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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 736
PARKS AND RECREATION DEPARTMENT

FILED
09/27/2019 9:13 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Certified Local Government and Preserving Oregon Grant Program Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/31/2019 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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Filed By:
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NEED FOR THE RULE(S):

Proposed rules are needed to provide greater transparency for applicants and clarity around grant decision-making processes. Proposed rules would establish procedures and criteria for application processes, eligibility determination and grant awards for the Certified Local Government grants and Preserving Oregon Grant programs.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

State Historic Preservation Office grant guidance available at
<https://www.oregon.gov/oprd/HCD/FINASST/Pages/grants.aspx>

FISCAL AND ECONOMIC IMPACT:

The proposed rules do not change the current eligibility requirement or process for applying for the Certified Local Government grants and Preserving Oregon Grant programs. There is minimal fiscal impact, but may lead to a reduction in administrative costs for the department as the proposed rules create greater transparency around the process for applicants.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) Certified Local Governments who choose to apply for grant funding would be impacted by the proposed rules. Members of the public who own historic buildings that choose to apply for grant funding would also be impacted by the proposed rules. (2) (a) Small businesses that own or are located within small businesses or in historic districts could be impacted by the proposed rules (b) The recordkeeping and reporting requirements for small businesses would be the

same as all grant applicants should they choose to apply. (c) There are no additional costs for professional services, equipment or labor for the proposed rules.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The experience of small business grant applicants in the past has helped to inform the process described in the proposed rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The proposed rules outline a grant application and award process developed with the assistance of previous external stakeholder committees.

RULES PROPOSED:

736-057-0000, 736-057-0010, 736-057-0020, 736-057-0030, 736-057-0040, 736-057-0050, 736-057-0060, 736-057-0070, 736-057-0080, 736-057-0090, 736-057-0100, 736-057-0110, 736-057-0120, 736-057-0130, 736-057-0140, 736-057-0150, 736-057-0160

ADOPT: 736-057-0000

RULE SUMMARY: Clarifies purpose for Certified Local Government and Preserving Oregon Grant Program Rules

CHANGES TO RULE:

736-057-0000

Purpose

The purpose of this division is to establish the procedures and criteria that the State Parks and Recreation Department will use when distributing federal Historic Preservation Fund monies to Certified Local Governments and awarding the Preserving Oregon Grant Program Funds to qualified applicants.

Statutory/Other Authority: 390.124, 358.475, 358.605, 358.612(2) and (12)

Statutes/Other Implemented: 390.124

ADOPT: 736-057-0010

RULE SUMMARY: Identifies federal requirements for the program.

CHANGES TO RULE:

736-057-0010

Federal Requirements

The Historic Preservation Fund Act of 1966, as amended, was established is to help fund the programs engendered by the National Historic Preservation Act (NHPA). The National Historic Preservation Act (NHPA; Public Law 89-665; 16 U.S.C. 470 et seq.) is legislation intended to preserve historical and archaeological sites in the United States of America. All HPF-assisted activities must meet standards set by the Secretary of the Interior.

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

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0020

RULE SUMMARY: Clarifies definitions utilized in the grant programs.

CHANGES TO RULE:

736-057-0020

Definitions

The definitions provided in ORS and apply to this division, unless the context requires otherwise. In addition, the following definitions apply:¶

(1) "Department" means the Oregon Parks and Recreation Department (OPRD) as provided in.¶

(2) "Grant" means an award from the Preserving Oregon Grant or Certified Local Government Grant Program.¶

(3) "Grantee" means an eligible applicant legally capable of executing and which has executed a grant agreement for project awarded a Preserving Oregon Grant or Certified Local Government Grant Program.¶

(4) "Grant Review Committee" means the committee that reviews grant applications and makes funding recommendations to the State Advisory Committee on Historic Preservation.¶

(5) "Project completion" means satisfaction of all requirements of a grant agreement as determined after review or inspection by the department.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0030

RULE SUMMARY: Establishes qualifications to be a certified local government.

CHANGES TO RULE:

736-057-0030

Qualifications to be a Certified Local Government

Certification requirements include, but are not limited to:

(1) Have a historic preservation commission of interested and qualified members.

(2) To the extent they are available, at least some of the commission members should meet "professional" qualifications in the disciplines of history, architecture, architectural history, archaeology, or related fields.

(3) Have a preservation ordinance that outlines how the local government will address historic preservation issues.

(4) Participation in updating and expanding the state's historic building inventory program.

(5) Review and comment on and allow for public comment on any National Register of Historic Places nominations of properties within the local government boundaries.

(6) Fulfill its obligation to enforce existing state preservation laws.

(7) Maintain the certification as reviewed at audits every four years.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612(2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0040

RULE SUMMARY: Outlines types of projects eligible to receive grant awards.

CHANGES TO RULE:

736-057-0040

Eligible Projects

Any project eligible for funding through the Historic Preservation Fund for the purpose of the preservation of historic properties, including but not limited to:

(1) Historic property survey including archaeology.

(2) Nominations for local landmark designation and the National Register of Historic Places.

(3) Development projects on properties listed in the National Register of Historic Places.

(4) Incentive programs for historic preservation.

(5) Preservation plan, structural plans, feasibility studies and design plans for historic properties.

(6) All work must meet the Secretary of the Interior's Standards for Treatment of Historic Properties.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0050

RULE SUMMARY: Outlines the process for applying for a Certified Local Government and Preserving Oregon Grants.

CHANGES TO RULE:

736-057-0050

Application Procedure and Process

(1) The department shall announce to Certified Local Governments the availability of, procedures for, deadlines, and other information for applying for Certified Local Government Grants.¶

(2) To apply for Certified Local Government Grants, applicants must submit their applications in a format prescribed by the department by the specified deadline.¶

(3) Applications for historic property projects of the Preserving Oregon Grant must meet the requirements of the Historic Preservation Fund and the Certified Local Government program. ¶

(4) Certified Local Governments are eligible for funding once in a two year period and are not awarded two consecutive years.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0060

RULE SUMMARY: Describes method for evaluating grant applications.

CHANGES TO RULE:

736-057-0060

Evaluation of Applications

(1) Eligible applications received by the announced deadlines shall be evaluated by the department.¶

(2) The department shall include review criteria in grant guidelines, manual, or application for each new grant cycle.¶

(3) Applications will be reviewed for:¶

(a) Adherence to the Historic Preservation Funds Grant Manual, Certified Local Government Program requirements, State Historic Preservation Office Guidelines, and state and federal law.¶

(b) Ability to complete the project during the grant period, including reasonable budget estimates. ¶

(4) Grants are award to all eligible applications.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0070

RULE SUMMARY: Describes process and requirements for receiving a grant.

CHANGES TO RULE:

736-057-0070

Award of Grants

(1) The State Historic Preservation Office shall award the grants.¶

(2) The department will establish maximum and minimum grant award limitations. These will be published in grant guidelines, manual, or application for each new grant cycle.¶

(3) All awards will be subject to binding agreements between the department and grantee.¶

(4) Grant agreements shall specify the terms and conditions of the grant award, generally including:¶

(a) The total project costs, the match or share to be provided, and the amount of the grant;¶

(b) A statement of work to be accomplished;¶

(c) The products to be delivered; ¶

(d) A timeline that details when the grant-assisted project may begin, a schedule for accomplishing work, and deadlines for delivering products and completing the project;¶

(e) The process to complete reimbursement requests;¶

(f) The measures of project impact at project completion; and¶

(g) The requirement that grantee comply with applicable local, state, and federal law and obtain all necessary permits.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0080

RULE SUMMARY: Clarifies how department will disburse grant funds.

CHANGES TO RULE:

736-057-0080

Disbursement of Grant Funds

The department will distribute grant funds to grantees on a reimbursable basis after submission of billings on approved schedules specified in grant agreements. When requested by the department, grantees shall supply additional information to substantiate billings. The department may disburse grant funds in advance if grantees can demonstrate a compelling need.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0090

RULE SUMMARY: Outlines process for suspending or terminating a grant.

CHANGES TO RULE:

736-057-0090

Suspension or Termination of Agreement and Recovery of Grant Funds

(1) Notice of suspension or termination of grant agreement shall be sent by registered letter to grantee at address listed in the agreement. The notice shall include recourse (if any) for grantee to remedy project deficiencies.¶

(2) If grantees have received funds in advance but are unable to complete approved projects to the department's satisfaction or within the three-year timeframe, the department shall require the grantees to return all unexpended grant funds.¶

(3) Grantees shall maintain records adequate for audit purposes for a period of not less than five years after project completion and shall reimburse the department for any costs disqualified through audit findings.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0100

RULE SUMMARY: Describes types of Preserving Oregon and Diamonds in the Rough grants.

CHANGES TO RULE:

736-057-0100

Preserving Oregon Grant Types

(1) Two subcategories exist in the Preserving Oregon Grant Program. Preserving Oregon Grants are to be used for:

(a) rehabilitation work on properties listed in the National Register of Historic Places, or

(b) significant work contributing to identifying, preserving and/or interpreting archaeological sites.

(2) Diamonds in the Rough Grants are to be used for restoration or reconstruction of the facades of buildings that have lost historic character.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0110

RULE SUMMARY: Describes eligibility criteria for each grant program.

CHANGES TO RULE:

736-057-0110

Eligible Projects

(1) In order to be eligible for a Preserving Oregon Grant, projects must: ¶

(a) Be listed on the National Register of Historic Places; or ¶

(b) Be field-based research projects concerning the documentation, study, designation, or preservation of archaeological sites, structures, and artifacts are eligible; and ¶

(c) All work must meet the Secretary of the Interior's Standards for Treatment of Historic Properties. ¶

(d) Remodeling, new additions and solely cosmetic efforts are not eligible. ¶

(2) In order to be eligible for a Diamonds in the Rough Grant, projects must: ¶

(a) Be historic; and ¶

(b) Have lost historic character; and ¶

(c) All work must meet the Secretary of the Interior's Standards for Treatment of Historic Properties.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0120

RULE SUMMARY: Outlines the criteria for applicants to qualify for each type of grant program.

CHANGES TO RULE:

736-057-0120

Application Procedure and Process

- (1) The department shall announce through a variety of media the availability of, procedures for, deadlines, and other information for applying for Preserving Oregon Grants.¶¶
- (2) To apply for Preserving Oregon Grants, applicants must submit their applications in a format prescribed by the department by the specified deadline.¶¶
- (3) Applications for historic property projects of the Preserving Oregon Grant must demonstrate the following:¶¶
 - (a) The proposed project is significant to the structure's integrity.¶¶
 - (b) The proposed project preserves character defining features.¶¶
 - (c) The proposed project will meet the Secretary of the Interior's Standards for Rehabilitation of Historic Properties.¶¶
 - (d) The applicant is capable of carrying out the proposed project.¶¶
 - (e) The proposed property is historically significant.¶¶
- (4) Applications for archaeology projects of the Preserving Oregon Grant must demonstrate the following:¶¶
 - (a) The proposed project is significant to the field of archaeology.¶¶
 - (b) The proposed project demonstrates technically sound methodology.¶¶
 - (c) The proposed project includes a principle investigator who is a professional archaeologist. ¶¶
 - (d) The proposed project disseminates results effectively. ¶¶
 - (e) The site of the proposed projects is historically significant. ¶¶
 - (f) The applicant is capable of carrying out the proposed project.¶¶
- (5) Applications for Diamonds in the Rough grants of the Preserving Oregon Grant programs must demonstrate the following:¶¶
 - (a) The level of preservation of character-defining features.¶¶
 - (b) The work plan is well developed and described and the corresponding cost estimates.¶¶
 - (c) Demonstrated project readiness and the matching dollar share in-hand commitment.¶¶
 - (d) Demonstrated community need for and benefit from the project.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0130

RULE SUMMARY: Describes the criteria utilized to review each grant application.

CHANGES TO RULE:

736-057-0130

Evaluation of Applications

- (1) Eligible applications received by the announced deadlines shall be evaluated by the department.¶
- (2) The department shall include review criteria in grant guidelines, manual, or application for each new grant cycle.¶
- (3) The department will establish a Grant Review Committee to review grant applications and provide recommendations for funding to the State Advisory Committee on Historic Preservation. The committee may include representatives of the State Advisory Committee on Historic Preservation, historic preservation specialists or other appropriate experts.¶
- (4) The Grant Review Committee shall score the applications based on the evaluation criteria and then rank applications in order of priority based on a formula considering:¶
- (5) For properties listed in the National Register of Historic Places projects of the Preserving Oregon Grant:¶
 - (a) Higher priority will be given to publicly owned resources and private nonprofit resources, and properties that offer the greatest public benefit through visual access and interpretive/educational value.¶
 - (b) Properties that are not publicly owned or nonprofit-owned must have exceptional significance and/or extraordinary public benefit to compete.¶
 - (c) Geographic distribution.¶
 - (d) Additional evaluation will be based on demonstrated project readiness and the matching dollar share in-hand commitment.¶
- (6) For archaeology projects of the Preserving Oregon Grant:¶
 - (a) Projects that discover or study previously untold perspectives and histories of people frequently excluded from historic interpretation.¶
 - (b) Projects with a well-prioritized, clearly explained work plan with an appropriate level of detail and realistic cost estimates.¶
 - (c) Geographic diversity.¶
 - (d) Project readiness, including matching dollar share in-hand.¶
 - (e) Shows that it is part of a larger project, or has far reaching results and uses beyond the submission of the product to SHPO.¶
- (7) For the Diamonds in the Rough Grant of the Preserving Oregon Grant Program:¶
 - (a) Commercial or public buildings in Certified Local Government communities, designated Main Street areas, or local or National Register historic districts.¶
 - (b) Projects with a well-prioritized, clearly explained work plan with an appropriate level of detail and realistic cost estimates.¶
 - (c) Projects that will generate dramatic "before-and-after" results, a high level of transformation.¶
 - (d) Geographic diversity.¶
 - (e) Project readiness, including matching dollar share in-hand.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0140

RULE SUMMARY: Establishes terms and conditions for department grant awards.

CHANGES TO RULE:

736-057-0140

Award of Grants

- (1) The State Advisory Committee on Historic Preservation shall award the grants.¶
- (2) The department will establish maximum and minimum grant award limitations. These will be published in grant guidelines, manual, or application for each new grant cycle.¶
- (3) All awards will be subject to binding agreements between the department and grantee.¶
- (4) Grant agreements shall specify the terms and conditions of the grant award, generally including:¶
 - (a) The total project costs, the match or share to be provided, and the amount of the grant;¶
 - (b) A statement of work to be accomplished;¶
 - (c) The products to be delivered; ¶
 - (d) A timeline that details when the grant-assisted project may begin, a schedule for accomplishing work, and deadlines for delivering products and completing the project;¶
 - (e) The process to complete reimbursement requests;¶
 - (f) The measures of project impact at project completion; and¶
 - (g) The requirement that grantee comply with applicable local, state, and federal law and obtain all necessary permits.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0150

RULE SUMMARY: Outlines process for disbursement of grant funds.

CHANGES TO RULE:

736-057-0150

Disbursement of Grant Funds

The department will distribute grant funds to grantees on a reimbursable basis after submission of billings on approved schedules specified in grant agreements. When requested by the department, grantees shall supply additional information to substantiate billings. The department may disburse grant funds in advance if grantees can demonstrate a compelling need.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124

ADOPT: 736-057-0160

RULE SUMMARY: Outlines process for suspension or termination of grant awards.

CHANGES TO RULE:

736-057-0160

Suspension or Termination of Agreement and Recovery of Grant Funds

(1) Notice of suspension or termination of grant agreement shall be sent by registered letter to grantee at address listed in the agreement. The notice shall include recourse (if any) for grantee to remedy project deficiencies.¶

(2) If grantees have received funds in advance but are unable to complete approved projects to the department's satisfaction or within the three-year timeframe, the department shall require the grantees to return all unexpended grant funds.¶

(3) Grantees shall maintain records adequate for audit purposes for a period of not less than five years after project completion and shall reimburse the department for any costs disqualified through audit findings.

Statutory/Other Authority: ORS 390.124, ORS 358.475, ORS 358.605, ORS 358.612 (2) and (12)

Statutes/Other Implemented: ORS 390.124