



Land Acquisition Due Diligence

Oregon Watershed Enhancement Board
775 Summer Street NE, Suite 360
Salem, Oregon 97301-1290
(503) 986-0178

The Board may request the following due diligence information after an initial review of a land acquisition grant application. All listed materials must be received by OWEB at least 90 days prior to the OWEB Board meeting at which the applicant wants the Board to make a funding decision. Timely submittal of due diligence materials does not, however, guarantee that the due diligence review will be complete in time for the Board to make a funding decision at the intended meeting. OWEB may require an applicant to provide additional information, based on an initial review of due diligence materials, to clarify matters such as title exceptions or appraisal shortcomings.

1. **Option, Purchase, or Lease Agreement.** A copy of the written option, purchase, or lease agreement for the proposed acquisition, or evidence that such an agreement exists. If a copy of the option, purchase, or lease agreement is not submitted, the applicant shall submit a brief statement explaining whether the terms of the option, purchase, or lease agreement limit the proposed transfer or lease in any way, or could affect the proposed use of the land interest for the purposes described in Section 4(b), Article XV of the Oregon Constitution.
2. **Donation Disclosure.** A written statement, signed by the seller or lessor of the land interest, stating whether the seller or lessor of the land interest is contractually required by the written option, purchase or lease agreement, or other related documents, to donate or transfer funds to the buyer, applicant, or a third party who has assisted with or facilitated the proposed acquisition.

Disclosure of the amount of a contractually required donation or payment is required **if** the donation or payment will exceed 15 percent of the purchase or lease price for the land interest. Disclosure of the amount of a contractually required donation or payment exceeding 15 percent of the purchase or lease price must be made to the Board in writing prior to the Board's consideration of the proposed funding request, or the grant application will not be considered for funding by the Board.

3. **Fair Market Value Appraisal.** A self-contained appraisal report that complies with OAR 695-045-0120(2)(d) and OWEB's *Guidelines for Land Acquisition Appraisals*, available online at http://www.oregon.gov/OWEB/GRANTS/acquisition_grants.shtml or from OWEB staff.

4. **Title Report and Exceptions.** A preliminary title report for the property. If exceptions are listed on the title report, include documentation explaining the exceptions, and a map locating each exception on the property.
5. **Environmental Site Assessment.** A phase one environmental site assessment (ESA) conducted by a qualified third party and complying, at a minimum, with American Society for Testing and Materials (ASTM) standard E1527-05 published in November 2006, or the current equivalent ASTM standard if the standard has been updated. If a phase one ESA indicates that further investigation is necessary, OWEB staff may require later submission of a phase two ESA.

If a phase two ESA indicates that further investigation is necessary, OWEB staff may require submission of additional assessment information. The Board may require remediation prior to the release of grant funds. If the Board requires remediation, the remediation must be done under Department of Environmental Quality (DEQ) oversight and to DEQ standards.

If the Board approves funding for the grant application, the Director may require the final ESA to be updated before the transaction closing if the date of the ESA is more than 18 months prior to the date of the transaction closing. The ESA update will include components determined by OWEB's independent third party reviewer to be necessary to ensure the soundness of OWEB's investment.

6. **Conservation Easement or Lease.**
Fee Title Acquisition. OWEB requires a certain form of conservation easement when it grants funds for the purchase of fee title to property. The applicant shall review OWEB's conservation easement template and indicate in writing to OWEB whether it accepts each provision of the template. If any of the template's provisions are not acceptable to the applicant, then the applicant must propose alternatives and explain why each alternative is necessary. A copy of the conservation easement template is available online at the web site specified above or from OWEB staff.

Conservation Easement Acquisition. OWEB requires certain provisions in any conservation easement for which it grants purchase funds. The applicant shall prepare and submit to OWEB a draft of its proposed conservation easement, giving OWEB a third-party right of enforcement, and including other conservation easement provisions specified in OWEB's *Conservation Easement Guide*, available online at the web site specified above or from OWEB staff. If any of the conservation easement provisions are not acceptable to the applicant, then the applicant must propose alternatives and explain why each alternative is necessary.

Lease Acquisition. OWEB requires certain provisions in any lease for which it grants purchase funds. The applicant shall prepare and submit to OWEB a draft of the proposed lease, giving OWEB a third-party right of enforcement, and including other lease provisions provided by OWEB staff.