GUIDANCE FOR OUTCOME-BASED WATERSHED COUNCIL OPERATING CAPACITY GRANTS
JULY 2014

How to use this Guidance

On July XX, 2014, the OWEB Board adopted 1) Oregon Administrative Rules 695-040-0010-0150 for Outcome-Based Watershed Council Operating Capacity Grants (Council Capacity grants), and 2) this Guidance document.

OWEB staff will use this Guidance in administering the Council Capacity grant program. OWEB recognizes it is not possible for this Guidance to cover every question or situation that may arise. In making determinations under this Guidance, OWEB will consider the spirit and intent of Oregon statutes defining watershed councils, the Council Capacity rules, the goals and objectives OWEB seeks to achieve through its Council Capacity grant investment, the Board's policy direction, and this Guidance.

A watershed council that wants to apply for a Council Capacity grant should read this Guidance to determine:

1. Whether the council is eligible to apply,
2. How to apply,
3. How the application and the council will be evaluated, and
4. How funding decisions are made.

Guidance Updates

This Guidance will be periodically updated by the OWEB Board as needed. The Board delegates to OWEB staff the authority to make **non-policy updates**, such as the eligibility and grant application deadlines; staff contact information; website links; and correction of typos and errors. The Board also delegates authority to OWEB staff to adopt a separate internal manual that outlines process steps for OWEB staff.

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OWEB's Website: http://www.oregon.gov/OWEB/Pages/index.aspx

OWEB Online Grant Management System (OGMS): http://apps.wrd.state.or.us/apps/oweb/fiscal/default.aspx

All deadlines referred to in this guidance are 5:00pm Pacific Time on the date set by the Board.

2010 OWEB Strategic Plan

Goal 2, Local Infrastructure: Support an enduring, high-capacity local infrastructure for conducting watershed and habitat restoration and conservation.

Strategy 2: Evaluate and adjust watershed council support grant review and funding processes to build capacity, provide base funding, and promote strategic partnerships.

Strategy 3: Provide technical assistance to build capacity, secure additional funding and increase local organizational resilience.

2013 Long-Term Investment Strategy for Conservation

Operating Capacity Investments are a core element of OWEB's Long-Term Investment Strategy. Outcome-Based Watershed Council Operating Capacity Grants:

- Help support operating costs of effective watershed councils;
- Are performance and outcome-based; and
- Contain high standards for eligibility, reporting and accountability.

Watershed councils are locally established, voluntary organizations. OWEB may provide operating capacity grants to councils; these grants are not mandatory or required.

Purpose of Outcome-based Watershed Council Operating Capacity Grants (Council Capacity grants)

Council Capacity grants help support the operations of effective watershed councils that engage people and communities in their watershed to participate in collaborative, voluntary restoration and protection of native fish or wildlife habitat and natural watershed functions to improve water quality or stream flows.

Why did OWEB Change how it Funds Councils?

Since OWEB began funding councils, Oregon's waterways, uplands and natural habitats are healthier because of the dedicated work of watershed councils. Engaging Oregonians in voluntary, collaborative restoration and enhancement is still necessary to address the effects of climate change, loss of habitat for native fish and wildlife, and other locally prioritized challenges.

Changes to how OWEB funds councils are responsive to fiscal and operational realities that were not anticipated when OWEB first offered council support grants.

- Restoration work is more complex, requiring more diverse skillsets.

- Council membership and leadership is aging.

- Councils compete for limited resources with an ever-growing number of nonprofit organizations.

- Councils need more funding and resources than OWEB alone can provide.

- Even if OWEB were able to cover all capacity costs, *relying on funding from one source makes organizations less resilient and at risk.* OWEB grant funding may be reduced in the future, and can't guarantee funding for every council that applies.

- Over time, OWEB's capacity grants have funded more and more duplicative administrative infrastructure.

OWEB envisions a statewide watershed restoration system that is resilient, sustainable and achieves ecological outcomes. Experience gained from supporting watershed work since 1997, and studies of successful watershed groups, demonstrate this vision can be achieved with watershed councils that:

- Are strong organizations with access to diverse skillsets.

- Have broad and deep support from local and regional communities.

- Engage a balance of interested and affected people, businesses, and communities in their watershed to participate in voluntary, cooperative conservation.

- Secure diversified funding and/or build strategic collaborations with other councils and/or natural resource groups to increase collective local capacity.

Highlights of program changes

- Funding criteria are performance and outcome-based, and contain high standards for eligibility, reporting and accountability.

- Streamlined evaluation and award process.

- Policy direction to build capacity through resource sharing and strategic collaboration*, not through trying to fund all needs for all individual councils*. OWEB does not control or oversee councils. However, OWEB determines how to invest grant funds. OWEB's council capacity investment policy includes:

  o Strategic collaboration is not one-size-fits-all; it needs to work for your council.

  o Offer technical assistance grants for new strategic collaborations that are likely to build collective local capacity.

  o Develop merit criteria to recognize strategic collaboration that builds collective local capacity.

  o Geographic Area Eligibility Criteria: Cap eligibility for individual capacity grants at no more than 64 (based on watershed areas for councils that previously received an individual Watershed Council Support Grant).

    - This geographic criterion does not limit the number of *councils* that can exist, but determines which councils may apply for capacity *grants*. Geographic areas can change. However, OWEB wants to see stronger, collective local capacity instead of "splitting" and "subdividing" into smaller areas resulting in more competition for limited resources and duplication of administrative infrastructure.

  o If a council is considering changes in its watershed area coverage, organizational structure or operations, contact OWEB as early as possible to discuss the reasons and goals of these changes and whether the changes might affect eligibility to apply.

Before adopting the above policy direction, OWEB's Board considered:

- Allowing *all 90 (as of 2013)* locally recognized watershed councils to apply for grants. The Board did not want to increase the number of capacity grants because this would reduce each grant's impact over time.

- Reducing the number of *grants to 45*. The Board did not set a target for reducing grants, but recognized that 64 individual grants may have less impact over time, considering flat revenues, competing demands for limited funds, cost of living increases and need for diverse skillsets. For these reasons, the Board is interested in encouraging strategic collaboration to reduce the number of individual *grants* over time.

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I. DEFINITIONS:

These terms are terms used throughout this guidance. Additional definitions are provided in the Council Capacity rules, OAR 695-040-0020(1-7).

A. **"Coordinating council"** means a council that provides support to, and coordinates the work of, multiple councils. The coordinating council's governing body includes at least one member from each council it represents.

B. **"Membership organization"** means an organization with a defined group of individuals who play a role in the governance of the organization (i.e., by voting for a board of directors or other governing body that is responsible for the governance of the council).

C. **"Local government"** as defined in ORS 174.116(1)(a) means all cities, counties and local service districts located in this state, and all administrative subdivisions of those cities, counties and local service districts.

D. **"On-the-ground watershed restoration"** is defined as activities with the objective of altering the physical, chemical, or biological characteristics of the landscape in order to improve ecological process and function. For example: Removing a culvert to improve fish access to habitat and improve the stream's natural function; installing fencing to manage upland grazing to restore and enhance native vegetation diversity, improve wildlife habitat, and improve water quality by reducing erosion. While activities such as trail maintenance and volunteer river clean-ups are positive and can be part of a council's activities, *these actions by themselves* do not have a broad ecological objective of addressing both the watershed problem and the source of the problem, and do not meet this definition.

E. **"Community engagement"** is defined as activities with the objective of building ongoing, permanent relationships with a balance of interested and affected persons in the watershed, for the purpose of engaging a high level of citizen participation in the priority work of the council. For example: Watershed council meetings open to the general public, restoration project tours, fundraising events, events with invited speakers and presentations, river clean-ups, and volunteer planting events.

F. **"Organizational development and management"** is defined as activities with the objective of improving the council's organizational effectiveness and health. For example: Board or governing body training on roles and responsibilities; reviewing and updating personnel policies; recruitment of board or governing body members to improve the council's fundraising or other organizational need; updating a council's strategic plan; staff and/or board retreats.

II. ELIGIBILITY CRITERIA (Which Councils Are Eligible to Apply for Council Capacity Grants)

A. Purpose of Eligibility Criteria: OAR 695-040-0030(1)

Eligibility criteria define how OWEB will determine a watershed council's eligibility to apply for Council Capacity grants. *The eligibility criteria do not limit or control the existence or creation of watershed councils.* Watershed councils may form around the state according to ORS 541.910 and 541.890(15); **however, applications for Council Capacity grant funding will not be accepted unless OWEB determines the council or group of councils meets all the eligibility criteria.**

Eligibility criteria seek to ensure that OWEB's council capacity investment:

1. Is an effective and accountable use of public funds;
2. Supports councils that meet the intent of Oregon statutes defining watershed councils;
3. Encourages strategic collaboration to build collective local capacity for watershed restoration.

B. How OWEB will Evaluate Eligibility of a Group of Councils with One Capacity Grant

OWEB's Eligibility Review is simpler for multiple councils that operate collectively, II.B.1, because there is a coordinating council that coordinates and supports actions of all the councils. OWEB's Eligibility Review for multiple councils that operate independently, II.B.2, needs to ensure that all independent councils meet the eligibility criteria.

1. **Group of Councils Operating Collectively**

   If OWEB determines that two or more councils operate collectively, only the coordinating council serving as applicant needs to meet eligibility criteria. *The coordinating council is responsible for ensuring all participating councils in the collective are covered by, and following, the coordinating council's bylaws.*

   a. OWEB will determine whether councils operate collectively using the following indicators:
      i. One governing body coordinates the work of all councils (the "coordinating council");
      ii. An agreement defines how councils share staff or services to carry out the work of participating councils;
      iii. Individual councils are represented on the governing body of the coordinating council;
      iv. One Council Action Plan covers the work of all councils; and
      v. All councils operate under one set of bylaws or charter adopted by the coordinating council.

2. **Group of Councils Operating Independently**

   a. If OWEB determines the councils operate independently, *each council must meet all eligibility criteria (except III.B, Geographic Area and Population, which the <u>group</u> of councils must meet).* OWEB will determine whether councils operate independently using the following indicators :
      i. Each council has its own council coordinator or executive director; governing body; bylaws, policies and procedures; and Council Action Plan.

   b. If one or more of the independent councils does not meet all eligibility criteria, then none of the councils can apply for a Council Capacity grant during the upcoming cycle.
      i. A Memorandum of Agreement must be submitted with other eligibility materials that describes, at a minimum, roles and responsibilities of each council in relation to the Council Capacity grant application and reporting requirements, and a plan for how the councils will allocate a Council Capacity grant, if awarded, between them.

C. **What do councils need to do for Eligibility Criteria?**

Councils are responsible for:

1. Determining whether existing council documents and information meet eligibility criteria. Download the eligibility checklist on OWEB's website and review the council's documents and information. Update documents and information as needed.

2. Confirming OWEB's files contain all documents and information required by the eligibility criteria. Detailed step-by-step instructions for reviewing and updating these files are available at the 'Council Capacity Grant' link in OGMS.

3. Confirming that the council's documents and information on file with OWEB contain the provisions and information required by OAR 695-040-0030 and this Guidance.

4. Submitting all required documents and information and the online Request for Eligibility Review through OGMS online by the eligibility deadline.

OWEB staff will not perform this record confirmation or eligibility request on behalf of the council.

D. **Councils Must Meet Eligibility Deadline**

1. OWEB will review Requests for Eligibility Review received by OGMS on the eligibility deadline**. If a council does not meet the eligibility deadline, it cannot apply for a Council Capacity grant. This is not subject to appeal.**

2. **Deadlines Announced and Posted**
Generally, the eligibility deadline will be in November of each even-numbered year, starting in 2014. The specific day will be posted on OWEB's website, OGMS, and announced by email at least two months before the deadline.

E. **Option for Early Eligibility Review Request**
Councils may Request Eligibility Review prior to the eligibility deadline. OWEB staff may (but is not required to) review materials before the deadline and notify councils of the results on a rolling basis. **However, OWEB staff will conduct Eligibility Review of a council only once, not multiple times.**

F. **Late Materials Not Accepted or Reviewed**
OWEB will not review any documents or information submitted to OWEB after the eligibility deadline, except as provided in II.F.1 below and appeal process at IV.F.

1. **2015 Cycle Only: Extended Deadline for Councils Without Action Plans**
   a. For the 2015 cycle only, councils that do not have a Council Action Plan have an extended deadline to submit the plan to OWEB.

   b. **Deadline**: OWEB must receive the completed Council Action Plan and documentation of its adoption by the council's governing body by **May 1, 2015**.

   c. The council is responsible for verifying that OWEB received the completed Council Action Plan and documentation of its adoption by the deadline. If OWEB has not received required documents by the deadline, the council is not eligible to apply for a Council Capacity grant and the council's grant application will be removed from consideration.

   d. See section III.F for more information on Council Action Plans.

G. **If OGMS Eligibility Review process is not available**
If the OGMS Eligibility Review Request process becomes unavailable within 48 hours of the deadline, OWEB staff will send an email to watershed councils explaining the alternative process, including any changes in deadlines if necessary. When the OGMS Eligibility Review Request process is available again, OWEB will email watershed councils that the online process is again available for use, including any changes in deadlines.

III. ELIGIBILITY CRITERIA AND OWEB REVIEW (OAR 695-040-0030)

A. Local government designation as a watershed council

OWEB will determine local government designation as a watershed council by reviewing the local government ordinance or minutes of a local government action.

1. If the council or group of councils previously received a Watershed Council Support Grant, any local government designation is acceptable.

2. If the council or group of councils was locally designated after July 1, 2013, it must be designated by a county court, county commission or county board and the documentation submitted to OWEB must include a map of the geographic area designated by the local government.

B. Geographic Area and Population

A geographic area served by a council or group of councils can change. However, to be eligible, OWEB must determine that a council or group of councils serve an area:

1. In which a council or group of councils previously received a Watershed Council Support Grant or Council Capacity Grant; and

2. Which is the same or larger than the geographic area served by a council or group of councils as of July 1, 2013.

3. The geographic area must include a minimum population of 500 individuals within its designated boundary or boundaries; and

4. No more than one applicant is eligible for the same geographic area.

5. **Reason for Geographic Area Criteria**
   OWEB wants to see councils that are strong organizations with access to diverse skillsets needed to achieve ecological outcomes. The geographic area criteria is responsive to fiscal and operational realities that were not anticipated when OWEB first offered council support grants. After considering whether to open Council Capacity grants to all 90 (as of 2013) locally recognized councils, the OWEB Board adopted a policy direction to build capacity through encouraging resource sharing and strategic collaboration, *not through trying to fund all needs for all individual councils.*

   To support this direction, the Board capped eligibility for individual grants at no more than 64 (based on watershed areas for councils that previously received an individual Watershed Council Support Grant). Geographic areas can change, but OWEB wants to see stronger, collective local capacity, not "splitting" and "subdividing" into smaller areas resulting in more competition for limited resources and more duplication of administrative infrastructure.

6. **Reason for Population Requirements**
   OWEB recognizes the value of parts of Oregon with very small populations. However, OWEB alone cannot fully support all capacity needs. Councils need resources and support from local and regional communities and partnerships. OWEB investment should be accompanied by a population threshold that can help sustain over time the "people and funding" resources needed for a resilient and sustainable council.

7. **How will OWEB calculate population if there is a question?**
   OWEB will use the most current U.S. Census Bureau's census block shapefile for the state of Oregon and if necessary, absentee landowner information from county records.

C.   Current Bylaws or Charter Must Include Required Governance Provisions.
OWEB will review the bylaws or charter language and documentation of governing body adoption to determine whether the council's bylaws or charter meet Section III.C.2-8.

1. **Reason for required governance provisions and balance of interests.**
   Councils that receive public funding to support day to day operations must have effective governance structures in place that hold the council accountable to its actions.   A balance of interests is required to comply with Oregon statutes that define watershed councils; is important for voluntary, collaborative conservation; and for building an enduring, stable watershed council organization by gaining broad-based and deep community support and engagement.

2. **Council Mission.**
   The bylaws or charter must demonstrate the council's mission aligns with OWEB's purpose as described in Ballot Measure 76 and Oregon statutes. A council may have multiple purposes. However, at a minimum, the bylaws or charter must recite that a primary purpose of the council is to represent the broad and diverse geographic areas and community interests in the watershed and work collaboratively with these interests and landowners to develop and carry out voluntary watershed protection, restoration, enhancement, and community engagement activities.

3. **Balance of Interested and Affected Persons in the Watershed**
   The bylaws or charter must contain a section specifically stating the council's governing body must represent a balance of interested and affected persons in the watershed as required by ORS 541.910(2).

4. **Membership Organization Provisions.**
   If the council is a membership organization, the bylaws or charter must contain provisions defining who is eligible for council membership and define mechanisms to remove members from the council.

5. **Governing Body Establishment, Service, Powers.**
   The bylaws or charter must contain provisions describing:

   a. The watershed council's governing body,

   b. How the governing body is established,

   c. Who is eligible to serve on the governing body,

   d. Length of service of governing body members,

   e. Procedures for removal of governing body members, and

   f. Powers of governing body members.

6. **Watershed Council Officers.**
   The bylaws or charter must contain provisions describing:

   a. Titles of officers, e.g., Chair, President, Secretary, Treasurer

   b. How officers are selected,

   c. Who is eligible as an officer of the council,

   d. Length of service for officers,

   e. Procedures for removal of officers, and

   f. Powers of officers.

7. **Watershed Council Operations and Decisions.**
   The bylaws or charter must contain provisions describing:

   a. Minimum frequency, at least quarterly, of council membership public meetings if it is a membership organization,

   b. Minimum frequency, at least quarterly, of council governing body meetings,

   c. Process for committee formation, and

   d. How the watershed council makes decisions.

8. **Process for Amending Bylaws or Charter.**
   The bylaws or charter must contain provisions describing the watershed council's process for amending the bylaws or charter.

D. Current Policies and Procedures Include Required Provisions.
OWEB will review council policies and procedures and governing body records of adoption to confirm these documents contain all provisions described in III.D.2-9 below, and were adopted by the council's governing body.

Documentation of adoption can be 1) Meeting minutes documenting the policies and procedures document(s) adoption; or 2) A signature page. The signature page must be contained within the document and be signed by the Board Chair or Secretary, dated, and indicate the action taken by the governing body.

1. **Reason for required provisions in policies and procedures.**
   Councils receiving public funds must have policies and procedures for best-practice business operations that are open and inclusive and promote the balance of interests and citizen involvement required by Oregon statutes.

2. **Balance of Interests in the Watershed specifically addressing:**
   a. Geographic areas represented on the council's governing body,
   b. Community interests represented on the council's governing body,
   c. How those interests reflect a balance of interested and affected persons in the watershed, and
   d. Activities used to ensure this balance of interests is represented, such as a membership or governing body recruitment plan.

3. **Governing Body Regular, Published Meeting Schedule.**

4. **Description of Council Officer Roles and Responsibilities.**

5. **Council Public Advertisement of Governing Body Meeting and Council Activities.**

6. **Governing Body Meetings include Agendas, Attendance Records and Minutes.**

7. **General Meetings are Open to the Public, Include Agendas, Records of Attendance and Decisions made by Members.**

8. **Provide to the Public Upon Request Meeting Agendas, and Records of Governing Body Decisions.**
   a. Does not include personnel discussions and actions.

9. **Statement against using litigation to compel regulatory enforcement as a means to implement its mission.**
   a. The council may use legal action to enforce contracts.
   b. Councils that use litigation to pursue protection, enhancement or restoration of watershed health (for example, litigation to enforce environmental regulations) will not be eligible for Council Capacity Grants.

E. Certification of Compliance with GAAP.
OWEB will determine whether the council, or the council's fiscal sponsor, follows Generally Accepted Accounting Practices (GAAP) by reviewing the certification submitted for the Eligibility Review process.

The certification is a letter signed by the treasurer of the council's governing body, or the director or treasurer of the council's fiscal sponsor, certifying that the council, or its fiscal sponsor, has fiscal policies and procedures that follow Generally Accepted Accounting Practices (GAAP).

Reason for certification of compliance with GAAP: Councils that receive public funds should have practices in place for effective and accountable financial management. Generally Accepted Accounting Practices (GAAP) is a well-known and accepted standard of accounting.

F.   Council Action Plan
OWEB will determine whether the council's governing body adopted a Council Action Plan by reviewing the plan(s) and evidence of governing body adoption on file in OWEB's records, and confirming plans meet requirements in Sections III.F.1 below.

Reason for action plan requirement: There are almost unlimited opportunities for ecological restoration in Oregon's watersheds. By adopting action plans, councils demonstrate their ability to effectively plan and prioritize restoration actions.

1.   Council Action Plan is not a watershed assessment and is not the online council work plan for Council Capacity Grants. At a minimum, the council's governing body must have adopted a plan or set of plans that identify and prioritize ecological problems the council seeks to address, and voluntary restoration activities the council will conduct to address those problems. The plan(s) can either be for the entire watershed or for sub watersheds, depending on the focus areas of the council.

2.   Council Action Plans may include more than the minimum requirements. For example, action plans may contain goals and objectives for on-the-ground restoration, community engagement efforts, and funding strategies for priority restoration work. Action plans are living documents that will change over time as projects are implemented and new priorities arise.

G.   The Council is a Defined Organization or Has a Fiscal Sponsorship Agreement
OWEB will determine whether the council has in place specific organizational recognition through the State of Oregon, or a written fiscal sponsorship agreement with an appropriate organization or government.

Reason for requiring defined organization or fiscal sponsor. Council Capacity grant agreements should be with a legal entity which has the responsibility to manage, and can be held accountable for management of, public funds.

OWEB will determine whether the council has at least one of the following:

1.   An Oregon registration number (for example, a limited liability company (LLC) or 501(c)(3) organization). OWEB will verify this registration number by using the Secretary of State Business Registry Database.

2.   A current written fiscal sponsorship agreement between the council and a 501(c)(3) organization, a Soil and Water Conservation District, city, county, or tribal government.

IV.   OWEB DETERMINATION OF ELIGIBILITY TO APPLY: OAR 695-040-0090

A.   OWEB's Grant Program Coordinator, or designee appointed by the OWEB Executive Director, will review eligibility documents and information on file with OWEB for each council or group of councils that requested Eligibility Review on or before the eligibility deadline.

1.   If a council submits an Eligibility Review request after the eligibility deadline, its request will not be reviewed and it cannot apply for a Council Capacity grant.

B.   The Grant Program Coordinator will consult with the appropriate Regional Program Representative, and present recommendations on eligibility determination to the Grant Program Manager.

C.   The Grant Program Manager, or designee appointed by the OWEB Executive Director, will make the eligibility determination subject to the appeal process outlined in IV.F below.

D.   Once OWEB has determined a council or group of councils is eligible to apply, for future Council Capacity Grant cycles the council(s) may certify by the eligibility deadline that nothing has changed related to eligibility criteria requirements.   OWEB may accept this certification and not conduct Eligibility Review; or, if OWEB has questions whether eligibility conditions have changed, OWEB may conduct a new Eligibility Review.

E. **Notice of eligibility determination**
Within 4 weeks of the eligibility criteria deadline, OWEB will notify each council that timely requested Eligibility Review of OWEB's determination.

1. **For a council that meets all eligibility criteria**, OWEB will notify the council by email confirming eligibility to submit a Council Capacity grant application.

2. **For a council that does not meet all eligibility criteria**, OWEB will email *and* send a registered or certified letter to the council chair and coordinator. The letter will summarize the reasons OWEB determined the council is not eligible, and explain the council's option to appeal under Section AA below.

3. **If OWEB has questions whether a council meets the eligibility criteria**, OWEB will email *and* send a registered or certified letter to the council chair and coordinator. OWEB's letter may include questions and requests for supplemental information.

   a. OWEB must receive the council's response, including any requested information, no later than 5:00 p.m. five business days from the date of OWEB's certified or registered letter. The council's submittal of additional information must be sent to OWEB by mail or delivery service that provides documentation of receipt.

   b. If the council does not submit all requested information within five business days from the date of the letter, OWEB will notify the council by email *and* registered or certified letter that it does not meet the eligibility criteria, and explain the option to appeal under Section AA below.

   c. If the council submits all requested information by the deadline, it will be reviewed by the Grant Program Coordinator and Grant Program Manager, who may consult with other OWEB staff as they determine appropriate. Within 2 weeks after the requested information is submitted to OWEB, OWEB will notify the council of its eligibility determination.

F. **Appeal Process**
1. **Opportunity to Appeal to OWEB Executive Director**

   If a council disputes that it is not eligible to apply and wishes to appeal, it must follow all of these requirements.

   a. OWEB must receive a letter of appeal, signed by the council's board chair or other officer, within 14 business days of the date of OWEB's certified or registered letter that notified the council it is not eligible.

   b. The council's appeal letter and any attachments must be sent to OWEB by mail or delivery service that provides documentation of receipt.

   c. OWEB's Executive Director will review the council's letter and any attached information. The Executive Director must determine the council provided clear and convincing evidence that OWEB's determination was in error based on errors of fact. Letters of support and other information not related to demonstrating errors of fact in OWEB's determination should not be submitted and will not be considered by OWEB in this appeal process.

2. **OWEB Board Will Not Decide Appeals.**

   The council may provide information or testimony to the OWEB Board, but the OWEB Board will not make determinations on the appeal. The OWEB Executive Director will make a final decision on the appeal.

3. **Future Eligibility Review Requests Allowed.**

   Councils that are determined to be ineligible for a particular Council Capacity Grant offering may request Eligibility Review during future Council Capacity Grant offerings.

V. HOW TO APPLY FOR A COUNCIL CAPACITY GRANT: OAR 695-040-0100

A. Deadlines to Apply.

After OWEB notifies a council it is eligible to apply, the council may apply for a Council Capacity grant. Generally, the application deadline will be in February every odd-numbered year beginning in 2015. All applications must be received by OWEB through OGMS on or before the application deadline set by the OWEB Board. OWEB will not accept late applications.

B. Apply Online through OGMS.

1. Applications must be made through the "Council Capacity Grants" link in the OGMS menu.

2. If the OGMS application process becomes unavailable within 48 hours before the application deadline, OWEB will send an email to watershed councils explaining the alternative process, including any changes in deadlines if necessary. When the OGMS application process becomes available, OWEB will email watershed councils stating that the online process is again available for use, including any changes in deadlines.

C. Applications.

1. **One set of materials; late information not accepted.** Required application materials are one (1) completed Application form and one (1) completed Online 2-Year Work Plan. Applications and Work Plans will be considered complete as submitted. OWEB will not accept corrections or supplemental information after the application deadline.

2. **Two or more independent councils submit one work plan**. If an application is submitted on behalf of two or more councils operating independently, the councils must submit one combined work plan adopted by the governing body of each council. The reason for this requirement is to facilitate OWEB's merit evaluation using one work plan that includes both councils.

3. **Online Work Plans should follow Work Plan guidance.** OWEB guidance for the 2-Year Work Plans is posted on OGMS. OWEB expects councils applying for Council Capacity grants to follow the Work Plan guidance to accurately populate the Work Plan. Work Plans not following the Work Plan guidance may be more difficult to evaluate, resulting in questions or concerns about whether the council meets the merit criteria.

4. **Additional materials not accepted.** Do not submit any additional or supporting materials. OWEB may request supplemental information during the merit evaluation process.

VI. MERIT EVALUATION 695-040-0110

A. Overview

The five merit criteria outlined below help guide OWEB's evaluation of a council's progress and performance. OWEB will consider information in the council's 2-year work plans and annual work plan updates, the Council Capacity grant application, and OWEB staff's knowledge of council performance through the council's OWEB project grants and OWEB staff's attendance at council meetings and events. OWEB may also consider supplemental information provided by the council in response to OWEB's request, and interviews of council governing body members and staff.

B. Merit Criteria

1. **Merit Criterion #1: Effective Governance.**
   The council follows its bylaws or charter and policies and procedures, and regularly evaluates and takes actions to improve its organizational development.

   Evidence of Effective Governance
   a. The council holds elections according to the council bylaws or charter.

b. The council holds governing body meetings according to the council bylaws or charter.

c. If the council is a membership organization,

    i. The council holds membership meetings according to the council bylaws or charter,

    ii. The council membership meetings include agendas, attendance records, and records of decisions, and

    iii. The council keeps this information on file and makes it available to the public upon request.

d. The council publishes its meeting schedule according to its governing body adopted policies and procedures.

e. The council governing body meetings include agendas, attendance records, and minutes; the council keeps this information on file and makes it available to the public upon request.

f. The council completes a self-evaluation or other assessment of its governing body at least once every two years.

2. **Merit Criterion #2: Effective Management.**
The governing body takes action to ensure the council meets legal obligations and requirements; supports successful achievement of the council's goals; and creates a structure, policies, and procedures to support good governance, including oversight of staff and contractors and continuously improving its business practices.

Evidence of Effective Management
a. The council's governing body and officers (e.g. chair, president, vice chair, secretary, treasurer) follow the council's roles and responsibilities for their positions.

b. The council has on file a current position description or set of deliverables for the council's executive director or coordinator.

c. The council has, and follows, its personnel policies.

3. **Merit Criterion #3: Progress in Planning**
In planning its priority work, the council makes progress in engaging a balance of interested and affected persons in the watershed. The council uses its planning documents, such as the action plan, strategic plan, and other relevant documents, to identify and implement on-the-ground watershed restoration and community engagement projects. The council regularly evaluates its action plan and work plans and makes adjustments to respond to changes and challenges.

Evidence of Progress in Planning
a. The council's 2-year work plan is adopted by the council's governing body prior to Council Capacity grant application deadlines.

b. Work plan projects are linked to council-identified watershed limiting factors (as identified in the work plan).

c. Council work plans are developed with consideration of the council's staffing and organizational resources.

d. The council's 2-year work plan and annual updates includes specific projects demonstrating the council is working with stakeholders to plan and prioritize work to address current needs. Examples include working with a technical team, or a council project committee, to review and update the council's action planning documents.

4. **Merit Criterion #4: Progress in On-the-Ground Watershed Restoration**
The council's actions result in progress in completing priority, on-the-ground watershed restoration work tied to council-identified watershed limiting factors (as identified in the 2-year work plan).

Evidence of Progress in On-the-Ground Watershed Restoration
a. The council's 2-year work plan and annual updates demonstrate the council's actions resulted in progress towards completing priority on-the-ground restoration projects. The 2-year work plan and its annual updates include progress reports on the percent complete, project

challenges, and specific deliverables achieved for each on-the-ground restoration activity in the work plan.

   b. The council's on-the-ground watershed restoration activities are linked to council-identified watershed limiting factors (identified in the 2-year work plan). OWEB will not evaluate whether the council is working on the correct limiting factors, but will evaluate whether the council's on-the-ground restoration projects are linked to those limiting factors.

5. **Merit Criterion #5: Progress in Community Engagement for Watershed Restoration Purposes**
   The council's actions engage a balance of interested and affected persons in the watershed, and result in progress in achieving specific community engagement objectives that address limiting factors identified in the 2-year work plan.

   Evidence of Progress in Community Engagement
   a. The council has made progress completing its community engagement activities. The council's online 2-year work plan and annual updates include progress reports on the percent complete, project challenges, and deliverables achieved for each community engagement activity in the work plan.

   b. The council's community engagement activities are linked to limiting factors identified in the work plan. For example: If the 2-year work plan identifies organizational development as a limiting factor, community engagement activity might be a membership development plan or board member recruitment plan.

   c. The council's work plan and annual updates show progress in engaging a balance of interested and affected persons and interests within the watershed in council activities.

C.   Future Strategic Collaboration Merit Criteria

Before the 2017 Council Capacity Grant cycle, OWEB will work with stakeholders to develop sixth merit criteria to recognize strategic collaboration among councils and other organizations, *which builds collective local capacity for watershed restoration.*

OWEB believes councils that explore or expand collaborations to build organizational capacity will increase their ability to achieve restoration and community engagement goals.

Strategic collaborations are not one-size-fits-all; they need to work for your council. Examples of strategic collaborations include shared services; fiscal sponsorship; and mergers. Strategic collaborations can:

1. Build economies of scale and increase cost savings;

2. Strengthen partners' infrastructure, management capacity or service delivery;

3. Create strategies and solutions to address common problems; and

4. Cover skill gaps.

D.   Merit Evaluation Process 695-040-0110

1. **Initial OWEB Evaluation Process**

   a. Who

      The Grant Program Coordinator will review all Council Capacity grant applications.

      Regional Program staff will review all applications within their OWEB region.

      Focused Investment staff will review all applications of councils that have received OWEB Focused Investment grants.

      Monitoring and Reporting staff will review all applications of councils that have received OWEB monitoring grants or are involved with monitoring projects involving OWEB's Monitoring and Reporting section.

   b. What

      OWEB staff, including the Grant Program Coordinator, Grant Program Manager, appropriate Regional Program Representative, and relevant Focused Investment and Monitoring and Reporting staff, will meet to evaluate the merit criteria by considering:

i. The council's answers to the Council Capacity grant application questions;

ii. The council's 2-year work plans and annual work plan updates;

iii. OWEB staff's knowledge of the council, including but not limited to the council's history of performance on project and Council Capacity grants.

OWEB staff will develop initial merit evaluation recommendations. If OWEB staff do not have a consensus recommendation, the OWEB Grant Program Manager in consultation with the Grant Program Coordinator and considering input from all OWEB staff involved in the review, will make the initial merit evaluation.

The staff recommendation will be one of the following:

i. The council meets all merit criteria and does not need a secondary evaluation process;

ii. The council does not meet all merit criteria, or staff has questions or concerns about the application or the council's history of performance, and the council will be invited to participate in the secondary evaluation process; or

iii. The council is a new applicant and will be invited to participate in the secondary evaluation process.

- A new applicant is defined as any watershed council that has never previously applied to OWEB for an individual Watershed Council Support Grant or individual Council Capacity grant.

The Grant Program Coordinator and the Grant Program Manager will communicate the initial merit evaluation recommendations to the OWEB Executive Director prior to notifying councils.

c. Notification of results of initial merit evaluation

i. OWEB **determines the council meets all of merit criteria**

The Grant Program Coordinator will notify the council via email and letter that it meets all merit criteria and will be recommended for funding at the highest merit level. No additional action is required by these councils.

ii. **No determination that the council meets all merit criteria; or new applicant**

The Grant Program Coordinator will notify the council coordinator and governing body chair via email and certified or registered letter that OWEB needs more information to answer questions or concerns about the application or the council's history of performance. The letter will invite the council to participate in the secondary evaluation process.

a. OWEB's email and certified or registered letter to the council may include:

1. Information on how to schedule an interview. Only the council coordinator and council officers will be invited to participate in the interview.

2. A list of additional information or documents OWEB wants to review. The letter will contain information on how and when to submit materials.

3. OWEB will not grant requests for extensions of time to submit additional information and materials.

4. If a council does not submit the requested additional materials and information by the deadline set forth in OWEB's letter and email, the secondary evaluation process will consider the original application materials, work plans, and history of performance.

2. **Secondary Evaluation Process**

a. Secondary evaluation panel

i. OWEB Staff: Grant Program Coordinator, Grant Program Manager, Regional Program staff, if a council located in their OWEB region is invited to the secondary evaluation process

  ii. External Reviewers: The Grant Program Coordinator, in consultation with the Grant Program Manager and Regional Program staff, will develop a possible list of external reviewers. Panel members will be confirmed after OWEB determines which councils are invited to the secondary evaluation process. At a minimum the panel will include two representatives with statewide perspectives, one who works east and one who works west of the Cascades. In addition one representative from each OWEB region will be included, if applicable. This will vary based on which councils OWEB invites to participate in the secondary evaluation process.

  iii. Information: OWEB will send the following materials to secondary evaluation panel members prior to the interview.

   a. Council Capacity grant application

   b. 2-year work plans and annual work plan updates.

   c. Additional information and documents provided by the council at the OWEB's request.

   d. OWEB memo summarizing the initial merit evaluation, questions and concerns, and topic areas to be covered in the interview.

 b. The interview
  The Secondary Evaluation Panel will interview the council.   The interview will focus on questions and concerns raised during the initial merit evaluation. The council should not plan to make a presentation, since that would take away from the time to respond to questions.

 c. The discussion
  Following the interview, the Secondary Evaluation Panel will discuss whether the interview and additional materials provided by the council should change the initial merit evaluation. The external reviewers do not make funding recommendations to OWEB staff. Staff will consider feedback from the Secondary Evaluation Panel when making merit evaluation and funding recommendations to the OWEB Board.

3. **Notification of OWEB Merit Evaluation and Funding Recommendation**
OWEB will prepare brief summaries of the merit evaluations for each applicant. The evaluations and staff funding recommendations will be posted in OGMS at least 2 weeks before the OWEB board meeting which will consider Council Capacity awards.   Evaluation summaries will explain OWEB's evaluation of the merit criteria and the reasons for staff funding recommendations.

VII. Board Action on Eligible Applications 695-040-0120

A. OWEB Is Not Required to Award Council Capacity Grants.
Council Capacity grants are a core element of OWEB's Long-Term Investment Strategy for Conservation; however, OWEB is not required to provide capacity grants to councils.   OWEB funding criteria for Council Capacity grants are performance and outcome-based, and contain high standards for eligibility, reporting and accountability.

B. Staff Recommendations and Board Awards
Staff funding recommendations and Board awards will be based on 1) the merit criteria evaluation and 2) available funding, taking into consideration OWEB's Legislatively Adopted Budget, the Board's spending plan, and OWEB's revenues (e.g., the amount of federal grant funds OWEB receives and performance of Measure 76 Lottery revenues).

C. Staff funding recommendations and Board awards may include:
 1. **Full base award for councils that meet all merit criteria**

Councils meeting all merit criteria will be placed in the highest merit category and be recommended for the same level of award. OWEB's goal is to reward these councils by providing the highest possible Council Capacity grant award, considering available funding.

a. **2015-2017 only, defined umbrella councils only: Full base award plus added umbrella funding**

   This section is intended to apply only to the 2015-2017 Council Capacity grant cycle. By the 2017-2019 Council Capacity grant cycle, OWEB plans to eliminate the added umbrella funding and implement a new merit criteria to recognize strategic collaboration that results in increased collective local capacity.

   A council is not eligible for added umbrella funding unless OWEB determines all of the following:

   i. The council received added umbrella funding in its 2013-2015 Watershed Council Support Grant,

   ii. The council meets the applicable umbrella definitions, and

   iii. The council meets all merit criteria.

b. **Umbrella definitions:**

   i. The council provides support to and coordination for at least three watershed councils, has a coordinating council, shared staff, and a single Council Capacity grant, or

   ii. The council serves an area containing three or more 4th field hydrologic units.

   iii. The council meets both (i) and (ii) definitions.

c. **Amount of Added umbrella funding:**
   OWEB will add to the council's base award a percentage of that base award. Percentages will vary by type (i), (ii), and (i)/(ii) umbrella definition. The amount of added funding will be in OWEB's discretion, considering available funding and the amount of added umbrella funding in the most recent Watershed Council Support Grant award for the council.

2. **Reduced base funding for councils that do not meet all merit criteria**
   Councils that do not meet all merit criteria will be placed in the reduced funding merit category and recommended for the same level of award. The intent of reduced funding is to provide an incentive for the council to improve performance to receive full funding. The reduced funding base award will be 80% of the full base award. For example, if the full base award is $100,000, the reduced base award will be $80,000.

3. **Reduced based funding for more than two grant cycles results in do not fund ranking**
   If a council or group of councils is placed in the reduced base funding category for two grant cycles and does not meet all merit criteria during the third grant cycle, it will be placed in the "do not fund" category.

4. **Discretion to rank Do not fund (inadequate performance)**
   OWEB has the discretion to place a council in the "do not fund" merit category at any time. Factors OWEB will consider in this placement include:

   a. The council does not meet all merit criteria.

   b. The council's history of performance over a period of years has resulted in little or no progress toward implementation and completion of on-the-ground watershed restoration projects.

   c. The council's history of performance over a period of years has resulted in little or no progress toward implementation and completion of community engagement projects

   d. The council's history of organizational performance over a period of years has shown lack of board officer leadership, weak organizational structure and operations.

   e. The council has made little or no progress toward implementation and completion of organizational development and management activities.

D. Funding conditions.

Recommendations and awards may include conditions of funding. For example, grantees must submit progress reports, or complete certain actions, as a condition of receiving full funding under the award. Funding conditions may allow OWEB staff to terminate the grant agreement under certain circumstances. OWEB staff would consult with the Executive Director before terminating a grant agreement.

E. Board discretion to award grants for larger geographic area.

The Board wants its Council Capacity grant program to help build capacity through resource sharing and strategic collaboration, *not through trying to fund all needs for all individual councils*. The result of effective strategic collaboration should be stronger, collective local capacity instead of "splitting" and "subdividing" into smaller areas resulting in more competition for limited resources and duplication of administrative infrastructure.

Under OAR 695-040-0030(2)(d), the Board may award an individual Council Capacity grant for a larger geographic area when the award will increase strategic collaboration and resource sharing, inter-watershed coordination, and foster organizational resilience and watershed restoration outcomes at a larger landscape scale.

The Board has not adopted guidance to implement OAR 695-040-0030(2)(d), and this section of the rules is not currently implemented. Prior to implementation, this Guidance document will be updated through a process that includes public comment and Board adoption.

VIII. USE OF FUNDS 695-040-0130

Council Capacity Grants help fund staff, contractors and operating costs of watershed councils as defined in "Operating Capacity Grants for Watershed Councils and Soil and Water Conservation Districts" in OWEB's January 2014 Budget Categories Definitions and Policy at http://www.oregon.gov/OWEB/forms/2014-01budget_category_defs.pdf .

IX. GRANT AGREEMENT CONDITIONS 695-040-0140

A. OWEB Grant Agreements for Council Capacity grants will include at a minimum the following requirements:

1. Submit an online work plan update by the date specified in the Council Capacity grant agreement.

2. Submit an annual report to all local government entities that designated the council.

    a. The council must submit documentation to OWEB demonstrating the report was submitted. Documentation can include a meeting agenda if the report was presented in person, a copy of a sent email if the report was submitted electronically, or a copy of a certified letter.

3. Obtain appropriate levels of insurance coverage commensurate with council activities.

B. Grant agreements may include conditions of funding, for example, require councils to submit progress reports, or complete certain actions, as a condition of receiving full funding under the award. Conditions may allow OWEB staff to terminate the grant agreement if conditions are not met. OWEB staff would consult with the Executive Director before terminating a grant agreement.