

2019-2021 Guidance for Outcome-Based Watershed Council Operating Capacity Grants

How to use this Guidance

On July 29, 2014, the OWEB Board adopted 1) Oregon Administrative Rules 695-040-0010 through 0150 for Outcome-Based Watershed Council Operating Capacity Grants (Council Capacity Grants), and 2) this Guidance document. OWEB staff will use this Guidance in administering the Council Capacity Grant program.

In making determinations under this Guidance, OWEB will consider the spirit and intent of Oregon statutes defining watershed councils, Council Capacity Grant rules, the goals and objectives OWEB seeks to achieve through Council Capacity Grants, the Board’s policy direction, and this Guidance.

A watershed council that wants to apply for a Council Capacity Grant should read this Guidance to determine:

1. Whether the council is eligible to apply,
2. How to apply,
3. How the application and the council will be evaluated, and
4. How funding decisions are made.

Guidance Updates

This Guidance will be periodically updated by the OWEB Board as needed. The Board delegates to OWEB staff the authority to make **non-policy updates**, such as deadlines for eligibility and application materials; staff contact information; website links; and correction of typos and errors.

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I. Background

Operating Capacity Investments are a core element of OWEB's Long-Term Investment Strategy. Council Capacity Grants:

- Help support operating costs of effective watershed councils;
- Are performance and outcome-based; and
- Contain high standards for eligibility, reporting and accountability.

OWEB envisions a statewide watershed restoration system that is resilient, sustainable and achieves ecological outcomes. Experience gained from supporting watershed work since 1997, and studies of successful watershed groups, demonstrate this vision can be achieved with watershed councils that:

- Are strong organizations with access to diverse skillsets.
- Have broad and deep support from local and regional communities.
- Engage a balance of interested and affected people, businesses, and communities in their watershed to participate in voluntary, cooperative conservation.
- Secure diversified funding and/or build strategic collaborations with other councils and/or natural resource groups to increase collective local capacity.

II. Definitions

These terms are used throughout this Guidance. Additional definitions are provided in Council Capacity Grant rules OAR 695-040-0020.

A. Coordinating council

A council that provides support to, and coordinates the work of, multiple councils. The coordinating council's governing body includes at least one member from each council participating in the coordinating council.

B. Membership organization

An organization with a defined group of individuals who play a role in the governance of the organization (i.e., by voting for a board of directors or other governing body that is responsible for the governance of the council).

C. Local government

Defined in ORS 174.116(1)(a) as all cities, counties and local service districts located in this state, and all administrative subdivisions of those cities, counties and local service districts.

D. Council's governing body

Means the group of people who have the responsibility to a) ensure that the council meets legal requirements, b) support successful achievement of the council's goals, and c) create a structure, policies, and procedures that support good governance.

E. On-the-ground watershed restoration

Activities with the objective of altering the physical, chemical, or biological characteristics of the landscape in order to improve ecological process and function.

F. Stakeholder engagement

Activities with the purpose to communicate and build ongoing, permanent relationships with landowners, organizations, and the community in the watershed for the purposes of carrying out eligible restoration and acquisition projects, or programs that lead to development of eligible projects.

G. Organizational development and management

Activities with the objective of improving the council's organizational effectiveness and health.

III. Eligibility Criteria

Which Councils Are Eligible to Apply for Council Capacity Grants

A. Purpose of Eligibility Criteria: OAR 695-040-0030

Eligibility criteria define how OWEB will determine whether a watershed council is eligible to apply for a Council Capacity Grant. *The eligibility criteria do not limit or control the existence or creation of watershed councils.* Watershed councils may form around the state according to ORS 541.910 and 541.890(15); **however, OWEB shall not accept an application for a Council Capacity Grant unless OWEB determines the council or group of councils meets the eligibility criteria.**

Eligibility criteria seek to ensure that OWEB's council capacity investment:

Is an effective and accountable use of public funds;

Supports councils that meet the intent of Oregon statutes defining watershed councils; and

Encourages strategic collaboration to build collective local capacity for watershed restoration.

A. OWEB Determination of Eligibility for a Group of Councils with One Council Capacity Grant

OWEB's eligibility review is simpler for multiple councils that operate collectively because there is a coordinating council that supports actions of all the councils.

1. Group of Councils Operating Collectively

If OWEB determines two or more councils operate collectively, OWEB will conduct eligibility review only for the coordinating council serving as applicant. **The coordinating council is responsible for ensuring all participating councils operate in alignment with the coordinating council's bylaws or charter to the extent necessary for the participating councils to meet the eligibility criteria.**

a. OWEB shall determine whether councils operate collectively by reviewing the bylaws or charter of the coordinating council and finding all of the following covered in the bylaws or charter:

i. There is a coordinating council as defined in this Guidance; and

ii. One Council Action Plan covers the work of all councils.

2. Group of Councils Operating Independently

a. If OWEB determines the councils operate independently, each council is required to meet all eligibility criteria described (except Geographic Area and Population, which the group of councils must meet). If one or more independent council does not meet all eligibility criteria, then none of the councils can apply for a Council Capacity Grant during the upcoming cycle.

- b. OWEB shall determine whether councils operate independently by reviewing each council's bylaws or charter and, if necessary, using OWEB's knowledge as a funder, to verify:
 - i. Each council has its own council coordinator or executive director;
 - ii. There is no coordinating council.

IV. Eligibility Criteria and OWEB Review

OAR 695-040-0030

A. Local government designation as a watershed council

OWEB will determine local government designation by reviewing the local government ordinance or minutes of a local government action and reviewing the map of the geographic area designated by the county.

1. For watershed councils previously awarded a Watershed Council Support Grant, the council shall be designated as a watershed council by a local government.
2. For new or reorganized watershed councils, the council shall be designated as a watershed council by a county commission, county board, or county court. The documentation submitted to OWEB shall include a map of the geographic area designated by the county commission, board, or court.

B. Geographic Area and Population

1. A geographic area served by a council or group of councils can change. However, to be eligible, OWEB shall determine that a council or group of councils serves an area:
 - a. In which a council or group of councils previously received a Watershed Council Support Grant or Council Capacity Grant; and
 - b. That is the same or larger than the geographic area served by a council or group of councils as of July 1, 2013. To make the determination of "the same or larger," OWEB shall use the OWEB Watershed Council Map which was updated in June 2014 to correct council boundaries based on information supplied by councils; and
 - c. That includes a minimum population of 500 individuals within its designated boundary or boundaries.
 - i. If there is a question on population OWEB will use the most current U.S. Census Bureau's census block shapefile for the state of Oregon and if necessary, absentee landowner information from county records.
2. No more than one applicant shall be eligible in the same geographic area.

C. Council Action Plan Adopted by Governing Body

OWEB shall determine whether the council has a Council Action Plan by reviewing the plan(s) and evidence of governing body adoption on file in OWEB's records, and determining whether the plan(s) meet the minimum criteria described below.

1. A Council Action Plan is **NOT** a watershed assessment and is not the 2 year council capacity work plan. Action plans are living documents that will change over time as projects are implemented and new priorities arise. **At a minimum**, the plan or set of plans need to identify and prioritize ecological problems the council seeks to address, and voluntary on-the-ground

watershed restoration activities the council will conduct to address those problems. The plan(s) can either be for the entire watershed or for sub watersheds, depending on the focus areas of the council. Council Action Plans may also contain other goals and objectives such as stakeholder engagement efforts, monitoring, and funding strategies for priority restoration work.

D. Organizational Structure and Business Operations

OWEB shall review the bylaws or charter and policies and procedures (“governing documents”) to determine whether they contain the required topics. [OAR 695-040-0030(5)]

OWEB shall also determine whether the governing documents were adopted by the council’s governing body. Acceptable evidence of governing body adoption is (a) Meeting minutes that describe the governing body’s adoption of the governing documents; or (b) A signature page contained within the governing documents and signed by the Board Chair or Secretary, dated, and indicating the action taken by the governing body.

1. OWEB Determination

Council governing documents shall cover all topics in OAR 695-040-0030(5) in order for OWEB to determine the council is eligible to apply.

2. Topics Covered in Current Bylaws or Charter

a. Council Mission

A council may have multiple purposes in its mission. However, at a minimum, the bylaws or charter shall indicate that “a primary purpose of the council is to work collaboratively with communities and landowners to develop and carry out voluntary watershed protection, restoration, enhancement, and stakeholder engagement activities.”

b. Governing Body and Officers

The bylaws or charter shall contain the following topics:

- i. How the governing body is selected;
- ii. Titles of officers, e.g., Chair, President, Secretary, Treasurer;
- iii. How officers are selected;
- iv. Who is eligible for the governing body;
- v. Who is eligible to be an officer;
- vi. Length of service on governing body;
- vii. Length of service for officers;
- viii. Powers of governing body;
- ix. Powers of officers;
- x. Minimum number or frequency of governing body meetings;
- xi. Decision making process of governing body; and
- xii. A statement that the council intends its governing body to include a diverse range of geographic areas and community interests in the watershed in order to engage a balance of interested and affected persons within the watershed as required by ORS 541.910(2).

c. Process for Amending Bylaws or Charter

The bylaws or charter shall describe a process for amending the bylaws or charter.

d. Membership Organization Provisions

If the council is a membership organization, the bylaws or charter shall also include the following topics:

- i. Who is eligible for watershed council membership;
- ii. Minimum frequency of council membership meetings;
- iii. The decision making role of the membership; and
- iv. Mechanisms to remove members from the watershed council or terminate the voting rights of members. The bylaws or charter may provide for either removal or voting right termination, or provide for both.

3. Topics Covered in Current Policies and Procedures

a. A list of the geographic areas and community interests the council intends to include on its governing body in order to engage a balance of interested and affected persons within the watershed pursuant to ORS 541.910(2).

b. A policy that the council operates as an open and inclusive organization. The policy shall include at a minimum the following elements:

- i. Inviting the public to council meetings, and
- ii. The council, upon request, provides the public with meeting agendas and records of decisions. This does not include personnel discussions and actions.

c. A policy that the council, or its fiscal sponsor, uses Generally Accepted Accounting Principles (GAAP).

d. A policy that the council does not rely on litigation to compel regulatory enforcement as a means to implement the council's mission.

- i. Reason: Council Capacity Grants help support councils that engage people and communities to participate in collaborative, voluntary restoration and protection of native fish or wildlife habitat and natural watershed functions to improve water quality or stream flows. The role of watershed councils has been to bring people together to solve problems.
- ii. Councils that use litigation to pursue protection, enhancement or restoration of watershed health (for example, litigation to enforce environmental regulations) are not eligible for Council Capacity Grants.
- iii. Litigation necessary to enforce contracts is not considered litigation to compel regulatory enforcement as a means to implement the council's mission.

V. OWEB Eligibility Review

OAR 695-040-0090

A. Eligibility Review

OWEB staff shall complete the eligibility review of Council Capacity grant applications and notify all councils of the results within one month of the application deadline. Councils determined to be ineligible may appeal to OWEB's Executive Director through the process described below.

B. Appeal Process

1. Opportunity to Appeal to OWEB Executive Director

If a council disputes the determination it is not eligible to apply and wishes to appeal, it may appeal to the OWEB Director (OAR 695-040-0090(2)). The appeal shall follow all of the requirements below.

a. Appeal by the Deadline: April 5, 2019.

b. Appeal Materials: The council's appeal letter and any attachments shall be sent to OWEB by delivery service that provides documentation of receipt (e.g., email that includes receipt of delivery confirmation, or registered or certified letter). To be considered, the letter shall be received by OWEB by the appeal deadline. Letters of support will not be reviewed and should not be submitted.

c. Appeal Review and Decision: OWEB's Executive Director will review the council's letter and any attached information. A council's appeal shall be granted only where the Executive Director determines the council provided clear and convincing evidence that council meets all the eligibility criteria described in OAR 695-040-0030.

2. Future Eligibility Review Requests Allowed

Councils determined to be ineligible for a particular Council Capacity Grant offering may request eligibility review during future Council Capacity Grant offerings.

VI. How to Apply for a Council Capacity Grant

OAR 695-040-0100

A. Deadline to Apply: March 4, 2019

Applications are only accepted through our online system.

An OGMS login is required to access the online grant application. If no login exists for an organization, please email Leilani Sullivan at Leilani.Sullivan@oregon.gov to request one.

Log in to the Online Application

Online Application: <https://apps.wrd.state.or.us/apps/oweb/oa/>

Guidance to help you fill out the application is always available in the top navigation bar of the online application. An application template is also available after you log in and choose "Create a New Application."

VII. Merit Evaluation

695-040-0110

A. Goals of OWEB's Merit Evaluation

1. Ensure strategic and accountable investment of public funds;
2. Encourage continuous improvement in watershed councils' organizational management, operating structure, and functions, and the planning and implementation of on-the-ground watershed protection, restoration, enhancement, and stakeholder engagement activities; and
3. Ensure watershed councils are working toward strengthening their role in watersheds through activities focusing on council resilience, leadership, collaboration, and representing a balance of interested and affected persons within the watershed as required by ORS 541.910(2).

B. Information Considered in Merit Review

The four merit criteria below guide OWEB's evaluation of a council's progress and performance. OWEB will consider:

- The Council Capacity Grant application.
- OWEB staff's knowledge of council performance including information gained through the council's OWEB project grants and OWEB staff's attendance at council meetings and events.
- Any supplemental information provided by the council in response to OWEB's request.
- If requested by OWEB, interviews with council officers and staff.

C. Merit Criteria

1. Merit Criterion #1: Effective Governance and Management

The council has effective bylaws or charter and policies and procedures, and follows them. The council includes a balance of interested and affected persons from the watershed on its governing body. The council regularly evaluates and takes action to improve its organization including operations and policies.

The governing body takes action to ensure the council meets legal obligations and requirements; support successful achievement of the council's goals; and create organizational structure, policies, and procedures to support good governance. The council's governing body provides effective oversight of staff and contractors.

Evidence of Effective Governance and Management

- a. The council holds elections according to its bylaws or charter.
- b. The council holds governing body meetings according to its bylaws or charter, and its governing body meets at least four times a year.
- c. The council operates as an open and inclusive organization according to its policies and procedures, including inviting the public to council meetings by publishing its meeting schedule in advance of meetings in a manner that provides adequate notice to the general public.
- d. The council, upon request, provides the public with records of its meetings and decisions.
- e. The council completes a self-evaluation or other assessment of its governing body at least once every two years.

- f. The council's governing body includes a mix of different interests which may include the geographic areas and community interests identified in the council's policies and procedures.
- g. The council annually reviews its policies and procedures.
- h. The council adopts an annual budget and regularly reviews that budget.
- i. The board regularly examines the nonprofit financial statements and discusses questions, concerns, issues, i.e. the board takes responsibility for the financial health of the nonprofit.
- j. The council has defined roles and responsibilities for its governing body and officers and follows them.
- k. The council has on file a current position description or set of deliverables for the council's executive director or coordinator.
- l. The council has personnel policies and follows them.
- m. The council coordinator or executive director is annually evaluated by the council.
- n. If the council is a membership organization,
 - i. The council holds membership meetings according to its bylaws or charter, and
 - ii. The council membership meetings include agendas, attendance records, and records of decisions, and the council keeps this information on file and makes it available to the public upon request.

2. Merit Criterion #2: Progress in Planning

In planning its priority work, the council makes progress in engaging a balance of interested and affected persons in the watershed. The council uses its planning documents, such as the action plan, strategic plan, and other relevant documents, to identify and implement on-the-ground watershed restoration and stakeholder engagement projects. The council regularly evaluates its action plan and work plans and makes adjustments to respond to changes and challenges.

Evidence of Progress in Planning

- a. The council's 2-year work plan is reviewed and adopted by the council's governing body.
- b. Work plan projects are linked to the council's action plan and/or strategic plan.
- c. Council work plans are developed with consideration of the council's staffing and organizational resources.
- d. The council capacity grant application demonstrates the council is working with a mix of watershed stakeholders to plan and prioritize work to address current needs. Example: working with a technical team, or a council project committee, to review and update the council's action plan(s).
- e. The council has a succession plan for board members and the executive director/coordinator.

3. Merit Criterion #3: Progress in On-the-Ground Watershed Restoration

The council's actions result in progress in completing priority, on-the-ground watershed restoration work.

Evidence of Progress in On-the-Ground Watershed Restoration (at a minimum a-c below; OWEB may request additional information if there are questions or concerns whether there is progress in on-the-ground restoration)

- a. The application demonstrates the council’s actions resulted in progress toward completing priority on-the-ground restoration projects.
 - b. The application demonstrates the council has a clear niche related to on-the-ground restoration within the broader watershed community.
 - c. The council’s on-the-ground watershed restoration activities are linked to the council’s action plan and/or strategic plan.
4. **Merit Criterion #4: Progress in Stakeholder Engagement for Watershed Restoration Purposes**
The council’s actions result in progress in achieving specific stakeholder engagement objectives.

Evidence of Progress in Stakeholder Engagement (at a minimum a-c below; OWEB may request additional information if there are questions or concerns whether there is progress in stakeholder engagement)

- a. The council has identified priority stakeholder engagement activities and is making progress completing those activities.
- b. The application demonstrates the council has a clear nice related to stakeholder engagement within the broader watershed community.
- c. The council’s stakeholder engagement activities are linked to the council’s action plan and/or strategic plan or other stakeholder engagement plan.

D. Merit Evaluation 695-040-0110

1. Initial Merit Evaluation

a. Initial Review Panel

The Capacity Programs Coordinator will review all Council Capacity Grant applications.

Regional Program staff will review all applications within their OWEB region.

Focused Investment staff will review all applications of councils that have received OWEB Focused Investment grants.

The Small Grant Program Coordinator will participate in the Initial Merit Evaluation and provide input on all the applications.

b. Initial Merit Evaluation

The staff identified above will meet evaluate merit by considering:

- i. The Council Capacity Grant application;
- ii. OWEB staff’s knowledge of the council, including but not limited to the council’s history of performance on project and Council Capacity Grants.

If OWEB staff do not have a consensus merit evaluation, the Capacity Programs Coordinator, considering input from all staff involved in the review, will determine the initial merit evaluation. This evaluation will be communicated to the OWEB Executive Director prior to notifying councils.

c. Notice of initial merit evaluation

Notice of Initial Merit Review Results: Week of April 22, 2019

- i. If OWEB determines the councils meets all of the merit criteria it will notify the council coordinator via email that the council it met all merit criteria and will be recommended for funding at the highest funding level.

- ii. If OWEB determines the council does not meet all the merit criteria; OWEB has follow-up questions; or the council is a new or reorganized council, OWEB will send the council coordinator and council chair a follow-up letter and email including the following information:
 - a) Reasons for determination;
 - b) Questions raised during initial merit evaluation;
 - c) Supplemental information requested by OWEB;
 - d) Information on the required interview for the Secondary Review Process. (see below)
 - e) Council Required Next Steps
 - (i) Submit requested materials to OWEB by May 15, 2019.
 - (ii) Schedule an interview for the council coordinator and council officers with OWEB. Secondary Review and Interviews will be scheduled for the following dates: May 29, 30, 31, June 3 and 4, 2019.
 - (iii) If OWEB does not receive requested materials by the deadline, the Secondary Review will take this into account.
 - (iv) The Secondary Review will focus on OWEB's questions and concerns. Councils should not bring additional materials and should not expect to make presentations during the interview.

2. Secondary Review

a. Secondary Review Panel

- i. OWEB Capacity Programs Coordinator and Regional Program staff for councils in their OWEB region.
- ii. External Reviewers: The panel will include two representatives with statewide perspectives, one who works east and one who works west of the Cascades. In addition, one representative from each OWEB region will be included as applicable.
- iii. OWEB will send the following materials to panel members prior to the interview.
 - a) Council Capacity Grant application.
 - b) Additional information and documents provided by the council at OWEB's request.
 - c) OWEB memo summarizing the initial merit evaluation, questions and concerns, and topic areas to be covered in the interview.

b. The interview

The Secondary Review Panel will interview the council. The interview will focus on questions and concerns raised during the initial merit evaluation.

c. The discussion

Following the interview, the Secondary Review Panel will discuss whether the interview and additional materials provided by the council should change the initial merit evaluation. The external reviewers do not make funding recommendations to OWEB staff. Staff will consider feedback from the Secondary Review Panel when making merit evaluation determinations and funding recommendations to the OWEB Board.

3. **Notification of OWEB Merit Evaluation and Funding Recommendation0.**

OWEB shall prepare brief summaries of the merit evaluations for each applicant. The evaluations and staff funding recommendations will be posted in OGMS at least 2 weeks before the OWEB Board meeting in which Council Capacity Grant awards will be considered.

VIII. Board Action on Eligible Applications

695-040-0120

A. Staff Recommendations and Board Awards

Staff funding recommendations and Board awards will be based on 1) the merit evaluation and 2) available funding.

B. Staff funding recommendations and Board awards may include:

1. **Full base award for councils that meet all merit criteria**
 - a. Councils meeting all merit criteria shall be placed in the highest merit category and be recommended for the same level of award.
2. **Reduced base funding for councils that do not meet all merit criteria**
 - a. Councils that do not meet all merit criteria shall be placed in the reduced funding merit category and recommended for the same level of award. The reduced funding base award will be 80% of the full base award. For example, if the full base award is \$100,000, the reduced base award will be \$80,000.
3. **Reduced base funding in third consecutive grant cycle results in “do not fund” ranking**
 - a. If a council or group of councils is placed in the reduced base funding category for two consecutive grant cycles and does not meet all merit criteria in the following grant cycle, it shall be placed in the “do not fund” category for that third grant cycle. If eligible, a “do not fund” council may apply in future grant cycles.
4. **Discretion to rank Do Not Fund (inadequate performance)**
 - a. OWEB has the discretion to place a council in the “do not fund” merit category at any time. Factors OWEB will consider in this placement include:
 - b. The council does not meet all merit criteria.
 - c. The council’s history of performance over a period of years has resulted in little or no progress toward implementation and completion of on-the-ground watershed restoration projects.
 - d. The council’s history of performance over a period of years has resulted in little or no progress toward implementation and completion of stakeholder engagement activities.
 - e. The council’s history of organizational performance over a period of years has shown lack of board officer leadership, weak organizational structure, and/or poor organizational management.
 - f. The council has made little or no progress toward implementation and completion of organizational development and management activities.

C. OAR 695-040-0120(2)(d): Board Discretion on Larger Geographic Area

The Board has not adopted guidance to implement OAR 695-040-0120(3)(d), which provides Board discretion to award grants for larger geographic areas, and this section of the rules is not

currently implemented. Prior to implementation, this Guidance document will be updated through a process that includes public comment and Board adoption.

IX. Use of Funds

695-040-0130

Council Capacity Grants help fund staff, contractors and other costs of watershed councils. See OWEB’s most recent Budget Categories Definitions and Policy document for additional information.

Outreach Activities

Measure 76 and ORS 541.956 authorize OWEB to make grants available for outreach activities that are necessary for carrying out eligible restoration and acquisition projects that protect or restore native fish or wildlife habitat or that protect or restore natural watershed or ecosystem functions in order to improve water quality or stream flows. To qualify as necessary for restoration or acquisition, the project must be tied to a specific geography, address clearly articulated habitat or watershed or ecosystem function goals for that geography, and identify a clear path toward achieving the restoration or acquisition measurable outcomes within a reasonable and specific timeframe.

PROJECTS WHOSE PRIMARY PURPOSE ARE EDUCATION ARE NOT ELIGIBLE.

X. Grant Agreement Conditions

695-040-0140

A. Minimum grant agreement conditions for all Council Capacity Grants

1. Send all watershed council meeting announcements to the OWEB Project Manager.
2. Submit an annual report to all local government entities that designated the council. Upload each annual report and documentation it was shared (i.e. meeting agenda if the report was presented in person, a copy of a sent email if the report was submitted electronically) with the Council Capacity project completion report.
3. Complete the watershed council self-assessment form once a biennium. Upload the Summary Chart generated at completion of the assessment with the Council Capacity grant project completion report.
4. All councils that are placed in the reduced funding merit category will be required to submit a progress report halfway through the biennium.

B. Two or more independent councils submit written agreement

OWEB will not release a Council Capacity Grant agreement for a group of councils operating independently until the councils submit to OWEB a written agreement signed by the chair of each council. The agreement shall describe, at a minimum, 1) roles and responsibilities of each council in relation to the Council Capacity Grant work plan and reporting requirements, and 2) a plan for how the councils will allocate a Council Capacity Grant between them.

C. Other Conditions

Grant agreements may include conditions of funding such as progress reports or certain actions as a condition of receiving full funding. Conditions may allow OWEB staff to terminate the grant agreement if conditions are not met. OWEB staff would consult with the Executive Director before terminating a grant agreement.