

Meeting Notes - September 1, 2016

Mission:	Federal, state, local, and non-governmental leadership working together to improve housing and economic opportunities for the agriculture workforce ²
Meeting Location:	Oregon Housing and Community Services 725 Summer St., NE STE. B, Salem, OR 9:00-11:00 AM, Meeting Room 124b PHONE: 1-877-273-4202 / ROOM#: 531-141-227
Facilitator:	Theresa Wingard, Planning and Policy Analyst, OHCS Public Affairs
Attendees:	Present: Edward Brown/OHCS, Teresa Pumala/OHCS, Daniel Quinones/OED, Allen Martinez/OED, Kathleen Kincade/OSHA, Brett Shehan/CASA Phone: Peter Hainley/CASA, Laurie Hoefler/LSO, Ramon Ramirez/PCUN, Jennifer Dresler/OFB, Tyler Alexander/OFB, Shelly Wilkins-Ehenger/MCHA, Amanda Dalton/Columbia Growers
Notes:	<p>Agriculture Workforce Housing Tax Credit Legislation: Work Group Team Representatives: Kathleen Kincade/OSHA and Teresa Pumala/OHCS Sub-Committee Members: Kathleen Kincade/OSHA, Teresa Pumala/OHCS, Peter Hainley/CASA, Ramon Ramirez/PCUN, Karen Shawcross/Citizen, Amanda Dalton/Columbia Growers, Jennifer Dresler/OFB, Maria Elena Guerra/FHDC, Roberto Jimenez/Evolve Mngt, Shelly Wilkins-Ehenger/MCHA, Trevor Beltz/Dalton Advocacy, Tyler Alexander/OFB, Laurie Hoefler/LSO</p> <p>Revised Draft Legislative Concept: Amanda Dalton reported the following edits</p> <p>Page 1 Line 9: Added back the definition of Agricultural Worker, tying back to existing law making sure that retired and disabled farm workers qualify not. Line 14: Eligible costs certify by OHCS, making sure that folks are submitting utility bills that don't duplicate efforts for credits received.</p> <p>Page 2 Line 3: The operations costs were expanded to include insurance and property management per a request from advocates on both sides during the last work group meeting. The insurance and property management cover more the community based than the on-farm housing. Line 6: Making sure that the operations costs are not a capital cost, making it clear that the credit does not coexist with the construction credit. Line 8: A clear definition of utilities Line 10: You'll see where this is a separate tax credit Line 14: We got a 50 percent eligible costs for the credit. That number is a starting place. To continue to be discussed. Part of the decision will be based on how much is put into any credit fund. Line 19: You'll see the eligibility requirements for the credit.</p>

Line 21: All housing must comply with all occupational safety and health laws.
 Line 26: Shows when a farmer may apply; 90 days after the first day of the tax year, or 90 days after the housing is occupied. The reason we put that in there was to allow for new housing to still be eligible for the credits during the past year if they missed that first quarter.

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Line 2: This shows what is not allowed in the credit.
 Line 3: The discussion of H-2A workers has not been fully discussed. Close to where Senator Courtney plans to land on this. As owner or operator if you have H-2A workers during the tax year, you will be prohibited from accessing the tax credit that same year.
 Line 9: You'll see that we make it clear that eligible costs are for both on-farm and off-farm housing.
 Lines 6-8: We are requiring the farmer to pay for utility costs when they apply for the credit, making sure that farm workers are not paying for gas and utilities.
 Lines 12 through 28: A lot of this is still being discussed.
 Line 16-23: This is the carryover provision, which we're told is standard law, allowing the tax payer who doesn't have a tax liability to carry over for up to three years. Standard language.
 Line 29: This is where a non-resident can be allowed the credit. This hasn't been discussed. Note that transferability is something that still needs to be on the table for discussion in terms of primarily for off-farm, and will depend on how much is really available for the tax credit.

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Line 15-31: Talks about the transferability of the credit.

Ramon: Were we going to leave the definition of reforestation workers the way it's described in statute?
Amanda: Yes. The discussion was not to change the definition of agriculture worker, and right now that definition does include forestation, and reforestation.

Amanda: The items still on the table to discuss at the next legislative workgroup include: H-2A workers, transferability, whether 50 percent is the right number

Brett: Have you talked about putting a cap on the amount any individual could ask for?
Amanda: We have, but I'd say it should be on the list as well. We'd welcome comments and feedback.

Teresa: Page one the definition of community based housing is defined as being operated by a non-profit organization where a majority of the occupants are agricultural workers. That usually is not going to cover a lot of our projects, potentially CASA projects. Is that what you're agreeing to?
Brett: Historically CASA projects have been 100 percent farmworker.
Teresa: Later on in the LC there is language about on-farm and community based housing, (page 3, and line 9) but the definition does not cover off-farm residences that are still employment related. If a farmer has off-farm housing it's not going to be covered because the farmer's not a non-profit. Is that what the intention is?
Amanda: That is not the intention, and requires further discussion.
Teresa: It may need edited to add definitions.

Kathleen: At the bottom of page one it defines on-farm housing being located on the taxpayer's property and is offered in connection with Ag worker's employment. We're not just talking about the farm, if it's on the taxpayer's property; if they own property in town it could potentially be covered. Although it does say on-farm.

Teresa: We would want more clarity on that definition to make sure we're not running into issues of intent.

Laurie: It says the worker is not able to be charged for utilities, but sometimes a grower doesn't charge utilities necessarily, but rent, or potentially a higher rent. Were there thoughts about the intersection of charging rent?

Amanda: There was discussion about rent. From the growers side, and the community based housing side, both were hesitant about getting into a discussion about prohibiting rent payments. There may be something that we can do in rulemaking to show if there's an intentional jump in rent. I don't know how we will address this.

Laurie: The laws are hard for those applying to when growers can charge rent. It could be requirement to comply with these laws.

Teresa: We would have difficulty addressing this in rule because we are not sure how we would do compliance. It would be easy to do compliance on the community based, but it would be difficult for on-farm. We might have to survey the tenants who may not want to disclose information they think could affect their employment. The statute could give us the direction. You'd have to have some kind of disincentive for those who were out of compliance. We can't create an adverse effect in rule if we're not given the authority to do so.

Jenny: This is a policy discussion we would have in the legislative work group. We talked about the utility costs and making sure those were charged for. I have concerns about this group trying to establish some sort of adverse action that the agency can take without our having had that policy discussion.

Theresa: I don't think this group would be establishing that, but more sharing their concerns, and providing their ideas for what could be done for the legislative work group. That's important information to take away from this group. Teresa's point that something be included in the statute to speak to the consequences is important in order to allow OHCS to write the rules on enforcement.

Kathleen: On page three, lines 11-13, the taxpayer must obtain a written certification of eligible costs from Housing and Community Services prior to claiming the credit. Could that be part of the certification process?

Teresa: How would we certify that they're not passing it on? They could tell us they're not passing it on, but they could raise the rent, or do something else. We don't have a base of where the rent should be.

Amanda: If you look back up to the definition of the costs, it means costs that have been certified by Housing and Community Services as eligible. What wouldn't be eligible, based on the intent of the law, would be any utilities that the owner is charging the worker for. Maybe it's that OHCS can prescribe the form and the manner; for example the owner has to supply one year's worth of rental history. And if you see a 25 or 50 percent jump you probably need to have a conversation with the grower or owner.

Theresa: OHCS would convene a workgroup for rule writing. It could include members of this group who are interested in helping write the rules. All of these details will be discussed

during the rule making process.

Laurie: Is there something in the draft establishing that the utilities are separate for the housing versus the farming operation? Sometimes there is not a separate meter for the housing.

Kathleen: We had suggested a possible solution could be based on per occupant cap in terms of the utility cost. I don't see anything in this LC draft that addresses that.

Amanda: The intent is not to subsidize the utilities for the entire grow operation, but it would be allocated accordingly. If they don't have individual meters then they would do a percentage basis. My concern with per head count is you've got families, and children, and increased utility costs. Putting per occupant in statute makes me really nervous.

Teresa: I don't think you have to put it in statute, you would just say that OHCS would establish through a consistent methodology a way to allocate utilities that were not separately metered.

Bret: Would that be OHCS' obligation to determine that or would that be the grower's obligation, and then OHCS would approve it or not approve it?

Teresa: We would need to establish rules on how they would do it. If there's no sub metering occurring in statute, there's no way for us to address it in rule.

Theresa: And that would apply to all of the utilities listed. There could be language in that section that indicates a percentage, or formula, could be applied.

Teresa: If it's in rule, it can be changed if something isn't working.

Daniel: Is there anything to address a grower who gets credit and then leases to an H-2A group then it becomes a commercial operation? Is there a protection for the credit?

Kathleen: Page three, lines three through five, state that the credit can't be claimed during the tax year the housing is occupied by temporary H-2A workers.

Theresa: Amanda noted that there will be further discussion in the legislative workgroup.

Amanda: As drafted, if you put one H-2A worker in the housing the entire property is excluded for the entire tax year.

Laurie: Is it going to be first come first served for applications, or is the intent to have a balance between the on-farm and off-farm? Is there direction about prioritizing?

Theresa: It gives the agency the authority to write rules (pg. 4, line 7-9) to allocate the credit between on-farm and community-based housing. Does that answer your question?

Laurie: I'm wondering how people feel about that. It's pretty open ended, should the statute give further direction?

Theresa: There was conversation about it being similar to the current tax credit program.

Teresa: There was no actual decision made, but this gives us the option to determine it more in rule. The current tax credit sets aside is ten percent for on-farm until June 30th of every year, and then it's open to other applicants for the remaining credits. We can do something similar, and changes can be made to the percentages, and the date.

Brett: Is the legislative work group going to meet one more time? Then the LC will go directly to the legislature, and won't come back to the AWHFT?

Amanda: One more meeting on September 19th. The request needs to be in by September 26th. We won't get the draft back until around December seventh. There's a little flexibility on

changes before that date.

Theresa: The AWHFT will meet the end of this month and then again in November. You're welcome to send comments any time before December, and I can forward them to the work-group.

Theresa P: Page five, line two and three: Housing and Community Services may establish a minimum discounted value for a tax credit. We don't do that with any other program. Is this something you want OHCS to do, and how would we establish that?

Brett: We're on average getting 75 cents for a credit, but that's spread out over five years. This credit we would be recouping the next year, so these credits should be selling for 85 cents plus.

Theresa: Is this also something that should be discussed during the rule making process?

Teresa P: Yes, but OHCS has never done this before and I wanted everyone to think about it because it is a hot topic when the tax credits are sold below 100 percent of their value. I want everyone to be okay with a minimum amount set by OHCS, and the potential effect.

Theresa: What would be the reason/purpose for having this language in statute?

Teresa P: OHCS could set a minimum to prevent someone from selling the tax credits at a low amount like 30 cents on the dollar.

Peter: Legislators are very interested in this, and by putting this language in it gives them a sense that they're doing their job. If you're setting it too low there will be questions from taxpayers, and other groups that will be saying the State should not be giving money away. I'm okay with including that language; just don't set it too high that it's hard to sell them.

Teresa P: We'll just need to make sure there's some methodology for how we set it.

Brett: The challenge is you're creating a new market, and you're literally guessing. In three years you'll have some historical data to frame around.

Theresa: I understand we don't do this for any other program. Have we had issues with other programs where this is not being done?

Teresa P: It depends on who you ask. The advocacy groups would rather see us getting 90 or 95 cents on the dollar, of you look at a net present value perspective then 75 cents on the dollar is great. The Department doesn't have an opinion on the appropriate amount.

Amanda: Legislative Revenue staff made it clear that all tax credits are on the table year as it relates to transferability in 2017. So regardless of our personal preferences, it's very possible that decision gets made by the Revenue Committee.

Theresa W: I sent you a list of OSHA registered camps, and OHCS tax credit properties. The idea was to have these to show usage of the current tax credit, and who might be eligible.

Teresa P: There is going to be some overlap between the two lists because some labor camps may have received tax credits from OHCS.

Kathleen: There isn't a total number, but next to each camp name is the number of maximum of number of occupants at any given time.

Theresa W: What exactly does the group want these lists to show; the number of units, the number of occupants?

Teresa P: OHCS is just now starting to record maximum occupants. We have only recorded by number of units in the past, but a unit can be any number of things.

Jenny: Both lists show units, so that might be a good place to start for the Legislative Revenue

Office.

Peter: It would be good to have the addresses so we can identify by legislative district. I'll work with CASA staff to get the pre tax credit list, but this will only cover projects CASA was involved with.

Kathleen: The OSHA information is broken down by county, but we could do it by zip code.

Teresa P: If we provided zip codes in an Excel sheet, it would be easy to sort.

Theresa W: We could provide both lists as Excel documents to the work group, and they could sort them.

Peter: We've asked for OSHA's data on pre 1999 projects. If this information is archived, can we look into getting it?

Kathleen: It would be difficult to find, and if we had anything it was likely sent to OHCS

Teresa P: It would take a lot of time and be very labor intensive to get the information from archives, if it hasn't already passed the destruction date, we would not be able to meet the legislative deadline.

Theresa W: I would suggest you both (Kathleen and Teresa) do a short search on what it would take to get the information, and report back.

Kathleen: What would be the value to the information?

Peter: Just having this information available when we go to the legislature, showing where geographic investments have been made would be advantageous. There are CASA projects from 1990 to 1999 where we definitely used the tax credits, and I know there were growers who used it during that time period as well. But, if it's too hard to get, or doesn't exist, let's not bother with it.

Laurie: Having the total number of units is very helpful, but having a column for maximum occupancy would be helpful. It's hard to know how big a "unit" is.

Peter: People could be called to find out that information. We could make some assumptions on the community based occupancy per unit. Everything we do is really based on estimates rather than really hard numbers. We make assumptions all of the time based on the bedroom sizes. We can make estimates for the CASA projects, and someone else could call on the other projects.... The reason I think this might be important is because we often get the question "when can we close this program down?" We maintain that we've served maybe three percent of the population, and we have a long ways to go.

Theresa W: It's going to be difficult for OHCS to commit staff to do this work. This is something that would have to be done by a committee or work group member.

Jenny: What is the purpose?

Peter: To get the number of people served, the number of people living in the units, to have a total number. We can get some of those numbers from the registered labor camps. I'm assuming that if you're doing some repairs to a labor camp, you're improving it, and so you would just use the maximum number of occupants. We can get the community based, and we have the registered labor camps. What numbers are we missing?

Teresa P: The on or off-farm that are not registered labor camps, and they're not an apartment complex.

Peter: So maybe it's just a note saying this one is incalculable.

Brett: CASA has a detailed list of off-farm properties for their properties down to the number of bedrooms in a unit. We could probably make a projection on non-profit properties that weren't developed by CASA pretty easily. We run into problems where projects are identified as a single unit, because we don't know what that means.

Edward: Based on the amount spent you could make some assumptions. You could create some standard deviations.

July Action Items:

- Theresa added a September first meeting, moved November's to the eighth.
- Theresa advised Roberto that Intel can hold a meeting and invite members from this group:
- Theresa contacted OHCS architect, Kevin Burgee, and invited him to be a part of the innovative housing work group.
- Theresa invited Claire Seguin, Interim Director, to the January meeting, and she accepted. Advised Claire of the interest for this team to present before the Housing Stability Council.

2016/17 Goals and Objectives Discussion

Theresa: There was some progress made at the last meeting, but the group didn't want to make decisions without additional member input. The list below will be sent to team members for review before the next AWHFT meeting.

The goals discussed at the last meeting were:

- Farmworker housing set-aside
- Crop mapping
- Tax credits
- Migrant housing
- Innovative and alternative housing

Today the team added:

- Clarity around supply and demand (connect to set-aside)
- Barriers to provide on and off-farm housing
- More funding

Kathleen: Maybe add a rule making advisory committee for the new tax credit.

Theresa: The process is for OHCS to convene a rule making work group, members from this committee would be invited.

Theresa: I will send the list out to the team; ask them to choose from the list and be prepared to discuss and narrow it down at the September.

AWHFT Presentation:

Theresa W: Could the January presentation be shared with this group in November?

Laurie: Yes. We will e-mail a draft to the group for their input, and then share a final with the team at the November meeting. We've put some history together about what housing exists, the models, and the barriers to meeting those needs so that we provide a complete picture of the different dynamics involved.

Jenny: Meeting on 22nd is during the legislative days and those of us that are lobbyists won't be able to attend.

Theresa: Yes, this was noted at the last meeting. Unfortunately this is the only date Julie Cody

	<p>will be able to attend this year.</p> <p>Sub-committee: Committee Reports:</p> <ul style="list-style-type: none"> • Needs and Research Laurie Hoefler/LSO, Karen Shawcross/Farmworker Housing Advocate Theresa: I've been working with Karen and Laurie to update the AWHFT website. We haven't made any changes so far, but will be adding translation information to the Farmworker page soon. Agencies that are required to attend, and those that regularly attend will be added to the AWHFT page. A few required agencies have not been attending. I've reached out to them recently to add members. OHCS internal staff is working to add a map that will show on and off-farm agriculture workforce housing, by type and number of units. • Alignment and Streamlining Claudia Cantu/CASA, Doug Carlson/HUD No members present/no report <p>Information Sharing: CASA: Open house on 9/08/16 for Heritage Heights in The Dalles.</p> <p>Action Items:</p> <ul style="list-style-type: none"> • Brett: Prepare a list of off-farm housing and send to Theresa • Theresa: Send CASA, OSHA, and OHCS list to Sub-Committee members • Laurie: Put together a summary of the laws that apply to Ag housing • Theresa: Forward the Intel information to Daniel Quinones/OED • Peter: Forward statutes, OARs, and contact information to Theresa • Peter: Provide additional legislative history for the team • Theresa: Research BOLI's/OHCS fine collection process • Theresa: Send list of goals and objectives to team • Laurie/Karen: Send draft presentation to team
<p>Next Meeting:</p>	<p>Thursday, September 22, 2016 Oregon Housing and Community Services 10:00a-12:00p, Room 124B</p>
<p>Contact:</p>	<p>Theresa Wingard, Planning and Policy Analyst, OHCS Public Affairs (503) 986-0999 theresa.wingard@oregon.gov</p>

