Oregon Housing and Community Services

Landlord Compensation Fund (LCF) Program Guidelines

Program Description
and
Application Guidelines

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1st Edition

For additional information or clarification, please email hcs.lcf@oregon.gov

PROGRAM DESCRIPTION

A. Purpose

The purpose of the Landlord Compensation Fund (LCF) is to provide financial relief to residential rental Landlords renting to qualified tenants in the State of Oregon. Residential rental Landlords have been unable to enforce rental payments from renters due to a combination of state and federal eviction moratoriums which began on April 1, 2020. LCF will assist Landlords on a competitive basis by paying 80% of the unpaid rent owed from Qualified Tenants in exchange for forgiveness of the remaining 20% of Qualified Tenant past-due rent. Because funding for LCF is limited, applications will be scored based on specified criteria with multiple rounds of competitive funding available.

B. Definitions

(1) "Applicant" or "Landlord" - for purposes of these LCF Program Guidelines means the Property Owner and Property Owner's Agents or assigns.

(2) "Department" - The Oregon Housing and Community Services Department (OHCS).

(3) "Dwelling unit" - means a structure or the part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit" regarding a person who rents a space for a manufactured dwelling or recreational vehicle or regarding a person who rents moorage space for a floating home as defined in ORS 830.700, but does not rent the home, means the space rented and not the manufactured dwelling, recreational vehicle or floating home itself."

(4) "Portfolio" - is defined as property that is owned by a distinct ownership group or individual and is located in the State of Oregon. For example, several properties owned by the same owner or the same partnership or limited liability company (LLC) would all be a part of the same Portfolio. Properties with a shared owner but different partners or a different LLC would not be included in the same Portfolio.

(5) "Property Owner" - means the legal owner, lessor, or sublessor of the residential dwelling unit(s) or the building or premises of which the dwelling unit(s) is part. Property Owners include individuals, partnerships, or an ownership group with legal rights to enter into agreements and make decisions for the property.

(6) "Property Owner's Agent" - means a licensed property manager or other person who has oral or written contractual authority to act for or on behalf of the Property Owner in the business in which it is engaged.

(7) "Tenant" – As defined by ORS 90-100 (47).

C. Eligibility

(1) **Property Eligibility**

All residential Landlords with rental agreements renting Dwelling Units to Qualified Tenants in the State of Oregon are eligible for LCF funding. This includes but may not be limited to the following residential homes with rental agreements:

    a. Rental houses or apartments;

    b. Mobile homes;

    c. Mobile home lot rent;

    d. Houseboats; and

    e. Any other housing considered to be a Dwelling Unit.

(2) **Tenant Eligibility** – Tenants become "qualified" or eligible tenants if they meet the following conditions:

    a. Have outstanding rent owed to their current Landlord from any time period beginning April 1, 2020 through the date of the Landlord's application;

    b. Have fully completed, signed and included in the Landlord's application the *Declaration of Financial Hardship for Eviction Protection* in a format equivalent to that outlined in HB-4401 (as determined by Department)

(3) **Landlord's Immediate Family Members Ineligible** - Tenants who are members of a Landlord's immediate family, as defined in ORS 90.427, are not eligible for compensation.

    a. This limitation does not apply to residents in Resident-Owned Manufactured Home Park Cooperatives.

    b. This limitation does not apply to immediate family members with approved reasonable accommodation requests.

APPLICATION GUIDELINES

A. Application Process

Application must be made through the *OHCS LCF Application portal*. Application instructions can be found in the portal. Landlords will be asked to provide the following:

(1) Rental information for all tenants from April 1, 2020 through date of application

      a. Department may ask for additional information for tenants with a rent owed balance from April 1, 2020 through current.

(2) Signed Housing Assistance Payment agreement

(3) IRS form W-9 for the Property Owner's Portfolio

(4) Tenant documents proving Qualified Tenant eligibility (includes *Declaration of Financial Hardship for Eviction Protection*).

Applicants will be required to agree to the program terms and agreements associated with the LCF program. Applicant designee's, such as property managers without rights to enter into legal agreements on behalf of the Property Owner, may still be assigned by the Property Owner in the application system to provide application information. If there are multiple property managers responsible for an ownership Portfolio, then one primary Applicant will need to be identified. To the extent applicable, any designee acting on behalf of a Property Owner will be held jointly and separately liable.

Requests for reasonable accommodation to access the application can be made via email to HCS.LCF@oregon.gov. Landlords are responsible to submit full and complete applications including providing Tenant Declaration of Hardship for Eviction Protection forms. Only Qualified Tenants will be eligible for Department reimbursement to Landlords. Department reserves the right to reach out directly to any potentially eligible tenant that does not meet qualified status due to documentation deficiencies.

Department may also reach out to Landlords with incomplete applications that are substantially correct. Application errors that appear likely to have a quick resolution are eligible for remediation at the Department's discretion.

Privacy Considerations

To provide for effective administration of the LCF Program, Department has determined Statutory Authority to request tenant information through the Landlord Compensation Program (HB-4401, Section 2(1)(h)). This information will be kept confidential and used strictly for program related purposes. The information gathered is exempt from Public Records Requests disclosure under ORS 192.355(24). Department does not take any position on Landlords' legal authority to provide this information to Department, however, in order to apply and in order to ascertain scoring criteria under the LCF Program, certain tenant information is required. In the event Landlord Counsel is inclined to recommend tenants sign a Release of information document prior to submitting the tenant information through the OHCS portal, they may choose to do so but do not create a relationship with the Department.

B. Application Rounds

To allow for greater outreach and communication, Department will implement multiple rounds of funding. Funded applications will be removed from the application pool but Landlords may reapply in following rounds utilizing updated information (i.e. they may include new debt and must remove any debt rectified through the award). Funded Landlords that are re-applying must submit an entire new application.

Landlords not receiving funding in the previous round will be required to update their information to make their application current prior to next funding round deadline. Unfunded Applicants may update information between rounds in the portal or may delete their application through the system if they prefer not to apply. Changes and application removal must be initiated and performed by the Applicant (i.e. Department will not remove an application for an applicant). Applications that are not updated between rounds will not be considered for funding in the new round.

Department intends to open application rounds on a monthly basis, though that is subject to change and will be announced by Department through its website. Application Rounds will generally begin on or near the 5th of each month and will remain open for 10-14 days. Landlords are advised not to accept payments for debt included in the application after an application round closes unless it may be used to cover future rent-owed in the event the application is approved.

Department anticipates no more than five (5) funding rounds; funding will not continue past June 2021. Department will announce each application round and the resources being made available during that specific application round.

Though Department does not anticipate scoring changes, Department reserves the right to modify scoring criteria between rounds if it is determined that scoring modifications will improve award diversity from a geographic or social equity standpoint. Any such update will be made available through the OHCS website and sent out as a program advisory.

C. Scoring Criteria

Legislative priorities for the LCF Program include Portfolio size and total rent collection to total rent owed ratio from April 1, 2020 through the date of application. Utilizing these criteria Department will score applications based on the following scoring methodology. Funding will be provided to Property Owner Portfolios receiving the highest point total until funding distribution totals for that round are exhausted. Department retains the right to be flexible with application round funding award totals. Department may exceed funding round designations for the following reasons at Departments' discretion:

(1) To fund an application in full;

(2) To fund all applicants that scored the same amount; and

(3) To further geographic or social equity diversity.

Portfolio Size Scoring

Portfolio size includes the entire number of residential rental units owned by a specific <u>Property Owner</u>. All properties owned by the same owner(s) or by the same ownership group must be included in the application (regardless of individual property need) and are considered a Portfolio. A Landlord may make multiple applications provided each property has a different ownership group or type (such as a different LLC or a different partner). Property Owners may delegate their application process to a Property Owner's Agent or assignee, as appropriate, but the application must be signed by an authorized signatory of the Portfolio ownership (which may be a Property Owner's Agent or assignee if they have these rights). Payments (if the application is awarded) will be made to the entity listed on the submitted IRS form W-9. Payment may be made electronically or by check at Applicant's preference.

Points awarded based on Portfolio size (25 points maximum):
1-4 units =   25 points
5-10 units = 20 points
11-40 units = 15 points
41-100 units = 10 points
101-500 units = 5 points
501+ units = 0 points

Total Rent Collection / Total Rent Debt Scoring

Department will require Applicants to submit information for <u>all</u> tenants within the Property Owner Portfolio as of April 1, 2020 through the application date (including tenants that owe rent <u>and</u> tenants that have paid, though informational needs may vary). Department will give scoring priority to Portfolios that have collected less rent as compared to total rent owed to the Portfolio. Only rent debt should be provided (totals should not include fees, damages, deposits, etc.). Late rent payments should be included as paid rent. Landlords should not include rent subsidy payments owed as debt but may include tenant portions unpaid (if applicable). Landlords are advised not to accept payments for debt included in the application after an application round closes unless it may be applied to future rent owed if the application is approved.

Points awarded based on Total Rent Collected divided by Total Rent Owed (50 points maximum):
.000-.500 = 50 points
.501-.600 = 45 points
.600-.650 = 40 points
.651-.700 = 35 points
.701-.750 = 30 points
.751-.800 = 25 points
.801-.850 = 20 points
.851-.900 = 15 points

.901-.925 = 10 points
.926-.950 = 5 points
.950+ = 0 points

Tiebreakers
When determining funding awards, there may be multiple Ownership Portfolios that achieve the same numerical score under the scoring criteria. If funding is not adequate to make awards to all Portfolios sharing this score, the tiebreaker criteria will be utilized. Portfolios will be given preference based on the first criteria. If this criteria does not provide adequate separation the next criteria will be applied and so on. Criteria and order are as follows:

  (1) The Portfolio with the least amount of individual units.
  (2) The Portfolio with the lowest actual Total Rent Collection / Tenant Rent owed percentage
  (3) The Portfolio with the highest number of Qualified Tenants
  (4) The Portfolio with Qualified Tenants in the Public Housing region receiving the least funding
  (5) The Portfolio as determined by the OHCS Executive Director

D. Scoring & Award Process

When an application round closes, Department will review all applications to determine the following:

  (1) Is the application eligible for funding? To be eligible the application must be complete, include all required supporting documents and include signed certifications.
      a. If the application is not complete it may be denied. Department reserves the right to do application follow up if only minor issues are discovered. Department may initiate a correction deadline if follow up is appropriate.
      b. If application is denied it will be ineligible for the current round. The application may be rectified for future funding rounds if applicable.
  (2) Scoring criteria will be applied to the Portfolios represented in the applications and funding determinations will be made.
  (3) Department may reach out to non-qualified tenants with debts owed to assure they received proper outreach and are aware of the debt forgiveness opportunity.
  (4) Once a Portfolio award has been determined and ownership verified for all properties in the owner Portfolio, Landlords will be notified and the local Public Housing Authority (PHA) or its designee will be provided funds to initiate payments. Properties that cannot be verified by PHA's will not receive funding. Local PHA's will be responsible to make award payments to each of the properties within the Portfolio. The PHA will also be responsible to submit the IRS Form 1099 to the W9 entity.

(5) Payments will be made for Qualified Tenants only and will cover 80% of their rental debt owed during the eligible time period. Landlord will forgive the remaining 20% of rental debt owed.

(6) PHA's will be responsible to notify Qualified Tenants by mail of property awards and the past due rent covered through this program.

E. Oversight, Program Integrity & Penalties

(1) Landlords that receive duplicate payments of LCF covered past due rent have 30 days to return the excess payment without impacting LCF resources. To the extent possible, it is the preference of the Department that duplicate payment of past due rents covered by the LCF program be applied to future rent, provided the Qualified Tenant is still in financial hardship, which would resolve the duplicate payment issue. After 30 days, if the duplicate payment has not been resolved, reimbursement of the duplicate coverage must be made to Department and shall include the entire amount of duplicate funding received regardless of Department reimbursement amounts.

(2) Department may conduct audits on Portfolios to verify application information provided was accurate, Landlords did not receive duplicate funds and to generally assure program integrity. Applicants will sign agreements during the application process allowing for these reviews.

(3) Any entity or individual receiving benefits found to have intentionally provided inaccurate or misleading information may be subject to penalties as determined applicable by the State of Oregon, including its Oregon Department of Justice, including but not limited to repayment of public funds and all available liabilities and penalties provided by the Oregon False Claims Act (ORS 180.750 to 180.785).