**SUBJECT:** Amending OAR 581-017-0432 to 581-01-0447 (competitive farm-to-school program grant process)

**STAFF NAME & OFFICE**: Richard Sherman, Office of Student Services

Enrolled HB 2038 (2017) amended the list of entities eligible to apply for and receive a competitive farm to school program grant in ORS 336.431. The department’s competitive grant program rules currently do not reflect the amendments made by Enrolled HB 2038 (2017).

**BACKGROUND**

During the 2015 legislative session, the Legislative Assembly created two farm to school program grants: a noncompetitive grant available to all school districts to assist in paying costs incurred purchasing foods produced or processed in the State of Oregon, and a competitive grant to assist school districts, nonprofit organizations, and commodity commissions or councils in paying costs incurred providing food-based, agriculture-based, or garden-based educational activities in school districts.

In February of 2016, the board adopted rules (OAR 581-017-0432 to 581-017-0447) establishing the competitive farm to school grant’s eligibility criteria, application process, and reporting requirements, as well as identifying allowable uses of competitive farm to school grant funds.

Enrolled HB 2038 (2017) made minor changes to the competitive farm to school grant program statute (ORS 336.431), adding education service districts, federally recognized Indian tribes, schools overseen by the Bureau of Indian Education, and soil and water conservation districts organized under ORS 568.210 to 568.808 and 568.900 to 568.933 to the listing of entities eligible to apply for a grant.

The proposed amendments to OAR 581-017-0432 to 581-017-0447 do two things. First, they update the listing of entities eligible to apply for a competitive farm to school grant to incorporate those added by Enrolled HB 2038 (2017). Second, in response to feedback received from grant recipients, they modify the caps on direct administrative expenses and planning and development charges.

**SUMMARY OF PREVIOUS BOARD ACTION**

The board adopted OAR 581-017-0432 to 581-017-0447 in February of 2016.

**HAS THE RULE CHANGED SINCE LAST BOARD MEETING?**

[x]  N/A; first read—hasn’t been before board

[ ]  No; same as last month

[ ]  Yes – As follows:

**POLICY ISSUE OR CONCERNS**

1. OAR 581-017-0432 to 581-017-0447 must be updated to include the additional entities eligible to apply for a competitive farm to school program grant that were added to ORS 336.431 by Enrolled HB 2038 (2017).
2. OAR 581-017-0444 caps the amount of a competitive grant award a grant recipient can spend on direct administrative costs (10%), and costs associated with planning and developing the food-based, agriculture-based, or garden-based educational activities the recipient has proposed to offer (10%). Based on feedback from grant recipients, staff propose modifying these caps so grant recipients could reserve up to 20% of their total award for administrative expenses and planning and development costs. Administrative costs would still be capped at 10%, but if a grant recipient’s administrative costs were 5% of its total grant award, it could use the difference (5%) towards its planning and development costs.

**EQUITY IMPACT ANALYSIS**

Previously, only commodity commissions or councils, school districts, or nonprofit organizations could apply for and receive a competitive farm to school program grant. With the passage of Enrolled HB 2038 (2017), federally recognized Indian tribes and schools overseen by the Bureau of Indian Education are now also eligible to apply for and receive a competitive grant.

Historically underserved populations will be positively impacted by the proposed rule amendments because the amendments modify the list of eligible entities in OAR 581-017-0432 to 581-017-0447 to include those added by Enrolled HB 2038 (2017).

**FISCAL ANALYSIS**

The proposed amendments to OAR 581-017-0432 to 581-017-0447 will not have a fiscal impact on the ODE. Entities eligible to apply for and receive a competitive farm to school grant would experience a fiscal impact if they chose to apply for the grant, and a positive fiscal impact if they receive one.

**EFFECT OF A “YES” OR “NO” VOTE**

Voting “yes” on the proposed amendments will update OAR 581-017-0432 to 581-017-0447 so they include the additional entities eligible to apply for and receive a competitive farm to school grant added by Enrolled HB 2038 (2017), and adjust the cap on direct administrative costs and expenses associated with planning and developing a food-based, agriculture-based, or garden-based educational program funded by a competitive grant.

Voting “no” on the proposed amendments will leave the rules as they are currently written. They will not be aligned with ORS 336.431, as amended by Enrolled HB 2038 (2017), which will cause confusion for grant applicants, school districts, and ODE staff. The current caps on direct administrative costs (10%) and expenses associated with planning and developing a food-based, agriculture-based, or garden-based educational program funded by a competitive grant (10%) will remain in place.

**STAFF RECOMMENDATION**

[ ]  Approve [x]  Approve next month [ ]  No recommendation at this time

***Prompted by:*** [x]  State law changes [ ]  Federal law changes [x]  other (feedback from grant recipients)

**ATTACHMENTS**

Attachment 1: OAR 581-017-0432 to 581-017-0447

Attachment 2: Proposed amendments to OAR 581-017-0432 to 581-017-0447