

Secretary of State
NOTICE OF PROPOSED RULEMAKING*
A Statement of Need and Fiscal Impact accompanies this form

FILED
2-12-16 10:44 AM
ARCHIVES DIVISION
SECRETARY OF STATE

Department of Transportation, Highway Division
Agency and Division

734

Administrative Rules Chapter Number

Lauri Kunze

(503) 986-3171

Rules Coordinator

Telephone

Department of Transportation, Highway Division, 355 Capitol St. NE, MS 51, Salem, OR 97301

Address

RULE CAPTION

Prequalification of highway and bridge public improvement project bidders

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

Secure approval of rule numbers with the Administrative Rules Unit prior to filing

ADOPT:

AMEND:

REPEAL:

734-010-~~0166~~; 734-010-0220, 734-010-0230, 734-010-0240, 734-010-0250, 734-010-0260, 734-010-0270, 734-010-0280

RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

AMEND AND RENUMBER: Secure approval of new rule numbers with the Administrative Rules Unit prior to filing.

Statutory Authority:

ORS 184.616, 184.619, 279C.430

Other Authority:

None

Statutes Implemented:

ORS 279C.430

RULE SUMMARY

The rules describing ODOT's process requiring contractor prequalification for public improvement contracts have been co-located with Highway Division rules in OAR 734, division 10. The process of prequalification, which these rules govern, is a function within the ODOT Procurement Office. This rulemaking repeals the prequalification provisions from the Highway subject matter in OAR 734, division 10 and is accompanied by a rulemaking that adopts them into the Procurement subject matter area in OAR 731, division 7.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association 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 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.

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.

<u>03-21-2016 Close of Business</u>	<u>Lauri Kunze</u>	<u>lauri.g.kunze@odot.state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Rules Coordinator Name	Email Address

*The Oregon Bulletin is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation.

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Prequalification of highway and bridge public improvement project bidders

Rule Caption (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)

In the Matter of:

the repeal of OAR 734-010-0100, 734-010-0220, 734-010-0230, 734-010-0240, 734-010-0250, 734-010-0260, 734-010-0270, 734-010-0280

Statutory Authority:

ORS 184.616, 184.619, 279C.430

Other Authority:

None

Statutes Implemented:

ORS 279C.430

Need for the Rule(s):

The rules describing ODOT's process requiring contractor prequalification for public improvement contracts have been co-located with Highway Division rules in OAR 734, division 10. The process of prequalification, which these rules govern, is a function within the ODOT Procurement Office. This rulemaking repeals the prequalification provisions from the Highway subject matter in OAR 734, division 10 and is accompanied by a rulemaking that adopts them into the Procurement subject matter area in OAR 731, division 7.

Documents Relied Upon, and where they are available:

Public Improvement Contracts Leadership Team work plan and meeting minutes (01/07/15); ODOT Industry Leadership meeting minutes (04/24/15 and 12/05/14); Prequalification Subcommittee meeting minutes (12/08/15)

Fiscal and Economic Impact:

See statements below.

Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)):

Reduces the administrative process for the state agency and for highway and bridge construction prime contractors, and medium/small construction contractors who prequalify through the state to work on city and county construction projects.

2. Cost of compliance effect on small business (ORS 183.336):

a. Estimate the number of small business and types of businesses and industries with small businesses subject to the rule:
No cost compliance effect; therefore not applicable.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

None

c. Equipment, supplies, labor and increased administration required for compliance:

None

How were small businesses involved in the development of this rule?

The impact on business is to prime bidders of highway and bridge public improvement projects, and other medium/small construction contractors that work on city and county projects. ODOT conducted outreach to the Associated General Contractors (AGC) membership, National Association of Minority Contractors (NAMC Oregon), and convened meetings with the Prequalification Subcommittee (AGC members) that advise the agency on all matters related to contractor prequalification.

Administrative Rule Advisory Committee consulted?: No

If not, why?:

In addition to the outreach and consultation described above to AGC, NAMC Oregon, and the Prequalification Subcommittee, OPO vetted the

changes to this rule among all procurement subject matter experts, and highway organization leaders.

<u>03-21-2016 Close of Business</u>	<u>Lauri Kunze</u>	<u>lauri.g.kunze@odot.state.or.us</u>
Last Day (m/d/yyyy) and Time for public comment	Printed Name	Email Address