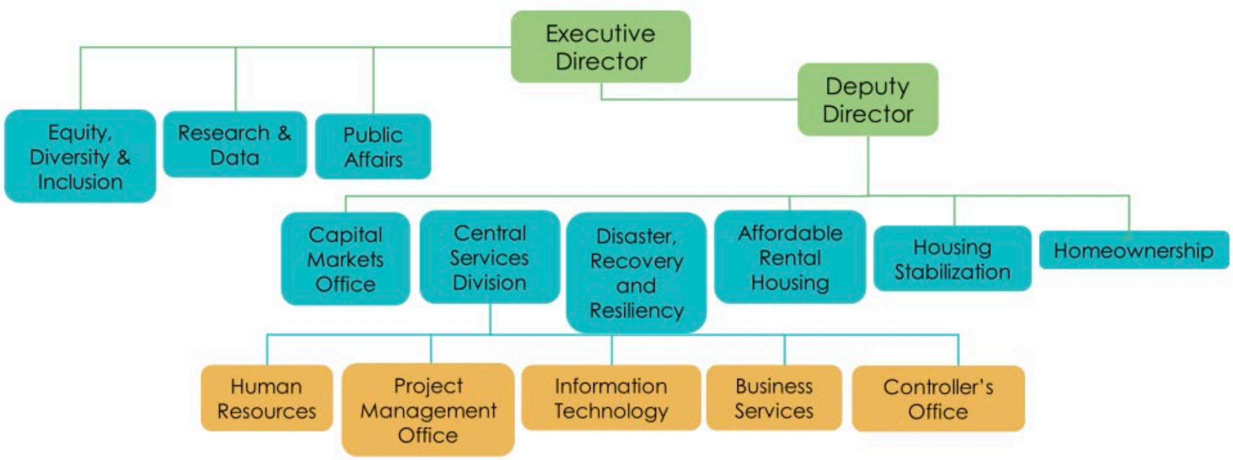
8. Identify any major externalities, unknowns, tradeoffs, or potential unintended consequences.

Given the nature and severity of the housing crisis, and the ambition set forth by Governor Kotek for dramatically increasing housing production, some institutional tradeoffs and risks will be necessary. There are unknowns with respect to how unit production could benefit with an HFA. These can and should be studied further, and the Finance Workgroup has identified an initial list of matters to be deliberated and analyzed.

a. **Accountability** to the Legislature, Governor, municipalities, and the public generally would need to be assured in any transitions towards quasi-independence and oversight by a commission. It should be noted that both Public Housing Authorities (PHAs) and Urban Renewal Agencies are quasi-independent, and effectively operate with guardrails of all public bodies. In the case of an HFA, accountability mechanisms can be provided for in statutory provisions, for example with respect to the appointment and removal of commissioners as well as the chief executive, and establishment of mandatory legislative reporting.

b. **The impact to OHCS** – the organization, its employees, and methods of service delivery – could be significant. The Workgroup performed a cursory review of agency structure and budget considerations. As noted in the following charts, prepared in February 2023 for the Legislature, the Housing Stabilization functions (fka "Community Services") comprise a small share of FTE and overall budget authority.

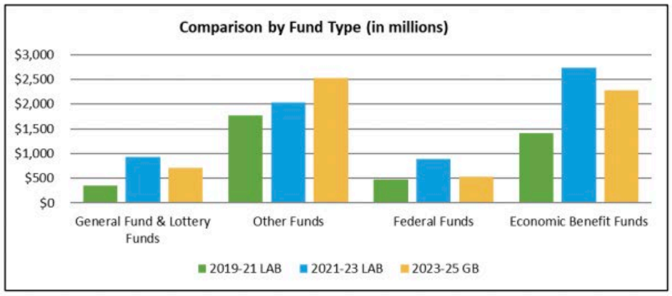
STAFFING & ORGANIZATIONAL STRUCTURE



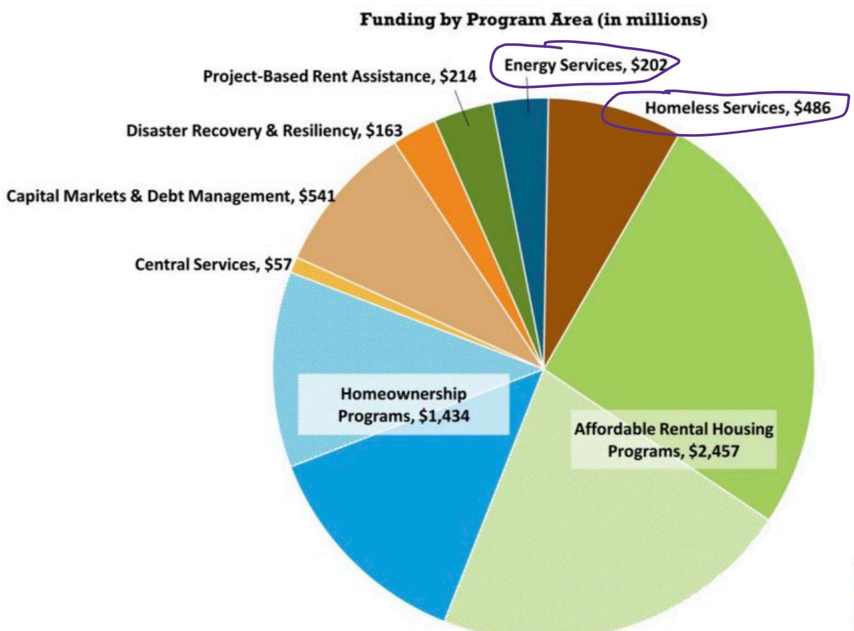
Positions in Governor's Budget	Supervisory	Non-supervisory	Total
Central Services	19	142	161
Affordable Rental Housing Division	10	113	123
Disaster Recovery and Resilience	6	36	42
Homeownership Division	7	33	40
Housing Stabilization	6	54	60
Total	48	378	426

AGENCY BUDGET

FUND TYPE	2019-21 LAB	2021-23 LAB	2023-25 GB
General Fund & Lottery Funds	$353	$934	$708
Other Funds	$1,763	$2,034	$2,521
Federal Funds	$469	$885	$533
Economic Benefit Funds	$ 1,408.6	$ 2,733.2	$ 2,279.0
All Funds	**$3,994**	**$6,587**	**$6,041**



Read the [Governor's Recommended Budget] for more information.



OREGON HOUSING and COMMUNITY SERVICES

Within the context of impacts to OHCS, it will be critical to plan a transition in concert with the SEIU bargaining unit. The potential transfer of any represented employees will require certain notice provisions, protections of pay and working conditions for specified time periods, and an understanding of whether a new bargaining unit would be created at the new HFA.

c. **Testing the business case.**

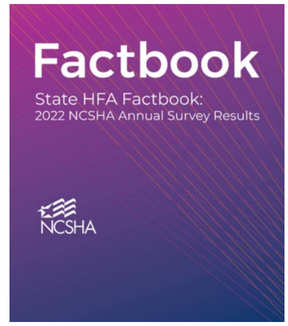
i. The idea that greater sophistication comes with a Commission-led quasi-independent HFA begs the question of whether bond issuances or LIHTC transactions could gain more favorable pricing under such a structure, thus better leveraging public funds.?
ii. Similarly, does heightened expertise impact issuance fees? Legal fees?
iii. Is there a way to test the assumption that complex transactions can be closed more quickly, and that asset management challenges can be resolved more efficiently?
iv. How might an HFA's bond revenue and expenditures changes under and HFA structure?

d. **Competition.** Some states' HFAs compete directly with banks and other first mortgage lenders, as well as Community Development Financial Institutions in their product offerings. In Oregon, the threat of such competition could cause concern with private lenders and the banking industry – sectors that the State will want to ensure strong and enduring business partnerships with into the future. This potential unintended consequence would need to be explored and analyzed, including through early engagement with financial industry leaders.

Again, considerable analysis and study would need to be undertaken to take steps towards implementation of this recommendation. Prior efforts from 2013-14 (discussed below in Historical Context) provide some insights into the complexity and stakeholder preferences. Though COVID, pandemic relief funds, the 2020 wildfires, and the significant increase in State-dedicated funding flowing through the agency have changed circumstances of the agency, many of the fundamental challenges remain.

It's reasonable to expect some opposition to this recommendation, especially from within OHCS, and its stakeholders who benefit from the status quo. A thorough and objective study would provide insights into externalities – both positive and negative – and potential unintended consequences.

Please include any relevant reports, data analyses, presentations, or other documents that would be informative and useful for the full HPAC as the recommendation is discussed and considered.



[FDIC Explanation of HFAs]

[Nat'l Council of State Housing Agencies explainer]

[HFA Fact Book]

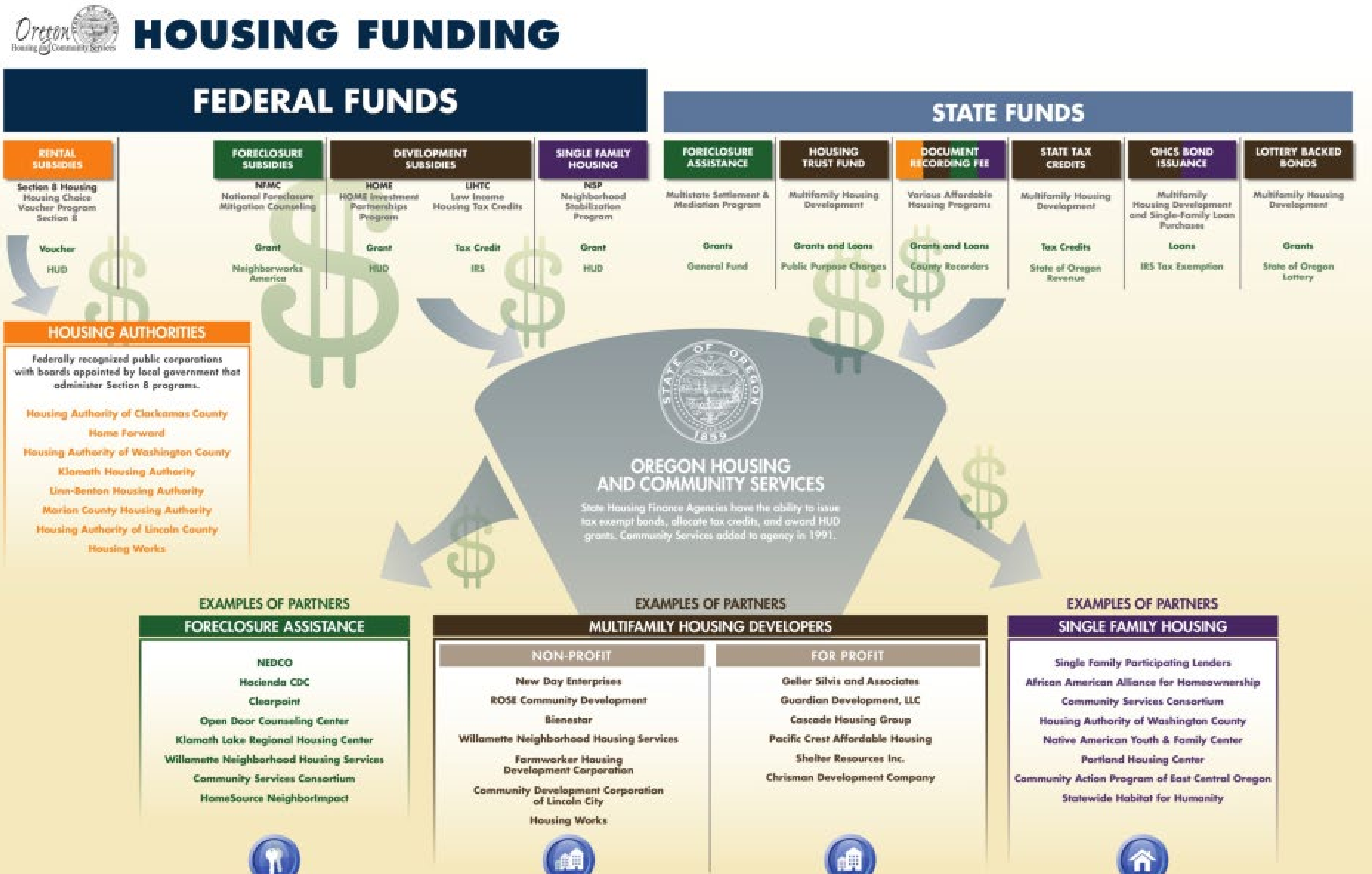
Historical Context

In 2012 then-Governor Kitzhaber called on OHCS to develop "a new model of state governance, service delivery, and community partnerships" for affordable housing and safety net services. The charge came in part for financial sustainability reasons, but also reflected deep dissatisfaction on the part of community and business partners, as well as legislators, with the performance and responsiveness of the agency. Among the options considered by the Governor's office and the legislature was the possibility of disbanding the agency and sending its housing finance programs either to a newly formed Housing Finance Agency, or to State Treasury or Business Oregon. This scenario would have placed the department's community services programs at Dept of Human Services. Legislative budget presentations – linked below – describe the state of the agency at the time. Three visual representations of OHCS's funding sources, programs, and service delivery model from that time are also attached to this recommendation.

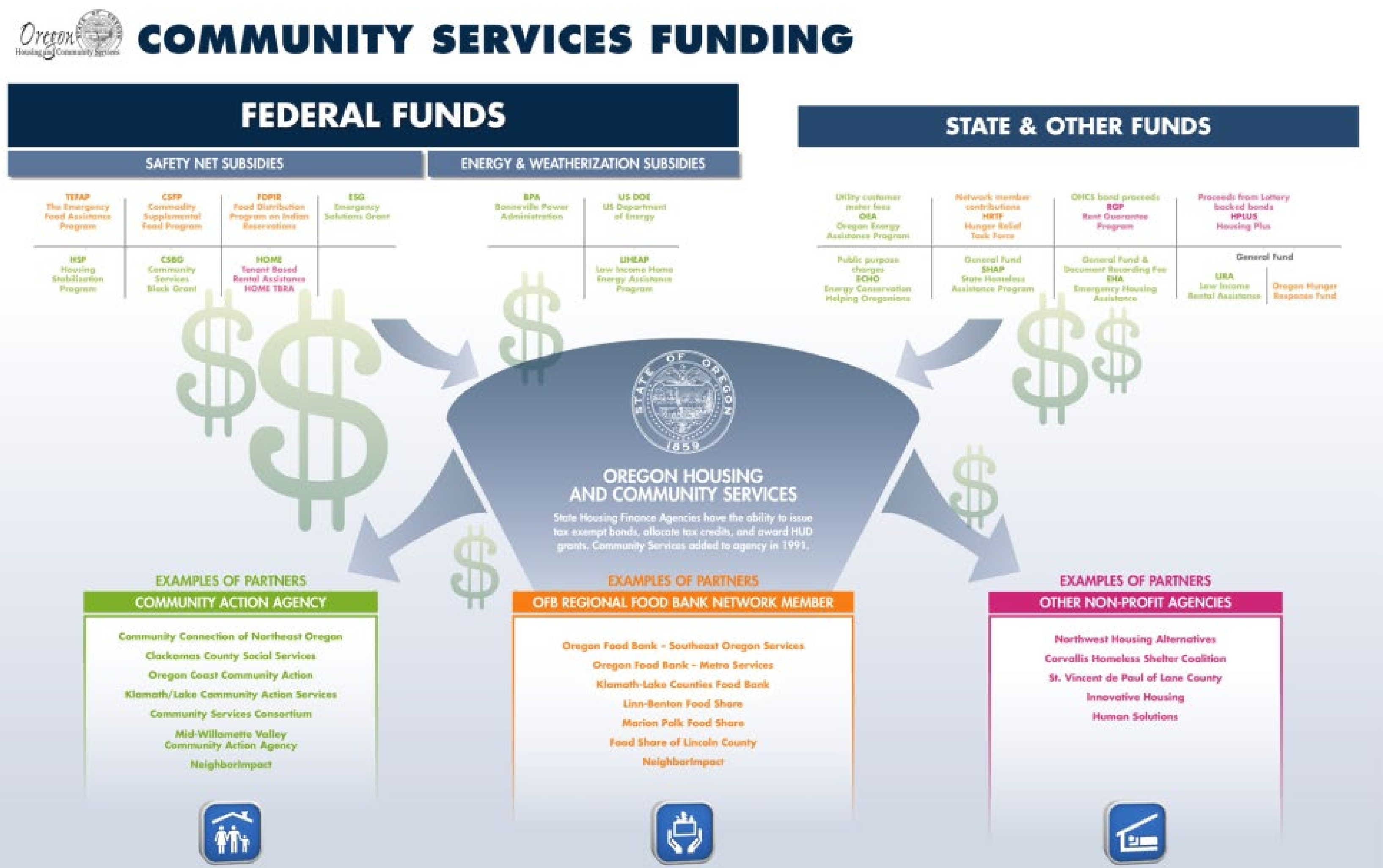
In July of 2013, the Secretary of State's office released a performance audit that documented significant program duplication, overlap and fragmentation at OHCS. The findings of this audit lent further credence to the notion that the agency should be restructured.

A Transition Planning Project ensued, including stakeholder engagement, and consideration of various scenarios for alternative program administration structures. Though a few small programs were transferred out of OHCS, the conclusion of the process was that considerable improvements could be made to service delivery and community partnerships and that disbanding the agency should not be necessary. A strategic and operating plan to set the course for consensus-based improvements was developed by the agency.

[2013 OHCS Budget Presentation to W&M]
[2013 SOS Audit of OHCS]



This infographic is for information purposes only and is not a full representation of all OHCS' housing programs or partners.



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OHCS Funding, Service Delivery & Advisory Structure