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**TEMPORARY ADMINISTRATIVE ORDER**  
INCLUDING STATEMENT OF NEED & JUSTIFICATION

**PTD 1-2025**

CHAPTER 732

**DEPARTMENT OF TRANSPORTATION**  
**PUBLIC TRANSPORTATION DIVISION**

**FILED**

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ARCHIVES DIVISION  
SECRETARY OF STATE  
& LEGISLATIVE COUNSEL

FILING CAPTION: State Transportation Improvement Fund distribution rules

EFFECTIVE DATE: 07/01/2025 THROUGH 12/27/2025

AGENCY APPROVED DATE: 05/08/2025

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**NEED FOR THE RULE(S):**

2020 Or Laws chapter 15 section 7 amended ORS 184.766 to add subsection (2) requiring OTC to establish rules requiring ODOT to enter into agreements with qualified entities prior to the entity's receipt of STIF funds under ORS 184.758(2). ORS 184.766(2) further provides that each agreement must include a condition requiring the qualified entity to repay distributed STIF funds if it fails to perform under the contract. The requirement in ORS 184.766(2) for rulemaking applies to "distributions made on or after July 1, 2023." 2020 Or Laws c 17, section 8.

Currently, OAR 732 Division 042 does not satisfy the legislative mandate in ORS 184.766(2). While there are references to agreements throughout division 40, for example the definition of "recipient" includes a qualified entity with an approved STIF Plan or an agreement with the Agency to receive STIF funds, OAR 732-040-0005(29), these general references do not speak directly to the making of the agreement for the formula funds. Rather, they likely capture the discretionary fund agreements, which are provided for in OAR Chapter 732, division 44, specifically OAR 732-044-0035.

An agreement between a qualified entity and ODOT will contain all rights and remedies relating to the qualified entity's failure to perform an obligation in the agreement, including ODOT's enforcement if necessary. Accordingly, the qualified entity will be entitled to remedies as provided by the agreement and required by the legislature in ORS 184.766(2) and not through the contested case process, as currently provided in OAR 732-042-0015(6).

**JUSTIFICATION OF TEMPORARY FILING:**

These rules require immediate action to ensure that ODOT's distribution of funds under ORS 184.758 for the current fiscal year is made consistent with the mandate in ORS 184.766(2) requiring OTC to adopt rules requiring an agreement between the state and the qualified entity for all funds distributed after July 1, 2023. The removal of the contested case hearing process is also necessary to ensure the enforceability of any agreements entered into pursuant these amendments. If these rules are not adopted prior to the next round of STIF plan submittals and approvals in 2025, ODOT and OTC are concerned that the distribution of funds pursuant to those plans may not be consistent with 184.766(2). OTC finds that this constitutes as serious prejudice to the public interest because the STIF funds are for

public transportation projects and operations that may not operate or operate safely without STIF formula funds.

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DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

None

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RULES:

732-040-0015, 732-042-0010

AMEND: 732-040-0015

RULE TITLE: Audit and Compliance Review Requirements

RULE SUMMARY: This rule sets out a STIF recipient’s requirements for auditing and compliance reviews by ODOT and gives notice that a contested case hearing is available if the audit uncovers a distribution discrepancy. The changes to this rule remove the notice of contested case hearing rights in 732-040-0015(6).

RULE TEXT:

- (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, 184.658, 184.761

STATUTES/OTHER IMPLEMENTED: ORS 184.751-184.766

RULE TITLE: STIF Formula Fund Calculation and Disbursement

RULE SUMMARY: This rule sets out the formula by which ODOT will determine the distribution of STIF formula fund disbursements to qualifying entities and the process for distribution. The change to this rule adds a requirement that an agreement shall be made between ODOT and a qualified entity for the distribution of the STIF formula funds.

RULE TEXT:

(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) Upon approval of the Qualified Entity's STIF Plan for the STIF Formula Fund moneys, the Division will enter into an agreement with the Qualified Entity.

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

(d) 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.

(e) 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.

(f) 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, 184.658, 184.761, 184.766

STATUTES/OTHER IMPLEMENTED: ORS 184.642, 184.751-184.766, 323.457