

HOUSING AND COMMUNITY SERVICES DEPARTMENT

DIVISION 5

GENERAL RULES

813-005-0005

Definitions

(1) Terms used in OAR chapter 813 have the meanings given them in the Act, in this section, otherwise in OAR chapter 813 or in other applicable law, unless the context indicates to the contrary. Such terms need not be capitalized. Undefined terms are intended to be read consistently with their normal usage unless the context indicates otherwise.

(2) Pursuant to ORS 456.555(5)(b) the Housing and Community Services Department by administrative rule, must identify and distinguish between housing programs and community services programs. Any program administered by the department (as principal and not agent) that is not listed in this subsection, does not principally involve the financing, regulation, maintenance or support of housing or home ownership or otherwise defined in statute or in this chapter as a housing program is a "community service program." Accordingly, the following programs administered by the department are housing programs:

- (a) Multi-Unit Housing Program (OAR 813-010);
- (b) Rental Housing Program (OAR 813-012);
- (c) Oregon Rural Rehabilitation Program (OAR 813-015);
- (d) Single-Family Mortgage Program (OAR 813-020);
- (e) Elderly Housing Program (OAR 813-030);
- (f) Pass-Through Revenue Bond Financing Program (OAR 813-035);
- (g) Pre-Development Program (OAR 813-038);
- (h) Farmworker Housing Development Account (OAR 813-039);
- (i) Seed Money Advance Program (OAR 813-040);
- (j) Agriculture Workforce Housing Tax Credit Program (OAR 813-041);
- (k) Housing Development Program (OAR 813-042);
- (l) Housing Loan Guarantee Program (OAR 813-043);

- (m) Homeownership Assistance Program (OAR 813-044);
- (n) Housing Development Account Program (813-045);
- (o) Emergency Housing Program (OAR 813-046);
- (p) Housing Revitalization Program (OAR 813-048);
- (q) General Housing Account (OAR 813-055);
- ~~(qr)~~ Disabled Housing Program (OAR 813-060);
- ~~(rs)~~ Home Improvement Loan Program (OAR 813-070);
- ~~(st)~~ Mortgage Credit Certificate Program (OAR 813-080);
- ~~(tu)~~ Low-Income Housing Tax Credit Program (OAR 813-090);
- ~~(uv)~~ Oregon Affordable Housing Tax Credit Program (OAR 813-110);
- ~~(vw)~~ Home Investment Partnerships Program (OAR 813-120);
- ~~(wx)~~ HELP Program (OAR 813-130);
- ~~(xy)~~ Incentive Fund Program (OAR 813-140);
- ~~(yz)~~ Subsidized Development Visitability Program (OAR 813-310);
- ~~(zaa)~~ General Guarantee Program (OAR 813-350); and
- ~~(aab)~~ Other activities of the department involving the financing, regulation, maintenance or support of housing or home ownership or that otherwise are defined in statute or in this chapter as a housing program.

(3) Pursuant to ORS 456.555, the Housing and Community Services Department is to establish from time to time, by administrative rule, the threshold property purchase price at which a single-family home ownership loan on property must be submitted by the department to the Housing Stability Council for approval or disapproval as well as the threshold value for a housing grant or other housing funding award for multifamily housing. Presently, the threshold property purchase price for single-family home ownership that obligates the department to obtain Housing Stability Council review and approval of a proposed single-family loan is that purchase price which, when reduced by costs of purchase other than the department loan, is equal to or greater than seventy-five percent of the applicable area program purchase price limit or \$190,000, whichever is greater. The threshold value of a housing grant or other housing funding award with respect to a multifamily housing development (project) that obligates the department to obtain Housing Stability Council review and approval is \$200,000 per funding source with an aggregate threshold per project of \$400,000.

- (4) "Acquisition loan" means a loan for the purpose of financing the purchase of an existing Project.
- (5) "Act" means ORS 456.515 through 456.725 and, given the context, also may include 458.005 through 458.740, 90.800 through 90.840, and 91.886.
- (6) "Approved lender" means any person authorized to engage in the business of making loans of the general character of program loans, who meets the qualifications for an approved lender set forth in the applicable program rules and who contracts with the department to make program loans.
- (7) "Approved servicer" means any person authorized to engage in the business of servicing loans of the general character of program loans, who meets the qualifications for an approved servicer set forth in the applicable program rules and who contracts with the department to service program loans.
- (8) "Bond" means any bond, note or other evidence of indebtedness issued to obtain funds to provide financing for a program of the department as provided in the Act or as further defined by statute.
- (9) "Borrower" means an eligible borrower who has received a program loan.
- (10) "Break-even occupancy" means the point in time when a project's monthly rental income meets its monthly operating expenses and debt service.
- (11) "Commitment" means the written conditional obligation of the department to make, purchase, service or sell a program loan or other funding award.
- (12) "Community service programs" are defined in subsection (2) of this section.
- (13) "Contingency escrow account" means an account generally not to exceed 3% of the initial principal amount of the program loan, established by the sponsor in the form of a savings account, time certificate of deposit, or irrevocable letter of credit assigned to the department.
- (14) "Cooperative" is a consumer housing entity formed according to the provisions of ORS Chapter 62, as amended.
- (15) "Department" means the Housing and Community Services Department of the state of Oregon established pursuant to ORS 456.555 originally enacted by enrolled house bill 3377, chapter 739, Oregon Laws 1991.
- (16) "Director" means the chief administrative officer of the Housing and Community Services Department established pursuant to ORS 456.555(2).

(17) "Elderly household" means a household residing in the state of Oregon whose head is over the age of 58 or 55, as applicable.

(18) "Eligible borrower" means a person who satisfies the criteria to receive a program loan as set forth in the applicable program rules, statutes or department orders.

(19) "Escrow payments" means the monthly payments made by the sponsor or borrower and placed in an escrow reserve account for the payment of property taxes, insurance premiums and reserve for replacements and other identified costs as required by the department in accordance with the program loan.

(20) "Funding documents" means any and all documents required by the department to document a housing grant or other funding award or reservation commitment including, but not limited to loan agreements, regulatory agreements, operating agreements, reservation letters, guarantees or otherwise.

(21) "Housing Stability Council" means that seven-member body established by ORS 456.

(22) "Housing programs" are defined in subsection (2) of this section.

(23) "Lending department" means a commercial bank, savings and loan association, savings bank, mortgage banker Federal Housing Administration, Farmers Home Administration or other department that provides permanent or construction mortgage loans.

(24) "Loan agreement" means a written agreement, typically executed at loan closing, between the department and a sponsor establishing the terms of any department loan.

(25) "Loan closing" means the disbursement by the department of the program loan proceeds after execution and recording of the loan documents.

(26) "Loan documents" means the written agreements by and between the sponsor [\(and possibly others\)](#) and the department or in favor of the department, typically executed at loan closing, [with respect to a department loan](#) and generally including, but not necessarily limited to the promissory note, the loan agreement, the trust deed and the regulatory [or operating](#) agreement.

(27) "Mobile home park" means a project consisting of individual lots and mobile homes located within 500 feet of one another on a lot, tract or parcel of land under the same ownership, and which complies with all ordinances, plans and codes in the area.

(28) "NOFA" means a notice of funding availability [and constitutes a solicitation document as hereinafter defined.](#)

(29) "Operating agreement and declaration of restrictive covenants and equitable servitudes" or "operating agreement" means a written agreement typically executed at loan closing between the department and the sponsor of a project under the department's pass-through revenue bond program and regulating the use of revenues and operation of the project, particularly with respect to tenant income and unit rent compliance by the sponsor.

(30) "Person" means any natural or legal person.

(31) "Procedural guide" means a manual of written procedures adopted by the department to carry out a program.

(32) "Program" means a statutorily authorized plan or order of business conducted by the department.

(33) "Program loan" means a loan made pursuant to a program of the department.

(34) "Program requirements" means the requirements with respect to any department funding program including but not limited to as contained in or arising from applicable administrative rules, solicitation documents, funding documents, department directives, federal, state and local statutes, codes, regulations or determinations and other applicable law.

(35) "Qualified insurer" means the Federal Housing Administration, the Veterans' Administration, or any other person who is authorized to insure or guarantee payment of loans and who is approved by the department.

(36) "Regulatory agreement and declaration of restrictive covenants and equitable servitudes" or "regulatory agreement" means a written agreement typically executed at loan closing between the department and a sponsor regulating the use of revenues and operation of the project for which a department loan is issued, particularly pertinent with respect to compliance by the sponsor with maintaining the status of any involved bond issue.

(37) "Regulatory Agreement as to Project Management" or "Management Agreement" means a written agreement typically executed at or after loan closing between the department, a project sponsor and, if applicable, a management agent engaged by the sponsor regulating certain aspects of project management to ensure, inter alia, accomplishment of program requirements.

(37) "Rent-up reserve account" means an account set up by the sponsor and under the control of the department to assure sufficient funds to pay operating expenses and debt service of the project before break-even occupancy.

(389) "Replacement cost reserve account" means an account established to aid in payment for extraordinary maintenance or repair of a project or for replacement of capital items of a project as allowed by the department.

(4039) "Seed money advance" means an advance given to a qualified housing sponsor to pay preconstruction costs.

(410) "Single-family residence" means a housing unit intended and used for occupancy by one household and the property on which it is located. This shall be real property located in the state of Oregon. A single-family residence may include a single-family residence, condominium unit, a dwelling in a planned unit development (PUD), or a mobile or manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and is of a kind customarily used at a fixed location.

(424) "Solicitation" means a process by which the department invites applications for a housing grant or other funding award with respect to a project.

(432) "Solicitation documents" means those documents that, inter alia, set forth the terms and conditions of a solicitation.

(443) "Sponsor" means any person meeting the legal, financial, credit and other qualifications to be the borrower on a department loan and to own and operate a project as set forth in the applicable program rules, statutes and department orders.

(454) "Targeted area" means an area in the state designated by the department in compliance with the requirements of Section 143(j) of the Internal Revenue Code of 1986, as amended, and approved by the United States Departments of Treasury and Housing and Urban Development.

(465) "Trustee" means the state treasurer or, with the approval of the department, a private financial institution in Oregon acting pursuant to an indenture of trust or other appropriate instrument.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 90.630, 90.771 - 90.775, 90.800 - 90.840, 183, 315.271, 317.097, 446.525 - 446.543, 456.515 - 456.725, 458.210 - 458.365, 458.405 - 458.460, 458.505 - 458.740, 566.310 - 566.350 & 757.612 - 757.617

Stats. Implemented: ORS 456.515 - 456.720

[813-005-0025](#)

Solicitation Protests; Administrative and Judicial Review

(1) (a) With respect to any solicitation conducted by the department, an applicant or potential qualifying applicant may protest or otherwise challenge such solicitation process by first requesting administrative review as herein specified.

(b) With respect to any solicitation conducted by the department, an applicant may protest or otherwise challenge any department determination or order (collectively hereinafter, “determination”) related to such solicitation by first requesting administrative review as herein specified.

(c) A timely, qualifying request for administrative review is necessary to satisfy the conditions of this section and a condition precedent to judicial review consistent with ORS 183.480.

(d) Failure to file a timely, qualifying request for administrative review with the department will constitute a failure to exhaust administrative remedies and terminate further rights to protest or otherwise challenge the solicitation process or any related department determination, including judicial review thereof.

(2) (a) An applicant under this section is a person or entity that makes an application (including delivery to the department under the terms of the solicitation) for a department funding award pursuant to a particular department solicitation.

(b) A potential qualifying applicant is a person or entity that qualifies to make an application for a department funding award under the terms of a solicitation with respect to the process of which it requests administrative review consistent with the terms of this section.

(3) (a) An applicant or potential qualifying applicant seeking to protest or otherwise challenge any aspect of a solicitation process (other than a department determination related thereto) must request review by the department within fourteen (14) days of the application due date of the solicitation.

(b) An applicant seeking to protest or otherwise challenge a determination by the department related to a solicitation must request review by the department of such determination within fourteen (14) days of the applicant receiving notice from the department of that determination.

(4) Any request for review under this section must be in writing, specifically identifying:

(a) the nature of the requestor’s interest, including the facts showing how the requestor is adversely affected or aggrieved by the solicitation process or a department determination;

(b) the relief sought;

- (c) each of the grounds for review;
- (d) an explanation for each of the grounds upon which relief should be granted; and
- (e) any supporting information the requestor desires to have considered by the department.
- (5) The envelope containing the request for review **MUST**:
 - (a) be marked **PROTEST**;
 - (b) identify the solicitation number;
 - (c) identify the closing time and date for acceptance of solicitation applications;
 - (d) identify the department's contact person for the solicitation; and
 - (e) be received by the department at its main Salem Office.

Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem, OR 97301,

not later than **4:00 PM** on the fourteenth(**14th**) day after the solicitation closing date or the applicant's receipt of notice from the department of the department determination from which review is requested, whichever due date is applicable under this section.

- (6) The applicant will be deemed to have received notice of a department determination upon the sooner of:
 - (a) three (3) days after the department's determination is mailed to the applicant;
 - (b) two (2) days after such determination is posted to the department's website;
 - (c) two (2) days after the list of successful solicitation applicants is posted to the department's website; or
 - (d) one (1) day after such determination is emailed to the applicant.
- (7) The department may request additional information from the requestor with respect to its request and consider such other information as it deems appropriate.
- (8) The department will endeavor to provide a written response to a timely, qualifying request for review within thirty (30) days.
- (9) Judicial review of the department response to a timely, qualifying request for review shall be limited to those grounds the requestor raised with the department in its request for review.

(10) The filing of a request for review, or subsequent judicial review (if any), will not preclude the department from moving forward with the solicitation or the award of funding assistance thereunder. However, the department reserves the right to delay, terminate, modify, or take other action it determines to be appropriate with respect to a solicitation or any related award of funding assistance in response to a request for review or subsequent judicial review.

Stat. Auth.: ORS 90.630, 90.771 - 90.775, 90.800 - 90.840, 183, 315.271, 317.097, 446.525 - 446.543, 456.515 - 456.725, 458.210 - 458.365, 458.405 - 458.460, 458.505 - 458.740, 566.310 - 566.350 & 757.612 - 757.617

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