



## PERMANENT ADMINISTRATIVE ORDER

**DOT 1-2023**

CHAPTER 731

DEPARTMENT OF TRANSPORTATION

**FILED**

01/12/2023 2:39 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: Establishing ODOT's Authority to Designate Contracts as Community Benefit Contracts under ORS 279C.308

EFFECTIVE DATE: 01/12/2023

AGENCY APPROVED DATE: 01/12/2023

CONTACT: Maria Ellis  
503-280-0244  
maria.ellis@odot.oregon.gov

Office of Social Equity  
123 NW Flanders Street  
Portland, OR 97209

Filed By:  
Lauri Kunze  
Rules Coordinator

ADOPT: 731-005-0900

NOTICE FILED DATE: 11/15/2022

RULE SUMMARY: Establishes ODOT's authority to designate contracts as Community Benefit Contracts under ORS 279C.308.

CHANGES TO RULE:

731-005-0900

### Community Benefit Program

(1) In addition to the definitions in ORS 279C.308, the following definitions apply to OAR 731-005-0900: ¶

(a) "Community workforce agreement" means an agreement executed by the ODOT Director or the Director's designee and one or more labor organizations to establish material terms that ODOT may include in a community benefit contract. ¶

(b) "Economically distressed zip code" or "EDZ" means a geographic area identified by a United States Postal Service zip code, and identified by ODOT as having a high concentration of the following factors:¶

(A) Low-income households; ¶

(B) Unemployed individuals; and ¶

(C) Other related economic factors as determined by ODOT. ¶

(c) "EDZ resident worker" means a worker domiciled in an economically distressed zip code. ¶

(d) "Minority" has the meaning set forth in 41 CFR ¶ 60-4.3 for purposes of implementing Presidential Executive Order 11246, as amended. ¶

(e) "Trade" means a specific trade or occupation for which the Oregon Bureau of Labor and Industries has determined the prevailing wage rate pursuant to ORS 279C.815. ¶

(2) This rule, OAR 731-005-0900, establishes the Community Benefit Program. The ODOT Director or the Director's designee may designate a public improvement contract as a community benefit contract, in accordance with ORS 279C.308, if: ¶

(a) The project is administered by ODOT and is in the Statewide Transportation Improvement Program; ¶

(b) The proposed community benefit contract is partially or completely funded by the Infrastructure Investment and Jobs Act, Public Law 117-58 (2021); ¶

(c) The proposed community benefit project receives all necessary approvals from the Federal Highway Administration; and ¶

(d) After consideration of factors listed by the Federal Highway Administration for the approval of a community

workforce agreement that would be included in a community benefit project, the ODOT Director or the Director's designee determines the project complies with the factors and any guidance from the Federal Highway Administration.¶

(3) In furtherance of the Community Benefit Program, the ODOT Director or the Director's designee may enter into community workforce agreements with labor organizations to develop material provisions that ODOT may include in a community benefit contract, including, but not limited to, material provisions that ensure labor peace, set forth protocols for hiring and dispatch of union labor in support of ODOT's goals and targets for apprenticeship and hiring.¶

(4) In addition to the material provisions listed in ORS 279C.308(3)(b) and any applicable provisions of the Oregon Public Contracting Code, a community benefit contract may include as material provisions of the community benefit contract terms and conditions that require the contractor to: ¶

(a) Meet minimum qualifications for contractor and subcontractor participation in a community benefit contract.¶

(b) Employ apprentices and trainees from ODOT-approved programs to perform a specified percentage of work hours that workers in apprenticeable occupations perform on the community benefit project. ¶

(c) Provide for payment of wages at or above the prevailing rate of wage in accordance with applicable state or federal laws or in accordance with the applicable trade's collective bargaining agreement, whichever is highest. ¶

(d) Provide employer-paid retirement benefits. ¶

(e) Comply with hiring goals for EDZ resident workers and goals for apprenticeship and training, as established by ODOT for each community benefit contract. ¶

(f) Provide a plan to increase participation of minority and women workers in furtherance of workforce diversity and ODOT's aspirational targets, as described in each community benefit contract, and comply with the provided plan. ¶

(g) Participate in a pre-job conference to discuss requirements for the Community Benefit Program and require the contractor's subcontractors to participate in a pre-job conference.¶

(h) Meet periodic reporting requirements established for each community benefit contract that may include, but are not limited to, the following information:¶

(A) The number of apprentices and journey workers and the percentage of total workforce hours worked by apprentices and journey workers; ¶

(B) The number of minority and women workers and the percentage of total workforce hours worked by minorities and women workers;¶

(C) The number of EDZ resident workers and the percentage of total workforce hours worked by EDZ resident workers; ¶

(D) Safety incidents; and¶

(E) Any other workforce-related information required by ODOT. ¶

(i) Provide minimum worksite conditions and safety requirements, including:¶

(A) Respectful worksites; ¶

(B) Drug and alcohol testing, access to personal protective equipment, worker facilities, appropriate bathroom facilities and security measures; and¶

(C) Training related to worksite conditions and safety requirements.¶

(j) Execute a letter of assent binding a contractor and all of contractor's subcontractors on the community benefit contract to one or more of the requirements described in a community workforce agreement. ¶

(5) Notwithstanding the contractor's execution of a letter of assent as described in section (4)(j) of this rule, the following terms apply to a community benefit contract:¶

(a) All disputes between ODOT and contractor are governed by and resolved under the terms of the community benefit contract. ¶

(b) Any conflict or discrepancy between the community workforce agreement and any applicable collective bargaining agreement is governed by and resolved under the terms of the applicable community workforce agreement. ¶

(6) The material provisions of a community benefit contract, including any requirement incorporated into a community benefit contract from a community workforce agreement, must comply with applicable local, state and federal laws, and the requirements for the following federal programs: the Disadvantaged Business Enterprise Program, the Equal Employment Opportunity Program, the On-The-Job Training Program, the Tribal Employment Rights Ordinance, and any other federal programs applicable to the community benefit contract.

Statutory/Other Authority: ORS 184.619

Statutes/Other Implemented: ORS 279C.308