

Transportation Enhancement Program Policy and Procedures

(revised and adopted December 2007 by the TE Advisory Committee)

A. ROLES AND RESPONSIBILITIES

Transportation Enhancement (TE) is a statewide program, managed by the TE Program Manager in the Local Government Section of the Oregon Department of Transportation (ODOT). ODOT Local Agency Liaisons, the TE Advisory Committee, ODOT Director, Oregon Transportation Commission (OTC), Federal Highway Administration (FHWA), and various regional and metropolitan commissions also have roles in implementing the program.

1. **TE Program Manager:** The Program Manager provides overall management and direction for ODOT's Transportation Enhancement Program, including statewide coordination to ensure appropriate and effective use of funds allocated to the program. Responsibilities are stated in the current position description for the TE Program Manager. Specific duties include:
 - (a) Program Management and Policy Development
 - Develops program policies; directs and evaluates their implementation. Develops and implements improvements in the selection, completion and funding of projects.
 - Coordinates and advises the multi-agency TE Advisory Committee.
 - Prepares and conducts TE Program training for ODOT and local government staff.
 - Develops and manages the project selection process and ensures appropriate stakeholder input. Prepares the formal request to ODOT Management and OTC for approval for funding.
 - (b) Project Management
 - Performs eligibility determinations on TE projects—proposed or in progress. Evaluates projects' consistency with goals of the TE program.
 - Monitors the progress of TE projects in the Statewide Transportation Improvement Program (STIP) and ODOT Financial Plan. Assigns the placement of new projects added to the STIP.
 - Monitors the flow of funds to projects. Approves increased funding for projects. Plans for future allocations of funds.
 - (c) Coordination and Outreach
 - Represents ODOT at state, local and national conferences and meetings on the TE program. Coordinates with ODOT regions to solicit involvement of Area Commissions on Transportation (ACT), regional Economic Revitalization Teams (ERT) and Metropolitan Planning Organizations (MPO).
 - Consults and advises ODOT staff involved in planning and implementing federally-funded local agency projects. Consults with managers of related ODOT programs on strategies for improving coordination and consistency between programs.

- Provides information and testimony to ODOT management, OTC, the legislature, and federal and state agencies. Provides technical and procedural advice to agencies and organizations seeking TE funds. Prepares news releases to inform the public and interested organizations about the TE program.
- 2. **Local Agency Liaisons:** Liaisons in each ODOT region advise applicants and project sponsors, and perform many tasks to coordinate local agency and consultant efforts during project development, design and construction. Primary duties are:
 - Advise applicants on program requirements, project scope, and cost estimates. Advise TE Program Manager on program policies, project selection process and application materials. Participate in technical review of TE applications.
 - Provide project status information to the TE Program Manager, and advise on matters of project scope, schedule, agreements and funding.
 - Guide project sponsors through project programming, including coordinating the completion of prospectus and agreements, and requesting authorization of funds.
 - Serve as project leaders or construction liaisons for local agency TE projects in their region. This includes coordinating consultant selection, scope of work refinement, and ODOT technical assistance and reviews, and approving payments.
- 3. **Management and Administration:** The ODOT Director, Transportation Commission (OTC) and FHWA have roles in reviewing and approving projects:
 - FHWA reviews project eligibility for TE funding, and authorizes the start of work.
 - ODOT Director appoints the TE Advisory Committee based on membership structure set by OTC. The Director also reviews the list of projects recommended by the selection committee and forwards the final list to OTC for approval.
 - OTC determines annual TE program funding and the project selection priorities for each funding cycle, and approves awards to specific projects.
- 4. **TE Advisory Committee:** The TE program is served by an 11-member advisory committee—see Part 2a in Appendix 1 for membership structure. The role of this committee is to advise the Transportation Commission, ODOT Director, and TE Program Manager so they can consider a wide range of views before making decisions about the program and specific projects. The purpose of the committee is to help define the direction and priorities of the TE program and integrate the participation of interested parties. Duties of the committee are specified in the April 2002 OTC action on forming the committee:
 - Serve as the selection committee for TE projects competing on a statewide basis. Evaluate project proposals and recommend projects for funding.
 - Serve as an appeal panel when an agency or organization protests ODOT staff decisions on TE projects. Recommend options or solutions to the ODOT Director and TE Program Manager
 - Assist in developing and reviewing TE program criteria and policies. Include a process for input from groups and persons having interest or expertise in the TE program.

5. **Interagency Teams and Commissions:** TE project selection and program development involves participation by the state’s metropolitan planning organizations (MPOs), area commissions on transportation (ACTs) and economic revitalization teams (ERTs).
 - ACTs and ERTs provide input to project selection by commenting on the selection process and relative priority of projects under consideration from their assigned area.
 - MPOs participate by commenting on the relative priority of projects from within their jurisdiction and by adding TE projects to regional or metropolitan Transportation Improvement Programs (RTIP and MTIP). They also review proposed updates to the program policy and project selection process.

6. **TE Applicant and Project Sponsor:** An “applicant” is the public agency that submits a TE application during an announced TE application period, and any public or private entity named as a co-applicant on the TE application. If the project receives TE funding the lead applicant is then called the “project sponsor.” The responsibilities of applicants and project sponsors include:
 - Appropriate preparation and analysis before submitting an application, including: thorough scoping and cost estimate with consideration for environmental and right-of-way issues; a well-defined proposal suited to the current call for projects; documented local support and matching funds; required endorsements or exceptions.
 - Promptly completing all “programming” activities so the project is authorized by FHWA and ready to start in the assigned year.
 - Working to complete the project in the assigned program year, within the original scope and cost estimate, and consistent with state, local and federal requirements.
 - Providing the matching funds required by federal-aid rules, and fulfilling additional local funding commitments indicated in the TE application and project agreement.

B. ELIGIBILITY CRITERIA

TE projects are subject to eligibility criteria that come from federal rules and guidance, and some additional criteria adopted at the state level.

1. **Federal Criteria:** All projects must meet criteria in the authorizing legislation for the TE program, and program guidance published by FHWA. Projects must:
 - Fit one or more of the twelve “Transportation Enhancement Activities”
 - Clearly relate to surface transportation facilities such as highways, roads, bikeways and walkways, canals and ferries, or public transportation systems.
 - Be “over and above” normal projects or activities. TE funds are for stand-alone projects or for special or additional activities not normally required on a transportation project. They cannot be used for routine or customary elements of a construction or maintenance project, or for required mitigation.

2. **State Criteria:** All projects must also meet the following criteria adopted by ODOT, and specific requirements in the application packet at the time of applying. Projects must:
 - Be consistent with local transportation and comprehensive plans for the project area, and with goals and provisions of statewide plans including the Oregon Transportation Plan and adopted “modal plans” for surface transportation (the Highway Plan; Rail Plan; Bicycle and Pedestrian Plan; and Public Transportation Plan).
 - Fall within established project size limits. The minimum TE award is \$200,000 unless an exception is obtained at the time of application. The TE Advisory Committee may set a maximum award based on available funds in the current cycle.
3. **Exceptions:** The TE Program Manager may approve exceptions to the project size limits on a case-by-case basis, if requested before the application due date. The application packet for each funding cycle will list the acceptable grounds for requesting an exception, such as:
 - Requests for less than \$200,000 – project type, status, or administrative efficiencies may warrant considering a smaller TE award (Examples: a non-construction project, or plans already complete and approved for federal-aid construction, or project incorporated into another federal-aid contract).

C. ALLOCATION OF FUNDS

1. **TE Program Allocation:** The US Congress authorizes the TE program and its funding source through passage of a transportation funding bill. The OTC sets annual TE Program funding levels before each STIP update. They may designate separate pools for statewide competitive selection, regional project selection, direct allocation by ODOT, and the TE Discretionary Account. The TE Advisory Committee recommends allocations (awards) to specific projects.
2. **Allocation to Regions:** If sufficient funds are available in a given funding cycle, the TE Advisory Committee may assign shares to ODOT regions or MPOs as a basis for project selection. In such cases the assigned shares are programming targets, not financial transactions or entitlements. They remain in effect only during the project selection process. Funds left unassigned after project selection remain in the TE program but are no longer reserved for a specific region or MPO.

If there are no assigned Region or MPO targets, the selection committee will be cognizant of regional distribution during project selection. See “Quotas and Balancing Factors” in Part 2e of Appendix 1.

3. **Project Specific Funding:** TE funding is project-specific. The funds are managed statewide, not by ODOT regions or MPOs. Unused and unobligated funds remain in the statewide TE program for distribution to other TE projects, as determined by the TE Program Manager. There are no credits retained for individual ODOT regions, MPOs or applicant agencies. This applies to projects that are canceled and to projects completed without using up all assigned TE funds.

The TE funds assigned to a project may not be transferred to another project except with specific direction from the TE Program Manager. A project sponsor or MPO may choose to cancel a project but they do not have authority to transfer funds from one TE project to another. Funding and approval for cost overruns is discussed in Part D3.

In all cases, the project scope and purpose must remain close to what was originally proposed. This is important to the integrity of the competitive selection process for TE projects. If significant scope changes arise, the TE Program Manager determines if the project still reflects what was originally proposed. If the project has changed too much, it must be treated as a new proposal. The TE funds will be withdrawn and the sponsor will be advised to reapply in the next application period.

D. RESPONSIBILITY FOR PROJECT COSTS

TE project costs are met through a combination of federal (TE), state (ODOT) and project sponsor contributions. The financial responsibility of each party is indicated in the project agreement as either a percentage or dollar amount. The STIP and Project Control System maintained by ODOT show separate costs for defined phases of work, including: Preliminary Engineering (PE), right-of-way, utility relocation, and construction.

1. **ODOT Participation:** ODOT covers the cost of program administration as well as coordination and review on projects that have not yet progressed to formal “authorization” by FHWA. After authorization, project-specific costs incurred by ODOT may be charged to the project.

On some TE projects, ODOT is directly involved in design and development. This usually occurs when ODOT is the project sponsor or when TE work is linked to a state highway project. On most TE projects, ODOT participation is limited to coordination, technical reviews and administrative assistance, including advertisement and award of construction contracts. ODOT involvement on these projects is consistent with the service it provides on other local program projects.

TE project budgets should include at least \$10,000 to cover ODOT costs for project review and coordination, and award of construction contracts. Non-construction projects should include \$5,000 for ODOT administrative costs.

2. **Matching Funds:** All projects require a “local match” paid by the project sponsor from that agency’s funds or from contributions the agency receives from others. If ODOT is the project sponsor, the matching funds come from the budget of the ODOT region, section, or office involved—not from “state funds” used as match on roadway projects.

The minimum local match is 10.27 percent of eligible project costs. The project sponsor must pay 100% of any costs not eligible for TE funding. The match ratio (percentage) is usually the same for all phases of a project. However, match payments and credits can apply to any or all phases of the project as long as the total for the project is at least 10.27 percent. The local match for preliminary engineering (PE) performed or administered by

the project sponsor is deducted from invoice payments to the project sponsor, based on the percentage specified in the project agreement. Local match for construction and on-call consultant contracts through ODOT is collected as a cash deposit before contract work begins.

Matching funds for TE projects may be in the form of cash or approved donations and contributions. With prior approval, work performed by the project sponsor's staff can count as a credit towards the local match. All proposals to use donations or in-kind contributions must be clearly disclosed in the TE application. If the project is awarded TE funding, the in-kind match must be approved in writing by ODOT's Highway Program Office before credit is allowed. Applicants should discuss soft match scenarios with the TE Program Manager or a Local Agency Liaison in the ODOT region office before applying. FHWA retains final authority to accept or reject the use of donations or contributions as match.

3. **Fixed and Full-funded Projects:** TE projects can either be fix-funded or full-funded. The TE Program Manager and Local Agency Liaison determine which option is appropriate considering the type of project and contributions from other sources.

On fix-funded projects there is a firm limit on the amount of TE funding. The project agreement (IGA) specifies the maximum TE funding available. The project sponsor is responsible for all costs above that amount. This is the preferred arrangement for projects with multiple funding sources or where TE is a minor contributor to a larger project.

Most TE projects are full-funded, which means the funding can be adjusted to cover actual costs. If there are overruns on items within the agreed-upon scope of work, the sponsor pays only a portion of the costs, as specified in the project agreement. The sponsor's share may be a higher percentage than the match ratio in effect before overruns. The project agreement will require project sponsors to pay 50 percent of all eligible costs that are more than 10 percent over the programmed TE funding for the project. On any project, if there is a request to increase TE funds by more than 25 percent or more than \$150,000 (whichever is less) the project will be referred to the TE Advisory Committee for direction on whether to allow additional TE funding.

NOTE: If cost overruns on full-funded projects deplete the available TE funds in a given year or a given funding cycle, it will delay the funding for remaining TE projects.

E. PROJECT SELECTION

ODOT solicits new TE projects on a two-year cycle to coincide with updates of the STIP or as needed to fill openings in the TE program. Proposals are solicited from a wide range of interests within government agencies and special interest groups. Most projects are awarded through a competitive selection process, according to the procedures explained in Appendix 1. The main elements are listed below. Some additional projects are awarded through the TE Discretionary Account, described in Part F below and in Appendix 2.

Elements of the Competitive Selection Process

1. **Applying for Funds:**
 - Frequency and timing of application periods
 - Announcing the call for projects
 - Who may apply and how to obtain application materials
 - Maximum number of applications
 - Signatures, endorsements, and coordination required before applying
 - Grounds for disqualification

2. **Selection Committee:**
 - Composition of the committee
 - Role in evaluating applications and selecting projects

3. **Selection Process:**
 - Initial screening and technical review within ODOT
 - Public comment period
 - Advancing projects as finalists
 - Scoring, selection and ranking by the selection committee
 - Review and approval by FHWA and ODOT Director
 - Formal approval by OTC

4. **Selection Criteria:**
 - Rating system for technical review
 - Point system for scoring applications
 - Focus areas for highest priority funding
 - Quotas and balancing factors

F. DISCRETIONARY ACCOUNT

The TE Program includes about \$2 million per year for the Discretionary Account starting in 2006. This allows ODOT to apply TE funds directly to qualified projects as needs become known, separate from the competitive project selection process. The OTC approves funds for these projects based on requests from the ODOT Director. Projects funded this way are subject to the same eligibility criteria and selection priorities used in the competitive selection process. Use of the Discretionary Account is guided by a general policy (adopted November 2003) and more detailed implementing procedures adopted and periodically updated by the TE Advisory Committee. The main elements are summarized below. The Implementing Procedures, in their entirety, are in Appendix 2.

- Proposals require content and format similar to competitive applications

- Initial reviews by the TE Program Manager and TE Advisory Committee
- Technical review by ODOT staff
- Project scoring by the TE Advisory Committee or TE Program Manager
- Approval by the OTC based on requests from ODOT Director.

G. PROJECT REVIEW AND APPROVAL

TE projects undergo several rounds of review and approval—as part of the application process, before approval for funding, and in the programming and funding phase. Requirements specific to the current funding cycle are in appendices 1 and 2. In the application phase these include: approvals obtained before applying; project eligibility and application compliance review; technical review; a public comment period; and selection committee review of reports, comments, and applications. Projects recommended for funding also undergo an eligibility review by the FHWA, concurrence review by the ODOT Director and final approval by OTC.

H. PROGRAM MANAGEMENT

1. **Statewide Transportation Improvement Program (STIP):** With project selection on a statewide basis, the TE Program Manager determines project placement in the STIP by working with the Local Agency Liaisons and STIP coordinators in each region. Placement depends on the size and type of project, expected ready date, and workload considerations.

Project approval by OTC does not guarantee placement in the STIP. New TE projects advance into the STIP only if the applicant completes and signs a Project Prospectus and Intergovernmental Agreement before the date indicated in the notice of project selection. Projects that miss this deadline may be reassigned to the Reserve List to be considered for remaining funds on an equal basis with other Reserve List projects.

After initial placement the TE Program Manager may direct STIP coordinators to change a project’s assigned year, or to shift funds between phases of a project or between two projects to address specific project needs or to maximize the use of funds statewide. These programming decisions rely on status reports from Local Agency Liaisons and guidance from STIP coordinators and Highway Finance staff. As stated above in Part C3, ODOT region staff and MPOs do not have authority to transfer TE funds from one project to another.

2. **Financial Plan:** The TE Program Manager monitors ODOT’s financial plan entries for TE projects, and works with ODOT region staff to report additions and changes to finance staff in the Highway Program Office.
3. **Inactive Projects:** All projects approved for TE funding must progress through design and development and advance to contract within a reasonable time—usually two to three years. The TE program will not retain projects that are behind schedule and not actively advancing. A project will be declared “late” or “inactive” or both, according to the “Reasonable Progress Requirements” in Appendix 3. Some of the factors that will place a project into late or inactive status are:

- The sponsor has not obtained federal authorization with signed Prospectus and IGA within eight months after notice of the TE award.
- There is no documented progress in project development over a six month period, and no written explanation from the project sponsor to ODOT
- The “contract let date” has fallen more than twelve months behind schedule
- The Intergovernmental Agreement has expired.

The TE Program Manager will report late and inactive projects to the TE Advisory Committee and then to the OTC. With OTC consent, the program manager may transfer unobligated funds from the inactive project to active TE projects, or withdraw the funds for redistribution in the next funding cycle. ODOT will notify the project sponsor in writing before declaring any project inactive. The project sponsor may protest the decision by sending the TE Program Manager a written explanation (or proof of project activity) within 45 days of the ODOT notice.

Projects delayed beyond the current STIP due to actions by ODOT will not be declared inactive and will get priority placement in the next STIP without having to reapply.

4. **Unused and Unanticipated Funds:** If funds come available (from cancelled projects, cost savings, or new allocations) the first priority is to cover a portion of the increased costs on active TE projects, as approved by the TE Program Manager and TE Advisory Committee. The second priority is to fund a Reserve List project based on project ranking and readiness to proceed.
5. **Reserve List:** A project on the Reserve List may advance to the STIP if an opening occurs before the application due date in the next competitive selection process and before adoption of the next STIP. The ODOT Deputy Director for Highways has approval authority to advance a Reserve List project to the STIP. The TE Program Manager provides recommendations based on project ranking, readiness, and funds available. Any Reserve List project not advancing to the STIP loses its reserve status and must compete for a place in the next STIP. Projects not on the Reserve List for a given funding cycle will not advance to the Reserve List or to the STIP and must compete again in a later round of funding.

I. PROJECT MANAGEMENT

Once a project is approved for funding and placed in the STIP, the next step is to assign a project leader to guide the project through the design and development process.

1. **ODOT Projects:** On ODOT-sponsored construction projects the project leader will be assigned by the ODOT region or section sponsoring the project. On non-construction projects the project leader may be a qualified person from the region or section sponsoring the project or the TE Program Manager may serve as project leader.
2. **Local Agency Projects:** On most TE projects a Local Agency Liaison in the ODOT Region office serves as project leader. The liaison works with project sponsors to prepare the Prospectus and project agreement and guides them through other steps in obtaining

authorization to proceed. This may include advising sponsors on how to properly recruit and secure consultants. When design is under way, the project leader coordinates contact with ODOT staff to ensure that technical assistance and reviews occur as needed. The project leader consults with the TE Program Manager on issues affecting the scope, schedule and cost of the project.

3. **State, Federal and Tribal Projects:** TE projects awarded to state agencies, federal agencies, and Indian tribes are generally treated like local agency projects. In some cases, ODOT can transfer TE funds directly to a federal agency and allow that agency to complete the project under federal rules without ODOT as an intermediary agent.

Transportation Enhancement Program
*Project Selection Procedures for the Competitive Selection Process
 in the FY 2010 to 2013 STIP Cycle*

(effective December 2007 for project selection and programming)

Most Transportation Enhancement (TE) projects are selected through a competitive process that follows the procedures and criteria parts 1 through 3 below. Some additional projects are funded through the TE Discretionary Account. Policies and procedures for obtaining discretionary funds are in Appendix 2 (Implementing Procedures for the Discretionary Account).

1. APPLYING FOR FUNDS

- 1a. Call for Projects:** The Oregon Department of Transportation (ODOT) solicits new TE projects on a two-year cycle to coincide with updates of the Statewide Transportation Improvement Program (STIP) or as needed to fill openings in the program. Requests for funds are only accepted during publicized application periods. The application period for FY 2011-2013 construction funding will run from December through April 2008 with results announced in January 2009.

The TE Program solicits proposals from a wide range of interests, including planning and public works, recreation and conservation, historic preservation, bicycle and pedestrian programs, and trails advocates. ODOT announces each application period via mail and email notices, news releases, and the web page for the TE program. Announcements are also sent to a variety of agencies, associations, and interest groups for publication in their newsletters. Applicants get at least three months to prepare and return applications.

- 1b. Obtaining Materials:** Application materials may be obtained from the TE Program Manager at (503) 986-3528 or from the Transportation Enhancement program web site:

<http://www.oregon.gov/ODOT/HWY/LGS/enhancement.shtml>

To minimize printing and mailing costs, the application materials are provided electronically. Printed copies are available on request. Prospective applicants inquiring at times outside a publicized application period can have their name put on a list to be notified when the next application period opens.

- 1c. Who May Apply:** Applications are accepted from tax-funded public agencies that can enter into a contractual agreement with the ODOT. Prospective applicants include federal agencies and Indian tribes, state agencies including ODOT, city and county governments, and other local public agencies supported by tax revenues.

Private entities and non-profit organizations may apply in partnership with a public agency. In such cases the public agency is treated as the primary applicant and must be willing to assume legal and financial responsibility for the project by entering a contract with ODOT. This contract is called the inter-governmental agreement or IGA.

Exception - Any agency with a TE project in the current program may only apply if the project has attained FHWA authorization of funds and is actively advancing according to the Reasonable Progress Requirements (Appendix 3). If a project is on notice for being late or inactive, the sponsoring agency may not apply for new TE funding and may not sponsor a project for others without first canceling the current TE project.

- 1d. Number of Applications:** Due to the high demand for TE funds, there is a limit on the number of applications that will be accepted from each applicant. Two special cases are explained below the table.

Type of Applicant	Maximum Number of Applications
Federal agency or Indian tribe State agency (including ODOT) Local public agency other than a city or county	1 in each ODOT district from each agency
County government	1 per county 2 per county if population in unincorporated areas is over 50,000
City government – cities less than 50,000	1 per city
City government – cities over 50,000	2 per city, population between 50,000 and 100,000 3 per city, population between 100,000 and 300,000 4 per city, population over 300,000

- The above limits do not apply to non-construction projects such as safety/education or planning and research projects (TE Activities #2 and #10). Statewide or regional projects are also exempt if they involve similar work occurring at sites in more than one ODOT region.
- An agency may commit to being a partner, co-applicant or contributor on proposals put forth by other agencies as long as the number of applications from all involved partners does not exceed the total allowed separately under the limits above.

- 1e. Approval to Apply:** All applications must include explicit support from agency management and (where appropriate) elected officials such as city council or county commission. The certification statement in the application must be signed by an officer or manager with direct authority over budget and staff priorities, as noted below:

Federal agencies - National Forest District Ranger or Forest Supervisor, BLM Area Manager or District Manager, Fish and Wildlife Service Refuge Manager.

Local agencies and Indian tribes - City manager or administrator, county administrator or equivalent official, tribal manager or administrator. In cities over 50,000 a department manager or equivalent official with budget authority may sign.

ODOT - Area Manager, Region Manager or Section Manager

State agencies other than ODOT - Program supervisor or regional manager who has budget authority.

If the project is within an MPO area the TE application must be endorsed by the MPO before the application due date. This is because all projects awarded in MPO areas must be added to the Metropolitan Transportation Improvement Program before being added to the STIP. The MPO may choose not to endorse proposals that do not fit MPO goals or plans, do not meet design standards, or that it determines are not ready to proceed.

Advance approval by an Area Commission on Transportation is not required. However, applicants should discuss TE proposals with the ACT before applying or during the public comment period, and provide copies of their application if requested. This allows ACT members to become familiar with local projects before they send comments to the TE selection committee.

1f. Grounds for Disqualification: Applications that do not adhere to the published requirements will not be accepted. The application packet will clearly indicate the grounds for disqualification, including those listed below. Applications that are not eligible for TE funding will also be removed from consideration.

- Late delivery
- Failure to comply with specified page limits and formatting requirements
- Missing required signatures, support documents, or other essential information

2. PROJECT SELECTION

The TE Program uses an inter-agency, interdisciplinary committee to review and prioritize applications. All members must conduct themselves in accordance with state ethics and conflict-of-interest rules. This is of special concern in project selection if the member is employed by or closely affiliated with any agency or organization competing for funds.

2a. Selection Committee: The TE Advisory Committee serves as the selection committee statewide unless the Committee has delegated this responsibility to an ODOT Region or MPO. The approved committee composition is:

4	Local government representatives – two nominated by the League of Oregon Cities and two nominated by the Association of Oregon Counties
4	ODOT staff selected by the ODOT Director (including the TE Program Manager and ODOT Economic Revitalization Team Liaison)
2	Public “at large” members not affiliated with specific interest groups
1	Oregon Transportation Commission member

2b. Selection Process: TE projects are selected from the applications received on time and in good order, which meet the TE eligibility requirements and pass a technical review by ODOT staff. The process and responsibilities are as follows:

- (1) **Initial Compliance Review** - The TE Program Manager reviews applications for completeness and compliance with application requirements. The TE Program Manager and FHWA determine eligibility for TE funding.

Applications that are ineligible, incomplete, or inconsistent with the application instructions are disqualified. The TE Program Manager will promptly notify disqualified applicants and allow them ten days to submit a request for reconsideration.

- (2) **Technical Review** - ODOT conducts a technical review to assess feasibility, readiness to proceed, and conformance to standards. Reviewers include staff from the ODOT region office and programs or disciplines appropriate to each project.

The TE Program Manager, with guidance from ODOT technical staff, will determine the rating system for the technical review. Projects must receive predominant ratings of “adequate” or above and have no serious project delivery concerns to advance to the public review phase.

- (3) **Public Comment Period** - ODOT solicits comments during the public involvement process for the Draft STIP or in separate meetings. Each ACT, ERT and MPO receives a list of projects being considered, with a request to comment on the relative priority of projects from their jurisdiction.

- (4) **Narrow to Finalists** - The TE Program Manager evaluates the technical review ratings along with public comments and the ACT, ERT, and MPO replies, and identifies about 30 projects to advance as “finalists” for scoring and selection. Finalists will include at least three projects from each ODOT region.

- (5) **Scoring and Selection** - The selection committee evaluates and prioritizes the finalist applications. Members individually evaluate applications based on the scoring system established for each round of funding. The TE Program Manager compiles the results. The committee then meets to discuss and select projects and develop a ranked selection list.

The committee selects projects for more than the amount of funds available. They recommend the top-ranking projects for funding—up to the maximum funds available—and assign several others to a “Reserve List.”

The OTC member of the TE Advisory Committee facilitates the project selection meeting, or may delegate this job to the TE Program Manager. The FHWA Division Office and the following ODOT offices are invited to attend as non-voting advisors: Pedestrian-Bicycle Program, Rail Division, Environmental Section, and Scenic Byways Program.

- (6) **Concurrence and Approval** - The TE Program Manager sends the list of Recommended and Reserve projects to the ODOT Director. He or she may accept the list as presented, or return comments to the committee. When agreement is reached the Director forwards the list of recommended projects to OTC for approval. OTC approval may occur as a separate action or as part of adopting the STIP.

- 2c. Selection Criteria:** In the technical review phase, ODOT staff members evaluate projects and assign ratings of 1 through 5 (poor to excellent) for factors relating to readiness, effectiveness, scope and standards, cost estimate, and local commitments. Projects that are still in an early concept stage or that do not meet appropriate design or development criteria will not advance.

In the project scoring phase, the TE Advisory Committee uses a point system intended to give fair consideration to all kinds of projects, from all areas of the state. An example is shown below. The Committee may make minor adjustments to the scoring factors and weightings to address specific goals for each funding cycle. A full description of the scoring system appears in the application packet for each funding cycle.

Max. Points	Criteria
20	BENEFIT: Enhances quality of experience for people using Oregon's transportation system, or enhances cultural, aesthetic or environmental values in the transportation corridor. Effective use of funds for a project or activity that promotes the intent of the Transportation Enhancement program. Value of the enhancement in relation to overall project cost.
10	TECHNICAL MERIT: Realistic scope, schedule and cost estimate. Feasible and appropriate solution for the situation. Adherence to current standards, techniques, and priorities for the type of project proposed.
20	SUPPORT: Financial commitments, pledged contributions, and expressed approval by government agencies, the public, and local non-profit groups. Relationship to adopted plans and policies and other investments in the area. Progress on project development, and readiness to proceed.
20	IMPORTANCE: Uniqueness, urgency, and priority of the project (including how important TE funding is to the project).
10	FOCUS AREAS: Relationship to the current focus or priorities for Oregon's TE program.

80 points possible

2d. Focus Areas:

In November 2007 the OTC adopted five “focus areas” to identify priorities for TE funding. Projects that fit one or more of the following conditions will receive preference in the selection process:

- Benefits a state highway or state-owned transportation facility.
- Benefits a rural/distressed community, or Special Transportation Area.

- Supports or augments an upcoming pavement preservation project, mixed-use or compact development, or Economic Revitalization Team effort.
- Supports an accredited downtown Main Street or the downtown main street in a place actively working towards certification through the Oregon Main Street Program.
- Directly supports existing tourism and economic development efforts, or has tourism promotion or economic development as the primary focus.

- 2e. Quotas and Balancing Factors:** Selection committee members apply the scoring criteria without regard to funding history or regional distribution of projects. There is no special consideration for applicants that did not receive TE funds in the last funding cycle and no specific advantage for projects on a current Reserve List.

There is no assurance of geographic balance between ODOT regions. There is also no assurance of geographic balance among counties, ACT areas or other political divisions within a given region. However, project size, type, and location will enter the selection committee's discussion after the initial scoring process, and will serve as factors to consider in reaching consensus on project selection.

3. PROJECT REVIEW AND APPROVAL

TE projects undergo several rounds of review and approval—as part of the application and selection process, before approval for funding, and in the programming and funding phase.

- 3a. Application Form:** TE applicants must secure certain approvals and commitments before applying for funds. The application packet will contain specific instructions for the current round of funding. Depending on the project, this may involve letters or signatures from one or more of the following, in addition to the required certification by an officer or manager of the sponsoring agency.

MPO - for projects in a metropolitan area with population over 50,000

ODOT Region Manager - for projects that will occupy state highway or require permits

Council or Commission - Resolution, board approval, or delegation authority for local, state or Indian tribe projects administered via agreement with ODOT

Partner agencies and organizations - confirm commitment of staff, resources or use of property

Contributors of funds or resources - confirm commitment of funds or other donations

Railroads - confirm knowledge of proposed work on railroad property or near crossings

- 3b. Compliance and Technical Review:** All applications are reviewed for eligibility, format and content, and technical feasibility before advancing to the selection committee. See Part 2b above.

- 3c. Public Involvement:** ODOT solicits comments at public meetings and requests comment from MPOs), ACTs and regional ERTs – see Part 2b above.
- 3d. Selection Committee:** The selection committee reviews the results of the public comment process and technical review as part of scoring and ranking projects.
- 3e. Approval for Funding:**
- The TE Program Manager and FHWA review all projects proposed for funding or for the Reserve List to confirm their eligibility for TE funding.
 - The ODOT Director reviews and approves the list of recommended projects before submitting it to OTC.
 - OTC approves adding the projects to the TE program and including them in the STIP. This may occur in the act of adopting the STIP, or in a separate action. FHWA must then confirm a request to add specific projects to the STIP.

Transportation Enhancement Program Implementing Procedures for the Discretionary Account

The Transportation Enhancement (TE) Discretionary Account is a reserve within Oregon's TE program that allows ODOT to apply TE funds directly to qualified projects as needs become known, separate from the competitive project selection process. The Oregon Transportation Commission (OTC) approves funds for these projects based on requests from the ODOT Director. Projects funded this way are subject to the same eligibility criteria and selection priorities used in the competitive selection process, and some additional conditions specific to the Discretionary Account.

On November 16, 2005 the OTC authorized the TE Advisory Committee to adopt implementing procedures for the Discretionary Account, consistent with current policy guidelines in place for those funds. The following procedures implement the "Transportation Enhancement Program Policy for Discretionary Funding" which the OTC approved on November 17, 2003.

I. Purpose

The purpose of the TE Discretionary Account is to allow ODOT to apply TE funds directly to qualified projects as needs become known, separate from the competitive selection process. It provides a means for funding TE activities that have a desired delivery time less than the typical two to four years, and it allows ODOT to leverage TE funds with other funding when opportunities arise outside the defined TE application period.

Most TE funds are awarded through a statewide competitive process on a two-year cycle. The TE Discretionary Account allows for expedited consideration and funding of projects that cannot wait for the next selection cycle. These funds are not meant for projects that could have competed in the previous selection cycle, or that can likely be completed with other funds. They may be used only when other sources of financial support are unavailable or insufficient.

II. Intended Projects

TE Discretionary funds are primarily for start-up or "gap" funding on multi-agency projects, though stand-alone projects advanced by a single applicant can also qualify. Projects must be ready to proceed. Most will have design or development efforts already in progress. Projects that directly support tourism or economic development receive preferential consideration.

Prospective projects must meet the same eligibility and technical requirements as TE projects awarded through competitive selection. They must fit the existing "project selection criteria" and represent an effective use of funds for efforts that promote the intent of the TE program. Projects must also demonstrate:

- A clear sense of urgency, including a convincing reason why the project cannot wait for the next selection cycle, and why it was not submitted in the last cycle.
- Strong local support for advancing the project immediately.

Part V (Project Requirements) contains further detail on the eligibility factors noted above.

III. Funding Levels

Annual Allocation: The OTC determines available funding for the TE Program, including the Discretionary Account. TE Discretionary funding for Fiscal Years 2008-2013 is \$2 million per year. The actual amount expended in a given year will vary based on project needs and on priorities determined by the TE Program Manager and Highway Finance Office.

Award Limit: Due to limited funds and the expected volume of requests, the maximum award is \$1 million per project. This is typically the upper range of awards for TE projects funded through competitive selection.

Matching Funds: TE Discretionary projects are subject to the same local match requirements as other TE projects, set forth in the current *TE Program Policy and Procedures* for Oregon.

IV. Program Criteria

TE Discretionary projects are subject to the *TE Program Policy and Procedures* adopted by the TE Advisory Committee. Pertinent sections of that policy are amended as needed to incorporate these implementing procedures for the TE Discretionary Account.

V. Project Requirements

Prospective projects are judged against several criteria including TE eligibility criteria, technical merit, and how well a project fits the intent and focus of the TE Discretionary program. To qualify for TE Discretionary funds, a project must:

- Meet federal and state TE eligibility criteria.
- Demonstrate urgency, readiness, and local support sufficient to justify immediate funding.
- Pass the ODOT Technical Review with a rating of “adequate” or better.
- Represent an appropriate use of TE funds, comparable to recently approved projects (determined by the project’s score using the current TE project selection criteria).

Eligibility: The eligibility determination occurs in two parts. First is deciding if the project is *eligible* for TE funding. The *TE Program Policy and Procedures* (most recent update) provides the basis for eligibility determinations. The TE Program Manager makes the determination, with assistance from the Federal Highway Administration and ODOT staff if needed.

In the second step, the TE Advisory Committee assesses whether the project *qualifies* for TE Discretionary funds, based on the degree of urgency, need, and local support. A project qualifies as *urgent* if it cannot or should not wait for the next competitive selection cycle. The TE Advisory Committee returns an opinion on urgency based on information in the Notice of Intent (NOI) submitted for the project. The NOI narrative must explain why the project is urgent, based on one or more of the following reasons:

1. Essential funds from other sources will no longer be available.
2. Partnerships or agreements essential to the project will no longer be in effect.

3. The physical condition of the project site will change or deteriorate beyond what can be reasonably addressed without major reconstruction.
4. A critical event that drives the timing of the project will have already passed.
5. The project is closely linked to a STIP project or other investments in the area, and it would be too expensive or disruptive to do the TE work later as a separate project.

Readiness and Local Support: The TE Advisory Committee evaluates readiness and support based on information in the NOI. Projects must be ready to proceed immediately if approved for funding. Most will have coordination efforts and some level of design (beyond planning reconnaissance and concept drawings) already under way before requesting the TE funds. The NOI must show that there is strong political and public interest in advancing the project immediately, and indicate the amount of local financial support.

Technical Review: The TE Program Manager coordinates a technical review by ODOT staff from appropriate region offices and technical specialties. The reviewers rate a project on feasibility, readiness, and adherence to standards. The rating system is the same as in the most recent competitive selection cycle. To pass, the project must receive predominant ratings of “adequate” or above, and have no serious project delivery concerns.

Scoring: Proposals are judged against the current TE project selection criteria. If time allows, the proposal is distributed to members of the TE Advisory Committee for scoring and the composite score applies. If a decision is needed immediately the TE Program Manager may score the project without Committee assistance. To pass, the project must achieve a composite score of 70 or higher *or* comparable to the scores for projects on the most recent Reserve List.

Part of the score considers how well a project fits the current TE focus areas, including how it supports tourism and economic development. A significant part of the score considers whether the project represents an effective use of funds for activities that promote the intent of the TE program. For this purpose:

Effective use means the investment will produce a complete project that meets applicable standards for the type of work and clearly provides a benefit to transportation or the travel experience. The TE project may be a segment, phase or element of a larger project provided it has a use and benefit independent of the other work.

Promote the intent means the investment is truly an enhancement—transportation related, but not a routine or required element of transportation projects or programs. For example: TE funding is not for basic bicycle and pedestrian facilities on projects subject to Oregon “Bike Bill” requirements, and is not meant to subsidize recreation, urban renewal, or road widening projects or correct the effects of neglected maintenance and poor urban planning.

VI. Application and Review Process

The TE Program uses a two-step application process, starting with a NOI. If the project passes initial reviews, the second step requires submitting sufficient detail and documentation for the technical review and scoring process. This includes project description and purpose, relationship to transportation, cost estimate and funding, maps or drawings, and pertinent

support documents. The format should be similar to applications in the most recent competitive selection cycle.

The NOI form, a standard application form, and instructions for both are available from the ODOT web site for the TE Program or by request from the TE Program Manager. Since TE Discretionary funding is not tied to a time-constrained competitive process, applicants may revise or supplement their proposal during the review process.

The list below shows the application and review process. Decision criteria and responsibilities are described in Part V above. The TE Program Manager informs the ODOT Director about a proposal's status throughout its review. If the proposal fails to advance at any point in the process, the TE Program Manager will notify the applicant and provide an explanation.

1. Notice of Intent

Applicant submits a NOI to the TE Program Manager. The narrative must explain the elements of urgency, readiness, and local support that justify immediate action.

2. Eligibility Determination

TE Program Manager determines if the proposal is eligible for TE funding.

3. Urgency/Need Determination

TE Advisory Committee considers the project's urgency, readiness and local support to determine if TE Discretionary funds are appropriate. They then decide to endorse or oppose advancing it for technical review and scoring.

4. Application and Supporting Documents

Applicant provides a complete application, with detail and supporting documents sufficient for technical review and scoring.

5. Technical Review and Scoring

ODOT staff conducts a technical review, and with that information the TE Advisory Committee scores the proposal according to pre-established selection criteria.

6. ODOT Director Review

TE Program Manager forwards the proposal to the ODOT Director. Director may endorse it as is, or return it to Committee or applicants for clarification and revisions.

7. Request to OTC

ODOT Director submits the funding request for OTC approval.

8. OTC Approval

OTC approves TE Discretionary funds and approves adding the project to the STIP.

Transportation Enhancement Program Reasonable Progress Requirements

Transportation Enhancement projects awarded by ODOT are subject to this policy on reasonable progress. The objectives are to ensure reasonable progress in starting, advancing and completing TE projects, and prompt submittal of billings and final accounting. The overall intent is to maximize the use of currently available TE funds and the effectiveness of ODOT staff that assist local agencies in coordinating and advancing TE projects.

Terms and Acronyms

Table 2 at the end of this appendix provides definitions for terms and acronyms used below.

Table 1 – Sample Project Delivery Timeline

Action or Product	Target Completion	Latest Completion
Project Programming Scoping, Prospectus, and IGA	4 months after award notice	6 months after award notice
Authorize Funds for PE (or first phase of project)	4 mo. after award notice or 1 mo. after STIP approval	7 mo. after award notice or 2 mo. after STIP approval
Start Design or Development Consultant contract in place, Project Team begins meeting	2 mo. after funds authorized	4 mo. after funds authorized or 11 mo. after award notice
Preliminary Plans, Design Acceptance Package or equivalent, including environmental/NEPA clearance (CE Minimums or Closeout)	6 - 9 mo. after Start Design (15 mo. after award notice)	9-12 mo. after Start Design (23 mo. after award notice)
Authorize Right of Way Funds (after NEPA clearance)	6 - 9 mo. after Start Design	12-14 mo. after Start Design
PS&E Submittal Final design, with utility and clearance.	18 mo. after Start Design (12 mo. if no ROW phase)	24 mo. after Start Design (15 mo. if no ROW phase)
Authorize Construction Funds and advertise contract for bid	1 month after PS&E	2 months after PS&E
Contract “Let Date” (bid opening)	1 month after advertisement or 26 mo. after award notice	2 mo. after advertisement or 36 months after award notice

Policy

There are three main elements of this policy:

1. All projects awarded TE funds must be started and completed within a reasonable time. Projects that are late or inactive will be removed from the TE program.
2. TE funds for construction (or the final phase of the project) should be authorized in the assigned program year, and not more than three years after notice of TE award.
3. Billings and project close-out should occur promptly to enable proper tracking of TE expenditures and allow commitment of remaining available funds to other projects.

Project Development Timeline

Table 1 shows the timeline prescribed for Transportation Enhancement projects involving construction. The Intergovernmental Agreement (IGA) or the “Notice to Proceed” for each project will contain a progress timeline in this format, specific to the type and complexity of the project. A similar timeline will be assigned for non-construction projects, with actions and products appropriate to the proposed work.

The “Latest Completion” times in Table 1 represent the maximum expected time for each step. Individual schedules will vary depending on the type of project, complexity of contract arrangements, and utility, right of way, and environmental issues. Actual progress will be measured against the project-specific timeline confirmed by the project sponsor.

A project that falls more than 60 days behind its agreed timeline is at risk of being declared “late” or “inactive” or both. If the delay is not explained or corrected to ODOT satisfaction, the course of action will include restricting future TE applications, withdrawing unused TE funds, or canceling the project, as indicated in the “Procedures” section below.

Late and Inactive Projects

A project can be curtailed or canceled if it does not make sufficient progress. Common causes of delay and inactivity include: insufficient funding, underestimating right-of-way or environmental requirements, loss of local support, staff turnover, and conflicts with other planned projects. These problems can usually be avoided with adequate project scoping, and appropriate planning and coordination by the project sponsor.

It is not ODOT’s responsibility to keep the project sponsor informed about the status of a TE project. The project sponsor will keep ODOT informed about delays or unforeseen conditions that hinder the project’s progress. Failure to provide required reports and responses will cause the project to be withdrawn, and the TE funds redistributed at ODOT discretion.

A project can be declared late if any of the following apply:

1. Project Programming is not complete within eight months after TE award notice.
2. The contract “let date” has fallen more than 12 months behind schedule.
3. The IGA expires or terminates for any reason.

A project can be declared inactive if any of the following apply:

1. Project Programming is not completed within 12 months after award notice.
2. The project falls six months behind its Target Completion timeline at any point, and ODOT has not received and approved a written explanation from the project sponsor.
3. There is no discernible progress in project development over a six month period.
4. The project sponsor fails to provide services or perform work according to terms of the IGA and does not act to correct such failures within 10 days after receiving written notice from ODOT.

Procedures for Late and Inactive Projects

First Notice

The TE Program Manager will review the status of TE projects quarterly, and send a written warning to project sponsors for those that appear to fit the criteria for late or inactive projects. These warning notices will identify the schedule lapse and explain the implications of further delay.

Project sponsors will be required to reply in writing within 45 days of the ODOT notice. The TE Program Manager will report the quarterly reviews to the TE Advisory Committee.

Second Notice and Subsequent Action

If a project falls 12 months behind its Target Completion timeline at any point, ODOT will again notify the project sponsor of the schedule lapse. The letter from ODOT will serve as a final notice, giving the project sponsor an opportunity to respond to the situation before ODOT takes action. This notice will include: a summary of the project status; total funds obligated and spent on the project; required responses or actions by the project sponsor; and the next steps by ODOT.

The project sponsor must reply to ODOT in writing within 45 days, to explain and justify why the project has not complied with the target timeline. If circumstances beyond project sponsor control have caused the delay or inaction, the project sponsor may request an exception to the approved timeline. The TE Program Manager will present the project status and a recommendation to the TE Advisory Committee for decision at a scheduled meeting or by email.

1. The Committee may find the project late but active and recommend allowing a revised timeline. However, the project sponsors will be ineligible to apply for any new TE funds until the late project has reached its construction/implementation phase or is canceled.
2. If the Committee finds the project inactive the TE Program Manager will seek Oregon Transportation Commission approval to withdraw all TE funds not yet authorized, or to cancel the project and remove it from the STIP. Funds released from canceled projects return to the TE program for distribution to other TE projects statewide, as stated in part H4 of the TE *Program Policy and Procedures*.

Continued next page

Billing and Reimbursement

The following policies apply to billing and reimbursement on TE projects:

1. For work performed by the project sponsor as a certified agency or under contracts owned by the sponsor: The project sponsor should submit reimbursement (pay) requests as costs are incurred, but no more than once a month. Preferably, the project sponsor will submit monthly pay requests based on actual contract payments and payroll costs, and charges based on percent-completion of tasks or components approved for federal reimbursement.
2. For work performed by ODOT on-call consultants, and construction contracts owned by ODOT: The regional Local Agency Liaison or Construction Liaison will approve invoices and submit pay requests.

Inactive Projects

Projects with no financial activity for 12 months or more risk being “closed” by FHWA and losing all unused TE funding. Therefore, the project sponsor or sponsor’s consultant must request reimbursement within 12 months of the date federal funds are first authorized, and at least once during every twelve month period thereafter. This requirement applies separately to each phase of work for which TE funds are authorized. The pay request may be for all or part of the costs incurred.

Close-Out

Billings are to be completed within 90 days after the project is complete and accepted. Final pay requests up to the full amount of authorized funds cannot be considered until the project is completed and acceptable to ODOT and the project sponsor.

Canceled Projects

Federal regulations require the project sponsor to repay any federal funds spent on a canceled project. The project sponsor must repay ODOT for all TE funds received and for project costs incurred by ODOT up through the date the project is canceled. The project sponsor must fully repay these funds before applying for any future TE projects.

Terms and Acronyms

Award	Approval to provide TE funds for a project and add the project to the STIP. Award is based on formal action by the OTC
Award notice	ODOT's letter to project sponsors, giving notice of a TE award
Authorization	FHWA approval, committing funds to a project or phase of a project so that reimbursement of costs can occur
FHWA	Federal Highway Administration
IGA	Intergovernmental Agreement: the contract between ODOT and the project sponsor for use of state or federal funds.
ODOT	Oregon Department of Transportation
OTC	Oregon Transportation Commission
PE	Preliminary Engineering: includes scope refinement, engineering design, environmental clearance and other project development required for final plans and contract documents.
Project Sponsor.....	The agency taking legal and financial responsibility for the project (usually the lead applicant agency for TE projects)
PS&E	Plans, Specifications and Estimates: the documents required to advertise a project for bid.
STIP	Statewide Transportation Improvement Program.
TE	Transportation Enhancement