

# State of Oregon

## Oregon Housing and Community Services

### Agriculture Workforce Housing Tax Credit Program 2020 Annual Notice and General Information

#### 1) Program Overview

#### 2) The Agriculture Workforce Housing Tax Credit (AWHTC)

The AWHTC program is designed to offset the costs associated with construction, installation, acquisition or rehabilitation of agriculture workforce housing. The maximum Program tax credits an applicant is eligible to apply for and claim is related to the total “eligible costs” the project incurred to build it. Up to fifty percent of eligible-costs may be awarded to and claimed by the Program applicant.

##### a) Annual Allocation and Annual Set-Aside;

- i) OHCS is able to reserve up to \$3.625 million tax credits or up to \$7.25 million in *eligible-costs* each calendar year.
- ii) A “soft set-aside” of \$750,000 from the total annual allotment of eligible costs is reserved for on-farm projects only. The soft set-aside targets the award of these eligible-costs for on-farm projects until they have been fully awarded or until July 1st, 2020, whichever comes first. If this set-aside is not reserved by targeted projects before July 1st, 2020, any remaining set-aside will be made available to the next applicant regardless if on- or off-farm and in order of succession as defined herein.

- b) The Oregon Housing and Community Services (“OHCS”) Department determines eligibility and award of these tax credits. The application evaluation process will be based on the application criteria set out in ORS 315.163 to 172, Oregon Administrative Rules (OAR) 813-041-0000 to 813-041-0027, and herein.

***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.

### 3) Definitions

- a) "Agricultural worker" means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in the:
  - i) Production of agricultural or aquacultural crops or products;
  - ii) Handling of agricultural or aquacultural crops or products in an unprocessed stage;
  - iii) Processing of agricultural or aquacultural crops or products;
  - iv) Planting, cultivating or harvesting of seasonal agricultural crops; or
  - v) 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.
  
- b) "Contributor" means a person:
  - i) That acquired, constructed, manufactured or installed agriculture workforce housing or contributed money to finance an agriculture workforce housing project; or
  - ii) That has purchased or otherwise received via transfer a credit as provided in ORS 315.169
  - iii) Sometimes referred to as a Co-Applicant when included on application as a contributor.
  
- c) "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.
  
- d) "On-Farm Project" is a housing project that is physically located on land that is zoned for farm use.
  
- e) Proforma – Is an excel format spreadsheet document that helps Department staff gain an in-depth understanding of the financial viability of a project.
  
- f) "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.

- g) “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.

#### **4) Eligibility**

- a) Program tax credits may be awarded to those who:
  - i) 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,
  - ii) Pay or incur costs for the construction, rehabilitation or installation of agriculture workforce housing,
  - iii) Are registered to do business in the State of Oregon, and
  - iv) 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.
  
- b) Eligible occupancy of an AWHTC project:
  - i) 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.
  - ii) Specifically excluded from the definition of agricultural worker are owners or operators of the applying entity (individual farm owners, corporate shareholders and partners) and their Relatives. The housing cannot be rented to non-agricultural workers, even during off-season times. 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. (There is a possible exemption concerning coops. Contact your AWHTC program administrator for details).

#### **5) Application**

- a) Applications which are incomplete may be returned as incomplete, at the sole discretion of OHCS. Incomplete applications will not hold a place in line for

reservations. All complete applications will be evaluated to determine their qualifying status, viability, and readiness to proceed prior to being granted a reservation.

- b) If the proposed agricultural workforce housing project is subject to registration as a farm labor camp by the Oregon Occupational Safety and Health Administration (OR-OSHA) at the Department of Consumer and Business Services, 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.

**NOTE:** 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 [osha.oregon.gov](http://osha.oregon.gov)

a) Applicants and co-applicants:

- i) 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.
- ii) If any portion of the tax credit will be claimed by a party other than the owner or operator, the owner or operator and the co-applicant known as a *contributor* must submit the application jointly. (Both signatures and information must be provided on the application where indicated.)

b) Application Requirements:

- i) An application fee of \$200 must be submitted for all projects **at the time of application submission**.
- ii) Applications must be received **no later than** the project's completion.
- iii) Project owners must provide a copy of agreement(s) with any contributor(s) which must include the number of credits transferred, any equity generated from sale, and the federal tax ID of the contributor(s).
- iv) Applicants are required to provide "before" photos of the project. 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. Satellite images are an appropriate representation for barren lots. Rehabilitation projects should provide images of project areas to be improved. "After" photos will be required at project completion.
- v) The following applicants must complete and submit with application an

expanded OHCS financial Proforma:

- (1) Off-farm projects with more than four (4) units,
  - (2) On-farm projects with more than fourteen (14) units,
  - (3) Projects with costs totaling over \$250,000, or
  - (4) 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.
- vi) 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.
- vii) OHCS pro forma may be found at the following address and by request: <https://go.usa.gov/xPVxh>
- viii) Any project that anticipates the use of any other OHCS's grants, tax credit or loan resources must include those sources on page 4 of the application and in submitted pro forma.
- ix) A letter indicating a firm or conditional commitment of financing must be included from each financial source as self-identified on page 4 of the application.

## 6) Application Submission

a) Applications may be submitted by Mail Courier or Hand Delivery.

i) Applications must be addressed as follows:

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

ii) Hand deliveries must be made to OHCS front desk and to front desk staff on the first floor of the building located at the address above.

b) 2020 applications may be submitted and received by OHCS beginning on Jan 17, 2020 thru December 31, 2020 by 4:00pm PST.

- c) Early submissions will not be accepted and may be returned if received on or before Jan 17, 2020.
- d) All Applications and any accompanying documentation become the property of OHCS, subject to Oregon Public Records Law, and may not be returned. Application charges are nonrefundable.

## **7) Tax Credit Reservations**

- a) OHCS may, at its sole discretion, issue a tax credit reservation prior to tax credit award. Reservations are held until after the project is completed and able to demonstrate eligibility for this program's tax credits.
- b) All applications will be considered in the chronological order in which they are filed. Applications will be given a filing date but not a filing time of day.
- c) For multiple applications submitted on the same day, preference will be given in order based on the following criteria:
  - i) Due to program changes starting in 2021, this is the last year these criteria will be used to rank applications.
  - ii) 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.
  - iii) 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;
  - iv) To Projects that have received credits in a previous year, and have a demonstrated need for a new award to ensure project viability;
  - v) To Projects where the funding request will be more fully awarded based on remaining credit availability.
  - vi) Project phases are considered as separate individual projects and are not considered as having any additional preference for priority.
  - vii) Based on the sole discretion of OHCS to meet the immediate housing needs of Oregonians.
- d) 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 2nd 2020, 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 31st, of the application year in which they were filed.

- e) Once reservations are made, reservations cannot be increased. Even if actual costs subsequently prove to exceed the reservation eligibility amount.
- f) Project applicants with 2020 tax credit reservations must start construction within 1 year of the date on the reservation letter or lose their tax credit reservation.
- g) Project applicants with 2020 tax credit reservations must be placed in service within 2 years of the date on the reservation letter.
- h) Acceptance of this funding requires Projects to restrict housing to eligible agricultural workers and their families as defined in section 3 of this document.

## 8) Project Compliance

- a) Projects not in compliance with applicable law and regulation, including any requirements herein are subject to revocation of all credits, both claimed and remaining.
- b) 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.
- c) During the 10 year restriction period starting the year of project completion, annual re-certification forms are required by Oregon Department of Revenue (DOR) to remain eligible to claim awarded tax credits.

## 9) Tax Credits

- a) 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 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.*

- b) 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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