

**TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 642. EMERGENCY RESPONSE SYSTEMS STABILIZATION AND
IMPROVEMENT REVOLVING FUND [REVOKED]**

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions [REVOKED]

310:642-1-1 [REVOKED]

310:642-1-2 [REVOKED]

310:642-1-3 [REVOKED]

Subchapter 3. Proposals [REVOKED]

310:642-3-1 [REVOKED]

310:642-3-2 [REVOKED]

Subchapter 5. Scoring [REVOKED]

310:642-5-1 [REVOKED]

Subchapter 7. Disbursement [REVOKED]

310:642-7-1 [REVOKED]

310:642-7-2 [REVOKED]

Subchapter 9. Evaluation [REVOKED]

310:642-9-1 [REVOKED]

AUTHORITY:

Commissioner of the Oklahoma State Department of Health; 63 O.S. §§ 1-104 and 1-2512.1

ADOPTION:

January 12, 2023

EFFECTIVE:

Immediately upon Governor's approval

EXPIRATION:

Effective through September 14, 2024, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

The Department proposes the emergency revocation of OAC 310:642 because the period for accepting Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund (OERSSIRF) applications will begin in the spring of 2023. The Department wishes to implement new funding procedures it has established in a new rule chapter intended to replace Chapter 642. The modernized, clearer, and more concise chapter will ensure a better understanding of expectations by the potential recipients and a more equitable distribution of the funds throughout the State of Oklahoma. The revocation of this outdated and overly complex rule and funding mechanism is being pursued because the current chapter of rule inequitably favors previous recipients by deducting points for receipt of past awards, while simultaneously awarding points for projects which have met improvement standards for each previously funded project. The points given for previous awards meeting improvement standards are cumulative, and thus have created a disparity between applicants, which favors previous recipients. The longer this system is in place, the more inequitable the distribution of funds will become and the more mathematically improbable it will be for anyone but past recipients to receive an award. This emergency rule is critical to realigning distribution equitably and aligning processes with the statutory

language. If this emergency rule is not in place, another full funding cycle will continue to create disparities between applicants.

GIST/ANALYSIS:

The Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund (OERSSIRF) allows for the awarding of funds to stabilize and improve emergency response systems in Oklahoma. Chapter 642 will be revoked and replaced by a new chapter of rules to distribute the funds in closer alignment with the requirements of 63 O.S. § 1-2512.1, Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund, and in a more equitable way. The revocation of the current chapter of rule, will eliminate funding procedures that tend to result in repeated funding advantages for certain applicants. The current OERSSIRF process, which is complex and outdated and has an antiquated distribution process will be replaced with a simpler, more efficient, and more equitable process. This change is expected to positively affect emergency service areas who will have a more equitable chance at receiving OERSSIRF funds under the new chapter of rule that will replace Chapter 642. This will positively impact all citizens in the service areas which have previously been excluded from funding due to the imbalanced point structure and will give them a more equitable opportunity for funding.

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PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S. SECTION 253(F):

SUBCHAPTER 1. GENERAL PROVISIONS [REVOKED]

310:642-1-1. Purpose [REVOKED]

The rules in this chapter are promulgated to:

- (1) Define the process for appropriate distribution of the Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund (OERSSIRF) pursuant to 63 O.S. 2008, § 1-2512.1.
- (2) Provide standards for monitoring and enforcement of the provisions of the statute and these rules.

310:642-1-2. Program Description [REVOKED]

The Oklahoma Emergency Response Systems Stabilization and Improvement Revolving Fund program is authorized by 63 O.S. 2008, § 1-2512.1. This law authorizes the Department to distribute funds for specified purposes. This Chapter interprets and implements the law authorizing the expenditure and distribution of funds by the Department. The Department's rules applicable to OERSSIRF expenditures shall be construed so as to consider only the OERSSIRF expenditures program administered by the Department.

310:642-1-3. Definitions [REVOKED]

—The following words and terms, when used in this Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant" means a qualified entity that submits a proposal for OERSSIRF funds.

"Department" means the Oklahoma State Department of Health.

"Emergency Medical Services System" means the network of emergency medical dispatchers (EMDs), certified emergency medical responders (EMRs), licensed emergency medical technicians

(EMTs), certified emergency medical response agencies (EMRAs), licensed ambulance services, EMS medical directors, recognized training institutions, and communications centers that work together to deliver prompt, effective pre-hospital emergency medical care to the citizens of Oklahoma.

"Qualified entity" means any person or organization licensed, certified or approved by the Department as part of the EMS system, such as EMS personnel, certified emergency medical response agencies, licensed ambulance services, approved training institutions, approved emergency medical dispatch agencies, approved medical directors or any combination thereof, or their associations or sponsoring organizations, such as EMS districts, cities or counties that operate certified emergency response agencies or licensed ambulance services, or education systems operating EMS training institutions.

SUBCHAPTER 3. PROPOSALS [REVOKED]

310:642-3-1. Proposal review and disposition [REVOKED]

(a) ~~**General procedures.** The general procedure to be followed in the funding proposal, review and consideration process for financial assistance under the OERSSIRF program shall be as follows:~~

~~(1) **Pre-proposal conference.**~~

~~(A) All potential applicants are encouraged to participate in a pre-proposal conference. The Department shall summarize available funding, areas of need identified by any state assessment, and the status of previous OERSSIRF-funded projects.~~

~~(B) At the pre-proposal conference, preliminary matters may be generally discussed to familiarize all concerned parties with the proposal period, requirements and procedures.~~

~~(2) **Proposal.** An applicant shall initiate proposal review and consideration by submission to the Department of applicant's proposal for financial assistance. A proposal shall be submitted by the qualified entity using forms described in 310:642-7-1 (relating to content of application), within the application period specified in OAC 310:642-3-2 (relating to deadlines for filing.)~~

~~(3) **Scoring and selection.** Eligible proposals shall be scored by the following process.~~

~~(A) A public meeting shall be scheduled for the purpose of scoring the eligible OERSSIRF proposals and awarding the funds that have been identified by the Department as the balance available for distribution on the last day of the preceding calendar year.~~

~~(i) A five (5) person review panel shall be appointed by the Commissioner.~~

~~(ii) Each appointed member will sign an attestation stating the appointee has no financial or other direct personal interest in any of the project proposals before the Department.~~

~~(B) The panel shall be seated and the reviews will begin under the direction of Department staff.~~

~~(i) Department staff will distribute proposals and scoring tools, collect the completed scoring tools for each proposal from the panelists, and tally the scores for each proposal at the end of the process.~~

~~(ii) The tallied scores shall be posted as soon as the totals are computed.~~

~~(C) The project with the highest score of total points shall be selected for funding, and the projected cost of the project deducted from the balance of the fund.~~

~~(D) The project with the next highest score of total points shall be selected for funding, and the cost deducted from the balance of the fund and continuing in like manner until insufficient funds remain to fund the next highest scoring project.~~

~~(E) Any remaining funding shall be retained by the fund and distributed the next year.~~

~~(b) **Criteria applicability.**~~

~~(1) The criteria set forth in subsections (c) and (d) of this Section shall constitute guidelines and standards for proposal review and consideration by the Department.~~

~~(2) The criteria and standards set forth in subsections (c) and (d) of this Section shall be applied to each proposal without exception.~~

~~(c) **General approval standards and criteria.** The Department shall be under a continuing obligation to ensure the following standards and criteria are satisfied before any proposal is approved for funding and may determine compliance with these standards and criteria during preliminary review, scoring and selection or during a post selection review:~~

~~(1) **Compliance with applicable law.** The proposed project must be found to be in compliance with 63 O.S. § 1-2512.1, and applicant must possess all necessary and incidental legal rights and privileges necessary to project commencement and operation.~~

~~(2) **Eligibility.** The applicant must be a qualified entity and the proposed project must be for a qualified purpose as defined in 63 O.S. § 1-2512.1.~~

~~(3) **Local need, support and priority.** The applicant shall demonstrate that the project is needed in the area to be served and is sufficient, as proposed, to serve such needs. Applicant shall demonstrate local support, interest and commitment in and to the proposed project.~~

~~(4) **Availability of other assistance.** Applicant shall demonstrate appropriate due diligence to ensure no alternative sources of revenue could be obtained and utilized for project financing.~~

~~(5) **Economic feasibility.** The applicant shall demonstrate the overall economic viability and feasibility of the project.~~

~~(6) **Project feasibility.** The applicant shall demonstrate that the project is feasible and cost effective.~~

~~(7) **Statewide needs and public interest.** The applicant shall demonstrate the relationship between the proposed project and the overall EMS development needs within the State of Oklahoma and show that proposed project will serve the public interest and welfare.~~

~~(d) **Criteria for denying a proposal.** The Department may deny a proposal for OERSSIRF funding for any of the following reasons:~~

~~(1) The applicant is not an eligible entity.~~

~~(2) The project does not serve the goals of 63 O.S. § 1-2512.1.~~

~~(3) Insufficient availability of funding.~~

~~(4) The proposal is received after the deadline.~~

~~(e) **Department action.**~~

~~(1) After reviewing and considering the submitted proposal, the Department may take one of the following actions:~~

~~(A) The Department may approve and fund the proposal as submitted.~~

~~(B) The Department may reject and deny the proposal based upon any applicable criteria described in subsection (d) of this Section.~~

~~(2) Upon approval of a proposal, the Department may authorize the execution of all necessary funding documents and instruments, and may accordingly authorize and provide for disbursements and such further or additional action as may be necessary to complete and implement the approved transaction.~~

310:642-3-2. Applicable law, deadline for proposals, eligible project costs, maximum award [REVOKED]

~~(a) The Department shall administer proposals for OERSSIRF funds in accordance with any provisions of law applicable to such proposals and OERSSIRF funds.~~

~~(b) To be considered for and receive funding from funds available for OERSSIRF in any given fiscal year, an application must be completed in accordance with this Chapter and filed by the applicant and received by the Department on or before the thirtieth (30) calendar day after the issuance of the Request for Proposals (RFP). Any application not properly completed and filed shall not be considered for or funded from funds that may become available during that fiscal year.~~

~~(c) The Department shall issue a Request for Proposals (RFP) for the OERSSIRF each year. The submission period, including time for questions, shall not be less than thirty (30) calendar days. The Department shall identify qualified staff to ensure questions received through the RFP process are answered and posted appropriately.~~

~~(d) An OERSSIRF proposal submitted for consideration in a prior fiscal year that was not approved for funding in that prior fiscal year may be submitted again in any year.~~

~~(e) For purposes of evaluating, approving and funding proposals for OERSSIRF funds, categories of project costs which are eligible for assistance shall include those project costs described in 63 O.S. § 1-2512.1:~~

- ~~(1) Funding assessment activities;~~
- ~~(2) Stabilization and/or reorganization of at risk emergency medical services;~~
- ~~(3) Development of regional emergency medical services;~~
- ~~(4) Training for emergency medical directors;~~
- ~~(5) Access to training front line emergency medical services personnel;~~
- ~~(6) Capital and equipment needs.~~

~~(f) No qualified entity shall receive more than \$500,000 in OERSSIF funding assistance in any twelve (12) month period, or for any single project.~~

SUBCHAPTER 5. SCORING [REVOKED]

310:642-5-1. OERSSIRF funding priority point system [REVOKED]

~~—Proposals shall be ranked based on the total number of points awarded by the Department consistent with this Chapter.~~

~~(1) The following formula shall be used to rank funding proposals: $T = S + M + D + H + E + AR + PM + PG + PE$, where:~~

- ~~(A) T = Total points~~
- ~~(B) S = Statutory purposes~~
- ~~(C) M = Multiple jurisdictions~~
- ~~(D) D = Population density~~
- ~~(E) H = Distance to the nearest level I or II trauma center~~
- ~~(F) E = Number of project area EMTs~~
- ~~(G) AR = Amount of funding requested~~
- ~~(H) PM = Project matching~~
- ~~(I) PG = Previous funding assistance~~
- ~~(J) PE = Previous funding evaluation~~

~~(2) Points may be awarded as described below:~~

~~(A) **Statutory purposes (S):** Points shall be awarded for each of the relevant statutory purposes of the proposal as follows:~~

- ~~(i) Funding assessment activities: 50 points~~
- ~~(ii) Stabilization and/or reorganization of at risk emergency medical services: 100 points~~
- ~~(iii) Development of regional EMS: 50 points~~
- ~~(iv) Training for emergency medical directors: 50 points~~
- ~~(v) Access to training front line emergency medical services personnel: 100 points~~
- ~~(vi) Capital and equipment needs: 50 points~~

~~(B) **Multiple jurisdictions (M):** Points shall be awarded for projects addressing the EMS needs of multiple jurisdictions, as follows:~~

- ~~(i) Two cities or towns: 25 points~~
- ~~(ii) Three cities or towns: 50 points~~
- ~~(iii) County wide: 100 points~~
- ~~(iv) Multi county: 150 points~~
- ~~(v) State wide: 200 points~~

~~(C) **Population density (D):** Points shall be awarded for projects encompassing areas of lowest per-mile population density as recorded by the United States Census Bureau, as follows:~~

- ~~(i) 5,000.0 to 8,968.1: 0 points~~

- (ii) ~~1,000.0 to 4,999.9: 10 points~~
- (iii) ~~200.0 to 999.9: 20 points~~
- (iv) ~~79.6 to 199.9: 30 points~~
- (v) ~~30.0 to 79.5: 40 points~~
- (vi) ~~10.0 to 29.9: 50 points~~
- (vii) ~~Less than 10.0: 100 points~~

(D) ~~**Distance to trauma center (H):** Points shall be awarded for project areas where the average distance between the furthest and closest points within the project area to a trauma center classified by the State of Oklahoma or the American College of Surgeons as level I or II, as follows:~~

- (i) ~~0-25 miles: 0 points~~
- (ii) ~~25-49 miles: 10 points~~
- (iii) ~~50-74 miles: 20 points~~
- (iv) ~~75-99 miles: 30 points~~
- (v) ~~100-124 miles: 40 points~~
- (vi) ~~125-149 miles: 50 points~~
- (vii) ~~150 miles and over: 100 points~~

(E) ~~**EMTs (E):** Points shall be awarded for proposals encompassing project areas with fewer resident licensed EMTs at any level of licensure as recorded by the Department as follows:~~

- (i) ~~100 or more resident EMTs: 0 points~~
- (ii) ~~50-99 resident EMTs: 20 points~~
- (iii) ~~25-49 resident EMTs: 40 points~~
- (iv) ~~0-24 resident EMTs: 60 points~~

(F) ~~**Amount of funding requested (AR):** Points under this category for amount of funding requested are determined as follows:~~

- (i) ~~\$400,001 to \$500,000: 50 points~~
- (ii) ~~\$300,001 to \$400,000: 40 points~~
- (iii) ~~\$200,001 to \$300,000: 30 points~~
- (iv) ~~\$100,001 to \$200,000: 20 points~~
- (v) ~~\$80,000 to \$100,000: 10 points~~
- (vi) ~~\$60,000 to \$79,999: 20 points~~
- (vii) ~~\$40,000 to \$59,999: 30 points~~
- (viii) ~~\$20,000 to \$39,999: 50 points~~
- (ix) ~~Any AR greater than \$500,000 shall be denied~~

(G) ~~**Project matching (PM):** If the proposal proposes the use of matching funds, points shall be awarded consistent with the following formula:~~

- (i) ~~90% of the requested funds: 90 points~~
- (ii) ~~80% of the requested funds: 80 points~~
- (iii) ~~70% of the requested funds: 70 points~~
- (iv) ~~60% of the requested funds: 60 points~~
- (v) ~~50% of the requested funds: 50 points~~
- (vi) ~~40% of the requested funds: 40 points~~
- (vii) ~~30% of the requested funds: 30 points~~
- (viii) ~~20% of the requested funds: 20 points~~
- (ix) ~~10% of the requested funds: 10 points~~

(H) ~~**Previous funding assistance (PG):** If a qualified entity has been approved for one (1) or more OERSSIF proposals from the Department for projects awarded in the past, points shall be deducted from the proposal according to all of the following provisions that apply unless the previous proposal was for an assessment of the need for the establishment of EMS or stabilization of an at risk EMS:~~

- (i) ~~One (1) funded project in the preceding twelve (12) month period: 80 points.~~

- ~~(ii) More than one (1) OERSSIRF project in the preceding twelve (12) month period: 100 points.~~
- ~~(iii) One (1) OERSSIRF funded project more than twelve (12) months in the past: 50 points.~~
- ~~(iv) Two (2) OERSSIRF funded projects more than twelve (12) months in the past: 80 points.~~
- ~~(v) Three (3) OERSSIRF funded projects more than twelve (12) months in the past: 100 points.~~
- ~~(vi) Four (4) OERSSIRF funded projects more than twelve (12) months in the past: 150 points.~~
- ~~(vii) Five (5) or more OERSSIRF funded projects more than twelve (12) months in the past: 175 points.~~
- ~~(viii) If the qualified entity has received a previous OERSSIRF funding for a project that remains un-evaluated or for which any refund has not been paid as of August 31st of the year following the approved completion date of the project, the proposal will be given 50 points for each such funded project.~~
- ~~(1) **Previous funding evaluation (PE).** The project score established through the Department's evaluation required by OAC 642-9-1(a) for each previously completed OERSSIRF project shall earn the following points:~~
 - ~~(i) Significantly Improved: 100 points~~
 - ~~(ii) Improved: 50 points~~
 - ~~(iii) Not Improved: 50 points~~
 - ~~(iv) Worsened: 100 points~~

SUBCHAPTER 7. DISBURSEMENT [REVOKED]

310:642-7-1. Content of proposal [REVOKED]

- ~~(a) The proposal shall be submitted using the forms provided by the Department. The proposal form shall include the following sections:~~
 - ~~(1) Proposal Information, including the name of the contact person, mailing address, e-mail address, phone number and type of qualifying applicant entity.~~
 - ~~(2) Instructions, including an outline of the legal requirements and the priority point system.~~
 - ~~(3) A section requiring a narrative description of the proposed project.~~
 - ~~(4) A section enumerating the requirements of the OERSSIRF statute, requiring a description of the proposed project's compliance with each section.~~
 - ~~(5) A section requiring a narrative description of the proposed project's compliance with each of the priority point criteria.~~
 - ~~(6) A checklist allowing evaluation of compliance with solicitation requirements.~~
- ~~(b) Each proposal shall include a section setting forth the criteria that will be used to evaluate the success of the project. The criteria shall include:~~
 - ~~(1) Specific, objective metrics for evaluation of the project. For example: a percentage decline in response time or improvement in the number of available EMTs within a region, measured against the same metric at the start of the project.~~
 - ~~(2) A clear methodology and a description of data sources for computing the performance measures proposed in the project plan, for example, comparing responder response times or the total number of EMTs in a region against the same metric at the end of the project.~~
 - ~~(3) Benchmark measures for each of the following assessment levels:~~
 - ~~(A) Significantly improved.~~
 - ~~(B) Improved.~~
 - ~~(C) Not Improved.~~

(D) ~~Worsened.~~

310:642-7-2. Disbursement of funds [REVOKED]

(a) ~~Action following Department approval and prior to disbursement of funding.~~

(1) ~~Notification of approval.~~ Upon approval of an OERSSIRF proposal, the Department shall furnish to the applicant a written notice of approval. The notice shall advise the applicant that the funds approved shall be made available to the applicant by the Department for such purposes and upon conditions as provided in paragraph (2) of this subsection (relating to additional conditions prior to disbursement of funds).

(2) ~~Additional conditions prior to disbursement of funds.~~

(A) ~~Applicant shall establish a special and separate federally insured fund or account within applicant's accounting system in and through which the proceeds shall be administered and accounted for by the applicant.~~

(B) ~~Unless otherwise provided and approved by the Department, applicant shall submit to the Department all plans, specifications and benchmark completion reports for the project for Department approval, all of which shall be complete and in sufficient detail as would be required for submission of the project to a contractor for bidding or contracting the project. If not previously provided, applicant shall provide Department with a written and verified statement setting forth:~~

(i) ~~The amount of funds necessary for release and disbursement at closing needed for commencement of the project, and~~

(ii) ~~The reasonable availability of all other revenue or funding sources needed to finance and complete the project.~~

(C) ~~Applicant and Department, and all other necessary parties, shall have executed all necessary and incidental instruments and documents, including but not limited to a vendor agreement.~~

(3) ~~Department action on request for withdrawal of funding.~~ If, prior to disbursement of the monies to the applicant, the project bids exceed the estimates or it otherwise develops that the OERSSIRF proposal amount approved by the Department, when combined with any other sources of funding, will be insufficient to complete the approved project, then the applicant may file a written request to decline funding and withdraw its proposal for the current fiscal year.

(b) ~~Disbursement of funding to applicant; action following disbursement.~~

(1) ~~Disbursement contingent on completion of conditions;~~ reduction from approved amount. At the time of and upon compliance by the applicant with the applicable requirements in subsection (a) of this Section, the Department shall disburse the approved amount of OERSSIRF funds to the applicant for the approved project.

(2) ~~Disbursement in whole or part; timing.~~ Funds may be disbursed to the applicant in installments or in lump sum, and may be disbursed prior to, during, or upon, completion of the project, all as deemed appropriate by the Department under the project circumstances presented. The Department shall conduct on-site inspections to confirm completion of benchmarks described in the project plan.

(3) ~~Post-disbursement requests for increases in funding amount.~~ If after disbursement of the monies to the applicant it develops that the applicant needs more money for the project than the OERSSIRF amount disbursed by the Department, the Department may evaluate remaining funds and at its discretion may increase funding no more than 10% over the original proposed amount.

(4) ~~Post-disbursement action regarding unexpended funding.~~ If following completion of the project the applicant needed less money for the project than disbursed by the Department, the applicant shall return the unexpended amount to the Department. Unused funding shall be returned to the fund and made available during the next funding year.

(5) ~~Reports.~~ The Department may require quarterly or biannual progress reports and may at any time perform on-site inspections.

~~(A) Applicants shall provide all requested documents at the time of the inspection, or as required by the Department.~~

~~(B) Department staff shall report any suspected misappropriation of funds to the appropriate law enforcement authority.~~

SUBCHAPTER 9. EVALUATION [REVOKED]

310:642-9-1. Evaluation of Projects [REVOKED]

~~The Department shall perform an evaluation of the project within six (6) months of its completion, summarizing its effectiveness using benchmark measures identified in the proposal as required by 310:642-7-1(b)(3)(relating to content of proposals).~~