

OFFICE OF THE SECRETARY OF STATE  
DENNIS RICHARDSON  
SECRETARY OF STATE  
  
LESLIE CUMMINGS  
DEPUTY SECRETARY OF STATE



ARCHIVES DIVISION  
MARY BETH HERKERT  
DIRECTOR  
  
800 SUMMER STREET NE  
SALEM, OR 97310  
503-373-0701

**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 581  
OREGON DEPARTMENT OF EDUCATION

**FILED**  
03/26/2019 11:13 AM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Division 27 Rule Amendments

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 05/16/2019 9:00 AM

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

CONTACT: Cody Sibley  
503-934-0921  
cody.sibley@ode.state.or.us

255 Capitol Street NE  
Salem, OR 97310

Filed By:  
Cody Sibley  
Rules Coordinator

HEARING(S)

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

DATE: 04/16/2019

TIME: 12:00 PM - 1:00 PM

OFFICER: Cody Sibley

ADDRESS: Public Service Building  
255 Capitol Street NE  
Room 400A  
Salem, OR 97310

NEED FOR THE RULE(S):

These changes are based on stakeholder input. Our program's advisory group has met several times to discuss these changes. Additionally, districts that use the program have also recommended these changes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Documents will be available on the State Board of Education's website under Boardbook > April 2019 meeting

FISCAL AND ECONOMIC IMPACT:

No fiscal or economic impact

COST OF COMPLIANCE:

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

no cost of compliance

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

Small businesses were not involved

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

581-027-0005, 581-027-0010, 581-027-0015, 581-027-0020, 581-027-0023, 581-027-0025, 581-027-0030, 581-027-0035, 581-027-0040, 581-027-0045, 581-027-0050

AMEND: 581-027-0005

RULE SUMMARY: This rule provides definitions to rules within OAR 581, division 27. These definitions are being amended to align with current statutes governing these rules.

CHANGES TO RULE:

581-027-0005

Definitions ¶¶

The following definitions and abbreviations apply to rules within OAR 581, Div 27:¶¶

(1) "Adjusted Assessed Property Value Per ADM" means the value calculated per OAR 581-027-0010 to determine the ranking of Districts on the Priority List for Funding.¶¶

(2) "~~Adjusted ADMr~~" means ~~Average Daily Membership~~.¶¶

~~(3) average daily membership as calculated under OAR 581-023-0006(6)-(7) reduced by the Average Daily Membership of virtual public charter schools in the district.~~¶¶

(3) "Adjusted ADMw" means the number of students in a District as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c) reduced by the Average Daily Membership of virtual public charter schools in the district.¶¶

(4) "ADM" means Average Daily Membership.¶¶

(5) "ADMr" or "Resident Average Daily Membership" means average daily membership as calculated under OAR 581-023-0006(6)-(7).¶¶

(46) "Assessed Value" means the total assessed value of all tangible property within the boundaries of the District as published by the Oregon Department of Revenue.¶¶

(57) "Average Daily Membership" or "ADMw" means the number of students in a District as calculated under ORS 327.061 and includes all weights, and extended Average Daily Membership weighted, as calculated under ORS 327.013(1)(c).¶¶

(68) "Certified ~~Contract~~ Assessor" means an entity or person who has gone through the process established by the Department that will certify the entity or person is qualified to perform the work.¶¶

(79) "Closing" means the date on which a District receives some or all of the proceeds of its Local GO Bonds.¶¶

(810) "Department" means the Oregon Department of Education.¶¶

(911) "District" or "Districts" means school districts, as defined in ORS 328.001(3), that are eligible to apply for a State Matching Grant.¶¶

(102) "DOGAMI" means the Oregon Department of Geology and Mineral Industries.¶¶

(143) "Environmental Hazard Assessment" means an assessment of a district's radon exposure as one of the potential environmental hazards to be assessed as set forth in ORS 332.331.¶¶

(124) "Facility Assessment" means an assessment ~~conducted by a Certified Contractor~~ that evaluates one or more facilities in a school district according to the requirements set forth in OAR 581-027-0035.¶¶

(135) "First in Time" means that portion of the Oregon School Capital Improvement Matching Account that is to be awarded to Districts based on the order in which the Department receives the applications.¶¶

(146) "Funding Cycle" means the period of time, as determined by the Department under OAR 581-027-0020(

~~2)(b3)~~, before and after a May or a November general election during which the Department will accept applications and, issue commitments, award grants, and finalize grant agreements for State Matching Grants under the OSCIM Program.¶

(157) "Gross Square Footage" means the total square footage of the building as measured by the outside wall of the building.¶

(168) "Guaranteed Tax Base Amount" or "GTBA" means a theoretical tax base of \$1,000,000 per ADM.¶

(179) "Guaranteed Tax Rate Amount" means \$1,000 which is the GTBA multiplied by .001 for \$1 of tax per \$1,000 of Assessed Value.¶

~~(1820)~~ "Local GO Bonds" means general obligation bonds approved by voters for the benefit of a District during the Funding Cycle for which the District applied for a State Matching Grant.¶

~~(219)~~ "Long-Range Facility Plan" means a plan ~~conducted by a Certified Contractor~~ that determines the long-range needs and goals of a District according to the requirements set forth in OAR 581-027-0040¶

(202) "Oregon School Capital Improvement Matching Account" means an interest bearing account established in the State Treasury, separate and distinct from the General Fund, that consists of net proceeds from Article XI-P bonds issued under Article XI-P (School District Capital Costs) of the Oregon Constitution.¶

(213) "Oregon School Capital Improvement Matching Program" or "OSCIM Program" means the program created by Article XI-P of the Oregon Constitution and ORS 286A.769 to 286A.806.¶

(224) "Priority List" means the list created by the Department each biennium pursuant to ORS 286A.801 and the formula outlined in OAR 581-027-0010.¶

~~(235)~~ "RVS" means Rapid Visual Screening data collected by DOGAMI and published on their website.¶

(246) "Seismic Assessment" means an assessment ~~conducted by a contractor~~ that evaluates one more facilities in a ~~School~~ District according to the requirements set forth in OAR 581-027-0050.¶

(257) "State Matching Grant" means the grant funds provided by the State through the OSCIM Program to match the proceeds of a District's Local GO Bonds.¶

(268) "Students in Poverty" means the number of children, age 5 to 17, in families in poverty as described by the Small Area Income Poverty Estimate published by the U.S. Census Bureau.¶

(279) "Technical Assistance Grant" means a grant provided by the Department to a School District such that a school district can conduct a ~~Facility Assessment, Long-Range Facility Plan, or Seismic Assessment~~ assessment as described in ORS 326.125 or these rules.¶

~~(2830)~~ "Waiting List" means the list of Districts not initially awarded a State Matching Grant, based on either the District's position on the Priority List or the District's First in Time status, during any Funding Cycle.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

AMEND: 581-027-0010

RULE SUMMARY: This rule determines the priority list for the capital improvement matching program. This rule is being amended to use the Adjusted Average Daily Membership (ADMr) instead of the ADMr.

CHANGES TO RULE:

581-027-0010

Calculations for Oregon School Capital Improvement Matching Program Priority List ¶¶

(1) For each Funding Cycle, the Department shall provide State Matching Grants to Districts from designated resources in the Oregon School Capital Improvement Matching Account. The Department shall determine and apportion the amount of available resources among the Funding Cycles in each biennium. The total amount of State Matching Grant funds available and awarded by the Department may vary during each Funding Cycle.¶¶

(2) The Department shall post on its website the amounts that will be available for OSCIM Grants for each Funding Cycle within a reasonable time after the Legislature determines the level of funding for the Oregon School Capital Improvement Matching Account.¶¶

(3) If the Legislature does not determine the amount of funding for the Oregon School Capital Improvement Matching Account until after the application period opens for a given Funding Cycle, the application period will run as normal. However, any posting of results will be delayed until such time as the Legislature determines the amount of funding for the Oregon School Capital Improvement Matching Account.¶¶

(4) If the Legislature does not appropriate any funds for the OSCIM Program for a biennium, or any part of the biennium, then the OSCIM Program will cancel open application periods and future application periods until funding is restored.¶¶

(5) Sixty percent (60%) of designated grant resources in the Oregon School Capital Improvement Matching Account shall be awarded based on the Priority List.¶¶

(6) The Priority List shall be based on a District's Assessed Value, percentage of Students in Poverty, and Average Daily Membership.¶¶

(7) The Department shall update the Priority List every biennium. The Priority List will be updated no later than June 1 before the start of the next biennium. The updated Priority List will be effective at the start of the next biennium. To update the list, the Department will use the data from the most recent year for which all three sources have reported actual data.¶¶

(8) The Priority List shall be calculated as follows:¶¶

(a) The District's Students in Poverty shall be multiplied by 20 to determine the Weighted Number of Students in Poverty.¶¶

(b) The District's Weighted Number of Students in Poverty shall be divided by the District's Adjusted ADM<sub>r</sub> to arrive at the District's Percentage of Students in Poverty.¶¶

(c) The District's Assessed Value shall be divided by the District's Adjusted ADM<sub>w</sub> to determine the District's Assessed Property Value per ADM.¶¶

(d) The District's Assessed Property Value per ADM shall then be divided by 1 plus the Percentage of Students in Poverty to determine the District's Adjusted Assessed Value per ADM.¶¶

(e) The Districts will be ranked from the smallest Adjusted Assessed Property Value per ADM to the highest. This ranking will ensure Districts with the highest rate of students in poverty and lowest assessed property wealth per ADM are provided the greatest chance for a State Matching Grant.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

AMEND: 581-027-0015

RULE SUMMARY: This rule determines the funding formula for the Oregon School Capital Improvement Matching Program. This rule is being amended to use the Adjusted ADMw instead of the ADM. It is also removing a sentence in section (7) that refers to the 2016 funding cycle, as that cycle has since passed.

CHANGES TO RULE:

581-027-0015

Calculations for Oregon School Capital Improvement Matching Program Funding Formula ¶¶

- (1) The Department shall provide State Matching Grants to Districts from available resources in the Oregon School Capital Improvement Matching Account.¶¶
- (2) Sixty percent (60%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the Priority List.¶¶
- (3) Forty percent (40%) of the available resources in the Oregon School Capital Improvement Matching Account for a biennium shall be awarded based on the order in which applications are received during the application period established by the Department for the Funding Cycle.¶¶
- (4) The Department shall use a funding formula to determine the amount of State Matching Grant funds each District is eligible to receive from the Oregon School Capital Improvement Matching Account. This funding formula will be used to determine eligibility for State Matching Grants awarded through both the Priority List and First in Time application process.¶¶
- (5) Districts whose voters pass \$4,000,000 or less in Local GO Bonds for District facility projects shall be eligible for a one-to-one match from State Matching Grant funds.¶¶
- (6) Districts whose voters pass more than \$4,000,000 in Local GO Bonds for District facility projects shall be eligible for at least \$4,000,000 and no more than \$8,000,000 based on the following formula:¶¶
  - (a) The District's Adjusted Assessed Property Value per ADM as determined by OAR 581-027-0010 shall be multiplied by the assumed tax rate of .001 (\$1 per \$1000 of assessed property value) to calculate the District's Estimated Local Bond Revenue per ADM.¶¶
  - (b) The Estimated Local Bond Revenue per ADM shall be subtracted from the Guaranteed Tax Rate Amount to determine the amount of eligible State Matching Grant funds per ADM.¶¶
  - (c) The eligible State Matching Grant funds per ADM shall be multiplied by the District's Adjusted ADMw to determine the maximum amount of State Matching Grant funds for which a District is eligible.¶¶
- (7) The Department shall use the lesser of total proceeds from the sale of the Local GO Bonds exclusive of underwriter's discount and other costs of issuance or the original amount requested by the District as the final basis for calculating the State Matching Grant. ~~The provisions of subsection (7) apply starting with the November 2016 Funding Cycle.~~¶¶
- (8) Local GO Bonds used by a District to qualify for the OSCIM Program must be Closed within six months of the date of the election at which the Local GO Bonds were approved.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

AMEND: 581-027-0020

RULE SUMMARY: This rule establishes and sets criteria for the Oregon School Improvement Matching Program Application. This rule is being amended to allow school districts more time to apply for the matching grant program.

CHANGES TO RULE:

581-027-0020

Oregon School Capital Improvement Matching Program Application ¶

(1) The Department shall create one application for Districts to apply for State Matching Grants from the Oregon School Capital Improvement Matching Account. ¶

(2) The Department shall post the application prior to the beginning of each Funding Cycle on the Department's web page. ¶

(3) The Department shall open applications for each Funding Cycle as follows: ¶

(a) On the July 15 that precedes the first November Funding Cycle in a biennium; ¶

(b) On the September 15 that precedes the first May Funding Cycle in a biennium; ¶

(c) On the March 15 that precedes the second November Funding Cycle in a biennium; and ¶

(d) On the second September 15 that precedes the second May Funding Cycle in a biennium. ¶

(4) If one of those dates falls on a weekend or holiday, then the application period will be opened the Friday preceding. ¶

(5) Applicants must submit their application electronically through secure file transfer protocol. Districts may submit applications only for an open and current Funding Cycle. The Department will not accept applications for later Funding Cycles. ¶

(6) If a District may not re-submit in the same Funding Cycle's application does not meet the application requirements: ¶

(a) The Department may a grevised or corrected application after the deadline for submission has passed and the Department has determined the original application was incomplete to an extension of time, but no more than 60 days from the deadline for submission, for the District to correct the deficiencies; and ¶

(b) The Department may allow the District to continue to apply to the OSCIM Program even if the additional time extends beyond the application window. ¶

(7) If a District fails to make the cor otherwise not accepted for a fundingrections within the agreed upon time, the Department will cancel the District's application and readjust the pre-election commitments made. ¶

(78) A District that submits an OSCIM Program application to the Department for one Funding Cycle may not apply for another Funding Cycle application for a Funding Cycle may withdraw the application no later than 60 days from the application deadline and be eligible to reapply for the next Funding Cycle. ¶

(9) A District that does not withdraw its application, may not apply to the OSCIM Program until the election for the Funding Cycle in which the dDistrict applied occurs, regardless of whether the district chooses to participate in that election. ¶

(810) The Department shall: ¶

(a) Rank complete applications from Districts for each Funding Cycle according to the Priority List formula; ¶

(b) Make funding commitments to Districts with the highest ranking on the priority list until sixty percent (60%) of the available resources for that Funding Cycle are used. ¶

(c) Make funding commitments to the remaining Districts in accordance to the First in Time process for that Funding Cycle and based on the order in which the Department receives applications. ¶

(d) If a district receives a partial commitment in a Funding Cycle, the Department shall not round up that partial commitment by reducing funds available to other Funding Cycles. ¶

~~(9~~ (11) In order to promote equity across the state, the Department shall deem all applications received within a specified period of time for each Funding Cycle as being received at the same time. ¶

(a) The Department shall establish the following periods for reception of applications: ¶

(A) 8:00 a.m. to 12:30 p.m. will be the first application period; and ¶

(B) 12:31 p.m. to 5:00 p.m. will be the second application period.¶

(b) ~~These~~ All applications received ~~within the first~~ during one of the above time period ~~shas~~ will be deemed to be ~~the first in~~ have been received at the same time for purposes of awarding First in Time commitments.¶

(~~c~~) The Department shall commit First in Time funding to those applications received in subsequent time periods will be deemed to be received in order of the established time periods.¶

(~~d~~) The first period first. If there is funding remaining, then the Department shall commit First in Time funding to Districts based on which time period the District is deemed to have submitted their applicatthe remaining funding to the second period.¶

(e) If the First in Time funding is insufficient to provide a commitment to all Districts within a given time period for that Funding Cycle, the Department shall randomly select the Districts by a lottery process to determine which Districts will receive an award commitment.¶

(f) The lottery process shall be determined by the Department.¶

(g) All lottery results are final.¶

(102) The Department shall notify Districts that receive a funding commitment from the Oregon School Capital Improvement Matching Account within two weeks of the close of the application period for a Funding Cycle¶

(113) The Department shall post the eligibility and ranking of all Districts that applied during that Funding Cycle on the Department's website. Districts that applied but did not receive a commitment will be notified of where they fall on the Waiting List.¶

(124) All funding commitments are contingent upon the District subsequently ~~e~~ closing the required Local GO Bonds within 6 months of that Funding Cycle's bond election.¶

(135) Any Districts on the Waiting List may choose to ~~move forward~~ seeking voter approval for Local GO Bonds in that Funding Cycle with the understanding that State Matching Grant funds may become available for that Funding Cycle if a District that has received a commitment is unsuccessful in passing their Local GO Bonds.¶

(146) All funding commitments to Districts that successfully pass their Local GO Bonds in the Funding Cycle will be officially awarded a State Matching Grant upon the execution of a grant agreement prescribed by the Department.¶

(157) All funding commitments to Districts that are not successful in passing their Local GO Bonds will be recommitted to Districts that have successfully passed Local GO Bonds in that election in the following order:¶

(a) All districts that received a partial commitment that passed a Local GO Bond will receive funding up to the full award.¶

(b) All Districts on the First in Time Waiting List that passed a Local GO Bond, will receive an award from the uncommitted First in Time funds¶

(c) All Districts that received an award from the First in Time Waiting List will be removed from the Priority List Waitlist.¶

(d) All Districts remaining on the Priority List Waiting List that passed a Local GO Bond will receive any funds remaining from Districts that received a commitment but failed to pass a Local GO Bond.¶

(168) Districts will have to reapply each Funding Cycle to receive a commitment for that Funding Cycle. A district will not be able to carry forward any commitments made in previous Funding Cycles.¶

(179) All decisions of the Department regarding the completeness of the application or ranking under either the Priority List or First in Time process are final.¶

(1820) Any funding remaining after all awards have been made for a Funding Cycle shall be moved forward to the next Cycle.¶

(219) After the second November election in a biennium, the Department will take any funds that remain after all commitments and recommittments have been made for the biennium and apply those funds to make commitments to those districts on the Waiting List for the final May Funding Cycle.¶

(22) If there are funds that remain available after the last election in a biennium, those funds will be distributed as follows:¶

(a) Districts with a partial commitment will be funded starting in order from the first election of the biennium:¶

(b) Districts that applied for the OSCIM Program and passed a Local GO Bond, but did not receive any funds will

be funded starting in order from the first election of the biennium.

Statutory/Other Authority: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447)



AMEND: 581-027-0023

RULE SUMMARY: This rule requires school districts to submit long-range facility plans and facility assessment in order to qualify for the Oregon School Capital Improvement Matching Program Grant Application. This rule is being amended to allow districts to request extensions for include these provisions in their grant applications.

CHANGES TO RULE:

581-027-0023

Submission of Long-Range Facility Plans and Facility Assessment as part of Oregon School Capital Improvement Matching Program Grant Application ¶

(1) In order to qualify for an OSCIM Program matching grant, Districts must submit a Long-Range Facility Plan and Facility Assessment as part of their OSCIM Program application. Failure to submit a Long-Range Facility Plan and Facility Assessment will disqualify the District from participation in the OSCIM Program application for that Funding Cycle.¶

(2) Districts shall submit their Long-Range Facility Plan and Facility Assessment as follows:¶

(a) By the preceding July 1 for the first November Funding Cycle in the biennium;¶

(b) By the preceding September 1 for the first May Funding Cycle in the biennium;¶

(c) By the preceding March 1 for the second November Funding Cycle in the biennium; or¶

(d) By the preceding September 1 for the second May Funding Cycle in the biennium.¶

(3) The Long-Range Facility Plan and Facility Assessment must be submitted electronically to the Department using the Department's Secure File Transfer protocol.¶

(4) The Department will review all Long-Range Facility Plan and Facility Assessment submissions to ensure compliance with requirements.¶

(5) If the Department determines a District's submission does not meet the requirements, the Department will notify the District of the deficiencies.¶

~~(6) The District will have until the start of the OSCIM Program Funding Cycle to cure any deficiencies in the Department may agree to an extension of time, but no more than 60 days from the deadline for submission. If a, for the District is unable to cure the deficiencies to the satisfaction of the Department, the District's submission to correct the deficiencies.¶~~

~~(7) If a District fails to make the corrections will be rejected and the District will be ineligible to apply for an OSCIM Program matching grant for that Funding Cycle, thin the agreed upon time, the Department will cancel the District's application and readjust the pre-election commitments made.¶~~

~~(78) The Long-Range Facility Plan must meet the following requirements:¶~~

~~(a) Comply with the standards set forth in OAR 581-027-0040; and¶~~

~~(b) Demonstrate how the new buildings proposed to be built are integrated into the Long-Range Facility Plan.¶~~

~~(89) The Facility Assessment must meet the following requirements:¶~~

~~(a) Comply with the standards set forth in OAR 581-027-0035;¶~~

~~(b) Cover buildings that will be including in the OSCIM Program grant application;¶~~

~~(A) A District may include more buildings in the OSCIM Program application than are in the Facility Assessment; and facility assessments for more buildings than would be improved using OSCIM Program funds;¶~~

~~(c) Cover a District's current buildings even if the District is applying for the OSCIM Program only for the construction of a new building.¶~~

~~(910) Districts are not required to use a Certified Contractor to complete the Long-Range Facility Plan or the Facility Assessment.¶~~

~~(101) A District may use the same Facility Assessment and Long-Range Facility Plan as a basis for an OSCIM Program application for four years from the year in which the plan was completed.¶~~

~~(112) The Department's determination of the adequacy of the Long-Range Facility Plan and Facility Assessment is final.~~

Statutory/Other Authority: ORS 286A.801(8)

Statutes/Other Implemented: ORS 286A.801(2)

AMEND: 581-027-0025

RULE SUMMARY: This rule establishes restrictions on the Oregon School Capital Improvement Matching Program Grant. It is being amended to remove section (6), which outlined criteria the Department used to disburse additional funds after all the awards for all the Funding Cycles in a biennium have been made.

CHANGES TO RULE:

581-027-0025

Oregon School Capital Improvement Matching Program Grant Restrictions ¶¶

(1) A District that receives a State Matching Grant will be ineligible for additional State Matching Grant funds for six years from the year in which the District successfully passed their Local GO Bond.¶¶

(2) A District may not use State Matching Grant funds to refinance other general obligation bonds issued by the District.¶¶

(3) A District must use State Matching Grant funds for capital costs as defined in ORS 286A.796(3).¶¶

(4) A District may use State Matching Grant funds to reimburse the District for capital costs incurred by the District prior to the Funding Cycle in which the District was awarded a grant only if:¶¶

(a) The Department approves the use of State Matching Grant funds for such purpose; and¶¶

(b) The District complies with all requirements of the OSCIM Program.¶¶

(c) The Department's approval or disapproval of the use of State Matching Grant funds is final. ~~A District may not submit a revised request for use of funds.¶¶~~

(5) State Matching Grant funds shall be used only to match the proceeds of Local GO Bonds authorized by an election in the same Funding Cycle in which the District applied for State Matching Grant funds.¶¶

~~(6) If there are State Matching Grant funds available for disbursement after all the awards for all the Funding Cycles in a biennium have been made, the Department may award those uncommitted funds by lottery to Districts that have applied for State Matching Grant funds during the biennium and have Local GO Bond proceeds available to use as a basis for a match so long as the Local GO Bonds from which the proceeds are derived were approved by the voters during the biennium.~~

Statutory/Other Authority: Sec. 2 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

Statutes/Other Implemented: Sec. 2, 4 & 5, Ch. 783, OL 2015 (Enrolled SB 447)

AMEND: 581-027-0030

RULE SUMMARY: This rule establishes the procedure for the technical assistance grant. It is being amended to meet the needs of school districts based on stakeholder input.

CHANGES TO RULE:

581-027-0030

Technical Assistance Grant Program Procedures ¶

- (1) The Department shall open the application period for the Technical Assistance Grant Program on January 15 of each year and close the application period on February 15 of the same year. If either of those dates falls on a weekend or holiday, the previous Friday will be the effective date of the opening or closing respectively.¶
- (2) The Department shall establish a separate application for ~~the Facility Assessment, Long-Range Facility Plan, and Seismic Assessment~~ each type of assessment available.¶
- (3) Each District ~~may~~ must submit ~~on a separate~~ on a separate application for each ~~type of assessment~~ for which it chooses to apply.¶
- (4) All districts are eligible for each type of assessment.¶
- (5) All applications are due by the date established by the Department. No late applications will be accepted.¶
- (6) The Department shall evaluate each completed application by awarding preference points as established by this rule.¶
- (7) An application will receive 1 point for each preference that the application meets.¶
- (8) An application will receive a final score that is the total of the application's points.¶
- (9) Applications will be funded from highest to lowest score.¶
- (10) If there is not enough funding to provide a Technical Assistance Grant to all applications that have equal scores, then the Department shall create a lottery to determine which applications will receive a Technical Assistance Grant.¶
- (11) The preference points for the Facility Assessment are:¶
  - (a) District has 25% or more of its ADMr identified as Students in Poverty. The number of Students in Poverty shall be same as used in OAR 581-027-0010;¶
  - (b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;¶
  - (c) District has not conducted a Facility Assessment ~~in the last 10 years;~~ within 10 years or less;¶
  - (d) District has not passed a general obligation bond ~~in the last 15 years;~~ and within 15 years or less;¶
  - (e) District's ADMr has changed by 10% or more over the last 5 years based on the latest annual reports submitted to the Department; and¶
  - (f) the District has completed its annual electronic submission of its building and bond data to the Department by February 1 of each year.¶
- (12) The preference points for the Long-Range Facility Plan are:¶
  - (a) District has 25% or more of its ADMr identified as Students in Poverty. The number of Students in Poverty shall be same as used in OAR 581-027-0010;¶
  - (b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010;¶
  - (c) District has not conducted a Long-Range Facility Plan ~~in the last 10 years;~~ within 10 years or less;¶
  - (d) District has not passed a general obligation bond ~~in the last 15 years;~~ and within 15 years or less;¶
  - (e) District's ADMr has changed by 10% or more over the last 5 years based on the latest annual reports submitted to the Department; and¶
  - (f) the District has completed its annual electronic submission of its building and bond data to the Department by February 1 of each year.¶
- (13) The preference points for the Seismic Assessment are:¶
  - (a) District has 25% or more of its ADMr identified as Students in Poverty. The number of Students in Poverty

shall be same as used in OAR 581-027-0010; ¶

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010; ¶

(c) District has not conducted an assessment for an Oregon Infrastructure Finance Authority Seismic Rehabilitation Grant; ¶

(d) District, using DOGAMI RVS data, identifies 50% or more of the buildings it intends to assess as: ¶

(A) Built in 1995 or earlier; and ¶

(B) The building's final type is URM, PC1, PC2, or C1; or has a type of vertical irregularity listed as "soft story." ¶

(C) If the DOGAMI RVS data separates the building into different sub-buildings and any one of those sub-buildings meets the criteria in (i) and (ii), then the whole building will qualify for inclusion in the 50% minimum. Districts who have buildings built before 1995 that are not lisa number of schools it intends to assess and at least 50% are listed as "High" or "Very High" for collapse potential in the Rapid Visual Survey created inby the RVS data may count those buildings toward the 50% minimum as if the buildings qualified as stated in subsection (d)(A)(i) and (ii); and Department of Geology and Mineral Industries; ¶

(e) District's Mapped Spectral Acceleration for 1-second period (Ss) is greater than 0.6 as calculated by the United State Geological Survey and published on the USGS website for the district's central office. District may use a map created by USGS and published on ODE's website as an alternative means to calculation the Mapped Spectral Acceleration; and ¶

(f) the District has completed its annual electronic submission of its building and bond data to the Department by February 1 of each year. ¶

(14) The preference points for the Environmental Hazard Assessment are: ¶

(a) District has 25% or more of its ADMr identified as Students in Poverty. The number of Students in Poverty shall be same as used in OAR 581-027-0010; ¶

(b) District has under 2,500 ADMr according to the annual reports for the same school year as used to calculate the Priority List under OAR 581-027-0010; ¶

(c) District has not conducted radon tests as of 2016 or later; ¶

(d) District's Radon risk category is either high or not assigned according to information published by the Oregon Health Authority that provides for radon risk levels based on geography; and ¶

(e) District has a school that qualifies as a remote small elementary school per ORS 327.077. ¶

(15) A District may use an assessment performed before the start of the application period as a basis for an application, during the 2015-17 biennium, for a Technical Assistance Grant so long as: ¶

(a) The District conducts the assessment according to the standards set forth in these rules; ¶

(b) The District signed the contract for the work after July 1, 2015; ¶

(c) The District used a Certified Contractor to conduct the assessment; and ¶

(d) The District provides the Department with an electronic copy of the assessment in the format established by the Department. ¶

(16) For the period of the 2015-17 biennium, the Department will waive requirements 14(c). ¶

(17) Districts are required to use e; and ¶

(f) the District has completed its annual electronic submission of its building and bond data to the Department by February 1 of each year. ¶

(15) A District that is awarded a Technical Assistance Grant must: ¶

(a) Enter into a grant agreement with the Department by the time specified by the Department; ¶

(b) Use a Certified aAssessors to complete the lperform a Long-rRange fFacility pPlans and f or Facility aA ssessments. ¶

(18) Districts are not required to use certified contractors to complete seismic assessments. ¶

(19) Each District that submits an application that receives a Technical Assistance Grant will be required to enter into a grant agreement with the Department prior to issuance of funds. ¶

(20; ¶

(c) Provide the Department with an electronic copy of any final reports required by the Technical Assistance

Grant; and ¶

(d) Provide the Department with an electronic copy of invoices showing expenses incurred in performing the work for the specific Technical Assistance Grant. ¶

~~(16) A District must reapply each time a new grant application is announced if a District did not receive a grant in a grant application period. ¶~~

~~(21) Each District that receives a Technical Assistance Grant must submit an electronic copy of the finished report in form to be established by the Department. ¶~~

~~(22) If a district receives a grant through the Technical Assistance Grant, the district cannot reapply for that specific grant for the next four years. ¶~~

~~(23) A District that receives a Facility Assessment grant and, after completing an assessment of all buildings owned by the District, has funds remaining may apply the remaining funds to performing a Long-Range Facility Plan~~

17) A district may apply to the Technical Assistance Program to reimburse the District for assessments previously completed if: ¶

(a) The previous assessment work was started within one year of the application period; ¶

(b) The previous assessments meet all requirements set forth for the type of the assessment in these administrative rules; and ¶

(c) The District submits a final copy of the report and all invoices within the required period for a Technical Assistance Program grant. ¶

~~(24) A18) District that receives a Long-Range Facility Planning Grant and, after completing its Long-Range Facility Plan, may use the remaining funds to conduct a Facility Assessment. ¶~~

~~(25) s must submit all final reports and invoices by the date specified by the Department. If a Ddistrict exercises either option stated in OAR 581-027-0030(22) or (23), that District will be ineligible for either a Long-Range Facility Plan or Facility Assessment Grant for four years. does not meet that deadline, the Department may rescind their grant funds.~~

Statutory/Other Authority: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447)

AMEND: 581-027-0035

RULE SUMMARY: This rule outlines the facility assessment requirements, and it is being amended to include type of internet connection as an assessment requirement.

CHANGES TO RULE:

581-027-0035

## Facility Assessment Requirements ¶¶

(1) Each Facility Assessment shall contain the following information:¶¶

(a) Building Information¶¶

(A) Name of building;¶¶

(B) Building ID Number;¶¶

(C) Physical Address;¶¶

(D) Gross Square Footage;¶¶

(E) Original Construction Date;¶¶

(F) Original Construction Type;¶¶

(G) Additions:¶¶

(i) Construction Date;¶¶

(ii) Construction Type;¶¶

(iii) Construction Square footage;¶¶

(iv) Construction Usage;¶¶

(H) Renovations:¶¶

(i) Construction Date;¶¶

(ii) Construction Type;¶¶

(iii) Construction Square footage; and¶¶

(iv) Renovation Construction Usage.¶¶

(b) Infrastructure Assessment¶¶

(A) UNIFORMAT II Assessment: An assessment of each applicable building element as listed in the American Society for Testing and Materials (ASTM) UNIFORMAT II Classification (October 1999) of Building Elements Level 3 that provides the following:¶¶

(i) ASTM Number;¶¶

(ii) System Name;¶¶

(iii) Description of System;¶¶

(iv) Number of systems or square footage of system in need of repair or want of replacement;¶¶

(v) Level of repair/replacement needed. The percent of the building affected should be noted to assist in cost estimating.¶¶

(vi) Notes as to what specifically needs to be done to repair or replace the system.¶¶

(B) Additional items¶¶

(i) A safety and security analysis of the facility that determines if the facility meets current best practices for providing a safe and secure environment;¶¶

(ii) An ADA assessment and listing of deficiencies;¶¶

(iii) Assessment of technology infrastructure in the facility including bandwidth, type of internet connection, presence of wireless networks, and other means of providing access to information technology;¶¶

(iv) Assessment of indoor air quality; and¶¶

(v) Presence of harmful substances such as lead or asbestos in the facility based on district reports.¶¶

(c) Value Assessment¶¶

(A) The current replacement value of the building using cost per square foot standards as determined by the Department and updated annually.¶¶

(B) The Facilities Condition Index of the building as calculated by dividing the total estimated construction costs to

completely repair the building by the current replacement value of the building.¶¶

(2) The Department shall establish a template for Districts and their Certified Contractors to use to collect the information required in (1).¶¶

(3) Districts and Certified Contractors shall use the template established by the Department to provide the final report to the Department in electronic format.

Statutory/Other Authority: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447)



AMEND: 581-027-0040

RULE SUMMARY: This rule establishes criteria for long-range facility plan requirements. It is being amended to allow districts to adopt plans that align with their needs rather than national standards.

CHANGES TO RULE:

581-027-0040

### Long-Range Facility Plan Requirements ¶

~~(1)~~ Each Long Range Facility Plan shall contain the following information: ¶

~~(a)~~ Population projections by school age group for the next ten years using U.S. Census or Census partner data. ¶

~~(b)~~ Collaboration with local government planning agencies (city and/or county) that results in: ¶

~~(A)~~ Identification of suitable school sites if needed; and ¶

~~(B)~~ Site acquisition schedules and programs. ¶

~~(c)~~ Evidence of community involvement in determining: ¶

~~(A)~~ Educational vision of local community; and ¶

~~(B)~~ Proposals to fund long-range facility needs. ¶

~~(d)~~ Identification of buildings on historic preservation lists including the National Historic Register, State Historical Preservation Office, and local historic building lists. ¶

~~(e)~~ Analysis of district's current facilities' ability to meet ~~current national~~ district-adopted educational adequacy standards: ¶

~~(A)~~ Identification of facility standards used to meet district educational vision as well as national educational adequacy standards; ¶

~~(B)~~ Identification of current facility capacity adopted by district that are used to determine educational adequacy for district; ¶

~~(C)~~ Identification of ability of current facility capacity to meet ~~current national~~ district-adopted educational adequacy standards; ¶

~~(D)~~ If current facilities are unable to meet ~~current national~~ district-adopted educational adequacy standards district will then: ¶

~~(i)~~ Identify deficiencies in current facilities; ¶

~~(ii)~~ Identify changes needed to bring current facilities up to ~~national~~ district-adopted educational adequacy standards; and ¶

~~(iii)~~ Identify potential alternatives to new construction or major renovation of current facilities to meet ~~current national~~ district-adopted educational adequacy standards; ¶

~~(E)~~ A description of the plan the district will undertake to change its facility to match the projections and needs for the district for the next ten years. ¶

~~(2)~~ The Department shall establish a template for Districts and their Certified Contractors to use to collect the information required in OAR 581-027-0040(1). ¶

~~(3)~~ Districts and Certified Contractors shall use the template established by the Department to provide the final report to the Department in electronic format.

Statutory/Other Authority: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Sec. 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447).

AMEND: 581-027-0045

RULE SUMMARY: This rule establishes seismic assessment requirements. It is being amended to expand the assessment requirements.

CHANGES TO RULE:

581-027-0045

### Seismic Assessment Requirements ¶¶

Each Seismic Assessment shall contain the following:¶¶

- (1) Name of building.¶¶
- (2) Gross square footage of building.¶¶
- (3) Physical address.¶¶
- (4) Original construction date.¶¶
- (5) Original construction type.¶¶
- (6) Additions:¶¶
  - (a) Construction Date;¶¶
  - (b) Construction Type;¶¶
  - (c) Construction Square footage; and¶¶
  - (d) Construction Usage;¶¶
- (7) Procedures used to determine the building's ability to meet the Basic Performance Objective for Existing Buildings (BPOE) in ASCE41-17. Specifically:¶¶
  - (a) The building's ability to perform to the Limited Safety Standard structural Performance Level at the BSE-2E hazard level in ASCE 41-137 if building is required to meet Life Safety Standard under the Seismic Rehabilitation Grant Program categorized as Risk Category III, school buildings, not including areas which may be used as emergency shelters, under OAR 123-051-0600(2); or¶¶
  - (b) The building's ability to perform to the Immediate Occupancy Standard Life Safety Structural Performance Level at BSE-2E hazard level AND the Immediate Occupancy Structural Performance Level at the BSE-1E in ASCE 41-137 if building is required to meet Immediate Occupancy Standard under the Seismic Rehabilitation Grant Program categorized as Risk Category IV, emergency service buildings and school areas that may be used as emergency shelters, under OAR 123-051-0600(4).¶¶
- (8) List of portions of building that pose highest life safety threat and collapse potential of those building portions deficiencies that need to be corrected to qualify building to meet the Basic Performance Objective for Existing Buildings in Accordance with ASCE 41-17.¶¶
- (9) List of drawings illustrating schematic rehabilitation tasks to rectify listed deficiencies in accordance with ACSE 41-17 standard.¶¶
- (910) Cost estimate provided by professional with knowledge about the type of work to be done that includes contingencies built into all budget categories.¶¶
- (101) Certification of the final assessment provided by registered Structural Engineer licensed in the State of Oregon.

Statutory/Other Authority: Sec. 2 and 5, Ch. 783, OL 2015 (Enrolled Senate Bill 447)

Statutes/Other Implemented: Ch. 783, OL 2015 (Enrolled Senate Bill 447), Sec. 5

AMEND: 581-027-0050

RULE SUMMARY: This rule establishes guidelines for the contractor certification program. This rule is being amended to change "contractors" to "assessors," and to strengthen the requirements for becoming a certified assessor.

CHANGES TO RULE:

581-027-0050

Contractor Certification Program ¶

- (1) The Department shall establish a program whereby entities or individuals can apply to become Certified ~~Contract~~Assessors for the purposes of the Technical Assistance Grants.¶
- (2) The program shall contain a portion of instruction on the methods to be used by Certified ~~Contract~~Assessors in performing Facility Assessment and Long-Range Facility Plan work.¶
- (3) The program shall contain a test such that those that pass will become Certified ~~Contract~~Assessors.¶
- (4) The Department shall post on its website specific information for each time the training program is held.¶
- (5) No entity or individual may become a Certified ~~Contract~~Assessor unless they complete the training program established by the Department:¶
  - (a) They meet the requirements to apply for the program;¶
  - (b) Attend and complete the training for Certified Assessors; and¶
  - (c) Pass a written examination at the end of the training program.

Statutory/Other Authority: ORS 286A.801(8)

Statutes/Other Implemented: ORS 286A.801(2)