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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 732
DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSIT DIVISION

FILED

12/22/2023 8:00 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Repeal of Special Transportation Fund Discretionary Program Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 01/21/2024 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

Special Transportation Fund Discretionary Program rules are repealed because the information was consolidated into the Statewide Transportation Improvement Fund rules during a process in 2021 that utilized a rulemaking advisory committee. The Rural Veterans Healthcare Transportation Grant Program was consolidated into OAR 274-039-0010.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

This rulemaking will have no impact on racial equity in this state.

FISCAL AND ECONOMIC IMPACT:

None

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

None

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The repeal of these rules will have no impact on small businesses and therefore they were not involved in their development.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

This is a housekeeping action to repeal obsolete rules.

RULES PROPOSED:

732-020-0005, 732-020-0020, 732-020-0025, 732-020-0030, 732-020-0035, 732-020-0040, 732-020-0045, 732-020-0050

REPEAL: 732-020-0005

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0005~~

~~Discretionary Program~~

~~(1) Discretionary Account moneys may be distributed through a Discretionary Program managed by the Division.¶¶~~

~~(2) The Division will announce the amount of funds available for distribution and will make applications and application procedures publicly available.¶¶~~

~~(3) The Oregon Transportation Commission may establish requirements for the Discretionary Program, including and not limited to:¶¶~~

~~(a) Specific goals and objectives;¶¶~~

~~(b) Priorities;¶¶~~

~~(c) Project type and purpose; and¶¶~~

~~(d) A matching contribution.¶¶~~

~~(4) The Discretionary Program will:¶¶~~

~~(a) Be available on a cycle to be determined by the Oregon Transportation Commission;¶¶~~

~~(b) Be a competitive award process; and¶¶~~

~~(c) Award moneys based on the requirements of the Discretionary Program.¶¶~~

~~(5) The Division may combine moneys from the Discretionary Account with other state and federal moneys available to the Division into a unified discretionary grant program.¶¶~~

~~(6) A STF Agency may request Discretionary Program moneys by submitting a complete application. The STF Agency may submit more than one application, and may submit applications prepared by entities other than the STF Agency.¶¶~~

~~(a) If an application is prepared for submission by an entity other than the STF Agency, the STF Agency will:¶¶~~

~~(A) Acknowledge the application by providing a signature;¶¶~~

~~(B) Verify willingness to enter into an agreement with the applicant to receive and disburse the Discretionary Grant moneys for the Project; and¶¶~~

~~(C) Submit the application to the Division.¶¶~~

~~(b) Prior to submitting an application to the Division, the STF Agency will:¶¶~~

~~(A) Consult with its Advisory Committee regarding the proposed project; and¶¶~~

~~(B) Ensure that the proposed project is consistent with the STF Agency's STF plan or other plan addressing the transportation needs of the public including the Elderly and People with Disabilities.¶¶~~

~~(C) The STF Agency is not obligated to submit an application to the Division that does not meet its approval.¶¶~~

~~(c) The Advisory Committee will meet at least one time to review all of the applications and make recommendation to the STF Agency.¶¶~~

~~(d) If more than one application is prepared for submission, the STF Agency will rank the projects reviewed in priority order before submitting them to the Division.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830~~

REPEAL: 732-020-0020

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0020~~

~~Application Review~~

~~(1) The Division will establish a process for reviewing Discretionary Program applications that will include, and is not limited to:~~

~~(a) An initial screening of applications for compliance with Discretionary Program requirements. If program requirements are not met;~~

~~(A) The Division may ask for further information or clarification; and~~

~~(B) May recommend disapproval of the application to the Oregon Transportation Commission and advise the STF Agency of the reasons for recommending disapproval;~~

~~(C) Reasons for the Division to disapprove an application may include, and are not limited to, the following:~~

~~(i) No advisory committee, or improper membership;~~

~~(ii) STF Agency failure to confer with the Advisory Committee;~~

~~(iii) Purpose of the project is not in accordance with the requirements of the program; and~~

~~(iv) The potential recipient identified in the application is ineligible to receive STF moneys.~~

~~(b) A review of the qualified applications will be conducted by the appointed grant review panel;~~

~~(c) The Discretionary Program application review may be conducted in conjunction with the review of other state and federal grant applications submitted to the Division; and~~

~~(d) After consideration of the grant review panel's recommendation, the Division shall submit a final recommendation for funding to the Oregon Transportation Commission.~~

~~(2) Criteria for review and selection of Discretionary Grants will be established by the Oregon Transportation Commission, and may include, and not be limited to:~~

~~(a) Public support for the proposed Project;~~

~~(b) The need for the proposed Project;~~

~~(c) The effectiveness of the proposed Project;~~

~~(d) The efficiency of the proposed Project;~~

~~(e) The appropriateness in scope or scale of the proposed Project;~~

~~(f) A satisfactory history of applicant performance, if appropriate;~~

~~(g) Consistency with state and local priorities and needs as identified in planning documents; and~~

~~(h) Demonstration of Coordination of transportation resources.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830~~

REPEAL: 732-020-0025

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0025~~

~~Discretionary Grant Review Panel~~

~~(1) The Division will establish a grant review panel to review Discretionary Program applications and recommend Discretionary Grant awards.¶¶~~

~~(2) The grant review panel will be composed of members with knowledge of the transportation needs of the Elderly and People with Disabilities:¶¶~~

~~(a) Members of the panel, and the agencies they represent, may not benefit monetarily from any funding decision; and¶¶~~

~~(b) The Oregon Transportation Commission will appoint individuals to serve on the grant evaluation panel. The panel members may represent state agencies, local government, organizations representing the Elderly and People with Disabilities, the community, local transportation planners and the transportation service industry.¶¶~~

~~(3) The grant review panel will:¶¶~~

~~(a) Use the criteria established in accordance with OAR 732-020-0020(2) when reviewing the applications; and¶¶~~

~~(b) Adhere to the Oregon Public Meeting Law.¶¶~~

~~(4) The grant review panel may review and recommend procedures and additional review criteria to the Division as necessary to perform their duties in a timely manner.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830~~

REPEAL: 732-020-0030

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0030~~

~~Award of Funds~~

~~(1) Upon approval of the Discretionary Program applications by the Oregon Transportation Commission, the Division will:~~

~~(a) Notify the applicant of the approval or denial of their application; and~~

~~(b) For an approved application, enter into a written agreement with the STF Agency to award funds.~~

~~(2) Discretionary Grants that are for planning, needs assessment, research, demonstration and operating projects:~~

~~(a) Payments will be made based on reported expenditures; and~~

~~(b) Final payment will be made upon receipt of final reports.~~

~~(3) Discretionary Grants that are for capital projects, payment may be made upon receipt of vendor invoice or billing.~~

~~(4) Other arrangement for payment is at the discretion of the administrator of the Division.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830~~

REPEAL: 732-020-0035

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0035~~

~~Use of Funds~~

~~The uses of the STF Discretionary Grant moneys will be consistent with purposes defined by OAR 732-005-0016, and will be directly associated with activities conducted to complete the project.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830~~

REPEAL: 732-020-0040

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0040~~

~~Discretionary Project Monitoring~~

~~(1) The Division will monitor each Discretionary Grant agreement on an ongoing basis by:~~

~~(a) Review of project reports;~~

~~(b) An on-site visit to the STF Agency, as appropriate; and~~

~~(c) Review of other information, as appropriate.~~

~~(2) Discretionary grant agreements may be terminated or suspended by the Division before the date indicated in the agreement. Grounds for termination or suspension of an agreement will include, and are not limited to, a finding by the Division that:~~

~~(a) A Recipient is in clear violation of state or local laws or regulations governing passenger transportation;~~

~~(b) A Recipient is in clear violation of the laws or rules of this program, or is improperly using program funds; and~~

~~(c) A project is incapable of being performed, or has not been performed, in a safe, prudent and timely manner.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830~~

REPEAL: 732-020-0045

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0045~~

~~Redistribution of Funds~~

~~For Discretionary Account moneys, the Division will return funds awarded, but not used, back to the Discretionary Account upon termination of a grant.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830~~

REPEAL: 732-020-0050

RULE SUMMARY: This rule is being repealed as a result of the consolidation of STIF/STF rules.

CHANGES TO RULE:

~~732-020-0050~~

~~Rural Veterans Healthcare Transportation Grant Program~~

~~(1) As used in this rule, "veteran" has the meaning given that term in ORS 408.225(1)(f).¶¶~~

~~(2) For purposes of Discretionary Program grants to provide transit services for veterans in rural areas to access services for physical, mental or behavioral healthcare, the eligibility criteria listed below apply. An STF Agency is eligible to apply if:¶¶~~

~~(a) It is an Indian Tribe; or¶¶~~

~~(b) Its area of responsibility is located, in whole or in part, in an area assigned a primary Rural-Urban Commuting Area (RUCA) code of 4 through 10, by the U.S. Department of Agriculture as of July 3, 2019.~~

~~Statutory/Other Authority: ORS 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830, 408.225~~