



Oregon

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Oregon Watershed Enhancement Board

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MEMORANDUM

TO: Oregon Watershed Enhancement Board
FROM: Eric Hartstein, Senior Policy Coordinator
Eric Williams, Grant Program Manager
SUBJECT: Agenda Item M—Focused Investment Partnership Administrative Rules
January 30-31, 2018 Board Meeting

I. Introduction

This report updates the board on the Focused Investment Partnership (FIP) grants rulemaking process, and requests board approval on the proposed administrative rules.

II. Background

FIP grants are currently authorized under Division 5, OWEB Grant Program administrative rules, which is a broad rule division that encompasses all of OWEB grants. With FIP entering the second biennium of the program's existence, there are lessons learned that have informed administrative rules developed specifically for the program.

At the July 2017 meeting, the board authorized FIP rulemaking, including establishment of a rules advisory committee (RAC) to vet ideas and provide feedback in the development of rules. RAC members are either involved in a current FIP or have a good understanding of the program. The membership of the FIP Rulemaking RAC is found in Attachment A.

Between September and November, the RAC met on three occasions to discuss concepts to include in rule language and to provide feedback on draft rules. The board Focused Investments subcommittee reviewed the draft rules on October 18th.

III. Public Comment on Proposed FIP Rules

OWEB released draft rules for public comment on December 1, 2017. The public comment period was open from December 1 - December 31, 2017 with a public hearing in Salem on December 19th. A summary of the written comments received during the public comment period are provided in Attachment B. Staff reviewed the public comments, and made revisions to the proposed FIP rules, which are found in Attachment C. At its January meeting, the board may only receive public comment on the revisions to the proposed rules that have occurred since the close of the public comment period.

IV. Recommendation

Staff recommend the board approve the FIP grants rules found in Attachment C.

Attachments

- A. RAC Members
- B. Public Comments Received and Staff Response
- C. Proposed FIP Grants Rules

FIP Rules Advisory Committee Members

Dan Bell, Bonneville Environmental Foundation, Portland

Amy Charette, Confederated Tribes of Warm Springs, Warm Springs

Liesel Coleman, Curry SWCD, Gold Beach

Justin Cullumbine, Lomakatsi Restoration Project, Ashland

Andrew Dutterer, OWEB Partnerships Coordinator, Salem

Bernadette Graham-Hudson, ODFW, Clackamas

Mark Grenbemer, OWEB-Southwest Oregon, Medford

Eric Hartstein, OWEB Senior Policy Coordinator, Salem

Ryan Houston, Upper Deschutes WSC, Bend

Denise Lofman, Columbia River Estuary Study Taskforce, Astoria

Brad Nye, Deschutes Land Trust, Bend

Michael Pope, Greenbelt Land Trust, Corvallis

Courtney Shaff, OWEB Capacity Coordinator, Salem

Brenda Smith, High Desert Partnership, Burns

Jesse Steel, Grande Ronde Model Watershed, La Grande

Marty Suter-Goold, Harney SWCD, Hines

Mark Trenholm, Wild Salmon Center, Portland

Eric Williams, OWEB Grant Program Manager, Salem

Summary of Public Comments: Focused Investment Partnership (FIP) Grants Rulemaking (Division 47)

Rules: General Comments			
Commenter(s)	Comments	Response	Rule Change
Craig Patterson	Concerned that FIP program does not adequately address social and economic concerns of rural communities. Urges a model of building restoration work camps modeled on the Civilian Conservation Corps, which completed public works projects during the 1930s in the U.S.	OWEB appreciates the social and economic concerns facing rural communities. However, the FIP program is not the appropriate venue for restoration work camps in rural communities.	No
Craig Patterson	Concerned that there is not an analysis of what constitutes the largest threats to ecosystems and communities.	OAR 695-047-0030 describes the process for the Board to determine ecological priorities for the FIP program.	No

Rule: 695-047-0020				
Sub-Section	Commenter(s)	Comments	Response	Rule Change
(6)	Johnson Creek Watershed Council	Concerned that the definition of “high performing partnerships” is inadequate and does not include performance based measures.	OWEB to modify 695-047-0020(6) as follows: “High-Performing Partnership” means a collaborating group of organizations with an existing governance structure that includes a formal decision making process <i>resulting in an effective performance history.</i>	Yes

Rule: 695-047-0060				
Sub-Section	Commenter(s)	Comments	Response	Rule Change
(1)(c) and (2)(c)	Johnson Creek Watershed Council	Concerned that partnerships are evaluated on the effectiveness of the partnership when some partnerships have been formed specifically to pursue OWEB funding, and asked if evaluation criteria should instead focus on the performance history of the individual organizations in the partnership.	It is the intent of the FIP program to recognize and award funding to existing high-performing partnerships that have formed to achieve ecological outcomes regardless of funding source.	No

Summary of Public Comments: Focused Investment Partnership (FIP) Grants Rulemaking (Division 47)

Rule: 695-047-0090				
Sub-Section	Commenter(s)	Comments	Response	Rule Change
(1)(b)	Johnson Creek Watershed Council	Concerned that the maximum award of \$4 million per biennium for a FIP Implementation partnership is too high as the FIP process is still new/untested and the maximum award going to a partnership constitutes a significant portion of OWEB's Open Solicitation grants budget.	After a lengthy public comment process, the board determined the maximum amount of \$4 million for FIP Implementation partnerships at the July 2014 board meeting.	No

Rules: 695-047-0110				
Sub-Section	Commenter(s)	Comments	Response	Rule Change
	Johnson Creek Watershed Council	Applauds the match requirements described in the rules.	OWEB appreciates the feedback.	No

Rules: 695-047-0140				
Sub-Section	Commenter(s)	Comments	Response	Rule Change
	Johnson Creek Watershed Council	Strongly opposes ability of the Executive Director to waive rules that are not required by statute.	This is a standard section in other OWEB administrative rules and allows OWEB to be flexible during implementation of the rules if needed to avoid unintended consequences. AS FIP is a new program, OWEB to modify OAR 695-047-0140 to include, <u>"Any waiver of the requirements of Division 47 will be reported to the Board on at least an annual basis."</u>	Yes

Division 47**Focused Investment Partnership Grants****695-047-0010****Purpose**

The Board shall provide grants, as funds are available, for Focused Investment Partnership initiatives that address Board-identified priorities of significance to the state through either Implementation grants or Development grants.

695-047-0020**Definitions**

- (1) "Focused Investment Partnership" means an OWEB investment that addresses a Board-identified priority of significance to the state, achieves clear and measurable ecological outcomes, uses integrated and results-oriented approaches as identified through a strategic action plan, and is implemented by a high-performing partnership.
- (2) "Focused Investment Partnership Implementation" means an initiative with an existing strategic action plan that is ready for implementation by a high-performing partnership for a period of up to six years and not exceeding \$12 million.
- (3) "Focused Investment Partnership Development" means an initiative with an existing partnership that is pursuing enhancement of that partnership, development of a strategic action plan and community engagement in support of the strategic action plan.
- (4) "Initiative" means the program that the partnership will pursue with Focused Investment Partnership funding for up to six years.
- (5) "Strategic Action Plan" is the long term conservation strategy of a partnership. Plans will include all components identified by OWEB as a part of the application process.
- (6) "High-Performing Partnership" means a collaborating group of organizations with an existing governance structure that includes a formal decision making process resulting in an effective performance history.
- (7) "Core Partners" are the partners identified in the proposal that will bring substantial capacity to a partnership and will lead the implementation effort.
- (8) "Measurable Ecological Outcomes" means quantifiable long-term ecological effects resulting from a series of conservation actions.
- (9) "Expert Review Team" means a team of designated personnel with statewide knowledge and interdisciplinary expertise drawn from agencies represented on the Board and other entities as appropriate to evaluate Focused Investment Partnership Implementation proposals and Development applications.

- (10) "Technical Review Team" means a team of designated personnel with regional knowledge and interdisciplinary expertise drawn from agencies represented on the Board and other entities to evaluate Focused Investment Partnership Implementation project-level grant applications.
- (11) "Work Plan" means the proposed actions of the partnership in each biennium of the Initiative. Focused Investment Partnership Implementation partnerships will submit to OWEB an updated work plan in advance of each new biennium.
- (12) "Grant Types" for Focused Investment Implementation Initiatives are Restoration (OAR 695-010), Stakeholder Engagement (OAR 695-015), Monitoring (OAR 695-025), Technical Assistance (OAR 695-030), Land Acquisition (OAR 695-045), and Water Lease and Transfer (OAR 695-046).

695-047-0030

Board-identified Priorities of Significance to the State

Every five years, the Board shall approve ecological priorities to be addressed by Focused Investment Partnerships Initiatives. Ecological priorities shall be determined with public input and scientific rigor, and shall include maps and narrative describing the desired ecological outcomes for eligible Focused Investment Partnership Initiative activities.

695-047-0040

Eligibility

(1) The Board shall only consider a Focused Investment Partnership *Implementation* Initiative proposal that:

- (a) Addresses a Board-identified priority of significance to the state; and
- (b) Is implemented by a high-performing partnership.

(2) The Board shall only consider a Focused Investment Partnership *Development* Initiative application that:

- (a) Addresses a Board-identified priority of significance to the state; and
- (b) Is implemented by an existing partnership.

695-047-0050

Focused Investment Partnership *Implementation* Proposal and Focused Investment Partnership *Development* Application Requirements

(1) Focused Investment Partnership *Implementation* Initiative proposals shall:

- (a) Be submitted on the most current form using the process prescribed by the Board; and
- (b) Demonstrate that 25% match is sought, and shall be expended within the scope and geography of the Initiative application.

(2) Focused Investment Partnership *Development* Initiative applications shall:

- (a) Be submitted on the most current form using the process prescribed by the Board; and
- (b) Demonstrate that 25% match is sought.

695-047-0060

Evaluation Criteria

(1) Focused Investment Partnership *Implementation* Initiative proposals shall be evaluated on:

- (a) The extent to which the initiative addresses a Board-identified priority;
- (b) The capacity to partner, engage the community, and catalyze additional investments within the initiative geography.
- (c) The performance history and composition of the partnership;
- (d) The extent to which the proposed approach will make progress toward measureable ecological outcomes;
- (e) The ability to track progress towards proposed outcomes;
- (f) The scientific basis and planning tools that support the proposed Initiative; and
- (g) The extent to which the allocation of funds across proposed grant types will support the achievement of the proposed ecological outcomes.

(2) Focused Investment Partnership *Development* Initiative applications shall be evaluated on:

- (a) The extent to which the initiative addresses a Board-identified priority;
- (b) The capacity to partner, engage the community, and catalyze additional investments within the initiative geography; and
- (c) The performance history and composition of the partnership.

695-047-0070

Focused Investment Partnership Initiative Expert Review Process

The Board shall convene expert review teams to evaluate Focused Investment Partnership *Implementation* proposals and *Development* applications according to criteria described in OAR 695-047-0060. Expert review teams shall evaluate each application based on the information

provided and deliver recommendations to OWEB staff. The results of the expert review process, including evaluations, shall be provided to applicants and the Board.

695-047-0080

Focused Investment Partnership Initiative Funding Recommendation Process

(1) For Focused Investment Partnership *Implementation* Initiatives:

(a) OWEB staff shall review the recommendations from each expert review team and make a funding recommendation to a Board subcommittee. The OWEB staff recommendation shall be provided to applicants and the Board.

(b) The Board subcommittee may choose to interview core partners proposing an *Implementation* Initiative

(c) The Board subcommittee shall review OWEB staff recommendations, and the results of the interview of the core partners (if conducted), and make a funding recommendation to the Board.

(2) For Focused Investment Partnership *Development* Initiatives, OWEB staff shall review the recommendations from each expert review team and make a funding recommendation to the Board. This recommendation shall also be provided to applicants.

695-047-0090

Board Funding Decision

(1) For Focused Investment Partnership *Implementation* Initiatives:

(a) The Board may fund an Initiative in whole or in part.

(b) The Board shall award funds on a biennial basis. Subject to Board evaluation and future appropriations, the Board seeks investment for up to six years for each Initiative. A biennial award will not exceed \$4 million and the full six-year award will not exceed \$12 million.

(2) For Focused Investment Partnership *Development* Initiatives the Board may fund an Initiative in whole or in part.

695-047-0100

Focused Investment Partnership *Implementation* Initiative Partnership Agreement

(1) For Focused Investment Partnership *Implementation* Initiatives, a partnership agreement shall be executed between OWEB and core partners that shall stipulate the terms of the initiative.

(2) The agreement shall include at a minimum: points of contact, purpose of initiative, scope of initiative, process for submitting project-level grant applications, review process, funding conditions, roles and responsibilities of signatories, and methodology to address any potential changes in composition of the core partnership.

(3) Only organizations that are signatory to the partnership agreement are eligible to apply for project level grants.

(4) Projects in the defined geographic area of the Initiative, and focused on the programs and actions identified in the Initiative's proposal, are ineligible for OWEB Restoration (OAR 695-010), Stakeholder Engagement (OAR 695-015), Monitoring (OAR 695-025), Technical Assistance (OAR 695-030), Land Acquisition (OAR 695-045), and Water Lease and Transfer (OAR 695-046) grants that are offered outside of the Focused Investment Partnership program.

695-047-0110

Focused Investment Partnership *Implementation* Initiative Project-level Grant Process

(1) The core partners of a Focused Investment *Implementation* Initiative shall select projects to implement the Initiative.

(2) Project applications shall be submitted on current forms on a schedule determined by the partnership and OWEB staff.

(3) Project applications shall include a matching contribution from other non-Board program funds or in-kind services, notwithstanding OAR 695-005-0030(3).

(4) Following consultation with the partnership about expertise that is relevant to the Implementation Initiative's focus, a technical review team shall be convened by OWEB. Technical review team members shall have appropriate expertise in the Focused Investment Partnership Initiative subject matter and geography.

(5) The technical review team shall meet to evaluate project-level applications according to the project's compatibility with the Initiative's proposal and relevant evaluation criteria established in OAR Chapter 695. Representatives of the partnership shall be provided an opportunity to meet with the technical review team during the project evaluation to provide context for proposed projects.

(6) OWEB staff shall provide the technical review team evaluations to the applicant. Applicants and staff shall address review team comments through an amendment or other agreed upon process.

(7) Prior to disbursement of Board funds, the Grantee must provide proof that the matching contribution has been secured. Notwithstanding 695-005-0060(2) and (8), the 25% match requirement will be reported at the Initiative-level for the biennium.

695-047-0120

Distribution of Funds

(1) Focused Investment Partnership *Development* Initiative funds shall be distributed through grant agreements executed in accordance with OAR 695-005-0050 and 695-005-0060.

(2) Focused Investment Partnership *Implementation* Initiative funds shall be distributed through project-level grant agreements through a process described in the partnership agreement described in OAR 695-047-0090.

695-047-0130

Reporting

(1) Reporting for Focused Investment Partnership *Development* Initiatives shall be in accordance with OAR chapter 695, division-005.

(2) Focused Investment Partnership *Implementation* Initiatives shall report to OWEB staff through a collaboratively established process and timeline.

(3) Reporting for project-level grants shall be determined in each project grant agreement.

(4) At the end of each biennium, the Focused Investment *Implementation* Initiative partnerships shall report the following to the Board:

(a) Demonstrated 25% secured match for the Initiative for the biennium plus any additional investments generated by the Initiative.

(b) Initiative progress for the biennium

(c) Updated work plan and budget proposed for the next biennium

(d) Any proposed changes to the geography, scope, or partners of the Initiative.

695-047-0140

Waiver and Periodic Review of Rules

The Director may waive the requirements of Division 47 unless required by statute, when doing so will result in more efficient or effective implementation of the Board's Focused Investment Partnership grant program. Any waiver must be in writing and included in the grant file to which the waiver applies. Any waiver of the requirements of Division 47 will be reported to the Board on at least an annual basis. The administrative rules for Focused Investment Partnership grants shall be periodically reviewed by the Board and revised as necessary and appropriate.