



# **Oregon Affordable Housing Tax Credit (OAHTC) Program Manual**

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## Introduction

The purpose of the Oregon Affordable Housing Tax Credit (OAHTC) program is to encourage the development and preservation of affordable housing. The OAHTC program accomplishes that purpose by providing an incentive in the form of a state tax credit to lenders to offer permanent loans with reduced financing costs. Under the OAHTC program, OHCS certifies loans to qualified borrowers as eligible for OAHTC.

### **Program statutory and rule authority:**

ORS 317.097; ORS 317.991

OAR chapter 813, division 110

### **Current statutory sunset:**

HB 2087 from the 2025 Regular Legislative Session removed the sunset language from the statute.

## Program requirements

The availability of Oregon Affordable Housing Tax Credits is constrained by the Statutory Annual Cap. The Annual Cap is cumulative and inclusive of every active OAHTC generating a credit each year. The following program requirements are necessary to obtain the most impact possible from this limited resource.

### **A. Statutory annual cap**

The legislature has set the maximum allowable OAHTC at \$35 million in claimable credits per year. OAHTC is a lender credit. The credit is an annual credit that is reserved for up to 20 years (or 30 years when USDA RD funds are included). What this means is the actual credit is generated annually based on repayment of the attached loan. OHCS cannot exceed the annual cap. The cap represents a cumulative total of all OAHTC generated in the current year. Once the cap is reached, OHCS must pause certifying new loans until after lenders have expended enough credits to drop below the cap.

### **B. Interest rate reduction**

The OAHTC statute allows for an up to 4% reduction in the interest rate a qualified lender may offer to a qualified borrower in exchange for the tax credit. The lender may determine the actual reduction in the interest rate, up to the statutory limit of 4%. The borrower may select the qualified lending institution that provides the most competitive loan terms. OHCS does not mandate an interest rate floor. OHCS will allow up to a 4% reduction regardless of whether the reduced rate will result in an interest rate below 1%. It is the responsibility of the lender to establish their own interest rate floor.

### **C. Availability of funds**

OAHTC is most frequently included with other OHCS funds when project sponsors have a permanent loan included in their funding stack. When included with other funding sources from OHCS, the use of the OAHTC must also meet the minimum requirements of those programs and the General Policy and Guideline Manual (GPGM). OAHTC are available as listed below:

- OAHTC is commonly paired with other OHCS resources such as Low-Income Housing Tax Credit (LIHTC), General Housing Account Program (GHAP), Housing Development Grant Program (HDGP), Local Innovation and Fast Track (LIFT) and OHCS-issued pass-through revenue bonds.
- OAHTC can be paired with 4% LIHTC and Private Activity Bonds.
- As a standalone funding source
  - Perm loan debt refinancing
  - Acquisition of projects for conversion
  - Preservation of Project-Based Rental Assistance (PBRA)
  - Financial or physical stabilization
- Property Stabilization Investments (PSI) funds
- Homeownership projects set up as Limited Equity Cooperatives
- Preservation of Manufactured Dwelling Park (PMDP) funds

### **D. Rent/ Housing payment reduction (pass-through)**

The OAHTC interest rate savings must be passed through to tenants in the form of reduced rents. Project sponsors can spread the pass-through evenly over every eligible unit or they can target the pass-through benefit at a smaller number of units to target lower income AMIs when the pass-through benefit is not required to be evenly distributed. OHCS encourages each project to consider their community, and project needs when determining how to use pass through. OHCS monitors for total annual pass-through. See sections P and Q below for more information related to compliance monitoring.

New construction projects are not eligible for any pass-through exemptions.

Projects where OAHTC is the only source must ensure pass-through is used in such a way that the project is affordable at 80% Area Median Income (AMI). This will usually mean that the pass-through must be spread evenly across every unit.

Projects refinancing expiring term OAHTC-attached loans will generally be required to maintain pass-through requirements unless they are a pass-through exempt project type or are seeking to claim a new exemption. New exemptions must be verified and approved by OHCS following internal procedures. Requests for the new pass-through exemption related to financial or physical distress will be evaluated using the guidelines in the Property Stabilization Investments (PSI) Instruction Guide.

Where projects with existing mid-term OAHTC-attached loans are seeking classification as financially distressed to claim the new pass-through exemption but not also seeking PSI funds, the PSI Instruction Guide will help guide the determination, but OHCS will not require full implementation of the instruction guide.

Where an existing pass-through requirement will be removed due to approval of an exemption, projects will be required to follow the standard OHCS rent increase policy. For OAHTC, that is as follows: “OHCS anticipates rental increase requests may exceed policy norms. OHCS will consider expiring OAHTC when reviewing rental increase requests. Please consult your Reservation and Extended Use Agreement (REUA) for additional information on OAHTC requirements.”

For Limited Equity Homeownership Cooperatives (LEC), the entire interest rate savings must be passed through to co-op members in the form of reduced housing payments. For LECs, the pass-through benefit must be spread evenly among all members of the co-op and cannot be targeted. LEC projects are not eligible for any pass-through exemptions.

Preservation projects where at least 25% of units are covered by PBRA contracts from federal, state, or local government, manufactured dwelling park projects, and projects characterized by financial or physical distress as determined by OHCS are exempt from the rent reduction requirement as the OAHTC becomes an incentive to preserve the contracts and the housing types listed for long-term viability as affordable housing.

The pass-through or rent reduction required with non-exempt OAHTC projects is calculated as the difference between the total loan amount at the original interest rate and the total loan amount at the reduced interest rate. The required pass-through amount will be calculated in the proforma workbook and will be only the required amount. Projects may not claim any amount over the required amount as pass-through.

The estimated annual average per-unit pass through for the project is calculated by dividing the annual interest savings divided by 12 months and then dividing by the number of restricted affordable units in the project. These are estimates based on an even distribution among all qualified tenants, which, as mentioned above, is not a requirement for pass-through.

Rental units covered by any project-based voucher assistance are not eligible to be used to demonstrate pass-through savings for the OAHTC program because the rent reductions related to the OAHTC subsidy typically would not be passed on to the tenants in the form of a rent reduction from what the tenants would otherwise pay, and therefore, would not achieve pass-through savings. Projects that are partially covered with project-based assistance may qualify to use OAHTC on the remaining units by demonstrating pass-through interest savings that result in appropriate rent reductions to the OAHTC qualified tenants in any units not covered by the PBRA.

In satisfying the pass-through requirement, project owners may only assign an amount equal to or less than the per-unit pass through average amount to units whose qualified tenants are employing a tenant-based Section 8 voucher. This means that tenants with tenant-based vouchers cannot benefit from targeted pass-through. These tenants can only receive up to the amount of potential pass-through if the benefit were to be spread evenly over every eligible unit.

Reduced tenant rents are a project-specific requirement based on the credits taken by the lender. The amortization of interest in the loan taken by the bank will vary each year. The reduction to tenants' rents will be averaged over the lesser of the term of the loan or 20 years to provide the same tenant reduction to rent each year by the owner/borrower.

## **E. Exceptions**

Projects defined as Preservation Projects per ORS 317.097 are not required to provide rent reduction pass through. These are projects that were previously developed as affordable housing with a contract for rental assistance from the United States Department of Housing and Urban Development (HUD) or the United States Department of Agriculture (USDA), or other federal, state, or local rental assistance contracts, and that are being preserved by a sponsoring entity. The contract for project-based rental assistance must cover at least 25% of all units in the project and must be at risk of expiring within the next seven years.

Manufactured Dwelling Park Projects are not required to provide rent reduction pass-through. The borrower for Manufactured Dwelling Park Project must be a nonprofit corporation, manufactured dwelling nonprofit cooperative, a state or local government agency, or a housing authority.

For projects characterized as financially or physically distressed, OHCS will use PSI program definitions to determine financial and physical distress. Where only OAHTC or OAHTC and PSI are available for a project seeking designation of distress for the purposes of determining exempt status, OHCS is only currently allowing the designation for financial distress.

When a project transitions from having a pass-through requirement to being exempt from pass-through, OHCS will center the tenant-experienced rent as the starting point for any rent increase requests. The standard OHCS rent increase policy lays out the procedure for making rent increase requests. The actual allowable rent increase will also depend on any more restrictive OHCS resources included in the project's finances.

## **F. Affordability restrictions and other funding requirements**

Except for Manufactured Dwelling Park Projects, affordability restrictions for projects that only include OAHTC must be set at 80% AMI or less. Projects with rent assistance or other financing resources from the USDA Rural Development (RD) and Preservation Projects will be restricted for up to 30 years. All other projects requiring income restrictions will be restricted for up to 20 years.

When paired with other funding sources, if a project requires a rent reduction pass through, OAHTC must be used to lower rents after all other OHCS subsidies and requirements for rents have been applied. For example, if an applicant applies for LIHTC and indicates they are choosing rent restrictions at 60% AMI, the application must demonstrate the required pass-through is being used to reduce rents below the 60% AMI LIHTC restrictions. This rent reduction can be used on every eligible unit or targeted at specific eligible units.

OAHTC is not Project-Based Rent Assistance. For projects where pass-through is required, the entire annual amount must be used for direct rent reduction but there is no specific requirement that tenants in units benefiting from pass-through pay no more than 30% of their income in rent. The pass-through amount is also not legally documented on a per-unit count but is allowed to float as necessary. Property management agents need to be ready to report on how the total annual pass-through was utilized for rent reduction.

## **G. Acquisition and acquisition of portfolio properties**

Acquiring market rate or naturally occurring affordable housing for conversion to affordable housing is an allowable use for OAHTC-only applications. This is not a pass-through exempt project type. Applicants must be able to show that the pass-through benefit is enough to achieve units affordable at 80% AMI over the term of the credit. In this situation, projects will be required to restrict the property for a minimum of 20 years. If more OHCS funding is required beyond the OAHTC attached to the perm loan, the applicant will have to go through the full Oregon Centralized Application (ORCA) process.

Applicants seeking OAHTC to attach to perm loans for projects where they are acquiring OHCS portfolio properties will have to work with OHCS Portfolio Administration staff to effectuate the transfer of the property.

## **H. Income and expense projections**

The applicant is required to include information on their OAHTC-attached permanent loan in the ORCA process and to show how including the OAHTC will affect their financial assumptions.

## **I. Debt coverage ratio and cashflow**

Applicants using OAHTC must meet OHCS's minimum debt coverage ratio (DCR) of 1.15:1 on all primary, hard debt after pass-through is applied. Applicants must also demonstrate sufficient cashflow with pass through applied over the term of the OAHTC restrictions. Projects exempt from pass-through requirements still need to meet OAHTC underwriting standards otherwise applicable to the project.

## **Additional program requirements**

### **J. Letter of intent from lender**

A letter of intent from the lender must accompany the application and must clearly state the lender will participate in the OAHTC program. This letter should contain, at a minimum:

- (1) Specific conditions pertaining to the project,
- (2) Estimated comparable market interest rate for the proposed loan,
- (3) Estimated reduced interest rate
- (4) Terms of the proposed loan, and
- (5) Estimated amount of interest savings that will be produced in return for the use of the tax credits.

### **K. Firm commitment of financing and loan terms**

A firm commitment of financing from a qualified lender is required before a final commitment of tax credits in the form of a Certification will be made. Applicants should be prepared to provide the finalized proforma pages to OHCS demonstrating pass-through compliance at time of certification. OHCS will supply the lender with a Certification document to complete prior to the closing of the loan to certify the lender's agreed participation in the OAHTC program and the terms of the loan being provided.

### **L. Declaration of restrictive covenants**

The borrower must execute restrictive covenants to be recorded at the time of the loan closing. A copy of this declaration will be made available upon request by OHCS. Please see Section F for applicable affordability requirements.

### **M. Ongoing reporting and carryover of credits**

The lender will be required to submit an annual report to OHCS by May 31 of each year. The report must be submitted on a form furnished by OHCS and signed by an officer of the lending institution.



Any tax credit otherwise allowable under ORS 317.097 that is not used by the taxpayer in a particular year may be carried forward and offset against the taxpayer's tax liability for the next four (4) succeeding tax years.

## **N. Charges**

The lender will be required to submit a fee equal to 5% of the annual tax credits claimed for the prior calendar year which will be due and payable by May 31 of each year along with the annual report referenced in Section L above. A late fee of \$100 may be charged for each full month the annual report is delayed.

## **Applying for OAHTC**

### **O. How to apply**

#### **Affordable Rental Housing**

OAHTC are included in the ORCA process. Applicants will be assigned a Procorem WorkCenter which will include all the requirements for submitting a full application for review.

OAHTC are available as a stand-alone resource for projects with existing OAHTC-attached loans looking to refinance after the current term of OAHTC is set to expire, and for projects requesting pass-through exemption due to financial distress. OAHTC is also available for acquisition projects.

Applicants seeking pass-through exemption due to financial or physical distress will be reviewed based on the requirements in the OHCS PSI Instruction Guide.

The ORCA Intake Form is the starting point for all OAHTC applications even if the applicant is only seeking OAHTC.

OHCS will entertain OAHTC-only applications for project types other than those listed above on a case-by-case basis. If a project is deemed feasible with OAHTC-only and the sponsor subsequently returns for additional funding, the OAHTC reservation will be revoked, and the applicant will have to start over with the intake process.

#### **Homeownership**

OAHTC is available for homeownership projects set up as limited equity cooperatives. Applicants seeking OAHTC for this purpose should apply through OHCS Homeownership Division's Notice of Funding Availability (NOFA) process.

## **OAHTC compliance monitoring**

### **P. Monitoring of lenders**

Lenders claiming OAHTC must report annually on tax credit usage based on the criteria listed in OAR 810-110-0030. This annual report is due by May 31 of each year and must include the following information:

- Name and address of the lending institution
- Name and contact information of the contact person at the bank in charge of OAHTC reporting
- Number of loans for which OAHTC program tax credits will be claimed
- Amount of credit claimed
- Annual charge payment
- Dates the loans were closed
- Name and location of the projects financed by those loans
- Amount loaned for each project
- Outstanding balances of all loan
- Average annual balance for each loan

### **Q. Monitoring of projects**

Projects with OAHTC-attached loans are required to submit the pass-through worksheet with their Certificate of Continuing Program Compliance (CCPC) form. This worksheet would also be required for any file audit OHCS Portfolio Administration section deems necessary as a part of compliance monitoring. No review tenant files will be necessary.

OHCS reserves the right to require physical and file reviews as necessary for OAHTC-only projects. Where OAHTC is paired with other OHCS sources, those sources' requirements take precedence.

Management Agent Packet (MAP) review is required for all OAHTC applications. Portfolio properties applying for new OAHTC must still seek consultation with OHCS around updating their MAP as needed.