



Land Acquisition Grant Program Grant Application Guidance -- 2016

Oregon Watershed Enhancement Board
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OWEB strongly encourages applicants to review the following information and associated guidance links carefully to ensure that submitted applications are complete and competitive, and to understand what will be expected of successful applicants. Please note that in the case of unintended conflicts between the OWEB-provided guidance and OWEB statutes and rules, OWEB statutes and rules will prevail.

Any questions regarding the 2016 Land Acquisition Grant Application should be referred to Miriam Hulst at 503-986-0026 or miriam.hulst@state.or.us.

WHAT YOU SHOULD KNOW OR DO BEFORE YOU APPLY

Eligible Organizations. OWEB-funded interests in land may be held by local, state and federal agencies, tribes, not-for-profit land conservation organizations and trusts, state institutions of higher education, independent not-for-profit institutions of higher education or political subdivisions of the state, as long as the entity continues to use the land for the purposes specified in the Oregon Constitution. OWEB does not make acquisition grants directly to state or federal agencies or private landowners. In the case of conservation easement projects, the grant applicant is OWEB's direct partner and is responsible for working with the private landowner to develop and implement the project.

Eligible Properties. OWEB land acquisition grants are generally intended for future acquisitions of property rights. However, in October 2016, applications will be accepted for acquisitions which occurred after April 18, 2015.

Good-Standing Requirement. Any grantee that is out of compliance with any obligation, including management planning and reporting requirements, of any grant agreement it has with OWEB must become compliant with the obligations in 30 days or less after the OWEB Board makes a new land acquisition award to the grantee. A grantee's failure to become compliant with all such obligations in the 30-day period will result in retraction of the new land acquisition award. Furthermore, the OWEB Board will not release grant funds to close a transaction if the grantee is not in compliance with all obligations under all grant agreements it has with the Board.

Relocation of Displaced Persons. The application requests specific tenant information, if applicable. Residential and business tenants affected by a proposed acquisition may be eligible for relocation advisory services and benefits in accordance with state and federal law. OWEB is responsible for providing the services and benefits. ***IMPORTANT NOTE:*** Applicants should consult with OWEB before contacting tenants. Relocation information is available on the OWEB web site, at: http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Landowner Acknowledgement. Applications can only be submitted with the knowledge of the landowner, which must be demonstrated with an executed Landowner Acknowledgement Form. The form must also confirm that, in accordance with the Uniform Relocation and Real Property Acquisitions Policies Act of 1970 (Uniform Act), the landowner has: (i) been informed by the grant applicant that the purchase will not be completed if mutually agreeable terms and conditions are not negotiated; and (ii) received from the grant applicant an estimate of the property value and the basis of the estimate. The Landowner Acknowledgement Form is available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

All-inclusive Application Deadline. All information submitted in association with the application (support letters, maps, title reports, etc.), whether required or optional, must be submitted online with the application, by the application deadline. No material will be accepted separately. Information about required and optional application attachments is available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Pre-Application Consultation. Land acquisition grant applicants are required to consult with OWEB staff before submitting an application. Intended outcomes of the pre-application consultation are: (i) to discuss the project's opportunities, benefits, potential challenges and schedule; and (ii) to provide general guidance on the grant application process. OWEB funding decisions will not be made at the pre-application consultation. Pre-application consultation guidance is available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

WHAT YOU SHOULD KNOW ABOUT OWEB REQUIREMENTS

Budget. Applicants are encouraged to carefully consider all cost factors associated with the project before completing the 2016 grant application budget form. Applications will be most competitive when the budget estimates are as accurate as possible.

Under OAR 695-045-0165, land acquisition grant funds may be applied to:

- The purchase price and the purchase option fees associated with the property or conservation easement;
- The interest on loans;
- The staff costs incurred as part of the acquisition process related to the property;
- The cost of due diligence activities, including appraisal, environmental site assessment, survey, title review and other customary due diligence activities;
- The cost of baseline inventory preparation;
- The cost of preparation of the initial management plan, including consideration of any restoration needs;
- The legal fees incurred; and
- The closing fees, including recording and title insurance costs.

Additional grant application budget guidance is contained in the Land Acquisition Budget Guidance document, available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx. The grant application budget form is also available on the OWEB web site.

Match. All applicants shall demonstrate that at least 25 percent of the actual land acquisition project cost is being sought as match. For 2016 grant applications, costs incurred after April 18, 2015 may qualify as matching contributions, subject to approval by OWEB. Additional information about match is contained in the Match Guidance document, available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Project Schedule. Applicants are required to submit a projected schedule for key actions associated with the proposed property acquisition. It is essential that the schedule incorporate realistic time frames for critical steps such as the purchase agreement, appraisal, survey, title review, etc. The schedule may reflect project activities which occurred prior to the grant application deadline, but only qualified costs which were incurred after April 18, 2015 are eligible for reimbursement. Project timing will be a required topic of the pre-application consultation. The project schedule template is available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Due Diligence. A funding award will be conditioned on certain transaction requirements being fulfilled prior to closing. ***OWEB will require review of all appropriate due diligence information relevant to the property being purchased,*** including, but not limited to: appraisals; title reports; environmental site assessments; surveys; water rights documentation; rights of first refusal; option agreements; purchase and sale agreements; leases; licenses; rental agreements; permits; easements; security instruments; UCC financing statements; fixture filings; documents pertaining to litigation, encroachments, disputes (including boundary line disputes), or prescriptive rights; a description of any work performed on or use made of the property by parties other than the seller; and other documents and information that OWEB determines are reasonably necessary to review before disbursing grant funds. Applicants are strongly encouraged to seek the assistance of experienced attorneys and to work closely with OWEB staff throughout the due diligence phase of the acquisition project.

Binding Commitment to Sell. The OWEB grant agreement will require submittal of the binding sale contract between the applicant and landowner for OWEB review. If an applicant is seeking compensation for a completed acquisition which qualifies for reimbursement, the purchase and sale agreement for the completed transaction must be submitted to OWEB for review. OWEB encourages applicants to use contemporary option or purchase and sale agreements when negotiating for the property purchase, and offers templates for discretionary use by grant applicants. The purchase agreement templates are available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Appraisal.

The purchase price for property, or a property interest, acquired with OWEB grant funds must be supported by an appraisal and an OWEB appraisal review, completed in accordance with applicable appraisal standards, including the Uniform Standards of Professional Appraisal Practice, and if required, the Uniform Appraisal Standards for Federal Land Acquisitions. ***IMPORTANT NOTE:*** The grant applicant is responsible for selecting and hiring the appraiser, and must be the sole client of the appraisal.

Applicants are strongly encouraged to: (i) review the OWEB appraisal guidance; (ii) use the OWEB appraisal contracting worksheet when completing the scope of work for the required appraisal; (iii) share the appraisal guidance and completed worksheet with the appraiser; and (iv) arrange for the appraiser to consult with the OWEB review appraiser before proceeding with the appraisal. OWEB staff can facilitate the review appraiser consultation. The appraisal guidance and appraisal contracting worksheet are available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Environmental Site Assessment. A funding award will be conditioned on the applicant demonstrating that the property is free of hazardous materials or that hazardous materials, if present, can be remediated in a reasonable manner. Usually a Phase 1 Environmental Site Assessment will satisfy this requirement. The environmental site assessment must be conducted by a qualified third party in compliance with American Society for Testing and Materials (ASTM) Standard 1527-13. Additional information about environmental site assessments is contained in the Environmental Site Assessment Guidance document, available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Encumbrances. All grant agreements will require that the property or property interest acquired with OWEB funds be free of encumbrances that conflict with the purpose of the grant (e.g., reserved mineral rights or incompatible easement rights). Furthermore, mortgages and liens must be paid off as to fee title acquisitions, or subordinated as to conservation easement purchases, at or before closing. Additional information about encumbrances-related due diligence is contained in the Title Guidance document, available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Title Insurance. All grant agreements will require that the acquired property interest be insured in a manner and for an amount which sufficiently insures OWEB's investment in the property.

Relocation of Displaced Persons. OWEB will comply with laws regarding displaced persons by providing advisory services and relocation benefits to residential and business tenants that are displaced as the result of an OWEB-funded acquisition. *The grant applicant is not responsible for complying with the Uniform Act. However, the grant applicant and landowner must not take any action with regard to an existing tenant that is inconsistent with the Uniform Act (e.g., attempt to negotiate a lease or rental agreement termination).* The grant applicant may work with the landowner to ensure that any agreements with new tenants are structured in a manner that avoids additional relocation obligations, but should consult with OWEB when doing so.

Access. All grant agreements will require applicants to demonstrate legal and sufficient access to the property, with the access rights to be consistent with the intended uses of the property, including OWEB monitoring and enforcement activities. If the preliminary title report for the property reflects a lack of legal and sufficient access, the exception to title must be removed prior to closing, unless otherwise agreed by OWEB. While road access is typically a requirement, reasonable water access may suffice. An application may be submitted if legal and sufficient access does not exist at the time of application, subject to the

applicant having a reasonable plan for securing legal and sufficient access prior to closing. Access secured by applicants must be in a form acceptable to OWEB. An example access easement template is available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Legal Description and Survey. The property's legal description must accurately describe legally conveyable land, consistent with previous descriptions of the property, if any. Some acquisitions may require a boundary survey, partition or lot-line adjustment. The grant agreement will require that survey matters be completed in accordance with applicable law and in a manner acceptable to OWEB. Applicants are encouraged to discuss survey matters with OWEB staff before initiating survey actions.

Title Matters.

Fee acquisitions will require conveyance by statutory warranty deed and the grant of a standard form conservation easement to OWEB. Statutory warranty deeds must specifically cite encumbrances that affect the property. The conservation easement and statutory warranty deed OWEB requires are available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Conservation easement acquisitions will require the use of a conservation easement consistent with requirements provided for in OWEB's conservation easement guidance, available on the OWEB web site. The guidance is accompanied by an example easement. Applications proposing the purchase of a conservation easement *must* be accompanied by a draft of the conservation easement at the time the application is submitted.

All title matters must be approved by OWEB prior to closing.

Water Rights. If an applicant is proposing to acquire fee property with appurtenant water rights, or a conservation easement with the authority to use appurtenant water rights, the use of those rights shall be consistent with the management goals and strategies identified in the management plan, including use of water for restoration or in-stream purposes. Applicants may be required to take specific actions necessary to comply with this expected outcome as a condition of a grant award.

Land Use Information Form. Applicants are required to submit OWEB's Land Use Information Form signed by the appropriate planning official, either with the grant application, or upon a conditional funding award. The land use information is needed, in accordance with ORS 197.180, to determine if the proposed project complies with statewide planning goals and is compatible with local comprehensive plans. The Land Use Information Form is available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Management Plan. Grant applicants must clearly demonstrate the intent to manage the acquired property, or property interest, in accordance with an OWEB-approved management plan which will ensure the protection of the present and evolving conservation values of the property. To this end, a grant application must include a management plan *outline* specific to the property being acquired. If the grant is awarded, grantees must submit a completed management plan for OWEB approval within 18 months of the property being acquired. Applicants should carefully

review OWEB's management plan guidance to better understand OWEB's expectations of the management plan outline and the full management plan. The management plan guidance is available on the OWEB web site, at

http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

HOW TO APPLY

The grant application must be completed online. The online application system for land acquisition grants is separate from the online system for other OWEB grant types.

All applicants must have a Login ID in order to access the online application. Contact Miriam Hulst at 503-986-0026 or miriam.hulst@state.or.us to obtain a Login ID. A Microsoft Word version of the grant application is available on the OWEB web site, for use by applicants as a worksheet while completing the online application.

Applicants are strongly encouraged to: (i) print and review the Word version of the application before beginning the online application; (ii) carefully review all requirements for documents that must be submitted with the application; and (iii) prepare answers in the Word version of the application first, and then paste the answers into the corresponding sections of the online application.

A link to the online application, the Word version of the application, and a list of materials required to be submitted with the application are available on the OWEB web site, at:

http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

HOW APPLICATIONS WILL BE REVIEWED

Grant applications will be scored as provided for in the application and reviewed in accordance with the review process adopted by the OWEB Board. The OWEB application scoring criteria place emphasis on ecological outcomes that are tied to the mission of OWEB, and organizational capacity. Community benefits and impacts will not be scored, but answers to both scored and non-scored questions will be taken into consideration by OWEB reviewers and the OWEB Board. Reviewer input will be summarized and provided to the grant applicant in an evaluation of the project. To facilitate thorough and forthright reviews, individual reviewer comments will be confidential.

OWEB staff expect to provide evaluations to applicants in March 2017. Evaluations will include a staff recommendation to the Board. Projects recommended for funding will include funding conditions for the Board's consideration. Funding decisions will be made by the OWEB Board at its April 2017 meeting.

An outline of the application review process is available on the OWEB web site, at

http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Grant Applicant Participation. Grant applicants are expected to participate in the ecological and public review components of the grant application evaluation process.

Ecological Outcomes Review. Grant applicants must provide contact information for two or three people who are willing to review the proposed project for its ecological merits. Applicant-nominated reviewers must *visit the property prior to submission of the grant application*. These individuals, in addition to reviewers designated by OWEB staff, will assess the project's ecological outcomes.

Grant applicants are required to select reviewers who have appropriate ecological expertise and can review the property objectively without a conflict of interest. The application requires applicants to describe the expertise of each person and confirm that he or she does not have a conflict of interest. Applicants must also adhere to the following requirements when nominating reviewers:

- 1) The seller of the property cannot be an application reviewer;
- 2) Application reviewers must not work for the organization that is applying for the grant or the organization that is proposed to own the property;
- 3) Applicant-nominated reviewers cannot include people intended for hire for services associated with the project, or contractors for OWEB's land acquisition program; and
- 4) Any applicant-nominated reviewer that works for an organization that has funded or may fund the project must provide a statement of their ability to review the project independently of their organization's decision to fund the project.

Grant applicants assist OWEB in scheduling a site visit for reviewers selected by OWEB. The site visit typically occurs shortly after the October application deadline. The grant applicant is expected to participate in the site visit. Although applicant-nominated reviewers must visit the property before the grant application is submitted, they are welcome to join the OWEB site visit.

Each reviewer submits an ecological review form, providing information indicating whether: (i) the project's ecological attributes and benefits are accurately described in the grant application; (ii) the projected ecological results are reasonable to expect; and (iii) the projected ecological results are significant and make the project a priority investment for OWEB's limited acquisition funds. Ecological review forms are typically due in late November.

Public Review. OWEB conducts a public review process for each acquisition application, with assistance from the grant applicant. The review provides the public with a meaningful opportunity to receive information about the project and provide input for the Board's consideration.

Shortly after the grant application deadline, grant applicants are asked to provide OWEB with a mailing list of parties that are interested or potentially interested in the proposed project. The list must include contacts at the applicable watershed council and soil and water conservation district, neighboring landowners, project supporters and partners, and any known project opponents. OWEB sends a public hearing notice to the entities on the mailing list, federally recognized tribes, and the applicable county.

Public hearings are typically held between December and February. Hearings begin with the grant applicant talking with attendees about the purpose and goals of the proposed project. Then OWEB leads the group in a conversation about aspects of the project that attendees think are positive, as well as concerns or questions attendees have about the project and any items they would like the OWEB Board to know when it makes a funding decision regarding the project. The public is also given an opportunity to provide written comments to OWEB.

WHAT TO EXPECT IF A GRANT IS CONDITIONALLY AWARDED

Land acquisition grants are administered differently than other OWEB grants. Grantees are encouraged to direct grant administration questions to Miriam Hulst at miriam.hulst@state.or.us or 503-986-0026.

Grant Agreement. Applicants conditionally selected to receive funding will be required to sign a standard form OWEB acquisition grant agreement soon after the Board awards funds. The release of the grant funds is conditioned on the grantee meeting the requirements specified in the grant agreement. Applicants are encouraged to review the standard form grant agreement before applying for a grant. The grant agreement is available on the OWEB web site, at http://www.oregon.gov/OWEB/GRANTS/Pages/acquisition_grants.aspx

Availability of Grant Funds. If the OWEB Board makes a conditional funding award for a project, the funds will not be available for other OWEB projects during the term of the grant agreement. Grant funds will be released only if the grantee meets all grant requirements, and only if the purchase closes. No grant funds will be released if a purchase fails to close. If the grant applicant does not satisfy all conditions of the grant award, the funds will be redirected to other OWEB projects.

Contact Miriam Hulst at miriam.hulst@state.or.us or 503-986-0026 if you need more information about OWEB land acquisition grants.