



**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 732  
**DEPARTMENT OF TRANSPORTATION**  
**PUBLIC TRANSPORTATION DIVISION**

**FILED**

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FILING CAPTION: Statewide Transportation Improvement Fund Program Rules

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/21/2025 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 ODOT Public Transportation Division (PTD) needs to update the administrative rules that govern the Statewide Transportation Improvement Fund (STIF) program, which are found in Oregon Administrative Rules (OAR) chapters 732-040, -042, and -044. The rule changes are for program improvements identified through public outreach, the recommendations of ODOT's 2024 Strategic Review, and recommendations from the STIF Rules Advisory Committee, which met from February through September 2025.

The update includes a number of program improvements aimed at enhancing financial flexibility and sustainability, including changes to the STIF Plan process and suballocation of STIF Formula funds from Qualified Entities to Sub-Recipients; clarifying program concepts, ensuring key terms are defined in rule and implementation is clear; revising reporting deadlines and streamlining processes to improve timely submission rates and data quality; and enhancing accountability by establishing a clear and uniform set of compliance processes.

In addition, PTD needs to repeal the rules related to the former Special Transportation Funds (STF) program. The STF program was incorporated into the STIF program following the passage of SB 1601, but the STF program rules were not repealed. These rules no longer have any effect because they relate to a program that no longer exists and rely on statutory authority which was repealed by the legislature. The STF rules to be repealed are those in Chapter 732, Division 05; Chapter 732, Division 10; and Chapter 732, Division 30.

In particular, the rule changes proposed address the following needs:

Division 40:

OAR 732-042-0005: Some definitions appearing in this rule were out of alphabetical order, and an amendment was needed to place them in alphabetical order.

OAR 732-040-0005(11): This amendment sets a definition for the term “community with a high percentage of low-income households.” Current rules require Qualified Entities to set their own definition of this term “community with a high percentage of low-income households,” leading to inconsistent data across the STIF Formula program. A uniform definition is needed to allow ODOT to meaningfully report on statutory metrics.

OAR 732-040-0005(21), (23) and (24): These amendments add definitions to terms used in the proposed amended rules to describe “Operations Reserve Project” funds, “Plan Contingency Project” funds, and “Planned Carry Forward Project” funds. These definitions are needed to provide a reference for these terms, which are used elsewhere in the proposed rules.

OAR 732-040-0005(26): This amendment defines the term “Prior STIF Plan Period funds.” Current STIF Formula program rules related to carry forward funding are ambiguous, and a definition of the term “Prior STIF Plan Period funds” is needed to clarify their application.

OAR 732-040-0005(27): This amendment changes the definition of “Project” to include activities for the maintenance, as well as the improvement, of public transportation. In SB 1601, the STIF statute was amended to allow STIF Formula funding to be used for the maintenance of existing services, in addition to service expansions, but the definition of “Project” was not updated. This amendment is needed to reflect the legislative change to the permissible uses of STIF funds.

OAR 732-040-0005(33): This amendment modifies the definition of the term “Recipient” to explain that only Qualified Entities can be Recipients of STIF Formula funding and that a Qualified Entity must have an agreement with ODOT to be a STIF Formula funding Recipient. These changes are needed to improve the clarity of the definition.

OAR 732-040-0005(41): This amendment defines the term “STIF Plan Maximum.” The term “STIF Plan Maximum” is already used in STIF Formula program guidance, but it is not currently defined in program rules. This definition is needed to improve clarity of program rules.

OAR 732-040-0005(42): This amendment defines the term “STIF Plan Period.” The term “STIF Plan Period” term is already used in STIF Formula program guidance, but it is not currently defined in the program rules. This definition is needed to improve clarity of program rules.

OAR 732-040-0005(44): This amendment modifies the definition of “Sub-Recipient” to state that than “Public Transportation Service Providers” can be Sub-Recipients, and that Sub-Recipients do not include Contractors. This is needed to clarify the types of entities that fall into this category, given the new rules related to Contractors.

OAR 732-040-0005(48): This rule amendment sets a definition for the term “Unused Project funds” to describe STIF Formula funds intended for use, but not spent, during STIF Plan Period. This will distinguish these funds from other prior STIF Plan Period funds. This definition is needed to help ODOT track the amount of unspent funding distributed to Qualified Entities, which will provide information to improve training and technical support for Qualified Entities and Sub-Recipients.

OAR 732-040-0010(5): This amendment requires the Oregon Transportation Commission to submit a report to the legislature on December 31 of odd numbered regarding the uses and outcomes of STIF funding. The current rule specifies that such a report is due on February 1, 2020, but in practice such a report is submitted biannually. The updated deadline is needed to continue the requirement for the report.

OAR 732-040-0015(1) & (2): These amendments update ambiguous language by making clear that the “annual financial audit of STIF moneys received” must be conducted using agreed upon procedures (AUP) made available by ODOT. It also sets a clear and enforceable deadline for the submission of the AUP to ODOT. These changes respond to widespread confusion amongst recipients concerning application of AUP and addresses a finding in a STIF program review.

OAR 732-040-0015(5): This amendment replaces the term “Vendors” with “Contractors.” This is needed to update the language of the rule in accordance OAR 732-042-0055, which defines “Contractors.” The term “Vendors” is not defined and is replaced by the defined term “Contractor.”

OAR 732-040-0015(6): This amendment makes permanent the elimination of OAR 732-042-0015(6), which was promulgated as a temporary rule in May 2025. That provision provides for contested case proceedings if the Oregon Transportation Commission withholds funds from a Qualified Entity, and it is no longer needed due to the STIF Formula grant agreement rule, since the remedies will be handled pursuant to grant agreements.

OAR 732-040-0020(2): This amendment sets a deadline for STIF funding recipients to provide an annual report of interest earned on STIF funds to ODOT. Reporting STIF interest is necessary to ensure that all STIF funding is spent in compliance with program rules, statutes, and agreements. The deadline allows ODOT to create a single interest report and to enforce the interest reporting requirement.

OAR 732-040-0030: This amendment eliminates the requirement that STIF Advisory Committee bylaws include a definition of the term “high percentage of low-income households.” The rule change to OAR 732-040-0005(11) setting a statewide definition for the term eliminates the need for that requirement.

OAR 732-40-0045: This rule is being repealed because sanctions related to the distribution of STIF Formula funds will now be addressed in grant agreements, pursuant to OAR 732-042-00(1)(b).

#### Division 42:

OAR 732-042-0010: The numbering of sections within this rule has been changed to improve the clarity of their organization. References to the section within OAR 732-042-0010 have been updated throughout these rules as a result.

OAR 732-042-0010(1)(b): This amendment makes permanent a temporary rule establishing that ODOT will enter into grant agreements with Qualified Entities prior to distributing STIF Formula funds. This rule is needed to meet statutory requirements. ORS 184.766(2) requires that the Oregon Transportation Commission (OTC) to “establish rules concerning the making of agreements for the distributions made to qualified entities under ORS 184.758.”

OAR 732-042-0010(1)(c): This amendment requires the STIF Plan Agreement to include a remedy provision that provides for escalating correction actions for violations of the STIF Plan Agreement. This amendment provides notice to a grant applicant that that a grant agreement will contain provisions that follow those principles.

OAR 732-042-0010(6)(e) & (h): These rules are needed to describe and clarify the process that is currently in place for ODOT to distribute funds in accordance with a Qualified Entity’s STIF Plan Maximum and handling funds allocated to a Qualified Entity that exceed its STIF Plan Maximum.

OAR 732-042-0010(7): The current rules relating to suballocation include inconsistent and conflicting standards for the

division of STIF Formula funds amongst Sub-Recipients. The amendments to this rule are needed to eliminate that inconsistency. This modification retains payroll tax revenue based suballocation as the default suballocation method but provides Qualified Entities and Public Transportation Service Providers with flexibility to Formulate a suballocation method using other factors. The amended rule requires a collaborative process, so Qualified Entities may not unilaterally impose a suballocation method on Sub-Recipients. These amendments also remove language stating that the “Qualified Entity’s sub-allocation estimate shall be a starting point for the Qualified Entity’s STIF Plan and funding prioritization process.” This language is no longer relevant to the revised suballocation framework because the amendment to OAR 732-042-0020 will advisory committees to consider additional factors used to create suballocation methods when selecting projects. The reference to the “Qualified Entity’s sub-allocation method” is also in tension with the amended rule’s direction to ODOT to provide data for suballocation and the rule’s requirement that a suballocation method shall be developed through a collaborative process.

OAR 732-042-0010(10): The amendment updates this rule using updated terminology defined in the proposed amendments to OAR 732-040-0005 and to clarify a Qualified Entity’s responsibilities with respect to carrying forward STIF Formula funds. The current version of the rule is ambiguous, and updates are needed to clearly describe the circumstances under which STIF funds may be carried forward.

OAR 732-042-0015(1): This change removes the requirement for STIF Plans to include a definition for “communities with a high percentage of low-income households.” Adopting a statewide definition for this term eliminates the need for Qualified Entities to include a definition in their STIF Plans.

OAR 732-042-0015(2): This change adds a STIF Formula expenditure reporting criteria for Qualified Entities allocated to fund “support for the operation of existing service.” The rule currently includes 8 criteria for which Qualified Entities are required to report on their expenditures. These expenditure reporting requirements originate in statute and are focused on expenditures related to service expansion. In SB 1601, the STIF statute was amended to allow STIF Formula funding to be used for the maintenance of existing services, in addition to service expansions. However, the expenditure reporting requirements have not been updated to reflect that change. This rule change is needed to provide Qualified Entities with the ability to more clearly track those expenditures and provide ODOT with improved data to track expenditures across the STIF Formula program.

OAR 732-042-0015(3): The current rule requires the assignment of an outcome measure to every project in a STIF Plan, including those for which outcome measures do not apply, such as reserve projects. This amendment is needed so that the ODOT does not have to require outcome measure for a STIF Plan project if it is not appropriate. This amendment also strikes out language related to the development of local plans that applied only to the first STIF Formula funding cycle and is no longer necessary.

OAR 732-042-0015(4): This amendment is needed to describe “Operations Reserve Project” funds and how they may be used. There is currently no limit on the amount of funding that a Qualified Entities may classify as “Program Reserve.” This rule recognizes the importance of allowing agencies to set aside funding to support services in the event of economic downturns, while establishing a limit on the amount of funding for that purpose.

OAR 732-042-0015(5): This amendment is needed to describe “Plan Contingency Project” funds, and how they may be used. There is also no limit on the amount of funding that can be devoted to contingency projects in STIF Plans. This rule recognizes the need for contingency funds to account for unanticipated expenses that arise during the STIF Plan Period but places a limit on the amount of funding that may be budgeted for contingency.

OAR 732-042-0015(6): The amendment updates the rule for “Planned Carry Forward Project” funding that a Qualified

Entity may plan to carry forward to accumulate funding for large capital project using updated terminology defined in the proposed amendments to OAR 732-040-0005. The current version of the rule is ambiguous, and updates are needed to clearly describe the circumstances under which a Qualified Entity may set aside STIF funds to be carried forward.

OAR 732-042-0015(7) This amendment allows ODOT to temporarily adjust the caps on Operations Reserve Project funds, Plan Contingency Project funds, and the threshold for Unused Project funds that requires a written explanation by the Qualified Entity if the payroll tax rate imposed under ORS 320.550 is increased or decreased by more than 50% during biennium. This change is needed to allow Qualified Entities the flexibility to adjust STIF Formula distribution levels that change in the middle of a STIF Plan Period.

OAR 732-042-0020(5) & (6): This change requires STIF Advisory Committees to consider the extent to which projects advance the considerations of the suballocation method when reviewing STIF Formula projects. It also requires Advisory Committees to consider whether projects advance the considerations for allocation of STIF Formula Population funds when selecting Population fund projects. It further revises language so that consideration of the project selection factors listed in OAR 732-042-0020(6) rule are not mandatory to allow flexibility for STIF Advisory Committees to consider other those factors. These changes are needed to clarify the interplay between the suballocation method and the project selection rules. This change also adds “improvement of first- and last-mile connections” and “support [for] multimodal integration” to the listed criteria in OAR 732-042-0020(6) that STIF Advisory Committee may use to evaluate STIF Formula projects. Projects that support transit are already eligible, and this change is needed to provide guidance to STIF Advisory Committees to review such projects.

OAR 732-042-0025(3): This change reduces the deadline for ODOT to convey a statement of reasons prepared by the Public Transportation Advisory Committee (PTAC) explaining the reasons for a recommendation to reject a Qualified Entity's STIF Plan from 7 days to 3 days. This change is needed to avoid unnecessarily delays to a Qualified Entity's access to that information.

OAR 732-042-0025(4): The current rule provides a 30-day period for a Qualified Entity to submit a revised STIF Plan if PTAC recommends rejection of its plan. Typically, ODOT must present STIF Plans to PTAC for recommendation in April and the Oregon Transportation Commission (OTC) for decision in May. This meeting schedule does not always allow for 30 days for revision of a STIF Plan recommended for rejection before the time for submission of materials to the OTC has passed. This change provides ODOT with authority to establish a deadline for the Qualified Entity to submit a revised plan that provides a real opportunity for consideration by the OTC at the May meeting. It requires that the deadline must be at least 10 days to protect Qualified Entities for untenably short deadlines.

OAR 732-042-0035(1): This change increases the STIF Periodic Report deadline from 45 to 60 days after the end of the quarter. It is challenging for some Qualified Entities to meet the 45-day deadline to submit the STIF Period Report. Small Qualified Entities have limited resources, and larger Qualified Entities are charged with collecting and compiling data from multiple Sub-Recipients. This amendment is needed to allow larger Qualified Entities to collect and process information from Sub-Recipients and provide more time for smaller Qualified Entities with limited staffing to prepare and submit reports.

OAR 732-042-0035(2): The current rule sets a deadline of 30 days after the end of the STIF Plan period to complete a reconciliation of disbursements against reported expenditures. This is not workable, because it requires the ODOT to conduct the reconciliation before the deadline for the last STIF Plan Report of the fiscal year. As such, the agency does not a full report of a Qualified Entity's expenditures for the STIF Plan Period until after the 30-day deadline has passed. The current rule also provides no instruction on how the information learned through reconciliation should be used.

This amendment establishes a deadline of 120 days and provides for a notice to be issued to the Qualified Entity including the results of the reconciliation and the availability of the amendment process, so that the Qualified Entity understands the process to use the Prior STIF Plan Period funds identified.

OAR 732-042-0035(4): This amendment requires Qualified Entities to provide a written explanation to ODOT if unused project funds exceed 10% of the funding in a STIF Plan. There have been instances where Qualified Entities have carried forward large amounts of STIF Formula funding from one STIF Plan Period to the next. This rule change is needed to help ODOT track the amount of funding distributed to Qualified Entities that is unspent, which will provide information to improve training and technical support for Qualified Entities and Sub-Recipients.

OAR 732-042-0045(3)(a): This amendment updates language related to funds carried forward from a prior STIF Plan Period to use the updated term “Prior STIF Plan Period funds,” and it is needed to maintain consistency with the terms used throughout the rules.

OAR 732-042-0050: Current rules do not adequately describe the process for Qualified Entity oversight of Sub-Recipients, leading to lack of consistency in the application of oversight procedures by Qualified Entities, as well as duplication of oversight functions. This contributes to unneeded administrative burden for both Qualified Entities and Sub-Recipients. This proposed rule is needed to establish a framework for uniform oversight and to clarify Qualified Entity and Sub-Recipient responsibilities. It also requires ODOT to moderate disputes about the application of oversight provisions and provide binding resolutions if requested. There is currently no structured dispute resolution process, which creates the potential for long-running disputes between Qualified Entities and Sub-Recipients regarding oversight activities

OAR 732-042-0055: Currently, all entities that receive pass through STIF Formula funding are considered Sub-Recipients, and subject to the same oversight provisions. That means that entities that perform only limited services are subject to the same oversight by Qualified Entities as Public Transportation Service Providers that play a larger role in the program. Qualified Entities are subject to potential noncompliance if they do not conduct an equivalent level of oversight for a private entity contracted to perform a limited function as a Public Transportation Service Provider. This rule establishes a test for Qualified Entities to determine whether an entity is a “Contractor” or a Sub-Recipient, subject to review by ODOT, and that Contractors are not subject to full compliance reviews. It also ensures that Contractors must still comply with document access and retention requirements.

Division 44:

732-044-0030(1): This change adds “elimination of first- and last-mile barrier to public transportation” and “improving and maintaining connections to and between services and travel modes” to the nonexclusive list of investment priorities to be considered for STIF Discretionary and Intercommunity projects. These kinds of projects are already eligible for funding, and this change is needed to provide direction regarding the consideration of such projects during the application review process.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

None.

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

The State of Oregon requires that a rulemaking notice include “a statement identifying how adoption of the rule will affect racial equity in this state” ORS 183.335(2)(a). The meaning of “racial equity” is treating people of all races fairly, justly and without bias. A statement of how a rule will affect “racial equity” means how the rule will affect the fair, just

and unbiased treatment of people of different races.

None of the proposed rule changes will directly affect racial equity in this state. These changes do not set any mandatory standards for STIF project evaluation, approval, or the distribution of STIF funding based on effects on people of different races resources. They also do not create any requirements that would require funding Recipients and Sub-Recipients change racial equity-based practices for allocating STIF funding.

Some of the proposed changes may have indirect effects on racial equity because adjustments to some program rules could influence decisions about how funds are utilized by transit providers. These decisions are currently, and will remain, at the discretion of the funding recipients and Sub-Recipients, including their advisory committees and governing bodies, so the effects cannot be estimated with precision.

Rule changes that alter expenditure reporting requirements could indirectly affect racial equity, if the modified reporting requirements influence project selection decision making by Qualified Entities and Sub-Recipients. The proposed rule changes to implement a uniform definition of “communities with a high percentage of low-income households” (OAR 732-040-0005(11); 732-040-0030(5); 732-042-0015(1)(e)) do not require transit providers to change their practices for allocating funds to services, but instead primarily impact how they report on those expenditures. It is possible these changes could influence transit provider decision-making, potentially affecting funding for services in low-income communities. That could, in turn, impact racial equity if those changes alter the funding for transit services available to members of historically and currently marginalized racial groups. However, it is not possible to predict these impacts precisely because (1) there is a current lack of a uniform definition and reliable data, and (2) decisions will be at the discretion of Qualified Entities, Sub-Recipients, and STIF Advisory Committees.

Other rule changes that impact expenditure reporting requirements could similarly have indirect impacts on racial equity. OAR 732-040-0005(48) defines the term “Unused Project funds” to mean funds budgeted for a project that are not spent during the Plan Period, and OAR 732-042-0035(4) requires a written report to ODOT by a Qualified Entities if the amount of unused project funds exceeds 10% of the funding in Qualified Entity’s STIF plan. This change could impact racial equity if it prompts different spending behavior by funding recipients and Sub-Recipients. For example, if agencies spend more on services to reduce their level of Unused Project funds, it is possible that increased spending could impact racial equity, depending on how the funds are distributed.

OAR 732-042-0015(2)(c)(I) adds a requirement to report to ODOT expenditures that provide “support for the operation of existing service.” If the inclusion of this additional expenditure reporting factor indirectly influences funding and project selection decisions, and those decisions lead to changes in the types of services provided, then there could be racial equity impacts. However, those changes are at the discretion of Qualified Entities and STIF advisory committees and cannot be measured at this time.

Changes to the rules governing the method for suballocating STIF Formula funds among Sub-Recipients also could affect racial equity, if they lead to different decisions about how much STIF Formula funds are received by transit providers in each Qualified Entity’s area of responsibility. OAR 732-042-0010(7)(b), OAR 732-042-0020(5) & (6). These rules allow flexibility for Qualified Entities and Sub-Recipients to use factors in addition to payroll tax receipts to develop their method for suballocating STIF Formula funds. They also require STIF Advisory Committees to consider the extent to which projects advance the considerations of the suballocation method when reviewing STIF Formula projects. These amendments could have a racial equity impact if transit providers choose to alter the suballocation of funding among Public Transportation Service Providers within each Qualified Entity’s area of responsibility. The flexibility to consider additional factors also allows Qualified Entities and Public Transportation Service Providers to place increased emphasis on racial equity when selecting projects. Any impact of this change depends on decisions made

at the discretion of Qualified Entities and Public Transportation Service Providers and cannot be measured prospectively.

Two rule changes amend rules regarding project selection criteria, which could indirectly affect racial equity. First, OAR 732-042-0020(6)(e) adds “improvement of first- and last-mile connections” and “support [for] multimodal integration” to criteria STIF Advisory Committee may use to evaluate STIF Formula projects. If this change leads Qualified Entities and Public Transportation Service Providers to include different projects in their STIF plans than they would otherwise, that could affect racial equity, depending on the specific projects selected. Similarly, the amendment to OAR 732-044-0030(1)(c) adds “elimination of first- and last-mile barrier to public transportation” and “improving and maintaining connections to and between services and travel modes” to selection criteria for STIF Discretionary and Intercommunity projects. Adding these criteria could affect which proposed projects receive competitive STIF funding awards, which, in turn, could result in impacts on racial equity depending on the specific projects that receive funding awards.

The rule changes that define and cap Operations Reserve Projects, OAR 732-042-0015(4) and Plan Contingency projects, OAR 732-040-0015(5) also have the potential for indirect racial equity effects that could result from changes in budgeting within STIF plan. For example, if transit providers create Operations Reserve Projects and use them to buffer against lost revenue, preservation of services that benefit currently and historically marginalized racial groups would help to avoid negative racial equity impacts. Similarly, if the increased clarity and flexibility to budget for Plan Contingency Projects enable Qualified Entities to more efficiently allocate funding within their STIF Plans to support projects that provide transit services to historically and currently marginalized racial groups, this may also positively affect racial equity.

Other rule changes are unlikely to impact racial equity in this state. Several rule changes define terms or describe processes that are currently in use but previously not included in rule and no effects different from the status quo are anticipated. In addition, any racial equity effects from rules altering reporting deadlines, oversight, compliance, and enforcement procedures would be attenuated from the intended effects of the rule, although some possible positive impacts could be envisioned if improved compliance with program rules leads to improved project delivery.

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#### FISCAL AND ECONOMIC IMPACT:

The majority of the potential fiscal and economic impacts associated with these rules are attenuated and depend upon decisions that are within the discretion of STIF funding Recipients and Sub-Recipients. Some of these rule changes do not substantially alter STIF program processes or have no financial component and therefore are not anticipated to have any fiscal or economic impact. Some changes may lead to modest additional costs directly related to compliance.

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#### 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) • State agencies:

o Oregon Department of Transportation

• Units of local government:

o Qualified Entities, which include counties in which no part of a Mass Transit District or Transportation District exists, Mass Transit Districts, and Transportation Districts

o Public Transportation Service Providers, which are Qualified Entities or cities, counties, Special Districts, Intergovernmental Entities or any other political subdivisions or municipal or Public Corporations that provide Public



## Transportation Services.

- Federally recognized Indian Tribes, which are Qualified Entities.
- Members of public:
  - o Nonprofits and for-profit transit providers that receive STIF Formula funding as Sub-Recipients to provide services described STIF Formula plan or that contract with a Public Transportation Service Provider.
  - o Businesses that contract with Qualified Entities, Public Transportation Service Providers, or other Sub-Recipients.
  - o Individuals who use public transportation services.

## Descriptions of possible economic effects:

### Division 40:

OAR 732-040-0005(11): Sets a definition of “communities with a high percentage of low-income households” comparative to statewide average.

- Fiscal or economic impact: The direct effect of the standardized definition of “communities with a high percentage of low-income households” would be on reporting, and there may be some limited cost to update data gathering practices. It is possible the change could prompt Qualified Entities or Public Transportation Service Providers to change their decision-making about what services to fund, including changes potentially causing significant fiscal impacts on transit providers and members of the public. However, it is not possible to predict these impacts precisely because of (1) the current lack of a uniform definition and reliable data, and (2) decisions will be at the discretion of Qualified Entities, Sub-Recipients, and STIF Advisory Committees.

OAR 732-040-0005(21), (23) and (24): These amendments add definitions to terms used in the proposed amended rules to describe “Operations Reserve Project” funds, “Plan Contingency Project” funds, and “Planned Carry Forward Project” funds.

- Fiscal or economic impact: No direct impact is anticipated from the addition of these definitions. There could be some limited impact if the definitions prompts different funding decisions by STIF Formula Qualified Entities or Sub-Recipients.

OAR 732-040-0005(26): Sets a definition of “Prior STIF Plan Period funds,” which are any funds from a previous STIF Plan period that a Qualified Entity intends to spend during the current STIF Plan Period.

- Fiscal or economic impact: No impact is anticipated because the definition established by the amendment does not substantively alter the status quo, but instead clarifies ambiguity related to “carry forward” funding.

OAR 732-040-0005(27): This amendment changes the definition of “Project” to include activities for the maintenance, as well as the improvement, of public transportation services.

- Fiscal or economic impact: No impact is anticipated because this change to the definition reflects the status quo.

OAR 732-40-0005(33): This amendment modifies the definition of the term “Recipient” to explain that only Qualified Entities can be Recipients of STIF Formula funding and that a Qualified Entity must have an agreement with ODOT to be a STIF Formula funding Recipient.

- Fiscal or economic impact: No impact is anticipated because this change to the definition reflects the status quo.

OAR 732-040-0005(41): Sets definition for “STIF Plan Maximum,” which is the total amount of funding sought, as approved by the OTC

Fiscal or economic impact: No impact is anticipated because this term is already in use in the STIF Plan and program guidance. The definition added to rule represents the status quo.

OAR 732-040-0005(42): Defines “STIF Plan Period” to mean the effective date specified in a Commission-approved STIF Plan through the end date of the STIF Plan.

- Fiscal or economic impact: No impact is anticipated because this term is already in use in the STIF Plan and program

guidance. The definition added to rules represents the status quo.

OAR 732-040-0005(44): This amendment modifies the definition of “Sub-Recipient” to state that than “Public Transportation Service Providers” can be Sub-Recipients, and that Sub-Recipients do not include Contractors.

- Fiscal or economic impact: This rule change is unlikely to lead to any increased compliance costs. It may reduce the cost of compliance for Qualified Entities and other STIF recipients that contract with entities that meet the definition of “contractor” because it will not require Qualified Entities to conduct full compliance reviews of “contractors.” It may also reduce fiscal impact on entities that meet the definition of “contractor.”

OAR 732-040-0005(48): Defines “Unused Project funds” as STIF Formula funds that a Qualified Entity budgeted for a project but did not spend during a STIF Plan Period.

- Fiscal or economic impact: No direct impact is anticipated from the addition of this definition. There could be some limited impact if the definition prompts different funding decisions by Qualified Entities or Public Transportation Service Providers.

OAR 732-040-0010(5): Requires the Commission to submit a report to the legislature on December 31 of odd numbered regarding the uses and outcomes of STIF funding. The current rule specifies that such a report is due on February 1, 2020, but in practice such a report is submitted biannually. The updated deadline is needed to continue the requirement for the report.

- Fiscal or economic impact: No impact is anticipated from this change because the report described is already prepared on a biannual basis.

OAR 732-040-0015(1) & (2): Specifies that the required audit of STIF funds is to be conducted according to the agreed upon procedures (AUP) provided by ODOT and establishes a deadline for AUP submission of either 30 days after receipt of a report or 9 months after the end of the recipient’s fiscal year.

- Fiscal or economic impact: Establishing a clear deadline may require some transit providers to alter their existing contracts with auditors to allow them to meet the new deadline, which may have a limited fiscal impact on some Qualified Entities and Sub-Recipients.

OAR 732-040-0015(6): Permanently eliminates the contested case provision for disputes over an order by the Oregon Transportation Commission for a Qualified Entity to repay STIF Formula fund distributions (previously eliminated through a May 2025 temporary rule).

- Fiscal or economic impact: Any fiscal impact resulting from this rule change would be attenuated and dependent on circumstances that cannot be accurately measured in advance. It is possible that, if funds are withheld from a Qualified Entity, and the Qualified Entity challenges that decision under the terms of the contract, the result could be different than it would have been after a contested case proceeding.

OAR 732-040-0020(2): Adds deadline of 60 days after the end of the fiscal year for report of interest accrued on STIF funds.

- Fiscal or economic impact: This rule is unlikely to have fiscal impact. Reporting on interest is already required, and it is not likely that the cost of compliance associated with submitting a single report in accordance with the deadline established will exceed the status quo.

OAR 732-040-0030(5)(a): Eliminates requirement for bylaws to include a definition for “high percentage of low-income households.”

- Fiscal or economic impact: STIF Advisory Committees that need to update their bylaws to remove inconsistent definitions may incur limited costs related to that task.

OAR 732-040-0045: Repeals rules related to withholding STIF funds.

- Fiscal or economic impact: This rule is unlikely to have fiscal impact. ODOT will be able to withhold STIF funds for program rule violations according to the terms for grant agreements with STIF funding Recipients.

Division 42:

OAR 732-042-0010(1)(b): Establishes that ODOT will enter into grant agreements with Qualified Entities prior to distributing STIF Formula funds.

- Fiscal or economic impact: There may be a fiscal impact related to the cost of compliance with the rule. Qualified Entities will likely have legal costs related to the review of STIF Plan agreements. These costs will vary between Qualified Entities. ODOT will also incur costs associated with legal advice from the Department of Justice when updating grant agreements.

OAR 732-042-0010(1)(c): Requires the STIF Plan Agreement to include a remedy provision that provides for escalating correction actions for violations of the STIF Plan Agreement.

- Fiscal or economic impact: No impact is anticipated from these changes. These rules require agreements to include a system of escalating corrective actions for noncompliance with STIF requirements. These kinds of corrective actions can already be imposed pursuant to existing STIF Plan Agreements.

OAR 732-042-0010(6)(e) & (h): Explains that each Qualified Entity's STIF Plan Maximum will cap distributions to the Qualified Entity for the relevant STIF Plan Period and describes ODOT's process for managing funds allocated to a Qualified Entity over the amount of the Qualified Entity's STIF Plan Maximum.

- Fiscal or economic impact: No impact is anticipated because the process described in this rule amendment is already in use and represents the status quo.

OAR 732-042-0010(7): Retains the payroll tax revenue receipts as the default method for suballocating STIF Formula funds but allows Qualified Entities and Public Transportation Service Providers to use additional factors if they agree to do so through a collaborative process. Eliminates language stating that "The Qualified Entity's sub-allocation estimate shall be a starting point for the Qualified Entity's STIF Plan and funding prioritization process."

- Fiscal or economic impact: The fiscal impact associated with this change could be significant but cannot be prospectively measured. The rule change provides flexibility to Qualified Entities and Public Transportation Service Providers when they establish a suballocation method. The provision would permit Qualified Entities to maintain their current suballocation methods, but it could also prompt them to develop different suballocation methods, if they agree to do so through a collaborative process involving the Public Transportation Service Providers in their area of responsibility. If Qualified Entities and Public Transportation Service Providers choose to establish a suballocation method that results in a substantially different funding distribution than they currently use, the fiscal impacts on Public Transportation Service Providers or other Sub-Recipients could be significant. However, those decisions fall within the discretion of Qualified Entities and Public Transportation Service Providers, and their potential impacts cannot be measured prospectively.
- In addition, ODOT will need to take steps to identify and provide data regarding payroll tax revenue for Public Transportation Service Providers. Some sources of this data have associated costs. If ODOT purchases data, then that cost will increase project administration costs for the STIF program, which would have a fiscal impact on STIF providers. Those impacts are likely to be small, and ODOT will use those costs as a factor in determining the data source used to provide this information.

OAR 732-042-0010(10): Clarifies the rule describing the circumstances in which Qualified Entities must "carry forward" STIF Formula funding to reduce ambiguity and incorporate updated terminology.

- Fiscal or economic impact: No direct impact is anticipated since the changes to the rule are not substantive.

OAR 732-042-0015(1): Eliminates requirement for STIF Plan to include a definition for “communities with a high percentage of low-income households.”

- Fiscal or economic impact: There is no impact anticipated because of this rule change, which removes a requirement from the STIF Plan.

OAR 732-042-0015(2)(c)(I): Adds expenditure reporting criteria for money allocated to fund “support for the operation of existing service.”

- Fiscal or economic impact: The change is likely to have a limited fiscal impact, as Qualified Entities may need to adjust their practices to report on their expenditures for the new criteria. It is possible that the change could lead some Qualified Entities to decide to alter their selection and prioritization of STIF Formula project. If this leads to a substantial change in how projects are selected, that could have a fiscal impact (either positive or negative) on certain Public Transportation Service Providers or other Sub-Recipients. However, that cannot be measured at this time, because they will be dependent on future decisions by Qualified Entities, Public Transportation Service Providers, and STIF Advisory Committees.

OAR 732-042-0015(3)(c): Modifies language for describing Project outcomes in a STIF Plan. Also deletes outdated language that applied only to the first STIF Formula funding cycle.

- Fiscal or economic impact: The change regarding “anticipated benefits and discrete measurable outcomes” for STIF Plan projects will result in minor adjustments to the STIF Plan form and there are not likely to be any associated costs incurred by Qualified Entities. No impact is anticipated from striking the language that applied only to first STIF Formula funding cycle because it is no longer effective.

OAR 732-042-0015(4): Explains that “Operations Reserve projects” may be included in a STIF Plan and sets a cap for these projects at 12.5% of operations expenditures in a STIF Plan. These funds may be used to support services in the event of a decline in operations revenue.

- Fiscal or economic impact: The cap may reduce the amount of funding that some Qualified Entities can include as reserve funds within their plans. The rule is intended to provide support to transit providers in the event of unanticipated funding losses which may prevent Qualified Entities from the need to reduce services in the event of a funding downturn.

OAR 732-042-0015(5): Explains that “Plan Contingency Projects” may be included in a STIF Plan and sets a cap for these projects at 15%. These contingency funds may be used for expenditures not foreseen at the time the STIF Plan was submitted.

- Fiscal or economic impact: Contingency funds are already permitted within STIF Plans, but the cap may reduce the amount of funding that some Qualified Entities can include as contingency funds within their plans and lead them to different decisions about how to budget money within their plans.

OAR 732-042-0015(6): Updates the rule for funding that a Qualified Entity is planning to carry forward to accumulate funding for large capital project using updated terminology defined in the proposed amendments to OAR 732-040-0005.

- Fiscal or economic impact: No impact is anticipated because this change to the definition reflects the status quo.

OAR 732-042-0015(7): This amendment allows for ODOT to temporarily adjust the caps on Operations Reserve Project funds, Plan Contingency Project funds, and the threshold for Unused Project funds that require a written explanation by the Qualified Entity if the payroll tax rate imposed under ORS 320.550 is increased or decreased by more than 50% during biennium.

- Fiscal or economic impact: Allowing ODOT to temporarily adjust these caps is intended to assist Qualified Entities as they adjust to significant changes in the amount of funding available during a biennium. This may result in some Qualified Entities making the choice to include more Plan Contingency Project funds or Operations Reserve Project funds, but that will depend on decisions made by Qualified Entities when they create their STIF plans.

OAR 732-042-0020(5) & (6): Requires STIF Advisory Committee to consider the extent to which projects advance the considerations of the suballocation method when reviewing STIF Formula fund projects. Incorporates language related to population fund distributions. The amendment alters language so the listed project selection factors in OAR 732-042-0020(6) are not mandatory to accommodate flexibility of STIF Advisory Committees to consider additional factors.

- Fiscal or economic impact: The fiscal impact associated with this change could be significant but cannot be prospectively measured. This rule change, in conjunction to the changes to OAR 732-042-0010(7), provides flexibility to Qualified Entities and Public Transportation Service Providers when they establish a suballocation method. The provision would permit Qualified Entities to maintain their current processes, but it could also prompt them to develop different suballocation methods if they agree to do so through a collaborative process involving the Public Transportation Service Providers in their area of responsibility. If Qualified Entities and Public Transportation Service Providers choose to establish a suballocation method that results in a substantially different funding distribution than they currently use, the fiscal impacts on Public Transportation Service Providers or other Sub-Recipients could be significant. However, those decisions fall within the discretion of Qualified Entities and Public Transportation Service Providers, and their potential impacts cannot be measured prospectively.

OAR 732-042-0020(6)(e): Adds “improvement of first- and last-mile connections” and “support [for] multimodal integration” to the criteria STIF Advisory Committee may use to evaluate STIF Formula projects.

- Fiscal or economic impact: There could be a significant impact for certain Sub-Recipients, if the addition of these factors alters funding decisions. These impacts cannot be accurately predicted because decisions about whether and how to apply these criteria will be at the discretion of STIF Advisory Committees.

OAR 732-042-0025(3) & (4): Shortens the deadline for ODOT to convey a statement of reasons prepared by the Public Transportation Advisory Committee (PTAC) explaining the reasons for a recommendation to reject a Qualified Entity’s STIF Plan from 7 days to 3 days. Also allows ODOT to set a deadline for a Qualified Entity to submit a revised STIF Plan following a rejection recommendation by PTAC. Establishes that the deadline must be no less than 10 days after the ODOT conveys PTAC’s recommendation to the Qualified Entity.

- Fiscal or economic impact: These changes will not have a significant fiscal impact and will only affect Qualified Entities with STIF Plans that are recommended for rejection by PTAC. In that circumstance, a Qualified Entity may have less than 30 days to submit a revised plan to ODOT.

OAR 732-042-0035(1): Increases STIF Periodic Report deadline from 45 to 60 days after the end of the quarter.

- Fiscal or economic impact: No impact is anticipated. This rule change extends the deadline and should reduce the burden associated with meeting quarterly reporting requirements.

OAR 732-042-0035(2): Moves reconciliation deadline to 120 days and creates obligation for ODOT to provide notice of results to affected Qualified Entities

- Fiscal or economic impact: No impact is anticipated from this change. This change makes the deadline to conduct the reconciliation tenable and will provide Qualified Entities with more information about any Prior STIF Plan Period funds they have available and how to incorporate those funds into their STIF Plans.

OAR 732-042-0035(4): Requires Qualified Entities to provide a written explanation to ODOT if unused project funds exceed 10% of the funding in a STIF Plan.

- Fiscal or economic impact: There could be some limited fiscal impact that results from the requirement to collect data, including from Sub-Recipients, in order to prepare the written explanation described in the rule. There could also be indirect impacts if the explanation or agency follow up prompts different budgeting or spending behavior.

OAR 732-042-0045(3)(a): This amendment updates language related to funds carried forward from a prior STIF Plan to use the updated term “Prior STIF Plan Period funds.”

- Fiscal or economic impact: No impact is anticipated. This change to not alter the substance of the rule.

OAR 732-042-0050: Adopts 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 and ODOT is required to provide binding mediation of disputes between Qualified Entities and Sub-Recipients regarding the application of the rule if requested.

- Fiscal or economic impact: Potential impact on ODOT associated with mediating disputes concerning the application of Sub-Recipient oversight procedures.
- Impacts on Qualified Entities and Sub-Recipients could occur, but it is difficult to anticipate since several decision points will guide how oversight is conducted. Those will include a Qualified Entity's discretionary decision whether to conduct risk assessments, as well as decisions about how to structure an oversight schedule. There may be a positive fiscal impact if the rule relieves Qualified Entities and Sub-Recipients from performing duplicative oversight functions.

OAR 732-042-0055(1): Establishes a test to distinguish contractors from Sub-Recipients and exempts Qualified Entities from need to conduct full compliance reviews of contractors. Requires Qualified Entities to ensure that contractors comply with relevant STIF requirements.

- Fiscal or economic impact: There are no increased costs anticipated associated with this rule. This rule may reduce the cost of compliance for Qualified Entities and other STIF recipients that contract with entities that meet definition of "contractor" because this change establishes reduced oversight requirements for those entities.

OAR 732-042-0055(2): Requires that Qualified Entities' contracts with "contractors" include provisions for document for access and retention.

- Fiscal or economic impact: This amendment ensures that document access and retention rules continue to apply to contractors. This preserves the status quo and is not anticipated to have a fiscal or economic impact.

Division 44:

OAR 732-044-0030(1)(c): Adds "elimination of first- and last-mile barrier to public transportation" and "improving and maintaining connections to and between services and travel modes" to selection criteria for STIF Discretionary and Intercommunity projects.

- Fiscal or economic impact: These two factors will be added to the criteria to select STIF Discretionary and Intercommunity projects. They do not require Public Transportation Service Providers to submit applications for this type of project, disqualify other types of projects, or alter project eligibility. However, there could be an indirect fiscal impact if the addition of these investment priorities influence project award decisions.

(2) Small businesses are not expected to incur costs to comply with these rule changes because they do not apply directly to small businesses. Some small businesses receive STIF funding through Qualified Entities, Public Transportation Service Providers, and other Sub-Recipients. If the rule changes cause indirect impacts on funding decisions, as described above, then there could be associated effects on small businesses. However, those decisions about how to spend STIF funding, including decisions that may impact contracts with small businesses, fall within the discretion of Qualified Entities, Public Transportation Service Providers, and other Sub-Recipients, and their potential impacts cannot be measured prospectively.

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

Letters were sent to the small business agencies and comments were requested. No responses were received.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

732-005-0000, 732-005-0005, 732-005-0010, 732-005-0016, 732-005-0021, 732-005-0027, 732-005-0031, 732-

005-0036, 732-005-0041, 732-005-0046, 732-005-0051, 732-005-0056, 732-005-0061, 732-005-0066, 732-005-0071, 732-005-0076, 732-005-0081, 732-005-0090, 732-010-0005, 732-010-0010, 732-010-0015, 732-010-0020, 732-010-0025, 732-010-0030, 732-010-0035, 732-010-0045, 732-030-0005, 732-030-0010, 732-030-0015, 732-030-0020, 732-030-0025, 732-030-0030, 732-030-0035, 732-040-0005, 732-040-0010, 732-040-0015, 732-040-0020, 732-040-0030, 732-040-0045, 732-042-0010, 732-042-0015, 732-042-0020, 732-042-0025, 732-042-0035, 732-042-0045, 732-042-0050, 732-042-0055, 732-044-0030

REPEAL: 732-005-0000

RULE SUMMARY: Repeals OAR 732-005-000.

CHANGES TO RULE:

~~732-005-0000~~

~~Purpose of Rule-~~

~~(1) The rules in chapter 732, divisions 5, 10 and 20 establish the procedures and requirements of the Public Transit Division for the administration of the Special Transportation Fund (STF) for the Elderly and Disabled.¶~~  
~~(2) The rules in chapter 732, divisions 5 and 30 establish the procedures and requirements of the Public Transit Division for the administration of the Special Transportation Operating (STO) Grants Program.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0005

RULE SUMMARY: Repeals 732-005-0005.

CHANGES TO RULE:

~~732-005-0005~~

~~Statutory Authority and Procedure~~

~~ORS 391.810 requires the Public Transit Division to adopt rules necessary for the administration and implementation of the STF under ORS 391.800 through 391.830.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 – 391.830~~



CHANGES TO RULE:

732-005-0010

Definitions

The following definitions apply to rules in chapter 732 divisions 5, 10, 20 and 30:¶¶

- (1) "Administration" means the essential activities incurred by the STF Agency: receiving, disbursing and accounting for STF moneys.¶¶
- (2) "Administrative Allotment" means a fixed amount, disbursed annually to a STF Agency, for Administration.¶¶
- (3) "Advisory Committee" means a committee appointed by a STF Agency to advise and assist the STF Agency in carrying out the purposes of the Special Transportation Fund.¶¶
- (4) "Capital equipment" means tangible property having a useful life of more than one year and with an acquisition cost of more than \$5,000. Examples include and are not limited to: vehicles, buildings, and passenger shelters. Aggregated purchases, e.g., groups of computers and communication equipment purchased as a single procurement, even if delivered and paid for individually, are treated as capital if the total cost exceeds \$5,000.¶¶
- (5) "Coordination" means working cooperatively with Providers and other individuals and agencies representing people unable to drive, low-income, Elderly and People with Disabilities, to more effectively apply funding and other resources to meet common transportation needs. Coordination actions may reduce duplication of service, reduce cost, increase service levels or make services more widely available in a community.¶¶
- (6) "Disabled," also "People with Disabilities" or "Individual with Disabilities" means a person or persons who, by reason of illness, injury, advanced age, congenital malfunction, or other permanent or temporary incapacity, have a physical or mental impairment that substantially limits one or more of their major life activities. This definition does not include substance abuse disorders resulting from the current illegal use of drugs.¶¶
- (7) "Discretionary Account" means a Special Transportation Fund account for distribution of the remaining cigarette tax receipts and other revenues contributed to the STF set aside following distribution of the Formula Allocation, Minimum Allocation and Administrative Allotment.¶¶
- (8) "Discretionary Grant" means a grant award from the Discretionary Program.¶¶
- (9) "Discretionary Program" means a program financed by the Discretionary Account that may be offered by the Division to support Projects benefiting the Elderly and People with Disabilities.¶¶
- (10) "District" means a mass transit district organized under ORS 267.010 to 267.390 or a transportation district organized under ORS 267.510 to 267.650.¶¶
- (11) "Division" means the Oregon Department of Transportation, Public Transit Division.¶¶
- (12) "Elderly" also "Seniors" means individuals who are 60 years of age or older.¶¶
- (13) "Formula Allocation" means an amount of STF moneys made available to a STF Agency on the basis of the STF Agency's share of resident population in proportion to the population of the state as a whole.¶¶
- (14) "Formula Program" means the program of regular distribution of STF moneys from the Division to the STF Agencies that is composed of the Formula and Minimum Allocations, plus the Administrative Allotment.¶¶
- (15) "Incidental Use" means a use of a Project that is not the primary purpose of the Project.¶¶
- (16) "Indian Tribe" means a federally recognized Indian Tribe in Oregon that has members residing on a reservation or tribal trust lands in Oregon.¶¶
- (17) "Minimum Allocation" means a minimum annual amount for which each STF Agency will be eligible, composed of the Formula Allocation moneys plus moneys from the Discretionary Account sufficient to equal the Minimum Allocation.¶¶
- (18) "Operations" means provision of transportation services.¶¶
- (19) "Operating Expense" means the costs associated with the provision of transportation services. Operating Expense does not include expense associated with procuring or leasing capital equipment. Common Operating Expenses include, and are not limited to: personnel, insurance, utilities, vehicle and facility maintenance, professional and technical services, security, fuel and tires, purchased transportation services, personnel training, communication and technology maintenance, marketing/public information, and planning integral to the provision of transit services.¶¶
- (20) "Oregon Transportation Commission" means a commission established under ORS 184.612.¶¶
- (21) "Project" means a Public Transportation System or Service, a Capital Item or any associated activity including, but not limited to, planning and needs assessment, training, and research and that falls within the purposes defined in OAR 732-005-0016.¶¶
- (22) "Provider" means a city, county, district, Indian tribe, or any other person or agency, whether public or private, that maintains, operates, or sponsors vehicles and facilities for Public Transportation Services for profit or on a nonprofit or voluntary basis.¶¶

(23) "Public Transportation Services" means any form of passenger transportation by car, bus, rail or other conveyance, either publicly or privately owned, which provides service to the general public (not including charter or sightseeing or exclusive school bus) on a regular and continuing basis. Such transportation may include services designed to meet the needs of a specific user group, including for the Elderly and People with Disabilities, and for purposes such as health care, shopping, education, employment, public services, personal business or recreation.¶¶

(24) "Recipient" means a city, county, transportation district, mass transit district, county service district, Indian tribe, public or private non-profit corporation, or other person or agency, that is in receipt of STF moneys to finance in whole or part a Project for the elderly and people with disabilities.¶¶

(25) "Representative of Disabled Persons" means an individual who is familiar with the needs of People with Disabilities and is knowledgeable or aware of the transportation needs of People with Disabilities.¶¶

(26) "Representative of Elderly Persons" means an individual who is familiar with the needs of the Elderly and is knowledgeable or aware of the transportation needs of the Elderly.¶¶

(27) "Special Transportation Fund for Elderly and Disabled" also "STF" means moneys generated by a tax on cigarettes, or from other sources, appropriated to the Division for distribution to STF Agencies for the purpose of financing and improving transportation programs and services for the Elderly and People with Disabilities.¶¶

(28) "Special Transportation Fund Operating Grants" also "STO Grants" means moneys appropriated from the Oregon General Fund to the Division for distribution to STF Agencies for the purpose of financing Operating Expenses that provide access to Transportation Systems and Services for Seniors and Individuals with Disabilities.¶¶

(29) "STF Agency" means the mass transit district, transportation district, county in which no part of a mass transit or transportation district is located or Indian tribe that is eligible to receive STF and STO moneys directly from the Division.¶¶

(30) "STF Plan" means a plan developed by the STF Agency to guide the investment of STF moneys over at least a three year period.¶¶

(31) "STF Program" means a set of policies and procedures that guide the expenditure of STF moneys to benefit transportation services for the Elderly and People with Disabilities.¶¶

(32) "Transportation Service" means a project that provides rides or improves access to rides for seniors and individuals with disabilities.¶¶

(33) "Transportation System" means one or more transit services that are operated in coordination with each other, and when viewed as a whole, offers access to Transportation Service appropriate to the individual.¶¶

(34) "User of Transportation Services" means a person who is Elderly or a Person with Disabilities and who makes use of transportation programs and services for the Elderly and People with Disabilities financed in whole or part with STF moneys.

Statutory/Other Authority: ORS 184.616, 184.619, 391.810

Statutes/Other Implemented: ORS 391.800–391.830, Ch 910 OL 2009

REPEAL: 732-005-0016

RULE SUMMARY: Repeals 732-005-0016.

CHANGES TO RULE:

**732-005-0016**

**Purpose and Use of the STF and STO Moneys**

(1) The STF and STO funds are intended to provide a flexible, coordinated, reliable and continuing source of revenue in support of Transportation Systems and Services that provide transportation for the Elderly and People with Disabilities.¶¶

(2) STF and STO moneys may be used for the following purposes:¶¶

(a) Maintenance of existing Transportation Systems and Services for the Elderly and People with Disabilities.¶¶

(b) Expansion of such Systems and Services.¶¶

(c) Creation of new Systems and Services.¶¶

(d) Planning for, and development of, access to transportation for the Elderly and People with Disabilities who are not currently served by transportation programs and services.¶¶

(3) The STF and STO moneys may be used as matching funds for state and federal programs also providing transportation programs and services to the Elderly and People with Disabilities.¶¶

(4) Use of STO moneys is limited to Operations Expense; Capital equipment is not eligible.¶¶

(5) When funded by STF and STO moneys:¶¶

(a) Projects will comply with the requirements of USDOT Federal Transit Administration regulations, 49 CFR PART 37 TRANSPORTATION SERVICES FOR INDIVIDUALS WITH DISABILITIES (Americans with Disabilities Act) section 37.3, as applicable to the specific Project and Provider.¶¶

(b) Projects financed in whole or part with STF and STO moneys will be coordinated with other transportation programs and services to the maximum extent feasible.¶¶

(6) Except in the case of a uniform budget reduction, STF and STO moneys will not be used to supplant moneys currently appropriated by STF Agencies for transportation projects benefiting the Elderly and People with Disabilities. STF and STO moneys may supplement funds from other sources.

Statutory/Other Authority: ORS 184.616, 184.619, 391.810

Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

REPEAL: 732-005-0021

RULE SUMMARY: Repeal 732-005-0021.

CHANGES TO RULE:

~~732-005-0021~~

~~Administration by the Public Transit Division~~

- ~~(1) The Division will conduct the necessary activities to manage the STF and STO Grant Fund programs.¶¶~~
- ~~(2) Activities conducted by the Division include, and are not limited to, distribution of funds, application and review processes, agreement procedures, program oversight, protests, statewide planning and research, training and technical assistance.¶¶~~
- ~~(3) STF and STO moneys will be accounted for separately.¶¶~~
- ~~(4) After payment of the state administrative costs of the program, the Division will make available STO moneys annually to STF Agencies.¶¶~~
- ~~(a) The distribution will be determined by the Division.¶¶~~
- ~~(b) Each STF Agency that applies will receive at least \$15,000.¶¶~~
- ~~(c) STO moneys will be claimed by STF Agencies through an application submitted to the Division during the STO grant application period defined by the Division. Failure to apply will result in forfeiture of the available funds.¶¶~~
- ~~(5) After payment of the state administrative costs of the program, the Division will make available moneys from the STF:¶¶~~
- ~~(a) Three-fourths of STF moneys will be made available annually to STF Agencies on the basis of population distribution. This will be known as the Formula Allocation; and¶¶~~
- ~~(b) Of the remaining one-fourth of STF moneys:¶¶~~
- ~~(A) An Administrative Allotment of \$2,000 will be made available annually to each STF Agency:¶¶~~
- ~~(i) The annual Administrative Allotment of \$2000 is intended to defray the STF Agency's cost of Administration of their STF program: receiving, disbursing and accounting for their STF moneys.¶¶~~
- ~~(ii) The STF Agency will not use moneys from the STF Formula Allocation to defray administrative costs.¶¶~~
- ~~(iii) Additional costs of developing and managing the STF program including, and not limited to, planning, advisory committee management, contract management, and technical assistance, are not defined as Administration, and may be supported by moneys from the Formula Allocation.¶¶~~
- ~~(iv) The STF Agency may finance the cost of administration of STF discretionary grants awarded in accordance with OAR 732-020-0030 with funds from the grant award.¶¶~~
- ~~(B) A Minimum Allocation will be made available annually as a supplement to the moneys made available based on population.¶¶~~
- ~~(i) Each STF Agency will have no less than the minimum allocation made available, irrespective of population, under the STF Formula Program. This Minimum Allocation, when combined with formula moneys, will be defined by the Oregon Transportation Commission;¶¶~~
- ~~(ii) The Minimum Allocation will equal at least \$15,000; and¶¶~~
- ~~(iii) The Minimum Allocation will be based on factors defined by the Division related to the cost of providing transportation services and programs by the STF Agencies with the least population.¶¶~~
- ~~(C) Any remaining moneys will be set aside to a Discretionary Account. The Discretionary Account is intended to provide a flexible resource for addressing the transportation needs of the Elderly and People with Disabilities in accordance with OAR 732-005-0016. Discretionary Account moneys may be used for:¶¶~~
- ~~(i) A Discretionary Program to award Discretionary Grants in accordance with OAR 732-020-0005 through 732-020-0045; or¶¶~~
- ~~(ii) Projects of statewide importance identified and implemented by the Division.¶¶~~
- ~~(iii) Discretionary Grants and Projects of statewide importance will be approved by the Oregon Transportation Commission.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0027

RULE SUMMARY: Repeals 732-005-0027.

CHANGES TO RULE:

**732-005-0027**

**STF Agencies Eligible for STF and STO Moneys**

(1) After payment of the state's administrative costs of the program, the Division will make available moneys from the STF. STF moneys may be distributed to the following:¶¶

(a) To Districts where they exist;¶¶

(b) To counties where no Districts exist; and¶¶

(c) To federally recognized Indian Tribes in Oregon.¶¶

(d) If two or more Districts are located in one county, the moneys will be distributed to the Mass Transit District. If there is no Mass Transit District located in the county, then the moneys will be distributed to the Transportation District with highest population.¶¶

(2) Districts, Indian Tribes and counties receiving STF and STO moneys are known as STF Agencies.¶¶

(3) Withdrawal from Eligibility: STF Agencies eligible to receive STF and STO moneys may voluntarily withdraw from eligibility.¶¶

(a) A STF Agency intending to withdraw its eligibility will notify the Division of the decision to withdraw and the reason for withdrawal;¶¶

(b) A STF Agency may rescind its withdrawal at any time; and¶¶

(c) After a three-year period, the STF Agency that has withdrawn from eligibility will not be included in the population-based distribution of STF and STO moneys in accordance with OAR 732-010-0010;¶¶

(A) The population of the Indian Tribe that has withdrawn from eligibility will be included in the resident population of Districts and counties; and¶¶

(B) The population of a District or county that has withdrawn from eligibility will be included in the population of another STF Agency identified by the Division.¶¶

(4) Failure to apply for Formula Program and STO moneys for three or more consecutive years will be considered withdrawal from eligibility to receive STF and STO Funds.¶¶

(5) Accumulation of Formula Program moneys allocated to a STF Agency that has withdrawn will:¶¶

(a) Not exceed the total of three consecutive years dating from the year of withdrawal, or from the first year of failure to apply for Formula Program moneys;¶¶

(b) The Administrative Allotment will not accumulate;¶¶

(c) The STF Agency that rescinds its withdrawal may receive up to three years of accumulated Formula Program moneys;¶¶

(d) The STF Agency that rescinds its withdrawal is eligible to receive one year of Administrative Allotment for the year of application; and¶¶

(e) STO moneys will not accumulate.

Statutory/Other Authority: ORS 184.616, 184.619, 391.810

Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

REPEAL: 732-005-0031

RULE SUMMARY: Repeals 732-005-0031.

CHANGES TO RULE:

~~732-005-0031~~

~~Advisory Committee Requirements~~

- ~~(1) The STF Agency will appoint an Advisory Committee.¶¶~~
- ~~(2) The purpose of the Advisory Committee is to advise and assist the STF Agency in carrying out the purposes of the STF and STO.¶¶~~
- ~~(3) The Advisory Committee will:¶¶~~
  - ~~(a) Advise the STF Agency regarding the opportunities to coordinate STF and STO moneys and STF- and STO-funded Projects with other transportation programs and services to avoid duplication and gaps in service;¶¶~~
  - ~~(b) Review the proposed distribution of Formula Program moneys and make recommendations to the STF Agency;¶¶~~
  - ~~(c) Review STO and Discretionary Grant proposals and make recommendations to the STF Agency;¶¶~~
  - ~~(d) Adhere to Oregon Public Meetings laws, as applicable;¶¶~~
  - ~~(e) Meet a minimum of two times per year, or a sufficient number of times so as to advise the STF Agency in carrying out the purposes of the STF and STO Programs;¶¶~~
  - ~~(f) Participate in developing in the STF Plan that will be used to perform the activities described in this section; and¶¶~~
  - ~~(g) Be guided by written bylaws that may include, but are not limited to, committee membership criteria, terms of office for the committee members, procedures of the committee, meeting schedule and other operating and decision-making procedures.¶¶~~
- ~~(4) To perform the activities described in subsections (3)(a) through (c) of this rule, the Advisory Committee will review the Projects proposed for funding by Formula Program and Discretionary Program moneys, including the proposed Recipient, Project purpose, intended User of Transportation Services, and the proposed funding level.¶¶~~
- ~~(5) The Advisory Committee may recommend to the STF Agency any changes to the proposed distribution of Formula Program moneys or Discretionary Grant applications it considers necessary.¶¶~~
- ~~(6) The terms of office for the Advisory Committee members are at the discretion of the STF Agency.¶¶~~
- ~~(7) The Division will be notified by the STF Agency of changes in the Advisory Committee membership.¶¶~~
- ~~(8) Copies of Advisory Committee bylaws, minutes and meeting notices will be made available to the Division, upon reasonable notice.¶¶~~
- ~~(9) Indian Tribes:¶¶~~
  - ~~(a) The Advisory Committee of a STF Agency that is an Indian Tribe will be composed of at least three members; and¶¶~~
  - ~~(b) To be qualified to serve on an Advisory Committee of an Indian Tribe, an individual must be able to represent the transportation needs of the Elderly and People with Disabilities served by the Indian Tribe.¶¶~~
- ~~(10) Districts and Counties: The Advisory Committee of a District or county will be composed of at least five members, of which a majority will meet the qualifications of paragraphs (11)(c)(A) through (D) of this rule.¶¶~~
- ~~(11) To be qualified to serve on the Advisory Committee for a STF Agency that is a District or county, an individual will:¶¶~~
  - ~~(a) Reside in the District or county;¶¶~~
  - ~~(b) Be knowledgeable about the transportation needs of the Elderly and People with Disabilities; and¶¶~~
  - ~~(c) Be a person who:¶¶~~
    - ~~(A) Is Elderly or a person with a disability and is a User of Transportation Services in the District or county;¶¶~~
    - ~~(B) Is Elderly or is a person with a disability and who lives in an area of the District or county where there are no Public Transportation Services;¶¶~~
    - ~~(C) Is Representative of Elderly persons residing in the District or county;¶¶~~
    - ~~(D) Is Representative of People with Disabilities residing in the District or county; or¶¶~~
    - ~~(E) Represents a Provider of services to the Elderly or People with Disabilities residing in the District or county.¶¶~~
  - ~~(d) The STF Agency will consider geographic diversity and balance of the membership qualifications identified in paragraphs (11)(c)(A) through (E) of this rule when appointing STF Advisory Committee members.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0036

RULE SUMMARY: Repeals 732-005-0036.

CHANGES TO RULE:

~~732-005-0036~~

~~Accounting Requirements~~

~~(1) The STF Agency will receive and disburse STF and STO moneys from a separate governmental fund. Any money realized as a result of interest accrued will be added to the moneys and will be reported to the Division.¶¶~~

~~(2) Record Retention:¶¶~~

~~(a) The STF Agency will maintain all financial records for at least three years after the Division's final disbursement for the fiscal year; and¶¶~~

~~(b) The STF Agency will maintain all records relating to Capital Items for three years after disposition.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0041

RULE SUMMARY: Repeals 732-005-0041.

CHANGES TO RULE:

732-005-0041

~~Capital Item Requirements~~

~~(1) Capital Items may be purchased with STF moneys;¶¶~~

~~(a) Incidental Use of a Capital Item for other Public Transportation Services is authorized if associated with Coordination to benefit the Elderly and People with Disabilities; and¶¶~~

~~(b) The Incidental Use will not substantially reduce the effective use of the Capital Item for the Elderly and People with Disabilities.¶¶~~

~~(2) The STF Agency will inventory the Capital Items purchased in whole or part with STF moneys. The inventory will include date of purchase, purchase price, percentage of STF moneys contributed to the purchase, the source of other funds, the authorized use and the Recipient using the Capital Item.¶¶~~

~~(3) The STF Agency will maintain continuing control of a Capital Item purchased in whole or part with Formula Program during the period of useful life established in accordance with subsection (4)(a) of this rule. The STF Agency may exert continuing control beyond the period of useful life, under its own authority. Continuing control is defined as use, management and disposal of a Capital Item.¶¶~~

~~(4) STF Agencies will use their own procedures for continuing control, excepting where specified by this section. At a minimum, STF Agencies will:¶¶~~

~~(a) Establish minimum useful life standards for Capital Items;¶¶~~

~~(A) Useful life may be based on standards for depreciation established by the Internal Revenue Service or other standard in reference to the specific type of capital; and¶¶~~

~~(B) For vehicles, the definition of useful life will be consistent with the policy established by the Division for vehicles financed with federal grant funds;¶¶~~

~~(b) Use the STF Agency's own procedures for disposal of a Capital Item;¶¶~~

~~(c) Return the net proceeds from a sale of a Capital Item to the local STF. If other funds were used in the purchase, then only the proportion representing STF participation will be returned to the STF;¶¶~~

~~(d) Establish procedures to ensure that a Capital Item is maintained in safe operating condition, as appropriate;¶¶~~

~~(e) Establish procedures for transfer of a Capital Item to an eligible Recipient;¶¶~~

~~(f) Establish procedures for lease of a Capital Item to a Recipient;¶¶~~

~~(g) Establish insurance requirements adequate to protect the interests of the Transportation Users, the Recipient and the STF Agency, as appropriate;¶¶~~

~~(h) Ensure that facilities and real property will be used for the originally authorized purpose by use of a restrictive deed covenant, as feasible and appropriate; and¶¶~~

~~(i) Ensure that vehicles purchased in whole or in part with STF moneys are registered with the Oregon Department of Transportation Driver and Motor Vehicle Services Division in the name of the STF Agency or in the name of the Recipient receiving the equipment:¶¶~~

~~(A) If the vehicle is registered in the name of the Recipient receiving the equipment, and that Recipient is not the STF Agency, the STF Agency will be listed on the vehicle title as security interest holder;¶¶~~

~~(B) For leased vehicles, the lease will be recorded on the vehicle title, in accordance with Oregon Department of Transportation Driver and Motor Vehicle Services Division procedures;¶¶~~

~~(C) Vehicles purchased with other local, state or federal funds in addition to STF moneys will be titled in accordance to the requirements of the specific source. The STF Agency will be listed on the title as a security interest holder; and¶¶~~

~~(D) The STF Agency may release their security interest in the vehicle after the defined period of useful life is past.¶¶~~

~~(5) The STF Agency will notify the Division of the sale or transfer of the Capital Item purchased with STF moneys and will report the use of proceeds from the sale.¶¶~~

~~(6) The Division may establish requirements for Capital items purchased with Discretionary Program moneys, including and not limited to:¶¶~~

~~(a) A minimum threshold of insurance coverage;¶¶~~

~~(b) Annual inspections of vehicles used for Public Transportation Programs; and¶¶~~

~~(c) A requirement that the use of facilities and real property will be secured by a restrictive deed covenant, as feasible and appropriate.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.810–391.830~~



REPEAL: 732-005-0046

RULE SUMMARY: Repeals 732-005-0046.

CHANGES TO RULE:

~~732-005-0046~~

~~Audit Requirements~~

~~(1) STF and STO moneys will be specifically and individually addressed in the STF Agency's annual audit. If requested by the Division, the STF Agency will provide the Division with a copy of the audit report.¶¶~~

~~(2) The Division may request additional information including, but not limited to, audits of specific Projects.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0051

RULE SUMMARY: Repeals 732-005-0051.

CHANGES TO RULE:

~~732-005-0051~~

~~Reporting Requirements~~

~~(1) The purpose of reporting is to:¶¶~~

~~(a) Ensure that STF and STO moneys are being used for the purpose of financing and improving transportation programs for the Elderly and People with Disabilities;¶¶~~

~~(b) Measure the effects of the program; and¶¶~~

~~(c) Provide information to the Oregon State Legislature.¶¶~~

~~(2) The STF Agency will prepare, or require its Recipients to prepare, a quarterly report to the Division. The STF Agency will approve and sign reports prepared by Recipients prior to submission to the Division:¶¶~~

~~(a) For Projects funded by the Formula Program, a report form, provided by the Division, will be completed for each Recipient on the List of Projects;¶¶~~

~~(b) For Projects funded by STO Grant Funds, a report form, provided by the Division, will be completed for each recipient on the List of Projects¶¶~~

~~(c) A STF Agency may require additional reporting information from its Recipients;¶¶~~

~~(d) Reports will be due within 45 days following the end of a quarter. The fourth quarter report may be a preliminary report, subject to adjustment after completion of the STF Agency's audit.¶¶~~

~~(3) Failure to submit the required reports may result in withholding of Formula and STO Funds:¶¶~~

~~(a) The Division may withhold Formula and STO Funds if reports have not been submitted for a period of three consecutive quarters; and¶¶~~

~~(b) A STF Agency may negotiate an alternate reporting schedule with the Division.¶¶~~

~~(4) For Projects funded by the Discretionary Program, a report form will be provided by the Division:¶¶~~

~~(a) The report is required for payment of Discretionary Grant moneys;¶¶~~

~~(b) The Division may identify alternate dates for reporting; and¶¶~~

~~(c) Recipients of Capital Items will report regularly during the period of useful life of the Capital Item.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 – 391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0056

RULE SUMMARY: Repeals 732-005-0056.

CHANGES TO RULE:

~~732-005-0056~~

~~Withholding of Funds from a STF Agency~~

~~(1) The Division may withhold payment of STF and STO moneys if:~~

~~(a) The funds are not being used in accordance with these rules;~~

~~(b) All required reporting has not been submitted; or~~

~~(c) There are any unresolved audit findings relating to the moneys.~~

~~(2) If an audit or a review of the agreement finds that STF and STO moneys were used improperly, the STF Agency will repay the STF that portion used improperly.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0061

RULE SUMMARY: Repeals 732-005-0061.

CHANGES TO RULE:

~~732-005-0061~~

~~Management of Agreements~~

~~(1) The Division will enter into agreements with a STF Agency after approval of the STF Agency's application for STF and STO moneys.¶¶~~

~~(a) The agreement will include:¶¶~~

~~(A) A description of the use of the STF or STO moneys. The description of an STO funded project must clearly indicate that the project meets the definition of an Operations Expense;¶¶~~

~~(B) A beginning and end date;¶¶~~

~~(C) Termination and suspension clauses;¶¶~~

~~(D) Other applicable requirements of these rules; and¶¶~~

~~(E) Sanctions for failure to comply with the requirements of the agreement, including and not limited to, withholding and repayment of funds for cause.¶¶~~

~~(b) Inspection of records and Projects.¶¶~~

~~(A) An STF Agency, and any organization acting on the STF Agency's behalf, will permit the Division, the Secretary of State of the State of Oregon, or their authorized representatives, upon reasonable notice, access to all data and records relating to the STF and STO moneys.¶¶~~

~~(B) The Division, the Secretary of State of the State of Oregon, or their authorized representatives, upon reasonable notice, may inspect the Projects financed with STF moneys including, but not limited to, the financial records, physical premises and Capital Items used to deliver Public Transportation Services.¶¶~~

~~(2) The STF Agency will enter into written agreements with Recipients for Projects financed with STO funds, Formula Program and Discretionary Program moneys.¶¶~~

~~(a) The form of the agreement will include:¶¶~~

~~(A) A statement of work to be performed in consideration of the moneys; for STO moneys, the statement of work will include a detailed description of the project sufficient to ensure the project meets the definition of Operations :¶¶~~

~~(B) A beginning and end date;¶¶~~

~~(C) Termination and suspension clauses;¶¶~~

~~(D) Other applicable requirements of OAR 732-005-0000 through 732-030-0035; and¶¶~~

~~(E) Sanctions associated with failure to perform, including but not limited to, withholding and repayment of funds for cause.¶¶~~

~~(b) The STF Agency may impose additional requirements under its own authority.¶¶~~

~~(c) The STF Agency will submit copies of Recipient agreements to the Division.¶¶~~

~~(d) The STF Agency will monitor the performance of the agreement on a regular basis, and will take action when the terms and conditions of the agreement are not being met.¶¶~~

~~(e) Recipients, and any organization acting on the Recipient's behalf, will permit the STF Agency, the Division, the Secretary of State of the State of Oregon, or their authorized representatives, upon reasonable notice, access to all data and records relating to the transportation system supported in whole or part by the STF, and will allow inspection of the Projects supported in whole or part by the STF including, but not limited to, the physical premises and Capital Items used to deliver transportation services.¶¶~~

~~(f) The Division may terminate or suspend an agreement between itself and a STF Agency, and may require repayment of funds, if the STF Agency fails to take action against a Recipient failing to comply with OAR 732-005-0000 through 732-030-0035.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910-OL 2009~~

REPEAL: 732-005-0066

RULE SUMMARY: Repeals 732-005-0066.

CHANGES TO RULE:

~~732-005-0066~~

~~STF Agency Joint Management of the STF and STO Programs~~

~~(1) Two or more STF agencies may jointly manage their STF and STO Programs. Joint Management means two or more STF Agencies joining together to manage their STF and STO Programs by consultation and acting independently, or by jointly managing the functions of the STF program.¶¶~~

~~(a) Joint management through consultation does not require an agreement between the parties.¶¶~~

~~(b) Joint management of the functions including, and not limited to, pooling STF and STO moneys and jointly allocating funds to Projects, requires an agreement between the STF Agencies.¶¶~~

~~(2) When two or more STF Agencies jointly manage the functions of the STF and STO programs, they will:¶¶~~

~~(a) Designate a lead STF Agency who will perform all of the functions of the program as defined in this rule;¶¶~~

~~(b) Ensure that the Advisory Committee appointed by the lead STF Agency is representative of each of the participating STF Agencies; and¶¶~~

~~(c) Meet together for consultation and review of the jointly managed STF and STO funded Program at least once per year.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 – 391.830, Ch 910 OL 2009~~

REPEAL: 732-005-0071

RULE SUMMARY: Repeals 732-005-0071.

CHANGES TO RULE:

~~732-005-0071~~

~~Protest Procedure~~

~~The Division will conduct a process to resolve protests of funding decisions made by the Oregon Department of Transportation.~~

~~(1) Within 30 days of notification of a funding decision, the STF Agency may file a protest of the decision.~~

~~(a) The STF Agency will address the protest to the Administrator of the Division; and~~

~~(b) The protest will identify the project or proposed project affected by the funding decision, the Recipient or proposed Recipient affected by the decision, any arguments pertaining to the protest, and the requested remedy.~~

~~(2) The Division will investigate the protest and will make a written statement of finding within 30 days.~~

~~(3) Within 10 working days of receipt of the statement of finding, the STF Agency may request a review of the statement of finding. After a review of the statement of finding, the Administrator of the Division will issue a final decision.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.810 - 391.830~~

REPEAL: 732-005-0076

RULE SUMMARY: Repeals 732-005-0076.

CHANGES TO RULE:

~~732-005-0076~~

~~Recipient Qualifications~~

~~(1) To be eligible to receive STF and STO moneys for a Project, a Recipient will meet, or have the capacity to meet, the following qualifications, as applicable to the type of Project being funded. A Recipient will:~~

~~(a) Be an entity eligible to enter into agreements;~~

~~(b) Have the legal, managerial and operational capacity to perform the Project;~~

~~(c) Not be debarred or suspended from federal grants;~~

~~(d) Maintain compliance with federal, state and local laws and regulations including, and not limited to, those pertaining to passenger transportation, civil rights, labor, insurance, safety and health, as applicable;~~

~~(e) Comply with the laws or rules of this program;~~

~~(f) Properly use STF and STO moneys; and~~

~~(g) Perform the Project in a safe, prudent and timely manner.~~

~~(h) If a Recipient is identified as ineligible to receive other funds offered by the state or federal government resulting from a failure to meet the criteria identified in subsection (a) through (g) of this section, the Recipient may be ineligible to receive STF and STO moneys.~~

~~(2) A STF Agency may require additional eligibility qualifications of Recipients as necessary to implement its STF and STO funded Program.~~

~~(3) The Division may require additional eligibility qualifications of Recipients as necessary to implement the Discretionary Program.~~

~~(4) The STF Agency will confirm the eligibility of a Recipient prior to awarding STF moneys and entering into an agreement.~~

~~(5) The STF Agency will ensure that Recipients maintain eligibility while receiving STF moneys.~~

~~(6) A Recipient found by the STF Agency or Division to be ineligible may be required to repay moneys received during the period of ineligibility.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 – 391.830, Ch 910-OL 2009~~

REPEAL: 732-005-0081

RULE SUMMARY: Repeals 732-005-0081.

CHANGES TO RULE:

~~732-005-0081~~

~~STF Plan~~

~~(1) A STF Agency will develop, adopt, and regularly update a written STF Plan.¶¶~~

~~(a) The purpose of the STF Plan is to set out the long term vision for public transportation in the STF Agency's service area, and guide investment of STF and STO moneys to maximize benefit to the Elderly and People with Disabilities within that area.¶¶~~

~~(b) The STF Agency will adopt its first plan no later than June 30, 2007.¶¶~~

~~(c) The STF Plan will:¶¶~~

~~(A) Cover at least a three year period;¶¶~~

~~(B) Counties will consider the transportation needs of the Elderly and People with Disabilities residing within the county;¶¶~~

~~(C) Districts will consider the transportation needs of the Elderly and People with Disabilities residing in the in-district and out-of-district areas of the county(ies); and¶¶~~

~~(D) Indian Tribes will consider the needs of tribal members and other Elderly and People with Disabilities served by the tribe and residing in the area served by the tribe.¶¶~~

~~(2) The STF Plan shall include, and is not limited to, the following types of information:¶¶~~

~~(a) Inventory of transportation services and capital resources currently available for the Elderly and People with Disabilities, without regard to how they are funded;¶¶~~

~~(b) Identify current and forecast county and tribal population and demographics;¶¶~~

~~(c) Inventory of current and future needs for transportation services and programs. The inventory may include, and is not limited to, changes in employment opportunities, housing, access to medical services, and special issues affecting access to public transportation services for the Elderly and People with Disabilities;¶¶~~

~~(d) Identify unmet needs related to the Transportation System and Services;¶¶~~

~~(e) Identify opportunities to coordinate transportation services within the county, District, or tribal area and with other agencies and areas to improve efficiency and effectiveness of service; and¶¶~~

~~(f) Identify time-based, quantified goals, benchmarks, and performance measures to assess the progress of Recipients in achieving the STF Agency's vision over time.¶¶~~

~~(3) STF Agencies may join together, and with other agencies serving the Elderly and People with Disabilities, for mutual benefit to meet these requirements.¶¶~~

~~(4) Prior to adopting a STF Plan, the STF Agency will consult with the STF Advisory Committee and the public. The purpose of this consultation is to ensure that the Elderly and People with Disabilities, representatives of the Elderly and People with Disabilities, transportation Providers, and other interested parties have the opportunity to review and comment on the proposed plan.¶¶~~

~~(5) A STF Agency will review its STF Plan at least biennially, and update it to reflect changes in the service area, demographics, funding levels, service availability or other factors, as needed.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830, Ch 910 OL 2009~~



REPEAL: 732-005-0090

RULE SUMMARY: Repeals OAR 732-005-0090.

CHANGES TO RULE:

#### 732-005-0090

##### Creation of New Mass Transit District or Transportation District

(1) In the event that a District comes to exist in any part of a county or counties in which it did not previously exist, the District replaces the county(ies) in which it exists as STF Agency for the area(s) previously served by the county(ies). Upon its existence, the District shall assume the STF Agency role previously held by the county(ies) in which any part of it exists with respect to all aspects of the administration of the Formula Program.¶¶

(2) It is the goal of the Division that such a transition between STF Agencies be accomplished smoothly, efficiently and without disruption of Public Transportation Services. For that reason, a county which is a STF Agency shall provide notice to the Division when it publishes notice of the first public meeting at which it will consider creating or establishing a District.¶¶

(3) Upon establishment of a District in any county or counties, the Oregon Transportation Commission and the Oregon Department of Transportation hereby recognize the District as the new STF Agency for the area(s) previously served by the county(ies) in which any part of the District exists.¶¶

(a) Within ten business days of coming into existence, the District shall send the Division notice of the effective date of its existence, the name(s) of its designated contact person(s), a copy of the legal documentation of its creation, and the date of its first public meeting. The Division may reasonably delay any pending Formula Program disbursements until the District establishes a financial account.¶¶

(b) For the period between the District's coming into existence and its first public meeting the Division shall consider the District to have appointed an Advisory Committee, for the purposes of ORS 391.810(3), composed of the eligible members of the Advisory Committee(s) of the county(ies) in which the District has come to exist. The Division shall consider individuals "eligible members" if they satisfy the criteria to serve on the District's Advisory Committee under ORS 391.820.¶¶

(c) At its first public meeting, the District, consistent with its procedural requirements, may determine the numbers and terms of Advisory Committee members and may appoint an Advisory Committee. The District may appoint some or all of same individuals to its Advisory Committee who previously served on the Advisory Committee(s) of the county(ies). If it appoints an Advisory Committee, the District shall notify the Division in writing of the membership.¶¶

(d) If the District does not provide written notification to the Division of the membership of its Advisory Committee, within three business days of the date of its first public meeting, the Division shall withhold Formula Program funds until the District notifies the Division that it has appointed an Advisory Committee.¶¶

(e) The Division shall consider the STF Plan previously submitted to Division by the county(ies) pursuant to OAR 732-005-0081, to have been assigned to and assumed by the District, unless the District notifies the Division that it has adopted a new STF Plan or updated the STF Plan, as described in OAR 732-005-0081.¶¶

(4) In coordination with the county(ies), relevant Recipients or Providers, and other parties as necessary, the District shall undertake all necessary tasks to develop its STF Plan, carry out the Projects of the relevant STF Plan(s) and otherwise ensure a smooth transition of all STF Agency responsibilities from the county(ies) to the District. The Division shall provide reasonable assistance and guidance to the new STF Agency to facilitate the transition, consistent with the respective roles of the STF Agency and the Division.¶¶

(5) Following the establishment of a Mass Transit District or Transportation District, the county(ies) or other entity that was previously the STF Agency shall complete any remaining obligations under the STF Agreement(s) that have not been assumed by the new STF Agency, which includes any pending reporting requirements and disbursal of funds to subrecipients as identified in the STF Agreement(s) or transferring those funds to the Mass Transit District or Transportation District now serving as the STF Agency.

Statutory/Other Authority: ORS 184.619, 391.810

Statutes/Other Implemented: ORS 391.800, 391.810, 391.820, 391.830

REPEAL: 732-010-0005

RULE SUMMARY: Repeals OAR 732-010-0005.

CHANGES TO RULE:

~~732-010-0005~~

~~Formula Program~~

~~(1) Revenues from the STF are made available annually.¶¶~~

~~(2) STF Agencies may apply at any time.¶¶~~

~~(3) Money is paid regularly to the STF Agency upon approval of its application, and submission of reports required by OAR 732-005-0051.¶¶~~

~~(4) In order to be eligible to receive Formula Program moneys, the STF Agency has, or will have, one or more Projects eligible for funding, as specified by OAR 732-005-0016.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830~~

REPEAL: 732-010-0010

RULE SUMMARY: Repeals OAR 732-010-0010.

CHANGES TO RULE:

~~732-010-0010~~

~~Formula Distribution~~

~~For those STF moneys distributed by formula:¶¶~~

~~(1) The Division will distribute STF moneys regularly, and at least quarterly.¶¶~~

~~(2) Each January, prior to the state biennium, the Division will estimate the STF moneys to be distributed during the biennium:¶¶~~

~~(a) The estimate will include the reconciliation of STF receipts from prior years and funds unclaimed by STF Agencies; and¶¶~~

~~(b) If necessary, the estimate may be adjusted during the biennium, in January, to reflect actual tax receipts and other revenues contributing to the STF moneys.¶¶~~

~~(3) Formula allocation moneys will be made available to STF Agencies on the basis of population distribution:¶¶~~

~~(a) Each STF Agency will receive a portion of the moneys based on their share of the state's population;¶¶~~

~~(b) The county population of STF Agencies that are counties and Districts will be determined by the most recent annual estimate of population of cities and counties by the State Board of Higher Education (ORS 190.510 to 190.610); and¶¶~~

~~(c) Each Indian Tribe that is a STF Agency will receive STF moneys as share of their tribal population residing in Oregon:¶¶~~

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

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

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

~~(4) The Division will supplement the Formula Allocation with Discretionary Account moneys as necessary to ensure that each STF Agency receives the Minimum Allocation or the Formula Allocation, whichever is greater.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830~~

REPEAL: 732-010-0015

RULE SUMMARY: Repeals OAR 732-010-0015.

CHANGES TO RULE:

~~732-010-0015~~

~~Application Procedures for Formula Program Moneys~~

- ~~(1) The Division will inform each STF Agency of the amount of Formula Program moneys for which they are eligible.¶¶~~
- ~~(2) To apply for Formula Program moneys, the STF Agency will submit a completed application on forms supplied by the Division.¶¶~~
- ~~(3) The information required in the application will be sufficient to ensure that the requirements of these rules are met.¶¶~~
- ~~(4) An authorized official of the STF Agency will sign the application.¶¶~~
- ~~(5) A STF Agency may apply for funds at any time.¶¶~~
- ~~(6) If a STF Agency fails to apply for Formula Program moneys, the moneys will remain available to the STF Agency for a period not to exceed three years.¶¶~~
- ~~(a) Funds held by the Division due to failure to apply will not accrue interest; and¶¶~~
- ~~(b) The Administrative Allotment will be available during the year of application.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.810 ~ 391.830~~

REPEAL: 732-010-0020

RULE SUMMARY: Repeals OAR 732-010-0020.

CHANGES TO RULE:

~~732-010-0020~~

~~Formula Program Application Review~~

- ~~(1) The Division will review and approve Formula Program applications;¶~~  
~~(a) The Division will consider material submitted in the application as the basis for application approval; and¶~~  
~~(b) The Division may ask for further information or clarification.¶~~  
~~(2) The Division may disapprove the application and, if disapproved, will inform the STF Agency of the reason for disapproval.¶~~  
~~(a) Reasons for disapproval may include, and are not limited to, the following:¶~~  
~~(A) No Advisory Committee or improper membership;¶~~  
~~(B) Advisory Committee failure to meet and confer;¶~~  
~~(C) STF Agency failure to confer with the Advisory Committee;¶~~  
~~(D) A Recipient that is ineligible;¶~~  
~~(E) For Formula Program applications by Districts, disproportionate allocation inside and outside District boundaries;¶~~  
~~(F) The use of STF moneys to supplant the STF Agency's local appropriation currently used to provide transportation services benefiting the Elderly and People with Disabilities; and¶~~  
~~(G) Proposed Projects are not eligible for funding in accordance with OAR 732-005-0000 to 732-010-0045.¶~~  
~~(b) Disapproved formula program applications may be improved and resubmitted by the STF Agency.~~  
~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~  
~~Statutes/Other Implemented: ORS 391.800 - 391.830~~

REPEAL: 732-010-0025

RULE SUMMARY: Repeals OAR 732-010-0025.

CHANGES TO RULE:

~~732-010-0025~~

~~Submission of Amended Formula Program Applications~~

- ~~(1) The STF Agency may amend their application at any time by filing an amended application with the Division.¶¶~~
- ~~(2) The STF Agency will retain authority over costs and allocations within its jurisdiction and may shift funds among Recipients and Projects identified in an application approved by the Division as necessary for the desired services:¶¶~~
- ~~(a) The STF Agency will submit an amended application if there are additional Recipients or Projects;¶¶~~
- ~~(b) Changes in the distribution of funds among already approved Recipients do not require Division approval. The STF Agency will notify the Division of any changes; and¶¶~~
- ~~(c) Changes in the Advisory Committee do not require an amended application.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.810 - 391.830~~

REPEAL: 732-010-0030

RULE SUMMARY: Repeals OAR 732-010-0030.

CHANGES TO RULE:

~~732-010-0030~~

~~Disbursement of Formula Program Moneys~~

~~(1) Upon approval of the application for the Formula Program moneys, the Division will enter into an agreement with the STF Agency.¶~~

~~(2) After the agreement is signed by both parties, the Division will disburse the moneys.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.810 – 391.830~~

REPEAL: 732-010-0035

RULE SUMMARY: Repeals OAR 732-010-0035.

CHANGES TO RULE:

~~732-010-0035~~

~~STF Agencies Distribution of Formula Program Moneys~~

~~(1) The STF Agency will determine the purposes for which the Formula Program moneys will be used, in accordance with their STF Plan.¶¶~~

~~(2) The STF Agency may use procedures of its choice to distribute Formula Program moneys.¶¶~~

~~(3) The STF Agency that is a District is responsible for funding Projects benefiting the Elderly and People with Disabilities both within its boundaries and outside them in the surrounding county(ies):¶¶~~

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

~~(b) The proportion is based on the last decennial federal census; and¶¶~~

~~(c) The District will report the distribution of Formula Program moneys in its application to the Division.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830~~



REPEAL: 732-010-0045

RULE SUMMARY: Repeals OAR 732-010-0045.

CHANGES TO RULE:

~~732-010-0045~~

~~Redistribution of Program Funds~~

~~For formula moneys, the Division will redistribute funds that have not been requested after three years to participating STF Agencies.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830~~

REPEAL: 732-030-0005

RULE SUMMARY: Repeals OAR 732-030-0005.

CHANGES TO RULE:

~~732-030-0005~~

~~STO Program~~

~~(1) Revenues from the STO Program are made available annually.¶¶~~

~~(2) STF Agencies may apply for STO funds during an application period defined by the division.¶¶~~

~~(3) STO funds are paid to the STF Agency upon approval of its application and submission of reports required by OAR 732-005-0051.¶¶~~

~~(4) In order to be eligible to receive STO moneys, the STF Agency must have Projects eligible for funding, as specified by OAR 732-005-0016(4).¶¶~~

~~(5) The amount of STO money awarded to each STF Agency will be determined by the sum of the costs for the projects approved by the Division, and will not exceed the amount of STO moneys for which each STF Agency is eligible.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-030-0010

RULE SUMMARY: Repeals OAR 732-030-0010.

CHANGES TO RULE:

~~732-030-0010~~

~~Fund Distribution~~

~~(1) The Division will distribute STO moneys regularly, and at least quarterly.¶¶~~

~~(2) Each January, prior to the beginning of each state biennium, the Division will estimate the STO moneys to be distributed during the next biennium. The estimate will include the reconciliation of STO receipts from prior years and funds unclaimed by STF Agencies.¶¶~~

~~(3) Moneys will be made available to each STF Agency on the basis of formula distribution defined by the Division.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830, Ch 910 OL 2009~~

REPEAL: 732-030-0015

RULE SUMMARY: Repeals OAR 732-030-0015.

CHANGES TO RULE:

~~732-030-0015~~

~~Application Procedures for STO Moneys~~

~~(1) The Division will inform each STF Agency of the amount of STO moneys for which they are eligible.¶~~

~~(2) To apply for STO moneys, the STF Agency will submit a completed application on forms supplied by the Division.¶¶~~

~~(3) The information required in the application will be sufficient to ensure that the requirements of these rules are met.¶¶~~

~~(4) An authorized official of the STF Agency will sign the application.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-030-0020

RULE SUMMARY: Repeals OAR 732-030-0020.

CHANGES TO RULE:

~~732-030-0020~~

~~Application Review~~

~~(1) The Division will review and approve STO fund applications;¶~~

~~(a) The Division will consider material submitted in the application as the basis for application approval; and¶~~

~~(b) The Division may ask for further information or clarification.¶~~

~~(2) The Division may disapprove the application and, if disapproved, will inform the STF Agency of the reason for disapproval.¶~~

~~(a) Reasons for disapproval may include, and are not limited to, the following:¶~~

~~(A) No Advisory Committee or improper membership;¶~~

~~(B) Advisory Committee failure to meet and confer;¶~~

~~(C) STF Agency failure to confer with the Advisory Committee;¶~~

~~(D) A Recipient that is ineligible;¶~~

~~(E) The use of STO moneys to supplant the STF Agency's local appropriation currently used to provide transportation services benefiting the Elderly and People with Disabilities; and¶~~

~~(F) Proposed Projects are not eligible for funding.¶~~

~~(b) Disapproved formula program applications may be improved and resubmitted by the STF Agency.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 – 391.830, Ch 910 OL 2009~~

REPEAL: 732-030-0025

RULE SUMMARY: Repeals OAR 732-030-0025.

CHANGES TO RULE:

~~732-030-0025~~

~~Submission of Amended STO Applications~~

- ~~(1) The STF Agency may amend their application at any time by filing an amended application with the Division.¶~~
- ~~(2) The STF Agency will retain authority over costs and allocations within its jurisdiction and may shift funds among Recipients and Projects identified in the executed agreement between the Division and STF Agency as necessary for the desired services.¶~~
- ~~(3) The STF Agency will submit an amended application if the number of Recipients or Projects changes.¶~~
- ~~(4) Changes in the distribution of funds among already approved Recipients and Projects do not require Division approval. The STF Agency will notify the Division of any changes.¶~~
- ~~(5) Changes in the Advisory Committee do not require an amended application.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009~~

REPEAL: 732-030-0030

RULE SUMMARY: Repeals OAR 732-030-0030.

CHANGES TO RULE:

~~732-030-0030~~

~~Disbursement of STO Moneys~~

~~(1) Upon approval of the application for the STO moneys, the Division will enter into an agreement with the STF Agency.¶~~

~~(2) After the agreement is signed by both parties, the Division will disburse the moneys.~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800 – 391.830, Ch 910 OL 2009~~

REPEAL: 732-030-0035

RULE SUMMARY: Repeals OAR 732-030-0035.

CHANGES TO RULE:

~~732-030-0035~~

~~STF Agency's Distribution of STO Monies~~

~~(1) The STF Agency will determine the purposes for which the STO monies will be used, in accordance with their STF Plan.~~

~~(2) The STF Agency may use procedures of its choice to distribute STO monies.~~

~~(3) The STF Agency that is a District is responsible for funding Projects benefiting the Elderly and People with Disabilities both within its boundaries and outside them in the surrounding county(ies).~~

~~Statutory/Other Authority: ORS 184.616, 184.619, 391.810~~

~~Statutes/Other Implemented: ORS 391.800–391.830, Ch 910 OL 2009~~



RULE SUMMARY: This rule establishes definitions that apply to the STIF program rules, OAR chapters 732, divisions 40, 42, and 44. Proposed changes add and modify definitions for important program terms.

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) "Community with a high percentage of low-income households" means either:¶

(a) A group of people living in geographic proximity to each other who have a higher percentage of low-income households than the state average; or¶

(b) A group of people sharing a common characteristic, such as enrollment in Medicaid, the Supplemental Nutrition Assistance Program (SNAP), or another income-eligible program, who have a higher percentage of low-income households than the state average, regardless of where any person within the group is located.¶

(12) "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).¶

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

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

(145) "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.¶

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

(167) "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).¶

(178) "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)(20) "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.¶¶~~

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

~~(21) "Operations Reserve Project" funds refer to funds set aside for a use as described in OAR 732-042-0015(4).¶¶~~

~~(22) "Payroll-Based Formula" means the portion of STIF Formula Funds disbursed per ORS 184.758(5).¶¶~~

~~(23) "Plan Contingency Project" funds refer to funds set aside for contingency use as described in OAR 732-042-0015(5). ¶¶~~

~~(24) "Planned Carry Forward Project" funds refer to funds set aside for use in future STIF Plan as described in OAR 732-042-0015(6).¶¶~~

~~(25) "Population-Based Formula" means the portion of STIF Formula Funds disbursed per ORS 184.758(3).¶¶~~

~~(26) "Prior STIF Plan Period" funds refer to Planned Carry Forward Project funds, Plan Contingency Project funds, Operation Reserve Project funds and Unused Project funds disbursed to a Qualified Entity that were not spent during the STIF Plan Period in which they were disbursed.¶¶~~

~~(27) "Project" means a public transportation improvement or maintenance 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.¶¶~~

~~(248) "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.¶¶~~

~~(259) "Public Transportation Advisory Committee" ("PTAC") means the ODOT Public Transportation Advisory Committee established by the Commission in 2000.¶¶~~

~~(2630) "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.¶¶~~

~~(2731) "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.¶¶~~

~~(328) "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.¶¶~~

~~(2933) "Recipient" means a Qualified Entity or Public Transportation Service Provider that has a STIF Plan~~

approved by the Commission ~~and enters into an agreement with the Agency or a Public Transportation Service Provider that enters into an agreement directly with the Agency to receive STIF funds.~~¶

~~(304)~~ "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.¶

~~(315)~~ "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.¶

~~(326)~~ "Special District" means a service district organized under ORS 451.010(1)(h).¶

~~(37)~~ "Statewide Transit Network" means the collection of all transit service that operates in Oregon.¶

~~(338)~~ "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).¶

~~(349)~~ "STIF" or "Statewide Transportation Improvement Fund" means the fund established under ORS 184.751.¶

~~(3540)~~ "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.¶

~~(3641)~~ "Statewide Transit Network" means the collection of all transit service that operates in Oregon.¶  
~~"STIF Plan Maximum"~~ means the total amount of funding sought in a Qualified Entity's Commission-approved STIF Plan. It does not include any Prior STIF Plan Period funds.¶

~~(42)~~ "STIF Plan Period" means the effective date specified in a Commission-approved STIF Plan through the end date of the STIF Plan.¶

~~(437)~~ "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.¶

~~(3844)~~ "Sub-Recipient" means any entity, including but not limited to a Public Transportation Service Provider, 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)~~ A Sub-Recipient does not include an entity or person that a Recipient has identified as a contractor pursuant to OAR 732-042-0055.¶

~~(45)~~ "These Rules" means OAR Chapter 732 Divisions 40, 42, and 44.¶

~~(406)~~ "Transportation District" means a district organized under ORS 267.510 to 267.650.¶

~~(417)~~ "Tribal Enterprise" means a commercial activity or business managed or controlled by an Indian Tribe.¶

~~(48)~~ "Unused Project funds" are STIF Formula Fund moneys that a Qualified Entity included in the budget for a Project during a STIF Plan Period but did not spend during that STIF Plan Period. Unused Project funds do not include Planned Carry Forward Project funds, Plan Contingency Project funds or Operations Reserve Project funds.¶

~~(429)~~ "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 184.6758~~, ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0010

RULE SUMMARY: This rule summarizes the purposes for which STIF moneys may be used. The proposed change updates the deadline the Oregon Transportation Commission to provide a report to the legislature to December 31 of odd numbered years.

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~~ December 31 of odd numbered years, 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 184.6758~~, ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766

RULE SUMMARY: This rule describes audit and compliance requirements for the STIF program. The proposed changes clarify agreed upon procedures requirements, including establishing a firm deadline for submission of reports, and permanently eliminate a provision concerning contested case hearing.

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 report using the document entitled "Agreed Upon Procedures" made available by the Agency on the Public Transportation Division Website. A Recipient that is a Qualified Entity shall ensure any Sub-Recipient conducts an annual financial audit of STIF moneys received using the Agreed Upon Procedures.¶~~
- ~~(2) Recipients shall be submitted to the Agency no later than 30 the report of the annual financial audit of STIF moneys received to the Agency within 30 calendar days after the auditee receives of the auditor's final report(s); or nine months after the end of the Recipient's audit period, whichever is earlier. ¶~~
- (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~~contractors, as identified by the Recipient pursuant to OAR 732-042-0055, 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 contractor as described in section (4) of this rule.~~
- Statutory/Other Authority: ORS 184.619,~~ORS 184.6758~~, ORS 184.761
- Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-040-0020

RULE SUMMARY: This rule describes STIF accounting and record retention requirements. The proposed change sets a deadline of 60 days after the end of the Fiscal year for STIF Recipients to provide a report of STIF interest accrued to ODOT.

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 60 days after 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 184.6758~~, ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766

**RULE SUMMARY:** This rule establishes policies and procedures for STIF Advisory Committees. The proposed change eliminates the requirement for Advisory Committee bylaws to include a definition of the term "a high percentage of low-income households" since that term will now be defined in the program rules.

**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 184.6758~~, ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766



REPEAL: 732-040-0045

RULE SUMMARY: Repeals OAR 732-40-0045.

CHANGES TO RULE:

~~732-040-0045~~

~~Withholding Funds~~

~~(1) The Agency may withhold payment of STIF moneys to a Recipient if:~~

~~(a) The Recipient or its Sub-Recipient is not using STIF funds in accordance with applicable laws, these rules or the terms of the STIF Plan or agreement under which the funds were distributed;~~

~~(b) The Recipient or its Sub-Recipient has not submitted required reporting;~~

~~(c) The Agency determines that there is any unresolved audit finding relating to the accounting for STIF moneys; or~~

~~(d) The Agency determines that there is any unresolved compliance review finding relating to the use of STIF moneys.~~

~~(2) If an audit or a review of a Recipient or its Sub-Recipient's implementation of an agreement under which STIF moneys were distributed determines that the Recipient or its Sub-Recipient used STIF moneys inconsistently with the agreement, the Agency may withhold future STIF funding.~~

~~(3) 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~~

RULE SUMMARY: This rule governs the way that STIF Formula funds are allocated to Qualified Entities and the distribution of those funds. It also describes the process for Qualified Entities and Sub-Recipients to determine methods of sub-allocation of STIF Formula funds. Proposed changes relate to the requirement and content of grant agreements for STIF Formula Funds between ODOT and Qualified Entities; changes to the rules governing sub-allocation of STIF Formula payroll funds; description of the effect of a Qualified Entity's proportionate share of STIF Formula Funds exceeding its STIF Plan Maximum, clarification of the circumstances under which a Qualified Entity must carry forward STIF Formula Funds, and reorganization of the rule.

CHANGES TO RULE:

732-042-0010

STIF Formula Fund Calculation and Disbursement-

(1) STIF Plan Agreements¶¶

(a) The Agency may 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 Commission approval of the Qualified Entity's STIF Plan, the Agency will enter into a STIF Plan Agreement with the Qualified Entity. ¶¶

(c) The STIF Plan Agreement shall contain a remedy provision that provides for escalating corrective actions for violations of the STIF Plan Agreement.¶¶

(2) The Statewide Transportation Improvement Fund Formula program shall be distributed pursuant to ORS 184.758 to a Qualified Entity with an approved STIF Plan and an executed STIF Plan Agreement 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 (45)(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.¶¶

(23) Estimated Distributions:¶¶

(a) For distributions under subsection (12)(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 (45) of this rule.¶¶

(b) For distributions under subsection (12)(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 (45) of this rule.¶¶

(34) 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 (23) of this rule, and the proportionate share calculated for each Qualified Entity in section (45) 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.¶

(45) Calculation of STIF Formula Fund Disbursements:¶

(a) The Agency shall calculate the proportionate share for each Qualified Entity under subsection (42)(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~~ Agency 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 (23)(a) of this rule.¶

(b) The Agency shall calculate the proportionate share for each Qualified Entity under subsection (42)(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 (23)(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 (42)(a), as reduced by the Indexed Minimum distributions required under subsection (23)(a) of this rule and funds held under ORS 732-042-0030, multiplied by the Qualified Entity's proportionate share calculated in subsection (45)(a) of this rule; or¶

(ii) The Indexed Minimum as determined under subsection (23)(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 (42)(b), as reduced by the Indexed Minimum distributions required under subsection (23)(b) of this rule and funds held under ORS 732-042-0030, multiplied by the Qualified Entity's proportionate share calculated in subsection (45)(b) of this rule; or¶

(ii) The Indexed Minimum as determined under subsection (23)(b) of this rule.¶

(56) 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 quies in quarterly distributions.¶

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

~~(c) A Qualified Entity's STIF Plan Maximum is the total amount of STIF Formula Fund moneys that the Agency is authorized to disburse to the Qualified Entity during the STIF Plan Period.~~¶

~~(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)f) If a Qualified Entity 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, ay's proportionate share of STIF Formula funds calculated under section (5) of this rule is more than the Qualified Entity's STIF Plan Maximum, the Agency will retain and hold excess moneys for distribution to the Qualified Entity at the beginning of the next STIF Plan period for which the Qualified Entity has a STIF Plan approved by the Commission, unless:~~¶

~~(A) The Qualified Entity amends its STIF Plan in accordance with the procedures described in OAR 732-042-0045; or~~¶

~~(B) The Qualified Entity does not have an approved STIF Plan for two consecutive biennia because the Qualified Entity did not submit a STIF Plan or the Commission rejected its STIF Plan. In either case, the Agency shall release any excess STIF Formula Funds in the manner described in OAR 732-042-0030(2) and (3).~~¶

~~(7) Distribution of STIF Funds from Qualified Entity to Sub-Recipient. ¶~~

~~(a) For the portion of funds described in subsection (2)(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 its STIF Plan;¶~~

~~(B) The Qualified Entity may reimburse itself for such expenditures contingent upon Commission approval 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 Mass Transit District or Transportation District will receive a proportionate amount of at the STIF Plan that inclu Formula Fund moneys based on the population outside these expenses. Mass Transit District or Transportation District;¶~~

~~(7E) Qualified Entities shall notify the Agency in writing of any adjustment The proportion is based on population estimates calculated by Portland State University; and¶~~

~~(F) The Mass Transit District and Transportation District will report the distribution of STIF Formula Fund moneys in its application to the Ageographic boundaries of their areas of responsibility within thirty days of the effective date of the adjustment.~~¶

~~(b) For the portion of funds described in subsection (2)(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. The Qualified Entity and Public Transportation Service Providers may collaboratively develop factors used to formulate the sub-allocation method.¶~~

~~(8B) A) If the 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 and Public Transportation Service Providers do not collaboratively develop factors used to formulate the sub-allocation method, the sub-allocation method shall be based solely on the proportionate amount of payroll tax revenue generated within the geographic territory of each Public Transportation Service Provider based on data provided by the Agency.¶~~

~~(C) 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. ¶~~

~~(D) 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.¶~~

~~(c) The sub-allocation is not an entitlement to the Public Transportation Service Provider and decision criteria may affect the prioritization of Projects.¶~~

~~(8) Qualified Entities may incur STIF expenditures as of the operative date of ORS 184.766. During the first STIF Formula Fund funding cCycle or to make bond payments on the acquisition of a Capital Asset. In such instances, aafter 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.<sup>¶</sup>

(9) 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.<sup>¶</sup>

(10) A Qualified Entity ~~may only~~ shall carry forward STIF Formula Fund moneys for the time period specified in the approved STIF Plan.<sup>¶</sup>

(9) All Prior STIF Plan Period funds either by an amendment to a STIF Plan made pursuant to OAR 734-042-0045 or by identifying the funds in a future STIF Plan in a manner consistent with OAR 734-042-0015.<sup>¶</sup>

(11) 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 184.6758~~, ~~ORS 184.761~~, 184.7616

Statutes/Other Implemented: ORS 184.642, ~~ORS 184.751-184.766~~, ~~ORS 323.457~~

**RULE SUMMARY:** This rule governs the content required for a STIF Formula Plan, and content that may be included. Proposed changes include: removing the requirement that a plan include definition for the term "communities with a high percentage of low-income households"; adding an expenditure reporting criteria for projects that support existing services; allowing for some projects to be included in a STIF Plan without an assigned outcome measure if appropriate; allowing for "Operations Reserve Projects" and "Plan Contingency Projects" to be included in a STIF Plan, subject to caps on the amount of funding that can be devoted to those projects; clarifying the circumstances under which a Qualified Entity may plan to carry forward funds for certain capital projects; and establishing that ODOT may adjust the caps on Operations Reserve and Plan Contingency Projects, as well as the threshold to report on Unused Project funds in the event of a change in the transit payroll tax rate of 50% or greater.

**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; and ¶

(l) Support for the operation of existing service.¶¶

(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~~ For proposed Projects, 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) ~~Any anticipated benefits and discrete measurable outcomes associated with each the Project with specific reference to~~ and 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.¶¶

(4) A STIF Plan may include an Operations Reserve Project or projects consisting of STIF Formula Fund moneys that may be transferred to any operations Project in the STIF Plan in the event of significant, unexpected declines in transit operations revenue, subject to the following provisions:¶¶

(a) A STIF Plan may include one Operations Reserve Project for the Qualified Entity and one for each Sub-Recipient that has a project in the STIF Plan. An Operations Reserve Project may also be shared between a Qualified Entity and one or more Sub-Recipients. ¶

(b) If a STIF Plan includes an Operations Reserve Project for the Qualified Entity and one for each Sub-Recipient, then each Operations Reserve Project shall not exceed 12.5% of each entity's operations expenses budgeted for use in the STIF Plan Period. ¶

(c) If an Operations Reserve Project is to be shared between a Qualified Entity and one or more Sub-Recipients, it shall not exceed 12.5% of the total operations expenses budgeted for use in the STIF Plan period. ¶

(5) A STIF Plan may include one or more Plan Contingency Projects consisting of STIF Formula Fund moneys that may be used for Project costs that were not foreseen at the time the Qualified Entity submitted a STIF Plan to the Commission for approval, subject to the following provisions: ¶

(a) The total amount of funding included in all Plan Contingency Projects may not exceed 15% of the total expenditures budgeted for the STIF Plan period or an amount set by the QE's governing body, whichever is lower. For purposes of this subsection, total expenditures do not include STIF Formula fund moneys budgeted for Planned Carry Forward Projects and Operations Reserve Projects described in this rule. ¶

(b) Plan Contingency Project moneys may not be used for an Operations Reserve Project or a Planned Carry Forward Project. ¶

(6) A STIF Plan may include one or more Planned Carry Forward Projects for capital improvements that cannot be funded in a single STIF Formula Fund funding cycle or for bond payments on the acquisition of a Capital Asset. A Qualified Entity must specify in its STIF Plan the reason for the Planned Carry Forward Project and the deadline by which the Qualified Entity intends to expend all Planned Carry Forward Project funds. The Qualified Entity may not carry forward Planned Carry Forward Project funds beyond the deadline without Agency approval. ¶

(7) If during a STIF Plan period the rate of the payroll tax imposed under ORS 320.550 is increased or decreased by more than 50%, the Agency may: ¶

(a) Temporarily increase the percentage caps on the amount of funding that a Qualified Entity is allowed to include in its STIF Plan for Operations Reserve Projects and Plan Contingency Projects; or ¶

(b) Temporarily increase the percentage of Unused Project funds that trigger the requirement for a Qualified Entity to provide the Agency with a written report of the reason the funds were not spent under OAR 732-042-0035(4).

Statutory/Other Authority: ORS 184.619, ~~ORS 184.6758~~, ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766



RULE SUMMARY: This rule governs the review of STIF Formula Projects by STIF Advisory Committees. The proposed changes require Advisory Committees to consider the extent to which project advance considerations for determined under OAR 732-042-0010(7)(a) for projects using STIF Formula population funds, and the extent to which a project reflects the sub-allocation method created under OAR 732-042-0010(7)(b) by the Qualified Entity and Public Transportation Service Providers for Projects using STIF Formula funds. The proposed changes also establish that other factors listed in rule may be considered but are not required and adds a factor to consider "the extent to which the Project would improve first- and last-mile connections to public transit and support multimodal integration" to that list.

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~~ When reviewing STIF Formula Fund Projects, the Advisory Committee shall consider: ¶
    - (a) The extent to which the Project would advance the considerations described in 732-042-0010(7)(a); ¶
    - (b) The extent to which the Project reflects the sub-allocation method created pursuant to 732-042-0010(7)(b), including any factors that the Qualified Entity and Public Transportation Service Providers have developed collaboratively pursuant to OAR 732-042-0010(7)(b)(A). ¶
    - (6) The Advisory Committee may consider the following factors when reviewing STIF Formula Fund Projects, including but not limited to: ¶
      - (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) The extent to which the Project would improve first- and last-mile connections to public transit and support multimodal integration; ¶
      - (f) The extent to which the Project achieves geographic equity; and ¶
      - (g) Other factors to be determined by the Advisory Committee. ¶
    - (7) 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. ¶
    - (78) 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 184.6758~~, ORS 184.761

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-042-0025

RULE SUMMARY: This rule describes the process for PTAC and OTC review of STIF Plans. The proposed changes modify the timelines related to resubmission of a STIF Plan recommended for rejection by PTAC.

CHANGES TO RULE:

732-042-0025

Commission Approval of STIF Plan

- (1) The Agency shall review the STIF Plan submitted by a Qualified Entity for completeness and may ask the Qualified Entity to supply missing information or to provide clarification about the meaning or intent of any portion of the STIF Plan.¶
- (2) The Agency shall submit each complete STIF Plan to the Public Transportation Advisory Committee (PTAC) for review.¶
- (3) The PTAC shall timely determine whether it proposes to recommend that the Commission approve or reject all or a portion of the STIF Plan.¶
- (a) If the PTAC determines that it will recommend rejection of all or a portion of the STIF Plan, it shall timely prepare a brief written statement of the reasons for its recommendation. ~~Within seven days of the PTAC's preparation~~ Within three days of the PTAC's preparation ~~receipt of the statement prepared by PTAC~~, the Agency shall provide notice of the PTAC's intended recommendation and a copy of the statement of reasons to the Qualified Entity.¶
- (b) The PTAC shall timely communicate its recommendation to the Commission.¶
- (c) The PTAC, when making its recommendation and the Commission when making its decision on a STIF Plan shall consider the extent to which the STIF Plan meets the requirements described in OAR 732-042-0015(1), (2) and (3).¶
- (4) A Qualified Entity that receives notice that the PTAC intends to recommend rejection of all or a portion of a STIF Plan under subsection (3)(a) of this rule may attach additional information and a revised STIF Plan for the Commission's consideration to the STIF Plan originally submitted. ~~The Qualified Entity shall provide the additional information to the Agency within 30 days pursuant to a deadline established by the Agency. That deadline shall be no less than 10 days after the Agency has sent the Qualified Entity a notice of PTAC's recommended rejection and a copy of the statement of reasons~~¶
- (5) The Commission shall consider the PTAC's recommendation and determine whether to approve or reject the STIF Plan originally submitted by the Qualified Entity or a revised STIF Plan submitted by the Qualified Entity under section (4) of this rule. ~~If the Commission rejects a proposed STIF Plan, the Commission shall identify the reasons for the rejection and the Agency shall provide the reasons to the Qualified Entity in writing. Reasons for Commission rejection include, but are not limited to:~~¶
- (a) The Qualified Entity did not establish an Advisory Committee or established one inconsistent with membership requirements in these rules;¶
- (b) The Qualified Entity failed to confer with its Advisory Committee;¶
- (c) The STIF Plan is incomplete or does not adequately explain how the Qualified Entity will accomplish the goals of the Projects in the STIF Plan, including Recipient Accountability Methods, Sub-Recipient Accountability Methods, or Remediation Strategies, if applicable;¶
- (d) The STIF Plan does not contain the sections and elements listed in OAR 732-042-0015(1), (2) and (3); and ¶
- (e) Whether the Qualified Entity failed to expend STIF Formula funds in a manner that substantially complied with a prior approved STIF Plan.¶
- (6) A Qualified Entity may file one appeal as described in OAR 732-040-0050 if its STIF Plan is rejected by the Commission.

Statutory/Other Authority: ORS 184.619, ~~ORS 184.6758~~, ~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-042-0035

**RULE SUMMARY:** This rule describes quarterly, annual, and biannual reporting requirements for Qualified Entities. The proposed changes: extend the deadline for quarterly reports for 45 to 60 days after the end of the quarter; extend the deadline for ODOT to conduct a reconciliation of STIF Formula funds distributed to QEs against expenses from 30 to 120 days after the end of a STIF Plan Period and establish a requirement for ODOT to issue a notice reflecting the results of the reconciliation; and create a requirement that Qualified Entities provide a report providing a written explanation of the reason a Qualified Entity did not spend Unused Project funds if they exceed 10% of the total amount of STIF Formula moneys budgeted in its STIF Plan.

**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(12)(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~~60 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~~120 days of the end of an approved STIF Plan pPeriod, the Agency shall reconcile disbursements made to the Qualified Entity during the previous STIF Plan period against the Qualified Entity's reported expenditures. ~~If disbursements are found to exceed the expenditures, the amount must be carried forward by the Agency to the next STIF Plan period.~~ The Agency will provide written notice to the Qualified Entity of any Prior STIF Plan Period funds, the amount of Prior STIF Plan Period funds and the Qualified Entity into the next STIF Formula Fund Cycle's option to amend its STIF Plan to incorporate the Prior STIF Plan Period funds. The Qualified Entity may amend its STIF Plan only in accordance with OAR 732-042-0045. ¶

(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.¶

(4) Unused Project funds report: A Qualified Entity shall provide a report to the Agency if:¶

(a) At the end of the STIF Plan period, the Qualified Entity has Unused Project Funds; and ¶

(b) The amount of Unused Project funds exceeds 10% of the total amount of STIF Formula Fund moneys budgeted in the Qualified Entity's prior STIF Plan, excluding the amount of STIF Formula Fund moneys budgeted for Planned Carry Forward Projects, Plan Contingency Projects, and Operations Reserve Project funds. ¶

(c) The Unused Project funds report shall provide a written explanation of the reason that the Unused Project funds were not spent and shall be due 90 days after the receipt of the notice of the STIF Plan reconciliation by the Agency.

Statutory/Other Authority: ORS 184.619, ~~ORS 184.6758~~, ORS 184.761

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-042-0045

RULE SUMMARY: This rule governs mid-biennium amendments of STIF Plans. The proposed change updates language in section (3)(a) of the rule use the term "Prior STIF Plan Period" funds to refer to funds that may be added to the STIF Plan through an amendment to be consistent with updated definitional language that applies to the STIF Program rules.

CHANGES TO RULE:

732-042-0045

Agency Amendment of STIF Plan

- (1) No later than 90 days prior July 1 annually, a Qualified Entity with an approved STIF Plan for the current Biennium (an "Original STIF Plan") may submit a proposed amended STIF Plan for the current Biennium (an "Amended STIF Plan") to the Agency.¶
- (2) The Amended STIF Plan must include documentation that the Governing Body approved the Amended STIF Plan prior to its submittal to the Agency. If STIF Formula funds will be jointly managed by two or more Qualified Entities, the Amended STIF Plan must include documentation demonstrating each Governing Body's commitment to joint management.¶
- (3) An Amended STIF Plan submitted under section (1) of this rule may amend one or both of the following elements of the Qualified Entity's Original STIF Plan:¶
- (a) The amount of ~~unspent STIF Formula Fund money~~Prior STIF Plan Period funds carried forward from the previous ~~Biennium under OAR 732-042-0035(2)~~STIF Plan Period and the identification of the Projects to which those moneys will be allocated in the current Biennium; or¶
- (b) Based upon the latest estimate of STIF Formula Fund distributions for the current Biennium provided by the Agency, the total funding sought in the STIF Plan and Identification of the projects to which those moneys will be allocated in the current Biennium.¶
- (4) An Amended STIF Plan submitted under section (1) of this rule may:¶
- (a) Neither add any new Projects to the Original STIF Plan nor.¶
- (b) Modify the description of Projects included in the Original STIF Plan, except that the description may be modified to reflect any changes to the 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).¶
- (5) The Agency shall review all timely received proposed Amended STIF Plans. The Agency shall submit each completed Amended STIF Plan to PTAC for review and recommendation to the Commission. The Commission shall thereafter review and either approve or reject each proposed Amended STIF Plan.¶
- (6) If an Amended STIF Plan is approved by the Commission, the Amended STIF Plan supersedes the Qualified Entity's Original STIF Plan for the remainder of the current Biennium.¶
- (7) If an Amended STIF Plan is rejected by the Commission, a Qualified Entity may file one appeal as described in OAR 732-040-0050.

Statutory/Other Authority: ORS 184.619, 184.6758, 184.761

Statutes/Other Implemented: ORS 184.755-184.766

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.

CHANGES TO RULE:

732-042-0050

Qualified Entity Oversight of Sub-Recipients

(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 Americans with Disabilities Act of 1990. ¶

(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) 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

ADOPT: 732-042-0055

RULE SUMMARY: Establishes a test to distinguish contractors from Sub-Recipients and exempts Qualified Entities from need to conduct full compliance reviews of contractors. Determination that an entity is a contractor is subject to review by ODOT. Requires Qualified Entities to ensure that contractors comply with relevant STIF requirements. Requires that Qualified Entities' contracts with contractors include provisions for document for access and retention.

CHANGES TO RULE:

732-042-0055

Contractor Compliance

- (1) A Qualified Entity shall determine whether an entity with which it enters into an agreement to pass through STIF funds is a Sub-Recipient or a contractor according to the criteria set forth in this rule. ¶
- (2) A person or entity that receives STIF Formula funds from the Qualified Entity is a contractor if the person's relationship with the Qualified Entity possesses characteristics of a procurement relationship. Characteristics of a procurement relationship may include, but are not limited to, that the person or entity: ¶
  - (a) Provides the goods and services within normal business operations; ¶
  - (b) Provides similar goods or services to many different purchasers; ¶
  - (c) Normally operates in a competitive environment; ¶
  - (d) Provides goods or services that are ancillary to the implementation of the STIF program; ¶
  - (e) Is not subject to compliance requirements of a state program as a result of the agreement. However, similar requirements may apply for other reasons; ¶
  - (f) Is expected to deliver a limited service in conformity with the terms of its contract with the Recipient. ¶
- (3) The Agency may review a Qualified Entity's determination that an entity is a contractor during the Agency's compliance site review of the Qualified Entity. If the Agency determines that an entity should have been classified as a Sub-Recipient rather than a contractor, the Qualified Entity shall alter its determination and must conduct a review of the entity pursuant to OAR 732-042-0050, and the Agency may also issue a compliance finding or exercise remedies under the STIF Plan agreement with the Qualified Entity if necessary. ¶
- (4) A Qualified Entity is responsible for ensuring that a contractor's use of STIF funds conforms with all relevant rules, statutes, and the terms of its agreement with the contractor. ¶
- (5) A Qualified Entity shall include provisions in its contract requiring that a contractor 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.

Statutory/Other Authority: ORS 184.619, 184.758, 184.761

Statutes/Other Implemented: ORS 184.751-184.766

AMEND: 732-044-0030

RULE SUMMARY: This draft rule describes investments priorities for STIF Discretionary and STIF Discretionary Intercommunity projects, as well as the process for project selection. The proposed changes add “elimination of first- and last-mile barrier to public transportation” and “improving and maintaining connections to and between services and travel modes” to list of investment priorities in the rule.

CHANGES TO RULE:

732-044-0030

Project Selection

- (1) The Commission shall determine its investment priorities with input from the Public Transportation Advisory Committee prior to Agency public notice of grant solicitation for discretionary STIF moneys. The Commission's investment priorities are:¶
- (a) Improvement of Public Transportation Service to Low-Income Households;¶
  - (b) Improved Coordination between Public Transportation Service Providers and reduced fragmentation of Public Transportation Services;¶
  - (c) Consistency with Oregon Public Transportation Plan goals, policies, and implementation plans, including: ¶
    - (A) Integrated public transportation planning where affected communities planned or partnered to develop proposed Projects.¶
    - (B) Technological innovations that improve efficiencies and promote a seamless and easy to use Statewide Transit Network.¶
    - (C) Advancement of State greenhouse gas emission reduction goals.¶
    - (D) Support or improvement of a useful and well-connected Statewide Transit Network;¶
    - (E) Elimination of first- and last-mile barriers to public transportation;¶
    - (F) Improving or maintaining connections to and between services and travel modes.¶
  - (d) Operations Projects that do not substantially rely on discretionary state funding beyond a pilot phase;¶
  - (e) Geographic equity or an ability to leverage other funds (these factors apply when all other priorities are held equal); and¶
  - (f) Other factors as determined by the Commission.¶
- (2) The Agency shall review applications for compliance with the Application Requirements described in OAR 732-044-0015. The Agency may ask the applicants to supply missing information or to provide clarification about the meaning or intent of any portion of an application. Applicants shall respond to Agency inquiries within the time frame described in the solicitation documents.¶
- (3) The Agency shall make Project applications available to ACTs for review and comment to the Public Transportation Advisory Committee. ¶
- (4) The Agency shall prepare a recommendation to Public Transportation Advisory Committee with a prioritized list of applications to be accepted and applications to be rejected considering input from the Advisory Committees and ACTs.¶
- (5) The Public Transportation Advisory Committee shall review and recommend a list of prioritized Projects for funding to the Commission, considering input from the Agency, Advisory Committees, and ACTs.¶
- (6) The Commission shall determine the acceptance or rejection of grant applications for discretionary STIF moneys.¶
- (7) The Agency shall email notice of the Commission's determination to applicants within seven days of the Commission's determination.

Statutory/Other Authority: ORS 184.619,~~ORS 184.6758~~,~~ORS 184.761~~

Statutes/Other Implemented: ORS 184.751-184.766