

Affordable Housing Funding Notice



Oregon Housing and Community Services

Notice of Funding Availability (NOFA) #2022-3

Local Innovation and Fast Track (LIFT) Program **HOMEOWNERSHIP**

NOFA Issued: February 4, 2022

Pre-Application Due: February 18, 2022

Proposal Due Date: April 22, 2022

Proposal Due Time: 4:00 pm PST



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1.0 INTRODUCTION

1.1 Purpose

The Oregon Housing and Community Services Department (“OHCS”) is seeking applications (“Applications”) in this Notice of Funding Availability (“NOFA”) for the new construction of affordable, homeownership housing developments (“Projects”) that will serve statewide qualified low-income homebuyers earning at or below 80% area median income. The source of funds under this NOFA is the Local Innovation and Fast Track (LIFT) program. One of the statutory goals for LIFT is to provide housing to underserved communities, defined as rural communities and Communities of Color. OHCS intends to prioritize allocations of LIFT resources to maximize the impact of these explicit goals.

1.2 Definitions

For purposes of this NOFA, the following terms have the following meanings:

Affirmatively Furthering Fair Housing: Affirmatively Furthering Fair Housing (AFFH) is a legal requirement that federal agencies and federal grantees further the purposes of the Fair Housing Act. This obligation to affirmatively further fair housing has been in the Fair Housing Act since 1968 (for further information, see Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3608 and Executive Order 12892). HUD’s AFFH rule provides an effective planning approach to aid program participants in taking meaningful actions to overcome historic patterns of segregation, promote fair housing choice, and foster inclusive communities that are free from discrimination. As provided in the rule, AFFH means “taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing means taking meaningful actions that, taken together, address significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws.”¹

Agreement Documents: Means the funding documents, the final form of which are satisfactory to OHCS, in consultation with the Oregon Department of Justice and executed in connection with the Project.

Allocation: Includes any funding allocated under this NOFA.

Applicants: Means persons or entities that are submitting an Application responsive to this NOFA.

Communities of Color: Identity-based communities that hold a primary racial identity that describes the racial characteristics of the community that its members share (such as being African American) that supports self-definition by community members, and that typically denotes a shared history and current/historic experiences of racism. The community may or may not also be a geographic community. Given that race is a socially defined construct, the definitions of these communities are dynamic and evolve across time.²

¹ U.S. Department of Housing and Urban Development.

² Adapted from: Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol of Culturally Responsive Organizations*

Culturally Responsive Organization: means an entity that comprehensively addresses power relationships throughout the organization, from the types of services it provides and how it maximizes language accessibility to its human resources practices—who it hires, how they are skilled, prepared and held accountable, to its cultural norms, its governance structures and policies, and its track record in addressing conflicts and dynamics of inclusion and exclusion, to its relationships with racial groups in the region, including its responsiveness to expectations. A Culturally Responsive Organization is one that is dynamic, on a committed path to improvement and one that is hardwired to be responsive to the interests of Communities of Color, service users of color and staff of color. Culturally responsive organizations hire and train culturally and linguistically diverse staff to meet the needs of the diverse communities they serve.*

Culturally Responsive Services: means services that have been adapted to maximize the respect of and relevance to the beliefs, practices, culture and linguistic needs of the diverse client populations and communities being served, including clients and communities of color. Cultural responsiveness describes the capacity to respond to the issues of diverse communities. Culturally responsive services assure competent language access and incorporate diverse cultural approaches, strengths, perspectives, experiences, frames of reference, values, norms and performance styles of clients and communities to make services and programs more welcoming, accessible, appropriate, and effective for all eligible and intended recipients*

Culturally Specific Organization: a non-profit organization designed to serve historically underserved communities least likely to apply for housing occupancy and that is

- representative of a community or significant segments of a community;
- provides affordable housing to very low- and low-income households; and
- can demonstrate primary target populations served to be ‘least likely to apply’, meaning there is an identifiable presence of a specific demographic group in the housing market area, but members of that group are not likely to apply for the housing without targeted outreach, including marketing materials in other languages for limited English proficient individuals, and alternative formats for persons with disabilities. Reasons for not applying may include, but are not limited to, insufficient information about housing opportunities, language barriers, or transportation impediments.

Metropolitan Statistical Areas (MSA): geographic regions delineated by the United States Office of Management and Budget. MSA is the formal definition of a region that consists of a city and surrounding community that are linked by social and economic factors.

- Counties currently located in MSAs are Benton, Clackamas, Columbia, Deschutes, Jackson, Josephine, Linn, Lane, Marion, Multnomah, Polk, Washington, and Yamhill Counties

Mid-Sized Urban Communities: Jurisdictions outside the Portland Urban Growth Boundary that both have a population between 15,000 and 40,000 and are in a county that is part of an MSA.

Rural Communities: An eligible category for receiving LIFT funds through this NOFA which focuses funding on Projects that will serve to overcome historic disparities. Rural areas are defined as:

- Jurisdictions with 15,000 population or less outside of the Portland Urban Growth Boundary in counties within MSAs, or
- Communities with 40,000 population or less in the balance of the state.

NOTE: *if a city was eligible to be considered rural by population within the same dataset and currently has a population that is within 5% (five percent) of the established rural definition for this NOFA, they can*

* Adapted from: Curry-Stevens, Ann, Marie-Elena Reyes & Coalition of Communities of Color (2014). *Protocol of Culturally Responsive Organizations*

be considered rural for the purposes of this application.

Service to Communities of Color: Service to Communities of Color can be achieved in a number of ways and should be relevant to the community in which the Project is located, and the target population anticipated to be served. Any approach that is chosen must include intentional engagement with Communities of Color for services planning for the development. In general, OHCS would expect that addressing this intentional engagement will be accomplished in one or more of the following ways:

- Development, sponsorship or management by a *Culturally Specific Organization* or a *Culturally Responsive Organization* with a diverse and representative leadership.
- Ongoing service partnership with a *Culturally Specific Organization* or a *Culturally Responsive Organization*.
- Relevant marketing and outreach plan designed to publicize to Communities of Color the availability of the new housing opportunities created by the Project, and to *Affirmatively Further Fair Housing consistent with the Fair Housing Act*.
- Project explicitly designed and located to address displacement of *Communities of Color*.
- Other services that uplift *Communities of Color* as approved by OHCS staff.

Scoring Committee: Includes representatives from Communities of Color, Rural Communities, Urban Communities, OHCS and DHS leadership, and persons with other relevant policy and development expertise that will be assembled to review all Applications that have met the minimum requirements.

Tribal-led Project: A project that is sponsored by a Federally Recognized Tribe or an organization owned by a Federally Recognized Tribe.

Urban Communities: All jurisdictions within the Portland Urban Growth Boundary, regardless of size, and communities with populations of 40,000 and above in the balance of the State.

1.3 Funding Source and Limitations

A. Funding

1. General LIFT Offering

The LIFT program is funded through Article XI-Q Bonds. In the 2021 Oregon State Legislative session, \$303.5 million in funding was provided to OHCS in the form of Article XI-Q bond authority for the LIFT program for the 2021-2023 biennium. Of the \$303.5 million of funds, 80 percent are targeted to the development of rental projects (“LIFT Rental”), and the remaining 20 percent are targeting the development of affordable homeownership projects (LIFT Homeownership).

This NOFA represents the first LIFT Homeownership offering of the 2021-2023 biennium. Funding available through this NOFA is \$15 million based on current unreserved LIFT resources. If additional LIFT Homeownership resources become available, OHCS may add those to the resources that are awarded from this NOFA. Currently, LIFT funds are the only resources available through this NOFA for homeownership development, though eligible homebuyers may be eligible to utilize a mortgage through the Oregon Bond Residential Loan Program for the purchase of homes that result from this NOFA.

All LIFT Program Requirements governing funding and relevant to a particular Application must be satisfied by the Applicant to qualify for funding under this NOFA.

2. LIFT Wildfire Direct Awards

LIFT Wildfire for homeownership is reserved for developing new units in wildfire impacted areas. A total of \$15,350,000 is available with the funds set-aside as follows:

- \$6,140,000 (40%) to Lane, Lincoln, & Marion Counties
- \$3,070,000 (20%) to Clackamas, Douglas, Klamath, & Linn Counties
- \$6,140,000 (40%) to Jackson County

These set-asides are held until **March 1, 2022**. If not fully reserved, the set-aside funds will be combined into a general pool for utilization by projects in the above-named counties on **March 2, 2022**. If there are more requests than funding available submitted before March 1 for a particular set-aside(s), those projects will be prioritized on a first-come first-served basis for the general pool, which will be available on March 2. Any resources not requested by **June 1, 2022**, will then be moved to the general pool for LIFT Homeownership.

Applications are accepted on a rolling basis and staff will review applications as they are submitted. Applicants are required to submit a complete LIFT application with all narratives completed and attachments included. (See section 2.3)

To be eligible for a reservation, among other requirements, applications must meet Preliminary, Threshold, and Wildfire Threshold criteria, as well as meet all OHCS programmatic, underwriting, and financial guidelines (see section 1.5). Please see section 3.2 for a full list of LIFT Wildfire threshold items. Competitive scoring outlined in section 3.3 of this NOFA will not be applied to applications for LIFT Wildfire. Location specific and culturally specific organization/Tribal set-asides do not apply to the LIFT Wildfire funds.

Subsidy limits for LIFT Wildfire are the same as for LIFT Homeownership: a maximum of \$115,000 per unit substantiated by land value. Substantiation of land value is the same as for LIFT Homeownership.

B. Set-Asides

OHCS has established 3 location specific soft set-asides, and a soft cross-cutting set-aside for Culturally Specific Organizations (CSO) or Federally Recognized Tribes in order to better serve all parts of the State.

In this NOFA, the set-asides will be allocated as follows:

Rural Communities	50% of Available LIFT Funds	\$7,500,000
Mid-Sized Urban Communities	25% of Available LIFT Funds	\$3,750,000
Urban Communities	25% of Available LIFT Funds	\$3,750,000
Culturally Specific Organization or Tribal Led	15% of LIFT funds	\$2,250,000

The set-aside for CSOs or Federally Recognized Tribes transcends all location specific set-asides so that projects led by these organizations in all locations in the state have better access to LIFT funds.

These are projects in which the developer or sponsor is a culturally specific organization or Tribal-led organization.

If the next Project to be awarded within a set-aside requires more funds than remains in that particular set-aside category, those funds will be grouped together with similar funding from the other set-aside categories, and the combined funding will go to the highest scoring Project able to be funded. If there are not enough Projects able to be funded (having passed preliminary and threshold minimum requirements) to use all resources for one of the set-aside categories, those funds will be made available to fund Projects in the other set-aside category. If the next Project cannot be fully funded with available LIFT, OHCS may leverage other available OHCS gap funding resources to fully fund a Project.

If funds from this NOFA are undersubscribed, OHCS reserves the right to award the remaining funds to projects submitted through the LIFT Rental NOFA if the LIFT Rental NOFA is oversubscribed.

C. Funding Limits.

Applications may request a LIFT subsidy up to the **LESSER** of:

- The value of the land plus infrastructure/site-work (excluding housing structures), verified through an as-built appraisal, assessed value, or real market value

OR

- \$115,000 per LIFT homeownership unit

IMPORTANT NOTE ON LAND VALUATION AND LOAN REQUEST

- The requested LIFT funding amount must be supported at the time of the Application, by a valuation of the land or by a valuation of the land including its infrastructure (excluding housing structures).
- If an appraisal cannot be provided in time for the Application due date, Applicants may submit, as evidence of the land valuation, the real market value or assessed value of the land as of the time of the Application.
- An Applicant may request a LIFT loan amount (not to exceed \$115,000/unit) greater than the real market value or assessed value of the land if the Applicant believes that the appraised value of the land will exceed the real market value or assessed value.
 - If the request for LIFT loan funding exceeds the provided valuation (subject to other limitations), the Applicant must guarantee to cover any gap with cash or a loan if the final land valuation is not high enough to cover the entire requested LIFT loan funds.
 - Documentation of the availability of the gap coverage must be submitted at the time of the Application (a commitment letter or LOI).

1.4 Reservation Process

A. Application Ranking Process

LIFT Funds are reserved by OHCS on a competitive basis to Projects of qualifying Applicants that:

1. Pass the Preliminary Review;
2. Meet the Threshold Requirements; and
3. Have the highest-ranking score from the Scoring Committee in accordance with available

funding, subject to prioritization of qualifying Projects.

During the scoring and reservation process, limits on the remaining available funding may result in lower-ranked Applications receiving a funding Reservation if higher-ranked Applications would require funding that exceeds the amount that remains available for awards.

In the event of a tie, and assuming sufficient funding for either of the tied Applications, OHCS will apply the following tie breaking rules in making funding awards.

B. Tie Breaking Rule

If the total evaluation scores of two (2) or more Applications result in a tie and funding availability is insufficient to fund all tied Applications, the following scores, in order of priority, will break the tie:

1. The Project determined to achieve greater geographic distribution.
2. The Project with that will build the greatest number of affordable units that can be funded under this NOFA.

1.5 LIFT Homeownership Program Requirements

In addition to any other requirements in this NOFA, the following Project Requirements apply to all Projects funded through this NOFA (“Project Requirements”):

A. Eligible Activity

LIFT funds in this NOFA are for new construction of affordable homeownership housing units or the conversion of existing non-housing structures into new affordable homeownership housing units.

Please note:

- *Projects that are under construction (including site work) at the time of Application are not eligible for funding through this NOFA. Projects that begin construction after LIFT Fund Reservation and before LIFT loan closing may have their LIFT Fund Reservation revoked.*
- *Projects to rehabilitate existing residential structures or housing units are not eligible for funding through this NOFA.*

B. Affordability Period

OHCS has the discretion to meet the needs of the LIFT program, but generally, the affordability period will be established as the length of time the Article XI-Q bond is outstanding based on the original maturity date identified at time of bond sale, with a minimum of 20 years from the end of the year that the Project is placed in service or the length of the bonds outstanding, whichever is greater.

C. Incomes

All units funded through LIFT must be made available and affordable to households earning at or below 80% AMI at the time of the sale and any subsequent re-sales for the duration of the affordability period. Unit affordability terms pertain to both the purchase of the unit and the lease/rental of the land for the duration of the affordability period. At resale, all units will be marketed and sold to income eligible buyers. In cases where the funded Project is a multi-tenant, mixed income development, units deemed to be affordable will need to be dedicated before the units are marketed for sale.

D. Development Timeline

LIFT Homeownership units must be ready for initial sale within 36 months of a LIFT funding reservation. This NOFA anticipates funding reservations in summer of 2022; in which case units must be ready for sale by summer of 2025.

E. Readiness to Proceed

- **Timeliness Requirement:**

Applicant must submit all requested documents on time, completed and accurate. OHCS may withhold construction closing for any Project until all required documents are received and approved by OHCS. Any Project awarded a funding reservation that has not abided by established milestone deadlines in good faith may have its funding reservation rescinded.

- **Site Control:**

Applicant must have control of the land necessary for the Project by the Application deadline as evidenced by one (1) of the following:

- i. a recorded deed or conveyance showing the Applicant is the owner of the site,
- ii. a valid purchase and sale agreement,
- iii. a valid option to purchase, or
- iv. other evidence satisfactory to OHCS.

Requirements for site control documentation

- ✓ The name of the entity on the evidence of site control must be the same as the Applicant name on the LIFT Homeownership application.
- ✓ The site control document should identify the same address/location and area as the Project site listed in the Application and exactly the same cost for the land and/or existing buildings for the Project referenced in the development budget provided with the Application. Please Note: If the site description in the Application and the site control document are not exactly the same, the Applicant must provide a narrative description and supporting documentation to clarify the method used to establish the area and cost for the Project.

NOTE: OHCS will only accept one Application for a specific site or for any part of the same site, regardless of whether Applications are submitted by the same Applicant or by multiple Applicants. If more than one Application is received for the same site or any part of the same site, OHCS may disqualify one or all of the Applications. In this scenario, the **non-refundable** Application charge for each Applicant will be retained by OHCS.

F. LIFT Agreement with OHCS

Because the LIFT program is funded using Article XI-Q bonds, OHCS is required to hold an appropriate operational interest in the Project, including the right to enforce the affordability requirements at initial and each subsequent sale of the units under either a community land trust or leasehold condominium structure³. This is satisfied, in part, by execution of an Operating Agreement and Declaration of Restrictive

³ A Community Land Trust (CLT) model is the Department's preferred model for long term affordability in a homeownership setting.

Covenants (“Operating Agreement”). In addition to OHCS’ loan documents and other financing documents, OHCS requires an extended ALTA title insurance policy in its favor with appropriate endorsements and that any ground lease or condominium documents include provisions to ensure OHCS’ rights and remedies with respect to the affordability requirements.

G. Ownership Integrity

- Neither Applicant nor any member or principal within the Project ownership or management will have been convicted of fraud, misrepresentation, theft, or other moral turpitude within the previous ten (10) years.
- Neither Applicant nor any member or principal within the Project ownership or management will have been involved in a bankruptcy proceeding within the previous five (5) years.
- Neither Applicant nor any member or principal within the Project ownership or management will have been debarred or otherwise sanctioned by OHCS.

H. Commitment to Diversity, Equity, and Inclusion (DEI)

Each Applicant must submit a signed DEI form, which commits the organization toward implementing diversity, equity, and inclusion efforts within their organization and throughout the work they conduct including their work with external partners.

I. Service to Communities of Color

All Projects funded with LIFT must include service to Communities of Color. This can be achieved in several ways and should be relevant to the community in which the Project is located, and the target population anticipated to be served. Any approach that is chosen must include intentional engagement with Communities of Color for services planning for the development.⁴

J. Construction Standards

- **Methods:** Both traditional and alternative methods of new construction are allowable; construction that is innovative in containing costs or otherwise serving lower-income populations is encouraged.
- **Quality:** Construction that balances the initial cost of building with on-going costs of operation for the homeowner (e.g., energy standards)
- **Durability:** A minimum of 30-year building standards is expected for all Projects,
- **Other Requirements:** If other public capital or operating subsidies are used in financing the Project, relevant requirements of those subsidy sources will also apply.

LIFT requirements are intended to encourage innovation and allow for all types of new construction. All Projects must meet local and State code requirements. In any case where another funding source has its own requirements, the most restrictive requirements will govern relevant development or construction of the Project.

K. Underwriting Guidelines

Underwriting guidelines will be applied by OHCS in its due diligence and the Project review process to ensure ongoing Project viability and risk mitigation associated with the LIFT funding source.

⁴ See “Service to Communities of Color” Definition on page 5 for more information.

Applicants are required to include the following information with the Application. Please note that there may be additional requirements depending on the Project:

- Financing identified and available for the Project development;
- Letter of Interest (LOI) from a construction lender for overall Project;
- Project construction schedule that supports that all homes in the Project will be ready for sale within 36 months of the Reservation Letter;
- Demonstrate that the Applicant has done due diligence and that potential lenders exist, including corresponding down payment / terms for initial and future home buyers. This is based on the Applicant's narrative response describing the mortgage market, if not self-funding homebuyer's mortgages, please provide some kind of written information from potential lenders;
- Demonstrate experience or understanding in running a land lease or applicable association to ensure on-going compliance with the affordability requirements;
- Demonstrate knowledge and evidence of the market for the Project to income eligible households (previous history, waitlist, community/regional homeownership market trends, etc.);
- Evidence that the current land zoning allows for the proposed Project; need for a zoning change is not allowed given time constraints of LIFT program;
- Valuation of land that justifies LIFT investment, as demonstrated by third party appraisal or as otherwise described in this NOFA
- Construction costs estimated based on thorough and defensible methods;
- The information submitted must clearly show a need for LIFT funds;
- For Projects that include more than 4 units, a Phase 1 Environmental study is required prior to closing. If a project has 4 units or less, the project sponsor can choose to opt out of a Phase 1 study and instead certify that the sponsor will not request additional funds from OHCS to mitigate issues found before, during, and/or after construction and during operation that would have been discovered by a Phase 1; and
- Application of prevailing wage requirements to the Project (BOLI), if applicable.

L. Profit

Sponsor/Developer profit from the sale of homes in the Project may not exceed 7% of the total Project costs and may not increase above what was included in the Application. This can be a combination of profit from the sale of the homes and a flat developer fee.

M. Compliance Monitoring

A compliance monitoring fee of \$25 per LIFT affordable home will be required annually. This fee may be adjusted over time by OHCS. Monitoring by OHCS will address elements of the Project's operation, including:

1. Initial household income verification at home or unit purchase.

2. Subsequent sales of any home or unit during the affordability period will require verification of homebuyer income.
3. Regular or as needed verification of owner/homeowner/condominium association compliance with the Program Requirements.
4. Annual report on the Project's reserve fund and association's finances.
5. Annual notification of any homeowner or unit owner in arrears (of association assessments, property taxes, insurance, etc.) and a corresponding action plan of either the owner or the association.
6. Verification of appropriate maintenance and repair by the party responsible for the Project.

N. Other Program Requirements

1. LIFT funds will be loaned to qualifying Applicants that possess an undivided fee simple interest in the land upon which the Project will be constructed ("Property");
2. The LIFT loan must be secured by a first-lien deed of trust acceptable to OHCS recorded against the fee-interest in the Property and is not intended to encumber the sale of the units so that Applicants may convey marketable title to each eligible unit purchaser. OHCS may share a first-lien security interest with another lender, subject to the execution of OHCS' intercreditor agreement and other documents necessary to establish the relative priority and rights of the parties. And,
3. LIFT loans normally will be interest free and will be due and payable upon completion of the applicable term of required affordability period. LIFT loans may be prepaid without penalty. Loan satisfaction may also be accomplished by an equivalent extension of the affordability period, or by a combination of repayment and extended affordability as acceptable to OHCS.

2.0 APPLICATION REQUIREMENTS

2.1 Pre-Application and Application Access

The LIFT Homeownership application process has moved to be a two-step NOFA process that requires submission of a pre-application along with the site checklist in order to access the full application:

Process:

- Download the pre-application and environmental site review checklist from the OHCS website, here: <https://www.oregon.gov/ohcs/development/Pages/notice-of-funds-availability.aspx>
- Submit the completed pre-application and completed site review checklist together to HONOFA@hcs.oregon.gov . This action will alert OHCS staff to generate Procorem access credentials for your project. This step must be completed no later than midnight on **February 18, 2022**.
- Once credentials are received, go to the Procorem login page: <https://app.procorem.com/login> to access the LIFT Homeownership application.

Please note: applications can only be submitted electronically through Procorem. Hard copies, faxes, and electronic copies not submitted through Procorem will be automatically rejected and

will not be reviewed or considered for funding.

2.2 Application Submission

A. Application Submission Process

**Applications must be uploaded into the Procorem portal by no later than:
April 22, 2022, at 4:00 PM PST.**

Applications along with all required materials and documentation must be uploaded to the Procorem portal by the Application due date and time: April 22, 2022, at 4:00 PM PST.

- Applications in response to this NOFA can only be submitted through Procorem.
- Each development team can submit up to a total of **two (2) applications** for this NOFA offering.

B. Charges

- All Applicants must submit application charges via mail. OHCS cannot accept any electronic payments for Application charges.
- **Applicants must submit the Application charges to the address below along with the transmittal form provided as part of the application materials in Procorem.** All Application charges must be postmarked by April 22, 2022. If the Application charge has a postmark date **after** April 22, 2022, the Application is considered incomplete. It will be automatically rejected and is ineligible for funding.

Oregon Housing and Community Services
Attn: Accounting Re: NOFA 2022-3
725 Summer St. NE, Suite B
Salem, OR 97301

Applications determined by OHCS to be incomplete, to not meet all submission requirements of this NOFA, or otherwise fail to satisfy Preliminary Review requirements will be deemed "non-responsive" and rejected without further review. Applications considered complete, meeting all submission requirements, and otherwise satisfying all Preliminary Review requirements by OHCS will be evaluated to determine if they comply with the Threshold Requirements. Applications determined by OHCS as failing to meet any of the Threshold Requirements will be deemed non-responsive and rejected without further review. Applications that meet the Threshold Requirements are considered responsive and qualify to be evaluated for ranking and award purposes by the Scoring Committee as described in this NOFA.

2.3 LIFT Wildfire Application Process

To submit a LIFT Wildfire application, submit a pre-application as soon as possible as described in section 2.1. Once the pre-application is received by OHCS, a Procorem workcenter will be set-up within 3 business days and access to the application will be provided.

To submit a full application, please follow the steps in section 2.2 above, disregarding timing deadlines.

2.4 NOFA Questions

Inquiries relating to the NOFA process, its administration, or the substantive technical portions of the NOFA should be directed to: HONOFA@hcs.oregon.gov

Please note "**LIFT NOFA Question**" in the subject line. Frequently Asked Questions with answers will be posted to the OHCS website and NOFA Workcenters at regular intervals during the time that the NOFA Response period is open. **The FAQ Period closes April 8, 2022, at 5pm PST.** When appropriate, revisions, substitutions, or clarifications will be issued as Homeownership Program News and Updates in the OHCS email Announcements and put forth as a revision to this NOFA.

To sign up for these, please follow the "Signup for E-News" link on the News & Updates section of the OHCS homepage and be sure to select "Homeownership Program News and Updates". <https://www.oregon.gov/ohcs/about-us/Pages/news-updates.aspx>

Changes or modifications to this NOFA will ONLY be recognized if in the form of written technical advisory, issued by OHCS. OHCS shall provide copies of any advisories to all known NOFA recipients as well as post the addenda at: <https://www.oregon.gov/ohcs/homeownership/Pages/homeownership-funding-opportunities.aspx>

3.0 EVALUATION CRITERIA

If Applications pass the Preliminary Review, which includes timeliness and completeness criteria, the Application will move on to a review of Threshold Requirements. Review of the Threshold Requirements will be conducted to evaluate to determine whether Applications satisfy the Threshold Requirements. If, at any point, an Application fails to meet the threshold criteria listed in Section 3.2 below, the Application will be deemed nonresponsive and will not be reviewed further.

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

3.1 Preliminary Review

Each Application will be reviewed for timeliness and completeness of the NOFA requirements. If one of these items is missing from the application, the sponsor will be notified and given 5 business days to provide it:

- Complete NOFA Application and all required materials submitted through Procorem by Application due date and time,
 - Environmental review checklist with all exhibits
 - Applicant's Owner/Board of Director's Authorization and Acceptance Form
 - Organizational Documents for Applicant/Co-Applicant
 - Fully Executed OHCS Zoning Form signed by the appropriate zoning jurisdiction
 - Ownership Integrity Form fully executed.
 - Signed DEI Form for Applicant/Co-Applicant
- NOFA Application Charge sheet and all applicable charges postmarked by the date specified in NOFA.

3.2 Threshold Requirements Review

After passing Preliminary Review, all Threshold Requirements Review requirements must be met for an application to move to competitive scoring. The following are Pass/Fail criteria:

A. Readiness to Proceed

1. Timeliness Requirement:

OHCS requires that Projects be planned at the time of Application and are ready to proceed upon meeting all Reservation Letter requirements. The required Project development schedule will demonstrate that units will be ready for initial sale within 36 months of a LIFT funding Reservation; Applicant must demonstrate reasonable and appropriate timeline as well understanding of timeline requirements.

2. Zoning Requirement:

The Project must be properly zoned for the intended Project. Projects that must complete a zoning change to develop the Project will not be considered for funding.

3. Site Control

Applicant must have control of the land necessary for the Project by the Application deadline. Options and sales agreements must be valid through the end of 2022.

B. Financial Viability

Development Budget Review

1. Proforma budget includes realistic and available resources on the Sources of Funding.
2. Sources listed as ‘Fundraising’, or ‘Capital Campaign’ will result in automatic failure; resources already obtained through these efforts are allowable and should be presented as ‘Cash’.
3. Sources and Uses balance, there are no gaps in funding and all other sources of funds for the Project, excepting the LIFT funds, are committed.

C. LIFT Wildfire Only

LIFT Wildfire applications must meet Threshold requirements in sections A. and B. above as well as the requirements listed here:

1. Incorporate disaster resiliency in placement and construction of project
2. Must prioritize households impacted by wildfires
3. Must provide an explanation of cost-cutting strategies for the project

3.3 Competitive Scoring

Applications that meet the Threshold Requirements will be scored competitively using the following criteria.

A maximum of one hundred (100) points is possible. Any Application that does not have the minimum overall score of fifty (50) points will be disqualified and will not be considered for funding.

Both quantitative and qualitative factors are considered in the scoring. The criteria to be used for each scored section is as follows:

A. LIFT subsidy per unit (up to 15 points):

- a. Projects requesting \$75,000 per LIFT unit or less will receive **15 points**.
- b. Projects requesting \$75,001-\$100,000 per LIFT unit will receive **10 points**.
- c. Projects requesting \$100,000-\$115,000 per LIFT unit will received **5 points**.

B. Readiness to Proceed (up to 15 points)

Application must demonstrate the Project's readiness to proceed based on the following information:

1. Timeliness Requirement (up to 5 points):

Project Development Schedule demonstrates that construction is able to begin within 12 months (**3 points**),
Proposed Project Development Schedule appears adequate and reasonable (**2 points**).

2. Environmental Site Checklist Completeness (up to 10 points)

Applicants must identify any adverse environmental or site information by indicating them on the OHCS Project Site Checklist, with supporting documentation. Documentation should be uploaded with the NOFA application into Procorem. (Submission of the fully completed and signed checklist: **5 points**)

OHCS' Project Site checklist contains questions regarding the following items:

- i. the suitability of the site (with appropriate Radon and USGS maps attached) (**1 point**),
- ii. the distances to various retail and public services, public transportation, and schools (with labeled vicinity map) (**1 point**),
- iii. the nature of existing structures on the site (documented via recent onsite photos) (**1 point**),
- iv. soil suitability, environmental hazards, safety concerns, noise problems, air quality issues (documented via soil study/Geotech/Phase 1/etc.) (**1 point**),
- v. historic preservation (documented via information from SHPO, local historical societies, city, or county planners, or interested Tribes, if applicable),
- vi. flood plain and wetlands issues (documented by FEMA map, OHCS will run a wetlands report with Oregon Department of State Lands if selected for award) (**1 point**),
- vii. solid waste, wastewater, and storm water concerns, and
- viii. Federally Listed Species and/or Designated Critical Habitat.

Depending on the environmental impact to the Project, the Applicant must provide a satisfactory mitigation plan for any materially adverse information revealed in the Project Site Checklist.

C. Demonstration of Construction Costs that are lower than comparable industry norms (up to 6 points)

- 1. Costs (including construction costs and architectural fees) are greater than or equal to 15% less than comparable RS Means data published by OHCS based on general project type, **6 points**

2. Costs (including construction costs and architectural fees) are 0-14% less than comparable RS Means data published by OHCS based on general project type, **5 points**
3. Costs (including construction costs and architectural fees) are 1-5% less than comparable RS Means data published by OHCS based on general project type, **4 points**
4. Costs (including construction costs and architectural fees) are 6-10% of comparable RS Means data published by OHCS based on general project type, **3 points**
5. Costs (including construction costs and architectural fees) are 11-15% of comparable RS Means data published by OHCS based on general project type, **2 points**
6. Costs (including construction costs and architectural fees) are 16-20% of comparable RS Means data published by OHCS based on general project type, **1 point**
7. Costs (including construction costs and architectural fees) are above 21% of comparable RS Means data published by OHCS based on general project type, **0 points**

D. Demonstration of innovation, efficiency, and replicability of building development or finance strategy (up to 9 points)

Applicants will provide a narrative for the Scoring Committee that demonstrates innovation, efficiency, and replicability aspects of the proposed projects; to be scored up to 9 points

- *Innovation* means that a proposal is using a technique(s) as part of financing or building development that is new or original (**up to 3 points**)
- *Efficiency* means that a proposal employs techniques that are aimed at reducing waste and increasing efficiency (**up to 3 points**).
- *Replicability* means that there is a unique attribute(s) of the proposal that can be used in other developments in other locations around the state (**up to 3 points**).

E. Minority, Women, and/or Emerging Small Businesses (M/W/ESB) Engagement (up to 5 points)

OHCS requires participants to seek COBID and non-COBID M/W/ESB professional firms to increase the participation level of minority-owned businesses in its construction project to meet OHCS' M/W/ESB goal. OHCS also encourages the utilization of local labor and partnering with the community to help build healthy, affordable homes which addresses OHCS' goal of increasing apprenticeship programs in Oregon and improve economic and social vitality while increasing pathways out of poverty.

Applications will be scored on their approach to M/W/ESB engagement and contracting and how well this implements the OHCS M/W/ESB policy. OHCS M/W/ESB Manual and reports can be located at: <https://www.oregon.gov/ohcs/development/Pages/mwesb-sdvbe-rental-housing.aspx>

All Applicants will be required to identify ways and targets that they will use to contract with M/W/ESB/SDVBE COBID contractors/subcontractors in the construction and operation of the proposed Project. Applications will be scored on their approach to:

1. Identify Owners M/W/ESB/SDVBE⁵ COBID Certified firm participation goal for Project and how the goal was determined.
 - a. Include what percentage of the construction cost (including Architect, Engineering, Attorney) participation goal the developer has committed towards M/W/ESB/SDVBE owned subcontractors

⁵ General contractor and the developer can utilize and include non-COBID certified BIPOC firms in their M/W/ESB reporting provided that the M/W/ESB/SDVBE firm listed will be encouraged and assisted to become a COBID certified firm prior to construction completion of project.

- b. Provide how is percentage was determined.
2. Outline the steps the construction team will take to achieve the owner's M/W/ESB /SDVBE participation goals for subcontractors and suppliers.
 - a. Include what steps will be taken in ensuring the best outcome to meet the developer's commitment to its participation goals. Explain how both the general contractor and the developer will ensure solicitation to the COBID and non-COBID construction community. For example, where will bid opportunities be publicized, what minority owned, women owned, veterans/service-disabled veterans owned, and emerging small businesses communities will be contacted.
 3. Provide a summary of the general contractor's profile and team member demographics.
 - a. Include if the general contractor is a M/W/ESB/SDVBE contractor or COBID member.
 - b. Provide demographics of the general contractor's staff and team members.
 4. Provide details for the general contractor's history of addressing MW M/W/ESBESB/SDVBE subcontractor diversity, equity, and inclusion in affordable rental housing projects (list any, classes, seminars, or programs attended). Include an outline of how the General Contractor has engaged with M/W/ESB/SDVBE subcontractor diversity, equity, and inclusion within the last 3 years (projects partnerships, collaborations).

F. Demonstration of Financial Viability (up to 10 points)

- a. All funding sources are committed; with letters of intent (LOI) provided by all funders, including any construction lenders. **(2 points)**
- b. Contractor overhead, profit and general conditions are within the required range, as identified in the OHCS General Program and Guidelines Manual (GPGM). **(2 points)**
- c. Project development costs are reasonable and supported by construction documents and estimates. **(2 points)**
- d. Evidence of market for Project and that there are external funding partners for homebuyer mortgages if not planning on self-financing each loan. **(2 points)**
- e. Total net profit to the developer is no more than 7%. **(1 point)**
- f. Construction contingency is within OHCS guidelines as identified in the GPGM. **(1 point)**

G. Demonstration of capacity of the development team; understanding of development dynamics (up to 10 points)

Narrative provided demonstrates that the development team members have a comprehensive understanding of the development process. Applicant must succinctly provide an overview on the current status of the project, potential barriers to success and the strategies they plan to use to be successful in bringing the project to fruition. Additionally, the narrative should include an overview of recent development experience of the core development team to establish that the appropriate expertise is engaged.

H. Demonstration of capacity of management group (up to 10 points)

Narrative provided demonstrates and provides evidence/information that the management group has the capacity to administer LIFT program along with Land Trust, or affiliated organization. Summarizes the organizations experience in affordable housing, and affordable homeownership in particular. How will the affordability of homes be maintained for the duration of the affordability period? How will compliance and reporting to OHCS be handled?

I. Service to Communities of Color (up to 20 points)

Points will be awarded based on comprehensiveness, specificity, quality of engagement and quality of services, according to the following criteria. The intent of this scoring is to ensure that underserved Communities of Color are represented in Project design and sales.

Scores will be scaled to the populations within rural areas, which are understood to be different than those in urban areas. Culturally responsive resources that foster connections with Communities of Color in rural areas are less likely to be stand-alone organizations. Instead, Culturally Responsive Services and resources may be part of the array of services offered through organizations that serve the broader community and have connections to provide support to Communities of Color.

Applications must score a minimum of 5 points in this section and respond in full to each question in this section to qualify for LIFT funding. Please note: Signed MOUs with service providers are required in order to score points for this section.

- a. Tell us about historically underserved Communities of Color in your region (if a rural application) or metro area (if an urban application), including demographics and other factual data in your response.
- b. How have you connected to this community or communities in planning for this project? **Some examples include outreach partnerships with community agencies, places of worship, community centers, stores that sell culturally specific products**
- c. How do you plan to ensure that members of this community or communities are aware of the housing opportunity? Please describe planned outreach efforts and community resources that you will connect with/utilize. **Some examples include outreach partnerships with community leaders, places of worship, community centers, stores that sell culturally specific products.**
- d. What barriers do you anticipate members of these communities encountering in accessing housing? What is your plan for mitigating identified barriers to access? **Some examples include making materials available in languages other than English, engaging organizations with a diverse client base for marketing purposes, etc.**
- e. How were unit size/ configuration influenced and informed by what you have learned about the community/communities you are serving?

J. Federally Declared Wildfire Disaster Area (Up to 5 points)

Up to five points will be attributed based on adopted scoring for areas impacted by the 2020 Wildfires. These points are scaled in relationship to the overall housing impact within the 8 federally declared disaster area counties, focusing on cities and Census Tracts as appropriate. Additional detail on these points can be found in the established methodology document at <https://www.oregon.gov/ohcs/development/Documents/nofa/2021/FederallyDeclaredDisasterArea-PreferenceforNOFA.pdf> as well as established within the NOFA score sheet.

3.4 Scoring Criteria Detail for Narrative Responses

Below is the scoring criteria with detail on what scorers are asked to look for and evaluate for each section.

Criteria for LIFT NOFA Narrative Scoring	Max Points
<p>1. Service to Communities of Color – Historically underserved communities in region: (Up to 4 points)</p> <ul style="list-style-type: none"> • Does the narrative describe a focus on a specific community/communities of color? • Does it provide information on the current status of this population in the neighborhood or region? • Does the narrative tie into the data provided? • If a culturally specific organization, how long have they been serving this community? 	20
<p>2. Service to Communities of Color – Connection to this community or communities during planning: (Up to 4 points)</p> <ul style="list-style-type: none"> • Does the narrative describe engagement between developer and community of color? • Did the developer reach out to any culturally specific organizations or responsive organizations to assist with establishing this connection? • Were community members compensated for their time during these engagement opportunities? 	
<p>3. Service to Communities of Color – Ensuring member of this community are aware of the housing opportunity: (Up to 4 points)</p> <ul style="list-style-type: none"> • Does the narrative explain what types of outreach work will be, or has been, done to reach BIPOC communities? • If a partnership with a culturally specific organizations or responsive organization or Tribe is part an outreach plan, are they being compensated? • If narrative indicates that project will be using a jurisdiction’s marketing platform or waiting list, is the jurisdiction aware and have they approved this? 	
<p>4. Service to Communities of Color – Anticipated & mitigating barriers: (Up to 4 points)</p> <ul style="list-style-type: none"> • Does the narrative describe barriers to accessing housing for the focus community of color and where they originate from? • Does the narrative adequately explain how the identified barriers will be mitigated by the housing that will be developed and operated? 	
<p>5. Service to Communities of Color – Influences on the Design of project by community served: (Up to 4 points)</p> <ul style="list-style-type: none"> • Does the narrative describe how information from community input and feedback influenced the unit size or layout of the building? • Does the narrative indicate that outreach for the project to the community it is expecting to serve has occurred prior to application? 	
<p>6. Innovation, Efficiency, and Replicability of Building Development or Finance Strategy</p> <ul style="list-style-type: none"> • Innovation (Up to 3 points) <ul style="list-style-type: none"> ○ Does the narrative show a new or original technique for financing? Note: Scattered site projects are not considered innovative for the purpose of this NOFA. ○ Does the narrative demonstrate a new or original way to develop affordable units using new building techniques? • Efficiency (Up to 3 points) 	

<ul style="list-style-type: none"> ○ Does the narrative demonstrate techniques that are aimed at reducing waste in either building operations or financing structure? ○ Does the narrative demonstrate any techniques aimed at reducing the amount of time it takes to develop affordable homeownership opportunities? ● Replicability (Up to 3 points) <ul style="list-style-type: none"> ○ Does the project include a unique attribute(s) that can be replicated in other developments around the State? 	
<p>7. Strategy to Increase M/W/ESB Participation</p> <ul style="list-style-type: none"> ○ Did the narrative state the M/W/ESB participation goal & how it was determined? ○ Are steps being taken that show the developers' commitment to its M/W/ESB participation goals? ○ How are both the General Contractor and the Developer ensuring solicitation to the Communities of Color in the construction industry? ○ Was the demographic makeup of the general contractors staff and team members provided? Is the General Contractor a COBID member or eligible to apply for COBID membership? ○ How has the General Contractor incorporated bids from M/W/ESB/SDVBE sub-contractor diversity, equity, and inclusion over the last 10 years? 	5
<p>8. Demonstration of Capacity of Management Group</p> <ul style="list-style-type: none"> ○ Does the narrative describe how the affordability of the homes will be maintained during the 20-year restriction period? Does it include specifics about what kind of structure the management organization will be utilizing over the course of the affordability period? ○ Does the narrative provide a clear and detailed overview of the experience of the team handling the affordability period? If this is a new housing endeavor, is the management team partnering with an experienced organization for training? 	10
<p>9. Demonstration of Capacity of the Development Team</p> <ul style="list-style-type: none"> ○ Does the narrative describe staff experience working on projects of similar (or larger) size and scope? ○ If staff experience is limited, does the narrative explain how the team will mitigate this lack of development knowledge? ○ Does the narrative address the current status of the project, and any potential barriers it may have? ○ Does the narrative include an overview of recent development experience of the core team, and is it supported by the NOFA application Development Team Capacity section? 	10

4.0 APPLICATION EVALUATIONS

4.1 Evaluation Process

A. LIFT Homeownership

After Preliminary Review (see Section 3.1), eligible Applications will be reviewed for Threshold Requirements (see Section 3.2). After the review of Threshold Requirements, eligible Applications will be competitively scored by the Scoring Committee (see Section 3.3).

The final selection of Applications for Award, if any, will be from those Applications that best meet the competitive scoring requirements based on the recommendation from the Scoring Committee, as further

recommended by the Director and approved by the Council, in accordance with available Funding Sources.

B. LIFT Homeownership Wildfire

Applications will be reviewed for Preliminary and Threshold requirements as they are submitted. Applications that meet all requirements, determined by the review process, will be recommended to the Director, and approved by the Council, in accordance with available Funding Sources.

4.2 Notice of Intent to Issue Reservation Letter

Applicants will be notified in writing of OHCS's Notice of Intent to Issue a Reservation Letter; this information will also be posted on OHCS's website.

Applicable Reservation and Recipient charges:

OHCS has adopted a 1.5% reservation charge for all NOFA Loan Reservations and has a Recipient Charge listed in the GPGM. Upon issuance of a Reservation Letter, the Recipient Charge is due, while the Reservation Charge will be due at finance close.

5.0 GENERAL TERMS AND CONDITIONS

- 5.1** Any LIFT funding allocation under this NOFA is subject to receipt by OHCS of the proceeds of the anticipated Article XI-Q Bonds issuance and approval by bond counsel, the Oregon Department of Justice, and the Issuer (State Treasurer collectively with the Department of Administrative Services (DAS) and OHCS or OHCS only) to use the proceeds for LIFT Homeownership purposes as contemplated under the NOFA.
- 5.2** OHCS may require additional information to determine whether or not an Application satisfies relevant criteria. Any necessary clarifications or modifications normally will be made before OHCS makes any Reservation and may become part of the Agreement Documents.
- 5.3** Submission of an Application by Applicant or acceptance by OHCS of a submitted Application neither constitutes an agreement of any kind between OHCS and Applicant nor does it secure or imply that Applicant will be selected for receipt of a Reservation of funds.
- 5.4** In the extent that other funding sources have additional or other requirements, the most restrictive requirements will apply to the Project.
- 5.5** All costs associated with Applicant's submission of an Application are the sole responsibility of the Applicant and shall not be borne to any degree by the State of Oregon.
- 5.6** Successful Applicants will be required to maintain appropriate levels of insurance and to comply with the LIFT Project Requirements and other OHCS policies, including execution of the Agreement Documents.
- 5.7** OHCS reserves the right and option to amend any Reservation Letter and other related documents that result from a Reservation made pursuant to this NOFA. All such amendments will be in writing and must be signed by relevant authorized parties. Applicants may only apply for funding of one (1) phase of a multi-phase Project under this NOFA.
- 5.8** OHCS assesses an Application charge. A check for the Application charge is required at application

submission and must be received by the application due date.

- 5.9** ORS 60.701 requires 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 foreign corporation is selected for the Agreement because of this NOFA, it must register to do business in Oregon.
- 5.10** OHCS reserves the right:
- a. to amend this NOFA prior to the closing date;
 - b. to amend the deadline for submitting Applications;
 - c. to determine whether an Application does or does not substantially comply with the requirements of this NOFA;
 - d. to waive any minor irregularity, informality, or nonconformance with the requirements of this NOFA;
 - e. to obtain from and/or provide to other public agencies, upon request, references, regarding the Applicant's performance;
 - f. at any time prior to execution of Agreement Documents (including after announcement of the apparent Reservation) to reject any Application that fails to comply with the requirements of this NOFA;
 - g. to reject all Applications received and cancel this NOFA upon a finding by OHCS that such cancellation would be in the best interest of the State;
 - h. to use adherence with components of the Applicant's Application and this NOFA as scoring criteria in future multifamily funding solicitations;
 - i. to withdraw any funding source from this NOFA; and
 - j. to waive any term or condition of this NOFA for good cause as determined by OHCS.
- 5.8** This NOFA and one (1) copy of each original Application received, together with copies of all documents pertaining to a Reservation, will be kept by OHCS and made a part of a file or record, and be available for disclosure pursuant to the Oregon Public Records Law.
- 5.9** The Applicant will be required to assume responsibility for performance required by the Agreement Documents, whether performed by the Applicant, a representative, assignee or subcontractor.
- 5.10** An Applicant or potential Applicant seeking to challenge any aspect of this NOFA is subject to and must comply with the provisions of OAR 813-005-0025, which provide:

813-005-0025 Solicitation Protests; Administrative and Judicial Review

(1)(a) With respect to any solicitation conducted by the department, an applicant or potential qualifying applicant may protest or otherwise challenge such solicitation process by first requesting administrative review as herein specified.

(b) With respect to any solicitation conducted by the department, an applicant may protest or otherwise challenge any department determination or order (collectively hereinafter, "determination") related to such solicitation by first requesting administrative review as herein specified.

(c) A timely, qualifying request for administrative review is necessary to satisfy the conditions of this section and a condition precedent to judicial review consistent with ORS 183.480.

(d) Failure to file a timely, qualifying request for administrative review with the department will constitute a failure to exhaust administrative remedies and terminate further rights to protest or otherwise challenge the solicitation process or any related department determination, including judicial review thereof.

(2)(a) An applicant under this section is a person or entity that makes an application (including delivery to the department under the terms of the solicitation) for a department funding award pursuant to a particular department solicitation.

(b) A potential qualifying applicant is a person or entity that qualifies to make an application for a department funding award under the terms of a solicitation with respect to the process of which it requests administrative review consistent with the terms of this section.

(3)(a) An applicant or potential qualifying applicant seeking to protest or otherwise challenge any aspect of a solicitation process (other than a department determination related thereto) must request review by the department within fourteen (14) days of the application due date of the solicitation.

(b) An applicant seeking to protest or otherwise challenge a determination by the department related to a solicitation must request review by the department of such determination within fourteen (14) days of the applicant receiving notice from the department of that determination.

(4) Any request for review under this section must be in writing, specifically identifying:

(a) The nature of the requestor's interest, including the facts showing how the requestor is adversely affected or aggrieved by the solicitation process or a department determination;

(b) The relief sought;

(c) Each of the grounds for review;

(d) An explanation for each of the grounds upon which relief should be granted; and

(e) Any supporting information the requestor desires to have considered by the department.

(5) The envelope containing the request for review MUST:

(a) Be marked PROTEST;

(b) Identify the solicitation number;

(c) Identify the closing time and date for acceptance of solicitation applications;

(d) Identify the department's contact person for the solicitation; and

(e) Be received by the department at its main Salem Office, Oregon Housing and Community Services 725 Summer Street NE, Suite B Salem, OR 97301, not later than 4:00 PM on the fourteenth (14th) day after the solicitation closing date or the applicant's receipt of notice from the department of the department determination from which review is requested, whichever due date is applicable under this section.

(6) The applicant will be deemed to have received notice of a department determination upon the sooner of:

- (a) Three (3) days after the department's determination is mailed to the applicant;
 - (b) Two (2) days after such determination is posted to the department's website;
 - (c) Two (2) days after the list of successful solicitation applicants is posted to the department's website; or
 - (d) One (1) day after such determination is emailed to the applicant.
- (7) The department may request additional information from the requestor with respect to its request and consider such other information as it deems appropriate.
- (8) The department will endeavor to provide a written response to a timely, qualifying request for review within thirty (30) days.
- (9) Judicial review of the department response to a timely, qualifying request for review shall be limited to those grounds the requestor raised with the department in its request for review.
- (10) The filing of a request for review, or subsequent judicial review (if any), will not preclude the department from moving forward with the solicitation or the award of funding assistance thereunder. However, the department reserves the right to delay, terminate, modify, or take other action it determines to be appropriate with respect to a solicitation or any related award of funding assistance in response to a request for review or subsequent judicial review.

5.12 OHCS' contact person for this NOFA is Rebecca Isom. Her contact information is as follows:

Oregon Housing and Community Services
Attn: Rebecca Isom
725 Summer Street NE, Suite B
Salem, OR 97301
Email: HONOFA@hcs.oregon.gov

- 5.13** Reservations, Allocations or Awards by OHCS (collectively, "Determinations") may be subject to Council review under ORS 456.561, and Determinations where additional OHCS funding supporting such Determinations are subject to Council review, are contingent upon Council approval of those Determinations or supporting funding. The Council may approve, reject, modify, or further condition funding awards submitted for its review, thereby directly or indirectly impacting OHCS' Determinations.
- 5.14** All Reservations made pursuant to this NOFA are subject to the successful negotiation, execution, and recording (if required) of any and all Agreement Documents. Projects that have only a leasehold interest in relevant real property must include, among relevant Agreement Documents, binding commitments executed and recorded by the landlord satisfactory to OHCS including, but not limited to, restrictive covenants with respect to the ongoing use and operation of the real property and leasehold interest for affordable housing acceptable to OHCS.
- 5.15** OHCS may charge, and the Applicant shall pay, legal and administrative costs reasonably anticipated or incurred by OHCS in negotiating and preparing Agreement Documents and other related documents. OHCS also may charge, and Applicant shall pay any other fees allowed by OHCS administrative rules with respect to the Application, ensuing Reservation, Award or Allocation, and Project operation.
- 5.16** Provisions stated in the form of a question in this NOFA shall be construed as required action by Applicants.

5.17 OHCS reserves all other rights not specifically identified herein, including but not limited to rights, remedies, and requirements established in OHCS administrative rules or other law.