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TEMPORARY ADMINISTRATIVE ORDER
INCLUDING STATEMENT OF NEED & JUSTIFICATION

DVA 1-2019
CHAPTER 274
DEPARTMENT OF VETERANS' AFFAIRS

FILED
12/11/2019 2:57 PM
ARCHIVES DIVISION
SECRETARY OF STATE
& LEGISLATIVE COUNSEL

FILING CAPTION: DISTRIBUTION OF FUNDS TO OREGON TRIBES

EFFECTIVE DATE: 12/11/2019 THROUGH 06/07/2020

AGENCY APPROVED DATE: 12/10/2019

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NEED FOR THE RULE(S):

In 2019, the Oregon State Legislature passed House Bill 5538 (Chapter 570, Oregon Laws 2019), the Department's budget bill, which provided funds for a new position, a Tribal Veteran Coordinator, and pass-through funding for Tribal Veteran Offices. The budget note states that the purpose of these Pass-through Funds is for Tribal Veteran Offices to "expand and enhance their programs and services."

In 2019, the Department began working closely with various Tribes to establish formal relationships through a Memorandum of Understanding (MOU). The MOU provisions include that the Department would train and accredit Tribal Veteran Service Officers, and the Tribe would establish a Tribal Veteran Office and employ a Tribal Veteran Service Officer who would file United States Department of Veterans Affairs (USDVA) benefit claims for veterans under the Oregon Department of Veterans' Affairs' power of attorney.

The purpose of these rules is to describe the rationale, requirements and processes for the distribution of pass-through funds to Tribes.

JUSTIFICATION OF TEMPORARY FILING:

The Agency worked with the Oregon Tribes on these rules through tribal consultation. The Agency has one MOU and another is pending. The rules need to be in place for the Tribes to apply and for the Agency to distribute funds. time is of the essence.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

House Bill 5538 (Chapter 570, Oregon Laws 2019) is available at the agency

RULES:

274-032-0100, 274-032-0110, 274-032-0120, 274-032-0130, 274-032-0140

ADOPT: 274-032-0100

RULE TITLE: Distribution of Pass-through Funds to Tribes; Background and Purpose

RULE SUMMARY: Provides background and purposes on the distribution of pass-through funds to Tribes for Tribal

Veteran Representatives and Offices

RULE TEXT:

(1) In 2019, the Oregon State Legislature passed House Bill 5538 (Chapter 570, Oregon Laws 2019), the Department's budget bill, which provided funds for a new position, a Tribal Veteran Coordinator, and pass-through funding for Tribal Veteran Offices. The budget note states that the purpose of these Pass-through Funds is for Tribal Veteran Offices to "expand and enhance their programs and services."

(2) In 2019, the Department began working closely with various Tribes to establish formal relationships through a Memorandum of Understanding (MOU). The MOU provisions include that the Department would train and accredit Tribal Veteran Service Officers, and the Tribe would establish a Tribal Veteran Office and employ a Tribal Veteran Service Officer who would file United States Department of Veterans Affairs (USDVA) benefit claims for veterans under the Oregon Department of Veterans' Affairs' power of attorney.

(3) The purpose of these rules is to describe the rationale, requirements and processes for the distribution of pass-through funds to Tribes.

STATUTORY/OTHER AUTHORITY: ORS 406.005

STATUTES/OTHER IMPLEMENTED: Chapter 570, Oregon Laws 2019 (HB 5538)

ADOPT: 274-032-0110

RULE TITLE: Definitions for Division

RULE SUMMARY: Provides definitions for terms used in this division 32.

RULE TEXT:

As used in OAR chapter 274, division 32, unless the context of the rule requires otherwise, the following definitions apply:

- (1) "Accredited" means an individual who is officially recognized and authorized by the United States Department of Veterans Affairs to assist in the preparation, presentation, and prosecution of a claim for USDVA benefits.
- (2) "Available Funds" means Pass-Through Funds remaining and available for distribution, after any distributions have been made to the Tribes or held in reserve by the Department.
- (3) "Biennium" means the Department's two-year budget cycle that begins July 1 of odd-numbered years.
- (4) "Capital Assets" means tangible and intangible property as defined as "capital assets" in the State of Oregon Accounting Manual, Number 10.50.00 PR, as amended, that have initial estimated useful lives beyond a single year and have an initial cost of at least \$5,000 and does not include items below \$5,000. Examples of capital assets include land, land improvements, buildings and building improvements, motor vehicles, equipment and machinery, works of art and historical treasures, and infrastructure items such as state highways and airports.
- (5) "Capital Improvement" means an action that increases the useful life of a capital asset or adapts a capital asset to a new use.
- (6) "Department" means the Department of Veterans' Affairs as defined in ORS 406.005.
- (7) "Director" means the Director of Veterans' Affairs as defined in ORS 406.410.
- (8) "MOU" means a Memorandum of Understanding between the Department and a Tribe that describes the roles and responsibilities of each of the parties in accrediting and training a Tribal Veteran Service Officer and the processes used when filing USDVA benefit claims for veterans.
- (9) "Pass-Through Funds" means monies that have been allocated to the Department for distribution to the Tribes.
- (10) "Tribal Veteran Service Officer" means a part-time or full-time Tribal employee who formally represents veterans during the USDVA disability claims process, and who is accredited or in the process of becoming accredited.
- (11) "Tribal Veteran Service Office" means a Tribal office where a Tribal Veteran Service Officer provides veterans, spouses and dependents of veterans or survivors of veterans with information regarding benefit programs and assists veterans in applying for all federal and state veterans' benefits.
- (12) "Tribe" means a federally recognized Indian tribe in Oregon.
- (13) "USDVA" means the United States Department of Veterans Affairs.
- (14) "Veteran" means a veteran as defined in ORS 408.225.
- (15) "Year One" means the first 12-month period of a Biennium.
- (16) "Year Two" means the second 12-month period of a Biennium.

STATUTORY/OTHER AUTHORITY: ORS 406.005

STATUTES/OTHER IMPLEMENTED: Chapter 570, Oregon Laws 2019 (HB 5538)

ADOPT: 274-032-0120

RULE TITLE: Eligibility, Application for Funds, Use of Funds

RULE SUMMARY: Describes eligibility and application requirements to receive pass-through funds

RULE TEXT:

- (1) Eligibility. A Tribe must have a current MOU with the Department and employ a Tribal Veteran Service Officer in order to apply for Pass-Through Funds.
- (2) Application for Pass-Through Funds.
 - (a) A Tribe must apply to the Department for Pass-Through Funds on an agency-approved form that includes: information on the total budget for the Tribal Veteran Service Office; the proposed use of funds; and an agreement that the Tribe will comply with the rules in this division XX.
 - (b) A Tribe must provide sufficient funding for the Tribal Veteran Service Office to ensure its Tribal Veteran Services Officer:
 - (A) Works not less than 1,000 hours annually on providing veterans benefit claims services; and
 - (B) Demonstrates the ability to assist veterans in filing and appealing benefit claims to the USDVA.
 - (c) A Tribe may apply for funds for capital improvements. The Department will review the application and consult with the tribal applicant if the purpose of the proposed capital improvements do not appear meet the goal of expanding and enhancing access to services provided by Tribal Veteran Service Officers.
 - (d) A Tribe must submit a separate application for each year in the biennium.
- (3) Use of funds. The purpose of the Pass-Through funds is to expand and enhance programs and services provided by the Tribal Veteran Service Officer.

STATUTORY/OTHER AUTHORITY: ORS 406.005

STATUTES/OTHER IMPLEMENTED: Chapter 570, Oregon Laws 2019 (HB 5538)

ADOPT: 274-032-0130

RULE TITLE: Distribution of Pass-Through Funds

RULE SUMMARY: Describes procedures for the distribution of Pass-Through Funds

RULE TEXT:

(1) The Department will review the applications and qualifications of each Tribe that applied for Pass-Through Funds and, except for the reservation of some funds as provided in subsection (2) of this rule, distribute the funds equally to approved Tribes.

(2) Year One Distributions. The Department will distribute no more than half the total Pass-Through Funds during Year One of the Biennium. The Department may reserve some of the Year One funds for distribution to Tribes who become eligible and apply for funds after the initial distribution during Year One.

(3) Year Two Distributions. At the end of Year One, the Department may add any undistributed reserved funds to Available Funds for distribution during Year Two.

(4) The Department will distribute funds to Tribes on a reimbursement basis outlined in OAR 274-032-0140.

STATUTORY/OTHER AUTHORITY: ORS 406.005

STATUTES/OTHER IMPLEMENTED: Chapter 570, Oregon Laws 2019 (HB 5538)

ADOPT: 274-032-0140

RULE TITLE: Reimbursements, Quarterly Reports and Audits

RULE SUMMARY: Describes procedures for the reimbursements, quarterly reports and audits

RULE TEXT:

(1) A Tribe must submit quarterly reports and supporting documentation described in subsection (2) of this rule no later than the last working day of the month following the end of a fiscal quarter.

(2) The Department will distribute funds to a Tribe on a quarterly reimbursement basis, in an amount not-to-exceed the Tribe's total quarterly expenses, only after the Department has reviewed and approved both of the following reports and supporting documentation submitted by the Tribe:

(a) Quarterly expense reports of the Tribal veteran services program; and

(b) Quarterly Tribal Veteran Service officer activity reports.

(3) The Department, Secretary of State Audits Division or any other lawfully authorized governmental entity may audit and examine the activities and expenditures of the Pass-Through Funds.

STATUTORY/OTHER AUTHORITY: ORS 406.005

STATUTES/OTHER IMPLEMENTED: Chapter 570, Oregon Laws 2019 (HB 5538)