

Covered Activity Notification

Portfolio Administration File

CDM Memorandum 8.2

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8.2.01 Overview

This memorandum defines the term “Covered Activity Notification”, also referred to as “Notification”, as well as provides guidance on when and how Notification is to be undertaken by the Owner or the Owner’s Representative. Notification is one of a number of critical tools that allows the Department to work with property owner’s and their representatives to ensure that all obligations and requirements associated with the Department’s funding remain satisfied throughout the Affordability Period when physical modifications to an OHCS portfolio property occurs.

8.2.02 Definitions

Affordability Period: The period of time, as established in the legal or other governing documents associated with an asset, over which tenant rent and utility costs for a dwelling unit(s) is restricted to an established level as given in the Department’s governing documents that pertain to the subject asset.

Casualty Loss: Destruction or damage to all or part of a physical asset resulting from an identifiable event that is sudden, unexpected, or unusual Event such as a natural disaster.

Covered Activities: Defined as work performed that changes the character, design, or function of any building or site element or system from that described in the original construction documents or as specified in subsequent OHCS approvals. Covered activities are further defined later in this memorandum.

Covered Activity Notification (also Notification and Notify): Refers to the Notification process, as established in this Memorandum, by which the Property Owner or their Representative informs the Department of their desire and/or intent to perform ‘Covered Activities’ on a property or asset.

Department: Means the Oregon Housing & Community Services Department of the State of Oregon.

Department Asset Management Analyst (AMA): Department staff that serve as the primary point of contact for asset owner’s and/or their representatives when engaging with the Department during the Affordability Period. The Department’s AMA ensures that existing affordability covenants connected with the asset are preserved for the full duration of the Affordability Period.

Loan/Legal/Regulatory/Government Documents: All of these terms are used interchangeably to describe any legally binding record that identifies funding or program requirements, conditions, property use, property management, performance expectations, affordability restriction or term of affordability. This includes but is not limited to modification or assignment/assumption of such documents.

Portfolio Property: Any property with an active Loan/Legal/Regulatory/Government Document resulting in regulatory oversight from the Department.

Procorem:

The name of the Department's electronic document hub.

8.2.03 Purpose of Notification

The act of 'Notification' alerts the Department's AMA that Covered Activities are being considered or planned on an Agency's Portfolio Property. Advance notice of the planned Covered Activity gives the AMA the opportunity to advise the Property Owner and/or their Representative of potential regulatory concerns that may need to be considered as the proposed work-plan is developed.

8.2.04 Notification of Covered Activities Required

All Covered Activities performed on a Portfolio Property are to be reported (Notification) to the Department per the property's governing documents and the protocols established in this memorandum.

8.2.05 Failure to Notify

Failure to Notify can interfere with the Department providing timely input which could lead to unnecessary project cost overruns, complications arising from potential regulatory violations, and the potential for needed Department interventions that may result in construction delays. Failure to notify may result in the filing of a Report of Non-Compliance, loss of credit, recapture, request for repayment, an extension of affordability period, a heightened level of oversight by the Department, or other enforcement actions that may be available to the Department.

8.2.06 Emergency Related Covered Activities

The Property Owner or their Representative may address issues that constitute an urgent threat to health or safety prior to formal Notification; however, such Notification should occur within five (5) business days (or as deemed reasonable by the AMA) of the related event's occurrence or discovery.

Casualty Loss:

Notification of a Casualty Loss is not covered by this Memorandum. For Casualty Loss related Notification, contact the Department's Asset Portfolio Manager or the Department's Asset Management Analyst (AMA) assigned to the property. Casualty Loss notification should be made via email. Casualty Loss Notifications should occur no later than 72 hours after the incident occurred or its discovery, whichever is the latter. Casualty Loss is covered in more detail in CDM Memorandum 8.3.

8.2.07 When and How to Notify

Notification should occur 90 calendar days prior to the start of construction. Notification is accomplished by the Property Owner or their authorized representative completing and submitting **Form N1** and uploading the completed form to the Department's Procorem Document Workcenter or as otherwise instructed by the AMA. The Department encourages that Notification be submitted as early as possible.

Property Owners or their authorized representatives are encouraged to contact the Department's AMA with any questions regarding Form N1 and for guidance on how to use the Department's Procorem Document Workcenter to submit Notifications.

Refer to Section 8.2.08 for how to obtain Form N1.

8.2.08 Form N1

Form N1 can be obtained from the Department's Core-Development webpage or at the following link:

<https://www.oregon.gov/ohcs/development/Documents/Form%20N1.pdf>

Note: An example of Form N1 is provided at the end of this memorandum for general information purposes only.

8.2.09 Department Acknowledgement of Notification

Once Notification has been received and reviewed by the Department, the assigned AMA will contact the representative identified in Form N1 to acknowledge receipt. Depending on the circumstances, the AMA may determine that further engagement is needed with the representative to better understand the nature or details of the planned activity.

The Department's AMA may request additional documentation or clarification regarding the planned work. Clarifications about health & safety, regulatory compliance, impacts on the physical asset and tenants, and other related considerations may be needed.

Once the AMA has completed its formal review, the Department will provide written confirmation to the Owner's representative that the Notification process for that Covered Activity is complete. Upon receiving confirmation that the Department has taken no exception to the planned activity, work on the asset can proceed. With adequate Notification being given to the Department, and with timely follow-up to requests for information, Department reviews are typically completed well in advance of the start date for the planned activity.

8.2.10 What to Expect After Notification: Department Engagement During the Planned Activity

The Department's AMA will determine, on a case-by-case basis, what their involvement will be during the planned activity. This determination is influenced primarily by the size and complexity of the project; however other factors can also affect the level of engagement needed. The Department's engagement is generally limited to a passive observer role. In this role, Department expectations are that the Owner's project team will include the Department in project related communications that are typically expected by any other project stakeholder. The AMA will define the Department's project engagement expectations during the Notification process once the scope and complexity are determined.

8.2.11 Definition of Covered and Exempt Activities

1) Covered Activities

Covered Activities are defined as work performed that changes the character, design, or function of any building or site element or system from that described in the original construction documents or as specified in subsequent OHCS approvals.

All Covered Activities, regardless of how minor they may appear, require Notification. The list below is not a comprehensive list of Covered Activities but is intended to provide a general picture of what the Department considers to be Covered Activities. When in doubt about what constitutes a Covered Activity, the Department's AMA should be consulted.

Example of Covered Activities - General

- a) Any improvement to the site or building needed to mitigate or correct a serious health/safety or physical issue.
- b) Any improvement considered "exempt" under part 2) of this Section when the total cost of the work (projected to be undertaken within 90 days or less) exceeds \$10,000.

Example of Covered Activities - Site Related

- a. Lighting modifications to outdoor common areas or other parts of the site

- b. Vehicle parking modifications
- c. Exterior path of travel modifications, e.g., ramps, stairs, walkways
- d. Net loss or addition of landscaping or landscape area
- e. Modification to Landscape components including plants (except as identified as exempt in item 2 of this Section), fencing, retaining walls, etc.
- f. Modification to site contours
- g. Construction of any permanent structure, no matter how small

Example of Covered Activities - Building Related

- a. Repair or replacement that involves any form of structural work, however minor it may be. Includes items such as, but not limited to, repair or replacement of a deck post, a stair beam, floor joists, etc.
- b. Replacement of building envelope components when it involves:
 - Replacement of more than 64 sq ft. of roofing
 - Replacement of any window unit or exterior door
 - Replacement of any amount of building cladding system or trim
- c. Modifications to the exterior geometry of the building envelope
- d. Modifications to the building footprint
- e. Modifications to the interior wall locations
- f. Modifications to interior and exterior door/window openings
- g. Modifications to kitchen and bathroom design including cabinetry, countertops, and changes in the location of plumbing fixtures
- h. Modifications to any of the building's primary systems unless exempt per item 2) of this Section

2) Exempt Activities

Exempt Activities are defined as work performed totaling \$10,000 or less and that complies with all the following:

- i. The repair does not change the character of the component or system or constitute a deviation from the fundamental specification given for the component or system as it is defined in the original construction documents or as specified in subsequent OHCS approvals.
- ii. The repair does not fall into the category of a Covered Activity as defined in this Memorandum.

Example Exempt Activities - Site Related

- a) Coatings and sealants
- b) Minor landscape plants that do not contribute to the basic character of the property.
- c) Ground cover
- d) Irrigation systems

Example Exempt Activities - Building Related

- a) Replacement of Interior Finish Components and Equipment including but not necessarily limited to:
 - Interior floor, wall, and ceiling finishes
 - Interior floor underlayment (does not include floor decking or sheathing)
 - Interior doors and hardware
 - Interior window and door trim
 - Interior window coverings
 - Gypsum wallboard replacement totaling less than 50 sf.
 - Dwelling unit-specific heating, cooling, and ventilation equipment

Conditions:

- I. Interior finishes should be the same type of finish as originally approved construction documents or subsequent OHCS approvals.
 - II. Kitchen and laundry appliances, electrical fixtures, heating and ventilation equipment, and plumbing fixtures should meet all the same general design specifications in originally approved construction documents or subsequent Department approvals with the added requirement that the replacement components should also be updated as necessary to meet or exceed the criteria for energy and water efficient equipment and fixtures per Chapter 7.1 of the most current version of the CDM.
- b) Replacement of Exterior Finishes, Components, and Fixtures, including but not necessarily limited to:
- Exterior coatings and sealants
 - Roof covering replacement totaling less than 64 sq ft.
 - Window glazing
 - Hardware

Conditions:

- i. Exterior finishes and sealants must be the same type as in originally approved construction documents or subsequent OHCS approvals.
- ii. Lighting should meet all the same general design specifications as in originally approved construction documents or subsequent OHCS approvals, with the added requirement that the replacement components should be updated as necessary to meet or exceed the criteria for energy efficiency per Chapter 7.1 of the most current version of the CDM.

8.2.12 Department's Asset Management Analyst (AMA) Right to Determination

The Department AMA will make the final determination regarding whether an activity is considered "Covered" under this guidance. Property Owners or their authorized representatives are expected to consult with the AMA when unclear about what is and is not a "Covered Activity".

8.2.13 Right to Require 3rd Party Document Review and Inspections

The Department reserves the right, to require the property owner to retain, at owner's expense, an independent 3rd party contractor to assist in defining the project scope, developing construction documents, and inspecting the construction work, and reviewing the work for conformance with Department expectations. Third party contractors must be qualified and experienced in performing the needed tasks and must be approved by the Department.

D. Project Definition	
Please provide a brief response to the items listed below. You may attach additional sheets to this Notification Form if needed. Information provided on additional sheets must reference the appropriate item number given in the left column of this form.	
01	Reason for Work:
02	Initial Project Description: (Brief Overview Only)
03	Initial Cost Estimate Figure:
04	Desired Construction Start date: (Month 00, 0000)
05	Proposed Sources of Funding:
06	Funders other than OHCS (If Applicable)
07	Impact on Residents During Construction:

Department Use Only
 Section E (below) to be completed by the AMA

After the Department has received sections A through D of this form from the notifying party, the Department's assigned AMA will identify Department requirements below. This list identifies only a portion of all project information that may be required by the AMA over the course of the project. The AMA may adjust project requirements at any time (add, modify, remove) as they deem appropriate to the specific nature of the proposed project.

E. Department Requirments			
Pre-Construction			Comment
01	<input type="checkbox"/>	Lic. Architect Consultation	
02	<input type="checkbox"/>	Construction Drawings & Specifications	
03	<input type="checkbox"/>	GC Contract (AIA Form Required)	
04	<input type="checkbox"/>	Proposed Project Funding	
05	<input type="checkbox"/>	CNA / PCA	
06	<input type="checkbox"/>	Contractor's Cost Estimate with Schedule of Values	
07	<input type="checkbox"/>	Contractor's Fee or Bid	
08	<input type="checkbox"/>	Project Schedule	
09	<input type="checkbox"/>	Department Written Approval to Commence Construction	
During Construction			Comment
10	<input type="checkbox"/>	Lic. Architect Construction Observation & Field Reports	
11	<input type="checkbox"/>	Draw Requests	
12	<input type="checkbox"/>	AIA G702 and AIA G703 (General Contractor Payment Application)	
13	<input type="checkbox"/>	Change Order Requests	
At Construction Completion			Comment
14	<input type="checkbox"/>	Certificate of Substantial Completion	
15	<input type="checkbox"/>	County/City Code Authority Sign-Offs	
16	<input type="checkbox"/>	Architect's Punch List	
17	<input type="checkbox"/>	Department Final Inspection Site Visit	
18	<input type="checkbox"/>	Photographs	