

**CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS**  
**Sitting/Acting as the Board of Commissioners of the Housing Authority of Clackamas County**

**Policy Session Worksheet**

**Presentation Date:** October 21, 2025      **Approx. Start Time:** 1:00pm      **Approx. Length:** 30 min

**Presentation Title:** Indemnity for the Executive Director’s Certification of Federal Grant Terms

**Department:** Housing Authority for Clackamas County (“HACC”)

**Presenters:** Ryan Hammond, Scott Ciecko

**WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?**

Adoption of the attached resolution that provides for defense-fee coverage and limited indemnity for any claim that arises from the HACC Executive Director’s official-capacity act of executing certifications on October 21, 2025 in relation to the Operating Fund Grant provided by the U.S. Department of Housing and Urban Development (“HUD”).

**EXECUTIVE SUMMARY:**

HUD imposed new grant certifications that impose broad immigration-related conditions and certifications on housing authority grants, backed by the threat of False Claims Act (FCA) enforcement. Individual employees could face personal liability under the FCA or similar false-statement statutes or theories. Although staff and counsel believe the certification can be truthfully signed without reservation, the vagueness of that certification create a risk that even a good faith certification could still expose the signer to FCA suits or administrative enforcement if HUD) later alleges a breach of these broad terms and conditions.

HACC is required to certify by October 21, 2025 to these new conditions and terms to receive the HUD Operating Fund Grant. HACC’s Executive Director is prepared to complete and execute the required certification. The attached resolution states that HACC will defend and indemnify the Executive Director for claims, actions, or proceedings alleging liability under the FCA or substantially similar false-statement statutes or theories, arising from the Executive Director’s act of completing and executing the required certification for the Operating Fund Grant.

**FINANCIAL IMPLICATIONS (current year and ongoing):**

Is this item in your current budget?     YES       NO

What is the cost? \$0, unless enforcement action is brought.      What is the funding source?

**STRATEGIC PLAN ALIGNMENT:**

- How does this item align with your Department’s Strategic Business Plan goals?

This item furthers the Department’s goal of sustainable and affordable housing.

- How does this item align with the County’s Performance Clackamas goals?

This item aligns with the County’s goal of ensuring safe, health and secure communities.

**LEGAL/POLICY REQUIREMENTS:**

Oregon’s Tort Claims Act (OTCA) (ORS 30.285–.287) requires a public body to defend and indemnify its officers and employees for tort claims arising out of acts within the performance of their duties. However, the OTCA does not contemplate indemnity in the context of the FCA or other substantially similar false-statement statutes or theories. A resolution from the HACC Board is necessary to afford indemnity to the Executive Director, consistent with the principles of ORS 30.285–.287, for claims, actions, or proceedings arising from the completion and certification of HUD grant conditions.

**PUBLIC/GOVERNMENTAL PARTICIPATION:**

**OPTIONS:**

1. Adopt a resolution to defend and indemnify the HACC Executive Director for claims, actions, or proceedings alleging liability under the FCA or substantially similar false-statement statutes or theories, arising from the Executive Director’s official-capacity act of completing and executing certifications related to the Operating Fund Grant on October 21, 2025.
  
2. Decline to adopt a resolution to defend and indemnify the HACC Executive Director.

**RECOMMENDATION:**

County Counsel recommends adopting a resolution to defend and indemnify the HACC Executive Director for claims, actions, or proceedings alleging liability under the FCA or substantially similar false-statement statutes or theories, arising from the Executive Director’s official-capacity act of completing and executing certifications related to the Operating Fund Grant on October 21, 2025.

**ATTACHMENTS:**

Draft Resolution “Adopting a Limited Indemnity Policy for the Executive Director’s Official-Capacity Certification of HUD Operating Fund Grant Terms”

**SUBMITTED BY:**

Division Director/Head Approval \_\_\_\_\_  
 Department Director/Head Approval \_\_\_\_\_  
 County Administrator Approval \_\_\_\_\_

For information on this issue or copies of attachments, please contact _____ @ 503-_____
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**BEFORE THE BOARD OF COMMISSIONERS**  
**OF THE HOUSING AUTHORITY OF CLACKAMAS COUNTY**

In the Matter of Adopting a Limited Indemnity Policy for the Executive Director’s Official-Capacity Certification of HUD Operating Fund Grant Terms



Resolution No.

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**Whereas**, the Board of Commissioners of the Housing Authority of Clackamas County (“HACC”) regularly applies for and accepts federal housing funds that require execution of grant applications, assurances, and certifications to the federal government; and

**Whereas**, the Board authorizes the HACC Executive Director (“Executive Director”) to prepare, complete, and execute such assurances or certifications in the course and scope of the Executive Director’s official duties; and

**Whereas**, certain federal certifications contain broad or ambiguous terms (including provisions relating to diversity, equity, and inclusion, gender, reproductive health, and immigration), and such ambiguity may create a risk of liability under the False Claims Act (“FCA”) or similar false-statement statutes or theories for those county officials who sign certifications in their official capacity; and

**Whereas**, Oregon’s Tort Claims Act (ORS 30.285–.287) requires a public body to defend and indemnify its officers and employees for tort claims arising out of acts within the performance of their duties, subject to statutory exceptions; and

**Whereas**, the Board desires to clarify a parallel, narrow policy for defense-fee coverage and limited indemnity for any claim that arises solely from the Executive Director’s official-capacity act of executing certifications signed or made on October 21, 2025 in relation to the Operating Fund Grant provided by the U.S. Department of Housing and Urban Development (“HUD”);

**NOW, THEREFORE, the Board of Commissioners of the Housing Authority of Clackamas County resolves as follows:**

- (1) The Executive Director is authorized to complete and execute all certifications required by the Operating Fund Grant provided by HUD.
- (2) The completion and execution of required grant certifications under this delegation is declared to be within the course and scope of the Executive Director’s official duties.
- (3) HACC shall defend and indemnify the Executive Director, subject to the provisions of the Oregon Tort Claims Act (ORS 30.260 through 30.300), for claims, actions, or proceedings alleging liability under the FCA (31 U.S.C. §§ 3729–3733) or substantially similar false-statement statutes or theories, arising from the Executive Director’s official-capacity act of completing and executing certifications

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related to the Operating Fund Grant on October 21, 2025. Notwithstanding the above, HACC's indemnification obligation is further conditioned upon the following:

- (a) The Executive Director acted within the course and scope of official duties and in good faith in making the certification.
- (b) The Executive Director promptly provides written notice to County Counsel of any actual or threatened action against them and fully7 cooperates in the defense.
- (c) County Counsel shall select and control defense counsel and strategy, including use of outside counsel when appropriate.
- (d) Coverage does not extend to acts or omissions amounting to malfeasance or willful or wanton neglect of duty, or to conduct constituting knowing falsity or fraud.
- (e) Nothing in this Resolution requires payment of any claims or amounts prohibited by law or public policy.
- (f) This Resolution supplements and does not limit any rights or obligations under the Oregon Tort Claims Act (ORS 30.285-.287) or other applicable law.

(4) This Resolution is effective upon adoption.

**DATED** this \_\_\_\_ day of \_\_\_\_\_, 2025

**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Chair

\_\_\_\_\_  
Recording Secretary