



PERMANENT ADMINISTRATIVE ORDER

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CHAPTER 732
DEPARTMENT OF TRANSPORTATION
PUBLIC TRANSIT DIVISION

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RULES:

732-005-0090, 732-040-0015, 732-040-0055, 732-042-0015, 732-042-0040, 732-044-0025, 732-044-0050

AMEND: 732-005-0090

NOTICE FILED DATE: 07/13/2020

RULE SUMMARY: Added section (5) to ensure that a former STF Agency completes any pending responsibilities and transfers all funds and/or responsibilities to the new STF Agency, as appropriate.

CHANGES TO RULE:

732-005-0090

Creation of New Mass Transit District or Transportation District

(1) In the event that a District comes to exist in any part of a county or counties in which it did not previously exist, the District replaces the county(ies) in which it exists as STF Agency for the area(s) previously served by the county(ies). Upon its existence, the District shall assume the STF Agency role previously held by the county(ies) in which any part of it exists with respect to all aspects of the administration of the Formula Program.¶

(2) It is the goal of the Division that such a transition between STF Agencies be accomplished smoothly, efficiently and without disruption of Public Transportation Services. For that reason, a county which is a STF Agency shall provide notice to the Division when it publishes notice of the first public meeting at which it will consider creating or establishing a District.¶

(3) Upon establishment of a District in any county or counties, the Oregon Transportation Commission and the Oregon Department of Transportation hereby recognize the District as the new STF Agency for the area(s) previously served by the county(ies) in which any part of the District exists. ¶

(a) Within ten business days of coming into existence, the District shall send the Division notice of the effective date of its existence, the name(s) of its designated contact person(s), a copy of the legal documentation of its creation, and the date of its first public meeting. The Division may reasonably delay any pending Formula Program disbursements until the District establishes a financial account.¶

(b) For the period between the District's coming into existence and its first public meeting the Division shall consider the District to have appointed an Advisory Committee, for the purposes of ORS 391.810(3), composed of

the eligible members of the Advisory Committee(s) of the county(ies) in which the District has come to exist. The Division shall consider individuals "eligible members" if they satisfy the criteria to serve on the District's Advisory Committee under ORS 391.820.¶¶

(c) At its first public meeting, the District, consistent with its procedural requirements, may determine the numbers and terms of Advisory Committee members and may appoint an Advisory Committee. The District may appoint some or all of same individuals to its Advisory Committee who previously served on the Advisory Committee(s) of the county(ies). If it appoints an Advisory Committee, the District shall notify the Division in writing of the membership.¶¶

(d) If the District does not provide written notification to the Division of the membership of its Advisory Committee, within three business days of the date of its first public meeting, the Division shall withhold Formula Program funds until the District notifies the Division that it has appointed an Advisory Committee.¶¶

(e) The Division shall consider the STF Plan previously submitted to Division by the county(ies) pursuant to OAR 732-005-0081, to have been assigned to and assumed by the District, unless the District notifies the Division that it has adopted a new STIF Plan or updated the STF Plan, as described in OAR 732-005-0081.¶¶

(4) In coordination with the county(ies), relevant Recipients or Providers, and other parties as necessary, the District shall undertake all necessary tasks to develop its STF Plan, carry out the Projects of the relevant STF Plan(s) and otherwise ensure a smooth transition of all STF Agency responsibilities from the county(ies) to the District. The Division shall provide reasonable assistance and guidance to the new STF Agency to facilitate the transition, consistent with the respective roles of the STF Agency and the Division.¶¶

(5) Following the establishment of a Mass Transit District or Transportation District, the county(ies) or other entity that was previously the STF Agency shall complete any remaining obligations under the STF Agreement(s) that have not been assumed by the new STF Agency, which includes any pending reporting requirements and disbursement of funds to subrecipients as identified in the STF Agreement(s) or transferring those funds to the Mass Transit District or Transportation District now serving as the STF Agency.

Statutory/Other Authority: ORS 184.619, 391.810

Statutes/Other Implemented: ORS 391.800, 391.810, 391.820, 391.830

AMEND: 732-040-0015

NOTICE FILED DATE: 07/13/2020

RULE SUMMARY: Language was amended to explicitly require STIF recipients to comply with FTA drug and alcohol regulations.

CHANGES TO RULE:

732-040-0015

Audit and Compliance Review Requirements

- (1) Recipients shall conduct an annual financial audit of the STIF moneys received. ¶
- (2) All financial audit reports shall be submitted to the Agency no later than 30 days after the receipt of the auditor's final report(s).¶
- (3) Recipients shall be subject to periodic on-site compliance reviews by the Agency. The purpose of the compliance site review is to ensure that Recipients have appropriate, adequate internal controls and management procedures to meet the terms and conditions of agreements governing the disbursement of STIF moneys. Compliance reviews may cover the following topics, as applicable: program management; financial management; operations management, procurement, use and maintenance of equipment; records retention; compliance with state and federal civil rights laws; compliance with FTA drug and alcohol regulations; and compliance with the ADA. ¶
- (4) Recipients shall permit the Agency, the Secretary of State of the State of Oregon, or their authorized representatives, upon reasonable notice, access to all data and records relating to STIF moneys received or disbursed and to inspect the STIF Plans and Projects financed with STIF moneys including, but not limited to, the financial records, physical premises and Capital Assets used to deliver public transportation services.¶
- (5) Recipients shall ensure that their agreements or contracts with Sub-Recipients or vendors include provisions which permit the Agency, the Secretary of State of Oregon, or their authorized representative, access to data and records held by the Sub-Recipient or vendor as described in section (4) of this rule.

Statutory/Other Authority: ORS 184.619, ORS 184.658, ORS 184.761

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0055

NOTICE FILED DATE: 07/13/2020

RULE SUMMARY: Added section (5) to ensure that a former Qualified Entity complete any pending responsibilities and transfer all funds and/or responsibilities to the new Qualified Entity, as appropriate.

CHANGES TO RULE:

732-040-0055

Creation of New Mass Transit District or Transportation District

- (1) In the event that a Mass Transit District or Transportation District comes to exist in any part of a county or counties in which it did not previously exist, the Mass Transit District or Transportation District replaces the county(ies) in which it exists as Qualified Entity for the Area(s) of Responsibility previously attributed to that county(ies). Upon its existence, the Mass Transit District or Transportation District shall assume the Qualified Entity role previously held by the county(ies) in which any part of it exists with respect to all aspects of STIF Formula Fund administration for its Area(s) of Responsibility and for all purposes under These Rules.¶
- (2) It is the goal of the Agency and the STIF Formula Fund program that such a transition between Qualified Entities be accomplished smoothly, efficiently and without disruption of Public Transportation Services. For that reason, a county which is a Qualified Entity shall provide notice to the Agency when it publishes notice of the first public meeting at which it will consider creating or establishing a Mass Transit District or Transportation District.¶
- (3) Upon establishment of a Mass Transit District or Transportation District in any county or counties, Commission and Agency hereby recognize the Mass Transit District or Transportation District as the new Qualified Entity for the Area(s) of Responsibility formerly attributed to the county(ies) in which any part of the Mass Transit District or Transportation District exists. ¶
- (a) Within ten business days of coming into existence, the Mass Transit District or Transportation District must send Agency notice of the effective date of its existence, the name(s) of its designated contact person(s), and a copy of the legal documentation of its creation. Agency may reasonably delay any pending STIF Formula Fund disbursement under OAR 732-042-0010(5) until the Mass Transit District or Transportation District establishes a financial account.¶
- (b) Agency and Commission shall consider all STIF Formula Fund program documents previously submitted to Agency or Commission by the county(ies) to have been assigned to and assumed by the Mass Transit District or Transportation District. Agency and Commission shall consider all responses or approvals previously made to the county(ies) to have been made to the Mass Transit District or Transportation District.¶
- (c) Notwithstanding ~~subprovisi~~section (b) of this section, at its first public meeting, the Mass Transit District or Transportation District, consistent with its procedural requirements, may decide not to assume any or all STIF Formula Fund program documents previously submitted to Agency or Commission by the county(ies). If the Mass Transit District or Transportation District does not reject assumption of the STIF Formula Fund program documents by official act at its first public meeting, such documents and any responses or approvals previously made to them by Agency or Commission shall be irrevocably assumed by the Mass Transit District or Transportation District for the duration of the current STIF Formula Fund Cycle.¶
- (d) If the Mass Transit District or Transportation District decides not to assume the STIF Plan(s) previously prepared by the county(ies) pursuant to OAR 732-042-0015 and approved by the Commission pursuant to OAR 732-042-0025:¶
 - (A) Agency shall accumulate STIF Formula Fund monies for the Mass Transit District or Transportation District as described in OAR 732-042-0030(1); and¶
 - (B) The Mass Transit District or Transportation District may submit a new STIF Plan to the Commission at any time during the current STIF Formula Fund Cycle.¶
- (4) In coordination with the county, relevant Recipients or Sub-Recipients, and other parties as necessary, the Mass Transit District or Transportation District shall undertake all necessary tasks to carry out the Projects of the

relevant STIF Plan(s), establish or transition Advisory Committee(s), and otherwise ensure a smooth transition of all Qualified Entity responsibilities from the county(ies) to the Mass Transit District or Transportation District. The Agency shall provide reasonable assistance and guidance to the new Qualified Entity to facilitate the transition, consistent with the respective roles of the Qualified Entity and the Agency.¶

(5) Following the establishment of a Mass Transit District or Transportation District, the county(ies) or other entity that was previously the Qualified Entity shall complete any remaining obligations under the STIF Plan(s) that have not been assumed by the new Qualified Entity, which includes any pending reporting requirements and disbursement of funds to PTSPs as identified in the STIF Plan(s) or transferring those funds to the Mass Transit District or Transportation District now serving as the Qualified Entity.

Statutory/Other Authority: ORS 184.619, 184.758(3)(e)

Statutes/Other Implemented: ORS 184.752(2)(a), 184.758(1)(a)

AMEND: 732-042-0015

NOTICE FILED DATE: 07/13/2020

RULE SUMMARY: Added the term "each year" to subsection (3)(j) to clarify that a Qualified Entity must allocate at least one percent of its STIF Formula disbursement to provide transportation for students in grades 9 to 12 on an annual basis. This frequency of allocation is specified in statute.

CHANGES TO RULE:

732-042-0015

STIF Plan Contents

(1) A Qualified Entity shall adopt a written STIF Plan to establish a list of Projects for public transportation located within the Qualified Entity's area of responsibility to guide STIF Formula Fund investments. ¶¶

(a) A STIF Plan must cover at least a Biennium, but it may include up to two Biennia subject to Commission approval. ¶¶

(b) A STIF Plan must address the transportation needs of people residing in or traveling into and out of the Qualified Entity's area of responsibility. ¶¶

(c) A Qualified Entity that is a Mass Transit District or Transportation District with jurisdictional boundaries within a county or counties which are not Qualified Entities shall adopt a STIF Plan that considers the Public Transportation Services for the area outside of district boundaries but within the remainder of the county or counties. ¶¶

(d) A STIF Plan may be included in a Qualified Entity's Local Plan or it may be a stand-alone plan. ¶¶

(e) The STIF Plan must contain an explanation of how the plan defines and identifies communities with a high percentage of Low-Income Households. ¶¶

(f) A STIF Plan must include a description of the Qualified Entity's method to sub-allocate STIF Formula Fund moneys to Public Transportation Service Providers and other potential Sub-Recipients and the process for developing the method. ¶¶

(2) A Qualified Entity's STIF Plan must contain the following sections: ¶¶

(a) Descriptions of Proposed Projects: For each proposed Project, the STIF Plan must include the factors listed in section (3) of this rule. ¶¶

(b) Summary of Planned Expenditures: The STIF Plan must include a summary listing: ¶¶

(A) The total funding sought in the STIF Plan; ¶¶

(B) The total funding sought for each Recipient or Sub-Recipient (Public Transportation Service Provider or Qualified Entity); and, ¶¶

(C) For Qualified Entities that are Mass Transit Districts or Transportation Districts which do not share contiguous jurisdictional boundaries with a single county, the total funding sought by geographic area inside and outside the district's jurisdictional boundary but within its area of responsibility. ¶¶

(c) Summary of Prior Expenditures on Specific Improvements: If the Qualified Entity received STIF Formula Funds in the preceding two Fiscal Years, the STIF Plan must include a summary of the amount of moneys allocated to fund each of the following: ¶¶

(A) Increased frequency of bus service schedules in communities with a high percentage of Low-Income Households; ¶¶

(B) The expansion of bus routes and bus services to reach communities with a high percentage of Low-Income Households; ¶¶

(C) Fund the implementation of programs to reduce fares for public transportation in communities with a high percentage of Low-Income Households; ¶¶

(D) The procurement of buses that are powered by natural gas, electricity or other low or no emission propulsion for use in areas with populations of 200,000 or more; ¶¶

(E) The improvement in the frequency and reliability of service connections between communities inside and outside of the Qualified Entity's service area; ¶¶

- (F) Coordination between Public Transportation Service Providers to reduce fragmentation in the provision of transportation services; and¶¶
- (G) Implementation of programs to provide student transit services for students in grades 9 through 12. ¶¶
- (d) Summary of Current Projects: The STIF Plan must include a summary of Projects recommended by the Qualified Entity's Advisory Committee for the duration of the STIF Plan, identified by Fiscal Year. ¶¶
- (e) Advisory Committee Information: The STIF Plan must include a list of the Qualified Entity's current Advisory Committee and the online or other location(s) where Advisory Committee materials may be reviewed as described in OAR 732-040-0030(4)(b). In addition, the STIF Plan must include a statement that the Qualified Entity consulted with its Advisory Committee as required by these rules and, if applicable, an explanation of why the Advisory Committee's recommendation was not adopted by the Governing Body.¶¶
- (f) Recipient Accountability Methods: The STIF Plan must include a description of the methods the Qualified Entity will use to ensure that it complies with these rules and achieves the goals identified in the STIF Plan.¶¶
- (g) Sub-Recipient Accountability Methods: The STIF Plan must include a description of the methods and agreement or contract language that the Qualified Entity will use to oversee its Sub-Recipients, address deficiencies in Sub-Recipient performance, and to ensure that the Qualified Entity can accomplish the applicable requirements of these rules, including but not limited to audit and compliance requirements, accounting requirements, capital asset requirements and reporting requirements.¶¶
- (h) Remediation Strategies: If the Qualified Entity has submitted three or more Quarterly Reports within the past two years which indicate that it failed to substantially comply with its approved STIF Plan, the STIF Plan must include a description of the Qualified Entity's strategies to ensure that it will substantially comply with the proposed STIF Plan.¶¶
- (i) Governing Body Adoption: The STIF Plan must include documentation that the Governing Body approved the STIF Plan prior to its submittal to the Agency. If STIF Formula funds will be jointly managed by two or more Qualified Entities, the STIF Plan must include documentation demonstrating each Governing Body's commitment to joint management. ¶¶
- (3) The STIF Plan must include descriptions of each proposed Project as described below. A Qualified Entity shall include in its STIF Plan only Projects which appear in a Local Plan. Qualified Entities eligible for no more than the minimum STIF Formula Fund allocation under OAR 732-042-0010(2) or Rural Public Transportation Service Providers that are unable to meet the Local Plan requirements during the first Formula Fund solicitation cycle may use a portion of their first STIF Formula Fund allocation or sub-allocation to improve public transportation services if they have a current approved Coordinated Human Services Public Transportation Plan and if they also use a portion of the first allocation or sub-allocation to develop a Local Plan that is consistent with STIF Local Plan requirements. For each proposed Project, the STIF Plan must describe:¶¶
- (a) Proposed funding level for: each Project and a description of what the Qualified Entity intends to do with the STIF Formula Fund moneys it receives for the individual Project. ¶¶
- (b) Whether the Project would improve or expand public transportation or maintain an existing service. For Projects that would maintain an existing public transportation service, the STIF Plan must specify the amount and percentage of each Project budget for this purpose and the reason for proposing any Project that maintains an existing service rather than a Project that improves or expands service. ¶¶
- (c) Anticipated benefits and discrete measurable outcomes associated with each Project with specific reference to whether the Project: ¶¶
- (A) Increases the frequency of bus service schedules in communities with a high percentage of Low-Income Households; ¶¶
- (B) Expands bus routes and bus services to reach communities with a high percentage of Low-Income Households; ¶¶
- (C) Implements programs to reduce fares for public transportation in communities with a high percentage of Low-Income Households; ¶¶
- (D) Procures buses that are powered by natural gas, electricity or other low or no emission propulsion for use in areas with populations of 200,000 or more;¶¶

- (E) Improves the frequency and reliability of service connections between communities inside and outside of the Qualified Entity's service area; ¶
- (F) Fosters Coordination between Public Transportation Service Providers to reduce fragmentation in the provision of transportation services; and¶
- (G) Provides student transit services for students in grades 9 through 12.¶
- (d) Identification of the Local Plan(s) from which each Project was derived and identification of the board, council, commission, or other governing body which approved the Local Plan.¶
- (e) The proposed Recipient or Sub-Recipient of the STIF Formula Fund moneys for that Project. ¶
- (f) A full budget including fund sources and for yet-to-be obligated fund sources, the timing for funding decisions, if known.¶
- (g) For proposed Projects which are part of a larger multi-phase Project, the phasing plan including schedule and budget with known and potential funding sources identified.¶
- (h) The amount of moneys from the STIF Formula Fund distribution that would be allocated to fund each of the following: ¶
 - (A) Increased frequency of bus service schedules in communities with a high percentage of Low-Income Households; ¶
 - (B) The expansion of bus routes and bus services to reach communities with a high percentage of Low-Income Households; ¶
 - (C) The implementation of programs to reduce fares for public transportation in communities with a high percentage of Low-Income Households; ¶
 - (D) The procurement of buses that are powered by natural gas, electricity or other low or no emission propulsion for use in areas with populations of 200,000 or more; ¶
 - (E) The improvement in the frequency and reliability of service connections between communities inside and outside of the Qualified Entity's service area; ¶
 - (F) Coordination between Public Transportation Service Providers to reduce fragmentation in the provision of transportation services; and¶
 - (G) The implementation of programs to provide student transit services for students in grades 9 through 12. ¶
- (i) Identification of the extent to which the Project is consistent with Oregon Public Transportation Plan goals, policies, and implementation plans.¶
- (j) At least one Project described in the STIF Plan must implement a program(s) to provide student transit services for students in grades 9 through 12, if Practicable, and allocate at least one percent of the Qualified Entity's estimated STIF Formula Fund disbursement to that program(s) each year. If the Qualified Entity determines that it is not Practicable to identify such a Project or to allocate funding for this purpose, it shall specify in its STIF Plan the reason(s) for its determination.

Statutory/Other Authority: ORS 184.619, ORS 184.658, ORS 184.761

Statutes/Other Implemented: ORS 184.751-184.766

RULE SUMMARY: Four amendments were made to this rule:

1. Amended section (1) to ensure that recipients maintain "Satisfactory Continuing Control" of assets throughout the period in which the asset is used for service provided by the recipient.
2. Added language to sections (1) and (2) to indicate that vehicle leasing is an eligible use of STIF funds and ensure compliance with vehicle asset requirements by recipients using funds to lease vehicles.
3. Amended language in subsection (6)(c) to provide an appropriate formula for calculating net proceeds from sale or disposition of capital assets.
4. Amended subsection (6)(f) to require that ODOT is made the primary security interest holder on all STIF-funded vehicle assets, consistent with federal regulations.

CHANGES TO RULE:

732-042-0040

Capital Asset Requirements

- (1) Recipients shall ensure Satisfactory Continuing Control of a Capital Asset purchased or leased in whole or part with STIF funding ~~during the period of its useful life~~ throughout its useful life or until disposition. ¶
- (2) Recipients shall inventory Capital Assets purchased or leased in whole or part with STIF moneys. The inventory will include a description of the Capital Asset, date of purchase or lease, purchase price, amount of STIF moneys contributed to the purchase or lease, the source of other funds, the authorized use, the Recipient or Sub-Recipient using the Capital Asset, and the condition of the asset. ¶
 - (a) If Capital Asset is a vehicle, the inventory must include the size of vehicle, the total number of passenger seats, the total number of ADA stations, the total number of seats when all ADA stations are deployed, the current mileage, and its current condition. ¶
 - (b) If Capital Asset is an improvement to real property, such as a facility, building, or transit shelter, the inventory must include the location of the Capital Asset and its current condition. ¶
- (3) Vehicles may be replaced using STIF funding if: ¶
 - (a) Public Transportation Service Provider holds clear title to the vehicle(s) being replaced. Salvaged titles will not be accepted. ¶
 - (b) The vehicle(s) has met the useful life guidelines established by Agency. ¶
 - (c) The vehicle has not been previously replaced. ¶
- (4) To be eligible to receive STIF Formula Fund moneys to acquire revenue vehicle(s) for the expansion of transit service, a Qualified Entity shall demonstrate in its STIF Plan that the Recipient or Sub-Recipient who will acquire the Capital Asset has committed to continually use the vehicle for the approved purpose for the useful life of the vehicle(s). ¶
- (5) To be eligible to receive STIF moneys for a real property Capital Asset, such as a transit facility, bus barn, maintenance facility, land, or administration building, a Qualified Entity shall demonstrate in its STIF Plan one or more of the following: ¶
 - (a) Recipient or Sub-Recipient ownership of the property upon which the Capital Asset will be located; ¶
 - (b) Recipient or Sub-Recipient possession of an executed lease agreement for the property location that will be in place for the useful life of the Capital Asset; ¶
 - (c) Recipient or Sub-Recipient possession of an executed lien on the property for the useful life of the Capital Asset; ¶
 - (d) In the case of a Project which will utilize property owned by a local city, county or government, an executed intergovernmental agreement with the property owner guaranteeing ongoing use for the duration of the useful life of the Capital Asset; or ¶
 - (e) In the case of a Project to purchase land, an option to purchase the land identified in the Project. ¶
- (6) Qualified Entities shall: ¶

- (a) Establish useful life standards for Capital Assets acquired pursuant to their STIF Plans which meet or exceed the duration of those established by the Agency.¶
- (b) Use the Agency's published procedures or substantially similar procedures and ensure that Sub-Recipients use the same procedures for the disposition of Capital Assets acquired with STIF Formula Fund moneys. ¶
- (c) Retain the net proceeds from a sale or other disposition of a Capital Asset to reinvest in a future STIF Plan capital Project or return the net proceeds to the Agency. Net proceeds are the ~~disposal proceeds less~~ asset's original value, less disposal proceeds, depreciation, ~~less~~ and disposal costs. If non-STIF funds were used in the original purchase, then only the proportion representing STIF Formula Fund contribution to the purchase are subject to this rule.¶
- (d) Establish written procedures to ensure that a Capital Asset is maintained in safe operating condition.¶
- (e) Maintain insurance coverage, or require Sub-Recipients to maintain insurance coverage, that meets or exceeds the standards in ORS 806.070. ¶
- (f) Ensure that vehicles purchased in whole or in part with STIF Formula Fund moneys are titled with the Oregon Department of Transportation Driver and Motor Vehicle Services Division pursuant to ORS 803.045 and supporting rules, with the Agency listed as the primary security interest holder, subject to the following additional requirements:¶
 - (A) If the vehicle is registered in the name of a Sub-Recipient receiving the vehicle, and the Sub-Recipient is not a Qualified Entity or Public Transportation Service Provider, then the Qualified Entity or Public Transportation Service Provider must be listed on the vehicle title as the ~~prim~~secondary security interest holder.¶
 - (B) If the vehicle was purchased with federal funds in addition to STIF Formula Fund moneys, and the federal funding source requires the vehicle to be titled otherwise than provided in this rule, then the federal titling requirements prevail.¶
- (7) A Recipient shall notify the Agency of the sale, transfer or other disposition of a Capital Asset purchased with STIF Formula Fund moneys and shall report the use of proceeds, if any, from the sale to the Agency.¶
- (8) A Recipient may transfer its interest in a Capital Asset to an asset of equal or greater value if the transfer is proposed in a STIF Plan which is approved by the Commission.¶
- (9) When the Agency is a security interest holder in a Capital Asset, the Agency may exercise all of the rights provided to a secured lien holder under Oregon law, including without limitation, the ability to take control or possession of the Capital Asset if it determines either:¶
 - (a) ~~¶~~ that the asset is not being used for the purpose described in a STIF Plan under which it was funded in whole or part by STIF Formula Fund moneys; or¶
 - (b) ~~¶~~ if, during a compliance audit conducted pursuant to OAR 732-040-0015, the Agency determines the asset is not being maintained in a state of good operational repair.¶
- (10) A Qualified Entity may file an appeal as described in OAR 732-040-0050 if the Agency takes action under section (9) of this rule with respect to a Capital Asset funded in whole or part by STIF Formula Fund moneys originally distributed to the Qualified Entity.

Statutory/Other Authority: ORS 184.619, ~~ORS 184.658,~~ ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-044-0025

NOTICE FILED DATE: 07/13/2020

RULE SUMMARY: This amendment shifts the responsibility to provide funding recommendations on STIF Discretionary and Intercommunity Discretionary project proposals from the QE Advisory Committee to the QE governing body. The QE governing body must still consult its QE Advisory Committee before making funding recommendations.

CHANGES TO RULE:

732-044-0025

Advisory Committee Review of Projects Under the Discretionary STIF Funds

- (1) The Agency shall provide a copy of any grant application it receives to the appropriate Qualified Entity. ¶
- (2) Each Qualified Entity that receives a copy of a grant application from the Agency shall ~~timely provide the copy to~~ review the application and provide a written funding recommendation on the Project to the Agency following consultation with its Advisory Committee or the joint Advisory Committee in which it participates. ¶
- (3) ~~Each~~ An Advisory Committee shall ~~review Project applications submitted to it and shall provide a written recommendation to its respective Qualified Entity(ies) stating whether the Commission should award funding for the Project~~ conduct its review and activities in compliance with its written bylaws, as described in OAR 732-040-0030. ¶
- (4) Each Qualified Entity shall submit ~~the recommendation of its Advisory Committee, or the joint Advisory Committee in which it participates,~~ its funding recommendation to the Agency within the timelines specified in the grant solicitation cycle. ¶
- (5) Each ~~Advisory Committee~~ Qualified Entity may recommend a prioritized list of Projects ~~to the Qualified Entity(ies) that formed it,~~ hat concerning the Qualified Entity's(ies)' area(s) of responsibility. Each Qualified Entity shall provide the prioritized list of Projects, if any, to the Agency within the timelines specified in the grant solicitation cycle. ¶
- (6) ~~An Advisory Committee shall conduct its review and activities in compliance with its written bylaws, as described in OAR 732-040-0030.~~ ¶
- ~~(7)~~ When reviewing a Project proposal for acceptance, rejection or prioritization, an ~~Advisory Committee~~ Qualified Entity shall consider the extent to which the Project: ¶
 - (a) Supports the Purpose, as applicable, of the Discretionary Fund or the Intercommunity Discretionary Fund, as described in OAR 732-044-0000; ¶
 - (b) Meets the criteria established under OAR 732-044-0030(1); and ¶
 - (c) Meets any additional criteria established by the Commission.

Statutory/Other Authority: ORS 184.619, ~~ORS 184.658,~~ ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766

RULE SUMMARY: Four amendments were made to this rule:

1. Amended section (1) to ensure that recipients maintain "Satisfactory Continuing Control" of assets throughout the period in which the asset is used for service provided by the recipient.
2. Added language to sections (1) and (2) to indicate that vehicle leasing is an eligible use of STIF funds and ensure compliance with vehicle asset requirements by recipients using funds to lease vehicles.
3. Amended language in subsection (6)(c) to provide an appropriate formula for calculating net proceeds from sale or disposition of capital assets.
4. Amended subsection (6)(f) to require that ODOT is made the primary security interest holder on all STIF-funded vehicle assets, consistent with federal regulations.

CHANGES TO RULE:

732-044-0050

Capital Asset Requirements

- (1) Recipients shall ensure Satisfactory Continuing Control of a Capital Asset purchased or leased in whole or part with STIF funding ~~during the period of its useful life~~ throughout its useful life or until disposition. ¶
- (2) Recipients shall inventory Capital Assets purchased or leased in whole or part with STIF moneys. The inventory will include a description of the Capital Asset, date of purchase or lease, purchase price, amount of STIF moneys contributed to the purchase or lease, the source of other funds, the authorized use, the Recipient or Sub-Recipient using the Capital Asset, and the condition of the asset. ¶
- (a) If Capital Asset is a vehicle, the inventory must include the size of vehicle, the total number of passenger seats, the total number of ADA stations, the total number of seats when all ADA stations are deployed, the current mileage, and its current condition. ¶
- (b) If Capital Asset is an improvement to real property, such as a facility, building, or transit shelter, the inventory must include the location of the Capital Asset and its current condition. ¶
- (3) Vehicles may be replaced using STIF funding only if: ¶
- (a) Recipient holds clear title to the vehicle(s) being replaced. Salvaged titles will not be accepted. ¶
- (b) The vehicle(s) has met the useful life guidelines established by Agency. ¶
- (c) The vehicle has not been previously replaced. ¶
- (4) To be eligible to receive discretionary STIF moneys to acquire vehicle(s), a Public Transportation Service Provider shall demonstrate in its grant application and grant agreement that the Recipient or Sub-Recipient who will acquire the Capital Asset has committed to continually use the vehicle for the approved purpose for the useful life of the vehicle(s). ¶
- (5) To be eligible to receive discretionary STIF moneys for a real property Capital Asset, such as a transit facility, bus barn, maintenance facility, land, or administration building, a Public Transportation Service Provider shall demonstrate in its grant application one or more of the following: ¶
- (a) Recipient or Sub-Recipient ownership of the property upon which the Capital Asset will be located; ¶
- (b) Recipient or Sub-Recipient possession of an executed lease agreement for the property location that will be in place for the useful life of the Capital Asset; ¶
- (c) Recipient or Sub-Recipient possession of an executed lien on the property for the useful life of the Capital Asset; ¶
- (d) In the case of a Project which will utilize property owned by a local city, county or government, an executed intergovernmental agreement with the property owner guaranteeing ongoing use for the duration of the useful life of the Capital Asset; or ¶
- (e) In the case of a Project to purchase land, an option to purchase the land identified in the Project. ¶
- (6) Recipients shall: ¶
- (a) Establish useful life standards for Capital Assets acquired pursuant to their discretionary grant agreements

which meet or exceed the duration of those established by the Agency.¶

(b) Use the Agency's published procedures or substantially similar procedures and ensure that Sub-Recipients use the same procedures for the disposition of Capital Assets acquired with STIF moneys. ¶

(c) Retain the net proceeds from a sale or other disposition of a Capital Asset to reinvest in a future STIF capital Project or return the net proceeds to the Agency. Net proceeds are the ~~disposal proceeds less~~ asset's original value, less ~~disposal proceeds~~, depreciation, ~~less~~ and disposal costs. If non-STIF funds were used in the original purchase, then only the proportion representing STIF contribution to the purchase is subject to this rule.¶

(d) Establish written procedures to ensure that a Capital Asset is maintained in safe operating condition.¶

(e) Maintain insurance coverage, or require Sub-Recipients to maintain insurance coverage, that meets or exceeds the standards in ORS 806.070. ¶

(f) Ensure that vehicles purchased in whole or in part with STIF moneys are titled with the Oregon Department of Transportation Driver and Motor Vehicle Services Division pursuant to ORS 803.045 and supporting rules, with the Agency listed as the primary security interest holder, subject to the following additional requirements:¶

(A) If the vehicle is registered in the name of a Sub-Recipient receiving the vehicle, and the Sub-Recipient is not a Qualified Entity or Public Transportation Service Provider, then the Qualified Entity or Public Transportation Service Provider must be listed on the vehicle title as the ~~primary~~ secondary security interest holder.¶

(B) If the vehicle was purchased with federal funds in addition to STIF moneys, and the federal funding source requires the vehicle to be titled otherwise than provided in this rule, then the federal titling requirements prevail.¶

(7) A Recipient shall notify the Agency of the sale, transfer or other disposition of a Capital Asset purchased with discretionary STIF moneys and shall report the use of proceeds, if any, from the sale to the Agency.¶

(8) Capital Assets purchased in whole or part with STIF discretionary moneys must be managed as described in this rule, unless otherwise specified in a written grant agreement approved by the Agency.

Statutory/Other Authority: ORS 184.619, ~~ORS 184.658~~, ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766