

DIVISION 30

PORT REVOLVING FUND

123-030-0000

Purpose

The purpose of these rules is to provide procedures, standards and criteria for operation of the Port Revolving Fund program authorized by ORS 285A.66~~96~~ through 285A.732.

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

Stats. Implemented: ORS 285A.66~~96~~-ORS 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02

123-030-0004

Definitions

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

~~(1) "Commission" means the Economic and Community Development Commission.~~

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

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

~~(4) "Finance Committee" means the Finance Committee appointed by the Oregon Economic and Community Development Commission.~~

~~(5) "Flexible manufacturing space project" means a project for the acquisition, construction, improvement or rehabilitation, in whole or in part, of any building suitable for the conduct of manufacturing processes and, by design, able to be readily modified when necessary to accommodate the operations of the tenants of the building. The term includes any pre-project planning activities for a flexible manufacturing space project.~~

(16) "Fund" means the Oregon Port Revolving Fund.

~~(7) "Port" means a municipal corporation organized under ORS chapter 777 or 778, that may be known as a "port authority" or "port district."~~

~~(8) "Project" means any activity that is eligible for assistance from the Port Revolving Fund.~~

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

Stats. Implemented: ORS 285A.66~~96~~ - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04; EDD 6-2006, f. 10-30-06, cert. ef. 10-31-06

123-030-0010

Need for the Port Revolving Fund Project

(1) Applications must include sufficient information that will demonstrate the need for the project. The information must include, but not be limited to, the following:

- ~~(a) Whether reasonable alternatives to the proposed project have been considered;~~
- (b) Whether economic benefits and opportunities such as increased employment, increased personal income, and cost savings are evident;
- (c) Whether the applicant has a prospective user or other near-term use of the proposed project; and
- (d) That the project satisfies the applicable requirements of OAR chapter 123, division 8.

(2) In the event the loan is primarily for a proposed project to facilitate the location or expansion of an industry pursuant to ORS 285A.666-285A.732, the industry expansion to be induced by the loan must include ~~one or more of the following activities:~~

- ~~(a) Manufacturing or other industrial production;~~
- ~~(b) Agricultural development or food processing;~~
- ~~(c) Aquaculture development or seafood processing;~~
- ~~(d) Development or improved utilization of natural resources;~~
- ~~(e) Research and development;~~
- ~~(f) Medical, clinical, engineering, or other scientific testing;~~
- ~~(g) Corporation headquarters facilities;~~
- ~~(h) Destination resort and recreational development;~~
- ~~(i) Storage and warehousing facilities;~~
- ~~(j) Product distribution facilities;~~
- ~~(k) Transportation or freight facilities including, but not limited to, airports;~~
- ~~(l) Introduction of new technology or new types of economic development to broaden an area's economic base; or~~
- ~~(m) Other activities consistent with the infrastructure target industries or Ports adopted Strategic Business Plan, reverse investment programs of the Oregon Economic and Community Development Department.~~

(3) Need for the project will ~~be not be considered~~ established for the purpose of these rules for in-state plant relocation ~~unless the following conditions are met if:~~

(a) The firm engaging in in-state plant relocation has demonstrated that the relocation is necessary for reasons beyond its control;

(b) The relocation will provide a substantial increase or prevent a substantial direct reduction in total Oregon employment.

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

Stats. Implemented: ORS 285A.6696 - 285A.732

Hist.: EDD 9, f. & ef. 10-14-77; EDD 17-1990, f. & cert. ef. 6-28-90; EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04

123-030-0020

Application Requirements

An eligible port district may submit an application after consulting with ~~Authority Department~~ staff on a preliminary determination of eligibility and otherwise following the ~~Authority Department's~~ procedures for submitting applications.

(1) 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) A fee of \$100 will be charged for each loan application submitted to the ~~Authority Department~~. All application fees will be made by check or money order and made payable to the Oregon Port Revolving Fund.

(3) All applications for loans from the Oregon Port Revolving Fund must indicate the proposed collateral to secure the loan and must include the following information:

(a) If the port's taxing authority is proposed to be pledged as collateral, a statement certified by the county assessor's office that sets forth the current ~~millage leage~~ rate, the projected new ~~millage eage~~ rate, if required to pay off the loan, the port's maximum current limitation, and a statement indicating whether the proposed pledge is within the port's current maximum mileage limitation;

(b) If any of the port's personal or real property is proposed to be pledged as collateral, the ~~Authority Department~~ may require a formal appraisal, certified by an appropriate licensed authority, attesting to the value of all collateral proposed to be held as security.

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

Stats. Implemented: ORS 285A.6696 - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04; EDD 6-2006, f. 10-30-06, cert. ef. 10-31-06

123-030-0030

Application Review and Approval

(1) To approve an application for assistance from the fund, the ~~Authority Finance Committee~~ must make the determinations as follows:

- (a) The project is consistent with the requirements governing assistance from the ~~F~~fund. If the Authority Department determines that the applicant and/or the proposed project do not meet the requirements of this section, the Authority Department may reject an application or require further documentation from the applicant;
 - (b) The requisite need for the project has been demonstrated in the application or the local planning process;
 - (c) The port has certified to the Authority Department that there will be adequate funds available to repay any loans made;
 - (d) The loan security includes the pledge of revenues and/or other funds are sufficient, when considered with other security, to assure repayment;
 - (e) The applicant is willing and able to enter into a contract with the Authority Department for repayment of the loan;
 - (f) The ~~project is ready to proceed including applicant has applied for~~ all necessary permits required by federal, state and local agencies;
 - (g) The project activities constitute an eligible project;
 - (h) Moneys in the fund are or will be available for the project;
 - (i) The requirements under ORS 285A.055 for approval have been satisfied;
 - (j) The applicant will not owe more than \$3 million in principle to the Port Revolving Fund if the loan is approved.
- (2) The Authority Finance Committee may provide preliminary approval of a loan application at any time and identify all necessary requirements for final approval.
- (3) If the application is denied, the matter will be set aside unless the applicant requests further action under ORS Chapter 183.

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

Stats. Implemented: ORS 285A.66~~96~~ - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04; EDD 6-2006, f. 10-30-06, cert. ef. 10-31-06

123-030-0040

Loan Contract Terms and Conditions

- (1) Interest rates will be set by the Authority Department at market rates, but not less than Treasury Notes of a similar term minus 1 percent.
- (2) The term of the loan will not exceed the useful life of the contracted project or 25 years from the year of project completion, whichever is less.

(3) For a flexible manufacturing space project, the loan contract may provide that no interest accrue until the building is 25 percent occupied, or until three years after the date of the loan contract, whichever is earlier.

(4) The loan contract will:

(a) Be in a form as provided by the Authority Department, and

(b) Provide that the Authority Finance Committee may institute appropriate action to prevent use of project facilities financed by the fund if the port is delinquent in its repayments.

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

Stats. Implemented: ORS 285A.66~~96~~ - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04; EDD 6-2006, f. 10-30-06, cert. ef. 10-31-06

123-030-0050

Sanctions, Exceptions and Appeals

(1) The Authority Department may ~~seek legal remedies invoke sanctions~~ against Ports that fail to comply with the requirements governing the Fund. The Authority Department will not impose ~~remedies sanctions~~ until the Recipient 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 deviation from the contract.~~

~~(2) One or more of the following sanctions may be imposed by the Department:~~

~~(a) bar a Recipient from applying for future assistance;~~

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

~~(c) Withhold undisbursed funds;~~

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

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

~~(f) Other remedies that may be incorporated into Grant contracts.~~

~~(3) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the 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's funding decisions. Only the Applicant 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 a technical error in the Department's review will be funded as soon as sufficient funds become available, provided the Project is still viable and eligible under these rules. 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(5)

Stats. Implemented: ORS 285A.66~~96~~ - 285A.732

Hist.: EDD 8-2002, f. & cert. ef. 5-1-02; EDD 1-2004(Temp), f. & cert. ef. 2-3-04 thru 8-1-04; EDD 16-2004, f. & cert. ef. 8-2-04; EDD 6-2006, f. 10-30-06, cert. ef. 10-31-06