

STATE OF OREGON



COVER PAGE

OREGON HOUSING AND COMMUNITY SERVICES DEPARTMENT

RENT GUARANTEE PROGRAM PROVIDER

Request for Applications (“RFA”)

RFA #914-5227-20

Date of Issue: August 7, 2020

Closing Date and Time: September 9, 2020 at 3:00 p.m. PST

Single Point of Contact (“SPC”): Alisha Schultz, Senior Procurement Specialist

Address:	Oregon Housing and Community Services Department
City, State, Zip	725 Summer Street NE, Suite B, Salem, OR 97301
Phone (voice)	503-986-6894
E-mail:	OHCS.Contracts@oregon.gov

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(Attachments are posted as separate documents to ORPIN and OHCS' Procurement website)

SECTION 1: GENERAL INFORMATION

1.1 INTRODUCTION

The State of Oregon, acting by and through the Oregon Housing and Community Services Department (“Agency”), is issuing this Request for Applications (“RFA”) to determine a list of Applicants with relevant experience and capacity to implement the Rent Guarantee Program as program providers. Each Applicant meeting all of the criteria of this RFA will be eligible to enter into a Grant Agreement with Agency to become a program provider for the Rent Guarantee Program (“Eligible Applicant”). The Rent Guarantee Program provides incentives and financial assistance to landlords that rent or lease to low-income households by guaranteeing payments to landlords for unpaid rent, eviction costs and property damage expenses incurred within the first twelve (12) months of residency. Rent Guarantee Program tenants must complete a Tenant Readiness Education course before participating in the guarantee, assisting them in overcoming barriers to permanent housing and providing instruction on successful tenancy.

Additional details on the services are included in the Scope of Work section.

Anticipated Award: Agency anticipates the award of one (1) or more Grant Agreements from this RFA.

Grant Agreement Term: The initial term of the Grant Agreement is anticipated to be two (2) years with options to renew up to a cumulative maximum four (4) years, or as deemed necessary by Agency.

1.2 SCHEDULE

Event	Date	Time
Questions / Requests for Clarification Due	August 21, 2020	3:00 PM
Answers to Questions / Requests for Clarification Issued (approx.)	August 28, 2020	
RFA Protest Period Ends	Schedule defined under OAR 813- 005-0025	
Closing (Application Due)	See RFA Cover Page	
Reservation Notice (approx.)	October 2020	

The table above represents a tentative schedule of events. All times are listed in Pacific Time. All dates listed are subject to change.

1.3 SINGLE POINT OF CONTACT (SPC)

The SPC for this RFA is identified on the Cover Page, along with the SPC’s contact information. Applicant shall direct all communications related to any provision of the RFA only to the SPC, whether about the technical requirements of the RFA, contractual requirements, the RFA process, or any other provision.

SECTION 2: AUTHORITY, OVERVIEW, AND SCOPE

2.1 AUTHORITY AND METHOD

Agency is issuing this RFA pursuant to its authority under OAR 125-246-0170(2) including but not limited to ORS chapters 456 and 458, OAR chapter 813, divisions 5 and 6, as well as applicable rules.

Agency is using the Competitive Procurement Procedures, pursuant to OAR 813 Divisions 5 and 6. Agency may use a combination of the methods for Competitive Procurement Procedures, including optional procedures: a) Additional Submittal Items; and b) Discussions and Revised Applications.

2.2 DEFINITION OF TERMS

For the purposes of this RFA, capitalized words are defined in OAR 125-246-0110 unless provided within this document.

2.3 OVERVIEW

2.3.1 Agency Overview and Background

Agency is Oregon's state housing finance agency, providing financial and program support to create and preserve opportunities for quality, affordable housing for Oregonians of lower and moderate income. Agency administers federal and state antipoverty, homeless, energy assistance, and community services programs. Agency also administers other affordable housing programs as well as efforts to increase capacity throughout Oregon to address the need for safe, sanitary, and habitable affordable housing. It also administers bond, tax credit, and other financial assistance programs designed to assist in the purchase financing of single-family homes and in the new construction or rehabilitation of multifamily affordable housing developments.

Agency was directed by the 80th Oregon Legislative Assembly to award grants to private or public entities to support or develop programs that build on successful strategies that help individuals obtain and retain housing, including through education, services or resources for low-income tenants and prospective tenants and for landlords who serve low-income tenants. The Rent Guarantee Program is designed to provide incentives and financial assistance to landlords that rent or lease to low income households by guaranteeing payments to landlords for unpaid rent and eviction and property damage costs.

2.3.2 Project Overview and RFA Purpose

Agency will enter into grant agreements with Eligible Applicants to administer the Rent Guarantee Program (the "**Program Providers**"). Program Providers must be able to demonstrate the following outcomes: (a) increased housing stability, as measured by the percentage of total program participants who reside in and maintain permanent housing for a minimum of twelve (12) months; (b) increased landlord participation, as measured by the percentage increase in the number of landlords participating in the program; and (c) successful tenant readiness education, as measured by the percentage of tenants successfully completing

the tenant training and receiving certification.

2.4 FUNDING GUIDELINES

The Agency intends to distribute to Program Providers, on a statewide, first-come, first-served basis, up to \$190,000 in landlord guarantee payments. Reimbursement for unpaid rent is limited to a maximum of \$2,000 per eligible tenant and \$5,000 in total for all damages per tenancy. Up to \$10,000 will be available statewide to Program Providers for administrative funds. Administrative funds are limited to \$10 per Tenant Readiness Education Student.

The maximum amount offered in this RFA is \$200,000.00 on a statewide basis to all Program Providers

Agency will make funds available on a statewide basis, while reserving the right to target funding to those populations or areas of the state with the greatest need as Agency so determines. Grant funding can only be used in accordance with the terms and conditions of executed financial assistance documents and otherwise in compliance with Program Requirements.

Agency reserves the right to provide Grant funding in amounts less than the maximum amount available in this RFA.

2.5 SCOPE OF WORK

The required duties of a Program Provider include, but are not limited to, the following functions:

- Determine eligibility of landlord and tenants in the Rent Guarantee Program;
- Assist tenants in obtaining permanent housing through housing placement activities;
- Provide communication and outreach to landlords to increase their willingness to rent to tenants who have rental barriers, but have gone through the program's tenant readiness education course;
- Execute program agreements with landlords;
- Process program applications for program assistance from landlords, which include verification of damages;
- Provide Tenant Readiness Education at a minimum of twice per calendar year;
- Provide timely submission of required program reports;
- Notify Agency of any substantive changes to the Agency-approved Tenant Readiness Education Course;
- Comply with monitoring requirements and remedy actions as required by Agency; and
- Establish and adhere to all program guidelines.

Participating tenants must have a total household annual income no greater than 60% of the area's median income for their size of household, must experience barriers to obtaining housing, such as poor credit history, criminal history or eviction history or have been a ward of the state in previous ten (10) years and are age sixteen (16) to twenty-seven (27), must successfully complete a Tenant Readiness Education course, be residents of Oregon and may be homeless or unstably housed and at risk of homelessness.

Anticipated Reporting Requirements:

- Grantee must submit client data within 3 days of the execution of a Program Provider/Landlord Agreement and quarterly reports within 20 days of the end of each fiscal quarter, on Agency-approved forms. Reporting includes, but is not limited to the number of landlords and tenants participating in the program, demographic information about tenants, identified tenant risk factors and the number and amount of requests for financial assistance made under the program; and other data as may be determined by Agency.
- Agency may require additional reporting or documentation as it determines to be appropriate.
- Additional Services. Upon mutual agreement between Agency and Grantee, Grantee may be required to provide additional Services related to the Scope of Work of this RFA.

Agency and Grantee shall mutually agree upon schedule of Services.

SECTION 3: PROCUREMENT REQUIREMENTS

3.1 MINIMUM APPLICANT REQUIREMENTS

Applicants must serve persons located in any one or more of the following counties:

- ✓ Baker
- ✓ Clatsop
- ✓ Columbia
- ✓ Coos
- ✓ Crook
- ✓ Curry
- ✓ Deschutes
- ✓ Grant
- ✓ Hood River
- ✓ Jefferson
- ✓ Klamath
- ✓ Lake
- ✓ Marion
- ✓ Polk
- ✓ Sherman
- ✓ Tillamook
- ✓ Union
- ✓ Wallowa

✓ Wasco

Applicant must:

- A. Have a conflict of interest policy in place that minimally requires staff and board members to disclose to appropriate board or staff member(s) the conflict or potential conflict; prohibits those with a conflict from voting or making a decision on the matter in which there is a conflict; defines the process for managing and determining conflicts of interest; and documents that staff and board members are aware of and understand the policy.
- B. Have an existing tenant readiness education course sufficient to provide tenant training and certification;
 1. Tenant Readiness Education minimum requirements include:
 - (a) Existing Tenant Readiness Education (identify how long organization has offered tenant readiness education, frequency of course offering to prospective tenants, average number of participants, qualification requirements of participating prospective tenants and any specific population targeting, such as tenant's with poor credit history, previous evictions, criminal history, etc.)
 - (b) Offered by certified trainer or sufficient past experience teaching course (identify how many trainers available and experience of each)
 - (c) Course extends over multiple weeks (identify typical course schedule)
 - (d) Occurs twice each calendar year
 - (e) Students receive passing or failing grade, with student who pass receiving a Certificate of Completion (provide a copy of Certificate of Completion)
 - (f) Pre-determined maximum number of acceptable absences and student who do not meet the requirement do not pass the course (identify number of acceptable absences).
 - (g) Tenant Readiness Education Curriculum must include (provide copy of educator and student curriculum, handouts, training materials):
 - Landlord/Tenant Law
 - The application and screening process
 - Understanding a rent/lease agreement
 - Personal finance/budgeting/how credit reports are used
 - Energy conservation
 - Fair Housing rights and responsibilities
 - What makes a good tenant/communicating with your landlord
 - What are your barriers to obtaining housing
 - Tips for moving in and moving out
 - Care and maintenance of your unit/maintenance responsibilities
 - Termination notices
 - Recovering your deposit
- C. Demonstrate previous program experience placing persons in low income households into

permanent housing, including a description of how you assist tenants in obtaining permanent housing and a description of the case management activities offered to participating tenants. Describe how you determine which tenant(s) will be offered this program's guarantee.

- D. Demonstrate experience working collaboratively with local landlords and service providers, including a description of your outreach plan to increase landlord's willingness to rent to tenants approved by this program.
- E. Demonstrate the organizational capacity to administer the program, including the ability to track data and performance measure outcomes, meet quarterly reporting requirements, and to timely process requests for payments of financial assistance and can operate on a reimbursement basis for financial assistance.
- F. Demonstrate the organization is a licensed, non-profit organization, publicly funded agency or a governmental housing provider.
- G. Demonstrate that the organization has a mission statement or core values that align with the goal of helping low-income individuals find or maintain safe and stable housing.
- H. Identify what county(ies) will be served by this program.

*Applicant must be able to provide proof of the above requirements at time of Application submission.

3.2 MINIMUM SUBMISSION REQUIREMENTS

3.2.1 Application Submissions

To be considered for evaluation, Application must contain each of the following elements (further detailed in Application Requirements section below):

- Cover Page (Attachment A)
- Response to Minimum Applicant Requirements (section 3.1)
- Disclosure Exemption Affidavit (Attachment C), as applicable
- Responsibility Inquiry (Attachment D)
- Conflict of Interest Policy (section 4.10.3)
- Tenant Readiness Education Student and Educator Curriculum (section 3.1)
- Tenant Readiness Education Certificate of Completion (3.1)

3.2.2 Application Page Limits

Application is limited to 20 pages or 10 pages double-sided. Any pages exceeding this limit will not be provided to the evaluation committee or considered in the evaluation. The following items do not count toward the page limit:

- Cover Page (Attachment A)

- Table of Contents
- Disclosure Exemption Affidavit (Attachment C)
- Responsibility Inquiry (Attachment D)
- Response to Information in Section 5.3
- Supporting documents required in Section 5.3
- Supporting documents required in Evaluation Criteria

3.2.3 Application Format

Application should follow the format and reference the sections listed in the Application Requirements section.

Applicant shall submit one (1) electronic copy of its Application to OHCS.Contracts@oregon.gov as an attachment received by the Agency by the Closing Date/Time on the Cover Page. Please reference RFA #914-5227-20 in the Subject Line of all e-email communication. In addition, if Applicant believes any of its Application is exempt from disclosure under Oregon Public Records Law (ORS 192.311 through 192.478), Applicant shall complete and submit the Affidavit of Trade Secret (Attachment C) and a fully redacted electronic version of its Application, clearly identified as the redacted version.

3.2.4 Authorized Representative

Failure of the authorized representative to sign the Application may subject the Application to rejection by Agency.

3.3 APPLICATION REQUIREMENTS

Application must address each of the items listed in this section and all other requirements set forth in this RFA. Applicant shall describe the Services to be performed. An Application that merely offers to provide Services as stated in this RFA may be considered non-responsive to this RFA and will not be considered further.

Include a Table of Contents with your Application and page numbers. Responses to each section and subsection should be labeled to indicate the item being addressed. Responses to the RFA should be written in plain language. Application must describe in detail how requirements of this RFA will be met and may provide additional related information.

3.3.1 COVER PAGE – ATTACHMENT A

Applicant must complete and return the Cover Page (Attachment A) with its Application.

3.3.2 Responsibility Inquiry

Applicant shall complete and submit the Responsibility Inquiry (Attachment D).

3.3.3 Certificate of Insurance

Submit Applicant's most recent Certificate of Insurance, if available. This document is not a

mandatory submittal item. At Application submittal, this Certificate of Insurance does not need to match the insurance requirements listed in the Sample Grant Agreement (Attachment B – Exhibit B); however, the insurance requirements in the Sample Grant Agreement (Attachment B – Exhibit B) will be required prior to execution of the Grant Agreement, and is subject to change and negotiations.

SECTION 4: SOLICITATION PROCESS

4.1 PUBLIC NOTICE

The RFA, including all Addenda and attachments, is published in the Oregon Procurement Information Network (“ORPIN”) <https://orpin.oregon.gov> and Agency’s Procurement website at <https://www.oregon.gov/ohcs/procurement/Pages/procurement-opportunities.aspx>. RFA documents will not be mailed to prospective Applicants.

Agency shall advertise all Addenda, if any, on ORPIN and Agency’s Procurement website. Prospective Applicant is solely responsible for checking ORPIN or Agency’s Procurement website to determine whether or not any Addenda have been issued. Addenda are incorporated into the RFA by this reference.

4.2 PRE-APPLICATION CONFERENCE

A Pre-Application conference will not be held for this RFA.

4.3 QUESTIONS / REQUESTS FOR CLARIFICATIONS

All inquiries, whether relating to the RFA process, administration, deadline or method of award, or to the intent or technical aspects of the RFA must:

- Be delivered to the SPC via email;
- Reference the RFA number;
- Identify Applicant’s name and contact information;
- Refer to the specific area of the RFA being questioned (i.e. page, section and paragraph number); and
- Be received by the SPC by the due date and time for Questions/Requests for Clarification identified in the Schedule.

4.4 SOLICITATION PROTESTS

4.4.1 Protests to RFA

Prospective Applicant may submit a written protest of anything contained in this RFA, including but not limited to, the RFA process, Specifications, Scope of Work, and the proposed Sample Grant Agreement. This is prospective Applicant’s only opportunity to protest the provisions of the RFA, except that Applicant may protest Addenda as provided below and Applicant may take exception to the terms and conditions of the Sample Grant Agreement marked as negotiable as set forth in the Negotiations Section.

4.4.2 Protests to Addenda

Prospective Applicant may submit a written protest of anything contained in the respective Addendum. Protests to Addenda, if issued, must be received by Agency by 5 p.m. Pacific Time of the second Business Day of Agency's issuance of the Addendum or the date/time specified in the respective Addendum, or they will not be considered. Protests of matters not added or modified by the respective Addendum will not be considered.

4.4.3 All Protests must:

- Comply with procedure under OAR 813-005-0025;
- Be delivered to the SPC via email or hard copy;
- Reference the RFA number;
- Identify prospective Applicant's name and contact information;
- Be sent by an authorized representative;
- State the reason for the protest, including:
 - the grounds that demonstrate how the Procurement Process is contrary to law, Unnecessarily Restrictive, legally flawed, or improperly specifies a brand name; and
 - evidence or documentation that supports the grounds on which the protest is based
- State the proposed changes to the RFA provisions or other relief sought;
- Protests to the RFA must be received by Agency by the due date and time identified in the Schedule; and
- Protests to Addenda must be received by Agency by the due date identified in the respective Addendum.

4.4.4 Protest Response

Agency will endeavor to respond to all protests submitted in a timely manner while giving due consideration to the nature of the protests. Protests that do not comply with OAR 813-005-0025 may not be considered.

4.5 APPLICATION DELIVERY OPTIONS

Applicant is solely responsible for ensuring its Application is received by the SPC in accordance with the RFA requirements before Closing. Agency is not responsible for any delays in mail or by common carriers or by transmission errors (electronic or otherwise) or delays or mistaken delivery. Applications submitted by any means not authorized may be rejected.

4.6 APPLICATION MODIFICATION OR WITHDRAWAL

If an Applicant wishes to make modifications to a submitted Application, it must submit its modification in the authorized method listed Section 3. To be effective the notice and modification must include the RFA number and be submitted to and received by the SPC prior to Closing.

If an Applicant wishes to withdraw a submitted Application, it must submit a Written notice signed by an authorized representative of its intent to withdraw to the SPC via email or hard copy prior to Closing in accordance with OAR 137-047-0440. To be effective the notice must

include the RFA number and be received by the SPC prior to Closing

4.7 APPLICATION DUE

An Application (including all required submittal items) must be received by the SPC on or before Closing. All Application modifications or withdrawals must be received prior to Closing.

An Application received after Closing is considered LATE and will NOT be accepted for evaluation. A late Application will be returned to the Applicant or destroyed in Agency's sole discretion.

4.8 PUBLIC OPENING

There will not be a public opening for this RFA. Applications received will not be available for inspection until after the evaluation process has been completed and the Notice of Reservation is issued.

4.9 APPLICATION REJECTION

Agency may reject an Application for any of the following reasons:

- Applicant fails to substantially comply with all prescribed RFA procedures and requirements, including but not limited to the requirement that Applicant's authorized representative sign the Application, although an electronic signature is acceptable.
- Applicant has liquidated and delinquent debt is owed to the State or any department or agency of the State.
- Applicant fails to meet the responsibility requirements of ORS 279B.110.
- Applicant makes any contact regarding this RFA with State representatives such as State employees or officials other than the SPC or those the SPC authorizes, or inappropriate contact with the SPC.
- Applicant attempts to influence a member of the Evaluation Committee.
- Application is conditioned on Agency's acceptance of any other terms and conditions or rights to negotiate any alternative terms and conditions that are not reasonably related to those expressly authorized for negotiation in the RFA or Addenda.

4.10 EVALUATION PROCESS

4.10.1 Responsiveness and Responsibility Determination

4.10.1.1 Responsiveness Determination

An Application received prior to Closing will be reviewed to determine if it is Responsive to all RFA requirements including compliance with Minimum Application Requirements section and Minimum Submission Requirements section. If the Application is unclear, the SPC may request clarification from Applicant. Applicant must respond within three (3) working days of the date an email has been sent from Agency. However, clarifications may not be used to rehabilitate a non-Responsive Application. If the SPC finds the Application non-Responsive, the Application may be rejected, however, Agency may waive mistakes in accordance with OAR chapter 813, divisions 5 and 6.

Agency may use its discretionary action in accordance with OAR 813-006-0040.

4.10.2 Evaluation Overview

Members of an Evaluation Committee will independently evaluate each Application meeting all responsiveness requirements. The size of the Evaluation Committee will be determined by the Agency. Evaluation Committee members may change and Agency may have additional or fewer evaluators. Evaluators will assign a PASS or FAIL determination for each evaluation criterion based on the categories described below, and the Applicant must describe how they meet any other requirements that may be specified in this RFA.

SPC may request further clarification and reserves the right to request additional information to assist the Evaluation Committee in gaining additional understanding of Application. Agency may conduct additional discussions and negotiations with interested Applicants who submit Applications found to be reasonably likely to be selected for an award. If such negotiations are held, Agency may establish a date for best and final offers.

Agency may award an Agreement to an Applicant whose Application is most advantageous to Agency. Agency reserves the right to award an Agreement to the Applicant who will best meet the requirements of this RFA.

4.10.3 Evaluation Criteria (PASS/FAIL)

All Applicants will be evaluated on a pass/fail basis. Each Applicant must meet all of the minimum qualifications listed in Section 3.1 to receive a "PASS" and become an Eligible Applicant.

SECTION 5: AWARD AND NEGOTIATION

5.1 AWARD NOTIFICATION PROCESS

5.1.1 Award Consideration

Agency, if it awards one or more Agreements, shall award each Agreement in accordance with the process in Section 4. Agency may award less than the full Scope defined in this RFA. Agency, in its sole discretion, may make additional award(s) for up to 18 months following the close of this solicitation.

5.1.2 Reservation Notice

Agency will notify all Applicants in Writing that Agency intends to award an Agreement to the selected Applicant(s) subject to successful negotiation of any negotiable provisions.

5.2 FUNDING AWARD PROTEST

5.2.1 Protest Submission

An Affected Applicant may submit a written protest in accordance with procedures and timeline outlined in OAR 813-005-0025.

5.2.2 Response to Protest

Agency will address all timely submitted protests within a reasonable time and will issue a Written decision to the respective Applicant. Protests that do not include the required information may not be considered by Agency.

5.3 APPARENT SUCCESSFUL APPLICANT SUBMISSION REQUIREMENTS

Each Applicant who is selected for an Agreement award under this RFA will be required to submit additional information and comply with the following:

5.3.1 Insurance

Prior to award, Applicant shall secure and demonstrate to Agency proof of insurance as required in this RFA or as negotiated. Insurance Requirements are found in Exhibit B of Attachment B.

5.3.2 Taxpayer Identification Number

Applicant shall provide its Taxpayer Identification Number (“TIN”) and backup withholding status on a completed W-9 form when requested by Agency or when the backup withholding status or any other relevant information of Applicant has changed since the last submitted W-9 form, if any.

5.3.3 Business Registry

If selected for award, Applicant shall be duly authorized by the State of Oregon to transact business in the State of Oregon before executing the Agreement. Visit <http://sos.oregon.gov/business/pages/register.aspx> for Oregon Business Registry information.

5.4 AGREEMENT NEGOTIATION

5.4.1 Negotiation

After selection of a successful Applicant, Agency may enter into Agreement negotiations with the successful Applicant. By submitting an Application, Applicant agrees to comply with the requirements of the RFA, including the terms and conditions of the Sample Grant Agreement (Attachment B), with the exception of those terms reserved for negotiation such as the Statement of Work and Insurance requirements.

Applicant shall review the attached Sample Grant Agreement and note exceptions.

Applicant must submit those exceptions to Agency during the Questions / Requests for Clarification period set forth in Section 1.2. Unless Agency agrees to modify any of the terms and conditions, Agency intends to enter into an Agreement with the successful Applicant substantially in the form set forth in Sample Grant Agreement (Attachment B).

It may be possible to negotiate some provisions of the final Sample Grant Agreement; however, Agency is not required to make any changes and many provisions cannot be changed. Applicant is cautioned that the State of Oregon believes modifications to the standard provisions constitute increased risk and increased cost to the State. Therefore, Agency will consider the Scope of requested exceptions in the evaluation of Application.

Any subsequent negotiated changes are subject to prior approval of the Oregon Department of Justice.

Agency is unable to negotiate the items listed below:

- Choice of law
- Choice of venue
- Constitutional requirements
- Requirements of applicable federal and State law

In the event that the parties have not reached mutually agreeable terms within 30 calendar days, Agency may terminate Negotiations.

SECTION 6: ADDITIONAL INFORMATION

6.1 GOVERNING LAWS AND REGULATIONS

This RFA is governed by the laws of the State of Oregon. Venue for any administrative or judicial action relating to this RFA, evaluation and award is the Circuit Court of Marion County for the State of Oregon; provided, however, if a proceeding must be brought in a federal forum, then it must be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Section be construed as a waiver by the State of Oregon of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the eleventh amendment to the Constitution of the United States or otherwise, to or from any Claim or consent to the jurisdiction of any court.

6.2 OWNERSHIP/PERMISSION TO USE MATERIALS

All Applications are public record and are subject to public inspection. Application of the Oregon Public Records Law will determine whether any information is actually exempt from disclosure.

The Oregon Public Records Law (“PRL”) may provide confidentiality protection to some or all of your Application, at least on a limited basis.

- A. The PRL exempts purported trade secrets from disclosure only so far as they qualify as bona fide trade secrets, and the exemption in ORS 192.345(2) from disclosure applies only "unless the public interest requires disclosure in the particular instance". 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 Oregon law. Please identify in your Application any materials that you deem to constitute trade secrets. Failure to do so may be deemed by Agency as a waiver by Applicant of this records exemption.
- B. The PRL exempts to one degree or another certain records, communications and information obtained by Agency, including through this RFA. This protection normally is discretionary with Agency. Please refer to ORS 192.355(24) for the specifics of this exemption.
- C. The PRL, in ORS 192.355(4), allows information submitted to a public body in confidence and not otherwise required by law to be submitted to that body, “where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the

public interest would suffer by the disclosure.” In a competitive solicitation such as this RFA, the terms of individual Applications manifestly must be deemed and treated as confidential (at least through the point in time when Notice of Intent to Award is made with respect to this RFA have been given, and perhaps longer) if (i) the competitive purposes of the RFA are to be realized, (ii) the confidential distinguishing aspects of Applications are to be protected, and (iii) Agency’s interest in maximizing the number and innovative nature of Applications is to be achieved. If the Applicant identifies that its Application is being submitted in confidence pursuant to ORS 192.355(4) by so stating in writing on its Application through Attachment C, Agency hereby obliges itself in good faith not to disclose the Application to the public consistent with the terms of ORS 192.355(4) - at least through the point in time when Notice of Intent to Award is fully provided under this RFA, and perhaps longer if Agency determines, inter alia, that such additional confidentiality serves the purposes of Agency programs, the public, or the purposes of this RFA.

All Applications submitted in response to this RFA become the Property of Agency. By submitting an Application in response to this RFA, Applicant grants the State a non-exclusive, perpetual, irrevocable, royalty-free license for the rights to copy, distribute, display, prepare derivative works of and transmit the Application solely for the purpose of evaluating the Application, negotiating an Agreement, if awarded to Applicant, or as otherwise needed to administer the RFA process, and to fulfill obligations under Oregon Public Records Law (ORS 192.311 through 192.478). Applications, including supporting materials, will not be returned to Applicant unless the Application is submitted late.

6.3 CANCELLATION OF RFA; REJECTION OF APPLICATION; NO DAMAGES.

Agency may reject any or all Applications in-whole or in-part, or may cancel this RFA at any time when the rejection or cancellation is in the best interest of the State or Agency, as determined by Agency. Neither the State nor Agency is liable to any Applicant for any loss or expense caused by or resulting from the delay, suspension, or cancellation of the RFA, award, or rejection of any Application.

6.4 COST OF SUBMITTING AN APPLICATION

Applicant shall pay all the costs in submitting its Application, including, but not limited to, the costs to prepare and submit the Application, costs of samples and other supporting materials, costs to participate in demonstrations, or costs associated with protests.

6.5 CHECKLIST DISCLAIMER

Any checklists that may be contained in this RFA are provided only as a courtesy to prospective Applicant. Agency makes no representation as to the completeness or accuracy of any Checklist. Prospective Applicant is solely responsible for reviewing and understanding the RFA and complying with all the requirements of this RFA, whether listed in a checklist or not. Neither the State nor Agency is liable for any claims, or subject to any defenses, asserted by Applicant based upon, resulting from, or related to, Applicant’s failure to comprehend all requirements of this RFA.