DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 310

DEVELOPMENTAL DISABILITIES COMMUNITY HOUSING

Table of Contents

411-310-0010 Statement of Purpose *(Effective 4/5/2006)* 1

411-310-0020 Definitions *(Effective 4/5/2006)* 1

411-310-0030 Development Projects *(Effective 4/5/2006)* 5

411-310-0040 Minor Housing Projects *(Effective 4/5/2006)* 8

411-310-0050 Maintenance of Qualified Properties *(Effective 4/5/2006)* 9

411-310-0060 Developmental Disability Housing Fund *(Effective 4/5/2006)* 10

411-310-0070 Surplus Property *(Effective 4/5/2006)* 11

DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 310

DEVELOPMENTAL DISABILITIES COMMUNITY HOUSING

411-310-0010 Statement of Purpose *(Effective 4/5/2006)*

The purpose of these rules is to:

(1) Prescribe the operational procedures for the Developmental Disabilities Community Housing Program and the Community Housing Fund; and

(2) Implement and describe the acquisition, construction, rehabilitation, maintenance, and disposal of Community Housing established under the authority of ORS 427.330 to 427.345.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-310-0020 Definitions *(Effective 4/5/2006)*

(1) "Adult" means an individual 18 years or older with a developmental disability.

(2) "Care and Custody" means minimum services (which may include mortgage, insurance, utilities, phone) and property protection for vacant homes in which the Department has a financial interest.

(3) "Care Provider" means an individual, family member or entity that provides care for an individual with a developmental disability.

(4) "Change Order" means requested additional work on an approved project, which may increase the cost of the project.

(5) "Child" means an individual with a developmental disability who is less than 18 years of age.

(6) "Community Housing" means real property, including but not limited to buildings, structures, improvements to real property and related equipment that is used or could be used to house and provide care for individuals with a developmental disability. "Community housing" includes a single-family home or multiple-unit residential housing that an individual with a developmental disability shares with other inhabitants, including but not limited to family members, Care Providers or friends. "Community housing" does not include the Eastern Oregon Training Center.

(7) "Community Housing Trust Account" means a dedicated account within the Developmental Disabilities Community Housing Fund which includes proceeds from the sale, transfer or lease of any surplus real property owned, operated or controlled by the Department and used as a state training center, of which 95% of the sale or transfer amount will remain in the account in perpetuity. Interest earned in the account and 5% of the sale or transfer proceeds may be used for community housing.

(8) "Construct" means to build, install, assemble, expand, alter, convert, replace or relocate Community Housing. "Construct" includes the installation of equipment and preparation of a site for Community Housing.

(9) "Contract Work Order" means a document identifying specific responsibilities of a contractor and the Department concerning necessary work on Community Housing occupied by individuals with developmental disabilities.

(10) "Contractor" means an individual or business that is registered with the Oregon Construction Contractors Board who, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, any building or improvement attached to real estate or any part thereof. "Contractor" includes general contractors and specialty contractors as defined in OAR 812-002-0100.

(11) "Department" means the Department of Human Services, Seniors and People with Disabilities, unless otherwise noted.

(12) "Development Project" means construction of new Community Housing or major renovation of Community Housing, where individuals with developmental disabilities live or intend to live and receive services. Specific responsibilities are defined in a Facility Plan.

(13) "Developmental Disability" means a disability attributable to mental retardation, cerebral palsy, epilepsy or other neurological handicapping condition or severe physical impairment that requires training similar to that required by mentally retarded persons, and the disability:

(a) Originates before the person attains the age of 22 years;

(b) Has continued or can be expected to continue indefinitely; and

(c) Constitutes a substantial handicap to the ability of the person to function in society.

(14) "Developmental Disabilities Community Housing Fund" means a fund with the State Treasury, separate and distinct from the General Fund, which receives appropriations to the Department to pay expenses incurred in carrying out the provisions of ORS 427.330 and 427.335. Interest earned accrues to the fund.

(15) "Equipment" means furnishings, fixtures, appliances, special adaptive equipment or supplies that are used or could be used to provide care in Community Housing.

(16) "Facility Plan" means a detailed scope of work, including costs, submitted by a Contractor, Housing Provider or Care Provider to the Department for approval, on a form prescribed by the Department, for the construction or major remodel of Community Housing for an individual with developmental disabilities.

(17) "Family Member" means a person who is related by blood or marriage to an individual with a developmental disability.

(18) "Financial Assistance" means a grant or loan from the Department to pay expenses incurred in providing Community Housing.

(19) "Housing Authority" means a public corporation created and chartered by the governmental authority of a city or county to provide safe, decent, sanitary and affordable housing for persons or families of lower income residing within the geographical jurisdiction of the Housing Authority.

(20) "Housing Provider" means an individual or entity that provides Community Housing.

(21) "Individual" means a person with a developmental disability for whom services are planned or provided.

(22) "Minor Housing Project" means small construction projects (under $10,000.00) performed in residences that are leased or owned by organizations, individuals, Care Providers or private parties where individuals with developmental disabilities reside and receive services or where services are planned.

(23) "Mortgage" means a conditional and time limited pledge of property to the Department in exchange for funds expended to build, renovate or adapt real property for use by individuals with developmental disabilities.

(24) "Owner" means the organization or person owning the residence where individuals with developmental disabilities live or plan to live and receive services. Owners may include but are not limited to family members, licensed service providers, foster providers or housing development organizations.

(25) "Region" means a group of counties organized to provide efficient delivery of various services to individuals with developmental disabilities.

(26) "Regulatory Agreement" means a restrictive covenant running with real property that specifies the intent to use that property for the benefit and enjoyment of individuals with developmental disabilities for a length of time according to terms stated in the agreement.

(27) "Scope of Work" means a detailed outline of work to be performed, including any necessary drawings, suitable for Contractor bidding, and including all information that might be required to obtain a building permit.

(28) "Specifications" means a detailed list of the type and quality of materials (which may include brand names and model numbers) and standards of work for bidding or performing construction activities.

(29) "Surplus Property" means personal property, real property, vehicles and equipment excess to the State's needs that can be used in the activity of providing Community Housing.

(30) "Trust Deed" means an instrument which transfers (conveys) legal title of a property to a trustee, for the benefit of the beneficiary or grantee named therein, to be held pending fulfillment of obligations secured by such instrument.

(31) "Trust Deed Note" means a promissory note secured by a Trust Deed.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-310-0030 Development Projects *(Effective 4/5/2006)*

(1) Eligible Projects. Eligible development projects will be approved by the Department and must meet one or more of the following criteria:

(a) Be initiated by the Department to fulfill an identified housing need for individuals whose services are licensed and funded by the Department;

(b) Be required by implementation of new services for individuals eligible for funding by the Department;

(c) Be identified by the Department as necessary for the health and safety of a child or an adult with developmental disabilities whose services are funded by the Department;

(d) To provide housing adaptations as part of a plan to develop or change services for an individual(s) requiring an immediate change in living circumstances due to a change in Care Providers or service needs; or

(e) Be requested by an individual, family member, Care Provider, or Housing Provider to fulfill identified housing needs that are necessary for the health, welfare, and safety of an individual, or to enable an individual to function with greater independence in the home.

(2) Ownership of properties. Individuals, families, service providers, not-for-profit Housing Providers, for-profit corporations or partnerships, or government entities, including the Department may own properties.

(3) Types of Development. Development projects will be developed in one of the following ways:

(a) The Department may procure services from qualified not-for-profit Housing Providers or Housing Authorities that have successfully responded to a Request for Proposals. These Housing Providers will manage Development Projects as described in contracts with the Department; or

(b) The Department may procure services from pre-qualified building or specialty Contractors licensed by the Construction Contractors Board or the Landscape Contractors Board (pursuant to ORS 279.039 through 279.045) for work under $75,000. As outlined in (3)(b)(A) through (E) of this rule, the Department will establish a list of eligible Contractors every two years who desire to provide cost estimates for work. The procedures for establishing a list of eligible contractors will:

(A) Identify the means by which advertisement will be made;

(B) Identify qualifications and other data requested from interested Contractors on a form provided by the Department;

(C) Describe the criteria for qualifying Contractors;

(D) Describe the process for Contractor selection for designated work; and

(E) Identify contract terms including payment procedures; or

(c) The Department may procure services through the formal bidding process (pursuant to ORS Chapter 279) for work over $75,000.

(4) Requirements for Development Projects. Development projects will meet the following requirements:

(a) Work will be authorized by approval of a Facility Plan that is submitted on a form approved by the Department. The Facility Plan will include: legal description and address of the project; Specifications; an itemized project budget; start, finish and occupancy dates; and evidence that the project is insured as required by the Department;

(b) Projects will comply with the provisions of ORS 279.348 through 279.365 when applicable;

(c) When property is owned by entities other than the Department, a Mortgage or Trust Deed granted by the owner in favor of the Department for the amount of the estimated cost of the completed project will be required to protect the financial interest of the State of Oregon. If property acquisition is part of the project, the purchase price of the property will be included in the encumbrance. Required documents will be recorded prior to beginning construction. Upon project completion, the amount of the encumbrance will be adjusted to reflect actual cost;

(d) The Department may also require that the owner of a residence which has been constructed or remodeled for individuals with developmental disabilities enter into a Regulatory Agreement recorded with the property specifying a period of time during which the property must be used as housing for individuals with developmental disabilities;

(e) Work will be completed according to the Facility Plan, including any change orders, approved by the Department on or before the completion date identified on the Facility Plan, unless changed by mutual agreement; and

(f) Final payment will be made when all final inspections have been successfully completed, an occupancy permit issued according to

local regulations and ordinances (if applicable), and the project accepted as complete following a walk through by the Department.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-310-0040 Minor Housing Projects *(Effective 4/5/2006)*

(1) Minor housing projects or equipment, costing less than $10,000, may be requested by Care Providers, Housing Providers or initiated by the Department to address a housing need of individuals receiving services approved and funded by the Department.

(2) The Department may procure services from qualified not-for-profit Housing Providers that have successfully responded to a Request for Proposals. These Housing Providers will manage Minor Housing Projects as described in contracts with the Department.

(3) The Department may procure services from pre-qualified building or specialty Contractors (pursuant to ORS 279.039 through 279.045) licensed by the Construction Contractors Board or the Landscape Contractors Board as described in OAR 411-310-0030(3)(b).

(4) The Department may procure personal services from Care Providers, Housing Providers or Contractors directly through negotiation when the contract price, including Change Orders, is not more than $5,000.

(5) Project Approval. Minor Housing Projects will be approved by the Department on the basis of a Contract Work Order that identifies the project address, approved Contractor, Scope of Work, Specifications, itemized budget, completion date, person responsible for project inspection, and payment method.

(6) State's Financial Interest. When the total cost of equipment or a housing adaptation, including change orders, is greater than $5,000, the Department may secure the interest of the State by appropriate means, including, but not limited to, Mortgages, Trust Deeds and promissory notes. Security agreements will be executed prior to the beginning of construction.

(7) The Department may expend funds for Minor Housing Projects or equipment through any legal payment mechanism. The Department will expend funds only on the basis of requests that include invoices for work, materials or equipment.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-310-0050 Maintenance of Qualified Properties *(Effective 4/5/2006)*

(1) Qualification. The following projects qualify for funding of maintenance and repair:

(a) The Department may pay for maintenance and repair of qualified homes in order to preserve and maintain the benefit of housing assets in which the State has a financial interest. Qualified homes are residences that were constructed or retrofitted for individuals leaving Fairview Training Center as part of the Community Integration Project (CIP), in which individuals with developmental disabilities live and receive licensed services, and which were financed by State of Oregon General Obligation Bonds; and

(b) The Assistant Director of the Department, may designate other homes to be included in the maintenance and repair program if they meet all the following criteria:

(A) Significant expenditure of State funds;

(B) Specialized features for individuals with developmental disabilities; and

(C) State control of the property through State ownership or through security agreements for a minimum of 30 years.

(2) Property Management Contracts. The Department will enter into Property Management Contracts with not-for-profit Housing Providers or Housing Authorities owning properties that qualify for maintenance and repair funding for the purpose of managing the property.

(3) Property Management Procedures. Qualified homes will be managed according to procedures written and distributed by the Department to owners of the homes. The procedures will outline maintenance and repair, care and custody, and renovations of qualified homes. The procedures may be updated as necessary by the Department.

(4) The Department may procure services from pre-qualified building or specialty Contractors as described in OAR 411-310-0030(3)(b).

(5) The Department may procure personal services as described in OAR 411-310-0040(4).

(6) The Project will comply with the provisions of ORS 279.348 through 279.365 when applicable.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-310-0060 Developmental Disability Housing Fund *(Effective 4/5/2006)*

(1) Composition of the Fund. There will be a Developmental Disabilities Community Housing Fund established with the State Treasury. The Fund will be comprised of the following components:

(a) Housing development account;

(b) Property management account;

(c) Debt service account; and

(d) Community Housing Trust Account.

(2) With the exception of the Community Housing Trust Account, funds may be transferred from one account to another. Interest earned is retained within the Housing Fund as assigned to the account where it was earned.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.330 - 427.345

411-310-0070 Surplus Property *(Effective 4/5/2006)*

(1) Surplus real property, personal property, or equipment owned or controlled by the Department may be sold or ownership transferred to individuals, Care Providers (including families), not-for-profit Housing Providers, or government entities for the purpose of increasing the quality and quantity of Community Housing for individuals with developmental disabilities. Methods of distribution include but are not limited to:

(a) Fixed price real estate sale;

(b) Sealed bid sales;

(c) Transfer of ownership; or

(d) Public auction.

(2) Conduct of auctions or sealed bid sales:

(a) The Department will advertise the date, time and location of public auction or sealed bid sales. Interested persons may inspect property offered for sale at the time and place specified in the public invitation to bid;

(b) The Department reserves the right to reject any and all bids regarded as not in the best interests of the State; and

(c) All items will be sold to the highest bidder. All property will be offered "As is -- Where is" with no warranty or other guarantee as to its condition or fitness for use. A purchaser or disappointed bidder will have no recourse against the State, the Department, or any of their respective officers, employees or agents. All sales will be final.

(3) Payment:

(a) Full payment must be made on the day of the sale for all purchases except vehicles or other titled equipment. For titled equipment, a ten-percent down payment is required on the day of the sale. The time limit for making full payment and the place where payment will be made will be specified in public invitation to bid;

(b) Payment by personal check for amounts of $1,000 or less may be accepted, at the discretion of the Department, when presented with two (2) pieces of acceptable identification, one of which must be a "photo ID." Other acceptable identification may include major credit cards, a valid driver's license, or valid voter's registration card. The Department reserves the right, in its discretion, to refuse any tender of payment by personal check and, further, the right to require that payment be made by cash, cashier's check or money order; and

(c) Payment by personal check for amounts exceeding $1,000 may be accepted, at the absolute discretion of the Department, when presented with two (2) pieces of acceptable identification, one of which must be a "photo ID" together with a letter from the financial institution on which the check is drawn guaranteeing payment of the full amount of the check. The Department reserves the right, in its discretion, to refuse any tender of payment by personal check and, further, the right to require that payment be made by cash, cashier's check or money order.

(4) Claiming Items Purchased:

(a) Items not paid in full by the time specified in the sales terms and conditions will be cancelled and bid security forfeited;

(b) Property paid for, but not claimed within the time specified in the sales terms and conditions will be considered abandoned and ownership will default to the State, unless prior approval is obtained from the Department;

(c) Title to personal property sold will be transferred to the purchaser when full payment has been made; and

(d) Proceeds from the sale of surplus personal property will be deposited in the Community Housing Fund.

(5) Transfer of Ownership. The Department may transfer ownership of property or equipment to individuals, Care Providers (including families), not-for-profit Housing Providers, or government entities. Property or equipment acquired through this means will be used for the purpose of providing care, or maintaining a program that provides care or housing for individuals with developmental disabilities. The recipient may not sell the equipment for a period of six months following sale. The following information concerning the equipment will be supplied to the Department on a form approved by the Department:

(a) The name of the person or organization acquiring the equipment;

(b) A description of the equipment;

(c) The location where it will be used; and

(d) An estimate of the value of the equipment.

(6) The equipment will remain with the real property unless it was modified or designed for a specific individual's use, in which case it will move with the individual if his or her residence changes.

(7) The care provider will notify the Department if the equipment ceases to be used for the approved purpose. The Department may recover the property at its discretion.

Stat. Auth.: ORS 409.050, 410.070
Stats. Implemented: ORS 427.330 - 427.345