

8-24

Secretary of State
 Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
 A Statement of Need and Justification accompanies this form.

PTD 1-2009 (1 copy)

I certify that the attached copies* are true, full and correct copies of the TEMPORARY Rules(s) adopted on August 19, 2009 by the
Date prior to or same as filing date.

Oregon Department of Transportation, Public Transit Division 732
Agency and Division Administrative Rules Chapter Number

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Rules Coordinator Address Telephone

to become effective upon filing through February 17, 2010
Date upon filing or later A maximum of 180 days including the effective date.

RULE CAPTION

Implementation of legislation which adds General Fund to the Special Transportation Program
Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

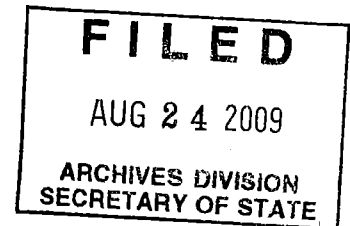
RULEMAKING ACTION

List each rule number separately, 000-000-0000.

ADOPT: 732-030-0005, 732-030-0010, 732-030-0015, 732-030-0020, 732-030-0025, 732-030-0030, 732-030-0035

AMEND: 732-005-0000, 732-005-0010, 732-005-0016, 732-005-0021, 732-005-0027, 732-005-0031, 732-005-0036, 732-005-0046, 732-005-0051, 732-005-0056, 732-005-0061, 732-005-0066, 732-005-0076, 732-005-0081

SUSPEND:



ORS 184.616, 184.619 and 391.810 None
Stats. Auth. Other Authority

ORS 391.800 - 391.830 and section 31(3) of chapter 910 OL 2009
Stats. Implemented

RULE SUMMARY

ORS 391.810 requires the Public Transit Division to adopt rules necessary for the administration an implementation of the Special Transportation Fund. Section 31(3) of chapter 910 OL 2009, which allocates \$10 million of general fund to the Public Transit Division, directs the division to offer funds for operating grants to communities to provide transit services for seniors and people with disabilities. This temporary rulemaking will allow the division to distribute general funds in an expeditious manner. The rules will allow the division to allocate the funds, engage an application and review process, execute agreements and distribute funds.

Michael R. Ward
Authorized Signer

Michael R. Ward
Printed name

8/24/2009
Date

*With this original and Statement of Need, file one photocopy of certificate, one paper copy of rules listed in Rulemaking Actions, and electronic copy of rules.

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Oregon Department of Transportation, Public Transit Division

732

Agency and Division

Administrative Rules Chapter Number

In the Matter of the temporary amendment of OAR 732-005-0000, 732-005-0010, 732-005-0016, 732-005-0021, 732-005-0027, 732-005-0031, 732-005-0036, 732-005-0046, 732-005-0051, 732-005-0056, 732-005-0061, 732-005-0066, 732-005-0076, 732-005-0081 and temporary adoption of 732-030-0005, 732-030-0010, 732-030-0015, 732-030-0020, 732-030-0025, 732-030-0030, 732-030-0035

Rule Caption: Implementation of legislation which adds General Fund to the Special Transportation Program.

Statutory Authority: ORS 184.616, 184.619 and 391.810

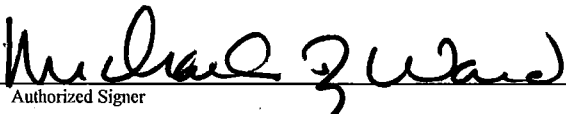
Other Authority: None

Statutes Implemented: 391.800 - 391.830 and section 31(3) of chapter 910 OL 2009

Need for the Temporary Rule(s): ORS 391.810 requires the Public Transit Division to adopt rules necessary for the administration an implementation of the Special Transportation Fund. HB 5054, which allocates \$10 million of general fund to the Public Transit Division, directs the division to offer funds for operating grants to communities to provide transit services for seniors and people with disabilities. Temporary rulemaking will allow the division to distribute general funds in an expeditious manner. The rules will allow the division to allocate the funds, engage an application and review process, execute agreements and distribute funds.

Documents Relied Upon, and where they are available: None

Justification of Temporary Rules(s): Failure to immediately adopt new and amended rules will result in serious financial hardship for communities that are dependant on state funds to sustain transit services for seniors and people with disabilities. Financial hardship could result in discontinuation of transit services. Such hardship is injurious to individuals who are dependant upon transit services, the public interest and the will of the Legislature.


Authorized Signer

Michael R. Ward
Printed name

8/24/2009
Date

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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) Excepting 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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.
 - (F) The STF Agency may impose additional requirements under its own authority.
- (b) The STF Agency will submit copies of Recipient agreements to the Division.
- (c) 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.
- (d) 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.
- (e) 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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

DIVISION 30

SPECIAL TRANSPORTATION OPERATING PROGRAM

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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

(G) Proposed Projects are not eligible for funding.

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

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

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.

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009

732-030-0035

STF Agency's Distribution of STO Moneys

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

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

Stat. Auth.: ORS 184.616, 184.619 & 391.810

Stats. Implemented: ORS 391.800 - 391.830, Ch 910 OL 2009