RULEMAKING ACTION:
Notice of proposed PERMANENT rulemaking.

PROPOSED RULES:
Subchapter 3. Proposals
310:642 -3-1. Proposal review and disposition [AMENDED]

SUMMARY:
A brief summary of the contents and purpose of the rule are provided here.
Currently, 310:642-3-1(a) (3) (A) (i)-(iv) requires a panel of nine volunteers who have drawn lots to
determine their eligibility to participate in the proposal review.
The amended language will:
1) decrease the panel membership from nine to five persons; and
2) the panelists will be appointed by the Commissioner.

The purpose for amending the current regulations is to decrease the difficulty of Department staff
in recruiting nine volunteers willing to serve on this panel. Additionally, by changing the selection to an
appointment by the Commissioner, the opportunity for highly qualified panelists to be appointed
increases.

AUTHORITY:
State Commissioner of Health, Title 63 O.S., §§1-104 et seq.; 63 O.S., §§1-2512; 1-2512.1.

COMMENT PERIOD:
November 1, 2019, through December 6, 2019. Interested persons may informally discuss the
proposed rules with the contact person identified below; or may, through December 6, 2019, submit
written comment to the contact person identified below, or may, at the hearing, ask to present written or
oral views.

PUBLIC HEARING:
Pursuant to 75 O.S., §303(A), the public hearing for the proposed rulemaking in this chapter shall
be on December 5, 2019, at the Oklahoma State Department of Health, 1000 Northeast Tenth Street,
Oklahoma City, OK 73117-1207, in room 1102 from 9AM to noon. The alternate date and time in the
event of an office closure due to inclement weather is December 9, 2019, in room 1102, from 9AM to
noon. Those wishing to present oral comments should be present at that time to register to speak. The
hearing will close at the conclusion of those registering to speak. Interested persons may attend for the
purpose of submitting data, views or concerns, orally or in writing, about the rule proposal described and
summarized in this Notice.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:
Business entities affected by these proposed rules are requested to provide the agency with
information, in dollar amounts if possible, on the increase in the level of direct costs such as fees, and
indirect costs such as reporting, recordkeeping, equipment, construction, labor, professional services,
revenue loss, or other costs expected to be incurred by a particular entity due to compliance with the
proposed rule. Business entities may submit this information in writing through December 6, 2019, to the
contact person identified below.

COPIES OF PROPOSED RULES:
The proposed rules may be obtained for review from the contact person identified below or via
the agency website at www.health.ok.gov.

RULE IMPACT STATEMENT:
Pursuant to 75 O.S., §303(D), a rule impact statement is available through the contact person
identified below or via the agency website at www.health.ok.gov.

CONTACT PERSONS:
Kim Bailey, General Counsel, Oklahoma State Department of Health, 1000 N. E. 10th Street, Oklahoma City, OK 73117-1207; phone (405) 271-6017, e-mail KimB@health.ok.gov or Audrey C. Talley, Rule Liaison, Oklahoma State Department of Health, 1000 N. E. 10th Street, Oklahoma City, OK 73117-1207, phone (405) 271-9444 ext.56535, e-mail AudreyT@health.ok.gov.
INITIAL RULEIMPACT STATEMENT
(This document may be revised based on comment received during the public comment period.)

TITLE 310. OKLAHOMA STATE DEPARTMENT OF HEALTH
CHAPTER 642.

1. DESCRIPTION:
The Oklahoma Trauma and Emergency Response Advisory Council (OTERAC) regulations workgroup conducted a rules review and identified the need to change the Oklahoma Emergency Response System Stabilization and Improvement Revolving Fund (OERSSIRF) review panel from nine panelists to five in 310:642-3-1. A subsequent internal review at the Department of Health also identified the need for the panelists be Commissioner appointed also in 310:642-3-1.

2. DESCRIPTION OF PERSONS AFFECTED AND COST IMPACT RESPONSE:
Changes should make the funding award process more consistent and fair for those who submit applications which should benefit citizens across Oklahoma by better ensuring an adequate number of panelists are available to review submissions. A more thorough vetting process of panelists prior to the submissions review process should also benefit the state.

3. DESCRIPTION OF PERSONS BENEFITING, VALUE OF BENEFIT AND EXPECTED HEALTH OUTCOMES:
Citizens across the state will benefit from this change as it will ensure a fair and appropriate distribution of funds. Qualified entities who submit applications can expect to have a fair and equitable review process and will be measured through the current existing scoring process and conducted by qualified reviewers. The department will benefit from this change by ensuring a responsible distribution of funds.

4. ECONOMIC IMPACT, COST OF COMPLIANCE AND FEE CHANGES:
There will be no economic impact, compliance cost, or fee change for industry related to this change.

5. COST AND BENEFITS OF IMPLEMENTATION AND ENFORCEMENT TO THE AGENCY:
There is potential for the department to reap minimal cost savings on travel reimbursement for panelists since there will be fewer panelists to reimburse. There will be no cost to the agency to implement this rule change.

6. IMPACT ON POLITICAL SUBDIVISIONS:
No impacts on political subdivisions are anticipated.

7. ADVERSE EFFECT ON SMALL BUSINESS:
No impacts on small businesses are anticipated.

8. EFFORTS TO MINIMIZE COSTS OF RULE:
There will not be a need to minimize costs associated with this rule as there will be no costs involved to implement it.

9. EFFECT ON PUBLIC HEALTH AND SAFETY:
Improved processes and efficiencies for the administration of the program and qualified reviewers making determinations for funding distribution should improve public health and safety for Oklahomans.

10. DETRIMENTAL EFFECTS ON PUBLIC HEALTH AND SAFETY WITHOUT ADOPTION:
Without adoption of this rule, the agency would continue distribute funds under the current
methodology. The agency believes the new method would better serve the goal of improved public health across the state.

11. **PREPARATION AND MODIFICATION DATES:**
   This rule impact statement was prepared on Thursday, October 10, 2019.
310:642-3-1. Proposal review and disposition
(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 nine (9) five (5) person review panel shall be appointed by the Commissioner, selected by lot each year from volunteers present at the awards meeting.
      (ii) Each panel appointed member so selected will sign an attestation stating the volunteer appointee has no financial or other direct personal interest in any of the project proposals before the Department.
      (iii) Only a single representative from a professional or business entity may serve on the review panel at the same time.
      (iv) If a selected volunteer is determined by Department staff to have any such interest in the selection, the volunteer will be disqualified and another name shall be selected by the same method, until nine members are empanelled.
   (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.
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.