PURPOSE: The credit allowed for contributions to the Renewable Energy Development Fund will sunset on December 31, 2017, and all credit auctions completed.

150-315-0160 [Repealed 12/31/2017]

Tax Credit Auctions

(1) Definitions.
(a) “Tax Credits” means the credits authorized by Chapter 730, Section 23, Oregon Laws 2011 (HB 3672). These credits may also be referred to as the “Renewable Energy Development Contribution Credit(s).”
(b) “Qualified Bid” means a bid that is eligible to participate in the tax credit auction because:
(A) It is submitted in a manner and time prescribed by the department’s instructions and this rule;
(B) It is submitted for no less than 95 percent of the tax credit value or $950 per tax credit increment;
(C) An associated payment is received by the department in the time and manner prescribed in section (4).
(d) “Invalid or Insufficient Payments” are payments that are:
(A) Not received by the department by 5:00 p.m. (PT) on the date for payment set by the department;
(B) In a form other than one listed in section (4) of this rule;
(C) Fraudulent or otherwise not able to be immediately banked by the department;
(D) Less than the full amount of the corresponding bid received by the department; or
(E) Not submitted in a manner consistent with department’s instructions (including attaching the required completed forms).
(e) “PT” means Pacific Time (Daylight or Standard as dictated by the time of year).
(2) Auction Bidding Period. The tax credits auction bidding period is no less than seven days, not to exceed 14 days, with specific dates as announced by the department.
(3) Tax Credit Certificates. 1,500 increments of $1,000 tax credit certificates ($1,500,000 total) will be available for bidding at the auction. The Oregon Department of Energy will issue tax credit certificates
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<table>
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<tr>
<th>Page 2 of 4</th>
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<table>
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<tr>
<th>NOTICE OF INTENDED ACTION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bulletin Dated</td>
</tr>
<tr>
<td>November 2017</td>
</tr>
</tbody>
</table>

for the prevailing qualified bids. A taxpayer to whom a certificate is issued may claim a credit in the amount shown on the certificate against Oregon personal income or corporate income or excise tax otherwise due for that tax year. The tax credit may not exceed the liability of the taxpayer in any one year. Any credit amount unused by the taxpayer may be carried forward to offset tax liabilities in the next three succeeding tax years. No transfer of the certificate (or the credit that it represents) is allowed.

(4) Determination of Qualifying Bids and Payments.
(a) Bids must be submitted on line in a manner consistent with the department’s instructions and within the bidding period as outlined in section (2). Bids received before or after the bidding period will be considered a non-qualified bid. The department will determine the order of bids received by the electronic date and time stamp.
(b) A bidder may submit multiple separate bids.
(c) After a bid is submitted, a bidder must send, and the department must receive, a payment for the total amount bid. Invalid or insufficient payments will be returned to the bidder and the associated bid considered a non-qualified. All bid payments must be received by the department no later than 5:00 p.m. (PT) on the payment date. The department will date stamp payments when they are received. The department will not consider postmarks when determining if the payment has been timely received. It is the bidder’s responsibility to ensure that the department receives the payment by the deadline. The method of payment is limited to the following:
(A) Bank-issued certified check;
(B) Bank-issued cashier’s check; or
(C) Money Order.
(d) All payments will be held until the outcome of the auction is determined. As soon as practicable, the department will return payments received to bidders that do not prevail at the auction. No interest will be paid on payments.
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(e) A bid, once submitted, is not revocable and may not be changed. A payment will only be returned if a bid does not result in the issuance of a tax credit certificate.

(5) Determination of the Prevailing Bid(s). After the payment deadline has passed, the department will determine the prevailing bids by placing the qualifying bids in order from highest bid amount to lowest bid amount. The department will allot up to 1,500 tax credit increments of $1,000 each to the highest qualifying bids in order from highest bid to lowest bid. In the event that two or more qualifying bids have identical bid amounts for the last tax credit increment (or increments) available, the prevailing qualifying bid will be the one the department received first as determined under section (4).

Example: Four bidders (A, B, C and D) make qualifying bids on $10,000 worth of tax credits (sold in ten increments of $1,000). Bidder A bids $950 for each of four increments on October 24. Bidder B bids $965 for each of four increments on October 26. Bidder C bids $985 for each of three increments and $965 for each of two increments on November 1. Bidder D bids $990 for each of five increments on November 4. The department will place the bids in the following order:

<table>
<thead>
<tr>
<th>Bid Amount/Increment</th>
<th>Date Received</th>
<th>Bidder</th>
<th>Number of Increments</th>
</tr>
</thead>
<tbody>
<tr>
<td>$990</td>
<td>11/04</td>
<td>D</td>
<td>5</td>
</tr>
<tr>
<td>$985</td>
<td>11/01</td>
<td>C</td>
<td>3</td>
</tr>
<tr>
<td>$965</td>
<td>10/26</td>
<td>B</td>
<td>4</td>
</tr>
<tr>
<td>$965</td>
<td>11/01</td>
<td>C</td>
<td>2</td>
</tr>
<tr>
<td>$950</td>
<td>10/24</td>
<td>A</td>
<td>4</td>
</tr>
</tbody>
</table>

The results of the auction are as follows:

5 of the 10 increments go to D.
3 of the 10 increments go to C (for the $985 bid).
2 of the 10 increments go to B (for the $965 bid).

NOTE 1: B only received two of the four increments he bid on because no more increments were available. The department will return the payment to B for the amount of the two non-prevailing bids.
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NOTE 2: The bid C placed at $965 did not prevail because it tied with the bid B submitted. B’s bid will prevail over C’s bid in the event of a tie because it was received before C’s bid. C’s payment for the $965 bid will be returned.

NOTE 3: A’s bid was not high enough to prevail. A’s bid payment will be returned.

Stat. Auth.: ORS 305.100
Stats. Implemented: 315.326