

Affordable Housing Funding Notice



Oregon Housing and Community Services

State of Oregon Oregon Housing and Community Services

Agriculture Workforce Housing Tax Credit Program 2021 Annual Notice and General Information

NOFA Issued: January 4, 2021

Open Application Period begins: January 11, 2021

Open Application Period ends: December 31, 2021
at 4:00 PM PST

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www.oregon.gov/ohcs



Program Overview:

The Agriculture Workforce Housing Tax Credit (AWHTC) program is part of an ongoing effort to address the shortage of available housing for the agriculture workforce in Oregon. The program is designed to offset the costs associated with construction, installation, acquisition or rehabilitation of housing for agricultural workers.

This Annual Notice and General Information is an outline of the statutes and the administrative rules designed to help applicants better understand the AWHTC program requirements as they fill out the 2021 Employer-Sponsored Application.

Annual Allocation and Annual Set-Aside:

The Oregon Housing and Community Services Department (OHCS) will determine eligibility for tax credits based on the criteria set out in greater detail in ORS 315.163 to 315.169, and in Oregon Administrative Rule (OAR) 813-041.

The Oregon State Legislature has allocated \$7.25 million in eligible costs per year to the AWHTC program. OHCS is able to reserve up to half that amount, or \$3.625 million, per year as tax credits for use in qualifying projects. From that \$3.625 million, \$750,000 is reserved for farmers, growers, and producers to construct, install, acquire, or rehabilitate housing for agricultural workers they employ on their own land or on land they control. The set-aside will remain available for employer-sponsored projects until the entire amount has been allocated to projects or until September 2021.

Reservations will be based on total eligible costs as documented in each individual application. Once final eligible costs have been determined and documented, OHCS will issue a Letter of Credit Approval. The amount of the final award will not be more than in the Reservation. If the final eligible costs do not match the Reservation amount, the final award will be reduced to equal half of eligible costs.

Example A: *An applicant estimates it will cost \$50,000 in eligible costs to build a project. In their application they may request up to \$25,000 in tax credits. If after construction actual costs exceeded \$50,000, the applicant may only request at max the \$25,000 reserved at application.*

Example B: *If the same project finds that after construction, only \$40,000 of eligible- costs were incurred, then the applicant may only claim at most \$20,000 in tax credits regardless of the \$25,000 credits reserved at application.*

Definitions:

“Agricultural worker” means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in the:

1. Production of agricultural or aquacultural crops or products;
2. Handling of agricultural or aquacultural crops or products in an unprocessed stage;
3. Processing of agricultural or aquacultural crops or products;
4. Planting, cultivating or harvesting of seasonal agricultural crops; or
5. Forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

“Contributor” means a person:

1. That acquired, constructed, manufactured or installed agriculture workforce housing or contributed money to finance an agriculture workforce housing project; or
2. That has purchased or otherwise received via transfer a credit as provided in ORS 315.169
3. Sometimes referred to as a Co-Applicant when included on application as a contributor.

“Eligible-Costs” are Project costs incurred by the applicant to create eligible agriculture workforce housing. Eligible costs includes acquisition costs, finance costs, construction costs, excavation costs, installation costs and permit costs and excludes land costs. To be eligible, costs incurred prior to application submission must have occurred within 6 months of OHCS receiving an AWHTC application.

1. “Construction costs” means expenses incurred creating or making a new structure; or altering, partially constructing, or repairing an existing structure. Construction costs include:
 - a. “Excavation costs” means expenses incurred in physically preparing a site for construction;
 - b. “Installation costs” means expenses incurred installing different systems, fixtures, and parts of the finished building including but not limited to plumbing, electrical, HVAC, windows, exterior sheathing, countertops, flooring, and interior trim and molding;
 - c. “Permit costs” means expenses incurred obtaining the necessary permits associated with construction of the project.
2. “Finance costs” means expenses incurred obtaining capital funds or credit for the project including interest charges and fees.
3. “Land costs” means expenses incurred acquiring the building site, excluding the costs of any preexisting structures or improvements.

“Employer-Sponsored Project” is a housing project that is physically located on land that is zoned for agricultural uses.

“Pro Forma” Is an excel format fillable spreadsheet that helps Department staff gain an in-depth understanding of the financial viability of a project.

“Relative” means a brother or sister (whether by the whole or by half-blood), spouse, ancestor (whether by law or by blood), or lineal descendant of an individual.

“Standby Applications” are applications that are determined to be complete and eligible for a

reservation of credits but are unable to receive a reservation due to lack of remaining Program credits.

Eligibility:

Program tax credits may be awarded to those who:

1. Properly apply for and are granted a reservation of tax credits through this program's application process as defined under OAR 813-041-0000 to 813-041-0027, and herein,
2. Pay or incur costs for the construction, rehabilitation or installation of agriculture workforce housing,
3. Are registered to do business in the State of Oregon, and
4. Maintain all Program compliance criteria and restrictions listed in statute, administrative rule, and herein for each of the 10 years the project is placed in service.

Eligible occupancy of an AWHTC project:

To qualify as an Agricultural Worker; occupants may work part of the year as an agricultural worker and have other non-agricultural related work other parts of the year. As long as one family member in the housing unit has been an agricultural worker either seasonally or year-round. Family members are not required to be agricultural workers.

Owners/operators and their relatives are specifically excluded from the definition of agricultural worker for the purpose of AWHTC funding.

The housing cannot be rented to non-agricultural workers, even during the off-season. While the housing can be vacant for part of the year and still qualify, the housing cannot be occupied for any part of the year by anyone other than qualifying agricultural workers and their immediate families.

The housing project address must be different than the address listed as the Applicant Contact Address.

Application Requirements:

Applicants must submit an application charge of \$200 for all projects **at the time of application submission**. For electronic submissions, OHCS will consider the application submitted once both the electronic application and the mailed in application charge and transmittal form have both arrived.

Proposed AWHTC projects cannot be completed prior to application.

Project owners must provide a copy of any agreements with any contributors which must include the number of credits transferred, any equity generated from sale, and the federal tax

ID of any contributor.

Applicants are required to provide photos of the project site as it appears at the time of application. OHCS prefers these photos be digital and attached to the electronic application. If the application is mailed in, photo submissions may be printed, developed, or provided on a common digital medium such as a CD or flash drive. These need not be professionally done. OHCS is looking for a full view of the property/structure. Google Earth images are an appropriate representation for undeveloped lots. Rehabilitation projects should provide images of project areas to be improved. "After" photos will be required at project completion.

All applications will be considered in the chronological order in which they are received by OHCS. Applications will be given a filing date but not a filing time of day.

For multiple applications submitted on the same day, preference will be given in order based on the following criteria:

Due to program changes starting in 2021, this is the last year these criteria will be used to rank applications.

1. Priority will be made to project applications that are ready to proceed to construction within one year to assure that the limited tax credits are placed in service as soon as possible.
2. To Projects that received a reduction in credit award for which they were eligible in a previous year, but not enough credits were available to award a full eligible request;
3. To Projects that have received credits in a previous year, and have a demonstrated need for a new award to ensure project viability;
4. To Projects where the funding request will be more fully awarded based on remaining credit availability.
5. Project phases are considered as separate individual projects and are not considered as having any additional preference for priority.
6. Based on the sole discretion of OHCS to meet the immediate housing needs of Oregonians.

Applications may be awarded in full, partially awarded, placed on a standby list, or denied. Applications will be denied if ineligible or incomplete. Applications may be retained on a standby basis if funding is not available due to the annual funding cap. All standby applications will be placed in a priority order based on the chronological order in which they were received starting on January 11, 2021, taking into account the preferences listed above for applications filed on the same date. If funds become available, the list will be used to make subsequent reservations. Standby applications will expire on December 31, 2021.

Once reservations are made, reservations cannot be increased even if actual costs subsequently prove to exceed the reservation eligibility amount.

Project applicants with 2021 tax credit reservations must start construction within 1 year of the date on the reservation letter or lose their tax credit reservation. OHCS will consider extensions

on a case-by-case basis.

Projects with 2021 tax credit reservation awards must be placed in service within 2 years of the date on the reservation letter. OHCS will consider extensions on a case-by-case basis.

Acceptance of this funding requires Projects to restrict housing to eligible agricultural workers and their families.

Applicants and Co-Applicants:

If the owner or operator of an agriculture workforce housing project will claim the tax credit directly, then the owner or operator should submit the application.

If the owner or operator knows in advance that any portion of the tax credit will be claimed by another party, then the owner or operator must submit the application jointly with that contributor.

Incomplete Applications:

OHCS will inform applicants if their application is incomplete. The applicant will then have the opportunity to provide any missing elements. OHCS does not count an incomplete application as being received for the purposes of the first-received-first-reviewed process for determining tax credit reservations. Applicants should make every effort to submit a complete application upon first submittal. Applicants should respond to OHCS notice of missing elements as soon as possible. Incomplete applications will not hold a place in line for reservations. OHCS will only evaluate complete applications to determine their qualifying status, viability, and readiness to proceed prior to granting a reservation.

Consultation with OR-OSHA:

Employer-Sponsored Projects should consult with Oregon OSHA to determine whether or not they need to register as a labor camp. If the proposed agricultural workforce housing project is subject to registration as a farm labor camp by Oregon, the camp must be registered, or have its registration renewed, prior to occupancy. If an applicant fails to comply with this requirement, their application will not receive a place in line for reservation until compliance with registration, safety and health requirements can be proven to the satisfaction of OHCS.

To maintain tax credit eligibility; the camp's registration must be kept current and its continued operation must be in substantial compliance with all applicable safety and health rules. The OR-OSHA Salem Field Office is the contact for any questions related to these requirements. OR-OSHA can be reached at (503) 378-3274 and by visiting their website, [here](#).

The following applicants must complete and submit an expanded OHCS financial pro forma with application:

1. Employer-Sponsored projects with more than fourteen (14) units,
2. Projects with costs totaling over \$500,000, or
3. Based on application review and sole judgment of OHCS staff, any applicant may be required to submit a Proforma if it is determined that additional detail is needed to approve a reservation outside of the criteria listed above. If a Proforma is required after application submission, that application's position in line for reservation is held for up to 30 days to await Proforma submission.
4. Incomplete pro forma will not qualify as submitted. OHCS will not unreasonably reject pro forma as incomplete but will do so at OHCS's sole discretion.
5. OHCS pro forma is available upon request.

Application Submission:

Electronic submission of the application is preferred but we will also accept applications by mail. If you choose to submit the application electronically, the application charge needs to be mailed separately with the Application Charge Transmittal Form included with the application. Everything else can be submitted via email.

Email applications to: martin.jarvis@oregon.gov

Application charges and transmittal forms, and full applications if mailed, must be addressed as follows:

Development Resources and Production Section
Attn: Martin Jarvis
Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem OR 97301-1266

OHCS's offices are currently closed to the public by executive order. Unless this order is lifted, it is unlikely that we will be able to accommodate hand delivery of applications. Please call ahead if your preference is for hand delivery to find out whether the building has been reopened to the public at that time.

2021 applications may be submitted and received by OHCS beginning on Jan 11, 2021 at 8:30 AM PST and running through December 31, 2021 at 4:00pm PST. Early submissions will not be accepted.

All Applications and any accompanying documentation become the property of OHCS, subject to Oregon Public Records Law, and will not be returned. Please make sure to keep copies for your own records. Application charges are nonrefundable.

Diversity, Equity and Inclusion:

OHCS is committed to advancing equity and racial justice by identifying and addressing institutional and systemic barriers that have created and perpetuated patterns of disparity in housing and economic prosperity. For more information, see the section on Equity and Racial Justice in the Statewide Housing plan, [here](#).

Tax Credit Reservations:

If OHCS, at its sole discretion, determines to fund a project with a tax credit award, the first step will be the issuance of a Reservation Letter. After the conditions in the Reservation letter are met, OHCS will issue the Letter of Credit Approval. Reservations are held until after the project is completed and able to demonstrate eligibility for tax credits.

Project Compliance:

All OHCS funded projects must conform with Fair Housing Act regulations.

Projects not in compliance with applicable law and regulation, including any requirements herein, are subject to revocation of all credits, both claimed and remaining.

All agriculture workforce housing projects receiving tax credits under this Program must be in substantial compliance with all applicable safety and health rules as identified by OR-OSHA, and all other state and local regulations.

As of January 1, 2020, OHCS is responsible for monitoring long term compliance with AWHTC requirements. Previously, during the 10-year restriction period which starts the year of project completion, annual re-certification forms would have been required by Oregon Department of Revenue (DOR) to remain eligible to claim awarded tax credits. OHCS will now provide the annual recertification forms directly to all projects during the ten-year compliance period. Tax credit recipients must recertify annually that the housing built with AWHTC funds remains set aside for agricultural workers and their families as set out in statute and rule

Tax Credits:

A taxpayer may elect to claim awarded credits over no fewer than five (5) years and no more than ten (10) years, claiming no more than twenty percent (20%) of the Project tax credit award in any given year. The amount of claimed credits must be equal to or less than their total Oregon state tax burden. The project for which the credits are issued must provide housing to the agriculture workforce for at least ten (10) years after project completion.

Example A: A tax credit recipient is awarded \$50,000 of tax credits based on \$100,000 of project eligible-costs. That recipient may claim up to twenty percent (20%) of that award (\$10,000) in

each year following project completion (years 1-5). By year five, one hundred percent (100%) of credits are claimed. The property must remain restricted as agricultural workforce housing and report compliance to the Department of Revenue for all 10 years of the restriction period or risk losing the entire tax credit award, even if already claimed in previous years. In the event tax credits were sold to a project contributor, the original applicant/recipient is still liable for the revoked tax credits in an event of reclamation for non-compliance.

Example B: *A recipient is awarded \$50,000 of tax credits. They may claim ten percent (10%) of their total award in each year following project completion for all 10 years.*

Example C: *An applicant is awarded \$50,000 of tax credits. If they wait until year six (after project completion) to begin claiming tax credits they have already lost 20% of their award due to two key facts; 1) The award expires after year 10 of project completion and 2) only up to 20% of the award may be claimed in any given tax year. In the event you may lose tax credits, you are encouraged to contact OHCS. OHCS cannot give financial advice but may share pertinent information about the program that could help you understand your options.*

Any portion of the tax credit award may be transferred to a contributor. If the owner or operator elects to transfer any portion of the credits after the time that OHCS has issued a letter of tax credit approval, the owner or operator and the contributor must jointly file a statement with the DOR stating the portion of the credit the contributor now owns and any other information the Department of Revenue may require by rule and as outlined in Oregon Revised Statutes (ORS) 315.163 to 315.172 (a “transfer” of tax credits typically happens as a result of purchase and sale of said tax credits.) These forms may be found on OHCS’s AWHTC program page referenced above.

Further information can be found online at the following [link](#) or by contacting the AWHTC program manager Martin Jarvis.

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