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CHAPTER 732

DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION DIVISION

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RULE TITLE: Qualified Entity Oversight of Sub-Recipients

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RULE SUMMARY: This rule establishes a set of procedures for Qualified Entity compliance review of Sub-Recipients that is intended to ensure that Qualified Entities exercise needed oversight while reducing duplication of oversight activities. Qualified Entities are required to follow procedures identified by ODOT. ODOT is required to provide binding mediation of disputes between Qualified Entities and Sub-Recipients regarding the application of the rule if requested.

RULE TEXT:

- (1) This rule establishes a compliance review process that a Qualified Entity shall perform of a Sub-Recipient to ensure that a Sub-Recipient has appropriate and adequate internal controls and management procedures that apply to the use of STIF Formula Fund moneys.
- (2) A Qualified Entity shall conduct a compliance review of any Sub-Recipient at least once every three years. At its discretion, the Qualified Entity may conduct additional compliance reviews, or adjust the scope of a compliance review, based on a risk assessment of the Sub-Recipient or a Project. Reviews may be performed by the Qualified Entity or its agent.
- (3) A Qualified Entity may, at its discretion, conduct a compliance review at a Sub-Recipient's facilities or at another location, including remotely.
- (4) A Qualified Entity may, at its discretion, conduct a compliance review for any of the following topical areas, unless otherwise indicated in the Qualified Entity-Subrecipient Oversight Guide provided by the Agency. The Qualified Entity's review shall conform to the procedures described in the Qualified Entity-Subrecipient Oversight Guide:
 - (a) Program management;
 - (b) Financial management;
 - (c) Operations management;
 - (d) Procurement, use and maintenance of equipment;
 - (e) Records retention;
 - (f) Compliance with state and federal civil rights laws;
 - (g) Compliance with FTA drug and alcohol regulations; and

(h) Compliance with the ADA.

(5) Notwithstanding section (4) of this rule, a Qualified Entity may not conduct a compliance review of a Sub-Recipient:

(a) Of a topical area for which the Sub-Recipient is currently being reviewed by the Agency or another entity, or

(b) Of a topical area that, within the prior fiscal year, the Agency or another entity has conducted a review or financial audit pursuant to OAR 732-040-0025(3), using procedures that are substantially similar to the procedures in the Qualified Entity-Subrecipient Oversight Guide, and issued a report finding compliance. The Sub-Recipient shall notify the Qualified Entity of a review covering a topic described in this section and shall submit the completed report of such a review to the Qualified Entity no later than 30 days after receipt of the report by the Sub-Recipient.

(6) A Qualified Entity may request permission from the Agency to conduct a secondary review of a topical area if the Qualified Entity determines additional review is necessary to ensure the Sub-Recipient's compliance. The Qualified Entity must articulate a reason(s) that the prior review was inadequate to satisfy the purpose described in section (1) of this rule. The Qualified Entity must make such a request in writing to the Agency and include an explanation of the basis for determining that the prior review is inadequate. The request must be submitted to the Agency within 90 days from the date the Qualified Entity receives the report regarding the oversight activity.

(7) A Qualified Entity shall include provisions in its agreement with a Sub-Recipient requiring that the Sub-Recipient permit the Qualified Entity, 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 and to inspect the Projects financed with STIF moneys including, but not limited to, the financial records, physical premises and Capital Assets used to deliver public transportation services.

(8) In the event of dispute concerning the application of this rule between a Qualified Entity and a Sub-Recipient, either party may request mediation by the Agency. In such cases the determination of the Agency may be binding on all parties at their request. If the parties request a binding determination, the Agency shall mediate the dispute. If the parties request a nonbinding determination, the Agency may agree to mediate the dispute at its discretion.

STATUTORY/OTHER AUTHORITY: ORS 184.619, 184.758, 184.761

STATUTES/OTHER IMPLEMENTED: ORS 184.751-184.766