Oregon Watershed Enhancement Board

Chapter 695

Division 40
~~OUTCOME-BASED~~ WATERSHED COUNCIL AND SOIL AND WATER CONSERVATION DISTRICT PROJECT DEVELOPMENT ~~OPERATING CAPACITY~~ GRANTS

695-040-0010
Purpose

"The Board shall provide Watershed Council and Soil and Water Conservation District Project Development Grants, as funds are available, to help support Watershed Councils and Soil and Water Conservation Districts that engage people and communities in their watersheds to participate in the collaborative, voluntary restoration and protection of native fish or wildlife habitat, and natural watershed functions to improve water quality or stream flows. This Division supplements the OWEB Grant Program rules under OAR 695-005 and provides specific requirements for the Watershed Council and Soil and Water Conservation District Project Development Grants Program. In the event of any conflict between these requirements, and the requirements identified in OAR 695-005, the Watershed Council and Soil and Water Conservation District Project Development Grants Program in this Division take precedence.

~~(1) To guide the Oregon Watershed Enhancement Board in accepting, reviewing for eligibility and merit, and considering for funding applications for Council and District Capacity Grants pursuant to ORS 541.918, 541.926(1)(e), 541.923, and 541.910.~~

~~(2) To provide a grant program to help support the operations of watershed councils and soil and water conservation districts that engage people and communities in their watersheds to participate in the collaborative, voluntary restoration and protection of native fish or wildlife habitat, and natural watershed functions to improve water quality or stream flows.~~

~~(3) To encourage the development of high-capacity local infrastructure and continuous improvement.~~

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14
OWEB 3-2004, f. & cert. ef. 9-20-04

695-040-0020
Definitions

~~(1) "OWEB" means the Oregon Watershed Enhancement Board state agency.~~

~~(2) "Board" means the Oregon Watershed Enhancement Board created under ORS 541.900.~~

~~(3) "Director" means the Executive Director of the Oregon Watershed Enhancement Board or the Executive Director's designee.~~

(14) "Watershed Ccouncil" ~~or "council,"~~ pursuant to ORS 541.890(145), means a voluntary local organization, designated by a local government group convened by a county governing body, to address the goal of sustaining natural resources and conducting watershed protection, restoration and enhancement within a watershed as defined in 541.890(134).

(25) "Council Action Plan" means a plan or set of plans adopted by a Watershed Ccouncil or group of Watershed Ccouncils that identifies and prioritizes the ecological problems the Watershed Ccouncil seeks to address, and the priority, voluntary restoration, enhancement, monitoring and/or community engagement activities the Watershed Ccouncil will conduct to address those problems.

(36) "Council Capacity Grant" means an OWEB grant awarded to a Wwatershed Ccouncil or group of Wwatershed Ccouncils under the Outcome-Based Watershed Council Operating Capacity Grant Program on or after January 1, 2015.

Commented [EH1]: This is the current term, will change to 'Watershed Council Project Development Grant'.

(47) "Watershed Council Support Grant" means an OWEB grant awarded to a Wwatershed Ccouncil or group of Wwatershed Ccouncils prior to July 1, 2013, for the purpose of supporting the capacity of a Ccouncil or group of Watershed Ccouncils to conduct the activities necessary for the watershed protection, enhancement, and restoration work of the Watershed Ccouncil(s).

(58) "Watershed Council's Ggoverning Bbody" means the group of people who have the responsibility to a) ensure that the Watershed Ccouncil meets legal requirements, b) support successful achievement of the Watershed Ccouncil's goals, and c) create a structure, policies, and procedures that support good governance.

(69) "Soil and Wwater Cconservation Ddistrict" ~~means special districts as described in ORS 198.335(2) which provide for the conservation of the renewable resources of Oregon as organized under ORS 568.210 to 568.808 and 568.900 to 568.933.~~ means a special district as organized under ORS 568.210 to 568.808 and 568.900 to 568.933.

Commented [EH2]: Alternative definition: "Oregon conservation districts are political subdivisions of state government, but are not state agencies. Conservation districts are
considered municipal corporations, a form of local government that
is required to follow many of the same laws that govern state agencies.
As defined in Oregon Revised Statute 174.116 local government
specifically includes soil and water conservation districts."

(711) Soil and Water Conservation District ~~Capacity~~Project Development Grant" means an OWEB grant awarded to a Soil and Water Conservation District, or group of Soil and Water Conservation D~~d~~istricts, for the purpose of supporting the capacity of a district, or group of Soil and Water Conservation D~~d~~istricts, to conduct the activities necessary for the watershed protection, enhancement, and restoration work of the district(s), and to execute Local Management Agency responsibilities under the Agricultural Water Quality Management Program established by ORS 568.900 to 568.933.~~.~~

(812) "ODA" means the Oregon Department of Agriculture state agency.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14
OWEB 3-2004, f. & cert. ef. 9-20-04
OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04

695-040-0030
Eligibility Criteria ~~for~~

Watershed Councils

The purpose of the eligibility criteria is to define which Wwatershed Ccouncils are eligible to apply for ~~Council Capacity~~Watershed Council Project Development Grants. These eligibility criteria do not limit or control the existence or creation of Wwatershed Ccouncils. A Wwatershed Ccouncil, or group of Wwatershed Ccouncils, is eligible to apply for a Watershed Council Project Development ~~Council Capacity~~ Grant only if OWEB determines it meets the eligibility criteria.

(1) Designation as a Wwatershed Ccouncil by a local government:

(a) For watershed councils previously awarded a Watershed Council Support Grant, the council shall have been designated as a Wwatershed Ccouncil by a local government.

(b) For new or reorganized Wwatershed Ccouncils, the Watershed Ccouncil shall be designated as a Wwatershed Ccouncil by a county commission, county board, or county court.

(2) Geographic Area:

(a) A geographic area served by a Watershed Ccouncil or group of Watershed Ccouncils can change. However, to be eligible, OWEB shall determine that a Watershed Ccouncil or group of Watershed Ccouncils serves an area:

(A) In which a Watershed Ccouncil or group of Watershed Ccouncils previously received a Watershed Council Support Grant or Council Capacity Grant; and

(B) Which is the same or larger than the geographic area served by a Watershed Ccouncil or group of Watershed Ccouncils as of July 1, 2013.

(C) OWEB may determine that a Watershed Council is eligible even if the geographic area has not previously received a Watershed Council Support Grant or Council Capacity Grant, provided that:

(i) The area demonstrates unmet watershed restoration needs;

(ii) The Watershed Council has demonstrated the ability to develop and implement restoration projects;

(iii) All other eligibility criteria in this section have been met; and

(iv) No more than three new Watershed Councils may be approved statewide per biennium under this provision.

(b) In addition, for the purposes of this eligibility criteria:

(A) The geographic area shall include a minimum population of 500 individuals within its designated boundary or boundaries; and

(B) No more than one applicant is eligible for the same geographic area.

(3) The Watershed Ccouncil's governing body has adopted a Council Action Plan with components as described in ORS 541.929.~~ Minimum criteria for Council Action Plans shall be determined in accordance with guidance adopted and periodically reviewed by the Board and made available to the public on the OWEB website and in Board meeting materials.~~

(4) The Watershed Ccouncil shall demonstrate at least one of the following:

Commented [EH3]: Initial language for RAC discussion.

(a) It is registered with the State of Oregon;

(b) It has a written fiscal sponsorship agreement with a 501(c)(3) organization; or

(c) It has a written fiscal sponsorship agreement with a Soil and Water Conservation District, city, county, or tribal government.

(5) Organizational Structure and Business Operations: If OWEB determines a Wwatershed Council or group of Watershed Councils meets the relevant eligibility criteria in sections 1 through 4 above, OWEB shall determine whether the governing documents adopted by the Watershed Council or group of Watershed Councils include the elements described in this section.

(a) The Watershed Council's governing body has adopted bylaws or a charter that includes the following:

(A) A declaration that the Watershed Council's mission aligns with OWEB's purpose as described in the Oregon Constitution and statutes. At a minimum, the bylaws or charter shall indicate that a primary purpose of the Watershed Council is to work collaboratively with communities and landowners to develop and carry out voluntary watershed protection, restoration, and enhancement~~, and community engagement activities~~;

(B) How the governing body is selected;

(C) Titles of officers, e.g., Chair, President, Secretary, Treasurer;

(D) How officers are selected;

(E) Who is eligible for the governing body;

(F) Who is eligible to be an officer;

(G) Length of service on governing body;

(H) Length of service for officers;

(I) Powers of governing body;

(J) Powers of officers;

(K) Minimum number or frequency of governing body meetings;

(L) Decision making process of governing body;

(M) A statement that the Watershed 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); and

(N) A process for amending the bylaws or charter.

(O) If the Watershed Council is a membership organization, in addition to A-N above the bylaws or charter shall include the following:

(i) Who is eligible for membership;

(ii) When membership meetings will occur;

(iii) The decision making role of the membership; and

(iv) A process to remove members or terminate the voting rights of members.

(b) The Watershed Ccouncil's governing body has adopted policies and/or procedures that include the following:

(A) A list of the geographic areas and community interests the Watershed Ccouncil 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 Watershed Ccouncil operates as an open and inclusive organization, including inviting the public to Watershed Ccouncil meetings, and, upon request, providing the public with records of its meetings and decisions;

(C) A policy that the Watershed Ccouncil, or its fiscal sponsor, uses Generally Accepted Accounting Principles; and

(D) A policy that the Watershed Ccouncil does not rely on litigation to compel regulatory enforcement as a means to implement its mission.

(6) If a Wwatershed Ccouncil disagrees with the determination that it is not eligible to submit an application and wishes to appeal, the Watershed Ccouncil shall appeal to OWEB's Director ~~in accordance with the appeal process contained in the guidance adopted by the Board~~. The Director shall make the final decision on all eligibility appeals.

Commented [EH4]: Moved from deleted, 'Eligibility Determination' section below.

Soil and Water Conservation Districts

The purpose of the eligibility criteria is to define which districts are eligible to apply for Soil and Water Conservation District Project Development Grants. These eligibility criteria do not limit or control the existence or creation of Soil and Water Conservation Districts. A Soil and Water Conservation District, or group of Soil and Water Conservation Districts, is eligible to apply for a Soil and Water Conservation District Project Development Grant upon certification from ODA that the agency has determined the Soil and Water Conservation District meets the following statutory requirements:

(1) Submission, pursuant to ORS 568.554, of an SWCD Board approved~~n~~ Aannual Wwork Pplan for each fiscal year.
(2) Submission, pursuant with ORS 568.580 and ORS 568.950, of the Soil and Water Conservation District board Rresolution setting an Aannual Mmeeting date, and a copy of the ~~newspaper~~newspaper public notice reflecting two publishing dates with an interval of at least seven days between the two publication dates and, both published no later than 15 days prior to the Aannual Mmeeting, consistent with ORS 568.580 and ORS 568.950.
(3) Submission, pursuant to ORS 568.580, of the Soil and Water Conservation District Aannual Rreport to be presented at the Aannual Mmeeting. The Aannual Rreport must reflect the work accomplished from the most recent past year's Aannual Wwork Pplan.
(4) Submission, of a current Llong-Rrange Pplan as described in ORS 568.554.

(5) Submission, pursuant to ORS 568.610 and ORS 297.435, of the Soil and Water Conservation District's copy of the Financial Report provided to the Secretary of State:
(a1) In Lieu of Audit Report;
,(b2) Agreed Upon Principles;
,(c3) Full Audit;,
(d4) Federal Single Audit; , or
(e5) approved Secretary of State's Notice of Extension.

Commented [EH5]: Consider deleting.

If a Soil and Water Conservation Ddistrict disagrees with the determination that it is not eligible to submit an application and wishes to appeal, the Soil and Water Conservation Ddistrict shall appeal to OWEB's Director in accordance with the appeal process contained in the guidance adopted by the Board. The Director shall make the final decision on all eligibility appeals.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14
OWEB 3-2004, f. & cert. ef. 9-20-04
OWEB 2-2004, f. 4-6-04 cert. ef. 4-12-04

695-040-0090
Eligibility Determination

Watershed Councils

(1) The eligibility of a watershed council or group of councils to submit an application for a Council Capacity Grant shall be determined in accordance with guidance adopted and periodically reviewed by the Board and made available to the public on the OWEB website and Board meeting materials.

(2) If a watershed council disagrees with the determination that it is not eligible to submit an application and wishes to appeal, the council shall appeal to OWEB's Director in accordance with the appeal process contained in the guidance adopted by the Board. The Director shall make the final decision on all eligibility appeals.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14

~~695-040-0100~~
~~Application Requirements~~

~~Council Capacity and District Grant applications shall be submitted on the most current form that conforms to the requirements and process set forth in guidance and periodically reviewed by the Board and made available to the public on the OWEB website and Board meeting materials~~specified by OWEB.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14

695-040-0110
Merit Evaluation

(1) Applications shall be evaluated in accordance with the guidance adopted and periodically reviewed by the Board and made available to the public on the OWEB website and in Board meeting materials.

(2) Through its merit evaluation, OWEB seeks to:

(a) Ensure strategic and accountable investment of public funds;

(b) 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 community engagement activities; and

(c) 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).

(3) Merit evaluation shall include reviews for:

(a) Prior performance;

(b) Progress in accomplishing council work plans that is demonstrated over time; and

(c) Demonstration of progress toward the objectives described in section 2 above, as set forth in guidance adopted by the Board.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14

695-040-0120
Board Action on Eligible Applications

(1) The Board may fund grants to watershed councils or a group of councils.

Commented [HO6]: Consider deleting this section as it's duplicative of Division 5 'Application Requirements'

Commented [EH7]: End of RAC Meeting #1

(2) The Board shall take action on eligible applications for Council Capacity Grants in accordance with guidance adopted by the Board and made available to the public on the OWEB website and in Board meeting materials.

(3) Individual Council Capacity Grant funding levels are within the Board's discretion based on consideration of:

(a) A watershed council's merit evaluation;

(b) The Board's determination, if any, under 695-040-0120(3)(d); and

(c) Available funding.

(d) Notwithstanding subsections (a), (b) and (c), the Board may award an individual Council Capacity Grant for a larger geographic area when the Board determines that such action will likely increase collaboration and resource sharing, inter-watershed coordination, and will likely foster organizational resilience and watershed restoration outcomes at a larger landscape scale. The Board's determination shall be made in accordance with guidance adopted and periodically reviewed by the Board and made available to the public on the OWEB website and in Board meeting materials. Such an award by the Board may include a reduction in the number of individual Council Capacity Grants within the larger geographic area and a reduction in funding levels for individual watershed councils within the larger geographic area.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14

695-040-0130
Use of Funds

A Council Capacity Grant provides funding for operations of a watershed council or group of councils.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14

695-040-0140
Grant Agreement Conditions

The Council Capacity grantee shall be required to:

(1) Submit to OWEB an annual work plan update;

(2) Submit an annual report to all local government entities that designated the council; and

(3) Obtain appropriate levels of insurance coverage commensurate with council activities.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910

History:
OWEB 1-2014, f. & cert. ef. 8-6-14

695-040-0150
Waiver of Rules

The Director may waive any requirements of Division 40 for individual grant applications, not including mandatory statutory requirements, when doing so will result in more efficient or effective implementation of the Outcome-Based Watershed Council Operating Capacity Grant Program. Any waiver granted shall be in writing and included in the permanent file of the grant for which the waiver was granted.

Statutory/Other Authority: ORS 541.906
Statutes/Other Implemented: ORS 541.918, 541.926(1)(e), 541.923 & 541.910
History:
OWEB 1-2014, f. & cert. ef. 8-6-14