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CHAPTER 732

DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSIT DIVISION

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RULES:

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AMEND: 732-040-0005

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Rules being refiled to correct effective date.

CHANGES TO RULE:

732-040-0005

Definitions

The following definitions apply to rules in Chapter 732, Divisions 40, 42, and 44:¶

(1) "Advisory Committee" means either a committee formed by a Qualified Entity to assist the Qualified Entity in carrying out the purposes of the STIF Formula Fund and the Advisory Committee requirements specified in ORS 184.761(1) or a joint committee formed by two or more Qualified Entities for the same purposes, pursuant to ORS 184.761(5). ¶

(2) "Agency" means Oregon Department of Transportation ("ODOT").¶

(3) "Americans with Disabilities Act" ("ADA") means section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 as amended by the ADA Amendments Act of 2008.¶

(4) "Area Commission on Transportation" ("ACT") means an advisory body chartered under the authority of the Commission, and subject to the Commission's oversight and final decision-making authority.¶

(5) "Area of Responsibility" means the geographic area for which each Qualified Entity is responsible to provide STIF Formula Fund moneys.¶

(a) For a Qualified Entity that is a county, the Area of Responsibility is the geographic area within the county's jurisdictional boundaries.¶

(b) For a Qualified Entity that is a Mass Transit or Transportation District that shares continuous jurisdictional boundaries with a county, the Area of Responsibility is the geographic area within the District's jurisdictional boundaries.¶

(c) For a Qualified Entity that is a Mass Transit or Transportation District that does not share continuous jurisdictional boundaries with a county, the Area of Responsibility is the geographic area within the jurisdictional boundaries of the county or counties in which any part of the District is located.¶

(d) For a Qualified Entity that is an Indian Tribe, the Area of Responsibility is the geographic area on which the

Indian Tribe's Tribal Enterprises are located. ¶

(6) "Biennium" (plural, "Biennia") means a two-year period which runs from July 1 of an odd-numbered year to June 30 of the next odd-numbered year. ¶

(7) "Calendar Year" means the year which begins on January 1 and ends on December 31. ¶

(8) "Capital Asset" means real property or tangible items purchased or leased with STIF moneys, including without limitation vehicles and structures, with a purchase price of \$5,000 or more and a useful life of at least one year. ¶

(9) "Client-Only Project" means a project where the underlying transportation service is offered to a limited group of people and not made available to the general public. ¶

(10) "Commission" means the Oregon Transportation Commission ("OTC") established under ORS 184.612. ¶

(11) "Discretionary Fund" means up to five percent of STIF funds to be disbursed to Public Transportation Service Providers, which includes Qualified Entities, through a competitive grant funding process, pursuant to ORS 184.758(2)(b). ¶

(12) "Fiscal Year" means the Agency's fiscal year which begins on July 1 and ends on June 30. ¶

(13) "Governing Body" means the decision-making body or board of a Qualified Entity. ¶

(14) "Indexed Minimum" means the smallest amount to be distributed under the Population-Based Formula and Payroll-Based Formula to any one Qualified Entity. This amount is tied to the minimum distribution of the STIF Formula and Special Transportation Fund Formula programs in the 2019-2021 biennium, adjusted biennially by the rate of growth in the overall STIF fund. ¶

(15) "Indian Tribe" means a federally recognized Indian Tribe in Oregon that has members residing on a reservation or in tribal trust lands in Oregon. ¶

(16) "Intercommunity Discretionary Fund" means up to four percent of STIF funds to be disbursed to Public Transportation Service Providers through a competitive grant funding process, pursuant to ORS 184.758(2)(c). ¶

(17) "Intergovernmental Entity" means entities organized under ORS 190.010. ¶

(18) "Low-Income Household" means a household the total income of which does not exceed 200% of the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2) for the 48 Contiguous States and the District of Columbia. ¶

(19) "Local Plan" means a local or regional public transportation plan(s), which may include adopted policy(ies) that is developed and approved by the Governing Body of a Qualified Entity, Public Transportation Service Provider, or Metropolitan Planning Organization and which includes, at a minimum: ¶

(a) A planning horizon of at least four years; ¶

(b) An existing and future conditions analysis that includes: ¶

(A) Current and forecast population and demographics, including locations of people who are often transit dependent, including low-income households, individuals of age 65 or older, youth, and individuals who are racially and ethnically diverse; ¶

(B) Locations of existing housing, employment centers, medical and social and human services centers, major destinations, and other locations with needs for public transportation services and programs; ¶

(C) Inventories of current Public Transportation Services located within, adjacent to, or with the reasonable potential to connect to the local or regional public transportation services, as applicable; ¶

(c) Prioritized lists of public transportation improvements and capital projects; and ¶

(d) Identified opportunities to coordinate public transportation services within and outside the county, district, or tribal area and with other agencies and areas to improve efficiency and effectiveness of service and reduce gaps in service. ¶

(e) Local Plans include, but are not limited to: Coordinated Public Transit Human Services Transportation Plans, Transportation System Plans, Transit Development Plans, and Transit Master Plans. ¶

(20) "Mass Transit District" means a district organized under ORS 267.010 to 267.390. ¶

(21) "Payroll-Based Formula" means the portion of STIF Formula Funds disbursed per ORS 184.758(5). ¶

(22) "Population-Based Formula" means the portion of STIF Formula Funds disbursed per ORS 184.758(3). ¶

(23) "Project" means a public transportation improvement activity or group of activities eligible for STIF moneys and a plan or proposal for which is included in a STIF Plan or in a grant application to a Qualified Entity or the Agency. Examples of project types include, but are not limited to: discrete activities, such as purchasing transit vehicles, planning, or operations; and groups of activities for a particular geographic area or new service, such as a new route that includes purchase of a transit vehicle, and maintenance and operations on the new route. ¶

(24) "Public Corporation" means an independent legal entity that was formed by legislative action, serves a public purpose, and is under exclusive public management or control. ¶

(25) "Public Transportation Advisory Committee" ("PTAC") means the ODOT Public Transportation Advisory Committee established by the Commission in 2000. ¶

(26) "Public Transportation Service Provider" means a Qualified Entity or a city, county, Special District, Intergovernmental Entity or any other political subdivision or municipal or Public Corporation that provides Public Transportation Services. ¶

- (27) "Public Transportation Services" means any form of passenger transportation by car, bus, or other conveyance, either publicly or privately owned, which provides service to the general public (not including charter, sightseeing, or exclusive school bus service) on a regular and continuing basis. Such transportation may include services designed to meet the needs of a specific user group, including for older adults and individuals with disabilities, for purposes such as health care, shopping, education, employment, public services, personal business, or recreation. Public Transportation Services must be designed and advertised as Shared-Ride Service.¶
- (28) "Qualified Entity" means, a county in which no part of a Mass Transit District or Transportation District exists, a Mass Transit District, a Transportation District or an Indian Tribe. ¶
- (29) "Recipient" means a Qualified Entity or Public Transportation Service Provider that has a STIF Plan approved by the Commission or enters into an agreement directly with the Agency to receive STIF funds.¶
- (30) "Satisfactory Continuing Control" means the legal assurance that a Capital Asset will remain available to be used for its originally authorized purpose throughout its useful life or until disposition.¶
- (31) "Shared-Ride Service" means a service where neither the operator nor any passenger may refuse to permit additional passengers that are otherwise complying with the operator's rules and policies.¶
- (32) "Special District" means a service district organized under ORS 451.010(1)(h). ¶
- (33) "STIF Formula Fund" means up to 90 percent of the Statewide Transportation Improvement funds to be disbursed to Qualified Entities conditioned upon the Commission's approval of a STIF Plan, pursuant to ORS 184.758(2)(a).¶
- (34) "STIF" or "Statewide Transportation Improvement Fund" means the fund established under ORS 184.751.¶
- (35) "STIF Plan" means a public transportation improvement plan that is approved by a Governing Body and submitted to the Agency for review and approval by the Commission in order for the Qualified Entity to receive a share of the STIF Formula Fund. ¶
- (36) "Statewide Transit Network" means the collection of all transit service that operates in Oregon.¶
- (37) "Student Transit Services" means Public Transportation Services within the Qualified Entity's area of responsibility that can feasibly and efficiently be used by students in grades 9 through 12.¶
- (38) "Sub-Recipient" means any entity that has entered into an agreement with a Recipient in order to complete one or more tasks specified in the agreement between the Agency and the Recipient.¶
- (39) "These Rules" means OAR Chapter 732 Divisions 40, 42, and 44.¶
- (40) "Transportation District" means a district organized under ORS 267.510 to 267.650.¶
- (41) "Tribal Enterprise" means a commercial activity or business managed or controlled by an Indian Tribe. ¶
- (42) "Work Group" means a subcommittee formed by a Qualified Entity's Governing Body or Advisory Committee for the purpose of providing additional input on STIF Formula Fund projects.
- Statutory/Other Authority: ORS 184.619, ORS 184.658, ORS 184.761
- Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0010

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Refiling rules to correct effective date,

CHANGES TO RULE:

732-040-0010

Purpose and Use of STIF

(1) Moneys in the STIF are continuously appropriated to the Agency to finance investments and improvements in public transportation services, except that the moneys may not be used for light rail capital expenses, but may be used for light rail operations expenses. Moneys may be used to support Client-Only Projects where those projects are included in a planned and coordinated community transportation program.¶¶

(2) STIF moneys may be used for public transportation purposes that support the effective planning, deployment, operation, and administration of STIF-funded public transportation programs, including, but not limited to: ¶¶

(a) Creation of new systems and services with origins, destinations or stops in Oregon;¶¶

(b) Maintenance or continuation of systems and services; and¶¶

(c) Planning for and development of a Local Plan or future STIF Plan to improve Public Transportation Service. ¶¶

(3) STIF moneys may be used as the local match for state and federal funds which also provide Public Transportation Service.¶¶

(4) The Agency shall conduct activities necessary to manage the STIF funds and grants, including but not limited to: development of policy; distribution of funds; developing and implementing application and review processes and agreement and protest procedures; conducting program oversight, statewide planning, research, training, and technical assistance; and reporting to the legislature.¶¶

(5) On or before February 1, 2020, the Commission shall submit a report in the manner provided by ORS 192.245 to the Joint Committee on Transportation established under ORS 171.585(1) on the implementation and outcomes of the STIF. The Agency shall prepare reports for the purposes of:¶¶

(a) Ensuring that STIF moneys are being used for the purpose of funding and improving Public Transportation Services in Oregon consistent with law, these rules, and the terms of agreements;¶¶

(b) Measuring the outcomes of the STIF; and¶¶

(c) Reporting to the Oregon State Legislature.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0015

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Refiling rules to correct effective date,

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.¶
- (6) Any challenge to a notice and order requiring that a Qualified Entity repay distributions made to the Qualified Entity pursuant to a finding by the Commission that the recipient has failed to meet any terms or conditions of a STIF agreement will be handled as a contested case pursuant to the Oregon Administrative Procedures Act, ORS 183.411 to 183.471.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0020

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RULE SUMMARY: Refiling rules to correct effective date.

CHANGES TO RULE:

732-040-0020

Accounting Requirements

(1) The Agency shall account separately for moneys in the STIF Formula Fund, Discretionary Fund, and Intercommunity Discretionary Fund.¶¶

(2) Recipients shall manage STIF moneys in separate governmental accounts for each of the applicable STIF funds: STIF Formula Fund, STIF Discretionary Fund, and STIF Intercommunity Discretionary Fund. Any interest accrued must be added to the moneys and must be reported to the Agency at the end of the Fiscal Year in which it was earned.¶¶

(3) Recipients shall document the expenditure of all STIF funds disbursed by the Agency. Recipients shall create and maintain all expenditure records in accordance with generally accepted accounting principles and in sufficient detail to permit the Agency to verify how the STIF funds were expended.¶¶

(4) Record Retention:¶¶

(a) Recipients shall maintain all financial records for at least three years after the Agency's final disbursement under the STIF Plan or grant agreement; and¶¶

(b) Recipients shall maintain all records relating to Capital Assets for three years after disposition.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0025

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CHANGES TO RULE:

732-040-0025

Qualified Entity Reporting Requirements

In addition to any other reporting required by these rules, Qualified Entities that receive STIF moneys, or Sub-Recipients as relevant to section (3) of this rule, shall submit the following documentation to the Agency: ¶

(1) A report on any actions taken by any Public Transportation Service Provider located within the area of the Qualified Entity to mitigate the impact of the STIF tax on passengers who reside in low-income communities. The report must explain how it defines and identifies passengers in low-income communities. This report must be submitted no later than 60 days after the end of each Fiscal Year in which the Qualified Entity receives STIF moneys.¶

(2) The Qualified Entity's adopted annual budget for the upcoming Fiscal Year must be submitted no later than 30 days after adoption. ¶

(3) The results of any relevant financial audits of the Qualified Entity or any Sub-Recipient located within the area of the Qualified Entity, as required by a local, state or federal oversight agency for the purposes of statewide reporting including, but not limited to:¶

(a) The state financial report required under ORS 291.040;¶

(b) The results of any comprehensive review completed by the Federal Transit Administration or the Agency; and¶

(c) Any information submitted by the Qualified Entity as part of the requirements of a statewide audit in accordance with the federal Single Audit Act of 1984 (31 U.S.C. 7501 to 7507), as amended by the Single Audit Act Amendments of 1996 (P.L. 104-156). ¶

(4) Results of audits described in section (3) of this rule must be submitted to the Agency no later than 30 days after receipt of the final results. A copy of information submitted under section (3)(c) of this rule must be sent to the Agency no later than 30 days after submittal to the requesting agency.¶

(5) The Agency may withhold future distributions of STIF moneys from a Qualified Entity which fails to submit an annual report required under rule.¶

(6) A Qualified Entity may appeal the Agency's decision to withhold STIF Formula Fund moneys as described in OAR 732-040-0050.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0030

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CHANGES TO RULE:

732-040-0030

Advisory Committees

(1) The Governing Body of each Qualified Entity shall appoint an Advisory Committee for the purpose of advising and assisting the Qualified Entity in carrying out the purposes of the STIF and prioritizing Projects to be funded by STIF moneys received by the Qualified Entity. ¶

(2) A Qualified Entity's Governing Body or Advisory Committee may appoint a Work Group to provide additional input on STIF Formula projects. A Work Group may or may not be composed of members of the Qualified Entity's Advisory Committee. Input from the Work Group shall be considered and documented in the Qualified Entity's Advisory Committee's meeting minutes in the completion of its duties as described in OAR 732-040-0030(1). ¶

(3) Two or more Governing Bodies may appoint a joint Advisory Committee for the purpose of advising and assisting their respective Qualified Entities in carrying out the purposes of the STIF for the Qualified Entities' areas of responsibility. ¶

(a) When the Governing Boards of two or more Qualified Entities appoint a joint Advisory Committee, they shall designate their respective roles and responsibilities pertaining to the management of the joint Advisory Committee in a written agreement pursuant to ORS chapter 190. At a minimum, the written agreement must specifically identify how the Qualified Entities' obligations under section (4) of this rule will be allocated between or among the participating Qualified Entities and must describe the selection and appointment processes for joint Advisory Committee members, consistent with OAR 732-040-0035. ¶

(b) The Qualified Entities shall send a copy of the executed agreement to the Agency within 30 days of execution. ¶

(c) The joint Advisory Committee agreement may be included as part of the agreement required to fulfill the requirements of OAR 732-040-0040, if applicable; however, Qualified Entities may form a joint Advisory Committee without agreeing to jointly manage STIF moneys. ¶

(d) Each Qualified Entity that is party to a joint Advisory Committee agreement remains independently responsible to submit its own STIF Plan pursuant to OAR 732-042-0015 and these rules. ¶

(4) An Advisory Committee may also advise the Qualified Entity regarding the opportunities to Coordinate STIF funded Projects with other local or regional transportation programs and services to improve transportation service delivery and reduce gaps in service. ¶

(5) The Qualified Entity shall ensure that: ¶

(a) The Advisory Committee is guided by written bylaws that include, at a minimum: the Committee's name and purpose; the number of Committee members; Committee membership criteria; the appointment process; the terms of office for the committee members; the Committee's meeting schedule; Committee procedures and member duties, including procedures to provide public notice of meetings, to foster public engagement, and to comply with Oregon public meeting and public records laws; and the Committee's process to review Sub-Recipient proposals for Projects funded in whole or part by the STIF Formula Fund, the STIF Discretionary Fund and the Intercommunity Discretionary Fund, and the decision-making criteria identified in these rules. The bylaws must include a definition of "high percentage of Low-Income Households" for the Committee's use in evaluating proposed Projects. The Qualified Entity shall prepare the written bylaws described in this section and set the terms of office for the Advisory Committee members. The Qualified Entity may seek input on the bylaws from the Advisory Committee. ¶

(b) Copies of Advisory Committee bylaws, meeting minutes and meeting notices are published by the Qualified Entity and made available for public review in a reasonable and timely manner and are maintained for the period prescribed under Chapter 166, Division 150 of the Oregon Administrative Rules. ¶

(c) The Agency is notified of changes in the Advisory Committee membership when the Qualified Entity submits its STIF Plan or grant application. ¶

(6) A Qualified Entity may use another standing advisory committee or combine committees to meet the requirements of these rules as long as that committee also meets all of the committee requirements contained herein. ¶

(7) The Qualified Entity shall appoint an Advisory Committee composed of members that represent diverse interests, perspectives, geography, and the population demographics of the area, as described in OAR 732-040-0035. ¶

(8) In addition to any other duties, the Advisory Committee may also propose any changes to the policies or practices of the Governing Body of the Qualified Entity that the Advisory Committee considers necessary to

ensure that:¶

(a) A Sub-Recipient that has received STIF funds has applied the moneys received in accordance with and for the purposes described in the Project proposal; and¶

(b) A Project proposal submitted by a Sub-Recipient does not fragment the provision of public transportation services.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0035

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Refiling rules to correct effective date.

CHANGES TO RULE:

732-040-0035

Advisory Committee Composition

- (1) If the Qualified Entity is an Indian Tribe, then the Advisory Committee must be composed of at least three members, each of whom must be able to represent the public transportation needs of individuals served by the Indian Tribe. The Governing Body may authorize a larger Advisory Committee.¶
- (2) If the Qualified Entity is a Transportation District or county, then the Advisory Committee must be composed of at least five members. The Governing Body may authorize a larger Advisory Committee.¶
- (3) If the Qualified Entity is a Mass Transit District, then the Advisory Committee must be composed of at least seven members. The Governing Body may authorize a larger Advisory Committee.¶
- (4) If the Advisory Committee is a joint Advisory Committee formed by two or more Qualified Entities, then the minimum number of Advisory Committee members will be determined based on the types of Qualified Entities participating in the joint Advisory Committee. The minimum number of members of the joint Advisory Committee must be equal to the highest minimum number that would be required for each type of Qualified Entity participating in the joint Advisory Committee. ¶
- (5) To be qualified to serve on the Advisory Committee for a Qualified Entity that is a Transportation or Mass Transit District or county, or on a joint Advisory Committee in which a Transportation or Mass Transit District or county participates, an individual must:¶
 - (a) Be knowledgeable about the public transportation needs of residents or employees located within or traveling to and or from the Transportation or Mass Transit District or county; and¶
 - (b) Be a person who is a member of or represents one or more of the following:¶
 - (A) Local governments, including land use planners;¶
 - (B) People with disabilities;¶
 - (C) Veterans;¶
 - (D) Low-income individuals;¶
 - (E) Social equity advocates;¶
 - (F) Environmental advocates;¶
 - (G) Black, indigenous, and people of color;¶
 - (H) Bicycle and pedestrian advocates;¶
 - (I) People with limited English proficiency;¶
 - (J) Public health, social and human service providers;¶
 - (K) Transit users who depend on transit for accomplishing daily activities;¶
 - (L) Individuals age 65 or older;¶
 - (M) educational institutions; ¶
 - (N) Public Transportation Service Providers;¶
 - (O) Non-profit entities which provide public transportation services;¶
 - (P) Neighboring Public Transportation Service Providers;¶
 - (Q) Employers; or¶
 - (R) Major destinations for users of public transit.¶
- (6) Notwithstanding other provisions of this rule, if a Qualified Entity is a Mass Transit District, a Transportation District or a county with a population of 50,000 persons or more, then its Advisory Committee, or the joint Advisory Committee in which it participates, must include at least four members who, separately, are members of or represent each of the following four groups: ¶
 - (a) Low-income individuals; ¶
 - (b) Individuals age 65 or older;¶
 - (c) People with disabilities; and¶
 - (d) Public Transportation Service Providers or non-profit entities which provide public transportation services.¶
- (7) If a Qualified Entity is a county with a population fewer than 50,000 persons, then its Advisory Committee, or the joint Advisory Committee in which it participates, must include at least three members who collectively represent each of the groups listed in 732-040-0035(6)(a-d).¶
- (8) A Qualified Entity that is a Mass Transit District or a Transportation District shall include Advisory Committee members from the district's area of responsibility, both within and outside district boundaries. If a Mass Transit District or a Transportation District is party to a joint Advisory Committee agreement, the joint Advisory

Committee must also include at least one member from outside the district's boundary but within the district's area of responsibility.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0050

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Refiling rules to correct effective date.

CHANGES TO RULE:

732-040-0050

Appeal Procedures

(1) Appeals are allowed only in the following instances:¶¶

(a) A Qualified Entity may appeal the Commission's rejection of its STIF Plan. ¶¶

(b) A Qualified Entity may appeal the Agency's decision to withhold STIF Formula Fund moneys.¶¶

(c) A Qualified Entity may appeal the Agency's decision to take action with respect to a Capital Asset as described in OAR 732-042-0040(10).¶¶

(2) Appeals must be filed in writing within 15 days of the date the notice of appealable action was emailed by the Agency. A Qualified Entity that fails to file timely shall be deemed to have waived its appeal rights. Appeals must be addressed to the Commission and a copy must be sent to the Agency's Division Administrator.¶¶

(3) Appeals must identify the appellant, the appellant's designated contact person, and the decision under appeal. In addition, appeals must include the following information:¶¶

(a) For appeal of a Commission decision, the requested remedy and any arguments why the decision should be reconsidered.¶¶

(b) For appeal of an Agency decision, the requested remedy, any arguments pertaining to the appeal and any other material the appellant considers relevant to the appeal. ¶¶

(4) Upon review or reconsideration, the Commission may make a decision to grant the requested remedy, deny the appeal, or, in the case of Agency decisions under appeal, remand the decision to the Agency with instructions to reconsider.¶¶

(5) The Commission shall review the appeal and make its decision within 90 days of receipt.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-042-0010

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Refiling rules to correct effective date.

CHANGES TO RULE:

732-042-0010

STIF Formula Fund Calculation and Disbursement

(1) The Statewide Transportation Improvement Fund Formula program shall be distributed pursuant to ORS 184.758 as follows:¶

(a) First, the portion of the fund fixed to the 2019-2021 biennium Statewide Transportation Fund disbursement, as adjusted by the growth of the overall fund pursuant to ORS 184.758(3), will be distributed to Qualified Entities by a population-based formula described in subsection (4)(a) of this rule to support transit services for older adults and individuals with disabilities.¶

(b) The remainder of the funds shall be distributed to Qualified Entities by the proportion of the taxes collected under ORS 320.550.¶

(2) Estimated Distributions:¶

(a) For distributions under subsection (1)(a) of this rule, the Agency shall distribute the Indexed Minimum to each Qualified Entity unless the Qualified Entity is entitled to a larger distribution based on the population calculation described in section (4) of this rule.¶

(b) For distributions under subsection (1)(b) of this rule, the Agency shall distribute the Indexed Minimum to each Qualified Entity unless the Qualified Entity is entitled to a larger distribution based on the wages calculation described in section (4) of this rule.¶

(3) Estimation of STIF Formula Fund Disbursements:¶

(a) The Agency shall estimate STIF Formula Fund disbursements based on the Agency's projections of the amount of revenue appropriated to the fund, transit payroll tax to be collected, the Agency's projections of minimum distributions as described under section (2) of this rule, and the proportionate share calculated for each Qualified Entity in section (4) of this rule.¶

(b) The Agency shall estimate the proportionate share annually.¶

(c) For the portion of funds described in subsection (1)(a) of this rule:¶

(A) The Qualified Entity will determine the purposes for which the STIF Formula Fund moneys will be used, in accordance with their STIF Plan;¶

(B) The Qualified Entity may use procedures of its choice to distribute STIF Formula Fund moneys;¶

(C) The Qualified Entity that is a Mass Transit or Transportation District is responsible for funding Projects benefiting older adults and individuals with disabilities both within its boundaries and outside them in the surrounding county(ies);¶

(D) Projects outside the District will receive a proportionate amount of the STIF Formula Fund moneys based on the population outside the district;¶

(E) The proportion is based on population estimates calculated by Portland State University; and¶

(F) The District will report the distribution of STIF Formula Fund moneys in its application to the Division.¶

(d) For the portion of funds described in subsection (1)(b) of this rule:¶

(A) Qualified Entities shall work collaboratively with Public Transportation Service Providers and other potential Sub-Recipients, as relevant, to develop a method for sub-allocating STIF Formula Fund moneys to Public Transportation Service Providers.¶

(B) To the extent possible, using the best available data, the sub-allocation method used by Qualified Entities must be proportionate to the amount of employee payroll tax revenue generated within the geographic territory of each Public Transportation Service Provider. A Qualified Entity shall share all data used to develop the sub-allocation method with each Public Transportation Service Provider and other potential Sub-Recipients, as relevant, included in its STIF Plan.¶

(C) A Qualified Entity that is a Mass Transit or Transportation District which does not share contiguous jurisdictional boundaries with a county shall work collaboratively with Public Transportation Service Providers and other potential Sub-Recipients to develop an estimate of STIF Formula Fund disbursements for those areas of the county(ies) in which the District is located that are outside the District's own jurisdictional boundaries.¶

(e) The Qualified Entity's sub-allocation estimate shall be a starting point for the Qualified Entity's STIF Plan and funding prioritization process. The sub-allocation is not an entitlement to the Public Transportation Service Provider and decision criteria may affect the prioritization of Projects.¶

(f) Estimated disbursements are not guaranteed. If revenues in the Statewide Transportation Improvement Fund are less than the Agency's projections, the Agency may proportionately reduce quarterly payments to Qualified

Entities from its estimated disbursements.¶

(4) Calculation of STIF Formula Fund Disbursements:¶

(a) The Agency shall calculate the proportionate share for each Qualified Entity under subsection (1)(a) of this rule by dividing the count of the population located within the boundary of the Qualified Entities' areas of responsibility, by the total population of the state.¶

(A) The Agency shall use the population estimates calculated by Portland State University pursuant to ORS 190.520 for the basis of the population counts of Qualified Entities, except as to Indian Tribes.¶

(B) Each Indian Tribe that is a Qualified Entity will receive STIF moneys as a share of their tribal population residing in Oregon:¶

(i) Tribal population is defined as the members of each tribe residing in Oregon;¶

(ii) Each Indian Tribe will provide to the Division its population residing in Oregon by county of residence; and¶

(iii) The tribal populations will be subtracted from county populations before calculating the population of the Districts and counties.¶

(C) The Agency shall exclude from the calculation of proportionate shares any Qualified Entity that is entitled to the Indexed Minimum under subsection (2)(a) of this rule.¶

(b) The Agency shall calculate the proportionate share for each Qualified Entity under subsection (1)(b) of this rule by dividing the amount of wages paid by employers located within the boundary of the Qualified Entities' areas of responsibility, by the total amount of the wages paid by employers statewide.¶

(A) The Agency shall use the final wage data collected by the Oregon Employment Department for the prior Calendar Year and reported to the Agency.¶

(B) The Agency shall exclude from the calculation of proportionate shares any Qualified Entity that is entitled to the Indexed Minimum under subsection (2)(b) of this rule.¶

(c) Each fiscal quarter, the Agency shall calculate the quarterly distribution as follows:¶

(A) For the Population-Based Formula:¶

(i) The product of the amount of revenue collected in the preceding fiscal quarter attributed to the STIF Formula Fund for the portion described in section (1)(a), as reduced by the Indexed Minimum distributions required under subsection (2)(a) of this rule and funds held under ORS 732-042-0030, multiplied by the Qualified Entity's proportionate share calculated in subsection (4)(a) of this rule; or¶

(ii) The Indexed Minimum as determined under section (2)(a) of this rule.¶

(B) For the Payroll-Based Formula:¶

(i) The product of the amount of revenue collected in the preceding fiscal quarter attributed to the STIF Formula Fund for the portion described in section (1)(b), as reduced by the Indexed Minimum distributions required under subsection (2)(b) of this rule and funds held under ORS 732-042-0030, multiplied by the Qualified Entity's proportionate share calculated in subsection (4)(b) of this rule; or¶

(ii) The Indexed Minimum as determined under section (2)(b) of this rule.¶

(5) Distribution of STIF Formula Funds to Qualified Entities:¶

(a) The Agency shall not disburse STIF Formula Fund moneys to a Qualified Entity until the Commission has approved the Qualified Entity's STIF Plan and the Legislative Fiscal Office and the State's Chief Financial Officer have determined that there is sufficient revenue in the Statewide Transportation Improvement Fund to fund the STIF Formula Fund disbursements.¶

(b) The Agency shall disburse STIF Formula Funds to Qualified Entities in quarterly distributions.¶

(c) If more than one Mass Transit District or Transportation District is located within a single county, the Agency shall distribute the moneys to the larger district.¶

(d) If there is a significant unexpected shortfall in revenues in the Statewide Transportation Improvement Fund, or if there has been an overpayment in a prior quarter, the Agency may proportionately reduce quarterly payments to Qualified Entities.¶

(e) Qualified Entities are not responsible for satisfying Sub-Recipients' budgetary shortfalls or remedying delays in funding to Sub-Recipients for any reason beyond the Qualified Entities' direct control.¶

(6) Qualified Entities may incur STIF expenditures as of the operative date of ORS 184.766. During the first STIF Formula Fund Cycle after the enactment of Oregon Laws 2017, chapter 750, a Qualified Entity may reimburse itself for such expenditures contingent upon Commission approval of a STIF Plan that includes these expenses.¶

(7) Qualified Entities shall notify the Agency in writing of any adjustment to the geographic boundaries of their areas of responsibility within thirty days of the effective date of the adjustment.¶

(8) A Qualified Entity may carry forward unspent STIF Formula Fund moneys for use in a future STIF Formula Fund cycle. Upon Commission approval of a STIF Plan that describes such a Project, a Qualified Entity may also carry forward unspent STIF Formula Fund moneys to accumulate sufficient funds for a capital Project that costs more than can be funded during a single STIF Formula Fund funding cycle or to make bond payments on the acquisition of a Capital Asset. In such instances, a Qualified Entity may only carry forward STIF Formula Fund moneys for the time period specified in the approved STIF Plan.¶

(9) Each Qualified Entity is required to spend at least one percent of STIF Formula Fund moneys received each year on Student Transit Services for students in grades 9 through 12, if practicable.
Statutory/Other Authority: ORS 184.619, ORS 184.658, ORS 184.761
Statutes/Other Implemented: ORS 184.642, ORS 184.751-184.766, ORS 323.457

AMEND: 732-042-0015

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Refiling rules to correct effective date.

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; 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; ¶

(G) Implementation of programs to provide Student Transit Services for students in grades 9 through 12; and ¶

(H) Implementation of programs that enhance services for older adults and people with disabilities. ¶

(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. ¶

(c) Anticipated benefits and discrete measurable outcomes associated with each Project with specific reference to whether the Project advances each of the criteria listed at 732-042-0015(2)(c).¶

(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 criteria listed at 732-042-0015(2)(c).¶

(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. In this instance, a program(s) is considered practicable when Public Transit Services within the Qualified Entity's area of responsibility can be feasibly and efficiently used by students in grades 9 through 12. 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

AMEND: 732-042-0020

NOTICE FILED DATE: 02/17/2022

RULE SUMMARY: Refiling rules to correct effective date.

CHANGES TO RULE:

732-042-0020

Advisory Committee Review of Proposed Projects

- (1) Sub-Recipients seeking STIF funding from a Qualified Entity through the Qualified Entity's STIF Plan shall submit a Project proposal to the Qualified Entity's Advisory Committee for review and approval. The Project proposal must include the contents described in OAR 732-042-0015(3). ¶
- (2) The Advisory Committee shall conduct its reviews and activities in compliance with its written bylaws, as described in these rules.¶
- (3) The Advisory Committee shall meet as often as needed to advise the Qualified Entity and review Project proposals but no less than two times per year. ¶
- (4) The Advisory Committee shall:¶
 - (a) Hold public meetings, as applicable, to review every Project proposed for inclusion in the Qualified Entity's STIF Plan; ¶
 - (b) Recommend approval or rejection of proposed Projects and recommend prioritization of approved Projects within the geographic boundary for which the Qualified Entity receives STIF Formula funding to the Governing Body.¶
 - (5) The Advisory Committee shall consider the following when reviewing STIF Formula Fund Projects:¶
 - (a) The extent to which the Project would advance each of the criteria listed at 732-042-0015(2)(c).¶
 - (b) Whether the Project would maintain an existing service; ¶
 - (c) The extent to which the Project goals meet public transportation needs and are a responsible use of public funds; and¶
 - (d) The extent to which the Project might benefit or burden historically- or currently-marginalized communities both now and in the long term; and¶
 - (e) Other factors to be determined by the Qualified Entity or Advisory Committee such as geographic equity. ¶
 - (6) Prior to adopting a STIF Plan, the Governing Body shall consult its Advisory Committee regarding the Projects proposed in the STIF Plan and seek a recommendation on the prioritization of those Projects from the Advisory Committee. The purpose of this consultation is to ensure that the STIF Plans reflect a Coordinated regional approach to Public Transportation Service that considers the public transportation needs of people residing and traveling into and out of the geographic territory of a Qualified Entity as well as larger regional population centers and to ensure that interested parties have the opportunity to review and comment on the proposed STIF Plan.¶
 - (7) A Governing Body may accept the Advisory Committee's recommendation to approve or reject a Project proposal, may return it to the Advisory Committee for modifications, or may modify it prior to inclusion in the STIF Plan for submittal to the Agency. If the Governing Body modifies the Advisory Committee's recommendation, it shall inform any affected Public Transportation Service Provider of all modifications and the explanation for such changes.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-042-0035

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CHANGES TO RULE:

732-042-0035

Reporting Requirements

(1) Quarterly Reports: Using a form provided by the Agency, each Qualified Entity shall prepare a quarterly report to the Agency which details Project progress, outcomes achieved, and expenditures of STIF Formula Fund moneys by itself and its Sub-Recipients. In these quarterly reports, Qualified Entities shall provide information confirming that the funds disbursed under OAR 732-042-0010(1)(a) have been used to support transit services for older adults and individuals with disabilities. The quarterly report must be submitted no later than 45 days following the end of a quarter. The fourth and eighth quarter reports may be preliminary reports, subject to adjustment after completion of the Qualified Entity's audit.¶

(2) STIF Plan Period Reconciliation: Within 30 days of the end of an approved STIF Plan period, the Agency shall reconcile disbursements made to the Qualified Entity against the Qualified Entity's reported expenditures. If disbursements are found to exceed the expenditures, the amount must be carried forward by the Qualified Entity into the next STIF Formula Fund Cycle.¶

(3) Capital Asset Reports: Qualified Entities that have acquired, purchased or leased Capital Assets using STIF Formula Fund moneys shall provide the Agency with a report of the Capital Asset inventory, described in OAR 732-042-0040(2), including an identification of any sale, transfer or other disposition of the Capital Asset as described in OAR 732-042-0040. Capital Asset Reports must be submitted to the Agency on a schedule to be specified by the Agency, but must be submitted at least annually within 30 days of the end of each Fiscal Year.

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

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-044-0005

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CHANGES TO RULE:

732-044-0005

Project Eligibility and Match

(1) Projects eligible to receive grants under the Discretionary Fund include, but are not limited to: capital projects such as vehicles, facilities, equipment, and technology, as well as mobility management, planning, and research. Pilot operations projects may be considered for funding if the application includes a feasible financial plan for ongoing operations beyond the initial pilot period. ¶

(2) Projects eligible to receive grants under the Intercommunity Discretionary Fund include, but are not limited to: capital Projects such as vehicles, facilities, equipment, and technology as well as mobility management, planning, research, and operations. Pilot and ongoing operations projects may be considered for funding under the Intercommunity Discretionary Fund if the application includes a feasible financial plan for ongoing operations beyond the initial pilot period.¶

(3) Projects eligible to receive grants under the Discretionary and Intercommunity Discretionary Funds must appear in a Local Plan, as defined in OAR 732-040-0005(17), or be a Project that meets one or more of the characteristics in sections (4)(a)(C)-(D) of this rule.¶

(4) Match Requirements:¶

(a) An applicant shall demonstrate the ability to provide a match of at least 20 percent of the total Project's cost, unless any of the following characteristics exist in which case the applicant shall demonstrate the ability to provide a 10 percent match:¶

(A) The Project will predominantly serve or provide access to and from rural communities (communities outside of urbanized areas with populations of 50,000 people or less);¶

(B) The Project will serve an area located outside of a Public Transportation Service Provider's geographic jurisdiction; ¶

(C) The Project will fill a significant gap in the Statewide Transit Network; or¶

(D) The Project will provide statewide benefits to multiple Public Transportation Service Providers. The applicant shall identify the benefits to areas outside the jurisdiction where the Project will be located.¶

(b) After determining whether an applicant meets one or more of the characteristics listed in 732-044-0005(4)(a)(A-D), the Agency shall propose a match requirement of 20 percent or 10 percent of the total project cost for each Project recommended for award, considering both individual applicant needs and overall fund availability.¶

(c) Eligible Project match sources may include federal funds and certain state funds (STIF Formula or Special Transportation Funds) for public transportation purposes, local funds, private contributions, and in-kind labor or contributions. Match contributions, including Capital Assets such as property, shall be used only once as match on a single Project and may not be used again as a match. Fare box revenues are not eligible match.

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

Statutes/Other Implemented: ORS 184.751-184.766