



# Permanent Loan Guarantee Program

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## Table of Contents

Table of Contents .....	1
Program description .....	2
Purpose .....	2
Program Structure .....	3
Funding Source Priorities .....	6
Threshold Requirements .....	8
Other LGP Criteria and Requirements.....	8
Application Process: .....	11
Review and Approval: .....	11
Program Opening and Closing:.....	12
Disclosure .....	12
Evaluation Criteria.....	12
Fund Oversubscription/Tiebreakers.....	13
Application package.....	13
Lender Documents .....	14
Appendix a: pathway matrix.....	15

## Program description

### Purpose

The Loan Guarantee Program (LGP) is intended to enhance the borrowing-ability of affordable housing developers by reducing the risk for lenders by guaranteeing a portion of the loan being used for the construction, development, acquisition, or rehabilitation of housing for persons with moderate, low, or very low income. (see OAR chapter 813, division 043). This allows OHCS to use a limited amount of resources to create a larger impact by driving the market to lend to a broader range of projects than the market would support on its own. The broader goal of this program is to use these guarantees to act as an initial booster to those areas of the state that are unable to secure loans due to a lack of previous investment, and thus to build confidence from lenders through successful development that can be used to prove out an area's market viability.

OHCS has the ability to guarantee portions of loans by leveraging resources in a “guarantee account” with a balance of approximately \$15 million. In a case where a loan with a guarantee ends up in a financial default or foreclosure, depending on the terms of the guarantee, the state would loan the project out from this guarantee account, through a process described in Section 1.B.1.D of this manual, to cover the loss up to a certain amount.

Organizations eligible to apply for a loan guarantee under the LGP (an “Applicant”) include the following:

1. Local governments
2. Local housing authorities
3. Nonprofit organizations
4. Federally recognized Tribal Governments
5. For-profit businesses

Eligible lenders include the following:

1. State and federal regulated banks
2. Credit unions
3. Savings and loans

4. Savings banks
5. Finance companies
6. Life insurance companies
7. Pension funds
8. Mortgage bankers
9. Public or private lending consortiums
10. Government entities that offer loan funds

Successful guarantee recipients will demonstrate sound experience and strong development capacity. LGP is a revolving loan program intended to assist with the securing of the loan until the project is stabilized and then reusing the resources, either unused or repaid, to assist other projects.

## **Program Structure**

### **Guarantee Terms**

Fundamental to creating a program that will be useful is balancing the public use with the risk tolerance of the state. The following are structural terms that are part of the program framework.

### **Eligible Loan Types**

For eligible projects, lenders, and developers as defined in OAR 813-043-0020 and this manual, the LGP may be utilized for permanent loans only. The timing of the permanent loan can vary, however, and OHCS will allow for loan guarantee to be used at the timing of conversion of a construction to a permanent loan if there was a forward commitment of the permanent loan and a need to right size the loan based on unforeseen market factors.

### **Payback**

If the guarantee needs to be utilized, payment will convert to a subordinate mortgage loan agreed to upfront by all parties. The loan term will run concurrent with the primary permanent loan maturity, have a zero percent interest rate, no payments due and payable until the earlier of loan maturity, sale, or refinance. Upon sale or refinance, the loan would either be re-invested into the project or be due and repaid to the agency in full to be recycled into our Guarantee Fund depending on needs and affordability structure. Exceptions to repayment will be allowable if there is demonstrated need

## Top Loss

In the case of financial default or foreclosure, the LGP will cover the first loss, and any loss experienced up to the total amount guaranteed remaining of the initial awarded and approved amount.

## Usage Options

- In an effort to mitigate different types of perceived risks to the project, and to allow for use of the resource to stabilize projects prior to total loss, the LGP allows for different repayment options depending on need, up to the amount initially awarded. The options to use the guarantee include:
- Principal pay-down in the form of a lump sum payment to “right size” a loan up to the underwritten amount. This option can only be undertaken after Certificate of Occupancy. If option is utilized, OHCS will be a party to the lender’s stabilization analysis to verify need.
- Making debt service payments on both principal and interest for a period of time. The period of time and percent of payments covered by OHCS will be negotiated upon activation. Total amount may not exceed total value of initial guarantee. If required for greater than 12 months, OHCS will reevaluate options with lender and determine if continuation of payments is best path for sustainability of the project.
- If true-loss, repayment to lender up to the remaining amount of the awarded guarantee.

## Pathways

In an effort to make the LGP both predictable, for lenders who need to know how the program will function, and flexible, for use on different projects with different types of risk, OHCS has created a series of potential pathways that will guide the terms of the guaranteed amount. A matrix depicting these pathways can be found in Appendix A: Pathway Matrix. They are as follows:

- The project is in a rural area and the developer is a culturally specific organization:
  - i. Up to 35% of permanent loan can be guaranteed.
  - ii. No cap on guarantee amount.
  - iii. Guarantee remains in effect for up to ten (10) years.
- The project is in a non-rural area and the developer is a culturally specific

organization:

- i. Up to 30% of the permanent loan can be guaranteed.
  - ii. Five million dollar (\$5,000,000) cap on guarantee amount.
  - iii. Guarantee remains in effect for up to seven (7) years.
- The project is in a rural area and the developer is not a culturally specific organization:
  - i. Up to 25% of the permanent loan can be guaranteed.
  - ii. Five million dollar (\$5,000,000) cap on guarantee amount.
  - iii. Guarantee remains in effect for up to seven (7) years.
- The project is in a non-rural area and the developer is not a culturally specific organization:
  - i. Up to 20% of the permanent loan can be guaranteed.
  - ii. Four million dollar (\$4,000,000) cap on guarantee amount.
  - iii. Guarantee remains in effect for up to five (5) years.

### **Underwriting Criteria**

To receive a guarantee, the developer and the lender must together submit an application (application process defined in Section 2) that demonstrates financial viability and is able to pass OHCS general underwriting criteria and program limits, which have received the necessary review and approval of the Housing Stability Council. Those program limits as defined for the LGP are as follows:

### **Operating Expenses**

Operating expenses will be reviewed for reasonableness within the budgets submitted; Applicant may be required to submit documentation (including for example three years of audited financials for rehabilitation Projects, appraisals to support new construction or rehabilitation projects, or project specific expenses for Permanent Supportive Housing properties) to substantiate that any or all of the Project's revenue or costs are reasonable. OHCS will review against its portfolio and take into consideration input from lenders and investors.

### **Minimum Debt Coverage Ratio**

The minimum Debt Coverage Ratio (DCR) will be 1.15:1 for all hard amortizing debt through the initial 20-year pro forma period. Projects are underwritten on

an individual basis in concert with the lenders to determine an appropriate DCR and perform subsidy layering, if applicable.

### **Vacancy Rate**

Assumptions for vacancy rate within the proforma will be approved between five (5) and seven (7) percent.

### **Funding Source Priorities**

The LGP is not statutorily required to target any particular type of project, however the projects for which this program would be most valuable are those that tend to fall into a “grey area” for many lenders. For example, a project in a rural area where there is not much development history, and thus very few comparable projects, will be harder for a lender or developer to prove out that they can be successful via a market study. The same logic can also apply to development in historically neglected or undeveloped communities of color, where the lack of investment due to historic racist policies like redlining continue to cast a shadow on areas that were intentionally disinvested from and thus are still challenging to find comparable or successful development that lenders can use in market studies. Further, in OAR 813-043-0020 (4)(d), OHCS affirms its commitment to the program being prioritized for use in rural markets and for small and culturally specific organizations.

### **Priority Definitions**

The program will use the following definitions of rural and culturally specific organization when determining eligibility.

#### **Rural**

The definition of Rural is the definition that is in the most recent version of the ORCA on the OHCS [website](#).

#### **Culturally Specific Organization (CSO)**

An entity that provides services to a cultural community and the entity has the following characteristics:

- Majority of members and/or clients must be from a particular cultural community that has faced housing discrimination;
- Organizational environment is culturally focused, and the community being served recognizes it as a culturally-specific entity that provides culturally and linguistically responsive services;

- Majority of staff must be from the cultural community being served, and the majority of the leadership (defined to collectively include board members and management positions) must be from the cultural community being served;
- The entity has a track record of successful community engagement and involvement with the cultural community being served, rooted on a foundation of respect and trust; and
- The organization engages in advocacy for housing and/or economic justice for the cultural community with their guidance.

### **Set Asides**

In alignment with the mission and values of Oregon Housing and Community Services, the LGP must also support equitable resource distribution to cultural communities. The program, as mentioned above, intends to do so through prioritizing guarantees for culturally specific organizations, and through provision of preferential guarantee terms for these entities, as described in Section 1.B.1.E. Part of this prioritization is to set-aside resources for culturally specific organizations use.

The LGP set asides are as follows:

Fifty percent (50%) of all available resources at the beginning of every fiscal year must be restricted to use by culturally specific organizations for a minimum of six (6) months before being opened to other Applicants. If the LGP Culturally Specific Organization allocation is not fully utilized after this six (6) month period, this funding allocation will be made open and not limited to the funding source targets. All new and newly recycled funding allocations will be subject to these timing provisions.

- The remaining fifty percent (50%) of funds to all eligible organizations and may be used by any eligible organization for any eligible project, as defined in OAR 813-043.

## Threshold Requirements

OHCS is charged with administration of this program and has developed program regulations designed to fulfill the intent of the Legislative action creating the LGP as well as OHCS's mission.

## Affordability Restrictions

To receive funding, the project must serve moderate, low, or very low-income tenants, defined as having a household income of 120% of HUD's Area Median Income or lower.

All housing developed using LGP resources, whether the guarantee is actually activated or not, shall be preserved at the initially agreed upon affordability restrictions for a minimum of ten (10) years. If there are other programmatic restrictions from OHCS or any other entity, the most restrictive will apply. The affordability restrictions shall be documented through documents acceptable to OHCS including a project use agreement that is recorded at the applicant's expense in the relevant jurisdiction(s). The project use agreement will provide for, but is not limited to, income and rent restrictions.

## Diversity, Equity and Inclusionary (DEI) Agreement

The DEI Agreement is an [agreement](#) all Applicants must complete and submit to OHCS on an annual basis to be eligible for OHCS funding. It is an electronic survey in which organizations commit to making progress on specific organizational DEI goals, and update progress made on those goals annually.

## Other LGP Criteria and Requirements

- A. Use of Purchased Property:** OHCS resources are only available to guarantee loans being used to finance construction, development, acquisition and/or rehabilitation of property exclusively for providing housing for moderate, low, or very low-income households or loans being used to finance the commercial component of a structure that contains commercial property in conjunction with affordable housing for moderate, low, and very low-income families. Property (including portions of the property) utilized for any other purpose is not eligible for LGP funding.

- B. Applicability of Program Restrictions:** Program restrictions are applicable to all property developed using loans that leveraged LGP resources.
- C. Application Deadlines:** LGP is a rolling program with no application deadline. Applications will be opened in quarter one of each calendar year with specific guidelines and requirements for submission. Applications will then be accepted and projects considered for funding based upon the availability of funds. The intent of this is to respond quickly to the potential needs of Applicants to secure sites as they become available in markets where there is an urgent need for housing and there is competition for limited developable land.
- D. Loan Terms:** LGP loans, given to projects for one of the purposes defined in Section 1.B.1.D, have zero percent interest and require no payments until the earlier of loan maturity, sale, or refinance. The maximum amount of the loan is based on both the pathway the project fits into as well as the total value of the permanent loan (see Appendix A: Pathway Matrix for pathway detail). Loan repayments will be negotiated with each project that requires an activated guarantee, and will either be recycled to back future guarantees, repaid into the project itself to ensure continued affordability, or another option as agreed upon by all parties and approved by OHCS who retains the final determination of how resources will be repaid and then utilized. **Receipt of an LGP guarantee does not grant the recipient any guarantee or preference for any other OHCS financing product.**

After the maximum term of the guarantee has passed, if the project has not been sold or refinanced, or had to activate the guarantee, the guarantee will no longer be active. However, the project is still expected to meet the affordability restrictions that were established in the approved application for the entire period agreed upon, even if the guarantee is no longer active. This includes instances in which the project is sold or refinanced. OHCS will continue to monitor the project for the life of the compliance period through annual self-certification, and projects deemed out of compliance will be liable for a penalty as expressed in Section 1.B.4.F.

**E. Required Reporting:** Guarantee recipients are required to provide an annual certification from the lender that is leveraging the LGP. The lender will be required to submit an annual report to OHCS by May 31<sup>st</sup> of each year. The report must be submitted on a form furnished or otherwise approved by OHCS and signed by an officer of the lending institution. Guarantees approved on or after January 1 are not required to submit an annual update the first year. Program default procedures may be commenced on guarantee recipients that do not submit the LGP Annual Update Form timely. The LGP Annual Update form may be found on the OHCS website at <https://www.oregon.gov/ohcs/rental-housing/housing-development/development-resources/Pages/permanent-loan-guarantee.aspx>.

**Failure to Meet Terms:** If the borrower fails to use the property in a way consistent with the original affordable housing development plan, or if the borrower does not abide by any terms of their agreement or this policy, then the borrower will be required to repay OHCS any amount of the guarantee that was paid to the project. In the event the guarantee was either not utilized to date or the term of the guarantee has expired and the borrower has failed to use the property in a way consistent with the original affordable housing development plan, or if the borrower has not abided by any terms of their agreement or this policy, then the borrower may be assessed a financial penalty to OHCS of 10% of the awarded guarantee amount.

Assignments are allowable to related parties only if all requirements associated with the LGP will be attached to the assignment, including timeframes and affordability restrictions. Related parties are defined as an affiliate, subordinate, disregarded entity or any entity controlling or controlled by the purchasing entity including but not limited to a Partnership or Limited Liability Company where the borrower or its affiliate is the general partner or managing member.

In the event of a property sale, OHCS will be reimbursed the full LGP loan value regardless of sale proceeds. Generally, property sales will fall into two categories:

- **A sale retaining LGP requirements** – under this scenario, OHCS must approve the sale and its terms. Any loan inequities caused by market changes must be negotiated between the buyer and seller as all

OHCS guarantee terms including but not limited to guarantee amount, affordability and timeframes will remain the same and be transferred to the buyer. No penalties will be enforced through this type of sale.

**A sale abandoning LGP requirements** – under this scenario, the loan recipient is responsible for repayment of the entire amount of the LGP guarantee that has been loaned at the time of the sale, and will be assessed a financial penalty (10% of the awarded guarantee amount) regardless of the terms of the property sale. Any net proceeds\* will be split equally between the seller and OHCS.

\*Net Proceeds are defined as profits made by the LGP recipient after all costs associated with the sale of the restricted property to a third party are factored in. Any costs affiliated with the LGP including penalties and cost associated with property maintenance, taxes, etc. are not factored into this formula.

Repayment of any amount owed to OHCS must be made upon demand or under terms determined by OHCS following the determination that the borrower has not met program requirements.

For additional information, see OAR chapter 813, division 043.

### **Application Process:**

The LGP application process is a two-step process that requires the Applicant to submit a pre-application survey and an intake application. All Applicants, including the lender representative must meet eligibility requirements and complete the following forms:

- [OHCS DEI Agreement Survey.](#)
- [OHCS Prequalification Form.](#)
- [OHCS ORCA Intake Form.](#)
- [OHCS Permanent Loan Guarantee Intake Form.](#)
- OHCS LGP Packet.

### **Review and Approval:**

- Once an intake application is received, OHCS will create a Procorem WorkCenter for the project. After Applicants receive access to Procorem WorkCenter, an invoice task will direct the Applicants to instructions on

how to submit the LGP application charge of \$500. Application materials must be submitted to Procorem WorkCenter.

- OHCS will refund the application charge if it is unable to consider the application due to insufficient funding. Applications not funded after application of tiebreaking rules will be charged an application fee.
- OHCS staff will review applications to ensure that they are complete. OHCS may seek clarification from Applicants and may conduct discussions and negotiations with Applicants who submit applications found to be reasonably likely to be selected for an award. OHCS may also negotiate with Applicants on award amounts, particularly in instances where OHCS is unable to fully finance a guarantee request.
- Applications will be considered by the underwriting program manager and OHCS Finance Committee with final approval by the OHCS Director.
- If OHCS recommends an award for a project, the Applicant will work with an assigned Production Analyst to provide all required items needed to complete the Full Application before final approvals are given.

### **Program Opening and Closing:**

LGP applications are accepted on a rolling basis with no application deadline. Applications will be accepted and projects considered for funding based upon the availability of funds. If available funds are fully reserved for existing guarantees, OHCS will issue a notice that the program is closed until further funding becomes available.

### **Disclosure**

OHCS reserves the right to retain all submitted applications. All materials and information submitted are subject to public disclosure unless otherwise exempt from disclosure under the Oregon Public Records Act (ORS 192.311 through ORS 192.478). No assurances can be given that any materials provided can be protected from public review and copying. Additionally, OHCS reserves the right to reject any and all applications and to negotiate acceptable applications with selected Applicants.

### **Evaluation Criteria**

- Applications will be evaluated on several criteria, including the following:
- Evidence of strong organizational and financial capacity of the Applicant (evidence may include, but is not limited to, balance sheet, credit report, reference letters, SRO schedule, financial statements, etc.) to develop the

project including a demonstrated track record of receiving anticipated construction and permanent takeout financing;

- The Applicant's housing plan is well thought out and attainable;
- Urgency to acquire loan in order to provide affordable housing;
- Necessity of guarantee for loan to be secured;
- Lender commitment and/or preapproval;
- Balancing need and geographic distribution.

### **Fund Oversubscription/Tiebreakers**

The LGP is a first-come first-reviewed program with evaluation criteria designed for approval of an application on its own merit as opposed to a competitive scoring process. The LGP allows for outstanding guarantees to be made in a total amount up to the total amount in the Guarantee Fund. If approval of the guaranteed amount requested would put the outstanding requests over the amount in the Guarantee Fund, the Applicant may request a lesser amount.

In the event of the oversubscription of the LGP, the following progression (in the listed order) will be applied to determine which application may receive a loan guarantee from the available funding:

- 1.** Applicants that demonstrate their intention to affirmatively engage with culturally responsive organizations in the creation and development of the project.
- 2.** If a funding determination cannot be made from application of subsection 1 above, OHCS will provide a loan guarantee to the Applicant's project request that is located in the census tract with the highest current "housing need". "Housing need" is defined as the percentage of severely rent burdened families (on a census tract level). Housing need levels will be compared to the first whole number.
- 3.** If a funding determination cannot be made from use of subsection 1 or 2 above, OHCS will provide a loan guarantee to the Applicant's project located in the city with the lowest population as of the latest available Portland State University Population Research Center data at the time of application.

### **Application package**

Once OHCS determines that an Applicant's Permanent Loan Guarantee Intake Form has been completed, the Applicant will be provided access to a project-specific Procorem WorkCenter. An Applicant must use the Tasks listed in Procorem WorkCenter to verify that the LGP application includes all of the

required supplemental documents. An Applicant must provide the following information in or as an attachment to the project's Procurement WorkCenter.

### **Lender Documents**

The lender must upload a 'loan packet' for review that includes:

- **Loan Guarantee Excel Application.**
- **Formal Commitment/ Letter of Interest (LOI) from Lender:** The Permanent Loan Guarantee Program requires lenders to provide a LOI stating that an agreement to make the loan is in place and describing how the loan will benefit the community it intends to serve. Preapproval will work but will need final commitment before documents are signed.
- **Draft Loan Documents:** All draft loan documents needed for review prior to documents being signed.
- **Lender Approved 30-year Proforma:** Provide lender-approved 30-year proforma supporting OHCS required minimum DCR for the initial 20-year proforma period and vacancy rate assumptions.
- **Lender Appraisal and Market Study:** Supporting Loan to Value, absorption rate, and proposed rent.
- **Financial Statements for existing properties:** Provide at least 3 years historical income statements and balance sheets, including parents, affiliate and subsidiary firms, annual audits if available, and current (not more than 90 days old) balance sheet & profit and loss statements for the property.
- **Current Financial statements (for all projects):** Current financial statements for Applicant (not more than 90 days old).
- **Credit Report:** Provide credit reports for Applicant, its principals, and any parent, affiliate or subsidiary firms.
- **Lender Analysis of the Financial Statements:** Must address the Applicant's management, repayment ability, history of debt repayment, necessity for any debt refinancing, and the credit reports on the Applicant, its principals, and any parent, affiliate or subsidiary firms. Should also include narrative for necessity of guarantee from lender perspective.

**Applicant Documents:** The Applicant uploads the following:

- **Prequalification:** Register and/or ensure your pre-qualification

documents are updated in the [OHCS Pre-qualification registry](#).

Applicants will need to be pre-qualified by OHCS before moving on past the Impact Assessment step.

- **Loan Narrative:** Provide loan narrative including a brief description of the project, as well as details surrounding the necessity of guarantee for the loan to be secured and the urgency to acquire the loan in order to provide affordable housing.
- **Ownership Integrity Form.**
- **Perm Loan Guarantee Disclosure.**
- **Diversity, Equity and Inclusionary (DEI) Agreement.**

Contact [Fatima.Weir@hcs.oregon.gov](mailto:Fatima.Weir@hcs.oregon.gov) with any questions surrounding the Loan Guarantee Program or the application process.

## Appendix a: pathway matrix

Organization Type	Rural	Urban
<b>Non-Culturally Specific Organizations</b>	Up to 25% perm loan; \$5 million cap; Up to 7 years	Up to 20% perm loan; \$4 million cap; Up to 5 years
<b>Culturally Specific Organizations</b>	Up to 35% perm loan; No cap; Up to 10 years	Up to 30% perm loan; \$5 million cap; Up to 7 years