

State of Oregon
Oregon Housing and Community Services
Agriculture Workforce Housing Tax Credit (AWHTC) Program
Annual Notice and General Information
December 2016

Program Overview

The Agriculture Workforce Housing Tax Credit (AWHTC) Program is designed to give a state income tax credit to investors who incur costs to construct, install, acquire or rehabilitate agriculture workforce housing. The tax credit may be claimed on up to fifty (50) percent of the eligible costs actually paid or incurred to complete an agriculture workforce housing project. The total of estimated eligible costs for all approved projects for each calendar year is \$7.25 million. Up to one hundred (100) percent of the credit may be transferred to a contributor of the project. A “soft set-aside” of \$750,000 from that amount is reserved for on-farm projects. The soft set-aside restricts the use of these credits to be awarded for on-farm projects until they have been fully awarded or until June 30, 2017, whichever comes first. If the credit set-aside is not awarded by June 30, 2017, the remaining set-aside credits will no longer maintain any additional restriction and be available to the next applicant in order of succession.

The Oregon Housing and Community Services (“OHCS”) Department administers the program. The application evaluation process for 2017 will be based on the application criteria set out in ORS 315.163-172; and Oregon Administrative Rules, (OAR) 813-041-0000 – 0027.

Eligibility

The credit is available to anyone who actually pays or incurs costs for the construction, rehabilitation or installation of agriculture workforce housing.

“Agricultural worker” means any person who, for an agreed remuneration or rate of pay, performs temporary or permanent labor for another in the:

- a) Production of agricultural or aquacultural crops or products;
- b) Handling of agricultural or aquacultural crops or products in an unprocessed stage;
- c) Processing of agricultural or aquacultural crops or products;
- d) Planting, cultivating or harvesting of seasonal agricultural crops; or
- e) Forestation or reforestation of lands, including but not limited to the planting, transplanting, tubing, pre-commercial thinning and thinning of trees and seedlings, the clearing, piling and disposal of brush and slash and other related activities.

Occupants can work part of the year as agricultural workers and have other non-agricultural work jobs part of the year. As long as one family member in the housing unit has been an agricultural worker either seasonally or year-round while living there, the housing unit will qualify. Immediate family members can have non-agriculture work jobs some or all of the year and the housing unit will still qualify.

Excluded from the definition of agricultural worker are owners or operators of the applying entity (individual farm owners, corporate shareholders and partners) and their relatives. (there is a possible exemption to this rule concerning coops, contact your AWHTC program administrator for details). The housing cannot be rented to non-agricultural workers even during the off-season. While the housing can be vacant for part of the year and still qualify for the credit, the housing cannot be occupied for any part of the year by anyone other than agricultural workers and their immediate families

Application

The AWHTC Application has been updated for 2017. No rules or statute have changed from the previous year. This has simply been an update to the format of the application for usability and tracking purposes. All applicants are encouraged to apply as soon as possible beginning after January 1, 2017.

AWHTC recipients may not adjust upward the award amount identified in the project letter of tax credit approval/reservation – even if actual costs subsequently prove to exceed the award/reservation amount.

Applications which are materially incomplete will be returned, in the sole discretion of the Department. All complete applications will be evaluated to determine their qualifying status, viability, and readiness to proceed.

If the proposed agriculture workforce 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 related to these requirements. The OR-OSHA phone number is (503) 378-3274.

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

- 1) If the owner or operator of an agriculture workforce housing project will claim the tax credit directly, then the owner or operator should submit the application.
- 2) If a portion or none of the credit is to be claimed by the owner or operator, and part or all are 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.

Application Requirements:

- An application fee of \$200 must be submitted for all projects **at the time of application submission**.
- Applications must be filed **no later than** project completion.
- Project owners must provide a copy of the final agreement with any contributor(s) which must include the amount of credits to be sold, equity generated and Federal tax ID number of the contributor(s).
- Applicants are required to provide both "before" and "after" photos of the project. The preferred submission format is digital (jpeg, etc.), digital submissions can be emailed to (edward.brown@oregon.gov). Print submissions with application are acceptable.
- Applications may be submitted through December 31, 2017. If funds are exhausted, applications may be placed on a standby list, in the order filed.
- Applicants for projects with more than fifteen (15) units must complete an LIHTC proforma providing expanded funding, construction, and operational financial information.
- The application packet requires information for all projects regarding zoning, projected construction time and occupancy date, financing and other related issues.

Credit Award

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 seeking other state or federal funds which are not fully committed. Once additional funding is confirmed, OHCS will send a letter of credit award to the relevant applicant(s), specifying which portions of the credit may be claimed by each. The letter of tax credit reservation or award 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 2017 annual notice.

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 agriculture workforce housing needs across Oregon.

All applications will be considered in the chronological order in which they are filed. Applicants may file by mail courier, email, facsimile or hand delivery. If electronically filed by email or facsimile; applicants must also submit a hardcopy application with \$200 application fee prior to project award.

- 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 received a reduction in credit award for which they were eligible in a previous year but not enough credits were available; and
 2. Those who have already received credits in a previous year, and have a demonstrated need for a new award to ensure project viability.
 3. Those projects where the funding request will be more fully awarded based on remaining credit availability.

Applications may be awarded in full, partially awarded, placed on a standby list, denied if ineligible or incomplete. 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. For 2017, 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, 2017.

Project completion

Projects not in compliance with applicable law and regulation, including the requirements of this annual notice are subject to revocation of all credits, both claimed and remaining. OHCS staff may, with owner's permission, visit the site during construction or at project completion.

According to Oregon statute, all agriculture workforce housing projects receiving tax credits under this Program must be in "substantial compliance" with all applicable safety and health rules.

Tax Credits

A taxpayer may elect to claim the credits over no fewer than five (5) and no more than ten (10) years, claiming no more than twenty percent (20%) of the credits in any given year. The project for which the credits are issued must provide housing to the agriculture workforce for at least ten (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 (5) years. All or any portion of the tax credits may be transferred to a third party.

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 and as outlined in Oregon Revised Statutes (ORS) 315.163 to 315.172.

Further information can be found at http://www.ohcs.oregon.gov/OHCS/HRS_Agricultural_worker_Housing_TC.shtml

Sincerely,

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