

## DIVISION 25

### ~~STANDARDS TO DETERMINE PROJECT ELIGIBILITY AND APPLICATION PROCEDURES FOR PORT PLANNING AND MARKETING GRANTS FROM THE PORT PLANNING AND MARKETING FUND~~

123-025-0005

#### Purpose

The purpose of these rules is to provide procedures, standards and criteria for operation of the Port Planning and Marketing Fund program authorized by ORS 285A.654 through 285A.660.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 8-1985(Temp), f. 10-22-85, ef. 11-1-85; EDD 5-1987, f. & ef. 10-9-87; EDD 6-1997, f. & cert. ef. 4-25-97; EDD 5-2001(Temp) f. & cert. ef. 7-13-01 thru 1-9-02; EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; Administrative correction 8-18-04

123-025-0010

#### Definitions

~~For the purposes of these rules additional definitions may be found in Procedural Rules, OAR 123-001. For the purposes of these rules, t~~The following terms will have the following definitions, unless the context clearly indicates otherwise:

~~(1) "Commission" means the nine member Oregon Economic and Community Development Commission appointed under ORS 285A.040.~~

~~(2) "Department" means the State of Oregon Economic and Community Development Department.~~

~~(3) "Director" means the Director of the Department.~~

(14) "Fund" means Port Planning and Marketing Fund.

(25) "Peer Review Committee" means a committee of Oregon port representatives, as determined by the [department authority](#). The Peer Review Committee shall:

(a) Recommend standards and priorities for typical Port Planning and Marketing Fund projects;

(b) Review and evaluate Port Planning and Marketing Fund proposals submitted to the [department Authority](#) for possible funding; and

(c) Review and evaluate project deliverables as described in the grant contract prior to disbursement of final payment.

~~(6) "Port" means a municipal corporation organized under ORS chapter 777 or 778, which may be known as a "port authority" or "port district."~~

(37) "Project" means any activity that is eligible for assistance from the Port Planning and Marketing Fund.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 8-1985(Temp), f. 10-22-85, ef. 11-1-85; EDD 5-1987, f. & ef. 10-9-87; EDD 6-1997, f. & cert. ef. 4-25-97; EDD 5-2001(Temp) f. & cert. ef. 7-13-01 thru 1-9-02; EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08

## 123-025-0012

### Annual Funding of Program

The [Department Authority](#) will transfer up to 5.00% of the assets of the Port Revolving Fund, not to exceed the annual accrued net income from the Port Revolving Fund into the Port Planning and Marketing Fund annually as calculated on receipt of the Fund Audit each year.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08

## 123-025-0015

### Project Eligibility and Criteria, Strategic Business Plans Requirement

(1) A planning or marketing project that meets the following criteria is eligible for assistance from the fund:

(a) The project is necessary for improving a port's capability to carry out its authorized functions and activities relating to trade and commerce;

(b) The project is feasible and will produce measurable results;

(c) The project will promote the long-term economic self-sufficiency of the port and will encourage cost-effective investments guided by prudent financial consideration and review;

(d) The project has a single focus and does not attempt to accomplish multiple disjointed or unrelated outcomes or tasks;

(e) The applicant has met the strategic planning requirements in 123-025-0015(2) and;

(f) The project meets the standards and criteria as set by the [department authority](#) and Peer Review Committee in this division of administrative rules.

(2) Those Ports formed under ORS 777 shall develop and maintain strategic business plans before obtaining [Authority department](#) funding for other projects. This requirement will be phased in over several years.

Ports must have a formally adopted strategic business plan [that meets the standards and requirements of the Authority, approved by the department, Ports must have their plan](#) in place one year after the adoption of a Statewide Ports Strategic Business Plan [by the Oregon Business Economic and Community Development](#)

~~Commission as a condition of in order to~~ obtaining financial assistance from the Authority department. The strategic business plans required under this rule shall be updated at least every 5 years.

Stat. Auth.: ORS 285A.075(5)

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 8-1985(Temp), f. 10-22-85, ef. 11-1-85; EDD 5-1987, f. & ef. 10-9-87; EDD 6-1997, f. & cert. ef. 4-25-97; EDD 5-2001(Temp) f. & cert. ef. 7-13-01 thru 1-9-02; EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; Suspended by EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08

## 123-025-0017

### Application Submittal, Review and Approval

(1) An eligible port may submit an application after consulting with the Authority department on a preliminary determination of eligibility and otherwise follow the Authority's department's procedures for submitting applications. The application must be in the form provided by the Authority department and must contain or be accompanied by such information as the Authority department may require. The Authority department will process only completed applications.

(2) Upon receipt of a completed application the Authority department will apply the following criteria to determine the project's eligibility:

(a) The project is cited in or conforms to a port's adopted strategic business plan required under OAR 123-025-0015(2) and approved by the Authority department and the Peer Review Committee.

(b) The project is not an unnecessary duplication of marketing efforts among ports. However it is recognized that regional or cooperative projects may require ports to simultaneously perform similar tasks;

(c) The project does not subsidize regular port operating expenses;

(d) The project will not require or rely upon continuing subsidies from the Authority or department;

(e) Financial need may be a consideration when reviewing a project proposal for funding; and,

(f) The requirements set out in OAR 123-025 are met.

(3) Upon receipt of a signed application the Authority department will within 14 days notify the port as to the status of the application and advise the port of any missing materials or incomplete application detail.

(4) Once an application is considered complete the Authority department will, within 60 days approve or reject the application.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08

## 123-025-0021

## **Project Funding Priorities**

(1) At the beginning of each state fiscal year the [Authority Department](#) and the Ports will make reasonable efforts to identify and initiate high priority projects. Funding of up to 50% of that year's transfer of funds will be reserved exclusively for high priority projects for the first four months of the state fiscal year, after which it will become available for any eligible project.

(2) Projects to develop or update the strategic business plans as required under OAR 123-025-0014(2), or port marketing or financial plans, undertaken before the provisions of ORS 123-025-0015(2), will be given the highest priority.

(3) Other high priority projects are:

(a) Regional or cooperative projects that benefit more than one port;

(b) Projects that leverage other marketing and development efforts by the state or other government units;

(c) Projects leading to economic diversification, development of a new or emerging industry or redevelopment of existing public facilities.

(d) Priority will, however, be given for immediate job or revenue creation projects or other opportunities not cited in a port's adopted strategic business plan provided that the port consults with the [Authority department](#) and the Peer Review Committee and, if required to do so by the [Authority department](#), the ruling body of the port acts to amend its strategic business plan.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08

### **123-025-0023**

## **Grant Awards and Match**

(1) The maximum grant is \$50,000 or 75% of the total project cost, whichever is less.

(2) Grants will be awarded only when there are sufficient funds available in the fund.

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08

### **123-025-0025**

## **Project Administration**

(1) The [department](#)[Authority](#) and the port must execute a grant contract prior to disbursement of grant funds.

(2) Documentation of project costs incurred by a port must be submitted to the [department Authority](#) prior to disbursement of funds.

(3) Disbursement of grant funds to a port will not exceed one disbursement per month. Ten percent of the grant funds will be withheld until the Peer Review Committee reviews and recommends approval of the appropriate grant contract deliverables of the project.

(4) Upon request the port must provide the [department Authority](#) with a copy of documents, studies, reports, and materials developed during the project, including written report on activities or results of the project, or any other information that may reasonably be requested by the [department Authority](#).

(5) Prior to final disbursement, the Peer Review Committee will review all documents produced as a result of the project. The committee will evaluate and make recommendations to the [department Authority](#) on value of resulting document(s) and how closely the project delivered the outcome anticipated in the application.

(6) Any monies disbursed but not used for an approved project, must be returned to the [department Authority](#).

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 8-1985(Temp), f. 10-22-85, ef. 11-1-85; EDD 5-1987, f. & ef. 10-9-87; EDD 5-2001(Temp) f. & cert. ef. 7-13-01 thru 1-9-02; EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; EDD 5-2006, f. 10-30-06, cert. ef. 10-31-06; EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08

## 123-025-0030

### Remedies Sanctions, Exceptions and Appeals

(1) The [department authority](#) may ~~invoke seek legal remedies sanctions~~ against ports that fail to comply with the requirements governing the fund. ~~Remedies Sanctions~~ will not be imposed by the [department authority](#) until the port has been notified in writing of deficiencies and has been given a reasonable time to respond and correct the deficiencies noted. ~~The following circumstances may warrant sanctions:~~

~~(a) State statutory requirements have not been met; or~~

~~(b) There is a significant deviation from the contract; or~~

~~(c) The [department authority](#) finds that significant corrective actions are necessary to protect the integrity of the project funds.~~

~~(2) One or more of the following sanctions may be imposed by the [department authority](#):~~

~~(a) Bar a port from applying for future assistance;~~

~~(b) Revoke an existing award;~~

~~(c) Withhold unexpended funds;~~

~~(d) Require the return of unexpended funds or repayment of expended funds;~~

~~(e) Withhold other state funds such as state shared revenues; and~~

~~(f) Other remedies as described in the grant contract.~~

~~(3) The remedies set forth in this rule are cumulative, not exclusive, and in addition to any other rights and remedies provided by law or under contract.~~

~~(4) Appeals of local government decisions regarding a project must be made at the local level.~~

~~(5) The director will consider appeals of the department authority's funding decisions. Only the port may appeal. Appeals must be submitted in writing to the director within 30 days of the event or action that is being appealed. An application that would have been funded but for technical error in the department authority's review will be funded as soon as sufficient funds become available, provided the project is still viable. The director's decision is final.~~

~~(6) The director may waive non-statutory requirements of this program if it is demonstrated such a waiver would serve to further the goals and objectives of the program.~~

Stat. Auth.: ORS 285A.075

Stats. Implemented: ORS 285A.654 - 285A.660

Hist.: EDD 1-2002, f. & cert. ef. 1-30-02; EDD 4-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 15-2004, f. & cert. ef. 8-2-04; EDD 5-2006, f. 10-30-06, cert. ef. 10-31-06; EDD 13-2007(Temp), f. & cert. ef. 12-7-07 thru 6-1-08; EDD 17-2008, f. & cert. ef. 6-4-08