

Division 602: Place-Based Water Planning Rules Advisory Committee

RAC Feedback Received – 11/1/2024

This document summarizes feedback received on the draft PBP rules ([v. 10/3/2024](#)) between October 4 and October 25. Proposed redline edits to the draft rules are available in an accompanying document. Earlier feedback and OWRD response is available on the [PBP Rulemaking Webpage](#).

Topic (<i>Draft Rules v. 10/3/2024</i>)	Feedback Received on Draft Rules v. 10/3/2024	Action or Explanation
Definitions (690-602-0002)		
<p>(18) “Shared Governance Agreement” means a written document adopted by a collaborative through consensus that governs the collaborative’s organizational structures, decision-making processes, roles, commitments, communications, and other provisions needed to support group governance or collaboration.</p>	<p>Suggestion for the need for more substantive requirements in the definition, for example, what kind of decision-making process fulfills the requirements of a PBP process, who’s eligible to participate in PBP process. The definition should include more detail on what is appropriate for the shared governance agreement.</p> <p>Suggestion to include more specifics in guidance (i.e. consensus tool used, eligibility, etc.)</p>	<p>Who is eligible to participate in PBP is outlined in the definitions for “community” and “collaborative” and consensus decision making is outlined in the state-recognition section (-0007).</p> <p>More specific requirements, standards, and best practices will be included in guidance.</p>
	<p>What is the state agency role in this document? Who is eligible and the role of state agencies should be inclusive and to the extent that we can capture that here is in our best interests.</p> <p>We need to know that state agencies are going to be there, whether or not they are signed to the governance agreement.</p> <p>Challenge with past planning groups was agency funding and staff capacity to participate at a level that was needed, which was detrimental in making progress in a timely fashion. State agencies should have appropriate funding for this work.</p>	<p>Statute requires OWRD to consult with other agencies about their capacity to participate in PBP and provide information and technical assistance prior to issuing grant funding. That information will be conveyed to planning groups and subsequently outlined as part of the “roles” requirement in the shared governance agreement.</p>
<p>Addition of a new definition for “Facilitator”</p>	<p>Suggested definition of “facilitator”: a neutral party with subject matter expertise to facilitate meetings and ensure planning documents meet PBP guidelines and reflect work of the collaborative”.</p>	<p>A definition for “Facilitator” was added based on the RAC conversation:</p>

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	<p>RAC members disagreed with the requirement for the facilitator to have subject matter expertise since it is a different skill set and it would likely be difficult to find a facilitator that had both facilitation skills and water expertise.</p> <p>RAC members generally thought that someone should be accountable that the collaborative is meeting the standards in the PBP guidelines and is reflecting the work of the collaborative, but that it might not always be the facilitator’s responsibility.</p>	<p>(9) “Facilitator” means a neutral party that works to ensure a collaborative process and supports consensus building.</p> <p>Draft language has been added (see draft rules v. 11/1/2024).</p>
Eligible Grant Types (690-602-0004)		
General	<p>A RAC member suggested over email that the language in this section is confusing because it is describing required outcomes. They suggested that OWRD should consider moving substantive outcome requirements into following section or amending this language to be more descriptive of grant eligibility.</p> <p>A RAC member expressed concern over email about the Department’s linear construction of this process and thinks that it would be good to have one grant type that can be more flexible and responsive, allowing for gaps to be filled as they are identified rather than forcing linearity. The RAC member stated that the mismatch between the Department’s linear approach and the more fluid and non-linear nature of planning was a recurring issue with planning groups.</p>	<p>The word “must” was removed from each of the grant types to be more descriptive and less outcome based. (see draft rules v. 11/1/2024).</p> <p>There is clarity in a linear approach that allows the Department to both communicate to grantees better about what grant type they would be eligible for and better administer the grants. Unlike the Pilot, depending on where a group is in the process, planning groups would always be eligible for one of the grant types. If things change during the planning process, grantees are able to request grant amendments to reflect those changes.</p>
“(2) Eligible Plan Development Grants must: (a) Develop a shared governance agreement adopted by the collaborative; and (b) Develop a place-based integrated water resources plan for a planning area.	<p>There was a suggestion to add language to ensure that the shared governance agreement and the place-based water plan contain language that require them to meet the requirements in OWRD guidance. OWRD received this suggestion ahead of the meeting, so developed the following language for the RAC to react to: after each sub-bullet, add “according to the process, content, and structure required by the Department and necessary to</p>	<p>Process, content, and structure reflects what the Plan Review Team has evaluated in considering a plan for state recognition and would provide continuity with the state recognition process. Draft language has been edited for clarity and added to the draft rules (see draft rules v. 11/1/2024).</p>

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	<p>govern/meet the definition of a Place-Based Integrated Water Resources Planning as defined in ORS 537.873(1)(f);”</p> <p>A question was raised about whether this will be in the guidance document or addressed in rule.</p>	<p>Structurally, it would be included in PBP guidelines, and we would be really clear in that document of what is required and what are options the groups can consider. Having clarity about requirements upfront has been a lesson learned and recommendation from the workgroup; any guidelines would call out what is required if you want to move towards state recognition. The rules delineate what is necessary and the guidance will clarify.</p>
	<p>Suggested language submitted via email "Eligible Plan Development Grants must develop a place-based integrated water resources plan for a planning area consistent with a shared governance agreement;"</p>	<p>Language has been modified (see draft rules v. 11/1/2024).</p>
Grant Evaluation Criteria (690-602-0006)		
<p>General</p>	<p>A RAC member submitted a suggestion over email that it would be clearer in rule if there was a set of criteria relevant to each grant type and then bullet points for each grant type for criteria that may be specific to that type.</p>	<p>This suggestion was considered, but it was ultimately decided that having to reference a different subsection when looking at each the grant evaluation criteria for a specific grant type could also be a challenge, so the structure was kept as is.</p>
<p>Criteria for all grant types: “Strategic priorities determined by the director”</p>	<p>RAC members wanted to know what this means and how an applicant would know when they are filling out a grant application.</p> <p>RAC members expressed concern that this language could be interpreted as the Director picking winners and losers. A suggestion was made to add language that would make it more transparent to folks that are going through this</p>	<p>There are three potential sources that would inform strategic priorities: (1) the Integrated Water Resources Strategy, (2) the Department’s Strategic Plan, and (3) our understanding of conditions on the ground (e.g., current and future groundwater studies) and where the timing is important for moving a place forward. Language has been added to reflect this and to clarify that any strategic priorities considered</p>

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	process. For example, “stated strategic priorities as determined by the Department, such as the IWRS...”.	would be included in grant solicitation materials to ensure transparency (see draft rules v. 11/1/2024).
Criteria for (1) PREP and (2) Plan Development Grants	<p>There was a suggestion from a RAC member to add to existing evaluation criteria that the grantee/convener/collaborative commit to using a “neutral facilitator” for PREP and Plan Development Grants. Suggested edits are in purple:</p> <p>“(1)(a) The stated commitment and expected ability of the grantee to effectively engage a balance of instream and out-of-stream water interests on place-based water resources issues and to ensure a neutral process utilizing a neutral facilitator;”</p> <p>(2)(a) The convener’s commitment and ability to ensure a neutral process utilizing a neutral facilitator over multiple years, and the convener and potential collaborative members’ ability to meaningfully engage and collaborate in a neutral process over multiple years with a balanced representation of instream and out-of-stream water interests, the public, Tribes, local governments, and state agencies.”</p>	A requirement for neutral facilitation was added as a grant requirement for plan development in -0008 “Grant Agreement and Conditions”. (see draft rules v. 11/1/2024).
<p>(2) Plan Development Grants shall be evaluated on:</p> <p>(a) The convener and potential collaborative members ability to meaningfully engage and collaborate in a neutral process over multiple years with a balanced representation of instream and out-of-stream water interests, the public, Tribes, local governments, and state agencies;</p> <p>(b) The proposed data, technical information, and planning tools</p>	<p>There was a suggestion from a RAC member that there is an evaluation criteria missing for plan development grants would be something related to “commitment and ability to develop a plan that adheres to state guidelines and balances instream and out-of-stream interests”. Maybe something similar should be added to subsections (1) and (3).</p> <p>RAC members agreed with the spirit of the suggestion, requiring the development of a plan that adheres to guidelines.</p>	Requirements to ensure a collaborative process and adhere to principles of place-based integrated water resources planning and the state’s IWRS, and to follow the process, content, and structure provided by the Department and necessary to meet the definitions of a “Place-Based Integrated Water Resources Plan” and “Place-Based Integrated Water Resources Planning” were added in -0008 “Grant Agreement and Conditions”. (see draft rules v. 11/1/2024).

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<p>that would support planning in the area;</p> <p>(c) The proposed approach to public participation and engagement of environmental justice communities;</p> <p>(d) Strategic priorities determined by the Director;</p> <p>(e) The value of place-based integrated water resources planning in the planning area and the demonstration of a clear need for a Plan; and</p> <p>(f) State agency capacity to support the proposed planning process.</p>		
<p>(3) Post Plan Coordination Grants shall be evaluated on:</p> <p>(a) If a Collaborative’s Plan has received state-recognition for the first time within the last 2 years and it has not received a Post Recognition Grant previously, its application may be given priority by the application review team.</p> <p>(b) If the Collaborative’s Plan received state-recognition two or more years before the application deadline, its application shall be evaluated on:</p> <p>A. Demonstration of the pursuit of Plan strategies and actions that continue to represent a balance of instream and out-of-stream water interests and a commitment to collaboration and place-based planning principles; and</p>	<p>A RAC member asked the following question over email: “This suggests that there are two categories...with category (a) receiving funding before category (b). Is that what you intend? Consider reconstructing this and adding (a) as a sub rather than setting it up in contrast to (b).”</p>	<p>The intention is to set up two categories and to allow for prioritization of those collaborative’s who have recently received state recognition because (1) it is likely the most crucial time to receive state support and (2) they would not meet any of the evaluation criteria outlined for groups that have implementation history.</p>

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<p>B. Progress made towards Plan implementation, including how progress aligns with the Plan’s implementation strategies and continues to represent a balance of in-stream and out-of-stream water interests;</p> <p>C. The proposed approach to public participation and engagement of environmental justice communities; and</p> <p>D. Strategic priorities determined by the Director.</p>		
State Recognition of Plans (690-602-0007)		
<p>(1) A collaborative is eligible to apply for state-recognition of their Plan after it is adopted by the collaborative through consensus as defined in the collaborative’s shared governance agreement.</p>	<p>Revised language was suggested over email with the intention the new language would allow places with an existing plan (e.g., Walla Walla) to potentially apply for state recognition: "(1) A plan is eligible for state-recognition after it is adopted consistent with the terms of a shared governance agreement."</p>	<p>If an existing plan meets the requirements in the statute/rules for state recognition, the current draft rule language would allow them to apply for state recognition. No changes were made.</p>
<p>(2) The Plan Review team shall review the Plan according to the evaluation metrics provided by the Department and make a recommendation to the Director about state recognition of the Plan within 120 days of plan submission. If the Plan Review Team requires changes to recommend the Plan for state recognition, the Collaborative will be given an opportunity to amend its plan before a final recommendation is made.</p>	<p>A RAC member submitted the following question/suggestion over email: What/where evaluation metrics for state recognition? It seems like at least the basic requirements should be stated here.</p>	<p>Language was added identifying that the evaluation metrics are “related to process, content, and structure” (see draft rules version 11/1/2024). Details of the evaluation metrics are detailed and are a better fit for guidance.</p>

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(3) A Plan may be recognized by the Commission if it meets the definition of a place-based integrated water resources plan in ORS 537.873(1)(e) and upon recommendation by the Director.	A suggestion was received over email to include the requirement to meet the “the Department’s place-based planning guidance and other guidelines”.	Language was added to reflect this suggestion (see draft rules version 11/1/2024).
(4) To maintain Plan state recognition, the collaborative must submit biennial reports on progress made towards Plan implementation on a form provided by the Department. Plans may lose state recognition if:...	A suggestion was received over email that a similar provision is needed for the processes that are between grant issuance and state recognition, which can be many years.	Reporting required of a grant agreement satisfies this. Additional language was added to the Grant Agreement section: -0008(4). (see draft rules version 11/1/2024).
(5) The Department, in consultation with other relevant state agencies, shall support implementation of state-recognized Plans appropriate to their mission, authorities, and priorities, as capacity allows. The Department shall document and communicate to collaboratives which Plan strategies may be supported by the Department according to the Department’s mission, authorities, priorities, and capacity.	Discussion at the RAC centered on the language “The Department...shall support implementation...”. Some RAC members believe that there is no statutory basis for it while others were strongly supportive of having agency support during implementation as an outcome of state recognition, pointing out that the other language in the draft rule provides the Department with discretion about the degree of support it can provide.	New language developed during the RAC to address these concerns was added to the Draft Rules (version 11/1/2024): (5)The Department, in consultation with other relevant state agencies, shall identify, document, and communicate to collaboratives which Plan strategies are consistent with an agency’s mission, authorities, and priorities, and whether and how they may be supported by those agencies as resources and capacity allow.”
	Another concern voiced was that “support” is vague and there were questions about what it means. A solution was reached in the meetings to address these concerns (see next column).	
	A suggestion was made to add a temporal component to this language.	The Department will have to be adaptive to the timelines of other agencies and the collaboratives, so adding a temporal requirement here could be unnecessarily restrictive.
Concern was raised that this only focuses on OWRD’s role and not how other agencies may support Plan implementation.	These rules only govern what OWRD can do and adding requirements of other agencies exceeds their authority. But OWRD can consult with other agencies and language was added to more clearly	

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		reflect that process (see draft rules version 11/1/2024).
<p>(6) Plans that achieve state recognition before the Department begins updating the state’s next Integrated Water Resources Strategy shall be considered in the update. The Department shall identify and may incorporate common themes or strategies emerging from state-recognized Plans into updates and any associated workplans, as appropriate to the Department’s mission, authorities, and priorities, and as capacity allows.</p>	<p>Concern was raised that only OWRD may incorporate common themes and strategies and not other agencies, which is a problem because of the interagency nature of the IWRS.</p>	<p>Language was added “in consultation with other relevant state agencies” (see draft rules version 11/1/2024).</p>
	<p>A suggestion was made to replace “as appropriate” with “only if consistent with”.</p>	<p>Language was updated to reflect this suggestion (see draft rules version 11/1/2024).</p>
	<p>A suggestion was made to change language to “The Department may identify and maintains discretion to incorporate common themes or strategies...”</p>	<p>“May” allows the Department the appropriate discretion in which themes/strategies could be incorporated into the IWRS without the addition of this language.</p>
	<p>A suggestion was made to add additional rule language speaking to how plans that have been state-recognized prior to rule development would be treated. The point was made that processes in the past did not meet all the definitions under the new rules, for example requiring anyone from the community to be eligible to participate.</p> <p>Suggested language submitted over email “Plans that received state recognition prior to adoption of OAR 690-602 do not qualify for recognition as described in OAR 690-602, but may reapply for recognition under these rules.”</p>	<p>Planning collaboratives invested 6+ years piloting the planning guidelines to achieve state recognition, in part so that we could learn from those processes to develop the current statute, draft rules, and draft guidelines. State recognition was awarded to their plans because they satisfied the requirements at the time they applied.</p> <p>Moving forward, to maintain state recognition and be eligible for the related grant funding, agency support, and consideration in the IWRS, these collaboratives will need to meet new requirements in these rules. To help them prepare for that, they will be eligible for post-plan coordination grants which would help set them up for success in maintaining their state recognition.</p>
	<p>Suggestion was made to include more place-specific information from these plans into the IWRS. Comparison was made with how other western states do regional water planning.</p> <p>Language was suggested over email to be specify the actual ways the plans will be considered and to be</p>	<p>Language was added based on a suggestion during the RAC to be more specific about “individual” strategies. (see draft rules version 11/1/2024).</p> <p>Undergoing a rulemaking process is time and resource intensive, so to the extent possible, we</p>

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	<p>reflective of the updated statute for the IWRS. Suggested language was:</p> <p>“(6) Plans that achieve state recognition before the Department begins updating the state’s next Integrated Water Resources Strategy shall be considered in the update consistent with the ORS 536.220, including consideration of:</p> <ul style="list-style-type: none"> (a) information that improves the state’s understanding of instream and out-of-stream water needs; (c) critical water issues; (d) actions that that are designed to achieve the objectives of the strategy; (e) provisions to promote partnerships with Collaboratives to implement recommended actions; (f) how the integrated state water resources strategy will be implemented within the planning areas; (g) how implementation of priority actions recommended in place-based plans will be supported. <p>(7) The Department, in consultation with other named agencies, shall consider and may include specific actions to support implementation of place-based plans in the biennial work plan specified in ORS 536.220(x).”</p>	<p>would like these rules to have longevity and be applicable even if other statutes, rules, or processes change. By tying these rules so closely to the details of the IWRS statute, it could hinder the Department’s ability to be adaptive if that statute changes in the future. The statute and rules as written allow the Department to consider these items without the risks of having them detailed in rule.</p>
Match Requirements (690-602-0005; -0003(2))		
<p>(-0003)(2) Match requirements shall be included in the announcement for each grant offering. Match requirements shall not exceed 50% of the application request.</p>	<p>RAC members suggested lowering the match requirements to a minimum of 5% or 10% match.</p>	<p>In a resource abundant environment, the match would be set lower. However, in considering the future and the longevity of these rules in different resource environments, allowing the Department to use its discretion up to 50% allows for the adaptability and flexibility for grants to be awarded and planning to be done in a range of resource environments.</p>

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<p>(-0005)</p> <p>(1) All applicants must demonstrate the required matching contribution has been secured or is being sought at the time of application. Department funding may not be released prior to secured commitment of the other funds. Pending commitments of funding must be secured within 12 months from the date of the award.</p> <p>(2) Match contributions may include:</p> <ul style="list-style-type: none"> (a) Associated and documented expenditures that were incurred prior to an award and approved by the Department for match purposes; (b) Cash on hand; (c) Secured funding commitments from other sources; (d) Pending commitments of funding from other sources; or (e) The value of in-kind labor, equipment rental and materials essential to the planning process, based on local market rates. 	<p>The RAC discussed the difficulty for grantees when match is required to be secured before funds are distributed. Points were made that other potential match funding is only awarded on an annual basis and, as a result, those potential matches cannot be used for a multi-year process; that planning requires greater flexibility than other project-based grant funds the Department administers; that PBP funding can be used as a magnet for other funds that might not be identified at the beginning of a planning process.</p> <p>A RAC member encouraged the department to think about the challenges of the role of the convener/fiscal agent and how barriers erected around this funding will disincentive people from being the fiscal agent or convener of these processes because they are such difficult roles.</p>	<p>At the application stage, match does not have to be secured. Sometimes it is a matter of identifying sources of funding and noting eligibility for that funding. It's a way to promote having a financial or other stake without excluding individuals. A suggestion was made by a RAC member to clarify this by changing "pending commitments" to be more reflective of the meaning. Language was updated to "pending match funds" (see draft rules version 11/1/2024).</p> <p>Requiring that match be secured prior to distribution of funds sets groups up for success and reduces the risk of uncompleted planning. It is not just funding commitments that can be considered match. The definition of match is broad and includes in-kind labor, so applicants will not just be dependent on other funding cycles to secure match.</p> <p>The administrative load of fiscal agents was also considered. This language is consistent with other OWRD grant opportunities, which is helpful when fiscal agents are already familiar with OWRD grant processes and/or prepares them to apply to OWRD grant opportunities during implementation. The Department considered other ways in which match could be set up, including allowing funds to be spent at the same rate that match is secured. Because this would be much more complicated to track, it was determined to be overly burdensome on the fiscal agent.</p>
	<p>A RAC member provided feedback over email that these don't really seem to be application requirements and seem more like match requirements.</p>	<p>The name of this section was changed to "Match Requirements" and the piece regarding match in section -0003(2) was moved down to this section to keep all information about match in the same place.</p>

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Grant Application Process (690-602-0003)		
(1) The Department shall periodically announce deadlines for submitting applications for grant funding, dependent upon the availability of Place-Based Water Planning funds and state agency capacity to support grantees and planning processes.	Language was suggested to be more explicit than “periodically” to provide some degree of reliability for folks tracking the program and determining when they can expect the opportunity to be available.	Using “periodically” and not enforcing a timeline allows the Department the flexibility to focus on different aspects of place-based water planning as needed – administering the fund and providing support to planning groups/collaboratives. Since being able to offer grants will always be dependent on available funds and capacity, it is unnecessary to add a temporal requirement as well. The Department will announce grant cycles as soon as they are able, which, in most cases, is well before the grant solicitation begins.
(3) The Department may use an application review team to review applications based on the evaluation criteria in 690-602-0006.	A RAC member suggested replacing “may” with “shall”.	Language was adjusted so that the rule now reads “The Department shall review applications based on the evaluation criteria in 690-602-0006 and may use an application review team to assist in conducting this review” (see draft rules version 11/1/2024).
(6) The Director may make grant funding decisions based on the recommendations of the application review team, availability of fund resources, Department capacity to support grantees, and received public comments.	A RAC member recommended replacing “may” with “shall” and adding language around making grant funding decisions based on the standards set forth in these rules.	Language was adjusted so that the rule now reads: “The Director shall make grant funding decisions based on the grant evaluation criteria in 690-602-0006 and any associated recommendations of an application review team, availability of fund resources, Department capacity to support grantees, and received public comments.” (see draft rules version 11/1/2024).
	Concerns were raised by RAC members the Director is making funding decisions and not the Commission.	The authority to make awards lies with the Director, as per statute (ORS 537.873(2) The Water Resources Director may award grants with moneys from the Place-Based Water Planning Fund...)”)

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Grant Agreement and Conditions (690-602-0008)		
(1) The Director or designee shall establish conditions for each grant agreement.	Concerns were raised over email with delegating the grant agreement criteria to the Director. It was suggested that this should be spelled out in rule, perhaps mirroring existing language for other programs.	This language is consistent with OWRD’s other funding programs.
(3) No geographic area may be served by more than one grant from the Fund at a time.	Concern was raised that this is unnecessarily restrictive in rule and would not allow the flexibility needed to address things like changing fiscal agents.	The concerns that prompted the drafting of this rule (i.e., preventing parallel processes) is addressed by the evaluation criteria, so it is unnecessary to put it here. This bullet was removed from this section (see draft rules version 11/1/2024).
<p>(4) The Grantee must:</p> <p>(a) Submit a report every 6 months to the Department on a form provided by the Department that provides information regarding the expenditure of program and match funds, progress toward completion, compliance with special conditions and requirements in the grant agreement, and any other information required by the Department.</p> <p>(b) Comply with all federal, state, and local laws and ordinances applicable to the work to be done under the grant agreement.</p> <p>(c) Account for funds distributed by the Department, using expense forms provided by the Department.</p> <p>(d) Pursue state-recognition of any Plan or Plan update resulting from the collaborative’s work.</p>	<p>A RAC member suggested adding something substantive to this section that mirrors reporting required to maintain state-recognition. Suggested language was: “grantee must demonstrate a continuing commitment to collaboration and adherence to principles of PBP and the state’s IWRS”.</p> <p>The RAC discussed the six-month reporting requirement. Suggestions were made to reduce frequency to a year, or to require a financial report every 6 months and progress reports every year to reduce burden on the grantees. Points were made that more frequent reporting allows grant administrators to catch mismanagement sooner.</p>	<p>Language was added (see draft rules version 11/1/2024).</p> <p>OWRD grant staff were consulted on the value of 6-month reporting versus yearly reporting. It was their recommendation that given the short timelines expected from these grant agreements (1-3 years), and to maintain consistency with other OWRD grant programs, 6-month progress reports should be required and would help avoid mismanagement of funds.</p>

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<p>(5) Upon notice by the Department to the Grantee in writing, the Director may terminate funding for collaboratives not complying with the grant agreement conditions. The money allocated to the collaborative but not used may be available for reallocation by the Department.</p>	<p>A RAC member suggested there should be a substantive point here around demonstrating a continuing “commitment to collaboration and adherence to principles of PBP and the states IWRS”. As written now, there is a provision for terminating funding but it does not explicitly say that is a cause for termination. RAC member suggested over email that this could be a new subsection “Grantee must demonstrate a continuing commitment to collaboration and adherence to principles of place-based integrated water resources planning and the state’s Integrated Water Resources Strategy”.</p>	<p>Requirements to ensure a collaborative process and adhere to principles of place-based integrated water resources planning and the state’s IWRS, and to follow the process, content, and structure provided by the Department and necessary to meet the definitions of a “Place-Based Integrated Water Resources Plan” and “Place-Based Integrated Water Resources Planning” were added as grant requirements, which if not met, could result in termination of funding (see draft rules v. 11/1/2024).</p>
Distribution of Funds (690-602-0010)		
<p>(2) Prior to disbursement of Department funds, the Grantee must provide the Department satisfactory proof that the required match, based on the total award, has been secured.</p>	<p>A RAC member suggested editing this to “Prior to final disbursement” of funds, for the similar reasons discussed in the match requirement section -0005.</p>	<p>Requiring that match be secured prior to distribution of funds sets groups up for success and reduces the risk of planning not being completed. It is not just funding commitments that can be considered match. The definition of match is broad and includes in-kind labor, so applicants will not just be dependent on other funding cycles to secure match.</p>
Public Notice and Comment (690-602-0009)		
<p>General</p>	<p>The RAC had conversations around when public comment periods should happen in relation to decision-making and interagency review team recommendations. Suggestions were made to clarify those timelines in the rules to make sure that public comment solicited could be most influential to the outcome.</p> <p>Two RAC members expressed concern over email for a single 30-day public notice process. A suggestion was made to increase it to 45-days.</p>	<p>Language was added to help clarify this relationship (see draft rules version 11/1/2024).</p> <p>Public comment periods were increased to 45 days. (see draft rules version 11/1/2024).</p>
<p>(1) Prior to award of Place-Based Water Planning funding, the</p>	<p>Suggestion was made to include all local jurisdictions in notice, along with county and tribal governments.</p>	<p>This suggestion is still being considered as OWRD investigates the feasibility of written notice to local jurisdictions. Local jurisdictions who are signed up to</p>

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<p>Department shall provide notice as follows:</p> <ul style="list-style-type: none"> (a) Public notice with a minimum 30-day public comment period. (b) Written notice to county and tribal governments within the proposed planning boundary of an application 	<p>Question was brought up about the role of the Commission and keeping them informed as part of the public process. One RAC member expressed that bringing grant awards before the Commission for knowledge and awareness would be an important part of the public process. Another RAC member pointed out that might slow down the process significantly when a Commission only meets 4x/year and has many other items to consider.</p>	<p>receive public notices from OWRD would already be notified via the public notice process.</p> <p>The Director holds the statutory authority to make funding decisions and this rule outlines a robust public process that will be considered in that decision making. The Department will keep the Commission informed of any funding decisions, but allowing flexibility about when those informational reports happen, allows the program to be more nimble and responsive to program needs.</p>
<p>New rules to clarify the Department’s authority to contract directly for services</p>		
<p>Related Statute: ORS 537.873 (6) In addition to disbursing moneys in the fund as described in subsection (2) of this section, the Water Resources Director may use moneys in the fund to further place-based integrated water resources planning by entering into agreements or contracting for the following:</p> <ul style="list-style-type: none"> (a) Efforts related to interagency coordination. (b) Situation assessments. (c) The collection or development of data, data inventories or other technical information necessary for planning. (d) Technical assistance. (e) The development of guidelines and best practices. (f) Providing opportunities for public participation. (g) The development or provision of training and learning opportunities. 	<p>The RAC had a robust discussion about whether rules needed to be added to clarify the part of the statute related to contracting authority. Conversations centered on the benefits of Department-led situation assessments, whether the Department would have the flexibility and confidence to exercise this authority without rules specifically allowing it, what the process would be for assuring that it would be a balanced use of contract dollars, and public notice.</p> <p>Previous staff described significant headwinds in the pilot phase in spending money on the items detailed in statute and identified it as a significant barrier to success.</p> <p>RAC members agreed that having the state involved in these items is very helpful in planning whether through contract dollars or not, especially with the provision of technical assistance.</p> <p>RAC members emailed that one solution would be to add the exact language from statute into rule.</p>	<p>The statute is broad and allows the Department to spend contract dollars without adopting rules regarding that authority. To spend these dollars, the Department has to follow all of the robust public procurement laws already in place.</p> <p>Repeating statutory language in rule as proposed is not generally best practice, as it could lead to misalignment and confusion if statute changes in the future, which is time-consuming and costly to fix.</p>

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<p>(h) Holding events and gatherings.</p> <p>(i) Evaluations to identify lessons learned and areas for improvement.</p> <p>(j) Consultation with Indian tribes.</p> <p>(k) Other actions in support of place-based integrated water resources planning that benefit a specific area in this state or the state as a whole.</p>	<p>Another emailed suggestion was to include the following language: “The Department will identify and undertake efforts in support of place-based integrated water resources planning that benefit a specific area in this state or the state as a whole and may enter into agreements or contract for the following: (list (a)-(k) from statute).</p> <p>RAC members noted over email that specific suggestions by RAC members generally limits the Department’s use of funds in a way that statute does not support.</p>	<p>At this point, no additional rule language has been added.</p>
<p>New Rules to clarify interagency coordination/consultation</p>		
<p>Related Statute: ORS 537.873 (7) Before issuing funding under subsection (2) or (6) of this section, the Water Resources Director shall consult with the Department of Environmental Quality, Department of Land Conservation and Development, Oregon Health Authority, Oregon Watershed Enhancement Board, State Department of Agriculture and State Department of Fish and Wildlife to understand agency capacity to:</p> <p>(a) Participate in place-based integrated water resources planning.</p> <p>(b) Provide information and assistance described in subsection (9) of this section.</p>	<p>Suggested language to include in rule that was sent by a RAC member over email:</p> <p>“The Department, in consultation with other relevant state agencies, shall:</p> <p>a) develop and maintain a system for receiving, prioritizing, and responding to requests for assistance to support place-based integrated water resources planning, with a preference given to active grant recipients, and will maintain a publicly available repository of requests received and information provided;</p> <p>b) on a biennial basis, identify the capacity of the Department and other relevant agencies to participate in place-based integrated water resources planning and provide information and assistance in support of place-based integrated water resources planning, report capacity and information gaps to the Director and Commission, and proactively identify ways to address capacity and information gaps;”</p>	<p>OWRD is updating its Technical Assistance Provision/Request Process as part of standing up the new PBP Fund. All TA requests are available via public records request.</p> <p>As required by statute, the Department is consulting with other listed agencies on their capacities to participate in PBP and provide TA to PBP groups.</p> <p>At this point, no additional rule language has been added.</p>

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Other New Rules Proposed		
Program Evaluation	<p>Suggested language to include in rule that was sent by a RAC member over email:</p> <p>“The Department, in consultation with other relevant state agencies, shall periodically conduct a program evaluation and implement strategies for improvement, including development of a program improvement plan no less than every 6 years;”</p>	<p>There will be opportunity for further discussion of this at the Nov. 15 RAC meeting. At this point, no additional rule language has been added.</p>
Guidelines and Department consultation during planning process	<p>Suggested language to include in rule that was sent by a RAC member over email:</p> <p>“The Department, in consultation with other relevant state agencies, shall develop and maintain a set of guidelines with requirements, standards, and best practices to aid in fostering consistency between planning efforts and ensuring that all plans meet minimum standards set by the Department, including requirements for consulting with the Department at set milestones during plan development and implementation to ensure minimum standards are met.”</p>	<p>OWRD, in consultation with other listed agencies, is updating PBP Guidance, which will include the items listed in the proposed rule language. At this point, no additional rule language has been added.</p>