

# Oregon Housing and Community Services

## General Policy and Guideline Manual

EFFECTIVE AS OF JANUARY 15, 2015



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## **OVERVIEW**

Oregon Housing and Community Services (Department) is responsible for the evaluation of affordable multi-family housing projects (Projects) proposed for funding by the Department through the allocation of Department resources from one (1) or more federal or state multi-family housing programs (Programs), such as Low Income Housing Tax Credits (LIHTC) and the Home Investment Partnership Program (HOME). To coordinate this process, the Department provides this General Policy and Guideline Manual (General Manual or Manual) to establish relevant uniform policies and guidelines with respect to the allocation of Program resources. First, this Manual sets forth the general policies (Policy) applicable to the funding of any Project; and second, it provides the common underwriting guidelines (Guidelines) for any such Project.

### **A. PURPOSE OF THE POLICIES**

When requesting Department resources for a Project from any Program, the Requestor must satisfy the requirements of this Manual, the requirements of any Program from which funding is requested, and any other applicable funding requirements, whether in statute, administrative rule, regulation, or otherwise (collectively, the Project Requirements).

### **B. APPROVAL AND EFFECTIVE DATE OF THE GENERAL POLICY AND GUIDELINE MANUAL**

The effective date of this Manual is January 15, 2015. This version of the Manual will remain effective until it is amended, revoked, or superseded by action of the Department. The General Manual applies to all Project funding Requests submitted to the Department on or after the effective date.

### **C. ADMINISTRATION AND INTERPRETATION OF THE GENERAL MANUAL**

Department staff is authorized to interpret and administer the General Manual. In addition, staff has authority to interpret and administer any specific Program regulation, policy, related administrative rule, or other Project Requirement subject to the limitations of law.

Requestors should stay informed of the actions of the Department that may amend, revoke or supersede this General Manual. A Requestor may ask Department staff for specific information or assistance.

The Department maintains a list of interested parties to whom certain notices and other information are distributed, including Multi-Family technical advisories issued by the Department. To be included on this list, click “sign up for Email updates” on the Department’s website at

[http://www.oregon.gov/ohcs/pages/mfh\\_multi\\_family\\_housing\\_announcements.aspx](http://www.oregon.gov/ohcs/pages/mfh_multi_family_housing_announcements.aspx).

**D. DEFINITIONS OF TERMS**

Capitalized terms have the meanings given to them throughout the General Manual or in the General Glossary of Terms.

**E. PUBLIC RECORDS**

Materials and information submitted to the Department are subject to public disclosure unless otherwise exempt from disclosure under the Oregon Public Records Law, particularly ORS 192.502(24).

As of the date of this Manual, ORS 192.502(24) exempts the Department from releasing to the public the following records, communications, and information submitted to the Department by Requestors and recipients of loans, grants, LIHTCs, or other financial assistance:

- Personal and corporate financial statements and information, including tax returns;
- Credit reports,
- Project appraisals, excluding appraisals obtained in the course of transactions involving an interest in real estate that is acquired, leased, rented, exchanged, transferred or otherwise disposed of as part of the project, but only after the transactions have closed and are concluded,
- Market studies and analyses,
- Articles of incorporation, partnership agreements and operating agreements;
- Commitment letters,
- Project Pro Forma and Project operating statements,
- Project cost certifications and cost data,
- Audits,
- Project tenant correspondence (unless confidentiality is waived),
- Personal information about a tenant; and
- Housing assistance payments.

The purpose of ORS 192.502(24) is to promote the development of affordable housing by protecting from public disclosure the detailed personal and business information that Requestors and businesses must submit to the state as a condition of participating in subsidized housing programs.

The Department provides no assurance that any materials provided to it can be protected from public review and copying.

**F. WAIVERS**

If the Department acts contrary to or fails to take action in accordance with the General Manual or any other Project Requirement, such act or omission does not constitute a waiver by the Department of a Project, person, or other entity's obligation to comply with the provisions of the General Manual, other Project Requirements, or establish a precedent for any other Project,

person or entity. In any event, no waiver, modification, or change of the General Manual, any Department Program Manual, or any other Project Requirement will be binding upon the Department unless it is in writing, signed by an authorized agent of the Department, and consistent with law.

## **I. GENERAL REQUIREMENTS**

The Department has established the following general requirements with respect to its selection of Projects for resource reservation and subsequent funding. These general requirements (in addition to the other requirements described in this General Manual) terms and conditions of other applicable Program Requirements (including, but not limited to, the execution, recording, and compliance with associated legal documents required by the Department with respect to a Project), and other applicable Project Requirements must be satisfied in order to obtain a Reservation of resources or the subsequent Disbursement of resources by the Department.

The Department may exercise any remedy provided herein, in any Program, in any Project Requirement (including, but not limited to, any associated legal document), or otherwise available under law with respect to any violation of applicable Project Requirements. Department remedies may include, but are not limited to, rejection of a Request or termination of the processing of a Request.

### **A. FAIR HOUSING AND OTHER CIVIL RIGHTS COMPLIANCE**

The Department requires all Requestors and recipients of Department resources:

1. to comply with all applicable state and federal nondiscrimination laws,
2. to act affirmatively (including the use of appropriate outreach) to ensure those who may be, or are at risk of being, underserved with Department resources are provided appropriate accessibility;
3. to comply with Equal Opportunity Employment standards in hiring and retaining personnel, and
4. to satisfy any targeted population or services standards in Program Requirements.

Accordingly, development and use of any Project must be consistent with all applicable Project Requirements with respect to nondiscriminatory conduct including, but not limited to, applicable federal, state, and local nondiscrimination laws. Applicable law includes, *inter alia*, the Federal Fair Housing Act Amendments of 1988 - that provide specific guidelines for multi-family dwellings with respect to minimum accessibility, adaptability and prohibition of discrimination.

Requestor shall comply with all applicable Federal Civil Rights legislation inclusive of the Fair Housing Laws, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act, as well as any state and local Civil Rights laws or regulations. Requestor and any owner or manager of a Project shall comply with all applicable anti-discrimination laws and regulations relating to race, color, religion, sex, handicap, familial status, national origin and any other classifications protected by such laws and regulations. These laws and regulations include, but are not limited to, design requirements for construction and rehabilitation to accommodate

persons with disabilities, Equal Opportunity in regard to marketing outreach and tenant selection, as well as other reasonable accommodation and modification for those persons covered under such laws and regulations.

**B. IDENTITY OF INTEREST**

Requestors must disclose to the Department whether financial, familial, business or similar relationships exist among the parties participating in the development or operation of the Project (i.e., whether an “Identity of Interest” exists). Such disclosures shall be made when Requests are filed and at such other times during the development and operation of Projects and processing of Requests as requested by the Department.

**C. MISREPRESENTATION AND FRAUD**

The Department may disqualify a Requestor, Project, or cancel a funding, if the Requestor, a Principal, or any representative of either makes a material misstatement, omission, or misrepresentation to the Department, or has been convicted of or is currently indicted for fraud, theft, or other criminal activity involving the misappropriation of funds, false certifications, financial improprieties, or the like. The Department also may exercise one (1) or more other remedies as it deems appropriate.

**D. PROJECT CHANGES**

A Requestor must notify the Department in writing of, and obtain its written consent to, any material change in a Project. A Requestor must notify the Department when a material change is first identified. The Department will endeavor to respond within thirty (30) days after notice of a material change with respect to its requested consent. The Department may give or withhold its consent, or condition same, subject to its reasonable discretion. A “material change” includes, but is not limited to, a change in:

- the number of buildings or units,
- the Project contact person,
- the Identity of Interest disclosure,
- the Development Team,
- the Project’s Total Project Costs,
- a financing source (whether debt or equity),
- operating revenue or expenses for the Project of more than ten percent (10%),
- anything that would result in a change in Allocation Criteria.

The Department will determine whether or not a change in a Project is material. The Department’s materiality determination is final.

The request for approval of a material change in a Project must be submitted in writing and include a narrative description and other supporting documentation, plus the applicable revised pages of the Request. If the Department grants the request, including as modified or

conditioned, it may adjust the amount of the funding allocation to assure the sources and uses of the Project remain in balance.

#### **E. FEASIBILITY AND VIABILITY ANALYSIS**

The Department will only allocate such Program resources to a Project as it determines, in its sole discretion, are necessary for the financial feasibility and viability of the Project.

In order to allow the Department to perform these analyses, the Requestor must submit to the Department, among other things; (i) a comprehensive development budget showing all sources and uses of funds and the total financing plan for the Project, and (ii) a thirty (30) year operating pro forma for the Project. The form and detail of the budget and pro forma must be satisfactory to the Department and comply with all relevant Program requirements.

The Department will review the reasonableness of the development and operating budgets submitted by the Requestor. It may require the Requestor submit additional documentation to substantiate that any or all of the Project's revenues or costs are reasonable and appropriate. In addition, the Requestor will be required to submit a copy of a FIRREA compliant appraisal and such other information as the Department determines to be appropriate.

#### **F. APPRAISAL REQUIREMENTS**

In order to allow the Department to determine the eligible basis of either the existing or new construction "improvement/buildings" in a project, an appraisal prepared in conformance with Oregon Statutes, FIRREA standards and Department policy is required.

- FIRREA standards require that appraisals must be ordered by the lender or other financial institution - which must define the purpose of the appraisal and provide guidance to the appraiser as to the bank or financial institution requirements - and the bank or financial institution must engage the appraiser, who cannot be related in any way to the seller or buyer.
- For Projects that currently have restricted rents, the appraisal must include an "As is" Restricted Rent Value.
- For Projects that currently receive or will receive at time of sale "project based" subsidy, the appraisal must include an "as is" restricted rent value taking into consideration the subsidy that is generally marked to market.
- For Projects that do not currently have restricted rents, the appraisal must include an "as is" Market Rent Value.
- In all appraisals an "as is" Market Value for land must be included that reflects all restrictions on the land.
- The Department must be named as an intended user and permission granted to it to discuss the report with its preparer.

**To avoid delays or additional costs to the borrower, it is suggested that the Requestor obtain the Department’s approval of the scope of work in the letter of engagement before the appraiser is engaged.**

**Deadlines for delivery of appraisal to the Department:**

- 9% LIHTC programs– Acceptable appraisal must be received within ninety (90) days of award.
- 4% LIHTC program – Acceptable appraisal must be received as soon as available, but not later than ninety (90) days prior to construction close.

**G. CONSTRUCTION CLOSING**

The Requestor must give the Department at least thirty (30) days’ written notice of the scheduled Construction Closing. At least ten (10) days prior to the Construction Closing, but after the general contractor bids have been received, the Requestor must submit to the Department the Project’s final development budget, final sources of funds, and documentation to substantiate the final budget.

**H. PROGRAM AFFORDABILITY AGREEMENTS**

Any Program funding is subject to the execution and, as appropriate, recording of legal documents satisfactory to the Department. Certain such documents (Affordability Agreements) include long-term affordability requirements. Failure to execute, record or adhere to these Affordability Agreements and other legal documents, including but not limited to their restrictive covenants or resultant equitable servitudes may result, *inter alia*, in the termination of Request processing, loss of funding, and recoupment of disbursed funding.

**I. MINIMUM AFFORDABILITY REQUIREMENTS**

**1. Rent Restrictions:**

The Department prefers rents in Department-funded Projects to be a minimum ten percent (10%) below market rents for the area, except when rents are determined by project-based rental assistance contracts. Program Requirements specify the applicable rent restrictions. When multiple funding sources are used, the most restrictive rent restriction requirement applicable to the Project units in question applies.

**2. Income Restrictions:**

Each Department funding source may have income restrictions. Program Requirements specify the applicable income restrictions. When multiple funding sources are used, the most restrictive income requirement applicable to the Project units in question applies.

**3. Preferences in Funding:**

Oregon policy, as enacted by ORS 456.722, requires when OHCS resources are utilized, OHCS will give substantial preference to applicants who rent to tenants whose net

income is at two (2) times the rent. (e.g. if rent is \$300 per month, a tenant who earns a net of \$600 should be considered income eligible.) As used in this section, "public funds" includes all low-income rental housing grants, loans or tax credits administered or awarded by the department, whether state, federal or otherwise, but does not include funds derived from the sale of bonds by the department.

#### **J. VISITABILITY**

Oregon policy, as enacted by ORS 456.510, "encourages the design and construction of dwellings that enable easy access by individuals with mobility impairments and allow continued use by aging occupants".

New construction Projects receiving funding from the Department are subject to requirements for Visitability. Although the Department strongly encourages Visitability for all Projects, the Visitability requirements resulting from ORS 456.510 do not apply to:

- rehabilitation Projects, subject to the limitation described below;
- Projects receiving funding only from Department bond financing and/or non-competitive tax credits; or
- Farmworker housing on a farm.

Newly constructed units and newly constructed community spaces in rehabilitation projects are subject to the Visitability requirements.

"Visitable" means able to be approached, entered and used by individuals with mobility impairments including, but not limited to, individuals using wheelchairs.

Units in Projects that meet the "Accessibility" standards of the federal Fair Housing Act typically exceed this aspect of state Visitability requirements.

For a complete explanation of these requirements, see Addendum A: Architectural Guidelines.

#### **K. GREEN BUILDING STANDARDS**

One of the following Green Building Standards of construction must be included in the development of any low-income housing funded by the Department with the exception of Projects funded exclusively with bond and/or 4% tax credits:

- Enterprise Green Communities,
- Earth Advantage Homes,
- LEED for New Construction; or
- Department Green Building Program.

Requestors must comply with all the requirements of their selected Standards. Upon completion of the Project, the Requestor will be required to provide a Certification and appropriate documentation that the Project was completed according to the applicable Green Building Standards. The Department reserves the right to rescind funding, including LIHTC and OAHTC

allocations or other funding Disbursements, if applicable Green Building Standards are not timely satisfied.

For a complete explanation of these standards, see Addendum A: Architectural Guidelines.

**L. DEPARTMENT OF STATE LANDS (DSL) WETLANDS POLICY AND REVIEW**

DSL will review all Projects for which funding is reserved by the Department to determine whether or not regulated wetlands exist on the Project site. The Department and Requestor, if requested, will submit relevant documents to DSL. If DSL determines wetlands are present or likely to be present, Requestors must get a qualified wetland consultant's wetland compliance verification and boundary delineation for submission, review and approval by DSL. DSL may impose additional site or design requirements for the Project.

Requestors must provide tax lot numbers for the submission to DSL. The Department has provided a space on the Environmental Review Checklist for this information. Include the tax lot number for every parcel of land in the Project. A failure to provide the tax lot number(s) will delay the DSL review process and may result, *inter alia*, in rescission of a Reservation or recoupment of any Disbursement.

**M. BUREAU OF LABOR AND INDUSTRIES (BOLI) REQUIREMENTS**

Funding recipients (Grantees) must comply with any applicable federal or state prevailing wage law. Requestors must contact BOLI for information on how prevailing wage laws may apply to the proposed Project. A BOLI determination letter must be submitted on every project submitted to the Department.

Prevailing wage laws may apply if all or part of the Project is deemed to be a public works project. This determination may be made if the Grantee is a public agency, such as a housing authority, and the intent is to construct or contract for the construction of all or part of the Project with public funds.

The Project may be subject to state prevailing wages if the Requestor receives seven hundred fifty thousand dollars (\$750,000) or more in public funds and the Project, *inter alia*, meets any of the following criteria:

- Less than sixty percent (60%) of the occupants have incomes less or equal to sixty percent (60%) of area median income;
- A Project building is more than four (4) stories high (unless there is a local building code exemption); or
- The overall Project includes portions, even if not constructed or contracted for construction by the Requestor, which may be deemed public works (i.e., a "mixed-use" project).

At any time during development, any change in the Project could cause the coverage determination to be void. Requestors should request updated determinations from BOLI as necessary.

This notice does not constitute legal advice. The Department is not responsible for the determination of prevailing wages status on projects. The Department encourages Requestors to have their attorney interpret BOLI rules as they apply to a specific Project. The Department will not provide funding increases to fill gaps resulting from the Requestor's failure to budget for prevailing wage requirements. The Department specifically reserves the right to revise its reservation of funds to a Project, rescind such reservation, or recoup allocated resources if any BOLI-related funding gap should obtain.

**N. HISTORIC PRESERVATION**

The Department encourages all Project sponsors working with properties fifty (50) years old or older to consult with the State Historic Preservation Office to determine the historic significance of related buildings. If Project buildings are determined to be of historical significance, the Department encourages preservation of the historic elements in the most efficient and effective manner possible. The State Historic Preservation Office can be reached at:

State Historic Preservation Office  
725 Summer St. NE. Suite C  
Salem, OR 97301

**O. CONSISTENCY WITH STATE CONSOLIDATED PLAN**

The Department is required to develop a comprehensive state plan for low-income Oregonians (OAR 456.572). The Department has adopted the state and local Consolidated Plans as its comprehensive state plan. All Projects must be consistent with the state and local Consolidated Plans at the time the Request is submitted.

**P. ENVIRONMENTAL ASSURANCE**

The Department expects any Project will be developed and operated in an environmentally safe and sound manner. Requestors and owners of Projects must comply with all applicable environmental laws, including obtaining appropriate environmental studies with respect to Project development and satisfactorily mitigating any negative conditions to the Department's satisfaction. They also must design, develop, and operate the Project to ensure it affords safe, sanitary and otherwise habitable housing for tenants, adequately protects the value of any security interest of the Department in the Project, and will function as intended for any applicable affordability period.

## II. GENERAL UNDERWRITING

### A. PROGRAM LIMITS:

The Department has established the following program limits (Program Limits) for evaluating Projects. The Requestor should demonstrate in the Request compliance with all the Program Limits. In determining the amount of Program resources to allocate to a Project, the Department may reduce the budget and funding amounts to reflect the Program Limits listed below. If Requestor varies from the following Program Limits, mitigating factors must be provided by the Requestor, which factors will be subject to Department consideration in its sole discretion.

#### 1. **Appraisal/Market Study Requirements**

For the purposes of subsidy layering, the maximum operating expenses will be no greater than the market comparables included in the appraisal plus 20 %. If the operating expenses exceed underwriting guidelines, justification must be approved by the Department.

**The appraisal value is determined by the Department based upon a FIRREA compliant appraisal from Requestor and such other information that the Department may require.**

#### 2. **Minimum Debt Coverage Ratio**

For Projects that require first mortgage financing, the minimum Debt Coverage Ratio (DCR) will be 1.20:1 for the primary debt. If there are project-based rental assistance contracts designated for the Project, then the DCR may be as low as 1.15 in the Department's discretion.

If there is secondary debt that is hard debt with required monthly or annual payments, then a minimum Debt Coverage Ratio of 1.10:1 will be used for the combined primary and secondary debt payments. Secondary debt repaid out of excess cash flow only may be below the required 1.10:1 in the Department's discretion. The interest rate in any partnership loan that is part of the project may not exceed, but can be less than an interest rate equal to the Applicable Federal Rate for the term of the loan.

#### 3. **Maximum Construction Contingencies**

The maximum rehabilitation contingency amount is limited to ten percent (10%) of the total rehabilitation costs and the new construction contingency amount is limited to five percent (5%) of total new construction costs. Rehabilitation costs include rehabilitation hard costs, site work costs, and contractor profit and overhead. New construction costs include new construction hard costs, site work costs, and contractor profit and overhead.

#### 4. **Maximum Developer Fees**

Maximum developer fees are subject to the reasonable discretion of the Department. The Department may consider factors including, but not limited to the financial

feasibility and viability of the Project, the complexity of the development, the contributions of the developer, and area rates of compensation in determining the allowable level of developer fees. The Department may consider allowing developer fees in the aggregate, up to fifteen percent (15%) of Total Project Costs less reserves, and less the requested developer fee amount. For purposes of this section, developer fees shall be deemed to include all consultant fees (other than arm's length architectural, engineering, appraisal, market study and syndication costs), and all other fees paid in connection with the Project for services that would ordinarily be performed by a developer, as determined by the Department.

**5. Maximum Contractor's Profit and Overhead**

Maximum combined profit and overhead of the general contractor is subject to the reasonable discretion of the Department. The Department may consider factors including, but not limited to, the financial feasibility and viability of the Project, the complexity of the construction, the overhead costs of the general contractor, and area profit margins and overhead in determining the allowable level of combined profit and overhead. When the general contractor is a Principal, Related Party or otherwise has an Identity of Interest with the Requestor or Project Owner, the Department will limit the general contractor's combined profit and overhead to an amount up to ten percent (10%) of total rehabilitation/construction costs plus site work costs. All others will be limited to a combined profit overhead and general conditions amount of up to fourteen percent (14%) of construction costs plus site work.

**6. Cost Savings Clause**

If a cost savings clause is included in the final, executed owner-contractor agreement, OHCS requires that the Loan Officer for the Department be included in the distribution list for the submission of all contractor draw requests and change orders as submitted to the lender throughout the project. The information provided will be used for a final accounting of construction costs at final application. Any cost savings that result in an increase to the developer's fee or in the contractor profit and overhead exceeding the limitations set in section II (A)(4) above will not be allowed in eligible basis and may result in a reduction of tax credits.

**B. PROGRAM THRESHOLDS:**

The Department has established the following Minimum Threshold Requirements (Thresholds) for evaluating Projects. The Requestor must demonstrate in the Request compliance with all the applicable Thresholds. Failure to pass any of these Thresholds will disqualify the Request from receiving any funding resources.

**1. Asset Management Compliance**

Requestor's current portfolio of projects monitored by the Department must be in compliance with required Project Requirements. The past performance of each

Requestor will be evaluated using a standardized internal process reviewing asset management and compliance categories with portfolio thresholds.

Portfolio Thresholds will be evaluated based on the size of the portfolio

## 2. **Program Compliance**

Requestors must satisfy all Project Requirements including, but not limited to, the Program Requirements for all applicable Department funding sources. Each Department funding source has separate requirements within the Request Application, including forms and exhibits that must be submitted simultaneously with the Request Application. These Requests, forms and exhibits are more particularly described and available in the Applications and Program Manuals. The Request must be in compliance with all Project Requirements including, but not limited to, all relevant Program Requirements in order to be considered for funding.

## 3. **Readiness to proceed**

### a) **Site Control and Zoning**

**Site Control:** The Requestor must have control of the land and other real property necessary for the Project by the Request deadline and submit evidence of that control with the Request

Acceptable evidence of site control is a document that has a complete and accurate legal description and is either:

- a valid recorded deed or conveyance showing the Requestor has Ownership,
- a valid purchase and sale agreement,
- a valid option to purchase,
- a valid option for a satisfactorily long-term lease; or
- other evidence satisfactory to the Department.

In general, the Requestor must ensure the name on the evidence of site control and the Application is exactly the same. However, when the Requestor purchases the property through a nominee, such as an LLC, the Requestor must clearly explain and document to the Department's satisfaction how it controls the entity that controls the site.

The site control document also must identify the exact same area as the Project site listed in the Application and the exact same cost for the land and/or existing buildings for the Project referenced in the development budget provided with the Application. If the site description in the Application and the site control document are not exactly the same, the Requestor must provide a narrative description and supporting documentation satisfactory to the Department that clarifies how the area and cost for the Project were appropriately established.

**Zoning:** The Project must be properly zoned for the type of intended Project.

The Requestor shall provide the Certification of Zoning executed by the appropriate zoning authority to verify appropriate zoning for the Project.

**b) Additional Federal Project Resources Status**

If the Requestor identifies additional federal resources to be used in financing the Project, such as rental or capital assistance from the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Agriculture Rural Development (RD), or Veteran's Administration (VA), as part of the funding structure, the Requestor must provide evidence in the Request satisfactory to the Department that an application for these federal resources has been submitted and remains active.

**c) Adequacy of Development Schedule**

The Requestor must submit a development schedule with its Request. The Requestor's development schedule must clearly demonstrate that funds will be invested and that the Project will be constructed, leased and stabilized within all required Program time frames. These Program time frames or deadlines are published in the appropriate Program Manuals.

**4. Adequacy of the Environmental Checklist**

The Requestor must submit a completed Environmental Checklist and a representative of the Department must have completed a site visit prior to submitting the Request.

The Department's Environmental checklist, *inter alia*, contains questions regarding:

- the suitability of the site,
- the distances to services,
- transportation and schools,
- the nature of existing structures,
- soil suitability,
- environmental hazards,
- safety concerns,
- noise problems,
- air quality issues,
- historic preservation,
- flood plain and wetlands issues, and finally,
- solid waste, waste water and storm water concerns.

The Requestor shall provide a mitigation plan satisfactory to the Department for any material adverse information revealed in the Environmental Checklist.

**III. Underwriting Guidelines**

The Department evaluates all Projects for financial feasibility and viability, adequacy of construction, developer capacity and ownership integrity. Due to the wide variety of proposed Projects and the various mixes of Program resources requested, these guidelines are broadly designed to allow the Requestor the flexibility to describe the special characteristics of their Projects while providing the Department with appropriate information to make its feasibility and viability, adequacy of construction, developer capacity and ownership integrity determinations. The following Underwriting Guidelines are intended to provide guidance for the Department staff and Requestors in preparing and reviewing relevant information.

**A. FINANCIAL FEASIBILITY**

**1. Sources and Uses Statement:**

The Requestor must submit the Sources and Uses statement with its Request or as otherwise required by the Department. The Sources and Uses statement must describe all of the funds or Sources to be used to pay for all Project costs and the intended Uses of such funds. The statement must identify each separate source and use and the estimated timing of final approval for each. The Sources and Uses must balance fully and no Source may be unknown. If any sources or uses are identified as unknown at the time of review, the Request’s application may be deemed incomplete and removed from further processing.

Acquisition cost must be supported by an appraisal	Possible exception for HDGP and GHAP only project at the discretion of OHCS
Developer’s Fee policy	Up to fifteen percent (15%) of Total Project Costs less reserves, and less the requested developer fee amount.
Construction Inflation Factor / Cost Escalator (applies to separate line item above and beyond construction bid)	1% of total construction cost
Contingency - Target Percentages	5% New Construction 10% Rehabilitation 5% Soft Cost Contingency
Contractor Profit and Overhead – non Identity of Interest (does not include general conditions)	14% of total construction cost or less
Contractor Profit and Overhead – Identity of Interest (does not include general conditions)	10% of total construction cost or less
Soft Costs	30% of Total Project Cost or less

Operating Reserve	Limited to six (6) months operating expenses or less
Lease Up Reserve	Submit cash flow analysis utilized to determine the amount
Reserve for Replacement (Capitalized)	Submit evidence of the partner lenders and/or investors to document their requirement

**2. Operating Pro Forma:**

The Requestor must submit with its Request an operating pro forma for the Project satisfactory to the Department demonstrating financial feasibility and viability of the Project for a typical fifteen (15) year compliance period. Different Programs may have different compliance periods and the Department may require that the operating pro forma address relevant compliance periods. In addition, the Requestor must demonstrate that the Project will continue to be economically feasible and have adequate replacement reserves for an extended use period of an additional fifteen (15) years after the initial compliance periods. The operating pro forma must list each of the compliance periods and extended use periods separately and include assumptions, notes and explanations regarding the respective income and expense projections.

Absent a long-term commitment (in excess of ten (10) years), Projects with rental assistance must demonstrate financial feasibility excluding the rent subsidy.

If the Project includes commercial and/or other non-residential space, the Requestor must submit the following information and supporting documentation in addition to the residential pro forma requested above:

- A breakdown of the total residential and commercial project costs,
- A list of the financing sources for the commercial areas,
- Ownership entity and management agent of the commercial areas; and
- A thirty (30) year operating pro forma for both the residential and commercial areas.
- Such other information as the Department may require.

The pro forma must contain the following data:

- Growth assumptions that are typically estimated at two percent (2%) per year for income and three percent (3%) per year for expenses.
- Estimates of income and expenses that are well documented by actual historical amounts, comparable income or expense studies, Requestor market assessment, a market study or an appraisal.
- Such other information as the Department may require.

The pro forma also must address the following industry benchmarks:

- A vacancy ratio of not less than seven percent (7%), if a different rate is used, explanation must be provided in the Financial Description section of the application.
- An expense ratio and expenses per units properly scaled to the size and scope of the improvements, the cost of local utilities and taxes and the makeup of tenant population served. Guideline of \$4,500 per unit per year.
- Replacement reserves properly scaled to the size and scope of the improvements and the age and condition of the property. Guideline of \$350 per unit per year, \$300 for Senior Projects.
- Operating Reserves that are limited to six (6) months or less of operating expenses.
- Guideline for repairs and maintenance;
  - \$400 New construction
  - \$450 Rehabilitation
    - If outside of the guidelines, provide justification.

While using some benchmarks and industry best practices to evaluate the information, each pro forma will be separately assessed based on its reasonable and well-documented projection of income and expenses to determine if it effectively demonstrates the Project's financial feasibility and viability.

### 3. **Debt Underwriting:**

Many Projects require primary mortgage debt as one of the sources of funds. If there is mortgage debt, the proposed debt service coverage, and breakeven ratios must be in conformance with Department limits and industry norms noted previously. If there is no mortgage debt, then the pro forma must demonstrate a stable positive cash flow over the required economic life of the Project.

## B. **ADEQUACY OF CONSTRUCTION**

### 1. **Construction Guidelines**

The Department supports the development of affordable housing that is safe, sanitary, habitable, well designed, contributes positively to the quality of life in Oregon, adds to the aesthetics and living environment of the community, and enhances the self-esteem and empowerment of the residents it houses and serves. Accordingly, Projects must be built using sustainable and green building practices and comply with the Visitability laws of Oregon, including as expressed in Project Requirements. Projects must be built according to all local planning jurisdictions and any local or regional code.

#### a) **Confirmation of Status of Review by Local Planning and Code Jurisdictions:**

The sponsor must provide evidence in the architectural documents that the Project has been properly and sufficiently vetted with any and all local planning

and code jurisdictions for Project feasibility. This includes all local planning and building departments as well as any other state agencies; i.e. Department of Transportation, Department of Environmental Quality.

**b) Demolition and Hazardous Materials:**

Project must meet local and state requirements for handling and the removal of demolition and hazardous materials.

**c) Identification of Easements and Encroachments and Adjacent land Uses:**

The preliminary site design and development plan must identify all known, recorded or observed easements and encroachments, property boundaries, and identify all adjacent land uses.

**d) Architectural Standard**

Qualifying Projects must be built so that they sustain themselves for a significant period of time without the need of significant rehabilitation work. This will require careful design, material selection and oversight by Project architects, contractors, developers, and owners. Requested documents must reflect reasonable planning and oversight to accomplish this architectural standard. This type of planning and oversight must ensure that the Project, including building envelopes and all structural components, has the necessary sustainability to last for a significant period of time with only industry-standard scheduled maintenance.

**2. Rehabilitation Requirements**

All Requests for rehabilitation Projects must include a professional, independent, third party Capital Needs Assessment (CNA).

For NOFA Projects, unless stated otherwise, the CNA must be less than twelve (12) months old at the time of application, so that if the Project is awarded funds the CNA will be within eighteen (18) months at the time of closing.

For 4% LIHTC Projects, the CNA must have been completed prior to eighteen (18) months of construction closing.

The CNA must address the following components:

**a) Must identify deferred maintenance and physical needs in an A-F rating system.**

**b) Critical repair items:**

All health and safety deficiencies, or violations of Housing Quality Standards (or Uniform Physical Inspection Standards), requiring immediate remediation.

**c) Two (2) -year physical needs:**

- Repairs, replacement and significant deferred and any other maintenance items that need addressing within twenty-four (24) months of the date of the report.
- Include any necessary redesign of the Project and market amenities needed to restore the property to a reasonable standard of livability.
- Include those repairs in the development budget that are to be funded with construction-period funding sources.

**d) Long term physical needs:**

Repairs and replacements beyond the first two (2) years that are required to maintain the Project's physical integrity over the next thirty (30) years, such as major structural systems that will need replacement during that period. These repairs are to be funded from the Replacement Reserves Account.

**e) If Less than One Hundred Percent (100%) of the Units Have Been Inspected:**

- The CNA must include an explanation that includes any assumptions about areas that were not inspected and the reasons for making those assumptions.
- The CNA must be the basis from which the scope of work for the project has been developed and the basis on which any capitalized or annual contributions to the replacement reserves are based. The scope of work should include replacement or repair of any items scored D or F along with any Critical Repair Items or Two (2)-Year Physical Needs.

**f) Such other information as the Department may require.**

**3. Replacement Reserves**

**a) New Construction Projects:**

Replacement Reserves of three hundred fifty dollars (\$350) per unit are typically required on new Projects at the time of completion or at permanent loan funding. The exact amount of the required reserves may vary depending on factors related to the nature of the particular Project and subject to the Department's discretion.

**b) Rehabilitation Projects:**

Replacement Reserves are also required on rehabilitation Projects. The exact amount of the required reserves may vary depending upon the extent of the rehabilitation targeted and the age and condition of the remaining components, subject to the Department's discretion.

CNA's must include a thorough analysis of reserves for replacement, including an estimate of the initial and on-going monthly deposit into the Replacement Reserve needed to fund on-going physical needs and the expected useful life of major building systems. This analysis must not include the cost of critical repair items, two (2)-year physical needs or any work items treated as normal maintenance or repair expense.

#### 4. **Inspections**

The Department, or its third-party representative, may perform inspections prior to, during and following an initial Reservation of resources by the Department. The Department, based on such inspections or otherwise, may disqualify a Requestor from advancing its Request, terminate or revoke a Reservation or Allocation, or exercise other remedies including, but not limited to, requiring changes to the Request, Project scope of work, or budget. The Department may verify if work has been performed to its satisfaction. The Department may require remediation of unsatisfactory work or conditions among other remedies.

Regarding LIHTC Projects receiving HOME, HUD regulations now require the Department to implement a higher degree of construction and rehabilitation oversight of HOME-funded projects. The Department will review and approve all construction-related documents prior to construction and monitor construction progress. The Department will review and approve work write-ups (i.e., plans and specifications) and written costs estimates. Based on this review, the Department will determine whether or not the work write-up or plans are in compliance with Department architectural standards, and if the construction and rehabilitation costs are reasonable.

The Department will review construction contract(s) and construction documents to determine if they describe the work to be undertaken in adequate detail, including so that meaningful inspections can be conducted. The written scope of work to be performed must be in sufficient detail to establish the basis for a uniform inspection of the housing to determine compliance with Department Architectural Requirements. The Department will review and approve written cost estimates for construction and/or rehabilitation in order to determine that costs are reasonable.

The Department will conduct an initial property inspection and progress inspections to monitor construction progress. The Department will conduct progress inspections during construction and/or rehabilitation in order to ascertain whether or not work is completed within established standards. Progress payments must be consistent with the amount of work performed. A final inspection will be conducted to determine if work was done in accordance with the Project's approved work write-ups or plans, and final payment will not occur until construction is satisfactorily completed in accordance with the applicable codes, the construction contract, and construction documents. The

Department may utilize in-house staff or qualified third-parties to accomplish the foregoing review.

C. **DEVELOPMENT TEAM CAPACITY**

1. **Previous Experience**

The Requestor must demonstrate to the satisfaction of the Department that the Requestor, the developer, and/or the development consultant under contract:

- has successfully completed a multi-family housing project of a comparable number of housing units, of similar complexity, and for a similar target population as the proposed Project;
- has the necessary level of staffing and financial capacity to successfully manage development and operations of its current Project portfolio including, but not limited to, all current and pending projects and Requests; and
- has successfully completed previous projects for which a similar Program allocation was received in Oregon or other states.

If the Requestor is using a development consultant to show this capacity, the Requestor must also submit a copy of the executed contract detailing terms, conditions, and responsibilities between the Requestor and the development consultant.

2. **Property Management Capacity**

If the Requestor is going to employ a property manager with respect to the Project, the Requestor must provide a document detailing the experience level of the proposed property management firm that demonstrates they have successfully managed:

- a multi-family housing project of a comparable number of housing units and/or of a similar complexity as the proposed project; and
- a multi-family assisted or subsidized housing project with local, state, and/or federal operating requirements comparable to those of the requested Program.

3. **Financial Capacity:**

As disclosed in the Request or other required information, Requestor's financial condition must not contain any adverse conditions that might materially impair the Requestor's ability to perform its financial obligations as sponsor during the construction or stabilization of the Project.

D. **OWNERSHIP INTEGRITY:**

- Neither Requestor nor any member or principal within the Project ownership or management will be currently indicted for or have been convicted of fraud or moral turpitude within the previous ten (10) years.

- Neither Requestor nor any member or principal within the Project ownership or management will be involved in a bankruptcy proceeding within the previous five (5) years.
- Neither Requestor nor any member or principal within the Project ownership or management will have been debarred or otherwise sanctioned by Agency or any other Federal Program.

#### **IV. ADMINISTRATIVE GUIDELINES**

##### **A. RESERVATION OF AWARD AND RESERVATION LETTERS**

When a Project is selected to receive a reservation of resources (Reservation) from one (1) or more Department Programs, a conditional commitment known as a Reservation Letter is issued. The Reservation Letter contains the significant terms and conditions and timeframes that must be satisfied in order for the Award to be funded, understanding that such satisfaction must be in compliance with all Project Requirements. Failure to satisfy any conditions in the Reservation Letter, any Program Requirements, all Project Requirements (including the negotiation, execution and recording of related Affordability Agreements and other documents satisfactory to the Department) may result in the revocation of the Reservation, recoupment of any allocation of resources, and the exercise of other available remedies.

##### **B. INAPPROPRIATE USE OF RESOURCES**

###### **1. Debt Reduction**

Program resources may not be used to buy down or refinance existing debt.

###### **2. Reimbursement for Prior Construction**

Program resources may not be used to reimburse construction or rehabilitation work started or completed within six (6) months before a Request is received by the Department.

##### **C. LEASEHOLD INTERESTS**

If the Requestor proposes a long-term lease in lieu of fee ownership of the real property of any part of the Project or related land, then the Owner of the land and such other real property and holders of any liens or encumbrances with respect to the land or such other real property, must execute and record such additional documents as are satisfactory to the Department, including, *inter alia*, to subordinate their interests in the land, such other real property and Project to the Affordability Agreements and other Project documents and otherwise to ensure, *inter alia*, the Department's ability to enforce Project Requirements and recover provided resources throughout the applicable compliance and extend use periods and reasonably thereafter.

**D. STANDARDIZATION AND SUFFICIENCY OF LEGAL DOCUMENTS**

All Project approvals and funding are subject to the successful execution and recording of related documents satisfactory to the Department. Department contracts, Affordability Agreements and other legal documents typically are standardized and subject to approval by the Oregon Department of Justice (DOJ). Any proposed changes to Department-required documents or requested use of additional documents must be submitted in writing to the Department. Requestors must allow adequate time for review and comment by the Department and DOJ on proposed changes or other requested documents. All changes or other requested documents are subject to written approval of the Department in consultation with DOJ. If Requestor requests negotiation of any Department-required document including, but not limited to, requesting any changes to the documents or the inclusion of other documents, they must pay such charges as may be assessed by the Department with respect to its reasonable legal and administrative costs with respect to such requests.

**E. PROGRAM CHARGES**

**When applying for any Program funds, the Requestor must pay each applicable charge. These charges are as follows:**

Charges required with the Notice of Funding Availability (NOFA) for the 9% Low Income Housing Tax Credit Program (LIHTC), the HOME Investment Partnership Program (unless prohibited by Program), and associated resources, include:

Application Charge: The lesser of \$25 per unit or (.5%) of the total funds requested.  
Minimum **\$100**.

After a funding Reservation is issued, the following charges apply:

- Recipient Charge: Assessed on the cumulative total of NOFA resources:  
<\$300K = \$1,000  
>\$300K = \$2,000  
LIHTC = \$2,500
- Farmworker Tax Credits: \$200 for each development that receives credits.
- Construction Analyst: \$2,200 per Project (HOME only)
- Document Preparation: \$100 per recorded document (normally assessed in escrow)

The following charges are associated with the 9% Low Income Housing Tax Credit Program:

- LIHTC Reservation: 5.5% <30 units or  
6.5% >=30 units
- Late Carryover: If carryover application is received after December 1<sup>st</sup>:  
\$1,000 plus \$200 per business day,
  - plus \$100 per hour for re-evaluation.
- Late Final Application: \$1,000 if final application is received more than  
six (6) months past placed-in-service date, plus  
\$100 per month, plus \$100 per hour for re-  
evaluation.
- Monitoring: \$35 per unit per year for first fifteen (15) years.  
\$25 per unit per year for each year in the  
extend use period.

The following charges are associated with the 4% Low Income Housing Tax Credit Program:

- Application Charge: \$25 per unit + \$1,500 per additional site (scattered site properties)
- LIHTC Reservation: Twelve percent (12%) of annual allocation
- Recipient Charge: \$2,500
- Late Final Application: \$1,000 if final application is received more than six (6) months past placed-in-service date, plus \$100 per month, plus \$100 per hour for re-evaluation.
- Monitoring: \$35 per unit per year for first fifteen (15) years.  
\$25 per unit per year for each year in the extend use period.

The following charges are associated with the tax-exempt conduit bond program (does not apply to bond refundings):

- Application Charge: \$1,500
- Issuance Charge:
  - <\$10,000,000 = One point five percent (1.5%) of aggregate bond amount
  - >\$10,000,000 = One percent (1.0%) of aggregate bond amount
  - Issuance charge is capped at \$100,000

- Draw Downs are allowed only on an exception basis (\$10,000,000 minimum, additional (.5%) issuance charge)
- DOJ: Included in issuance
- Treasury: Included in issuance
- Monitoring: \$10 per unit per year (this is in addition to any applicable LIHTC monitoring charges)

Fees and charges for requesting additional resources: To fill an LIHTC pricing gap:

The lesser of \$25 per unit or .5% of the additional funds requested.  
Minimum \$100.

For loss of a funding source or increased Project costs:

Any NOFA funding source: (other than LIHTC & OAHTC)	One percent (1%) of the gross amount of the funds requested.
LIHTC (4% OR 9%):	One percent (1%) of the estimated equity to be generated by the additional tax credits.
OAHTC:	\$25 per unit or (.5% of additional OAHTC requested, whichever is greater. Minimum \$100.

Fees and charges for negotiation of documents: Legal and administrative costs related to such negotiation.

Such other fees and charges that Department may assess under applicable Program Requirements or administrative rules.

Submit payment with the Charge Transmittal form.

Charges are non-refundable.

If awarded, Department grant resources may be requested for reimbursement of Department charges, excluding the application charge.

**V. RIGHTS AND RESPONSIBILITIES**

**A. PROJECT DISQUALIFICATION/CANCELLATION**

In addition to other available remedies, the Department may disqualify the Project and Request, cancel any Reservation or Allocation of resources, and recoup any allocated or otherwise disbursed resources if:

- The Requestor or Owner, or any of their agents, fail to comply with the requirements and policies of the Department, including those outlined in this Manual; or
- The Requestor or Owner, or any of their agents, fail to comply with the terms, conditions, obligations, and restrictions in the Request, the Reservation Letter, or other legal documents for the Project; or
- The Requestor or Owner, or any of their agents, fail to timely satisfy any or all Project Requirements.

**B. PROJECT/REQUEST DENIAL**

The Department may reject a Request where the Requestor, Owner, Principal, or other Participant with respect to the proposed Project, previously has:

- Failed to complete projects in accordance with requests or certified plans presented to the Department or other public or private allocating agencies.
- Failed to complete a project within the time schedule required or budget indicated in the request.
- Failed to effectively utilize previously allocated program funds and notified of such failure to meet appropriate utilization in advance of request NOFA closing date.
- Been found to be in non-compliance with program rules as evidenced by Department or other public or private allocating agency project monitoring and missed the cure time deadline given in writing.
- Been debarred by the Department or other state, federal or local governmental agency.
- Been convicted within the last ten(10) years of criminal fraud, misrepresentation, misuse of funds, or moral turpitude or currently is indicted for such an offense.
- Been subject to a bankruptcy proceeding within the last five (5) years.
- Otherwise displayed an unwillingness or inability to comply with Department requirements.

The Department reserves the right to disapprove any Request if, in its judgment, the proposed Project is not consistent with the goals of providing decent, safe and sanitary housing for low-income persons. The Department may impose additional conditions on Project sponsors for any Project as part of the Request, Reservation or Allocation processes.

**C. DEPARTMENT SOLE DISCRETION**

The Department reserves the right to determine, in its sole discretion, whether the Third-Party Letters of Interest or Intent, Award Letters, or Commitment Letters are satisfactory, and whether a lender or investor possesses the financial or other capacity to make a specific loan or investment. A change in the Project's financing structure or financing terms after Reservation of Department funds must be brought to the attention of the Department. The Department may in its sole discretion re-underwrite the Project, which may result in all or a part of the Department resources being recaptured or reduced by, or returned to, the Department.

**D. NO REPRESENTATION OR WARRANTY**

Issuance of a Department funding resource Reservation shall not constitute or be construed as a representation or warranty as to the feasibility or viability of the Project, or the Project's ongoing capacity for success, or any conclusions with respect to any matter of federal or state law. All Department resources are subject to various state and federal regulations governing the specific program from which they are obtained, and Requestors are responsible for the determination of their Project's eligibility and compliance consistent with all Project Requirements.

**E. DECISIONS AND REVIEWS**

All 9% LIHTC applicants will be notified in writing of the Department's Intent to Issue a Reservation Letter which will also be posted on the Department's website.

Reservations, Allocations or Awards (collectively, Determinations) subject to State Housing Council review under ORS 456.561, and Determinations where additional Department funding supporting such Determinations are subject to Council review, are contingent, *inter alia*, upon Council approval of those Determinations or supporting funding. The Council may approve, reject, modify, or further condition funding awards submitted for its review, thereby directly or indirectly impacting Department Determinations.

## GENERAL GLOSSARY OF TERMS

Affordability Agreements:	These are documents that contain the long term affordability restrictions Requestors agree to when receiving funding from affordable housing Programs. They are not exclusive of other required Project Documents.
Allocation of Funds:	These are the amounts of Program resources determined for each NOFA.
Allocation Criteria:	These are the standards by which the Department will competitively rank projects in a NOFA funding round.
Application or Request:	This means the NOFA Request or bond and/or 4% LIHTC request and all required Exhibits and forms, if any, submitted by an Applicant for a Project.
CNA:	Capital Needs Assessment.
Construction Closing:	Typically, this is the stage in the funding process when all conditions of the Reservation Letter are satisfied and the Project is ready to commence construction.
Department:	The section of Oregon Housing and Community Services that is responsible for the funding and administration of the LIHTC, Home and related affordable housing Programs.
Development Team:	This means the Requestor, the developer, the project management consultant, the general contractor, and all persons or organizations materially involved in the acquisition, construction, rehabilitation, development, or improvement of the Project.
Construction Closing:	Typically, this is the stage in the funding process when all conditions of the Reservation Letter are satisfied and the Project is ready to commence construction.
Federally Subsidized Building:	A building is federally subsidized if it is financed by federal tax-exempt bonds or federal grants.
General Manual or Manual:	These are the short names for the General Policy and Guideline Manual.
Geographic Regions:	These are the three (3) areas of the state (Metro, non-Metro HUD HOME Participating Jurisdictions, Balance of State) that are grouped for

the purpose of identifying needs and allocating funds to Projects through the NOFA Process.

Identity of Interests:	Identity of Interest means a financial, familial, or business relationship that permits less than arm's length transactions. For example: Related Parties; persons, entities, or organizations Affiliated With or Controlled By or In Control Of another; existence of a reimbursement program or exchange of funds; common financial interests; common officers, directors, stockholders, or managers; or family relationships between officers, directors, or stockholders.
LIHTC:	This means Low Income Housing Tax Credits (Tax Credits).
LIHTC Program:	The Program specifically designed to provide the policies and procedures for the allocation, awarding and administration of LIHTCs.
LIHTC Program Manual:	This is the Program Manual specifically designed to provide the policies and procedures for the allocation, awarding and administration of LIHTCs approved and adopted under Oregon's Administrative Rules.
Minimum Threshold Requirements:	These are standards all Projects are required to meet on a pass or fail basis. Failure to meet any one (1) of the standards disqualifies the Application.
Need Distribution:	A data based calculation that is used to distribute LIHTC funding across regions as well as evaluate the equitable distribution of funded affordable housing. It is based on most recent five (5) year American Community Survey data. The formula equally weights the number of renter households earning sixty percent (60%) of county median family income and the number of severely rent burdened (fifty percent (50%) or more of income on housing) households.
NOFA:	The Notice of Funding Availability (NOFA) is a uniform set of requirements for sponsors to apply and compete for Program funds.
NOFA Funds:	The collective name of the amounts of tax credits, grants or loans requested in a NOFA from various Programs to finance a project.
Noncompliance:	Noncompliance means a failure to meet any covenant, condition or term of any agreement between the Applicant or Project owner (including their officers, employees, agents, and assignees) and the Department, a failure to meet the requirements of Section 42 of the

	Code, or failure to meet any other Program requirements from which a Project received funding.
Oregon Administrative Rules:	The OARs are the principles by which the Department administers affordable housing Programs approved from time to time through the State Administrative rule process.
Principal(s):	This means: (1) with respect to a Project owned by a partnership, the partners; (2) with respect to a Project owned by a limited liability company, the members and managers; and (3) with respect to Project owned by a closely-held corporation, the shareholders.
Program Funds:	The amount of funds identified in a specific Program to finance a Project or Projects.
Program Limits:	These are the financial limits set by regulation and the Department on the amount of debt service, LIHTCs, loan amounts, construction contingency, developer fee, contractor's profit and overhead that apply in general to all Programs; and to the per Project basis boost allowed in the LIHTC Program.
Program(s):	A Program is a specific source of state or federal funds/resources subject to a set of required codes or statutes that provide a methodology to award funds to the public for the development of multifamily affordable housing projects.
Program Requirements:	All terms, conditions, covenants, or other obligations of a Requestor or Owner (including through their officers, employees, contractors, agents, and assignees) with respect to a Program from which funding is sought or provided with respect to a Project, including as contained in relevant statutes, regulations, administrative rules, QAP, manuals, codes, Department directives, policies, applicable documents, or otherwise.
Project:	A low-income multifamily housing development for which funding, in whole or in part, is sought from or obtained from the Department, normally including related land and amenities.
Project Need Severity:	This is the need for a Project in a community as measured by evaluating the affordable housing gap in the county or city, the rate of population growth in the county comparison to the state, the age of the rental housing in the county, the rate of severe rent burden in the county or city in comparison to the state.
Project Requirements:	All terms, conditions, covenants, or other obligations of a Requestor or Owner (including through their officers, employees, contractors, agents,

and assignees) with respect to a Project , including as contained in relevant statutes, regulations, administrative rules, QAP, manuals, codes, Department directives, policies, applicable documents, or otherwise.

Qualified Nonprofit  
Organization:

This is an organization described in IRC Section 501(c)(3) or 501(c)(4) that is exempt from federal income tax under IRC Section 501(a) if OHCS determines the organization is not affiliated with or controlled by a for profit organization and an exempt purpose of such organization includes fostering low-income housing.

Related Entity/Person:

These include, but are not limited to; (1) members of a family; (2) a fiduciary and either a grantor or a beneficiary of a trust; (3) a party and a federally tax-exempt organization that the party, or members of the party's family, controls; (4) a party and either a corporation or a partnership in which the party has more than a fifty percent(50%) interest; (5) two(2) business entities, either corporations or partnerships, where a party has more than a fifty percent (50%) interest in each; (6) two (2) corporations that are members of the same controlled group; and (7) two (2) parties engaged in trades or businesses under common control.

Release of Allocation:

This is a stage when a Reservation is determined to be fundable after meeting all conditions of the Reservation Letter.

Regions:

These are the three (3) areas of the State known as Metro Oregon, non-Metro HUD HOME Participating Jurisdictions, and Balance of State.

Request:

This is any form of application, including written or verbal requests for funding from any Program.

Requestor:

The sponsor, organization or entity that applies for funding for a Project from the Department.

Reservation Letter:

When a project is selected to receive a reservation of Program Funds, it is documented in a Reservation Letter aka the "Reservation". The Reservation Letter is a form of conditional commitment whereby the state agrees to fund an award when a sponsor has completed all the requirements listed in the Reservation Letter.

Reservation and Extended Use Agreement (REUA):	This is a document that contains the terms and conditions of the obligatory period of affordability, which is incorporated by reference into the recorded Declaration of Land Use Restrictive Covenants. The Declaration is recorded after Project completion.
Reservation Period:	The maximum time frame allowed for fulfilling all the terms and conditions of the Reservation Letter.
Regulatory Agreement:	This is any and all documents establishing Project operating obligations and standards including, but not limited to, restrictive covenants and equitable servitudes. It is commonly called a “Declaration” or “LURA” (Land Use Restrictive Agreement).
Scoring Committee:	This is the committee that will be comprised of Department personnel, industry leaders and regional representatives responsible for the competitive scoring and ranking the projects.
Underserved Area:	This is a Region, county, city whose existing affordable housing is identified as underfunded relative to its affordable housing need.
Visitable:	This means that a Project is able to be approached, entered and used by individuals with mobility impairments including, but not limited to, individuals using wheelchairs.

## **ADDENDUM A: ARCHITECTURAL GUIDELINES**

The following outlines the architectural material to be submitted with the application and the architectural design guidelines that should be followed.

### **ARCHITECTURAL REVIEW SUBMISSION REQUIREMENTS**

#### **– For All New Construction Projects and Rehabilitation Projects that Include Any New Construction.**

Submit the specific documents required for design review with the application. These must not be construction documents, but the schematic or early design development documents. The architectural submission should include the information listed below:

- **Vicinity map** indicating the location of the site and amenities important to the residents such as groceries, schools, parks, activities on adjacent properties (e.g. single family dwellings, commercial retail etc.), and public transportation. If appropriate, the same vicinity map required in the environmental review checklist may be used.
  
- **Context photos** showing the property and adjacent properties. Indicate on the vicinity map where the photographs were taken. If the site varies in slope, submit photographs showing the extent and nature of the sloped areas. If photocopy photos are taken, include original photos in the original application and copied photos in the application copies.
  
- **Preliminary site design and development plan** with topographic data and a schematic landscape concept (1"=40' minimum scale). The site plan should include:
  - i. Site contours or, at a minimum, elevations on the corners of the property and each building; and preliminary grading including drainage away from buildings.
  - ii. Site features such as existing structures to be removed, trees or hedges to be retained and general areas of new plant materials, with other site features.
  - iii. All buildings with unit front entries indicated.
  - iv. All paved surfaces and site lighting, if determined.
  - v. Any fencing at perimeter of site and between units and buildings.
  - vi. Mechanical and electrical equipment such as transformers, if determined.
  - vii. Trash holding areas, if known.

#### **Codes and regulations may include, but may not be limited to:**

- HUD, NOAA (National Oceanic and Atmospheric Administration) and/or other federal regulations,

- Current edition of the Oregon Structural Specialty Code,
- Applicable local planning and building codes,
- Accessibility and Visitability requirements,
- HUD Fair Housing Accessibility Guidelines,
- ADA Accessibility Guidelines,
- Uniform Federal Accessibility Standards (UFAS) applicable to HOME and other federally funded programs,
- Oregon Visitability Requirements (included in this document).
- 

## **INTRODUCTION TO GUIDELINES**

The Architectural Design Guidelines are designed to assist applicants in creating safe, livable and well-designed projects built for long-term viability. The guidelines should be followed for the Project to meet the architectural design threshold but exceptions may be requested in writing. All requests for exceptions should include a thorough and compelling explanation from the Architect for each instance a particular requirement cannot be met.

Some of the language below is *italicized*. These items are alternate suggestions for meeting some of the architectural requirements, or specific modifications to the requirements based on particular conditions.

### **Site Design Requirements**

#### ***A. SITE SAFETY***

- Locate units so pathways from parking areas to units are direct and safe at night. Avoid pathways that pass through other residents' outdoor space or within ten (10) feet of ground floor dwelling unit windows.
- Locate the buildings, when possible, so unit front entries are visible from the street or the parking area used by visitors and emergency vehicles.
- Design vehicular traffic and parking to minimize paved surface area and to minimize noise and safety issues for residents, especially children. Design roadways to discourage excessive vehicular speed.
- Provide visual and sound buffers between residential uses and incongruent uses on adjacent sites, e.g. industrial buildings and highways.
- Provide lighting on site to ensure safety of cars and residents at night. Locate fixtures to avoid shining into apartment windows.

#### ***B. PLAY AREAS***

- Provide, if family housing, one (1) or more on-site play areas for children under six (6) years old that are visible from as many dwelling units as possible.
- Avoid locations that require children to cross parking lots and/or driveways to reach play areas.
- Provide places for adults to sit near these play areas.

### C. LANDSCAPING

- Locate plant materials to enhance the livability of the development.
- Use plants to reinforce the separation of individual private outdoor spaces from community areas, to buffer cars from community outdoor space, to buffer noise, and to prevent soil erosion.

### D. BUILDING ORIENTATION

- Orient units so every unit receives maximum daylight given the overall site development and specific architectural scheme.
- Organize buildings and units so that unit fronts face unit fronts and unit backs face unit backs, to increase the opportunity for useful common space and for privacy of bedrooms.
- Minimize the use of stairs on sloped sites between parking and unit entries.
- Use the topography wherever possible to gain level entry at different floors.

### E. TRASH

- Provide trash holding areas that are both serviceable by truck and accessible to residents. Screen dumpsters from public view.
- Balance convenience to residents with adequate separation from living areas to avoid odor problems.

### F. PROJECT SIGN

- Provide a project sign during construction which identifies the project and includes the Oregon Housing and Community Services name and logo as a source of funding.
- Provide a sign identifying HUD if HOME funds are in the project.
- Provide a sign with the Oregon Housing and Community Services name and logo type size no smaller than the other funders listed.

## **Building Design Requirements**

### A. OVERALL CONSIDERATIONS

- Design the building(s) with appropriate articulation of massing and roof line to be visually appealing and compatible with the neighborhood context.

### B. BUILDING and UNIT EXTERIORS

- Use exterior materials that are compatible with the project's context and have an excellent track record for performance under a variety of weather and use conditions. Acceptable siding materials include wood, cement fiber or vinyl lap siding, wood or cement fiber panel siding with battens applied horizontally and/or vertically, brick or textured concrete masonry units.
- Use materials other than Stucco and Synthetic stucco (EIFS) products as they are not approved for OHCS-funded projects.

- Limit roof penetrations, when possible, to surfaces away from public view.
- Screen mechanical equipment from public view.
- Delineate the main building entrance as an inviting focal point by using forms and materials consistent with the building design.
- Provide outdoor space and common outdoor space that is in line with market drivers.

### C. PRIVACY

- Provide privacy between individual yards or patios with screens of fencing and landscape, or landscaping.
- Minimize views from upper windows and balconies of one (1) unit into the outdoor space or windows of another unit.
- Provide each unit with its' own entry path.
- Avoid shared entry pathways where the residents of one (1) unit must walk across the welcome mat of their neighbors.

## Unit Design Guidelines

### A. COMMON SPACES AND FURNISHINGS

- Design common living spaces (kitchen, dining area and living room) to accommodate the maximum number of people who might reside in the unit. (i.e., a dining area in a three (3) bedroom unit needs to be larger than the dining area in a two (2) bedroom unit).
- Design kitchens in three (3) bedroom units to accommodate more than one (1) person in the space at the same time.
- Configure bedroom windows, doors, and heat sources so residents can furnish every bedroom with two (2) twin beds.

### B. CIRCULATION

- Design circulation through the unit to be as efficient as possible, incorporating it into living spaces, wherever possible, without diminishing furnishability and use of rooms. (An easily furnished room is one with uninterrupted walls and at least two (2) corners and ideally three (3) corners).
- Create a clear transition at the entry between semi-public and more private space. This can be accomplished with a porch, a foyer or a vestibule at front door so the dwelling unit entry is separate and distinct from the dwelling unit common spaces.
- Provide a circulation path between bedrooms and bathrooms that does not pass through the common living area or other bedrooms. Bathrooms shall not be accessed directly from common living areas. Exceptions are studio or SRO units. Circulation to the bathroom in one (1)-bedroom units may skirt the common space as long as the ability to furnish is not compromised.
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### C. BATHROOMS

- Provide a minimum of (1.5) bathrooms in three (3) bedroom units.
- Provide two (2) full baths in four (4) bedroom units.

In either case above, at least one (1) bathroom shall have a tub.

- Provide in townhouse units with two (2) or more bedrooms, a half (½) bath on the lower floor to serve the living/dining area (See the requirements for visitability).
- Provide no more than one (1) full bathroom in two (2)-bedroom flats unless an exemption has been obtained from OHCS. Exemptions will be granted when OHCS determines the additional bath is required for the target population(s). OHCS will consider specific exemptions on a unit-by-unit basis when a “Request for Exemption from Requirements” is included in the application.

### D. ELEVATORS

- Provide elevators in buildings of three (3) or more stories.
- Provide elevators in buildings of two (2) stories that serve the elderly and/or disabled where units are evenly distributed between floors. “Townhouse over flat” designs totaling three (3) stories need not provide elevators. Three (3) story garden style buildings with twelve (12) or fewer units per building do not need an elevator if they do not require accessibility for tenants with mobility impairments to the upper floors.

### E. STORAGE

- Provide in unit and additional storage. Lack of adequate in unit and additional storage may also affect the long term unit marketability.

Include the following minimums:

- Provide a coat closet near front door.
- Provide linen storage near bedrooms and bathrooms. This can be accomplished with closet space or with built-in cabinets/shelves in the bathroom or laundry room.

### F. NATURAL LIGHT

- Maximize the availability of natural light available to each unit.
- Provide natural light in every room or activity space possible, including dining areas and sleeping alcoves. Exceptions are the kitchens and baths.

### G. LAUNDRY

- At a minimum, provide a washer and dryer hookups in family housing
- Provide convenient and accessible laundry rooms in projects without furnished washers and dryers in the units.
-

#### H. ACOUSTIC SEPARATION

- Provide an acoustically controlled environment relative to exterior noise as well as noise from adjacent units and public spaces.
- Construct walls between apartments with staggered studs and sound attenuating insulation or resilient channels with sound attenuating insulation to minimize structure borne and airborne transmission of sound.
- Provide resilient channels with sound attenuating insulation ceilings between apartments.

#### I. BATHROOM AND KITCHEN EXHAUST

- Provide bathrooms with ceiling exhaust fans and kitchens with range hood exhaust fans.
- Connect all mechanical exhaust systems directly to the outside. Professionally engineered alternate systems that provide good bathroom and kitchen ventilation are acceptable, particularly for urban mid-rise buildings.

#### J. UNIT FLOOR AREA GUIDELINES

- Design dwelling units large enough to accommodate the intended population.
- Provide unit designs that make efficient use of public resources.

The following table shows the guidelines for minimum floor areas required and maximum floor areas: See the APPENDIX for approved methods in calculating unit floor area. Exterior storage is not included in the unit floor area calculations.

<u>Unit Type</u>	<u>Minimum Required Unit Floor Area</u> <u>(Square Feet)</u>	<u>Maximum Allowable Unit Floor Area</u> <u>(Square Feet)</u>	<u>Maximum Allowable Floor Areas for Townhouses and Accessible Units</u>
<u>SRO</u>	<u>175</u>		
<u>Studio</u>	<u>350</u>		
<u>1 Bed / 1 Bath</u>	<u>600</u>	<u>690</u>	<u>740</u>
<u>2 Bed / 1 Bath</u>	<u>800</u>	<u>900</u>	<u>950</u>
<u>3 Bed / 2 Bath</u>	<u>1,000</u>	<u>1,200</u>	<u>1,250</u>
<u>4 Bed / 2 Bath</u>	<u>1,250</u>	<u>1,400</u>	<u>1,450</u>
<u>ALF/RCF Studio</u>	<u>300</u>		
<u>ALF/RCF 1 Bed</u>	<u>450</u>		

If Project doesn't meet the guidelines for the minimum and maximum floor areas, please provide explanation.

### **Green Building Requirements**

Applicants must include green building requirements when developing the project plans. Applicants will be expected to follow through with the green building path they chose. If applicants are unable to complete that path, they must request approval to choose a different path. The Department reserves the right to rescind resources if green building activities are not followed.

The Department has established a process that connects the Requestor to three (3) existing green building paths available throughout the state. In addition, the Department has established a fourth green building path for those projects that cannot be served by any of the other three (3) programs. The three (3) green building programs selected are Enterprise Green Communities, Earth Advantage Homes, and LEED for New Construction or Homes. Applicants must choose to work within one (1) of the four (4) processes. Listed below is contact and process information for each program. This is followed by a brief description of the Department's green building criteria. The list of specific of criteria is on the Green Building Checklist found in the Self Scored section.

The Department has listed the following Enterprise Green Communities, Earth Advantage and LEED program information as a courtesy. The Department takes no responsibility for the accuracy of the program material. Requirements or criteria may have been updated by any of the program providers. Applicants should confirm the provider's expectations before committing to a specific program.

### **Enterprise Green Communities ("Enterprise GC")**

- Addresses new construction and major rehabilitation (replacement of one (1) or more major systems).
- Project must have at least twenty-five (25) rental apartments occupied by households at or below sixty percent (60%) AMI to qualify.
- Rehabilitation projects must undergo an energy audit that identifies baseline energy performance of existing measures and anticipated energy improvement from proposed new measures.
- Applicants are strongly encouraged to engage a contractor to review design materials, walk the project site, discuss green building intentions and obtain a rough cost estimate of total and green building-related project costs.
- Applicants may also benefit from an early project brainstorm session or "Eco-Charrette" with a team of experts and stakeholders to help them identify approaches to achieve Green Communities certification.
- Enterprise GC has grants available to assist with costs from Eco-Charrettes and pursuit of certification.
- Projects not selected for funding may still pursue Enterprise GC certification and incentives.
- Successful applicants will be required to register the project with Enterprise within sixty (60) days of notification of a successful request.
- Signed verification of registration must be provided to the Department within seventy five (75) days of that notification.
- All successful applicants will receive Enterprise's reporting and verification of green building certification requirements for the Department but will not exceed those already required by the Enterprise GC program.
- Enterprise GC certification requires the project architect and/or engineer sign a template to verify each selected criteria has been implemented into the project. No additional supplemental documentation is required.
- Enterprise reviews and confirms the submitted materials and the project is then certified.
- The applicant is responsible to forward the proof of certification to the Department.

Program requirements are available at: [www.greencommunitiesonline.org/tools/criteria/](http://www.greencommunitiesonline.org/tools/criteria/)

Or: Enterprise Community Partners  
520 S. W. Sixth Avenue, #700  
Portland, Oregon 97204  
Phone: 503 223-4848

## **Earth Advantage Homes (“EA”)**

Addresses single and multi-family new construction

- Projects that pursue the EA compliance path must have an initial EA consultation.
- Applicants are strongly encouraged to engage a contractor to review design materials, walk the project site, discuss green building intentions and obtain a rough cost estimate of total and green building-related project costs.
- Successful applicants will be required to register the project with EA within sixty (60) days of notification of the successful application.
- Signed verification of registration must be provided to the Department within seventy five (75) days of notification.
- All successful applicants will receive EA’s reporting and verification of green building certification requirements for the Department but will not exceed those already required by EA.
- EA certification requires approximately two (2) to-three (3) total field inspections during and after construction and review of the final green building worksheet by an EA representative.
- No additional supplemental documentation is required.
- EA reviews and confirms the submitted materials and the project is then certified.
- The applicant is responsible to submit the certification to the Department.

Program requirements are available at [www.earthadvantage.org/](http://www.earthadvantage.org/) or:

### **Earth Advantage National Center**

16280 S. W. Upper Boones Ferry Rd  
Portland, Oregon 97224  
Attn: Duane Woik  
Phone: 503 968-7160, x-14

### **Earth Advantage (So. Oregon)**

715 Sunrise Street  
Ashland, Oregon 97520-3349  
Attn: Fred Gant  
Phone: 541 840-8302

### **Earth Advantage (Central Oregon)**

345 Century Drive, #20  
Bend, Oregon 97702  
Attn: Bruce Sullivan  
Phone: 541 480-7303

**Earth Advantage (Valley)**

2695 Madison Street  
Eugene, Oregon 97405  
Attn: Eli Volem  
Phone: 541 510-9310

**LEED Certification (“LEED”)**

Applicants that pursue LEED for New Construction certification automatically comply with the Department Green Building Standard. LEED projects are anticipated to meet or exceed the performance sought by the Earth Advantage and Enterprise Green Communities baseline compliance paths. These projects must submit a completed LEED scorecard, the Department Green Building Worksheet, proof of project registration with the U.S. Green Building Council (USGBC) or a signed statement of intent to register the project with the USGBC for LEED for New Construction or Homes program within sixty (60) days of notification of a successful application.

Program requirements are available at: [www.usgbc.org/](http://www.usgbc.org/).

**The Department Path for Acquisition/Rehabilitation or Acquisition only projects**

The Department Path addresses other projects not eligible for participation in the other three (3) programs. If a project is ineligible for Enterprise Green Communities, EA or LEED Certification, applicants must work with the Department path.

- Applicants must submit the Green Building Worksheet in the application.
- Successful applicants may be required to provide a completed third party energy audit to the Department within seventy five (75) days of notification of funding; and
- Submit specified evidence at project closing that verifies work was completed as stated.

## **APPENDIX**

### **CALCULATING UNIT FLOOR AREA**

Calculate Floor areas for each unit using the following methods, based on the unit placement in a particular building:

- Outside face of exterior wall to outside face of exterior wall.
- Outside face of exterior wall to center of party wall.
- Outside face of exterior wall to hall face of corridor wall.
- Center of party wall to center of party wall.
- All interior spaces, walls, structural elements and voids will be included in the calculated floor area, except as specifically excluded below.

### **EXCLUSIONS:**

- In multi-story units, the floor area dedicated to stairs should only be counted once, for a total maximum exclusion of 50 (fifty) square feet.
- Vertical Mechanical and Electrical chases will be excluded from unit floor area calculations.
- Balconies, porches, patios and exterior storage spaces will be excluded from unit floor area calculations.

### **CALCULATING ROOM FLOOR AREA (Net Useable Area)**

- Floor area for each room will be calculated by measuring to the inside face of each wall.

### **CALCULATING TOTAL BUILDING FLOOR AREA (Gross Area):**

- Total building floor area will be the sum of the areas enclosed by the exterior face of the exterior walls on each floor.
- Balconies, porches and patios will be excluded from calculation of total building floor area.

### **DISCLAIMER OF LIABILITY**

The responsibility for the project meeting minimum health and safety standards is the responsibility of state and local jurisdictions and the project sponsor/owner.