

**STATE OF OREGON
HOUSING AND COMMUNITY SERVICES DEPARTMENT**

MULTIPLE AWARD OPPORTUNITY

NOTICE OF FUNDS AVAILABILITY (NOFA) #3013

Affordable Housing Projects with 9% Low Income Housing Tax Credits (LIHTC)

NOFA Issued Date: **XXXXXX Y, 2013**

Application Due Date: **XXXXXX Y, 2013**

Application Due Time: **4:00 PM PST**

Version 5.3

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1.0 INTRODUCTION

1.1 Purpose

The State of Oregon, acting by and through its Housing and Community Services Department (“Agency”), is seeking Applications on a statewide basis in this Notice of Funding Availability (“NOFA”) with respect to Affordable Housing Projects (“Projects”) whose development, *inter alia*, will require 9% Low Income Housing Tax Credits (“LIHTC”) in order to serve qualifying low income populations..

All entities submitting Applications responsive to this NOFA are herein referred to as Applicant(s). Applicants, if any, that the Agency determines to provide an award of funding (“Award”) pursuant to this NOFA will be designated as the Grantee in the Reservation of Award Letter (“Reservation”) issued to them by the Agency. All Reservations and subsequent Awards are conditional in nature, contingent upon the terms upon which they are made, the continuing availability to the Agency of the described funds or tax credits (collectively or individually without distinction, “Funds”), the continuing authority of the Agency to disburse or allocate such Funds, and the successful negotiation, execution, and recording (if required) of relevant documents in a manner satisfactory to the Agency in its sole discretion.

1.2 Funding Sources

Funds for this NOFA may derive from federal, State, or other funds or tax credits, which may include but are not limited to:

U.S. Department of Housing and Urban Development (“HUD”) HOME funds;
Agency General Housing Account Program (“GHAP”) funds;
IRS 9% Low Income Housing Tax Credits (“LIHTC”);
Oregon Affordable Housing Tax Credits (“OAHTC”);
Agency HELP Program Financing Adjustment Factor Savings (“FAFS”) funds; and
Agency Low Income Weatherization Program (“LIWP”) funds.

The above-described funding sources are subject to their respective set of standards (“Programs”) and all Program requirements for funding (“Program Requirements”) relevant to an Application must be satisfied by that Applicant to qualify for such funding.

1.3 Application Parameters

- A. Applicants must identify the region in which the Project is to be located and the amount of requested Funds in each category.
- B. Projects with scattered sites across regions are eligible for Funds under this NOFA, but Projects will be competitively scored, including according to their Best Use of Proceeds and Project Community Need within each applicable region.
- C. Applicants may only apply for one phase of a multi-phase Project in each funding cycle of this NOFA.

1.4 Definitions

In addition to terms defined elsewhere in this NOFA, the following words and phrases have the meanings indicated below:

“Allocations” are the amounts of specific Funds available in each funding cycle for each Region.

“Best Use of Public Funds” is a competitive scoring category that identifies and measures the potential social, economic and financial benefits that a particular Project will provide to its community for the purpose of selecting the highest benefit Projects for awards.

“Community Project Need” is a competitive scoring category that identifies and measures the severity of need for a particular Project in its community for the purpose of selecting the highest need Projects for awards.

“Need” is the level of demand for affordable housing in a given Region, county or city based on low income population, rent burden, funding history and affordable housing inventory that is identified and measured for the purpose of allocating Funds.

“Regional Solutions Centers” or “RSCs” are areas of the state that are grouped by contiguous counties for the purpose of identifying needs and allocating Funds to Projects through the Agency’s NOFA process.

“Regions” are the five areas of the state that are further identified herein as Regional Solution Centers, e.g., Central Oregon, Eastern Oregon, Metro Oregon, Southern Oregon and Valley/North Coast.

“Underserved Region” is a Region, county or city whose affordable housing needs are identified as underfunded relative to its affordable housing need.

1.5 Minimum Qualifications

In addition to Application requirements hereinafter described, in order to submit a qualifying Application for an Award of Funds, **the request for Funds in the Application should not exceed the Allocation of available Funds** for the Region in which the Project is located and the Project must meet **one of these four** conditions:

A. Geographic Priority: The Project is in an Underserved Region.

Is the Project for which Funds are requested located within one of the identified 2013 Underserved Regions noted below?

Regional Solutions Center	County/City	County
Central Oregon	Crook County	Crook
Central Oregon	Deschutes County	Deschutes
Central Oregon	Klamath County	Klamath
Central Oregon	Lake County	Lake
Central Oregon	Sherman County	Sherman
Eastern Oregon	Baker County	Baker
Metro (PJ)	Clackamas County	Clackamas
Metro (PJ)	Washington County	Washington
Southern Oregon	Coos County	Coos
Southern Oregon	Jackson County	Jackson
Southern Oregon	Josephine County	Josephine
Valley/North Coast	Benton County	Benton
Valley/North Coast	Clatsop County	Clatsop
Valley/North Coast	Columbia County	Columbia
Valley/North Coast	Lane County	Lane
Valley/North Coast	Linn County	Linn
Valley/North Coast	Marion County	Marion
Valley/North Coast	Polk County	Polk

B. Public Investment Priority

The Project will receive significant public investment from local, state, or federal agencies in addition to requested Funds from the Agency. The judgment as to whether or not such public investment is “significant” will be made by the Agency considering factors that may include, but are not limited to: (i) the amount of such public funding relative to the amount of requested Funds; (ii) the amount of such public funding relative to total funding costs of the Project; (iii) the amount of such public funding relative to public funding in other proposed Projects within the Region; and, (iv) the contribution of such public investment to the sustainability of the Project for its intended affordability period.

Will this Project receive a financial public investment from sources, including, but not limited to land donation, cash grant or loan, property tax exemption, System Development Charge fee waivers, U.S. Department of Housing and Urban Development (“HUD”) or U.S. Department of Agriculture (“USDA”) or Veterans Administration (VA) rental assistance contracts, project based rental assistance vouchers, private investment or other tangible financial contribution from a local, state, or federal agency?

C. Preservation Priority

The Project has USDA or HUD project-based rental assistance (“PBRA”) that meets the following criteria:

- i. There must be an existing PBRA contract for the Project that will be preserved or renewed.
- ii. At least 50 percent of the units in the Project must be subject to the PBRA contract.

Does the Project for which the Application seeks Funds satisfy both criteria?

D. Public Priority

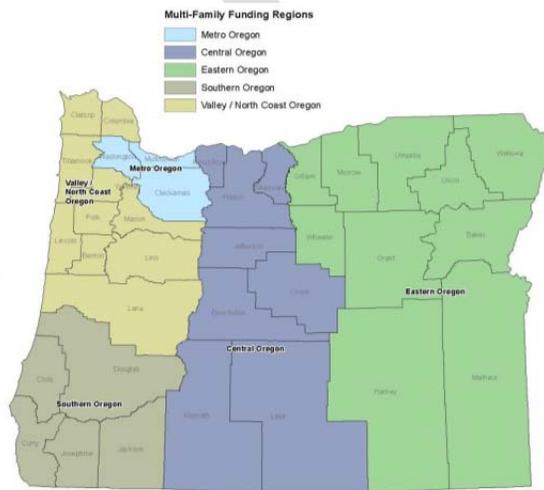
The Project demonstrates a meaningful public priority as indicated by meeting multiple local, RSC, state agency, or legislative goals.

Has this Project been identified as an RSC priority or is there a local, state agency or legislative effort that has identified this Project as a public priority?

Failure to satisfy at least one of the minimum qualifications set forth in this subsection 1.5 means the Project cannot serve as the basis for a qualifying Application under this NOFA. Attach Qualification Worksheet.

1.6 Regions, Needs and Allocations

Regions: In 2012, through a process of focused outreach and statistical analysis, the Agency reviewed the need for additional Projects throughout the State of Oregon. Through this process, the Agency identified the needs for each of five Regions: Central Oregon, Eastern Oregon, Metro Oregon, Southern Oregon and Valley/North Coast. The Regions are more particularly described in the following map:



Identification of Regional Needs and Underserved Regions: The needs analysis created a profile for each Region. From the needs profiles, it was determined that two critical variables provided the best measure of allocating resources: (1) **AMI Ratio:** the number of renter households earning $\leq 60\%$ county median income and (2) **Rent Burden Ratio:** the number of renter households with an extreme rent burden of $\geq 50\%$ total household income. The results summarized by Regional Solutions Centers, weighted evenly, and compared Region-by-Region, identified **Underserved Regions** where targeted funding goals would continue to balance the distribution of Funds over time.

The results were further compared and adjusted to the existing Affordable Housing Inventory in each Region to assure a balanced distribution of Funds. Special adjustments may be made to each NOFA to assure a minimum funding by Region to promote financial feasibility for at least one Project in each Region.

Region-by-Region Funding Allocations: Based on the findings, the Agency has allocated the following amounts from each source of Fund to each of the specified Regions for this NOFA:

REGIONS	HOME*	GHAP*	LIHTC	OAHTC	HELP
Central Oregon					
Eastern Oregon					
Metro Oregon					
Southern Oregon					
Valley/North Coast					
TOTALS					

1.7 Award Process

A. Award Process: Funds are awarded on a competitive basis to Projects of qualifying Applications that first meet the minimum qualifications and that then meet both a minimum threshold score and rank highest in overall scoring within each Region until all available Funds are awarded.

B. Tie Breaking Rules: If the composite evaluation scores of two or more Projects are tied and Funds are not available to sufficiently fund each such Project, the following scores, in order of priority, will break the tie:

- i. Priority 1: Projects that score the highest in Best Use of Public Funds.
- ii. Priority 2: Projects that score the highest in Community Project Need.

C. Reallocation Process: If all Projects from qualifying Applications in a Region are funded during a funding cycle for this NOFA and Funds allocated to that Region for that funding cycle still remain, such remaining Funds will be pooled with remaining Funds from other Regions for reallocation. The remaining unfunded Projects that rank highest across all Regions will receive funding Awards in the order of their ranking determined, as necessary, in accordance with the foregoing Tie Breaking Rules.

If Funds remain after the Award Process and Reallocation Process are both completed, the Agency may choose, at its sole discretion not to award any or part of the remaining Funds.

D. Reissuing Returned Awards: In the event any Funds from this NOFA are returned or forfeited back to Agency (“Returned Funds”), such Returned Funds may be awarded, at the Agency’s sole discretion, to:

- i. The unfunded Project that scored the next highest in the Region in which Returned Funds originally were awarded.
- ii. The unfunded Project in the Region in which the Returned Funds originally were awarded that best utilizes the Returned Funds as determined by Agency under the Tie-Breaking Rules.

If no unfunded Project in the original Region qualifies to receive available Returned Funds, then the unfunded Projects across all Regions will be eligible to receive an Award of the Returned Funds in the order of their comparative ranking subject to the foregoing Tie Breaking Rules.

E. Re-Evaluation of Award Reservation

i. The following events will result in a re-evaluation by the Agency of a previously issued Award:

- Failure to close all Project financing within 240 days of the Award.
- A material adverse change in the Application, Project, or Applicant resulting in a failure to meet the original Minimum Qualifications or a lower score under the competitively scored Policy items as determined by the Agency.

ii. In the event of a re-evaluation by the Agency of a previously issued Award, the Agency, at its sole and absolute discretion, may do the following:

- Take no action.
- Approve requested changes to the original Application.
- Revoke all or part of the Award.

2.0 APPLICATION REQUIREMENTS

2.1 Application Submission

Applications must be submitted no later than:

APPLICATION DUE DATE AND TIME:

XXXXXX YY, 2013, by 4:00 PM PST

DELIVERY ADDRESS:

**Oregon Housing and Community Services
Attn: Connie Lelack
725 Summer Street NE, Suite B
Salem, OR 97301**

Applications must be received and date and time stamped by the Agency receptionist, no later than the Application closing date and time. Applications must be delivered in a sealed envelope, which clearly identifies the NOFA number, the Applicant's name, the name of the contact person for the Applicant, Agency name and address, and the Application closing date and time. Mis-deliveries and late submittals shall not be accepted or considered. Post-marked dated Applications will not be considered unless actually received by the Agency by the Application closing date and time specified herein.

Faxed, electronically transmitted, late or incomplete Applications will not be accepted or reviewed. All Applications and any accompanying documentation become the property of Agency, subject to Oregon Public Records Law, and will not be returned.

All costs associated with Applicant's submission of its Application are the sole responsibility of the Applicant and will not be borne by the State of Oregon. All Applications submitted will be treated as public records.

Agency will not be held responsible for any errors or omissions resulting from downloading the NOFA. The official version of the NOFA is the one held at the Agency.

Those Applications that are incomplete or that do not meet all requirements of the NOFA will be deemed by the Agency as "non-responsive" and rejected. Applications considered complete or "responsive" by the Agency will be evaluated to determine if they comply with the administrative and technical requirements of the NOFA. If the Application is unclear, the Applicant(s) may be asked to provide written clarification to assist Agency in determining the issue of the Application's responsiveness.

2.2 Application Checklist

Applicants may use this section of minimum requirements as a checklist to ensure the Application is complete:

Application Cover Sheet:

The Application must include a completed, signed Application Cover Sheet (see Attachment 1).

Qualification Worksheet:

Applicant must fill out and sign this Qualification Worksheet

Application, Narrative and Required Exhibits:

The narrative should be limited to 20 single-sided pages, using 12 pt. font and 1" margins. This 20-page limit does not include required exhibits, forms, or special addenda with respect to particular Program Requirements.

The Application and all its required exhibits, forms and addenda should be organized as detailed in the Application Manual provided by the Agency with directions on how to fill out the Application.

Applicant must submit one (1) original signed Application and three (3) copies.

Fee Calculation Worksheet and Check:

The Applicant must fill out the attached Fee Charge Form and pay the required amount by check.

Organizational Documents:

The Applicant must provide evidence of authority to submit the Application, including:

1. Certified copy of its official organizational document such as (for a corporation) Certificate of Incorporation, (for a limited liability company) Articles of Organization, (for a limited partnership) Certificate of Limited Partnership; and

2. Copy of other organizational documents, such as by-laws, operating agreement, or partnership agreement, certified by an authorized official of Applicant as being true and complete.

[] Certificate of Authorization:

The Applicant must submit a certificate regarding the due authorization of the transaction by the Applicant, such as a Certificate of Resolution and Incumbency, executed by a duly authorized official of Applicant.

[] Environmental Checklist Applicant must provide Agency with an Environmental Checklist signed by a Regional Area Director (“RAD”) or a person authorized by the Agency to execute an Environmental Checklist.

2.3 NOFA Questions

All inquiries relating to the NOFA process, administration, deadline or award, or to the substantive technical portions of the NOFA, must be directed to the individual listed below:

Oregon Housing and Community Services

Attn: Connie Lelack

725 Summer Street NE, Suite B

Salem, OR 97301

Fax: 503-986-2020

Email: connie.lelack@state.or.us

All questions regarding the intent of the NOFA must be submitted in writing (mail, fax, or e-mail). When appropriate, revisions, substitutions, or clarifications shall be issued as addenda to this NOFA. Changes/modifications to the NOFA requirements will **ONLY** be recognized if in the form of written addenda issued by Agency. Agency shall provide copies of any addenda to all known NOFA recipients as well as post the addenda at www.oregon.gov/OHCS.

3.0 EVALUATION CRITERIA

A Threshold Review Team will evaluate each Application. Applicants must pass each criteria in the order indicated below to proceed to the next level of review. If at any point between the criteria listed in sections 3.1 through 3.3 an Application fails, the Application will be deemed nonresponsive and will not be further reviewed.

Agency may employ, but is not limited to, the following selection criteria upon which to base its decisions:

3.1 Administrative Pass/Fail Review

Each Application will be reviewed for timeliness and completeness of the following NOFA requirements. These are Pass/Fail criteria.

- A. Application submitted by due date and time
- B. Completed and signed Cover Sheet
- C. Completed and signed Application that includes narrative with required exhibits.
- D. Environmental Site Checklist completed and signed by RAD or Loan Officer
- E. Form for Application Fees completed and fees paid by check
- F. Organizational documents and certificate of authorization completed, signed, and submitted.

3.2 Qualification Worksheet Review

The Qualification Worksheet will be reviewed to ensure a) the amounts requested are within the specified amount of funding allocations for the applicable Region, and b) the Project meets one of the four Minimum Qualifications (see Section 1.5) criteria. These are Pass/Fail criteria.

3.3 Minimum Threshold Qualifications

In order to qualify for Competitive Scoring, all of these Minimum Threshold Qualifications must be met. These are Pass/Fail criteria.

- A. Asset Management Compliance Review:** Applicant's current portfolio of projects monitored by Agency must be in compliance with required Program and Agency regulations.
- B. Program Compliance Review:** Applicants must satisfy the Program Requirements for all applicable funding sources that they select as necessary for the financial feasibility of their Project. The individual Programs have separate required applications, forms and exhibits that must be submitted simultaneously with the NOFA application. These applications, forms and exhibits are more particularly described and available in the Application Manual under Section XX: Program Funding Requirements. The Application must be in compliance with all relevant Program Requirements in order to be competitively scored.
- C. Resident Services Review:** Applicant's proposed Resident Services Plan must be in compliance with Agency guidelines and industry norms.
- D. Readiness to Proceed:** Application must demonstrate the Project's readiness to proceed based on the following information:
- Does the Applicant have site control and is appropriate zoning confirmed?
 - What is the status of the applications with HUD or Rural Development ("RD") (if applicable)
 - Is the development schedule adequately detailed and does it demonstrate Applicant's capacity to complete the Project within required Program deadlines?
- E. Financial Feasibility:**
- 1. Sources and Uses:**
 - Are the sources and uses well-documented, balanced and accounted for?
 - Is it likely that all sources will be committed, closed and funded within 240 days?
 - 2. Operating Proforma:**
 - Does the operating proforma contain growth assumptions for a Project of this size and scope that are in conformance with Agency and industry norms?
 - Are the income and expenses well documented either by actual amounts, Applicant market assessment, or a market study or appraisal?
 - Are the benchmarks, such as vacancy ratio, expense ratio, expenses per units, and replacement reserves in conformance with Agency guidelines and industry norms?
 - 3. Debt Underwriting:**
 - If there is mortgage debt, is the loan-to-value, debt service coverage, and breakeven ratios in conformance with Agency guidelines and industry norms?
 - If there is no mortgage debt, does the Project have a reasonable cash flow after all expenses?
 - 4. Investment Guidelines:**
 - Is the structure of the developer fee, equity price and amount, operating reserves, repayment of partnership loans, asset management fee and other material investment components in conformance with Agency guidelines and industry norms?
 - Does the operating proforma predict stable long-term performance with a reasonable expectation that the Project can be properly redeveloped or ownership be restructured at the end of the 15-year tax credit period?
 - 5. Construction Guidelines:**
 - Is the development budget complete and does it meet Agency guidelines and industry norms for percentage of architectural fees, builder overhead and profit, soft costs, construction contingency and other typical percentages for cost items?
 - Is the percentage of land and acquisition cost in conformance with Agency guidelines and industry norms for the market in which this Project is located?

- Do the preliminary plans and specifications generally meet Agency minimum new construction or rehabilitation architectural guidelines for a Project of this type, size and scope?
- Does the Project meet Agency guidelines for the projected economic life of the Project?

F. Development Team Capacity:

- Construction Experience: Does the Applicant have a successful history of leading construction development Projects of similar (or larger) size and scope, such as, mid-rise versus high-rise, wood frame versus steel, and new construction versus rehab? If Applicant's history is limited, will the Applicant partner with an appropriate party to mitigate this concern?
- Financing Experience: Does the Applicant have a successful history of closing the requested combination of financing, such as tax credit, mortgage financing, HUD HOME funds, bond financing and other grant or government loan programs such as GGHAP? If Applicant's history is limited, will the Applicant partner with an appropriate party to mitigate this concern?
- Management Experience: Does the Applicant have a successful history of managing existing projects with similar population and programs, size and scope? If Applicant's history is limited, will the Applicant partner with an appropriate party to mitigate this concern?
- Development Team Experience: Has the Applicant managed similarly comprised development teams? Are the development team members appropriate for a Project of this type, size, and scope? If an Applicant has applied for multiple Project awards, does the development team have the capacity to administratively and financially support all Projects simultaneously?
- Financial Capacity: As disclosed in the Application or other required information, does the Applicant's financial condition indicate any adverse conditions that might materially impair the Applicant's ability to perform its financial obligations as sponsor during the construction or stabilization of the Project? As disclosed in the Real Estate Owned Schedule, is the Applicant's existing real estate portfolio stable and self-supporting? If there are any significant problem projects, is there a reasonable mitigation plan in place?

G. Ownership Integrity:

- Single-Asset Ownership: The Project will be owned by a single-asset entity duly organized under the laws of the State of Oregon or, if allowed, duly authorized to conduct business in the State of Oregon.
- Neither Applicant nor any member or principal within the Project ownership will have been convicted of fraud or moral turpitude within the previous ten (10) years.
- Neither Applicant nor any member or principal within the Project ownership will be involved in a bankruptcy proceeding within the previous five (5) years.
- Neither Applicant nor any member or principal within the Project ownership will have been debarred or otherwise sanctioned by Agency.

3.4 Competitive Scoring

If the Application passes the tests set out in sections 3.1 through 3.3 above, then a Policy Review Team (PRT) will score competitively two sections of the Application by the **Scoring Criteria** described below. These sections are:

- (A) Best Use of Public Funds; and,
- (B) Community Project Need

The scoring criteria are designed to measure the nature and extent of the need in the Applicant's community for the Project and the overall benefit to the community. A total of 100 maximum points is possible, weighted 60 points to Best Use of Funds and 40 points to Community Project Need, with a minimum of XX points as a threshold. Both quantitative and qualitative factors are considered in the scoring. In its process the PRT will rank Projects within regions after evaluating each Project as follows:

Scoring Criteria

Criteria A: Best Use of Public Funds:

60 points maximum

Meeting a high need for housing is one important benefit a Project brings to a community. Projects will also be evaluated for the benefits they offer above and beyond clean, safe, affordable housing.

Applicants are encouraged to design Projects that make the best use of public funds. Priority will be given to Projects that provide good return on public investment when considering other benefits that are state, regional, or local priorities. This section should be used to demonstrate how Applicants' Projects achieve that goal.

While considering the cost of a Project, a scoring team will rank Projects by region after evaluating the extent to which they offer benefits **such as** those listed below, as well as other pertinent, verifiable information provided by the Applicant.

Projects are not expected to provide all of the benefits listed below, but the following are provided as examples of significant community benefits a Project **could** provide. Projects will not be ranked based on the **number of benefits** they provide, but rather on the **extent of the overall benefit to the community**.

Best Use Projects could:

- 1) Offer services that will measurably improve residents' health, well-being or future prosperity, thereby reducing public costs downstream.
- 2) Leverage a significant amount of other resources.
- 3) Serve as a catalyst for meaningful community or economic development.
- 4) Contribute to the development or retention of a thriving community which has a healthy jobs/housing balance and supports a diversity of income levels and ages.
- 5) Further family stability or child welfare.
- 6) Reduce the likelihood of individuals to commit crimes, and/or promote re-entry into the community.
- 7) Allow seniors to better age in place and reduce Medicaid or Medicare funded costs.
- 8) Further equity or social justice goals.
- 9) De-concentrate poverty or provide housing choice for low-income residents or voucher holders.
- 10) Provide a timely response to an urgent community need (For example, providing housing needed because of a sudden loss of supply or a sudden increase in need.) The unique or critical nature of the need will be evaluated.
- 11) Offer an innovative approach that provides measurable improvement in affordable housing, service provision, or green building standards.
- 12) Offer a new or unique collaboration that delivers benefits that exceed benefits delivered by traditional teams. (For example, with local CCO's, tribal communities, DHS Office, or Dept. of Corrections)
- 13) Capitalize on collaboration with federal housing partners like RD and HUD.
- 14) Keep vulnerable populations from being relocated.

Criteria B: Community Project Need:

40 points maximum

Agency will evaluate the need for the type of housing or services provided by the proposed Project by reviewing the following published information sources:

- 1) Agency county "Housing Profile" and "Poverty Report" sheets
- 2) Agency county ranking lists
- 3) Oregon Affordable Housing Inventory
- 4) Agency level of investment in the competitive funding cycles for the past 5 years
- 5) Oregon Employment Department data (found at qualityinfo.org)
- 6) Locally available data on Project population, service demand and housing availability

Applicants are encouraged to consult and refer to the available data when describing how the Project meets the specific need for housing in the community. The scoring team will evaluate the various components of need and score need as low, moderate, strong, or severe based on the indicators of need presented and the extent to which they are demonstrated to be more severe than other local, regional, or statewide indicators of need.

The following criteria, as well as any other verifiable information that documents the relative severity of the need for affordable housing may guide the scorers' rankings:

- 1) Does the Project serve a population that doesn't have existing dedicated housing? What existing units serve that population?
- 2) Does the Project serve a very low-income or vulnerable special needs population? What percentage of units will serve that population?
- 3) Is the existing affordable housing supply in the community at risk due to condition or feasibility? If so, to what extent?

- 4) If the Project serves to preserve federal rent subsidies, what percent of the area's affordable housing does the Project represent?
- 5) Do population growth factors impact the need for housing? Is there evidence that a lack of affordable housing is hampering economic development or employment initiatives? If so, to what extent?
- 6) Has the community been under represented in competitively funded affordable housing units in the past five years? (Does it have a lesser percentage of the past 5 years of Agency competitive funded affordable units than its percentage of "need" for such period?) If so, by how much?
- 7) Is the community underserved when its need is compared to the Affordable Housing Inventory? (i.e., is the community listed on the geographic priority list?) If the community is underserved, by how much?

If the Application is unclear, Applicant(s) may be asked to provide written clarification during the scoring process.

4.0 APPLICATION EVALUATIONS

4.1 Evaluation Process

Applications shall be reviewed first by a Threshold Review Team. Agency reserves the right to request clarification or changes to the Application and budget as necessary. Applications submitted will be reviewed to determine that all NOFA threshold requirements (see section 3.1 through 3.3) have been met. Applications meeting those criteria will be forwarded to the Policy Review Team for competitive scoring against the Scoring Criteria described in Section 3.4.

The final selection, if any, will be of those Applications that best meet the competitive scoring requirements set forth in this NOFA, based on the recommendation from the Policy Review Team, as approved by the Director and the Housing Council, as required by the funding sources applicable to the various Applications.

4.2 Evaluation Criteria

Each Application must clearly address Application requirements and all selection criteria in the NOFA (see Section 3.0).

4.3 Notice of Intent to Award

Applicants will be notified in writing of Agency's intent to award, and the Agency's notice of intent to award will also be posted on the Agency's website.

An unsuccessful Applicant may protest the selection process, application award, or if applicable, rejection of its Application. The protest must be in writing, and must be received at the address set forth in Section 2.3, within seven (7) calendar days of written notification date of the pending award to another Applicant or notice of Application rejection. The protest must state with clarity the issue protested, and the rationale and basis for such protest. The envelope containing the protest MUST be marked PROTEST, and MUST identify the NOFA number and the closing time and date for acceptance of Applications, as well as the Agency contact person, and address as listed in Section 2.3 of this NOFA.

The Agency will provide written responses to all timely-filed protests.

5.0 GENERAL NOFA TERMS

5.1 Agency reserves the right and option to amend any Award agreement and other related documents (collectively, the "Agreement") that results from an Award made pursuant to this NOFA. All amendments shall be in writing and signed by relevant authorized parties.

5.2 ORS 60.701 requires that foreign corporations be registered by the State of Oregon, Office of the Secretary of State, before conducting business in the state. A foreign corporation (ORS 60.001) means a for-profit corporation incorporated under a law other than the law of the State of Oregon. If a firm is selected for the Agreement as a result of this NOFA, it must register to do business in Oregon.

5.3 Agency reserves the right, at its sole and absolute discretion: (1) to amend the NOFA prior to the closing date; (2) to amend the deadline for submitting Applications; (3) to determine whether an Application does or does not substantially comply with the requirements of this NOFA; (4) to waive any minor irregularity, informality, or nonconformance with the requirements of this NOFA; (5) to obtain from and/or provide to other public agencies, upon request, references, regarding the Applicant's performance; (6) at any time prior to Agreement execution (including after announcement of the apparent award): (a) to reject any Application that fails to

substantially comply with all prescribed NOFA procedures and requirements; and, (b) to reject all Applications received and cancel this NOFA upon a finding by Agency that such cancellation would be in the best interests of the State; and (7) to seek clarification on any or all Applications.

5.4 This NOFA and one copy of each original Application received, together with copies of all documents pertaining to the award of a reservation, shall be kept by Agency and made a part of a file or records, which shall be open to public inspection. If an Application contains any information that is considered a trade secret under ORS 192.501 (2), each sheet containing such information must be marked with the following legend:

“This Application constitutes a trade secret under ORS 192.501 (2), and shall not be disclosed except in accordance with the Oregon Public Records Law, ORS Chapter 192.”

5.5 The Oregon Public Records Law exempts from disclosure only bona fide trade secrets, and the exemption from disclosure applies only “unless the public interest requires disclosure in the particular instance”, ORS 192.501 (2). Therefore, non-disclosure of a document or any portion of a document submitted as part of an Application may depend upon official or judicial determination made pursuant to the Oregon Public Records Law.

5.6 If an Application contains any information that may be considered exempt from disclosure under the various grounds specified in Oregon Public Records Law, ORS 192.430 through 192.505, Applicants must clearly designate as exempt any portion of its Application it considers exempt, along with a citation to the authority relied upon. Application of the Oregon Public Records Law will determine whether any information is actually exempt from disclosure. Identifying an Application in whole as exempt from disclosure is not acceptable. Failure to identify with specificity the portion(s) of the Application claimed to be exempt from disclosure, and the authority used, shall be deemed a waiver of any future claim of exemption from disclosure of that information.

5.7 The Applicant will be required to assume responsibility for performance required by the Agreement, whether performed by the Applicant, a representative, assignee or subcontractor. Agency considers the Applicant responsible for any and all contractual matters.

5.8 The any terms and conditions of the Agreement may be negotiated, within the overall intent described in this NOFA, with the selected Applicant. If negotiations are not successful and an Agreement is not executed within 60 days, Agency may either: (1) terminate negotiations with the selected Applicant and begin negotiations with the next highest ranked Applicant; (2) cancel the NOFA; or, (3) continue negotiations with the highest ranked Applicant.

5.9 All Awards made pursuant to this NOFA are subject to the successful negotiation, execution, and recording (if required) of Agreement documents, satisfactory to the Agency in its sole and absolute discretion. Projects that have only a leasehold interest in underlying real property must include commitments from the landlord with respect to the ongoing use of the real property for affordable housing acceptable to the Agency.

5.10 Agency may charge, and Applicant shall pay, legal costs incurred by the Agency in negotiating Agreement documents.

