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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 731
DEPARTMENT OF TRANSPORTATION

FILED
02/24/2025 10:41 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Adopt rules to allow for federal grant match applications through Connect Oregon program.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 03/21/2025 5:00 PM

The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.

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NEED FOR THE RULE(S)

The proposed rule establishes the process ODOT will use to accept Connect Oregon grant applications where the applicant intends to use Connect Oregon funds as the required match for federal grants. As currently configured, the Connect Oregon selection process does not align with federal grant announcements and applicants are unable to leverage federal funds when these timelines do not sync. This new process would be separate from the typical Connect Oregon competitive application process but meet the same statutory requirements for selecting projects and administration of grants.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None.

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE

No impact.

FISCAL AND ECONOMIC IMPACT:

This will allow prospective applicants to the Connect Oregon program to better align their grant seeking schedule with the timelines of matching, larger federal grants. If more projects can leverage this federal grant match option, then more external (federal) dollars would be brought into Oregon to help deliver aviation, marine and rail projects then at present.

COST OF COMPLIANCE:

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost

of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

(1) This rule provides the framework for a federal grant match option for the existing Connect Oregon program. Any impacts to other agencies, local government and the public should be like present, or positive if successful in steering more federal funds to projects in Oregon.

(2) Small private ports, short line railroads, and private airports would be eligible for this program as they are in the existing Connect Oregon framework, thus if they take advantage of it there would be a positive benefit.

(2)(a) The Connect Oregon program is for grant seekers thus it's incumbent upon eligible applicants such as small private ports, short line railroads, and private airports to apply. Given that the federal grant match option is a small set aside from the larger Connect Oregon fund, there will be approximately 2-5 projects per biennium, and 1-2 of those may be the aforementioned applicants.

(2)(b) Since this is to be part of an existing grant program, the additional costs will be minimal and should be largely absorbed into the regular duties of those already involved with Connect Oregon.

(2)(c) No additional cost for professional services, equipment supplies and labor are expected as part of this rulemaking. Since this is to be part of an existing grant program, the additional administrative costs will be minimal and should be largely absorbed into the regular duties of those already involved with Connect Oregon.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

Through Oregon Freight Advisory Committee meetings and feedback from previous rounds of Connect Oregon, ODOT staff were informed that smaller entities, which include small private ports, short line railroads, and private airports experienced challenges coming up with the necessary matching funds to compete for federal grants, and that a matching source would better position them to be awarded.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

No, the concept of a federal grant match option for Connect Oregon has been discussed with industry stakeholders, Connect Oregon applicants, the Oregon Freight Advisory Committee, Rail Advisory Committee in multiple venues since 2022. ODOT assembled a Steering Team with representatives from the ODOT Public Transit & Rail Division, Department of Aviation, and Business Oregon to vet the framework of the federal grant match option and how to ensure that it aligns with the Connect Oregon statutory considerations while providing a more flexible means of making prospective Connect Oregon applicants more competitive for federal grants.

RULES PROPOSED:

731-035-0010, 731-035-0020, 731-035-0030, 731-035-0040, 731-035-0050, 731-035-0060, 731-035-0070, 731-035-0110, 731-035-0120, 731-035-0130, 731-035-0140, 731-035-0150, 731-035-0160, 731-035-0170, 731-035-0180

AMEND: 731-035-0010

RULE SUMMARY: Purpose statement for the rule division.

CHANGES TO RULE:

731-035-0010

Competitive Grant Application Purpose ¶

ORS 367.080 to 367.086 creates the Connect Oregon Fund, allowing for the issuance of lottery bonds established for the purpose of financing grants to fund Transportation Projects that involve air, marine, and rail, public transit, or bicycle and pedestrian modes. The purpose of division 35 rules is to establish modes. The purpose of OAR 731-035-0010 through OAR 731-035-0080 is to establish the grant selection and administration process for Competitive Grant Applications through the Connect Oregon Fund Program.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 367.082, Ch. 816 OL 2005
Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 750 OL 2017

CHANGES TO RULE:

731-035-0020

Definitions ¶¶

For the purposes of division 35 rules, the following terms have the following definitions, unless the context clearly indicates otherwise:¶¶

- (1) "Agreement" means a legally binding contract between the Department and Recipient that contains the terms and conditions under which the Department is providing funds from the Connect Oregon Fund for an Approved Project.¶¶
- (2) "Applicant" means a Person or Public Body that applies for funds from the Connect Oregon Fund.¶¶
- (3) "Approved Project" means a project that the Commission has approved to receive funding through a grant from the Connect Oregon Fund.¶¶
- (4) "Area Commissions on Transportation" means advisory bodies chartered by the Oregon Transportation Commission.¶¶
- (5) "Aviation" is defined in ORS 836.005(5).¶¶
- (6) "Commission" means the Oregon Transportation Commission.¶¶
- (7) "Competitive Grant Application" means an application submitted by the submission date established by the Department that does not require an award of a federal grant to fund the project.¶¶
- (8) "Connect Oregon Fund" means the fund created in ORS 367.080.¶¶
- ~~(8)~~ (9) "Dedicated Project" means a project listed Chapter 491, 2019 Oregon Laws, Section 10.¶¶
- ~~(9)~~ (10) "Department" means the Oregon Department of Transportation.¶¶
- ~~(10)~~ (11) "Director" means the Director of the Oregon Department of Transportation.¶¶
- ~~(11)~~ (12) "Oregon Department of Aviation (ODA)" means the Oregon Department of Aviation (ODA) defined in ORS 836.005(7).¶¶
- ~~(12)~~ (13) "Final Project Acceptance" means the Department's written acceptance of a project as complete following an on-site review of the completed project.¶¶
- ~~(13)~~ (14) "Freight Advisory Committee" means the committee created in ORS 366.212.¶¶
- (15) "Federal Grant Match Application" means an application submitted by the submission date established by the Department that requires an award of a federal grant to fund the project.¶¶
- ~~(14)~~ (16) "Limited Land Use Decision" has the meaning given in ORS 197.015(12).¶¶
- ~~(15)~~ (17) "Land Use Decision" has the meaning given in ORS 197.015(10).¶¶
- ~~(16)~~ (18) "Oregon Business Development Department" means the department defined in ORS 285A.070.¶¶
- ~~(17)~~ (19) "Person" has the meaning given in ORS 174.100(6), limited to those Persons that are registered with the Oregon Secretary of State to conduct business within the State of Oregon.¶¶
- ~~(18)~~ (20) "Program" means the Connect Oregon Fund Program established by division 35 rules to administer the Connect Oregon Fund.¶¶
- ~~(21)~~ (21) "Program Funds" means the money appropriated by the Legislature to the Connect Oregon Fund and includes funds that become available due to loan repayment from a previous project, unappropriated project funds from Approved Projects, earnings on moneys held in the Connect Oregon Fund, and funds from sanctions as prescribed in 731-035-0080(5) of an Approved Project.¶¶
- ~~(20)~~ (22) "Project Sponsor" means a Person or a Public Body seeking funds to develop and implement a Dedicated Project.¶¶
- ~~(21)~~ (23) "Public Body" is defined in ORS 174.109.¶¶
- ~~(22)~~ (24) "Rail Advisory Committee" means a committee appointed by the Director and approved by the Commission to advise the Department on issues, policies and programs that affect rail freight and rail passenger facilities and services in Oregon.¶¶
- ~~(23)~~ (25) "Recipient" means an eligible Person or Public Body that enters into an Agreement with the Department to receive funds from the Connect Oregon Fund.¶¶
- ~~(24)~~ (26) "Recipient's Total Project Costs" means the funds received from the Connect Oregon Program Funds plus the matching funds required under Oregon Administrative Rule 731-035-0070(3)(a)(B) and any additional funds, if applicable.¶¶
- ~~(25)~~ (27) "Regional Solutions Team" means the teams created in ORS 284.754.¶¶
- ~~(26)~~ (28) "State Aviation Board" means the board created in ORS 835.102.¶¶
- ~~(27)~~ (29) "Transportation project" is defined in ORS 367.080(1)(c) and means a project or undertaking for rail, marine, and aviation capital infrastructure, including bridges, or a project that facilitates the transportation of materials,

animals or people. A transportation project does not include costs associated with operating expenses.
Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005
Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 750 OL 2017

AMEND: 731-035-0030

RULE SUMMARY: Denotes the grant application submission periods for the Competitive Grant Program.

CHANGES TO RULE:

731-035-0030

Competitive Grant Application Submission Periods ¶

(1) The Department will announce time periods for submitting applications for funding from the Connect Oregon Fund. Announcements for submitting applications shall denote if the Department is taking applications for the Competitive Grant Application or for the Federal Grant Match Application. ¶

(2) The Department will consider applications for grants for transportation projects only if the Department determines that \$50 million or more will be available in the Connect Oregon Fund for the biennium in which the grants are provided. ¶

(a) The Department may use up to one percent of the amounts available within the Connect Oregon Fund to pay administrative costs incurred by the Department in carrying out the provisions of ORS 367.080 to 367.089 ¶

(b) Each time there is a deposit into the Connect Oregon Fund, the department shall transfer seven percent of the moneys deposited into Connect Oregon Fund to the Multimodal Active Transportation Fund as administered by OAR Chapter 731, Division 36. ¶

(3) Project applications will be reviewed for compliance with the requirements in OAR 731-035-0040 and as prescribed in 731-035-0050. ¶

(4) Applications not funded may be resubmitted during subsequent application submission periods announced by the Department.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 750 OL 2017

AMEND: 731-035-0040

RULE SUMMARY: Denotes grant application requirements for the Competitive Grant Applications.

CHANGES TO RULE:

731-035-0040

Competitive Grant Application Requirements ¶

Applicants interested in receiving funds from the Connect Oregon Fund must submit a written application to the Department. The application must be in a format prescribed by the Department and contain or be accompanied by such information as the Department may require, including the expected results from the proposed Project for each of the considerations as prescribed in 731-035-0060, documented desire for and support of the Project from the businesses and entities to be served by the Project, and documentation to validate the Project schedule and costs.

Statutory/Other Authority: ORS ~~184.616~~, 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 750 OL 2017

AMEND: 731-035-0050

RULE SUMMARY: Provides rule for how the Department will review competitive grants.

CHANGES TO RULE:

731-035-0050

Competitive Grant Application Review ¶¶

- (1) The Department will review applications received to determine whether the application is complete and whether the Applicant and the Transportation Project are eligible for Program Funds.¶¶
- (2) Applicants that meet all of the following criteria are eligible:¶¶
 - (a) The Applicant is a Public Body or Person within the state of Oregon.¶¶
 - (b) The Applicant, if applicable, is current on all state and local taxes, fees and assessments.¶¶
 - (c) The Applicant has sufficient management and financial capacity to complete the project including, without limitation, the ability to contribute 30 percent of the Recipient's Total Project Cost for Applicants other than a Class I railroad, and 50 percent of the Recipient's Total Project Cost for Class I railroads.¶¶
- (3) Projects that meet all of the following criteria are eligible:¶¶
 - (a) The project is a Transportation Project.¶¶
 - (b) The project will assist in developing a multimodal transportation system that supports state and local government efforts to attract new businesses to Oregon or that keeps and encourages expansion of existing businesses.¶¶
 - (c) The project is eligible for funding with lottery bond proceeds under the Oregon Constitution and laws of the state of Oregon.¶¶
 - (d) The project will not require or rely upon subsidies from the Department for ongoing operations.¶¶
 - (e) The project is not a public road or other project that is eligible for funding from revenues described in section 3a, Article IX of the Oregon Constitution, i.e. the State Highway Trust Fund.¶¶
 - (f) The project is feasible, including the estimated cost of the project, the expected results from the proposed project for each of the considerations as prescribed in 731-035-0060, the project schedule, and all applicable and required permits may be obtained within the project schedule.¶¶
- (4) If an Applicant or project is deemed to be ineligible for Program Funds, the Department will, within 15 calendar days of that determination:¶¶
 - (a) Notify the Applicant that the application request is ineligible, and ¶¶
 - (b) Where the finding of ineligibility is the result of an incomplete application, specify the additional information the Applicant must provide to establish eligibility.¶¶
- (5) The Department may deem an application ineligible if the Applicant fails to meet eligibility requirements of subsections (2) and (3) of this rule, or fails to provide requested information in writing by the date required by the Department, or if the application contains false or misleading information.¶¶
- (6) The Director will consider protests of the eligibility determination for the project. Only the Applicant may protest. Protests must be submitted in writing to the Director within 15 calendar days of the event or action that is being protested. The Director's decision is final.¶¶
- (7) The Department will make all eligible applications available for review, as applicable under OAR 731-035-0060, to the State Aviation Board, the Freight Advisory Committee, the Rail Advisory Committee, the Oregon Business Development Department, ACTs and any other transportation stakeholder and advocate entities identified by the Commission to provide recommendations on project funding.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 723, Ch. 765, Ch. 786 OL 2013

AMEND: 731-035-0060

RULE SUMMARY: Provides process for how Competitive Grants are selected.

CHANGES TO RULE:

731-035-0060

Competitive Grant Project Selection ¶

- (1) The Commission will approve projects to be funded through a grant Agreement with moneys in the Connect Oregon Fund. ¶
- (2) To the extent that proposed Projects meet the qualifications established in OAR 731-035-0050 and 731-035-0060, the Commission may consider the distribution of funds among the five ODOT regions. The regions consist of the following counties:¶
 - (a) Region one consists of Clackamas, Hood River, Multnomah and Washington Counties; ¶
 - (b) Region two consists of Benton, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties; ¶
 - (c) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties; ¶
 - (d) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Sherman, Wasco and Wheeler Counties; and ¶
 - (e) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties.¶
- (3) Prior to selecting projects to be funded with moneys in the Connect Oregon Fund, the Commission shall solicit recommendations from: ¶
 - (a) The State Aviation Board for Aviation Transportation Projects. ¶
 - (b) The Freight Advisory Committee for freight Transportation Projects. ¶
 - (c) The Rail Advisory Committee for rail Transportation Projects. ¶
 - (d) The Oregon Business Development Department for marine transportation projects. ¶
 - (e) Area Commissions on Transportation.¶
 - (f) Regional Solutions Teams, as required in ORS 284.753. ¶
- (4) Prior to selecting projects to be funded with moneys in the Connect Oregon Fund, the Commission may solicit recommendations from transportation stakeholder and advocate entities not otherwise specified in section (3) of this rule.¶
- (5) On behalf of the Commission, the Department shall solicit recommendations from the committees and entities in section (3) of this rule concurrently. ¶
- (6) The Director, in consultation with committees and entities in section (3) of this rule, shall appoint a Final Review Committee that includes representatives from each of the committees and entities in section (2) of this rule. ¶
 - (a) Persons are not eligible for Final Review Committee membership if the person: ¶
 - (A) represents an entity that submitted an application for a Connect Oregon Fund grant that is being considered for funding by the Final Review Committee; or ¶
 - (B) has a direct financial interest in an application that is being considered for funding by the Final Review Committee. ¶
 - (b) Following the receipt of recommendations from the entities in section (3) of this rule and prior to selecting projects to be funded with moneys in the Connect Oregon Fund, the Commission shall solicit a Final Recommendation Report from the Final Review Committee. The Department shall provide the Final Review Committee a list of recommendations from all committees and entities in section (3) of this rule. The list shall include the evaluation results and recommendations from each of the committees and entities in section (2) of this rule. The Final Review Committee shall provide the Commission its Final Recommendation Report of projects to be funded with moneys in the Connect Oregon Fund listing in priority order eligible projects together with a reasonable number of alternate projects in priority order.¶
 - (c) After the Final Review Committee makes its recommendation to the Commission, the Department shall validate project information that meets program criteria in each project application that will be used in an Agreement.¶
 - (A) Project Applicants shall be required to provide any additional information requested by the Department within five business days of the request.¶
 - (B) Validation shall include:¶
 - (i) Evidence of matching funds available for the project.¶
 - (ii) Evidence of site ownership or control including but not limited to evidence of a land sales agreement, option for purchase or governing body resolution of condemnation action.¶
 - (iii) Confirmed project delivery schedule that meets Program requirements.¶

- (iv) Other information as identified by the Department needed to enter into an Agreement.¶
- (C) The Department shall identify those projects that do not meet Program criteria prior to the Commission's final action to select projects.¶
- (7) The Department shall determine the organizational guidance for the committees' and entities' processes and protocols. ¶
- (8) The committees and entities in section (3) of this rule shall follow the organizational guidance determined by the Department under section (7) of this rule. ¶
- (9) The Commission will consider all of the following factors in making its decision to award funding for eligible projects from the Connect Oregon Fund: ¶
- (a) Whether a proposed project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor;¶
- (b) Whether a proposed transportation project results in an economic benefit to this state;¶
- (c) Whether a proposed project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system; and¶
- (d) The proportion of the cost of a proposed project that is borne by the Applicant or contributed from any other source other than the Connect Oregon Fund.¶
- (e) Whether a proposed transportation project is ready for construction. A project will be considered ready for construction if the Applicant can demonstrate that:¶
- (A) Community engagement/outreach has occurred prior to or at the time of application submission. ¶
- (B) Project completion can be achieved within 3 years of the award of the grant by submitting a project schedule that includes project stages and dates of major milestones;¶
- (C) Matching funds have been secured 30 calendar days before the Commission's decision to award funds;¶
- (D) Site ownership or control is secured 30 calendar days before the Commission's decision to award funds;¶
- (E) Final land use actions necessary to support the proposed project have been approved by the local government 60 calendar days before the Commission's decision to award funds.¶
- (F) Limited Land Use Decision rendered by the appropriate local government received within six months of execution of Agreement.¶
- (G) Securing all permits needed for construction within nine months of execution of an Agreement;¶
- (f) Whether a proposed transportation project has a useful life expectancy that offers maximum benefit to the state; and¶
- (g) Whether a proposed transportation project is located near operations conducted for mining aggregate or processing aggregate as described in ORS 215.213 (2)(d) or 215.283 (2)(b).¶
- (910) The Commission shall award funds for projects in accordance with ORS 367.084 solely, notwithstanding any other provision of division 35.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 750 OL 2017

AMEND: 731-035-0070

RULE SUMMARY: Explains match process for Competitive Grant Applications.

CHANGES TO RULE:

731-035-0070

~~Grant~~ Competitive Grant Application Awards and Match ¶

(1) Once the Commission makes a decision to award funding for an eligible project under 731-035-0060 the amount of the grant award is considered allocated from Program Funds. If an Agreement with a Recipient has not been executed within 180 days from the Commission's decision to award funding for an eligible project, the allocation is withdrawn, and those funds may be awarded by the Commission to other eligible projects in a manner consistent with this rule. ¶

(2) Grants will be awarded only when there are sufficient funds available in the Connect Oregon Fund to meet the grant obligation. ¶

(a) Grant awards may not exceed 70 percent of the total eligible Project costs or for Class I railroads, 50 percent of the total eligible Project costs. ¶

(b) Matching funds must be provided by the grant recipient in the form of cash on hand, or through monetary outlay for eligible capital project costs that are reasonable, necessary and directly related to the project. Eligible costs may include costs to acquire, construct, or improve property (land, buildings, and fixed equipment) or to adapt the property to a new or different use consistent with the improvements described in the application. ¶

(A) Monetary outlays for subsection (b) above must have been made within 10 years of the application deadline for Connect Oregon grant fund submittals in order to qualify as eligible matching funds. Monetary outlays for land purchases occurring more than 10 years before the application submission deadline may be considered as matching funds only if the extension of time further serves the goals and objectives of the Program and is approved by the Director consistent with OAR 731-035-0080 (8). ¶

(B) The acquisition cost of land for a project may only be counted as 50% of the required project match. ¶

(C) Land acquisition costs for the same parcel or parcels of land may not be considered project match for more than one awarded Connect Oregon project. ¶

(D) All project match sources must be identified at the time of application is submitted. All match sources must be secured in accordance with the timelines identified in OAR 731-035-0060(8)(e) except for match sources from Federal Aviation Administration grants. Federal Aviation Administrative grants that are used as a match for an eligible project must be awarded within one year of the Commission decision to award funds to eligible projects.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 750 OL 2017

ADOPT: 731-035-0110

RULE SUMMARY: Purpose statement for the Federal Grant Match Application.

CHANGES TO RULE:

731-035-0110

Federal Grant Match Application Purpose

ORS 367.080 to 367.086 creates the Connect Oregon Fund, established for the purpose of financing grants to fund Transportation Projects that involve air, marine and rail modes. The purpose of OAR 731-035-0110 through OAR 731-035-0180 rules is to establish the grant selection and administration process for Federal Grant Match Applications through the Connect Oregon Fund.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 750 OL 2017, Ch. 816 OL 2005

ADOPT: 731-035-0120

RULE SUMMARY: Provides definitions for the rest of the rule division.

CHANGES TO RULE:

731-035-0120

Definitions

The terms as defined in OAR 731-035-0020 apply to OAR 731-035-0110 through OAR 731-035-0180.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 750 OL 2017, Ch. 816 OL 2005

ADOPT: 731-035-0130

RULE SUMMARY: Determines when applications will be submitted.

CHANGES TO RULE:

731-035-0130

Federal Grant Match Application Submission Periods

(1) The Department will announce time periods for submitting applications for funding from the Connect Oregon Fund. The announcements will state if the Department is taking applications for the Competitive Grant Application or for the Federal Grant Match Application. The Department will consider the anticipated date for federal Notices of Funding Opportunity in selecting the submission deadlines for Federal Grant Match Applications.¶

(2) Each biennium the Department shall make available a portion of the Connect Oregon Fund for Federal Grant Match Applications that meet the eligibility requirements of these rules.¶

(3) Project applications will be reviewed for compliance with the requirements in OAR 731-035-0140 and as prescribed in 731-035-0150.¶

(4) Applications not funded may be resubmitted during subsequent application submission periods announced by the Department.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 816 OL 2005, Ch. 750 OL 2017

ADOPT: 731-035-0140

RULE SUMMARY: Denotes match requirements.

CHANGES TO RULE:

731-035-0140

Federal Grant Match Application Requirements

Applicants interested in receiving funds from the Connect Oregon Fund must submit a written application to the Department. The application must be in a format prescribed by the Department and contain or be accompanied by such information as the Department may require, including the expected results from the proposed Project for each of the considerations as prescribed in 731-035-0160, documented desire for and support of the Project from the businesses and entities to be served by the Project, and documentation to validate the Project schedule and costs.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 750 OL 2017, Ch. 816 OL 2005

ADOPT: 731-035-0150

RULE SUMMARY: Eligibility review requirements.

CHANGES TO RULE:

731-035-0150

Federal Grant Match Application Eligibility Review

- (1) The Department will review applications received to determine whether the application is complete and whether the Applicant and the Transportation Project are eligible for Program Funds.¶
- (2) Applicants that meet all of the following criteria are eligible:¶
 - (a) The Applicant is a Public Body or Person within the state of Oregon.¶
 - (b) The Applicant, if applicable, is current on all state and local taxes, fees and assessments.¶
 - (c) The Applicant has sufficient management and financial capacity to complete the project including, without limitation, the ability to contribute 30 percent of the Recipient's Total Project Cost for Applicants other than a Class I railroad, and 50 percent of the Recipient's Total Project Cost for Class I railroads.¶
- (3) Projects that meet all of the following criteria are eligible:¶
 - (a) The project is a Transportation Project.¶
 - (b) The project will assist in developing a multimodal transportation system that supports state and local government efforts to attract new businesses to Oregon or that keeps and encourages expansion of existing businesses.¶
 - (c) The project is eligible for funding with lottery bond proceeds under the Oregon Constitution and laws of the state of Oregon.¶
 - (d) The project will not require or rely upon subsidies from the Department for ongoing operations.¶
 - (e) The project is not a public road or other project that is eligible for funding from revenues described in section 3a, Article IX of the Oregon Constitution, i.e. the State Highway Trust Fund.¶
 - (f) The project is feasible, including the estimated cost of the project, the expected results from the proposed project for each of the considerations as prescribed in 731-035-0160, the project schedule, and all applicable and required permits may be obtained within the project schedule.¶
 - (g) The Federal Grant Match Application identifies:¶
 - (A) the federal grant that will be used to fund the Project and ¶
 - (B) an estimated date for when the Notice of Funding Opportunity for the federal grant will be announced.¶
- (4) If an Applicant or project is deemed to be ineligible for Program Funds, the Department will, within 15 calendar days of that determination:¶
 - (a) Notify the Applicant that the application request is ineligible, and¶
 - (b) Where the finding of ineligibility is the result of an incomplete application, specify the additional information the Applicant must provide to establish eligibility.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 723, Ch. 765, Ch. 786 OL 2013, Ch. 816 OL 2005

ADOPT: 731-035-0160

RULE SUMMARY: Allows for the project selection process.

CHANGES TO RULE:

731-035-0160

Federal Grant Match Project Selection

- (1) The Commission will approve projects to be funded through a grant Agreement with moneys in the Connect Oregon Fund.¶
- (2) Prior to selecting projects to be funded with moneys in the Connect Oregon Fund, the Commission shall solicit recommendations from the applicable entities below based upon the location and mode of the project:¶
 - (a) The State Aviation Board for Aviation Transportation Projects.¶
 - (b) The Freight Advisory Committee for freight Transportation Projects.¶
 - (c) The Rail Advisory Committee for rail Transportation Projects.¶
 - (d) The Oregon Business Development Department for marine transportation projects.¶
 - (e) Area Commissions on Transportation.¶
 - (f) Regional Solutions Teams, as required in ORS 284.753.¶
- (3) The Director, or their designee, in consultation with the entities identified in section (2) of this rule shall appoint a Federal Grant Match Recommendation Panel that includes at a minimum, representatives from the applicable Area Commission on Transportation and modal committee(s) identified in section (2) of this rule.¶
 - (a) Additional members may be appointed to the Federal Grant Match Recommendation Panel from other committees and entities in section (2) of this rule.¶
 - (b) The Director, or their designee, may appoint members of the Federal Grant Match Recommendation Panel not otherwise specified in section (2) of this rule who can evaluate the effectiveness of a proposed project's effectiveness in advancing the decision considerations in section (5) of this rule.¶
 - (c) Persons are not eligible for Federal Grant Match Recommendation Panel membership if the person:¶
 - (A) represents an entity that submitted an application for a Connect Oregon Fund grant that is being considered for funding by the Federal Grant Match Recommendation Panel; or¶
 - (B) has a direct financial interest in an application that is being considered for funding by the Federal Grant Match Recommendation Panel.¶
- (4) The Director or designee shall summarize and present to the Commission the recommendations of (i) the committees and entities in section (2) of this rule and (ii) the Federal Grant Match Recommendation Panel.¶
- (5) The Commission will consider all of the following factors in making its decision to award funding for eligible projects from the Connect Oregon Fund:¶
 - (a) Whether a proposed project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor;¶
 - (b) Whether a proposed transportation project results in an economic benefit to this state;¶
 - (c) Whether a proposed project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system; and¶
 - (d) The proportion of the cost of a proposed project that is borne by the Applicant or contributed from any other source other than the Connect Oregon Fund.¶
 - (e) Whether a proposed transportation project is ready for construction¶
 - (f) Whether a proposed transportation project has a useful life expectancy that offers maximum benefit to the state; and¶
 - (g) Whether a proposed transportation project is located near operations conducted for mining aggregate or processing aggregate as described in ORS 215.213 (2)(d) or 215.283 (2)(b).¶
- (6) The Commission shall award funds for projects in accordance with ORS 367.084 solely, notwithstanding any other provision of division 35. ¶
- (7) All awards for Federal Grant Match Applications are provisional and are contingent upon the Recipient securing the federal grant identified in their application.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 750 OL 2017, Ch. 816 OL 2005

ADOPT: 731-035-0170

RULE SUMMARY: Awards and match requirements.

CHANGES TO RULE:

731-035-0170

Federal Grant Match Application Awards and Match

(1) Once the Commission decides to award funding for an eligible project under OAR 731-035-0160, the amount of the grant award is considered allocated from Program Funds.¶

(a)(A) If the federal agency that administers the federal grant applied for by the Recipient announces a Notice of Grant Award and the Approved Project is not selected, then the Commission's grant award is rescinded without further act of the Commission and the amount of the Commission's grant award is no longer allocated from Program Funds.¶

(B) The Department shall notify the Recipient of this change in Approved Project status within 15 days of the announcement of the relevant federal grant project selection.¶

(b) If an Agreement with a Recipient has not been executed within 365 days from a federal grant Notice of Grant Award for the Approved Project, the allocation is withdrawn, and those funds may be awarded by the Commission to other eligible projects in a manner consistent with this rule.¶

(2) Grants will be awarded only when there are sufficient funds available in the Connect Oregon Fund to meet the grant obligation.¶

(a) Grant awards may not exceed 70 percent of the total eligible Project costs or for Class I railroads, 50 percent of the total eligible Project costs.¶

(b) Matching funds must be provided by the Recipient in the form of cash on hand, awarded federal grants for Federal Grant Match Applications, or through monetary outlay for eligible capital project costs that are reasonable, necessary and directly related to the project. Eligible costs may include costs to acquire, construct, or improve property (land, buildings, and fixed equipment) or to adapt the property to a new or different use consistent with the improvements described in the application.¶

(A) Monetary outlays for subsection (b) above must have been made within 10 years of the application deadline for Connect Oregon grant fund submittals in order to qualify as eligible matching funds. Monetary outlays for land purchases occurring more than 10 years before the application submission deadline may be considered as matching funds only if the extension of time further serves the goals and objectives of the Program and is approved by the Director consistent with OAR 731-035-0080 (8).¶

(B) The acquisition cost of land for a project may only be counted as 50% of the required project match.¶

(C) Land acquisition costs for the same parcel or parcels of land may not be considered project match for more than one awarded Connect Oregon project.¶

(D) All project match sources must be identified at the time of application is submitted.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 750 OL 2017, Ch. 816 OL 2005

ADOPT: 731-035-0180

RULE SUMMARY: Grant administration rules.

CHANGES TO RULE:

731-035-0180

Federal Grant Match Application Project Administration

If the federal agency that administers the federal grant applied for by the Recipient announces a Notice of Grant Award and the Approved Project is selected upon notification the Department will administer all projects in accordance with OAR 731-035-0080.

Statutory/Other Authority: ORS 184.619, 367.082, Ch. 816 OL 2005

Statutes/Other Implemented: ORS 367.080 - 367.086, Ch. 750 OL 2017, Ch. 816 OL 2005