

RULES PROPOSED:

736-006-0105, 736-006-0110, 736-006-0115, 736-006-0125, 736-006-0140, 736-006-0145

AMEND: 736-006-0105

RULE TITLE: Statutory Authority and Procedure

RULE SUMMARY: Describes the statutory authority for local government grant program rules. Proposed amendments clarify that when funding dedicated to the program from constitutionally dedicated lottery funds exceed 150 percent of funds available during the 2009-11 biennium, the available grant funds will increase to 25% of OPRD's portion of lottery funds. If lottery revenues drop below that threshold, the percent available for the grant program would return to 12% of OPRD's lottery funding.

RULE TEXT:

ORS 390.180 requires the director to adopt rules establishing procedures the Oregon Parks and Recreation Department shall use when the department disburses money to local governments.

(1) As required by in ORS 390.134(9) if the Parks and Natural Resource Fund received from the Oregon Lottery during a biennium is more than 150 percent of the amount that was transferred during the 2009-2011 biennium, the available funds for the grants will be 25 percent of the Parks subaccount lottery funding transferred to the State Parks and Recreation Department Fund during the preceding biennium.

(2) If funding during a preceding biennium drops below 150 percent of the amount that was transferred during the 2009-2011 biennium, the available funds for grants will revert to twelve percent of the amount transferred to the State Parks and Recreation Department Fund in the following biennium.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-006-0110

RULE TITLE: Definitions

RULE SUMMARY: Provides definitions for use throughout division six. Proposed changes make minor changes to definitions.

RULE TEXT:

As used in this division, unless the context requires otherwise:

- (1) "Acquisition" —The gaining of property rights, including but not limited to fee title or easements, for public use.
- (2) "Bicycle recreation" — The use of bicycles for enjoyment, social interaction, education, or physical well-being while on recreational trails or paths that are not along or adjacent to public roads or streets, and that are primarily recreational rather than transportation in nature.
- (3) "Commission" — The Oregon Parks and Recreation Commission.
- (4) "Committee" —The Local Government Grant Advisory Committee appointed by the director to prioritize local government project applications.
- (5) "Conversion" — The act of utilizing property acquired or developed using either Local Government Grant Program funds or Land and Water Conservation Funds for purposes other than public outdoor recreation uses.
- (6) "Current Master Plan" — A site-specific resource-based plan guiding recreational site acquisition, development, protection, and management of park areas and facilities.
- (7) "Department" — The Oregon Parks and Recreation Department (OPRD).
- (8) "Development" — The construction or rehabilitation of facilities necessary for the use and enjoyment of public outdoor recreation resources.
- (9) "Director" — Director of the Oregon Parks and Recreation Department or their designee.
- (10) "Force Account" — The governmental entity's own work force performing project work rather than contracting out for the services.
- (11) "LWCF or Land and Water Conservation Fund" — Means those funds made available to the state through the Land and Water Conservation Fund Act of 1965 (Public Law 88-578).
- (12) "Local Comprehensive Plan" — The acknowledged comprehensive land use plan prepared by each local jurisdiction within the state, as required by ORS chapter 197.
- (13) "Local governments" — Cities, municipal corporations, counties, political subdivisions, park and recreation districts, port districts, and metropolitan service districts.

- (14) "Local Government Grant Policies and Procedures Manual" — A manual prepared by the department containing policies, procedures and instructions to assist local government agencies wishing to participate in the Local Government Grant Program.
- (15) "Local Government Grant Program" — The program and process for distributing state monies to eligible local governments for outdoor park and recreation areas and facilities located on properties controlled or managed by the eligible local government.
- (16) "Major rehabilitation" — The repair, restoration, or reconstruction of facilities, which is necessitated by obsolescence, building code changes, or normal wear and tear.
- (17) "OPRD" — The Oregon Parks and Recreation Department.
- (18) "Outdoor recreation" — Structured and unstructured leisure and fitness activities that occur in open air and are not provided in a roofed and enclosed facility.
- (19) "Project" — The planning or feasibility study documents or the site and associated improvements where acquisition, development, or major rehabilitation will occur.
- (20) "Project authorization" — The State/Local Agreement that authorizes the project to begin effective on or after the date signed by both the Director and Project Sponsor or their designee.
- (21) "Project sponsor" — The recipient of the grant funds and the entity responsible for implementation of the project and the maintenance and operation of the site.
- (22) "SCORP" — The Statewide Comprehensive Outdoor Recreation Plan, the document used to identify and assess Oregon's outdoor recreation needs.
- (23) "State/Local Agreement" — The signed agreement between the department and project sponsor, which authorizes the project to begin.
- (24) "Sustainability" — Using, developing, protecting, and managing the resource in a manner that enables people to meet current and future generation needs from the multiple perspective of environmental, economic, and community objectives.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-006-0115

RULE TITLE: Apportionment of Monies

RULE SUMMARY: Sets the maximum grant award sizes and process for determining split of grant funding into different types of awards. Proposed amendments increase the maximum grant award amounts.

RULE TEXT:

- (1) Up to 20 percent of available funds shall be set aside for small grants. Small grants are projects with a maximum \$100,000 grant request.
- (2) Other than for land acquisitions, the remainder of available funds shall be for large projects with a maximum of up to \$1,000,000 grant request.
- (3) A project sponsor may request grant funding for land acquisitions in an amount not to exceed \$1,000,000.
- (4) In consultation with the committee, the commission and the director may set the maximum at more or less than that above amounts based upon the availability of funds.
- (5) Based on the quality and quantity of eligible projects, the committee, with concurrence of the director, may dedicate a portion of the funds for projects expected to be completed within 12 months of grant award.
- (6) In consultation with the committee, the director may dedicate a portion of the available funds to projects located in cities or districts with populations under 25,000 and counties with populations under 50,000.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-006-0125

RULE TITLE: Application Procedure

RULE SUMMARY: This rule describes the requirements for applicants to Local Government grant program. Proposed changes clarify required documentation for grant applicants.

RULE TEXT:

The purpose of this rule is to set forth requirements that must be met by local government applicants applying for Local Government Grant Program funding assistance.

(1) Eligibility for funding assistance. Public agencies eligible for state funding assistance are:

(a) Cities, municipal corporations;

(b) Counties, political subdivisions;

(c) Park and recreation districts;

(d) Port districts;

(e) Metropolitan service districts.

(2) Matching requirements:

(a) Cities and districts with a population greater than 25,000 and counties with a population greater than 50,000 must provide a match of at least 50 percent of total project costs.

(b) Cities and districts with a population between 5,000 and 25,000 and counties with a population between 30,000 and 50,000 must provide a match of at least 40 percent of total project costs.

(c) Cities and districts with a population of less than 5,000 and counties with a population of less than 30,000 must provide a match of at least 20 percent of total project costs.

(d) If an applicant established that a situation of extreme economic hardship impacts a project, the applicant may request that the director authorize a reduced match down to a minimum of 20 percent of total project costs. The director has sole discretion to authorize a reduced match under this subsection based on consideration of the applicant's request, the project, and the project's eligible match; the availability of funds; the scope and need of projects available for funding; and the urgency and statewide importance of prospective projects.

(e) The eligible match by the project sponsor may include local budgeted funds, local agency labor or equipment, federal revenue sharing, other eligible grants, state and county inmate labor, donated funds, the value of private donated property, equipment, materials, labor, the value of land acquired within the past six-year period, cost of appraisals, pre-development costs within the past two-year period or any combination thereof. Engineering and administration costs and costs incurred prior to the State/Local Agreement cannot exceed 15 percent of the total project costs.

(3) Eligible projects:

(a) Acquisition, development, major rehabilitation, planning, or feasibility study projects that are consistent with the outdoor recreation goals and objectives contained in the SCORP, the recreation elements of local comprehensive plans, local master plans or other locally adopted planning documents. Projects may support traditional outdoor recreation settings such as parks, or funds may be provided for: projects that ensure natural and cultural resource protection while maintaining public access for recreation; projects that protect public open space; bicycle recreation; non-motorized water recreation; trails for non-motorized recreation; or emerging new outdoor recreation trends. Only outdoor park and recreation areas and facilities are eligible.

(b) Water based outdoor recreation facilities such as short-term transient moorages and non-motorized boat and watercraft projects, trails, support facilities for non-motorized water recreation, and water access.

(4) Planning requirements. Project sponsors participating in the funding assistance program must show that:

(a) There is a current master plan in effect and that the project is consistent with the local comprehensive land use plan and SCORP,

(b) There is not a current master plan in effect, but the project is consistent with the local comprehensive land use plan and SCORP, or

(c) The project request is for planning assistance.

(5) Application procedure.

(a) All applications for funding assistance for outdoor park and recreation program projects must be submitted in a format as prescribed and supplied by the department. All applications must be consistent with the Local Government Grant Policies and Procedures Manual and contain the following information:

(A) Project narrative;

(B) Environmental review;

(C) State agency review;

(D) Maps;

(i) Vicinity map;

(ii) Project boundary map;

(E) Copy of property deed or lease or formal and binding control and tenure agreement showing

cooperation with the landowner to ensure long-term use, generally not less than 25 years, of facilities for public recreation;

(F) Preliminary plans for construction projects;

(G) Estimate of project costs and schedule;

(H) Land use compatibility statement completed by the appropriate planning department;

(I) Certification by applicant of availability of local match;

(J) All required permits and certifications as identified in the Local Government Grant Policies and Procedure Manual;

(K) Other documentation that may be required by the department.

(b) Additional requirements for acquisition projects: Appraisal. Appraisals must conform to the Uniform Standards of Professional Appraisal Practice (USPAP);

(A) Appraisal review;

(B) Preliminary title report; and

(C) Proof of willing seller or donor.

(6) Application Process:

(a) The department shall announce through a variety of media the availability of, procedures for, deadlines and other information for applying for Local Government Grant Program assistance. Department staff shall perform a technical review of all applications and forward eligible large grant applications to the committee. The committee will meet to evaluate the applications and make recommendations to the director for commission approval. The commission may deny any or all recommendations of the committee.

(b) Project sponsors may be expected to provide a presentation to the committee under a procedure established by the department.

(c) In the event that the funding assistance available cannot fully fund the last priority project, a Project Sponsor may be given the option of reducing the scope of the project. The Department, at its discretion, may pass the available funds to another priority project or hold the remaining funds and combine them with the next planned distribution of funds.

(7) Project administration:

(a) A signed State/Local Agreement shall constitute project authorization. No grant funds may be disbursed without a signed State/Local Agreement from the department.

(b) The project sponsor shall have six months from the date of authorization to begin substantial work (e.g. the award of contracts or completion of at least 25 percent of the work, if done by force account). The department may cancel a grant when the project not conforming to this schedule, unless the project sponsor provides substantial justification to warrant an extension.

(c) The project sponsor shall complete all projects by the dates as specified in the State/Local Agreement.

(d) The department may inspect all projects.

(e) Partial payments up to 90 percent of the grant amount may be requested during the project for work completed. Final payment will be made upon certification of project completion by the Project Sponsor. Real property acquisitions may receive the full grant amount if the funds are to be dispersed in escrow for the closing of a property acquisition.

(f) The Department may provide the Project sponsor partial payments of up to 25 percent of the grant amount after the Department issues the Notice to Proceed and in advance of work completed if a general contractor requires advanced funding prior to construction/development work or ordering materials/supplies.

(g) Project amendments that increase the Local Government Grant award amount will generally not be allowed. Project amendment requests based on extraordinary circumstances will, however, be reviewed on a case-by-case basis.

(h) Requests for time extensions must be submitted in writing and approved by the department prior to the expiration of the approved project period as set forth in the State/Local agreement.

(8) The project sponsor shall install and maintain throughout the life of the agreement appropriate signage for each project indicating the Oregon Parks and Recreation Department Grant Program's assistance and shall certify that signage is in place prior to requesting final payment.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-006-0140

RULE TITLE: Conversion Requirements

RULE SUMMARY: Outlines requirements for use of property developed with assistance from the Local Government Grant Program. Proposed amendment would require property to be used for public outdoor recreation in perpetuity.

RULE TEXT:

(1) Park and recreation areas and facilities developed with Local Government Grant Program assistance must be dedicated for a minimum of 25 years for park and recreation purposes. Property acquired with Local Government Grant Program assistance shall be retained and used for public outdoor recreation in perpetuity. Leases for federally owned property must be at least 25 years. If the current lease is within 5 years of termination, a letter of intent to renew the lease will be required from the federal agency. Project sponsors must insure that the land within the project boundary will be used only for park and recreational purposes, Project sponsor controls or will control the land, and that the Project sponsor will not change the use of, sell, or otherwise dispose of land within the project boundary, except upon written State approval. If the Project sponsor converts land within the project boundary to use for other than outdoor park and recreation purposes or disposes of such land by sale or otherwise, applicant must provide replacement property within 24 months of either the conversion or the discovery of the conversion.

(2) If replacement property cannot be obtained within the 24 months, the project sponsor will provide payment of the grant program's prorated share of the current fair market value to OPRD. The prorated share is that percentage of the original grant (plus any amendments) as compared to the original project cost(s). The replacement property must be equal to the current fair market value of the converted property, as determined by an appraisal. The recreation utility of the replacement property must also be equal to that of the lands converted or disposed.

(3) If conversion should occur through processes outside of the project sponsor's control such as condemnation or road placement or realignment, the project sponsor will be required to pass through to OPRD the prorated share of whatever consideration is provided to the project sponsor by the entity that caused the conversion. The monetary value of whatever consideration provided by the taking entity will normally consist of the fair market value of the property established by an appraisal.

(4) Project sponsors that have not addressed or submitted documentation to the department for review and remediation of an active conversion through the Land and Water Conservation Fund Program or the Local Government Grant Program are not eligible to apply for Local Government Grant Program assistance.

(5) Project sponsors who have addressed a conversion at the local level and have submitted documentation to the department for review and remediation of the conversion through the Land and Water Conservation Fund Program or the Local Government Grant Program may apply for funding assistance.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

AMEND: 736-006-0145

RULE TITLE: Local Government Grant Advisory Committee

RULE SUMMARY: Outlines the membership of the Local Government Grant Advisory Committee and how the committee will function. Proposed changes make administrative changes to how members will be recruited.

RULE TEXT:

(1) The committee shall be composed of ten members appointed by the director to four-year terms and shall represent the following interests:

(a) Counties east of the Cascade Mountains;

(b) Counties west of the Cascade Mountains;

(c) Cities under 15,000 people;

(d) Cities over 15,000 people;

(e) Park and recreation districts, metropolitan service districts or port districts;

(f) Oregon Parks and Recreation Department;

(g) People with disabilities; and

(h) Three members of the public at large, with at least one member who represents a historically underrepresented community;

(i) The chair shall be nominated and selected by the committee.

(2) Committee members shall be selected for each position by:

(a) County representation shall be from lists supplied by the Oregon Recreation and Parks Association, Counties Section and the Association of Oregon Counties;

(b) City representation shall be from lists supplied by the Oregon Recreation and Park Association and the League of Oregon Cities;

(c) Park and recreation districts, port districts, or metropolitan service districts representation shall be from a list supplied by the Special Districts Association of Oregon;

(d) Representatives for public at large, people with disabilities, and the department shall be selected by the director.

(e) The department may consult with other appropriate organizations not otherwise listed in subsections (a) to (d) for committee membership candidates.

(3) The travel, meals and lodging expenses of all members of the committee will be reimbursed by the department according to the rates established by the Department of Administrative Services and approved by the director.

(4) Function of Local Government Grant Advisory Committee:

(a) The committee shall meet upon the call of the director. The committee will establish a priority order of eligible local government projects for state funding assistance and provide other assistance as requested by the department. The meeting will assure full and open project selection processes that will include an outreach to citizens of the state.

(b) The department will provide public notice of all projects to be presented to the committee prior to their meeting.

(5) Priority selection criteria. Large projects shall be prioritized by the committee based on at least the following:

(a) Department review and recommendations, including a technical review of each project to confirm eligibility of the local government and the proposed project.

(b) The committee shall score all applications using project selection criteria, including but not limited to the following:

(A) Extent the project demonstrates user benefits, public interest and support;

(B) Extent the project demonstrates conformance with local and state planning guidelines, the SCORP, local Park Master Plans, or other locally adopted planning documents;

(C) Financial considerations, including cost/benefit ratio;

(D) Environmental review as defined in the Local Government Grant Procedure Manual;

(E) Extent the project increases outdoor recreation opportunity in the service area;

(F) Extent the project sponsor employs the principles of sustainability in their project(s);

(G) How well the project's design accommodates people with disabilities.

(c) Small project requests will be scored and prioritized for funding by a committee appointed by the director using the above criteria in subsection (b) of this section.

STATUTORY/OTHER AUTHORITY: ORS 390.180

STATUTES/OTHER IMPLEMENTED: ORS 390.180

