

**STATE OF OREGON
HOUSING AND COMMUNITY SERVICES DEPARTMENT**

**NOTICE OF FUNDING AVAILABILITY (NOFA) #5043
Gap Funds
For Portfolio Preservation**

NOFA Issued Date: May 3, 2019

Portfolio Preservation Application Due Date: July 2, 2019

Portfolio Preservation Application Due Time: 4:00pm PST

**Version 2.0
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1.0 Introduction

1.1 Purpose

The State of Oregon, acting by and through its Housing and Community Services Department (OHCS), is seeking applications through this Notice of Funding Availability (NOFA) with respect to OHCS Portfolio Properties with existing LIHTC restrictions at risk of loss due to envelope and major system degradation and/or health and safety issues as identified by a Capital Needs Assessment and/or identified by the property(s) OHCS Risk Rating, that require rehabilitation in order to preserve the asset and existing affordability in OHCS portfolio properties.

All entities submitting applications responsive to this NOFA are herein referred to as Applicant(s). Applicant(s), if any, that receive(s) a reservation of funds (Reservation) pursuant to this NOFA will be designated as Grantee in the conditional commitments (Reservation Letter) issued to them by OHCS. All Reservations are conditional in nature. Reservations are contingent upon the terms with which they are made, the continuing availability to OHCS of the described funds, the continuing authority of OHCS to disburse or allocate such funds, and the successful negotiation, execution, and recording (if required) of relevant documents in a manner satisfactory to OHCS at its sole discretion.

1.2 Sources and set-asides

Funds for this NOFA will be derived from state and federal sources, which include:

Gap Funds (Gap) - \$10 million divided into two set-asides
Oregon Affordable Housing Tax Credits (OAHTC) \$1.8 million cap per project
4% Low Income Housing Tax Credit (LIHTC)/Conduit Bonds

It is the intent of OHCS that Gap funds offered through this NOFA leverage 4% LIHTC paired with OHCS Conduit Bonds.

<u>Set-Aside Pools</u>	<u>Gap Funds</u>
Urban Pool	\$5 Million
Rural Pool	\$5 Million

Note: These are soft set-aside pools; resources are reserved to projects based on the criteria in Section 1.5 Reservation Process.

1.3 Application Parameters

- Funds through this NOFA are stand-alone and cannot be used with or in combination with any other Department NOFA.
- Applicants may only request funding being offered in this NOFA. See Section 1.2 Funding Source.
- Scattered site projects will be scored collectively as a single project.
- All projects will be required to address diversity, equity and inclusion in the project through the use of Minority, Women and Emerging Small Business (MWESB) contracting, sub-contracting, and professional services. Applicants are required to sign a Diversity, Equity, and Inclusion agreement.

- OHCS Property Risk Ratings are property specific. During an open NOFA application, the rating of the property can be obtained directly by requesting one through an email to the following email addresses: MFNOFA@oregon.gov
- This NOFA is limited to one (1) application per sponsor. Application submission must include one (1) completed original application, one (1) complete copy of the application with all attachments and one (1) complete electronic application with all attachments on a CD or Thumb drive.
- Rural Areas are defined as:
 - a. All Oregon communities within the Portland Urban Growth Boundary are considered urban and not considered rural regardless of size.
 - b. Oregon communities with population of 15,000 or less within counties that are considered Metropolitan Statistical Areas (MSA) and outside of the Portland Urban Growth Boundary (see section a.). The MSA Counties in Oregon are Benton, Clackamas, Columbia, Deschutes, Jackson, Marion, Multnomah, Polk, Washington, and Yamhill.
 - c. Communities with populations of 40,000 or less that has not been defined in parts a. or b. of this section.
 - d. All other areas in Oregon that are not included in the Rural Areas definition above are considered Urban Areas for the purpose of this NOFA.

Note: A community may be considered rural if it had been under the population threshold within the past three (3) years of published data, and if its current population is within five (5) percentage points of eligibility.

- Scattered Site Project is defined as: A project that contains development on multiple non-contiguous sites.
- If scattered site projects are located in both urban and rural set-aside areas the project will be allocated funds in proportion to the unit distribution across set-aside areas. 1.4 Minimum Project Qualification

In order to submit a qualifying application for a Reservation of Funds the applicant must:

- be an urban OHCS Portfolio Properties having existing LIHTC affordability restrictions covering one hundred percent (100%) of the total units or be a rural OHCS Portfolio Properties having existing LIHTC affordability restrictions covering sixty percent (60%) of the total units; and
- not exceed the maximum allocation of available Gap funds within its set-aside (see Section 1.2); and
- utilize OHCS issued conduit bonds in conjunction with 4% LIHTC; and
- not more than twenty-five percent (25%) of total units with federal project based rent assistance may be expiring within seven (7) years.

Note: Each property in a scattered site project must meet the above project qualifications.

Failure of the Applicant to satisfy the minimum project qualifications of this section will result in disqualification and removal from funding consideration.

1.5 Reservation Process

1. Application Ranking Process

Funding will be reserved to projects that:

- a. Pass the Application Review (Section 3.1),
- b. Meet the Project Qualifications (Section 3.2),
- c. Meet the Minimum Threshold Requirements (Section 3.3), and
- d. Are selected for funding based on the Project Selection Priorities (Section 3.4).

Applications that meet the above pass/fail criteria are then prioritized based on established project selection priorities within the soft set-aside pools and will be allocated resources until the balance of available Gap funding offered through this NOFA are insufficient to support any other Applications.

- If a set-aside pool, or the combined resources, are not fully subscribed or are oversubscribed, OHCS, at its sole discretion, may take any of the following actions:
 - i combine the balance with the other set-aside pool, or
 - ii fund the next highest scoring project, or
 - iii fund a lesser scoring project, or
 - iv add resources to fully fund a project, or
 - v not fund any additional projects.
- In the event of a tie between multiple projects and there are not enough available funds to fund all projects; reservations will be prioritized based on the following criteria:
 - i The project with a greater number of units will be selected and break the tie.
 - ii If a tie remains after the first tiebreaker; the project located in Census Tracts with highest severe housing cost burden will be selected and break the tie.
 - iii If a tie remains after the second tiebreaker; the project with a lower subsidy per unit will be selected and break the tie.

2. Revocation or Re-Evaluation of Reservation

The following events may result in a **revocation** of a previously issued Reservation:

- Failure to meet all conditions listed in the 4% LIHTC/Conduit Bond pre-application acceptance letter **within 90 days** of the date of the acceptance letter; including but not limited to submission of a complete application for 4% LIHTC/Conduit Bond.
- Failure to reach construction close within 270 days of the date of 4% LIHTC program pre-application acceptance letter issuance date.

The following events will result in a **re-evaluation** of a previously issued Reservation:

- A material adverse change so the Project or Applicant no longer meets the Minimum Qualification or Thresholds.
- Other causes at OHCS's discretion.

In the event of a Re-evaluation of Reservation, OHCS, at its sole discretion, may do any of the following:

- Revoke the Reservation,
- Approve requested changes to the original application as proposed,
- Take no action.

2.0 APPLICATION REQUIREMENTS

2.1 Application Submission

Applications will be accepted until the date and time specified below. Applications received after this date and time will be considered non-responsive and will not be reviewed.

APPLICATION DUE DATE AND TIME:

Portfolio Preservation Application Due Date: July 2, 2019

Portfolio Preservation Application Due Time: 4:00pm PST

DELIVERY ADDRESS:

**Oregon Housing and Community Services
Attn: Martin Jarvis
725 Summer Street NE, Suite B
Salem, OR 97301**

- Applications must be received with a date and time stamp by the OHCS receptionist **no later than the Application due date and time.**
- Applications must be delivered in a sealed container that clearly identifies the following:
 - NOFA Name and number
 - Applicant's name,
 - Name of the contact person for the Applicant,
 - Department name and address,
 - Application closing date and time.
- Mis-deliveries and late submittals will **not** be accepted or considered.
- Postmark dated Applications will not be considered. Only applications actually received by OHCS by the Application closing date and time specified herein will be processed.

Faxed, electronically transmitted, late or incomplete Applications will not be accepted or reviewed. All Applications and any accompanying documentation become the property of OHCS, subject to Oregon Public Records Law, and will not be returned. **Application charges are nonrefundable.**

All costs associated with Applicant's submission of its Application are the sole responsibility of the Applicant and will not be borne by the State of Oregon.

Department is not responsible for any errors or omissions resulting from the Applicant downloading the NOFA. The official version of the NOFA is the one held at OHCS.

Those Applications that are incomplete or do not meet all requirements of the NOFA will be deemed by OHCS as "non-responsive" and rejected. Applications considered complete or "responsive" by OHCS will be evaluated to determine if they comply with the administrative and technical requirements of the

NOFA. If the Application is unclear, the Applicant(s) may be asked to provide written clarification to assist OHCS in determining the issue of the Application's responsiveness.

2.2 NOFA Questions

All inquiries relating to the NOFA process, administration, deadline, Reservation, or to the substantive technical portions of the NOFA, must be directed to the email address listed below:

Email: MFNOFA@oregon.gov; include in Subject Line: "Portfolio Preservation NOFA"

All questions regarding the intent of the NOFA must be submitted by email. Substantive NOFA revisions, substitutions or clarifications shall be issued as an addenda to this NOFA at OHCS sole discretion. Substantial changes or modifications to the NOFA requirements will **ONLY** be recognized if in the form of written addenda issued by OHCS. When appropriate, clarifications and explanations will be documented on the NOFA webpage as Frequently Asked Questions as well as through emailed "Multifamily Technical Advisories" (sign up for the Multifamily Technical Advisories by visiting [OHCS email Lists](#))

3.0 EVALUATION CRITERIA

There are three (3) parts to the evaluation criteria. Applicants must pass each criterion below to proceed to the next level of review. If at any point between the criteria listed in sections 3.1 through 3.3 an Application fails, the Application will be deemed *nonresponsive* and will not be reviewed further. Section 3.4 establishes the priority for project selection within each set-aside pool.

3.1 Application Pass/Fail Review

Each Application will be reviewed for timeliness and completeness of the NOFA requirements. The following are Pass/Fail criteria:

- NOFA application complete with all required attachments
- NOFA Cover Sheet
- Board of Directors Resolution (if applicable),
- Copy of Organizational Documents
- Diversity, Equity and Inclusion Agreement
- Other soft funding reservation letters (if applicable. (Example: Local, State, Federal and/or Private))

3.2 Project Qualification

The Project Qualification will be reviewed to ensure:

- The Project meets the Application Parameters (see Section 1.3) criteria, and
- The amounts requested are within the specified amount of funding allocations (see Section 1.2).

3.3 Minimum Threshold Qualifications

After passing Application Review and Project Qualification, in order to qualify for funding, Minimum Threshold Qualifications must be met in order of priority. The following are Pass/Fail criteria:

Program Review

Applicants must demonstrate that the Project is an existing OHCS portfolio project having LIHTC affordability covenants in need of preservation.

1. OHCS LIHTC Portfolio Status

Applicant must provide a copy of the Low Income Housing Tax Credit Restrictive Covenant associated with the property.

2. Development Schedule/Readiness to Proceed

The Applicant's development schedule must clearly demonstrate that the project can reach construction close within 270 days (from the 4% LIHTC program pre-application acceptance letter issuance date) and funds will be invested and the project will be constructed, leased and stabilized within two years of a Reservation of funds.

3. 4% Pre-Application Submission

The Applicant must submit a complete 4% LIHTC/Conduit Pre-application demonstrating a balanced sources and uses.

4. Core-Development Document

Applicants must submit the CDDs defined in Part 3 of the **Project Development Manual (PDM)** version 2017.12.01 in conjunction with PDM update 2018-R1 with their application. The PDM and the update can be found here:

<https://www.oregon.gov/ohcs/Pages/multifamily-housing-funding-opportunities.aspx>

Important Notes regarding CNAs for this NOFA:

- a. In addition to the CNA requirements specified in the PDM, the CNA provider must also identify in the report any dwelling units that have been taken "off-line" based on the owner's assessment that the units are not habitable due to identified substantial health and/or safety issues.

Though not currently a prescribed requirement in the PDM and not a threshold or scoring consideration in this NOFA, the Department is requesting that all hard copies of the CNA submitted as part of the application be color copies.

5. Commitment to Diversity, Equity and Inclusion (DEI)

Applicant must submit a signed DEI agreement, which commits the applicant to making strides within their organization and its work toward diversity, equity and inclusion as outlined in the application's DEI agreement

3.4 Project Selection

After passing Application Review, Project Qualification, and Minimum Threshold Qualifications, Applicants must pass Threshold Scoring with a minimum of 40 points out of ~~75~~70 points based on the following criteria:

- 1. Risk of Expiring Low Income Housing Tax Credit (LIHTC) Restrictions** **5 points**
 - **Required Supporting Documentation:** Applicant must provide a copy of the Low Income Housing Tax Credit Restrictive Covenant.

The Restrictive Covenant must expire within twenty (20) years to receive five (5) points.

- If scattered site, all project locations must meet the above criteria

- 2. Affordable Housing Stock Preservation** **5 points**
 - **Required Supporting Documentation:** NOFA Scoring Supplemental Form

A project in an area where the total units represent greater than 30% of the city's or county's affordable rental housing stock will receive five (5) points. Applicant must calculate what percentage of the total units their project represents using the OHCS Housing Inventory located here:

<https://www.oregon.gov/ohcs/Pages/research-multifamily-housing-inventory-data.aspx>

- If scattered site, this should be the case in aggregate.

- 3. Risk of Loss due to Building Conditions** **10 points**
 - **Required Supporting Documentation:** Capital Needs Assessment (CNA) no older than twelve (12) months at time of application

A project in need of both building envelope and major system component replacement within the next two (2) years will receive ten (10) points. The CNA must identify one (1) or more building envelope components in need of replacement within the next two (2) years and two (2) major system components also in need of replacement within the next two (2) years to receive points.

- If the project consists of scattered sites, the majority of units must be in sites that meet the above criteria, and all units must be in sites where the CNA has identified envelope and major system needs.

Note: Any project with a risk rating 40b, indicating severe compliance issues will not be eligible for points in this category.

4. Risk of Loss due to Health and Safety Repairs **10 points**

- **Required Supporting Documentation:** Capital Needs Assessment (CNA) no older than twelve (12) months at time of application.

Applicant's CNA identifying 10% or more the units off-line in the report to receive ten (10) points. Note: any site with a risk rating 40b, indicating severe compliance issues will not be eligible for points in this category.

- If scattered site, 10% or more of all units in the application would need to be identified as off-line to qualify for points.
- Sites with a minimum of 10% of the total units off-line due to health and safety hazard code violations or unresolved critical repairs will receive ten (10) points.
- A minimum of 10% of the total affordable housing units or three (3) units, whichever is greater, is required to receive ten (10) points.

5. Risk of Loss due to Substantial Critical Rehabilitation **10 points**

- **Required Supporting Documentation:** Proposed Scope of Work and Construction Cost Estimate.

The Proposed Scope of Work and Construction Cost Estimate (see PDM Chapter 3.2, section 3.2.02-R02) must show that a minimum of 60% of the total budget cost is dedicated to the cost of critical repairs to receive the ten (10) points.

6. Vulnerable Populations **5 points**

- **Required Supporting Documentation:** A completed 4% Low Income Housing Tax Credit (LIHTC)/Conduit Pre-Application (must identify vulnerable population being served) including pro forma.

5 points are available to projects that either:

- Serve vulnerable populations defined as Veterans, Elderly, Persons with Disabilities, Previously Incarcerated, Survivors of Domestic Violence, or;
- Have 25% or more of the units three (3) bedroom or larger with a minimum of 3 units that have three (3) or more bedrooms.

7. Serving Extremely Low Income tenants: **5 points**

- **Required Supporting Documentation:**
 - A completed 4% Low Income Housing Tax Credit (LIHTC)/Conduit Pre-Application which identifies the current tenant population's gross annual income.

A minimum of 55% of the current tenants' gross annual income must be at or below 30% Area Median Income to qualify for five (5) points.

8. Transit Oriented Development

5 points

- **Required Supporting Documentation:** Must submit documentation from a local government agency showing that the project site or sites are located in a Transit Oriented Development District (TODD).

A project included in a TODD qualifies for five (5) points.

- In a scattered site project, if the majority of the units are in a TODD the application is eligible.

9. OHCS Risk Rating – Serious Financial Issues

5 points

- **Required Supporting Documentation:** OHCS Risk Rating [Property Table Response Email](#).

A project with an OHCS Risk Rating of 40a, signaling serious financial issues, qualifies for 5 points. Any site with a risk rating 40b, indicating severe compliance issues will not be eligible for points in this category.

****NOTE****

- Scattered site applications must demonstrate that the majority of the units in the application have a risk rating of 40a to be eligible for points.
- OHCS Risk Ratings are property specific. To qualify for five (5) points, you must submit the OHCS Risk Rating [Response Email Property Table for that addresses](#) each property outlined in the application; to obtain each property's risk rating, send requests to MFNOFA@oregon.gov with the subject line: OHCS Property Risk Rating Request.

10. Urban and Rural Site Bundling

5 points

- **Required Supporting Documentation:** A completed 4% LIHTC/Conduit Pre-Application

Scattered site projects must bundle sites in **both** urban and rural locations to be eligible for 5 points.

11. High Performing Schools

5 points

- **Required Supporting Documentation:** Oregon Department of Education At-A-Glance school profile for school year 2017-2018 which can be downloaded from here: <https://www.ode.state.or.us/data/reportcard/reports.aspx>

Applicant must submit an Oregon Department of Education At-A-Glance school profile for school year 2017-2018 for the Elementary school that will serve this project. 5 points will be given for any Elementary school that has achieved level 3 or higher in mathematics.

- i If scattered site, the majority of units must be in projects meeting the above criteria to receive points.

Instructions: Go to website. Type in school name and click on school. Then click on At-A-Glance Profile link.

Submit page 1 of report with application. See Application checklist for submission section.

Level	Percentage
1	20% or lower
2	21% to 42%
3	43% to 61%
4	62% to 79%
5	80% or higher

4.0 GENERAL NOFA TERMS

OHCS reserves the right and option to amend any Reservation Letter or other related documents (collectively, the Agreement) that result from a Reservation made pursuant to this NOFA. All amendments shall be in writing and signed by relevant authorized parties.

ORS 60.701 requires that foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the State. A foreign corporation (ORS 60.001) means a for-profit corporation incorporated under a law other than the law of the State of Oregon. If a foreign corporation is selected for the Agreement because of this NOFA, it must register to do business in Oregon.

OHCS reserves the right at its sole discretion:

- A. to amend the NOFA prior to the closing date,
- B. to amend the deadline for submitting Applications,
- C. to determine whether an Application does or does not substantially comply with the requirements of this NOFA,
- D. to waive any minor irregularity, informality, or nonconformance with the requirements of this NOFA;
- E. to obtain from and/or provide to other public agencies, upon request, references regarding the Applicant's performance;
- F. at any time prior to Agreement execution (including after announcement of the apparent Reservation):
 - (1) to reject any Application that fails to substantially comply with all prescribed NOFA procedures and requirements; including the executing and recording of documents satisfactory to OHCS and,
 - (2) to reject all Applications received and cancel this NOFA upon a finding by Department that such cancellation would be in the best interests of the State; and
 - (3) to seek clarification on any or all Applications.

This NOFA and one (1) copy of each original Application received, together with copies of all documents pertaining to the Reservation, shall be kept by Department and made a part of a file or records, which shall be open to public inspection. If an Application contains any information that is considered a trade

secret under ORS 192.345(2), each sheet containing such information must be marked with the following:

“This Application constitutes a trade secret under ORS 192.345(2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only *“unless the public interest requires disclosure in the particular instance,”* ORS 192.345(2). Therefore, non-disclosure of a document or any portion of a document submitted as part of an Application may depend upon official or judicial determination made pursuant to the Oregon Public Records Law.

If an Application contains any information that may be considered exempt from disclosure under the various grounds specified in Oregon Public Records Law, ORS 192.311 through 192.478, Applicants must clearly designate as exempt any portion of its Application it considers exempt, along with a citation to the authority relied upon. Application of the Oregon Public Records Law will determine whether any information is actually exempt from disclosure. Identifying an Application in whole as exempt from disclosure is not acceptable. Failure to identify with specificity the portion(s) of the Application claimed to be exempt from disclosure, and the authority used, shall be deemed a waiver of any future claim of exemption from disclosure of that information.

The Applicant will be required to assume responsibility for performance required by the Agreement, whether performed by the Applicant, a representative, assignee or subcontractor. OHCS considers the Applicant responsible for any and all contractual matters.

An Applicant aggrieved by a final determination made by OHCS during the Application Review, Project Qualification, or Minimum Threshold Qualifications with respect to the success of its NOFA Application must request review by OHCS of such determination within **fifteen (15) days** after the date of its receiving notice from OHCS of that determination.

The request for review must be in writing, contain an explanation of the basis for challenging the Department’s determination and include any supporting information. The envelope containing the request for review **MUST** be marked **PROTEST**, and **MUST** identify the NOFA number, the closing time and date for acceptance of Applications, OHCS contact person, and be received by OHCS at its main Salem Office, 725 Summer Street NE, Suite B, Salem, OR 97301, not later than **4:00 PM on the 15th** day after the Applicant’s receipt of notice from OHCS.

The Applicant will be deemed to have received such notice upon the sooner of:

- A. three (3) days after OHCS’s determination is mailed to the Applicant,
- B. two (2) days after such determination is posted to OHCS’s website,
- C. two (2) days after the list of successful NOFA Applicants is posted to OHCS’s website, or
- D. one (1) day after such determination is emailed to the Applicant.

OHCS may request additional information from the Applicant with respect to its request and consider such other information as it deems appropriate. OHCS will endeavor to provide a written response to a qualifying request within thirty (30) days.

OHCS will provide written responses to all timely filed protests. Failure to timely provide a qualifying protest will be deemed a failure to exhaust administrative remedies and terminate further rights by an unsuccessful applicant to challenge any related department actions.

Reservations, Allocations or Awards (collectively, Determinations) subject to State Housing Council review under ORS 456.561, and Determinations where additional Department funding supporting such Determinations are subject to Council review, are contingent, among other things, upon Council approval of those Determinations or supporting funding. The Council may approve, reject, modify, or further condition funding awards submitted for its review, thereby directly or indirectly impacting Department Determinations.

All Reservations made pursuant to this NOFA are subject to the successful negotiation, execution, and recording (if required) of relevant Agreement documents satisfactory to OHCS and DOJ in their sole discretion. . Those relevant Agreement documents may include, but are not limited to, Priority and Subordination Agreements, Intercreditor Agreements, Indemnity and Hold Harmless Agreements, Reservation and Extended Use Agreements, Declaration of Land Use Restrictive Covenants, Grant Agreements, and other standard documents. Applicants must inform their financing partners that such relevant Agreement documents, along with their successful negotiation, execution, and recording (if required) in a manner satisfactory to OHCS and DOJ in their sole discretion, are a requirement of receiving a Reservation for OHCS financing and ultimate delivery of such funding. Applicant should discuss with OHCS and DOJ the nature of a Project's particular financing and ownership structure as certain financing and ownership structures may be limited by such relevant Agreement documents or other Program Requirements.

Projects that have only a leasehold interest in relevant real property must include documented commitments executed and recorded by the landlord satisfactory to OHCS and DOJ, including, but not limited to, covenants respect to the ongoing use and operation of the real property and leasehold interest for affordable housing acceptable to OHCS and DOJ.

OHCS may charge, and the Applicant shall pay, legal and administrative costs incurred by OHCS in negotiating Agreement and other related documents. OHCS and DOJ charges may increase with the increasing complexity of organizational and financing structures.

Provisions stated in the form of a question in this NOFA shall be construed as required action by Applicants.