

# Draft Rule Post 2019 Legislative Session

## SECTION 1

### Department of Transportation

#### Chapter 731

##### **Division 35**

##### **STANDARDS TO DETERMINE PROJECT ELIGIBILITY AND APPLICATION PROCEDURES FOR GRANTS UNDER THE CONNECT OREGON FUND PROGRAM**

##### **731-035-0010**

##### **Purpose**

ORS 367.080 creates the Connect Oregon Fund, allowing for the issuance of lottery bonds and other sources of funds for the purpose of financing grants to fund Transportation Projects that involve air, marine, or rail modes. The purpose of division 35 rules is to establish the Connect Oregon Fund Program.

##### **731-035-0020**

##### **Definitions**

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

- (1) "Agreement" means a legally binding contract between the Department and Recipient that contains the terms and conditions under which the Department is providing funds from the Connect Oregon Fund for an Approved Project.
- (2) "Applicant" means a Person or Public Body that applies for funds from the Connect Oregon Fund.
- (3) "Approved Project" means a project that the Commission has selected to receive funding through a grant Agreement from the Connect Oregon Fund.
- (4) "Area Commissions on Transportation" means advisory bodies chartered by the Oregon Transportation Commission.
- (5) "Aviation" is defined in ORS 836.005(5).
- (6) "Commission" means the Oregon Transportation Commission.

- (7) "Connect Oregon Fund" means the fund created in ORS 367.080.
- (8) "Dedicated Project" means a project listed Chapter 491, 2019 Oregon Laws, Section 10.
- (9) "Department" means the Oregon Department of Transportation.
- (10) "Director" means the Director of the Oregon Department of Transportation.
- (12) "Oregon Department of Aviation (ODA)" means the Oregon Department of Aviation (ODA) defined in ORS 836.005(7).
- (13) "Final Project Acceptance" means the Department's written acceptance of a project as complete following an on-site review of the completed project.
- (14) "Freight Advisory Committee" means the committee created in ORS 366.212.
- (15) "Limited Land Use Decision" has the meaning given in ORS 197.015(12).
- (16) "Land Use Decision" has the meaning given in ORS 197.015(10).
- (17) "Oregon Business Development Department" means the department defined in ORS 285A.070.
- (18) "Person" has the meaning given in ORS 174.100(6), limited to those Persons that are registered with the Oregon Secretary of State to conduct business within the State of Oregon.
- (19) "Program" means the Connect Oregon Fund Program established by division 35 rules to administer the Connect Oregon Fund.
- (20) "Program Funds" means the money appropriated by the Legislature to the Connect Oregon Fund.
- (21) "Project Sponsor" means a Person or a Public Body seeking funds to develop and implement a Dedicated Project.
- (22) "Public Body" is defined in ORS 174.109.
- (23) "Rail Advisory Committee" means a committee appointed by the Director and approved by the Commission to advise the Department on issues, policies and programs that affect rail freight and rail passenger facilities and services in Oregon.
- (24) "Recipient" means an eligible Person or Public Body that enters into an Agreement with the Department to receive funds from the Connect Oregon Fund.

(25) "Recipient's Total Project Costs" means the funds received from the Connect Oregon Program Funds plus the matching funds required under Oregon Administrative Rule 731-035-0070(3)(a)(B) and any additional funds, if applicable.

(26) "Regional Solutions Team" means the teams created in ORS 284.754.

(27) "State Aviation Board" means the board created in ORS 835.102.

(28) "Transportation project" is defined in ORS 367.080(1)(c) and means a project or undertaking for rail, marine, and aviation capital infrastructure, including bridges, or a project that facilitates the transportation of materials, animals or people. A transportation project does not include costs associated with operating expenses.

**731-035-0030**

**Application Submission Periods**

(1) The Department will announce periods for submitting applications for funding from the Connect Oregon Fund.

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

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

(b) ~~Each biennium the~~ Each time there is a deposit into the Connect Oregon Fund, department shall transfer seven percent of the moneys in the Connect Oregon Fund to the Multimodal Active Transportation Fund as administered in OAR ~~XXX-XXX~~.

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

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

**731-035-0040**

**Application Requirements**

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

project from the businesses and entities to be served by the project, and documentation to validate the project schedule and costs.

**731-035-0050**

**Application Review**

(1) The Department will review applications received to determine whether the application is complete and the Applicant and the Transportation Project are eligible for Program Funds.

(2) Applicants that meet all of the following criteria are eligible:

- (a) The Applicant is a Public Body or Person within the state of Oregon.
- (b) The Applicant, if applicable, is current on all state and local taxes, fees and assessments.
- (c) The Applicant has sufficient management and financial capacity to complete the project including, without limitation, the ability to contribute 30 percent of the Recipient's Total Project Cost for Applicants other than a Class I railroad, and 50 percent of the Recipient's Total Project Cost for Class I railroads .

(3) Projects that meet all of the following criteria are eligible:

- (a) The project is a Transportation Project.
- (b) The project will assist in developing a multimodal transportation system that supports state and local government efforts to attract new businesses to Oregon or that keeps and encourages expansion of existing businesses.
- (c) The project is eligible for funding with lottery bond proceeds under the Oregon Constitution and laws of the State of Oregon.
- (d) The project will not require or rely upon subsidies from the Department for ongoing operations.
- (e) The project is not a public road or other project that is eligible for funding from revenues described in section 3a, Article IX of the Oregon Constitution, i.e. the State Highway Trust Fund.
- (f) The project is feasible, including the estimated cost of the project, the expected results from the proposed project for each of the considerations as prescribed in 731-035-0060, the project schedule, and all applicable and required permits may be obtained within the project schedule.

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(4) If an Applicant or project is not eligible for Program Funds, the Department will, within 15 calendar days of determination:

(a) Specify the additional information the Applicant must provide to establish eligibility;  
or

(b) Notify the Applicant that the application request is ineligible.

(5) The Department may deem an application ineligible if the Applicant fails to meet eligibility requirements of subsections (2) and (3) of this rule, or fails to provide requested information in writing by the date required by the Department, or if the application contains false or misleading information.

(6) The Director will consider protests of the eligibility determination for the project. Only the Applicant may protest. Protests must be submitted in writing to the Director within 15 calendar days of the event or action that is being protested. The Director's decision is final.

(7) The Department will make all eligible applications available for review, as applicable under OAR 731-035-0060, to the State Aviation Board, the Freight Advisory Committee, the Rail Advisory Committee, the Oregon Business Development Department, ACTs and any other transportation stakeholder and advocate entities identified by the Commission to provide recommendations on project funding.

Section 2

## Review Process



**731-035-0060**  
**Project Selection**

(1) The Commission will select projects to be funded through a grant with moneys in the Connect Oregon Fund.

(2) To the extent that proposed Projects meet the qualifications established in OAR 731-035-0050 and 731-035-0060, the Commission may consider the distribution of funds among the five ODOT regions. The regions consist of the following counties:

- (a) Region one consists of Clackamas, Hood River, Multnomah and Washington Counties;
- (b) Region two consists of Benton, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Tillamook and Yamhill Counties;
- (c) Region three consists of Coos, Curry, Douglas, Jackson and Josephine Counties;
- (d) Region four consists of Crook, Deschutes, Gilliam, Jefferson, Klamath, Lake, Sherman, Wasco and Wheeler Counties; and
- (e) Region five consists of Baker, Grant, Harney, Malheur, Morrow, Umatilla, Union and Wallowa Counties.

(3) Prior to selecting projects to be funded with moneys in the Connect Oregon Fund, the Commission shall solicit recommendations from:

- (a) The State Aviation Board for Aviation Transportation Projects.
- (b) The Freight Advisory Committee for freight Transportation Projects.
- (c) The Rail Advisory Committee for rail Transportation Projects.
- (d) The Oregon Business Development Department for marine transportation projects.
- (e) Area Commissions on Transportation.
- (f) Regional Solutions Teams, as required in ORS 284.753.

(4) Prior to selecting projects to be funded with moneys in the Connect Oregon Fund, the Commission may solicit recommendations from transportation stakeholder and advocate entities not otherwise specified in section (3) of this rule.

(5) On behalf of the Commission, the Department shall solicit recommendations from the committees and entities in section (3) of this rule concurrently.

(6) The Director, in consultation with committees and entities in section (3) of this rule, shall appoint a Final Review Committee that includes representatives from each of the committees and entities in section (2) of this rule.

(a) Persons are not eligible for Final Review Committee membership if the person:

(A) represents an entity that submitted an application for a Connect Oregon Fund grant that is being considered for funding by the Final Review Committee;  
or

(B) has a direct financial interest in an application that is being considered for funding by the Final Review Committee.

(b) Following the receipt of recommendations from the entities in section (3) of this rule and prior to selecting projects to be funded with moneys in the Connect Oregon Fund, the Commission shall solicit a Final Recommendation Report from the Final Review Committee. The Department shall provide the Final Review Committee a list of recommendations from all committees and entities in section (3) of this rule. The list shall include the evaluation results and recommendations from each of the committees and entities in section (2) of this rule. The Final Review Committee shall provide the Commission its Final Recommendation Report of projects to be funded with moneys in the Connect Oregon Fund listing in priority order eligible projects together with a reasonable number of alternate projects in priority order.

(7) The Department shall determine the organizational guidance for the committees' and entities' processes and protocols.

(8) The committees and entities in section (3) of this rule shall follow the organizational guidance determined by the Department under section (7) of this rule.

## CONSIDERATIONS

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(8) The Commission will consider all of the following in its determination of eligible projects to approve for receipt of funds from the Connect Oregon Fund:

(a) Whether a proposed project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor.

(b) Whether a proposed transportation project results in an economic benefit to this state

(c) Whether a proposed project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system.

(d) How much of the cost of a proposed project can be borne by the Applicant for the grant from any source other than the Connect Oregon Fund.

(e) Whether a proposed transportation project is ready for construction. A project will be considered ready for construction if the Applicant can demonstrate evidence that may include:

(A) Community engagement/outreach at time of application submission.

(B) Project development timeline that includes the duration of each development stage and dates of major milestones to reflect project completion within 3 years of award.

(C) Securing matching funds no later than 60 calendar days prior to the Commission's final action to select projects.

(D) Site ownership or control no later than 60 calendar days prior to the Commission's final action to select projects.

(E) Limited Land Use Decision rendered by the appropriate local government received within six months of execution of Agreement. If the use is not permitted outright and/or requires a Land Use Decision to be a legally allowable use on the site, the Land Use Decision shall be rendered no later than 120 calendar days prior to the Commission's final action to select projects.

(F) Securing all permits needed for construction within nine months of execution of an Agreement.

(f) Whether a proposed transportation project has a useful life expectancy that offers maximum benefit to the state; and

(g) Whether a proposed transportation project is located near operations conducted for mining aggregate or processing aggregate as described in ORS 215.213 (2)(d) or 215.283 (2)(b).

(9) To award funds that become available due to loan repayment from a previous project, completion of an Approved Project with less funds than the amount awarded, earnings on moneys held in the Connect Oregon Fund, withdrawal, termination as prescribed in OAR 731-035-0070(1) or sanction as prescribed in 731-035-0080(5) of an Approved Project the Commission shall select projects for grants in accordance with ORS 367.084 solely, notwithstanding any other provision of division 35 rules.

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### Section 3

731-035-0065

## **Dedicated Projects**

(1) Dedicated Projects and the maximum funds to be distributed to those Dedicated Projects are:

- (a) Mid-Willamette Valley Intermodal Facility, \$25 million;
- (b) Treasure Valley Intermodal Facility, \$26 million;
- (c) Rail expansion in East Beach Industrial Park at the Port of Morrow, \$6.55 million;
- (d) Extend rail siding along the Amtrak Cascade line in Oregon south of the City of Portland, \$2.6 million.

(2) The Department will enter into an Agreement with Project Sponsors for Dedicated Projects (1)(c) and (1)(d) prior to the Project Sponsor beginning work on the project plan. The Agreement shall identify the terms, expectations, schedule and maximum funding available to complete the project plan.

(3) Project Sponsors must prepare and submit a project plan to the Department in order to be considered for funding to develop a Dedicated Project.

(a) A project plan for Dedicated Projects (1)(a) and (1)(b) shall include:

- (A) Detailed site location selection analysis;
- (B) Project scope of work, purpose and need;
- (C) Evidence of necessary site ownership or control;
- (D) Feasibility Analysis which includes at a minimum:
  - (i) An assessment of commodities and products likely to be served and their typical market destinations;
  - (ii) An assessment of the anticipated market area the facility would serve;
  - (iii) An assessment of the market share in the area that would use the facility;

(iv) An assessment of the anticipated transportation cost savings that use of the proposed facility may generate, such as project savings realized by shipping freight via rail in lieu of trucking;

(v) An assessment of the size and scale of the buildings, equipment, and storage areas, etc. necessary to support operation of the facility;

(vi) Documentation sufficient to perform a financial review of the Project Sponsor's ability to deliver project, cover project construction costs until reimbursements are made, and ability to support continuous operation of the facility. Documentation necessary to conduct a financial review includes, but not limited to:

(I) Tax filings;

(II) CPA compiled or reviewed financial statements;

(III) Interim financial statements;

(IV) Debt schedule;

(V) Pro formas with assumptions;

(VI) Sources and uses of capital sufficient to fund the project.

(E) An estimate of the design and capital construction costs necessary to build the facility necessary to support its operation;

(F) A Return on Investment Analysis which must include the following:

(i) Anticipated annual revenue from operating the facility;

(ii) Number of jobs anticipated to operate the facility;

(iii) Anticipated indirect job and economic growth in the area supported by facility construction and operation.

(G) Written concurrence from an authorized agent from the relevant rail entity(s) indicating agreement with the project plan and proposal associated with its concurrence;

(H) Identify anticipated and/or potential impacts the proposed project may have to nearby transportation facilities and any anticipated needed transportation investments required to support its successful operation;

(I) Expected useful life of the project;

(J) Project schedule including design and construction, acquisition of necessary permits and other key milestones, including how the Project Sponsor will be able to begin construction no later than January 1, 2020.

(K) Written demonstration of project support from public agencies that must approve the project.

(b) A project plan for Dedicated Projects (1)(c) and (1)(d) shall include:

(A) Project scope of work, purpose and need;

(B) Anticipated project benefits including transportation connections;

(C) Description of area and entities expected to be served by the facility;

(D) Project schedule including design and construction, acquisition of necessary permits and other key milestones, including how the Project Sponsor will be able to begin construction no later than January 1, 2020;

(E) Expected useful life of the project;

(F) An estimate of the design and capital construction costs necessary to build the facility necessary to support its operation;

(G) Written concurrence from an authorized agent from the relevant rail entity(s) indicating agreement with the project plan and Proposal associated with its concurrence;

(H) Evidence of necessary site ownership or control.

(4) The Department will reimburse Project Sponsors of Dedicated Projects for the eligible costs for preparing a project plan upon receipt of invoices documented in the manner agreed to in the Agreement.

(5) In the event a Project Sponsor wishes to submit a project plan for any of the Dedicated Projects listed under subsection (1) without seeking reimbursement, they must submit a written letter to the Department no later than December 15, 2017 of their intent to submit a project plan. A Project Sponsor who submits a project plan without seeking reimbursement must comply with the requirements of 3(a) or 3(b), as appropriate, as well as any schedule conditions as directed by the Department.

(6) The Department will begin the review of project plans once all Project Sponsors who have signed Agreements to prepare project plans for one of the Dedicated Projects, or who have notified the Department of their intent to submit a project plan not eligible for reimbursement have submitted complete project plans. Review will begin no later than 60 calendar days from the receipt of the first complete Plan with total review period not to exceed 120 calendar days from the receipt of the last Plan. Project plans shall be reviewed by the Department in the following manner:

(a) The Department shall review each project plan for completeness within 30 calendar days of initial submission. If Department determines Plan materials are not complete, Department may request additional information from Project Sponsor.

(b) Complete project plans for projects 1(a) and 1(b) shall be submitted to a neutral third party entity(s) hired by the Department with economic analysis expertise and other relevant experience deemed necessary. Neutral third party entity(s) may request additional information from Project Sponsor within 14 calendar days of neutral party entity(s) acceptance of Plans and Project Sponsor response time will not count towards the 120-day review period. This third party entity(s) shall provide an independent review and evaluation of project plans for projects 1(a) and 1(b) and make available to the Department the following:

(A) Summary report on each project plan of any key findings, merits, issues, gaps, or concerns they find in the project plan;

(B) If more than one project plan is received for any individual Dedicated Project, a ranking of those project plans;

(C) Recommendation for which, if any, project plan(s) the Commission should consider entering into an Agreement.

(c) The Department shall forward the project plans and neutral third party entity(s) summary report(s) (if applicable) to a Dedicated Project Review Committee of individuals with freight and economic development expertise and no direct or indirect conflicts of interest in any of the Dedicated Projects. The Dedicated Project Review Committee shall review and evaluate the project plans. Where more than one project plan is submitted for a Dedicated Project, the Dedicated Project Review Committee will rank the Plan proposals.

(d) The Department shall forward the project plans, neutral third party entity(s) summary report(s), rankings, and recommendations (if applicable), and Dedicated Project Review Committee rankings to the director of OBDD. The director of OBDD shall review and evaluate the project plans. Where there is more than one project plan for an individual Dedicated Project, the director of OBDD will rank the project plans. The

director of OBDD shall provide a letter to the Commission recommending which Project Sponsor the Commission should enter into an Agreement, if any.

(e) The Department shall forward the project plans and neutral third party entity(s) summary report(s), rankings, and recommendations (if applicable), and Dedicated Project Review Committee rankings to the Director. The Director shall review and evaluate the project plans. Where there is more than one project plan for an individual Dedicated Project, the Director will rank the project plans. The Director shall provide a letter to the Commission recommending which Project Sponsor the Commission should enter into an Agreement, if any.

(f) The Department shall present the project plans, products from neutral third party entity(s) (if applicable), recommendations and ranking of Dedicated Project Review Committee, and letters of recommendation from Department and OBDD director to the Commission for consideration.

(7) For project plans approved by the Commission, the Department shall enter into an Agreement with the Project Sponsor prior to the disbursement of Connect Oregon Funds and shall include change management expectations related to the Dedicated project scope, schedule and budget. Entering into this Agreement does not preclude Project Sponsor from complying with any required federal, state and local permits, requirements or approvals. The Project Sponsor will not be reimbursed for any project costs expended prior to the execution of the Agreement. Reimbursement of project costs will occur only when there are sufficient funds available in the Connect Oregon Fund to cover the project costs. Total reimbursable project costs for each Dedicated Project shall not exceed amount included in the Agreement unless Agreement is revised by the Department. At no time will the total reimbursable project costs including Plan reimbursement costs exceed the amount identified in Section 1.

(8) The Department shall administer each Dedicated Project consistent with OAR 731-035-0080. Dedicated Projects are expressly exempt from all match requirements in OAR 731-035-0070.

## **Section 4**

### **Readiness/Validation Steps**

**731-035-00??**

#### **Program Administration**

- (1) After the Final Review Committee makes its recommendation to the Commission, the Department shall validate project information that meets program criteria in each project application that will be used in an Agreement.
- (2) Project Applicants shall be required to provide the information requested by the Department within five business days of the request.
- (3) Validation shall include:
  - a. Evidence of matching funds available for the project
  - b. Evidence of site ownership or control, or evidence of a land sales agreement or governing body resolution of condemnation action
  - c. Confirmed project delivery schedule that meets Program requirements
  - d. Other information identified by the Department to complete an Agreement
- (4) The Department shall identify those projects that do not meet Program criteria and therefore are not eligible for funding, prior to the Commission's final action to select projects.

## **Section 5**

### **Match**

#### **731-035-0070**

##### **Grant Awards and Match**

- (1) Once a project is selected by the Commission under 731-035-0060 the amount of monies identified by the Commission is considered allocated from Program Funds to a Recipient for an Approved Project. If an Agreement with a Recipient has not been executed within 180 days from the Commission's selection of the project, allocation is withdrawn, and the funds may be reassigned by the Commission as prescribed in 731-035-0060(9).
- (2) Grants will be awarded only when there are sufficient funds available in the Connect Oregon Fund to cover the costs of the grants.
- (a) Grant awards may not exceed 70 percent of the total eligible Project costs or for Class I railroads, 50 percent of the total eligible Project costs.
- (b) Applicant matching funds must be provided by the Applicant in the form of cash on hand, or through monetary outlay for eligible capital project costs that are reasonable, necessary and directly related to the project. Eligible costs may include costs to acquire, construct, or improve property (land, buildings, and fixed equipment) or to adapt the property to a new or different use consistent with the improvements described in the application t.
- (A) Monetary outlays for (be) above must have been made within 10 years of the application deadline for Connect Oregon grant fund submittals in order to qualify as eligible matching funds.
- (i) Monetary outlays for land purchases made more than 10 years before the application deadline may be allowed through an exception granted by the Director in OAR 731-035-0080 (8) f the exception serves to further the goals and objectives of the Program.
- (B) The acquisition cost of land may only be counted as 50% of the required match.
- (C) The same land acquisition costs may not be considered match for more than one awarded Connect Oregon project.

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(D) Except for Federal Aviation Administration grants, other grants or contingent external funding sources, the project match source must be identified at the time of application submittal and must be awarded or secured in accordance with the timelines identified in OAR 731-035-0060(8)(e).

(i) Federal Aviation Administration grants must be awarded within one year of the Commission final decision on awarded projects.

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## **Section 6**

### **Administration**

**731-035-0080**

#### **Project Administration**

- (1) The Department will administer all projects.
- (2) The Department and an Applicant of an Approved Project will execute an Agreement prior to the disbursement of Program Funds for an Approved Project. The Agreement is effective on the date all required signatures are obtained or at such later date as specified in the Agreement.
- (3) The Agreement will contain provisions and requirements, including but not limited to:
  - (a) Only project costs incurred on or after the effective date of the Agreement are eligible for grant funds.
  - (b) Disbursement of Program Funds for grants will be paid on a reimbursement basis and will not exceed one disbursement per month.
  - (c) Five percent (5%) of funds received from the Connect Oregon Fund will be withheld from each reimbursement request and shall be released to grant Recipient as the following conditions are met:
    - (A) Eighty percent (80%) of funds withheld shall be released to Recipient upon Final Project Acceptance by the Department.
    - (B) Twenty percent (20%) of funds withheld shall be released upon receipt and approval by the Department of a report that, at a minimum, describes project performance measures and jobs retained or created as a result of the project within 18 months of Final Project Acceptance by the Department.
  - (d) Upon request, a Recipient must provide the Department with a copy of documents, studies, reports and materials developed during the project, including a written report on the activities or results of the project and any other information that may be reasonably requested by the Department.
  - (e) Recipients must separately account for all moneys received from the Connect Oregon Fund in project accounts in accordance with Generally Accepted Accounting Principles.

(f) Any Program Funds disbursed but not used for an Approved Project, including eligible project costs, must be returned to the Department.

(h) Amendments to Agreements are required to change an Approved Project's cost, scope, objectives or timeframe.

(i) Recipients must covenant, represent and agree to use project funds in a manner that will not adversely affect the tax-exempt status of any bonds issued under the Program.

(j) Recipients, if applicable, must covenant, represent and agree to remain current on all state and local taxes, fees and assessments for the useful life of the project as prescribed in the Agreement.

(4) The Department may invoke sanctions against a Recipient that fails to comply with the requirements governing the Program as specified in this rule, statute or Program guidelines. The Department will not impose sanctions until the Recipient has been notified in writing of such failure to comply and has been given a reasonable time to respond and correct the deficiencies noted. The following circumstances may warrant sanctions:

(a) Work on the Approved Project has not been substantially initiated within six months of the effective date of the Agreement;

(b) State statutory requirements have not been met;

(c) There is a significant deviation from the terms and conditions of the Agreement; or

(d) The Department finds that significant corrective actions are necessary to protect the integrity of the Program Funds for the Approved Project and those corrective actions are not, or will not be, made within a reasonable time.

(f) Recipient fails to submit a project report as described in OAR 731-035-0080(3)(e).

(g) The Department finds that a Recipient is not current on all applicable state and local taxes, fees and assessments during the term of the Agreement.

(5) The Department may impose one or more of the following sanctions:

(a) Revoke an existing award.

(b) Withhold unexpended Program Funds.

(c) Require return or repayment of expended Program Funds.

(d) Bar the Recipient from applying for future Connect Oregon Funds.

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(e) Other remedies that may be incorporated into grant Agreements.

(6) The remedies set forth in this rule are cumulative, are not exclusive, and are in addition to any other rights and remedies provided by law or under the Agreement.

(7) The Director will consider protests of the funding and project administration decisions for the Program. Only the Recipient may protest. Protests must be submitted in writing to the Director within 15 days of the event or action that is being protested. The Director's decision is final. Jurisdiction for review of the Director's decision is in the circuit court for Marion County pursuant to ORS 183.484.

(8) The Director may waive non-statutory requirements of this Program if it is demonstrated such a waiver would serve to further the goals and objectives of the Program.

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