

OREGON HOUSING AND COMMUNITY SERVICES

Hearing Officer's Report to Agency on Rulemaking Hearing

Date (of report):	March 31, 2025
To:	OHCS
From:	Jaci Davis
Subject:	Hearing Officer's Report on Rulemaking Hearing
RAC Date:	N/A
Public Hearing Date:	3/20/2025
Hearing Location:	ZOOM
Rule Number:	813-135
Rule Title:	LIFT update, split HOD and ARH manuals

Rules Advisory Committee

Prior to filing the Notice of Proposed Rulemaking, OHCS engaged with impacted community members and brought in their feedback when drafting the updated program manual, to ensure negative impacts would be mitigated. The fiscal and economic impact statement were emailed and communicated with those that were involved in the develop of the program manuals. No formal Rules Advisory Committee was convened prior to publishing these drafted changes.

Public Hearing for Rulemaking

The rulemaking hearing on the proposed rules was convened at 1pm on March 20, 2025. People were asked to update their displayed names because many were listed on the Hearing Officer's name, Jaci Davis. Those in attendance were informed of the procedures for taking comments. They also were told that the hearing was being recorded.

Before receiving comment, I briefly summarized the proposed rules.

List of Attendees:

Eleven people attended. Two people presented oral comments and two submitted written comments.

Summary of Oral Comments Short Version:

The following persons testified at the hearing, and their testimony is summarized. During the rules public hearing there was one question and one comment received. The question from a representative from Bridge Meadows and the department's response is listed within the written comments received. The comment provided expressed support for LIFT development resources, especially for rural partners. No oral comments received pertained to the draft rule language.

Summary of Written Comments:

The following persons submitted written comments at the hearing but did not testify. The hearing was adjourned at 130pm. The public comment period closed at 4 PM on March 31, 2025.

Received on 3/4/2025:

Can you please send me a redlined version of both the Ownership and Rental Manuals showing where the changes are occurring?

Thanks.

Layne Morrill

OUR COASTAL VILLAGE, INC.

OHCS Response: Sent redline version of the LIFT Rental Development program manual but the Homeownership program manual is new and there is no redline associated with that manual.

Received on 3/5/2025:

I have one comment on page 3 of the "Changes to Rule." In 813-135-0020, former subsection 9, renumbered 8, change "which the Affordable Renal Housing Division" to "which the Affordable Rental Housing Division."

Layne Morrill

OHCS Response: Feedback incorporated in drafted rule filing

Received on 3/19/2025: Question received via ORAL PUBLIC COMMENT

From Maryam Bolouri, Ph.D. (Bridge Meadows): *So I'm looking at the page 8 under the rental parts of the manual, I just want to clarify that there is no lift for 50% and 60% ami. So the lift amount is only for 30 and 40% ami?*

OHCS Response: *What is being referred to in the rental LIFT manual on page 8 is just a hypothetical scenario on how to calculate the LIFT subsidy using a hypothetical AMI. Since that hypothetical AMI was at 40% in the scenario, that is the only one that is*

shown in the example. LIFT is not just limited to 30 and 40% AMI and the AMI requirements are 60% AMI and below. Here is the language from page 1 of the manual:

Secondary goals of the LIFT Rental program are to place affordable housing units in operation as quickly as possible, while serving families earning at or below 60% of County Area Median Income (AMI).

On the bottom of page 7, the rental LIFT manual directs you to the subsidy limits that are in the ORCA manual (we didn't want to list them in two different manuals in the case that different version of each manual might change frequently). Here is the language from the manual:

LIFT Subsidy Limits

ORCA subsidy limits apply to LIFT funding. Please note that when applying for LIFT funding through the ORCA, where LIFT is the only source of OHCS funding, the maximum Subsidy Limits are higher than maximum Subsidy Limits for a project where LIFT is paired with 4% or 9% Low Income Housing Tax Credits (LIHTC). ORCA subsidy limits can be found in the ORCA manual. [Oregon Centralized Application \(ORCA\)](#).

Received on 3/20/2025:

Thank you for hosting the LIFT Rulemaking meeting today—I appreciate your time. I have a clarification question regarding the “like-new” LIFT acquisition option. My understanding is that the acquisition must be a market-rate building that received its Certificate of Occupancy within the last seven years, and LIFT funds cannot be used for renovation costs. Given this, would it be permissible to secure a construction loan, substantially rehabilitate a multifamily asset, and then use a LIFT takeout loan for the property? The building in question was originally constructed in the 1920s. Looking forward to your insights.

Neiv Allen Schwartz, Principal

OHCS Response: *Unfortunately, LIFT cannot be used in this scenario as it doesn't meet one of the three eligible activities, and a project must meet the criteria for the eligible LIFT activity that it is applying for. The three eligible activities of rental LIFT are: New Construction, the conversion of existing non-residential to affordable units; and the acquisition of like-new properties. LIFT can't pay for (or reimburse the payment for rehab activities), as the intent for LIFT is to create 'net-new affordable housing'; not the rehabilitation of existing residential units to make affordable.*

Rehabilitation of an existing building is not new construction. If this existing building is already residential, this does not meet the definition of conversion. This scenario also does

not meet the definition of 'like-new' as the property needs to have been built and placed in service in the last few years (7); and require no major rehabilitation needs.

Received on 3/31/2025:

See written comments provided by Christina Dirks, Director of Policy and Planning for Home Forward

Consideration and Integration of Public Comments:

The majority of feedback received during the rule engagement was not linked to the draft rule language, but questions and feedback around program design and intent. The summary of written comments above show the department's response and where feedback was incorporated.

Appendices:

A – Transcript of public hearing

B – Written comments provided by Home Forward

OREGON HOUSING AND COMMUNITY SERVICES

Hearing Officer Statement

Date: (03/19/2025)

813-135-0020, 813-135-0025, 813-135-0026, 813-135-0030, 813-135-0035, 813-135-0040, 813-135-0050, 813-135-0060

Preliminary Information/Logistics

My name is Jaci Davis, and I will be serving as OHCS's hearing officer. The purpose of this hearing is to take public comment on the rules proposed for adoption & amendment of Oregon Administrative Rule 813-135-0020, 813-135-0025, 813-135-0026, 813-135-0030, 813-135-0035, 813-135-0040, 813-135-0050, 813-135-0060 for the Local Innovation and Fast Track (LIFT) program by OHCS. No responses to questions will be made during today's hearing.

The agency will review issues raised during the public comment period, and the hearing officer's report will contain responses. In addition to the opportunity to present oral comments at this hearing, anyone may submit written comments until 4:00 PM on March 31st, which is the close of the public comment period. Comments received after that time will not be reviewed or considered by OHCS unless the agency decides to extend the public comment period for everyone.

Each person wishing to comment orally at this hearing should indicate by raising your virtual hand or unmuting yourself.

When I call your name, please state your name and who you represent. You may then present your comments. If you have written material to enter into the record, please say so, summarize it for the record, and submit it to the hearing officer.

I will begin the hearing in about five minutes to give you an opportunity to adjust and other to continue to come in before the recording begins. Are there any questions on how the hearing will be conducted?

No questions asked.

Hearing Officer Opening Statement

This hearing is now in session and is being digitally recorded to maintain a permanent record. My name is Jaci Davis and I am the hearing officer. Today is March 19th, 2025 and the time is 1:07 PM.

The purpose of this hearing is to provide an opportunity for public comment on the rules proposed for adoption & amendment of OAR 813-135-0020, 813-135-0025, 813-135-0026, 813-135-0030, 813-135-0035, 813-135-0040, 813-135-0050, 813-135-0060 for the Local Innovation and Fast Track (LIFT) program by OHCS. The proposed rules change to the LIFT program include:

- Splitting the current program manual into two different areas, rental housing and homeownership, so each program can better serve Oregonians and have the ability to amend the program guidance independently, to not cause delay on any other program sector.
- OHCS is now proposing to adopt a new section (0026) to specifically reference LIFT Rental Development guidelines.
- The Rental Development and Homeownership have included their program manuals, which are also available on OHCS website.
- In addition to providing program clarity, this rule amendment also adopts the recent program changes to the Homeownership Program Manual that will allow for project to be awarded a per-unit subsidy, which we believe will strengthen the resources needed to support rural development and developments with greater density.
- OHCS believes these rule changes will better align to the legal requirements in order to administer additional resources to Oregonians that qualify for LIFT resources, therefore there will be a positive fiscal impact from implementing these necessary rule changes. While LIFT Homeownership will likely see a decrease in number of units funded by the same amount of LIFT dollars, it is anticipated that the program changes will allow for a greater number

of units constructed in rural areas where LIFT has historically been difficult to access.

OHCS invites comments about these proposed rules and whether other options should be considered for achieving the rules' goals while reducing potential negative impacts that may derive from the rules as currently proposed.

In addition to presenting oral comments at this hearing, written comments may be submitted until 4:00 PM on 3/31, which is the close of the public comment period. Please submit comments to me, at Jaci.Davis@hcs.oregon.gov or emailing the OHCS Rules Team at: [HCS DL HCS Rules Team@hcs.oregon.gov](mailto:HCS_DL_HCS_Rules_Team@hcs.oregon.gov). Comments received after 4:00 PM on 3/31 will not be reviewed or considered by OHCS unless the agency decides to extend the public comment period for everyone.

OHCS will not respond to questions during this hearing. After the close of the public comment period, I will prepare a report to OHCS capturing all comments and responses.

I will begin taking comments now. Please begin by calling on those that have identified (raise hand, unmute) and record their name for your report.

Oral Comments Received:

Maryam Bolouri, Ph.D. (Bridge Meadows): So I'm looking at the page 8 under the rental parts of the manual, I just want to clarify that there is no lift for 50% and 60% ami. So the lift amount is only for 30 and 40% ami?

Thank you for coming! It is now 1:30 PM PST and the hearing is adjourned. I will stop the recording at this time.



March 31, 2025

Jaci Davis
Rules Coordinator
Oregon Housing and Community Services
725 Summer Street NE, Suite B
Salem, OR 97301

Re: Public Comment
Updating LIFT guidance for rental development and homeownership program manuals

Dear Ms. Davis:

I write on behalf of Home Forward to provide public comment to the Local Innovation and Fast Track (LIFT) Rental Program Manual.

Home Forward is the Public Housing Authority for Multnomah County and the largest provider of affordable housing in the state of Oregon. We serve more than 18,000 low-income households each month through affordable housing units, rent assistance, and supportive services. We own over 7,200 homes throughout Multnomah County and fund rent assistance for thousands of households residing in private housing. Our mission is to create a better community by providing housing stability through affordable housing development, housing choice expansion, services that support quality of life, and advocacy to improve local and national housing systems.

Informed by our long-standing relationship with OHCS and utilization of LIFT funds, we offer the following public comments to the LIFT Rental Program Manual:

Page 3 of Manual: Serving Rural Communities

This section provides that 50% of LIFT funds will be set-aside for projects located in rural communities. We recognize that rural communities have historically been underserved in the financing and development of affordable housing and that a designed set aside is needed to address this inequity. However, for transparency, we urge the agency to identify the data that was utilized to reach 50% as the appropriate set aside amount. Additionally, the system would benefit from a better understanding on how the agency will evaluate the utilization of the set aside funds and other key data to inform the appropriate set aside amount in the future.

OHCS response:

The requirement that 50% of LIFT funds will be set aside for projects located in rural communities seems to be a holdover from when LIFT was distributed through a NOFA process to ensure that rural communities had opportunities to apply for and receive LIFT funding. This statement will be removed in the revised version.

Page 4 of Manual: LIFT Funding Set-Asides

It is not well understood or clear how the geographic set asides interact with the rural set aside. The Manual would benefit from including that clarification.

OHCS response:

To be more consistent with the ORCA manual, the geographic set asides will be removed from the LIFT manual and directed to the ORCA manual for the most updated geographic set asides.

Page 7 of Manual: Meet Income Requirements within 36 Months

The first sentence of the second paragraph states that all takeout financing units funded through LIFT for acquisitions must be affordable “at the time the project is placed in service.” Use of the phrase “placed in service” is misplaced. Per LIHTC and HUD requirements, we understand the placed in-service date for an acquisition to be the date of purchase. If OHCS intends to use a different definition of “placed in service” for purposes of acquisitions, we request that that this phrase be clearly defined. Additionally, utilization of this phrase in this context appears to contradict the preceding sentence in the above paragraph which explains the ability to draw down funds over 36 months as units convert to occupancy by income eligible residents.

OHCS response:

This phrase was removed.

The last sentence of the second paragraph limits of the developer fee to 5% of overall costs of purchase and complete conversion of the community space, if applicable. We request that this language be amended as follows: “For like-new LIFT acquisition projects, the developer fee is limited to 5% of overall costs to purchase the property and complete the ~~conversion of community space~~ *conversion to affordable housing*, if applicable.” This proposed language recognizes and accounts for the various types of activities that may be necessary to transition to and operate the building as affordable housing beyond just conversion of community space. Converting market-rate housing to affordable housing is a multi-faceted process that involves physical renovations, financial restructuring, legal modifications, and administrative adjustments which range from security upgrades to relocation support for existing non-income eligible residents to capitalizing reserves and more. More costs are associated with the conversion of a market-rate building to a regulated affordable housing building, and they should not be excluded from the overall costs that developer fee is calculated from.

The third paragraph of this section should be amended as follows: “In like-new market acquisition projects, the only rehabilitation uses of LIFT resources allowable is to convert community or outdoor space *and perform security upgrades* to support tenants.” Security upgrades and access control play a critical role in creating a safe, stable, and welcoming environment for affordable housing residents. We know that security upgrades advance resident well-being while fostering a sense of community safety. Given the significant role these upgrades play in the long-term viability and stability of affordable housing, they should be an eligible use of LIFT funds.

OHCS response:

Agree.

Page 8 of Manual: Affordability Period and Loan Terms (section starts on pg. 7)

The first paragraph on page 8 outlines that when LIFT resources are paired with 4% tax credits, the standard 60-year affordability period for 4% tax credits may be reduced to 30 years upon the satisfaction of the LIFT loan. We strongly object to reducing any affordability restrictions below 60 years. Longer

affordability periods help protect Oregon's affordable housing supply, stabilize the rental market, and ensure long-term return on public assets. By allowing a housing provider to reduce their affordability period by 30 years in exchange for paying off a LIFT loan, we are creating an incentive that is harmful to the larger system by exacerbating the existing preservation needs across the state and harmful to the individual low-income households that call these communities home.

OHCS response:

Agree, and this will have to be a conversation and decision that is approved by Housing Stability Council. I would love your help in advocating for this when the time comes.

Page 10 of Manual: Maximum Developer Fee

This section contradicts the stated developer fee calculation and limit of 5% for acquisitions as outlined on page 7 of the Manual. We request that these two sections be made consistent.

OHCS response:

Revised.

Finally, clarification is needed on how "takeout financing" is being used in this section. We request a definition or more detail on in what circumstances a developer fee is not available as it is not clear.

OHCS response:

Removed for clarity.

Page 11 of the Manual: Closing Process

For LIFT and 4% or 9% LITHC transactions, the requirements outlined in this section are not outlined in the ORCA Manual, resulting in potential confusion and the possibility of developers inadvertently missing key deadlines. It is not clear when a project advances to the OHSC Finance Committee. This step should be clearly outlined in the ORCA Manual. In addition to urging that these critical steps and timelines are consistently outlined between both program and process guidance, I urge the agency to consider a shorter timeline for these final submissions. As outlined, the final budget, final sources of funds, and documents to substantiate the final budget items must be provided at least ten (10) days prior to submission to the OHCS Finance Committee. A shorter timeline is needed as many key factors such as the locked interest rate and the Guaranteed Maximum Price often have not been confirmed at that point in the process.

OHCS response:

Noted and revised.

Page 12 of the Manual: Project Completion, Lease-up, and Close Out (section starts on pg. 11)

For like new acquisition projects, this section of Manual should make clear that the ability to draw down funds over 36 months proportionate to the units occupied by income eligible residents is distinct from project close out. The proportionate draw down is discussed on page 7 of the Manual and that language should also be included here.

OHCS response:

Agree and added like new acquisition language.

Page 14 of the Manual: Eligible and Non-Eligible Costs (section starts on pg. 13)

Under the examples of allowed hard and soft costs in this section, we would request that the last bullet point be modified as to allow these fees and charges for acquisitions as well. While acquisitions do not have a "construction closing," these fees and costs are similarly incurred as in new construction and

should be allowed.

Page 15 of the Manual: Definitions

For thoroughness, this list of definitions should include the definition of “Like New Market Rate Housing” outlined in OAR 813-135-0020(2).

Under the definition of “construction,” we request the following revision: To be able to utilize LIFT funding, a project cannot be under construction while applying for ~~or planning to apply for~~ OHCS funding.” Someone’s intent to apply for funds at some point is not tangible nor objective and thus is not a meaningful consideration in this definition.

OHCS response:

Noted. Revised.

Thank you for opportunity to provide feedback. Please contact Christina Dirks, Director of Policy and Planning, at christina.dirks@homeforward.org or (503) 348-1196 regarding these comments.

Sincerely,

A handwritten signature in black ink, consisting of a stylized 'C' followed by a horizontal line extending to the right.

Christina Dirks
Director of Policy and Planning
Home Forward