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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 104
OREGON MILITARY DEPARTMENT
OFFICE OF EMERGENCY MANAGEMENT

FILED
10/12/2018 1:33 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Administer new grant program

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/26/2018 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Salem, OR 97301

Filed By:
Genevieve Ziebell
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/26/2018

TIME: 1:00 PM - 2:00 PM

OFFICER: Genevieve Ziebell

ADDRESS: Oregon Office of
Emergency Management (OEM)

3225 State St, Rm 115

Salem, OR 97301

SPECIAL INSTRUCTIONS:

OEM is located in the Anderson Readiness Center (ARC). The ARC is a secure facility and there will be a guard at the entrance gate on Geer Dr who will check your ID. Once you have entered the parking area, please feel free to park in any unreserved space. The main entrance is located behind the flagpole at the center of the building. Once you've entered, you will take a right into the main hallway and OEM, Room 115, will be on the right. A receptionist will assist with entry into the office.

NEED FOR THE RULE(S):

This is a new grant program. These administrative rules will provide guidelines and instruction on administering the

new grant.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

- House Bill 2687 - <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB2687>
- ORS 401.551 - <https://www.oregonlaws.org/ors/401.551>
- ORS 401.552 - <https://www.oregonlaws.org/ors/401.552>

FISCAL AND ECONOMIC IMPACT:

The new grant will have no impact on state agencies; however, there is a financial impact to the Office of Emergency Management. Two new positions were created to administer this new grant; Program Manager 3 and Accountant 3. Part of the costs have been addressed through legislative appropriations in 2017.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) The new grant will have no impact on state agencies; however, there is a financial impact to the Office of Emergency Management. Two new positions were created to administer this new grant; Program Manager 3 and Accountant 3. Part of the costs have been addressed through legislative appropriations in 2017.

(2) There is no cost of compliance on small businesses.

(a) The grant is a voluntary program for government bodies or private organizations qualified for federal tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

(b) There is no anticipated cost of compliance effecting small businesses.

(c) There is no anticipated cost of compliance effecting small businesses.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Qualifying government bodies and private organizations will be notified of the rule development. An interested parties list will be developed of those who express interest.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The public will have a chance to comment at a Public Hearing on November 26, 2018. Stakeholders were involved in the development of the rule.

RULES PROPOSED:

104-045-0000, 104-045-0010, 104-045-0020, 104-045-0030, 104-045-0040, 104-045-0050, 104-045-0060, 104-045-0070, 104-045-0080, 104-045-0090

ADOPT: 104-045-0000

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0000

Purpose

These rules establish a grant program pursuant to ORS 401.551, and ORS 401.552, for the disbursement of money from the Resiliency Grant Fund established by the Oregon Legislative Assembly for the purpose of procuring emergency preparedness equipment to support Oregon communities to prepare, respond, and recover from emergencies.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0010

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0010

Definitions

(1) "Qualified applicant" means an entity that has responsibility for or expertise in emergency preparedness and that is a local government, a special government body or a private organization qualified for federal tax-exempt status under section 501(c)(3) of the Internal Revenue Code.¶

(2) "Authority" means the Oregon Office of Emergency Management.¶

(3) "Emergency" has the meaning given that term in ORS 401.025.¶

(4) "Maintain" means to repair, perform upkeep on and otherwise keep in good working condition.¶

(5) "Preparedness equipment" means equipment, vehicles or other personal property that in accordance with ORS 401.551:¶

(a) May be used to decrease the risk to life and property resulting from an emergency, and¶

(b) Qualifies as a capital asset eligible for financing with tax-exempt bonds.¶

(6) "Recipient" means an entity that applies for and receives preparedness equipment, or funds to purchase preparedness equipment, under the Emergency Preparedness Equipment Grant Program.¶

(7) "Tax-exempt bond" means a bond, as defined in ORS 286A.001, the receipt of interest on which is excluded from gross income under the Internal Revenue Code or that is eligible for a federal interest subsidy payment or other tax-advantaged status.¶

(8) "Grant Agreement" means an agreement between the Authority and the local government, tribal government, or private sector organization specifying the legal requirements for grant management, reporting and record keeping as well as the Authority's monitoring and grant closeout procedures.¶

(9) "Grant Application Package" means a package of information prepared by the Authority containing grant guidance, application forms and other supplementary information.¶

(10) "Grant Program" means the State Preparedness Incident Response Equipment Grant.¶

(11) "Grant Selection Committee" means the committee charged with evaluating grant applications for the purpose of determining which Qualified Applicants will receive funding. The Grant Selection Committee membership may include representatives of the Oregon Military Department, Oregon Office of Emergency Management, Oregon Emergency Management Association, Oregon Homeland Security council, and others who possess expertise in the industry.¶

(12) "Grantee" means an Applicant awarded grant funds for emergency preparedness equipment.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0020

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0020

Eligible Activities

(1) Qualified applicants may request preparedness equipment that is identified on the list described in ORS 401.551.¶

(2) Applicants must demonstrate a need for the specific preparedness equipment requested, the ability to maintain the preparedness equipment and the ability to use the preparedness equipment to address deficiencies in local or regional emergency preparedness.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0030

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0030

Grant Application Process

(1) Grant Application Package¶¶

(a) The Authority shall prepare a Grant Application Package. The package will contain guidance, application forms and other supplementary information to help Qualified Applicants prepare grant applications.¶¶

(b) The guidance will include a description of eligibility criteria and ranking factors used to evaluate and select applications for funding.¶¶

(c) The Authority shall announce how to obtain a Grant Application Package and the deadline for submitting an application.¶¶

(d) The Grant Application Package on file with the Authority is incorporated as part of these rules by reference.¶¶

(2) Grant Application Submission¶¶

(a) A Qualified Applicant may submit an application which includes more than one piece of equipment from the list described in ORS 401.551. All submissions must be in the form provided by the Authority and must contain all required information.¶¶

(b) All applications must be received prior to the application deadline announced by the Authority.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0040

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0040

Grant Application Review

(1) The Authority will review all applications to ensure they are complete and meet grant eligibility requirements.

(2) The Authority will convene a Grant Selection Committee to evaluate and score all applications meeting grant and eligibility requirements.

(3) The Authority will use the prioritized list of applications along with the amount of funds available in the Resiliency Grant Fund to determine which Applicants will receive grant awards.

(4) All Applicants will be notified of the status of their applications within 90 days of the due date for application submission.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0050

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0050

Grant Awards

(1) Grants will be awarded only when there are sufficient funds available in the Resiliency Grant Fund.

(2) Grant funds shall be distributed on a reimbursement basis to the State Preparedness Incident Response Equipment Grantee selected to receive grant funds.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0060

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0060

Grant Agreements and Conditions

(1) The Authority shall provide a Grant Agreement to each State Preparedness Incident Response Equipment Grantee which specifies the legal requirements for grant management, reporting and record keeping as well as the Authority's monitoring and grant closeout procedures.¶

(2) The Authority shall establish Grant Agreement conditions. Grantees shall comply with all grant agreement conditions. In addition, Grantees shall comply with all applicable federal, state and local laws and ordinances.¶

(3) Grantees shall comply with all progress and financial reporting requirements outlined in Grant Agreement.¶

(4) The Authority will only enter into new agreements or may amend agreements with prior Grantees if all reporting obligations under the earlier agreements have been met.¶

(5) The Authority and the Applicant must execute a Grant Agreement or amendment prior to any funds being expended for eligible expenses for which the Applicant will request reimbursement.¶

(6) If the Grant Agreement or amendment has not been fully executed by all the parties within 120 days of the Grantee receiving the agreement, funding may be terminated. The money allocated to the grant will then be available for reallocation by the Authority consistent with the application rankings established by the Grant Selection Committee.¶

(7) Upon notice to a Grantee in writing, the Authority may terminate funding for Emergency Preparedness Equipment not purchased in the prescribed time and manner. Money allocated to purchase the Emergency Preparedness Equipment, but not used, will be available for reallocation by the Authority consistent with the application rankings established by the Grant Selection Committee.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0070

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0070

Project Administration

(1) The Authority shall administer Resiliency Grant Funds in compliance with the requirements of applicable statutes and rules and the guidance provided in the Grant Application Package.¶

(2) Documentation of Emergency Preparedness Equipment costs incurred by each Grantee must be submitted to the Authority prior to reimbursement of funds.¶

(3) Reimbursement of funds to each Grantee will be made on a schedule established by the Authority.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0080

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0080

Waivers, Exceptions and Appeals

(1) The Authority may waive non-statutory requirements of the Grant Program if it is demonstrated such a waiver would serve to further the goals or objectives of the program.¶

(2) The Authority may consider appeals of the Grant Selection Committee's funding decisions. Only the Applicant may appeal. Appeals must be submitted in writing to the Authority within 30 days of the event or action that is being appealed. The Authority's decision is final.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552

ADOPT: 104-045-0090

RULE SUMMARY: This is a new grant program. These administrative rules will provide guidelines and instruction on administering the new grant.

CHANGES TO RULE:

104-045-0090

Program Sanctions

The Grantee shall be responsible for taking all actions necessary to enforce the terms of the Grant Agreement against any private or public participant who fails to comply with applicable provisions of the Grant Agreement and to recover on behalf of the state any liabilities that may arise as the result of a breach of the Grant Agreement by any participant. Nothing in this paragraph shall restrict the state's right to enforce independently the terms of any Grant Agreement or to recover any sums that may become due as the result of a breach of such an agreement.

Statutory/Other Authority: ORS 401.551, ORS 401.552

Statutes/Other Implemented: ORS 401.551, ORS 401.552