

Secretary of State
NOTICE OF PROPOSED RULEMAKING*

A Statement of Need and Fiscal Impact accompanies this form.

Department of Transportation, Highway Division
Agency and Division

731
Administrative Rules Chapter Number

Lauri Kunze 355 Capitol St. NE, Rm. 29 Salem, OR 97301 lauri.g.kunze@odot.state.or.us (503) 986-3171
Rules Coordinator Address Telephone

RULE CAPTION

Revisions to OARs governing the Oregon Innovative Partnerships Program

Not more than 15 words that reasonably identify the subject matter of the agency's intended action.

RULEMAKING ACTION

ADOPT: 731-070-0245

AMEND: 731-070-0010, 731-070-0020, 731-070-0030, 731-070-0050, 731-070-0055, 731-070-0060, 731-070-0080, 731-070-0110, 731-070-0120, 731-070-0130, 731-070-0140, 731-070-0160, 731-070-0170, 731-070-0180, 731-070-0190, 731-070-0200, 731-070-0210, 731-070-0220, 731-070-0240, 731-070-0250, 731-070-0260, 731-070-0280, 731-070-0295, 731-070-0300, 731-070-0320, 731-070-0350, 731-070-0360

REPEAL: 731-070-0270

AMEND & RENUMBER: 731-070-0070 to 731-070-0195

ORS 184.616, 184.619 & 367.824

Stat. Auth.

None

Other Authority

ORS 367.800 through ORS 367.826

Stats. Implemented

RULE SUMMARY

ORS 367.800 established the Oregon Innovative Partnerships Program to develop partnerships with private entities or units of local government for expedited project delivery and innovation in transportation projects. These rules are being revised to reflect the 2007 tolling legislation, incorporate a temporary rule promulgated in 2009 and make certain technical clarifications intended to streamline the proposal process including:

- Addition of definitions of "local government," "sensitive business, commercial or financial information," and "tollway" in section 0010;
- Expanding ODOT's discretion to consider and weigh factors, and the require or waive the requirement to include certain kinds of information in 0020 and throughout the rules;
- In 0050 and following, enabling competition based on unsolicited Detailed Proposals as well as unsolicited Conceptual Proposals placing responsibility for selection of proposals with the Director and leaving the Commission to approve or disapprove the Director's selection;
- In 0210, changing the reporting requirements with regard to identifying Major Subcontractors;
- In 0250, changing the solicitation process by eliminating all of the process requirements that had been included and simply providing that ODOT can specify the proposal content and selection criteria in the solicitation itself; and
- In 0300, giving ODOT discretion to pay for work product developed in the course of developing a proposal.

Text of proposed and recently adopted ODOT rules can be found at web site <http://www.oregon.gov/ODOT/CS/RULES/>.

A public rulemaking hearing may be requested in writing by 10 or more people, or by an association 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 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.

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

November 23, 2009

Last Day for Public Comment

Last day to submit written comments to the Rules Coordinator

Signature

Lauri Kunze

Printed name

Date

* The *Oregon Bulletin* is published on the 1st of each month and updates the rule text found in the Oregon Administrative Rules Compilation. Notice forms must be submitted to the Administrative Rules Unit, Oregon State Archives, 800 Summer Street NE, Salem, Oregon 97310 by 5:00 pm on the 15th day of the preceding month unless this deadline falls on a Saturday, Sunday or legal holiday when Notice forms are accepted until 5:00 pm on the preceding workday.

STATEMENT OF NEED AND FISCAL IMPACT

A Notice of Proposed Rulemaking Hearing or a Notice of Proposed Rulemaking accompanies this form.

Oregon Department of Transportation, Highway Division

731

Agency and Division

Administrative Rules Chapter Number

In the Matter of the Adoption of 731-070-0195, 731-070-0245, the Amendment of 731-070-0010, 731-070-0020, 731-070-0030, 731-070-0050, 731-070-0055, 731-070-0060, 731-070-0080, 731-070-0110, 731-070-0120, 731-070-0130, 731-070-0140, 731-070-0160, 731-070-0170, 731-070-0180, 731-070-0190, 731-070-0200, 731-070-0210, 731-070-0220, 731-070-0240, 731-070-0250, 731-070-0260, 731-070-0280, 731-070-0295, 731-070-0300, 731-070-0320, 731-070-0350, 731-070-0360 and the repeal of 731-070-0070, 731-070-0270

Rule Caption: Revisions to OARs governing the Oregon Innovative Partnerships Program

Statutory Authority: ORS 184.616, 184.619 & 367.824

Other Authority: None

Statutes Implemented: ORS 367.800 through ORS 367.826

Need for the Rule(s): ORS 367.800 established the Oregon Innovative Partnerships Program to develop partnerships with private entities or units of local government for expedited project delivery and innovation in transportation projects. These rules are being revised to reflect the 2007 tolling legislation, incorporate a temporary rule promulgated in 2009 and make certain technical clarifications intended to streamline the proposal process including:

- Addition of definitions of “local government,” “sensitive business, commercial or financial information,” and “tollway” in section 0010;
- Expanding ODOT’s discretion to consider and weigh factors, and the require or waive the requirement to include certain kinds of information in 0020 and throughout the rules;
- In 0050 and following, enabling competition based on unsolicited Detailed Proposals as well as unsolicited Conceptual Proposals placing responsibility for selection of proposals with the Director and leaving the Commission to approve or disapprove the Director’s selection;
- In 0210, changing the reporting requirements with regard to identifying Major Subcontractors;
- In 0250, changing the solicitation process by eliminating all of the process requirements that had been included and simply providing that ODOT can specify the proposal content and selection criteria in the solicitation itself; and
- In 0300, giving ODOT discretion to pay for work product developed in the course of developing a proposal.

Documents Relied Upon and where they are available: SB 1022 (Ch. 531 OL 2007); *In Defense of Animals v. OHSU*, 199 Or App 160, 173 (2005).

Fiscal and Economic Impact, including Statement of Cost of Compliance:

1. Impact on state agencies, units of local government and the public (ORS 183.335(2)(b)(E)): There is no anticipated negative fiscal impact on government agencies or the general public. Public agencies may realize benefits from private investment in transportation projects and the potential for an expedited delivery process for transportation projects.
2. Cost of compliance effect on small business (ORS 183.336): There is no anticipated negative fiscal impact on businesses, including small business. Costs which may be associated with submission of proposals for transportation projects will be voluntary. Successful proposers will realize a benefit in the form of the opportunity to negotiate an agreement with the department relating to development of a transportation project.

How were small businesses involved in the development of this rule? Because there is no negative impact on small businesses in the state, they were not involved in the development.

Administrative Rule Advisory Committee consulted?: No. If not, why?: As time is of the essence in the promulgation of these relatively minor rule revisions an advisory committee was not consulted.

Authorized Signer

Lauri Kunze
Printed name

Date