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**PERMANENT ADMINISTRATIVE RULES**

**FILED**  
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I certify that the attached copies are true, full and correct copies of the PERMANENT Rule(s) adopted on Upon filing, by the  
Oregon Business Development Department 123

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Agency and Division Administrative Rules Chapter Number  
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Address

To become effective Upon filing. Rulemaking Notice was published in the July 2016 Oregon Bulletin.

**RULE CAPTION**

These rules relate to the administration of the Regional Infrastructure Fund.

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

**RULEMAKING ACTION**

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

**ADOPT:**

123-061-0031, 123-061-0032, 123-061-0033

**AMEND:**

123-061-0010, 123-061-0020, 123-061-0030, 123-061-0035

**REPEAL:**

123-061-0040

**RENUMBER:**

**AMEND AND RENUMBER:**

**Statutory Authority:**

ORS 285A.075, OL 2013 c.786 §3,

**Other Authority:**

**Statutes Implemented:**

ORS 285B.551, OL 2013 c.786 §3, OL 2014 c.82 §2, 3, 5

**RULE SUMMARY**

In 2013, the Oregon Legislature created the Regional Infrastructure Fund through SB 5533. The fund provides grants and loans to local governments for Regional Implementation Projects including long-range planning, research and design.

The purpose of the creation of the new rules and amendments is to establish a process and criteria for recommending projects to be funded by the Regional Infrastructure Fund.

The principles are:

Ensure statewide economic vitality.

Allocation of state funds will reach all corners of Oregon.

Strategic investments are best identified by regional leaders

Timely application of resources targeted to move the needle.

Unlocks funding from other sources.

Transparent and accountable decision-making.

Processes for recommending implementation projects will be inclusive, transparent and consistent across all regions.

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# OREGON BUSINESS DEVELOPMENT DEPARTMENT

## DIVISION 61

### REGIONAL INFRASTRUCTURE FUND

#### 123-061-0010

##### **Purpose**

These rules establish the criteria and process for selecting projects to be funded by the Regional Infrastructure Fund. The 2013 Oregon Legislature created the Regional Infrastructure Fund for the purpose of providing grants and loans to local governments for Regional Solutions implementation projects including long-range planning, research, and design. As provided in 786 OL 2013 § 3, the Oregon Business Development Department shall administer the Regional Infrastructure Fund.

Stat. Auth.: ORS 285A.075, , OL 2013 c.786 §3  
Stats. Implemented: ORS 285B.551, OL 2013 c.786 §3  
Hist.: OBDD 7-2014, f. 4-30-14, cert. ef. 5-1-14

#### 123-061-0020

##### **Definitions**

The following terms have the following definitions, unless the context clearly indicates otherwise:

- (1) "Department" means the Oregon Business Development Department defined in ORS 285A.070.
- (2) "Fund" means the Regional Infrastructure Fund.
- (3) "Grant" means funds for an awarded project that are not required to be repaid, if contract conditions are met.
- (4) "Grant and Loan Review Committee" means a committee designated by the Department, comprised of a geographically diverse, odd number of members from the Oregon Business Development Commission and the Oregon Infrastructure Finance Authority Board, to determine project awards. The Committee must include at least one member that is a representative from a city and at least one member that is a representative from a county.
- (5) "Loan" means a non-revolving loan for an awarded project. Loan funds are required to be repaid after project completion.
- (6) "Project" means a project funded by the Regional Infrastructure Fund that supports regional economic and community development.
- (7) "Local government" means a city, county, authority or entity organized under state statute or city or county charter, and includes any council of governments.
- (8) "Region" means an economic development district in Oregon, created by the Economic Development Administration of the United States Department of Commerce, for which the Governor has appointed a Regional Solutions Advisory Committee.

(9) “Regional priorities” means the priorities for economic and community development established by a Regional Solutions Advisory Committee.

(10) “Regionally-based planning committees” means Regional Solutions Advisory Committees appointed by the Governor as described in Chapter 82 Oregon Laws 2014.

Stat. Auth.: ORS 285A.075, , OL 2013 c.786 §3

Stats. Implemented: OL 2013 c.786 §3, OL 2014 c.82 §2, 3, 5

Hist.: OBDD 7-2014, f. 4-30-14, cert. ef. 5-1-14

### **123-061-0030**

#### **Project Applications**

(1) Regional Solutions, in coordination with the Department, will develop an application to apply for project funding and develop procedures for review and award. Applications will be received by the Department.

(2) Regional Solutions, in coordination with the Department, will announce periods for local governments to submit applications for funding.

(3) The announcement will identify the types of funds available and the eligible uses.

(4) The applicant must be an Oregon local government. A project must have a local government sponsor but may provide either a public or private benefit.

(5) If a project or applicant is deemed ineligible, the applicant will be notified by the Department. The director of the Department, or a designate, will consider appeals of the eligibility determination. Only the applicant may appeal, and appeals must be submitted in writing to the director within 15 calendar date of the decision being appealed. The director’s decision is final.

Stat. Auth.: OL 2013 c.786 §3

Stats. Implemented: OL 2013 c.786 §3, OL 2014 c.82 §2, 3, 5

Hist.: OBDD 7-2014, f. 4-30-14, cert. ef. 5-1-14

### **123-061-0031**

#### **Project Criteria**

Projects shall be evaluated by the Department and the Regional Solutions Teams for whether the project will:

(1) Address one or more regional priorities.

(2) Support the retention or creation of jobs in the region directly impacted by the project.

(3) Not require or rely upon continuing subsidies from the Department for ongoing operations.

(4) Help meet the sustainable community objectives as noted in ORS 184.423(2).

(5) Be ready for implementation. The project has:

(a) Identified all applicable and required permits within the project schedule.

(b) Committed funding contributions from other public, private, or philanthropic resources.

(c) Demonstrated community support.

(6) For economic development projects, be consistent with Oregon Business Development Department strategic plan priorities.

Stat Auth: OL 2013 c.786 §3

Stats. Implemented: OL 2013 c.786 §3, OL 2014 c.82 §2, 3, 5

### **123-061-0032**

#### **Public Involvement**

(1) Eligible projects will be forwarded to the applicable Regional Advisory Committee for review and recommendation of projects from that respective region. Regional Solutions Advisory Committees must provide at least 14 days for the public to review meeting agendas, projects materials and provide comment on proposed projects before such a Committee makes its final recommendation.

Stat Auth: OL 2013 c.786 §3

Stats. Implemented: OL 2013 c.786 §3, OL 2014 c.82 §2, 3, 5

### **123-061-0033**

#### **Funding Allocation and Project Recommendation**

(1) Each region will receive a base of five percent of the total amount available during any round of applications. If a region does not submit a timely application or submits one for less than five percent, the five percent or remaining percent for that region may be awarded to other projects.

(2) Regional Solutions Advisory Committees will recommend projects from their region to the Grant and Loan Review Committee.

(3) The Department will establish a Grant and Loan Review Committee, which will review project recommendations, determine projects and amounts to award.

Stat Auth: OL 2013 c.786 §3

Stats. Implemented: OL 2013 c.786 §3, OL 2014 c.82 §2, 3, 5

### **123-061-0035**

#### **Contracts**

(1) Upon approval of an award from the Fund, the Department will enter into a binding contract with the local government.

(2) The contract for a grant and/or loan shall be in a form provided by the Department and will include but not be limited to:

(a) A provision that disbursements from the Fund will be according to the terms of the contract;

(b) The eligible use of funds;

(c) The performance standards expected of the local government;

- (d) The repayment obligation of the local government for failure to perform the specified project activity.
  - (e) Other provisions that the Department considers necessary or appropriate to implement the award.
- (3) In the event of a contract default, any recovered funds will be returned to the Fund and may be awarded to another project.
- (4) A contract for a loan must be authorized by an ordinance, order or resolution adopted by the governing body of the local government in accordance with the local government's requirements for public notice and authorizing debt.

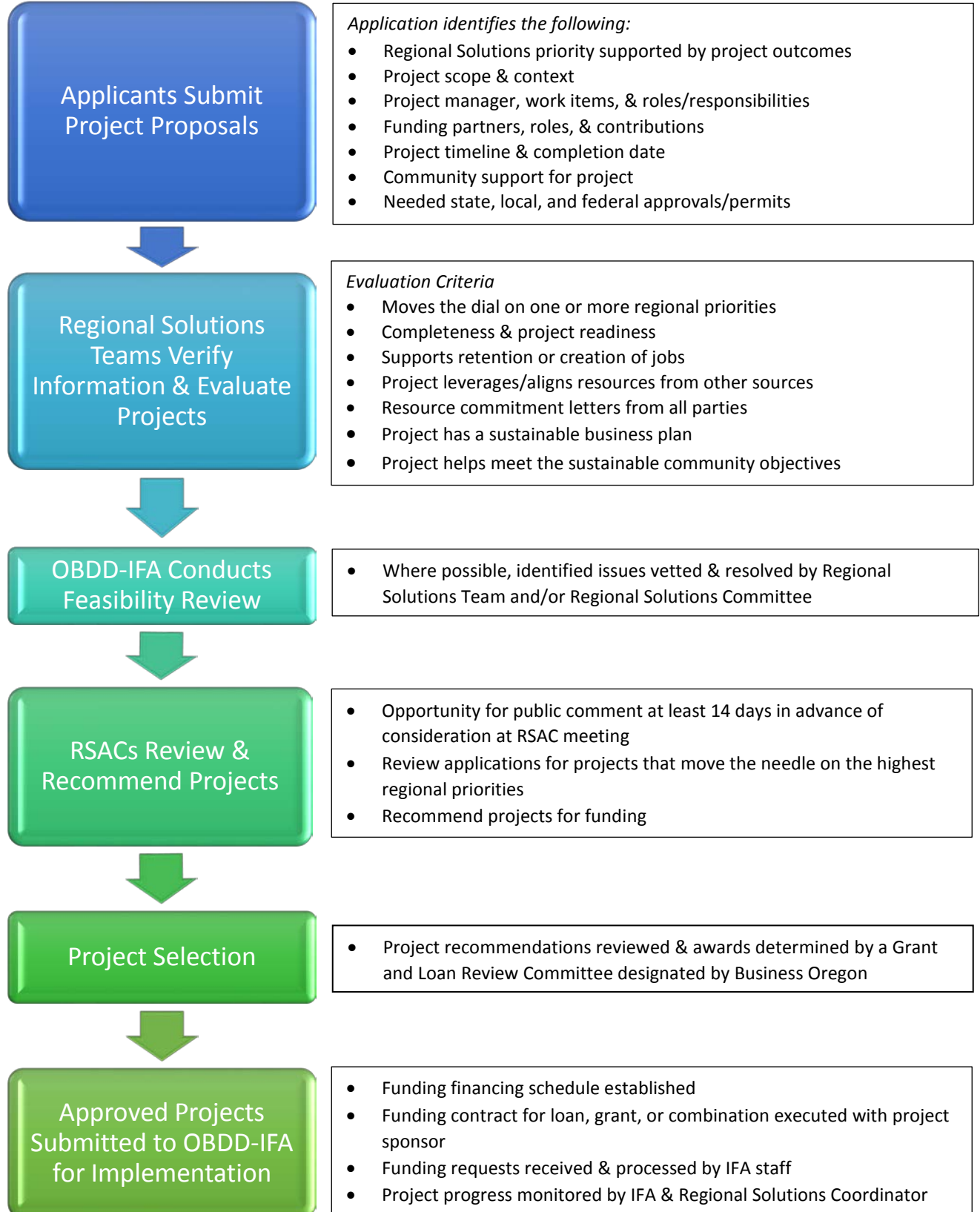
Stat. Auth.: ORS 285A.075, OL 2013 c.786 §3  
Stats. Implemented: OL 2013 c.786 §3  
Hist.: OBDD 7-2014, f. 4-30-14, cert. ef. 5-1-14

# REGIONAL SOLUTIONS PROGRAM

## Regional Infrastructure Fund | 2017-19

### *Regional Implementation Projects Review Process*

Minimum of 5% of funds assigned per each of 11 regions; remaining 45% competitively awarded based on designated criteria



REGIONAL INFRASTRUCTURE FUND (RIF) RULEMAKING  
SUMMARY AND RESPONSE TO PUBLIC COMMENTS  
October 2016

**Introduction:**

Public comments were received from five organizations or individuals. Overall, the commenters were supportive of developing a clearer more transparent process for decision making for Regional Solutions implementation projects that receive funding from the Regional Infrastructure Fund. Commenters also supported an approach similar to that used by the Oregon Department of Transportation for Connect Oregon. Commenters requested specific clarifications summarized below.

**Summary of comments and responses:**

Comment: The purpose of the fund is not clearly articulated relative to other Business Oregon funds (League of Oregon Cities - LOC).

Response: The fund is meant to leverage/align resources from other sources, such as the private-sector or federal government, and not duplicate funding available from existing programs.

In comparing the Regional Infrastructure Fund (RIF) to other funding programs offered through Business Oregon, the most significant differences are that the funds are typically awarded as grants as opposed to loans, and benefits may accrue to private entities in addition to the primary public benefit. Another big difference is the flexibility in how projects are selected and in how they are structured. Examples of projects funded by grants from the RIF that may not have been eligible under Business Oregon's other programs are: construction of the Innovation Center for Entrepreneurship at OSU Cascades; regional workforce housing revolving loan fund; water delivery infrastructure for economic development and habitat; construction, equipment, and acquisition costs for private employers; construction of an organic food hub to aggregate and process agriculture products; and removal of woodstoves to reduce restrictions on expanding and new businesses.

Another difference is the regional focus and regional involvement. Most Business Oregon projects are decided internal to the Infrastructure Finance Authority (IFA). Some programs target rural areas (e.g., the Special Public Works Fund must award at least 60% of its grants to rural areas), but none use a designated percentage per region. Business Oregon's projects are generally based on a locality's plan – not prioritized as regionally significant projects. This program is designed to develop and promote projects tailored to a region's strategic objectives.

Comment: Some commenters requested the rules clarify that the funds are for infrastructure projects such as water, sewer, transportation, etc. (LOC); other commenters requested that infrastructure be flexible to include projects beyond "brick & mortar" (South Central Oregon Economic Development District - SCOEDD and Klamath County Chamber of Commerce). One



commenter requested that the rules describe different restrictions for lottery bonds and lottery revenue (LOC).

Response: The rules have not been revised to define “infrastructure.” This change was not made in order to preserve the greatest flexibility for Regional Solutions Advisory Committees. Eligible projects will be determined by the type of funding made available by the Legislature, which will be identified in the application materials.

Comment: Clarify criteria for grants vs. loans; include a definition for “loan” (LOC).

Response: Both loans and grants are eligible for funding. To date, the funds have been awarded as grants. In one case, the funds are being administered regionally as a revolving loan fund to address housing needs/issues. The following definition was added to the rules: ““Loan” means a non-revolving loan for an awarded project. Loan funds are required to be repaid after project completion.”

Comment: Define eligible projects and eligible costs (LOC).

Response: The types of projects and types of costs that are eligible depend upon the source(s) of funds appropriated by the Legislature. Further clarification will be provide in program guidelines.

Comment: Describe how a beneficiary of funds may be a private entity (LOC).

Response: Although the project sponsor must be a local government as defined in the rules, the project may provide benefits to a private entity. This provides the greatest opportunity to support job retention and creation to meet the unique opportunities of each region. Program guidelines will contain requirements that mandate a public benefit for all projects, regardless of any additional private benefit.

Comment: The rules need to be clearer about the membership, required expertise, term length for the Grant and Loan Review Committee (LOC); include representation from all parts of the state and specifically east of the Cascades (SCOEDD).

Response: The rules have been revised to indicate that the committee will be comprised of a geographically diverse, odd number of individuals who currently serve on the Business Oregon or IFA boards. At least one member will represent cities and one member will represent counties.

Comment: The definition of local government needs more clarity; does it include ports, special districts, associations, commissions (LOC). Include tribes as eligible project sponsors (Confederated Tribes of the Umatilla Indian Reservation). Clarify that Economic Development Districts formed under ORS 190 are included (SCOEDD).

Response: The local government definition comes from ORS 284.752 to 284.754, which applies to Regional Solutions programs, including funds from the Regional Infrastructure Fund. Ports and special districts certainly are units of local government, as are public school districts, public colleges, and councils of government. Tribes are not considered “local government” as defined in ORS 284.752, and therefore are not eligible direct applicants but may partner with an eligible applicant. If there is any question as to whether a potential applicant qualifies as a unit of local government, the potential applicant is encouraged to contact Business Oregon, prior to its application, for a determination.

Comment: The rules indicate eligible projects are those that support “economic and community development.” Rules should clarify what these terms mean (LOC).

Response: ORS 284.753 applies generally to Regional Solutions programs, but more specifically for awards under the Regional Infrastructure Fund, the project evaluation criteria are set forth in 123-061-0031. Relevant criteria include: (1) Address one or more regional priorities; (2) Support the retention or creation of jobs in the region directly impacted by the project; (3) Not require or rely upon continuing subsidies from the state for ongoing operations; (4) Help meet the sustainable community objectives as noted in ORS 184.423(2).

Comment: The rules need to clarify eligible uses, applicants, and fund managers; differences between lottery bond revenue and lottery revenue; provide more specific criteria, how criteria will be scored, minimum benchmarks, and priorities for determinations. Local government should participate in the creation of criteria. (LOC; SCOEDD on need for clarity).

Response: The application criteria and program materials will be developed in consultation with stakeholders, including local governments, once funding has been established. The rules have been revised to use local government consistently throughout. The rules have also been revised to include a city and county representative on the Grant and Loan Review Committee.

Comment: Clarification was requested around the minimum allocation of five percent of funds to each region and how the selection of projects and distribution of funds would or would not differ beyond the regional allocation. For example, will a region receive five percent even if there are no eligible projects; will funds be carried over; will all projects be considered in the same manner (LOC, SCOEDD, Wild Rivers Coast Alliance).

Response: The rules were revised to state that if a region does not submit a timely application or submits one for less than five percent, the five percent or remaining percent for that region may be awarded to other projects statewide.