

Oregon Housing and Community Services

OREGON FARMWORKER HOUSING TAX CREDITS

Annual Notice and General Information

January 2010

The Farm Worker Housing Tax Credit ("FWHTC") Program was established by the Oregon Legislature to provide a tax incentive to those constructing, rehabilitating or installing housing for farmworkers. The Oregon Housing & Community Services ("OHCS") Department administers the program.

IMPORTANT CHANGES FOR 2010

- Applicants wishing to combine Farmworker Housing Tax Credits (FWHTC) with other state or federal funding may be given a "Reservation Letter" in lieu of an actual award of credits. The Reservation Letter will earmark FWHTC for the project, contingent upon decisions made from other funders. This change means FWHTC can be "first in" money instead of "last in", and FWHTC can be used as leverage when seeking other funds. This is currently a work-in-progress under a temporary rule, with final details to be established and approved.
- An application fee of may be charged. Schedule to be determined.
- The on-farm "soft set-aside" eligible cost cap is being raised from \$500,000 to \$750,000.
- Operating and replacement reserves have been added to ineligible costs.

The 2010 application form is essentially the same as in the previous year. The cap on the eligible costs for the credits is still \$7.25 million. A "soft set-aside" of \$750,000 of that amount will be reserved for on-farm projects, which will receive a priority until that amount is reached or until June 30, 2010, whichever comes first. If that amount is not reached by June 30, 2010 then the remaining amount will be awarded to the next eligible project.

The total amount of the credit available is still 50% of the eligible costs in a given project, or on large projects, the minimum required to make the project affordable as underwritten by OHCS. Tax credit awards are made based on estimated eligible costs and need indicated on the application. "Eligible Costs" include acquisition of structures or improvements, development costs, finance costs, construction costs, excavation costs, installation costs, and permit costs, but exclude land costs. New construction, acquisition, and rehabilitation costs to improve the livability of existing structures are all eligible activities. "Need" is based on the minimum required to make the project affordable as underwritten by OHCS. Applicants may receive tax credits for projects that they began up to six months before submitting an application.

A taxpayer may elect to take the credits over no fewer than five and no more than 10 years, claiming no more than 20% of the credits in any given year. The project for which the credits are issued must provide housing to farmworkers for at least 10 years after completion of the project, unless OHCS grants a waiver of this requirement after

the project has been in compliance with it for at least five years. All or any portion of the tax credits may be transferred to a third party.

Applications must be submitted by the following applicant(s):

- 1) If the owner or operator of a farmworker housing project will claim the tax credit directly, then the owner or operator should submit the application.
- 2) A “contributor” that will claim the tax credit indirectly by purchasing it from a developer will need to submit his or her own application if that contributor’s identity is known at the time of applying.
- 3) If one portion of the credit is to be claimed by the owner or operator, and the remainder is to be claimed by a contributor whose identity is known at the time of applying, the owner or operator and the contributor must submit the application jointly.

OHCS may issue a Reservation Letter pending final approval of funding from other state or federal sources. Once funding is confirmed, OHCS will send a letter of credit approval to the relevant applicant(s), specifying which portions of the credit may be claimed by each. The letter of tax credit approval will operate as a binding contract between the applicant(s) and OHCS, with the applicant(s) promising compliance with the terms and conditions described in the applicable statute, administrative rules, and this 2010 Annual Notice.

If the owner or operator elects to transfer some portion of the credits after the date that OHCS has issued a letter of credit approval to the owner or operator, the owner or operator and the contributor must jointly file a statement with the Department of Revenue stating the portion of the credit the contributor is allowed to claim, and any other information the Department of Revenue may require by rule. As outlined in Oregon Revised Statutes (ORS) 315.163-.172.

OHCS is committed to making every effort in administering the tax credit program to assure that tax credit applications are processed in a timely manner to meet a wide range of the farmworker housing needs across Oregon.

- The application form is used to clarify contact information and project need.
- The chronological process used to determine the order in which applications are received is based on the sending date.
- All applicants are encouraged to apply as soon as possible beginning at 8:00 am, Pacific Time, January 2, 2010.
- Applications must be filed no later than six months after project start.
- Applications may be submitted through December 31, 2010. If funds are exhausted, applications may be placed on a standby list, in the order filed.

All applications will be considered in the chronological order in which they are filed. Applicants may file by USPS mail, FAX or hand delivery. Applications will be given a filing date but not a filing time.

- Awards will be made to projects that are ready to proceed to construction in the current year to assure that the limited tax credits available are utilized to provide housing for the current season whenever possible, especially for on-farm housing.
- For multiple applications submitted on the same day, preference will be given, in order, to: 1) those applicants who gave up credits for which they were eligible for in a previous year; and 2) those who have already received credits in a previous year, and need a new award to ensure project viability (carry-over applications).

Applications which are substantially incomplete will be returned. All complete applications will be evaluated to determine their qualifying status, viability, and readiness to proceed.

- The application packet requires information for all projects regarding zoning, projected construction time and occupancy date, financing and other related issues. The in-depth forms required for funding under the OHCS "Consolidated Funding Cycle" (CFC) application processes must be used to provide supplemental information for projects seeking additional CFC resources beyond the Farmworker Housing Tax Credits applied for through this process.

The total of all Farmworker Housing Tax Credit projects is subject to the \$7.25 million estimated eligible cost cap specified in ORS 315.163-.172. Applications may be awarded in full, partially awarded up to the cap or project need amount, denied if ineligible or incomplete, given carry-over status, or placed on a standby list.

The application evaluation process for 2010 will be based on the application criteria set out in ORS 315.163-172; and Oregon Administrative Rules, (OAR) 813-041-0000 through -0030.

Every effort will be made to evaluate applications as soon as possible once received, and to issue tax credit awards as soon as possible after evaluations are completed, but the timing of issuance will depend upon various factors, including waiting for an applicant to secure a known contributor at a known rate of contribution, if applicable.

According to Oregon statute, all farmworker housing projects receiving tax credits under this Program must be in substantial compliance with all applicable safety and health rules. Once construction is complete, a certificate of occupancy or proof of satisfactory pre-occupancy inspection from the appropriate building code or other agency must be submitted to OHCS for all project sites. For community-based projects, OHCS will accept certificates of occupancy as proof of compliance with all applicable regulations.

If the proposed farmworker housing project is subject to registration as a farm labor camp by the Oregon Occupational Safety and Health Administration (OR-OSHA) at the Department of Consumer and Business Services, the camp must be registered, or have its registration renewed, prior to occupancy. To maintain eligibility for future years the camp's registration must be kept current and its continued operation must be in

substantial compliance with all applicable safety and health rules. The OR-OSHA Salem Field Office is the contact for any questions about these requirements. Their phone number is (503) 378-3274.

For 2010, applications may be retained on a standby basis if funding is not available due to the cap. All standby applications will be placed in a priority order based on the chronological order in which they are filed, taking into account the preferences listed above for applications filed on the same date. If funds become available, the list will be used to make awards. Standby applications will expire on December 31, 2010.

If only partial credits are available for a project, the Department may request a carry over application to be filed immediately in the next calendar year, and make that application a priority. The department may, at its sole discretion, issue a Reservation Letter in lieu of a Letter of Tax Credit Award. Reservation Letters are for projects with seeking other state or federal funds which are not fully committed.

Sincerely,

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