

# Oregon Administrative Rules for the Special Transportation Fund<sup>1</sup>

## General Information

732-005-0000

### Purpose of Rule

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.

732-005-0005

### Statutory Authority and Procedures

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

732-005-0010

### Definitions

The following definitions apply to rules in Chapter 732 Divisions 5, 10 and 20:

- (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 Item" means a single item of durable equipment, a vehicle, a structure (facility) and real estate with an acquisition cost of \$5000 or more.
- (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" 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.

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<sup>1</sup> These rules were adopted by the Oregon Transportation Commission on December 14, 2004 and are effective January 1, 2005.

(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" means 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) "Oregon Transportation Commission" means a commission established under ORS 184.612.

(19) "Project" means a Public Transportation 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.

(20) "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.

(21) "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.

(22) "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.

(23) "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.

(24) "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.

(25) "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.

(26) "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 moneys directly from the Division.

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

(28) "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.

(29) "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.

732-005-0016

#### Purpose and Use of the STF Moneys

(1) The STF Program is intended to provide a flexible, coordinated, reliable and continuing source of revenue in support of transportation services for the Elderly and People with Disabilities.

(2) STF moneys will be used for the purpose of financing and improving transportation programs and services for the Elderly and People with Disabilities and may be used for the following purposes:

(a) Maintenance of existing transportation programs and services for the Elderly and People with Disabilities.

(b) Expansion of such programs and services.

(c) Creation of new programs 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 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) When funded by STF 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 moneys will be coordinated with other transportation programs and services to the maximum extent feasible.

(5) Exception in the case of a uniform budget reduction, STF moneys will not be used to supplant moneys currently appropriated by STF agencies for transportation projects benefiting the Elderly and People with Disabilities.

732-005-0021

Administration of Funds by the Public Transit Division

(1) The Division will conduct the necessary activities to manage the STF and implement a program.

(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) 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.

#### 732-005-0027

##### STF Agencies Eligible for STF 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 moneys are known as STF Agencies.

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

(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 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 moneys for three or more consecutive years will be considered withdrawal from eligibility to receive STF 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; and

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

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.

(3) The Advisory Committee will:

(a) Advise the STF Agency regarding the opportunities to coordinate STF moneys and STF-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 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;

(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.

732-005-0036

#### Accounting Requirements

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

732-005-0041

#### Capital Item Requirements

(1) Capital Items may be purchased with STF moneys:

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

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

(2) The STF Agency will inventory the Capital Items purchased in whole or part with STF moneys. The inventory will include date of purchase, purchase

price, percentage of STF moneys contributed to the purchase, the source of other funds, the authorized use and the Recipient using the Capital Item.

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

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

(a) Establish minimum useful life standards for Capital Items:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) A minimum threshold of insurance coverage,
- (b) Annual inspections of vehicles used for Public Transportation Programs;

and

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

#### 732-005-0046

##### Audit Requirements

(1) STF moneys will be specifically 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.

#### 732-005-0051

##### Reporting Requirements

(1) The purpose of reporting is to:

- (a) Ensure that STF 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) A STF Agency may require additional reporting information from its Recipients;

(c) 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 Funds:

(a) The Division may withhold Formula 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.

732-005-0056

#### Withholding of Funds from a STF Agency

- (1) The Division may withhold payment of STF 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 STF.
- (2) If an audit or a review of the agreement finds that STF moneys were used improperly, the STF Agency will repay the STF that portion used improperly.

732-005-0061

#### Management of Agreements

- (1) The Division will enter into an agreement with a STF Agency after approval of the STF Agency's application for STF moneys.
  - (a) The agreement will include:
    - (A) A description of the use of the funds;
    - (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 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 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 STF moneys;
    - (B) A beginning and end date;
    - (C) Termination and suspension clauses;
    - (D) Other applicable requirements of OAR 732-005-0000 through 732-020-0045; 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 732-020-0045.

#### 732-005-0066

##### STF Agency Joint Management of the STF Program

(1) Two or more STF agencies may jointly manage their STF Programs. Joint Management means two or more STF Agencies joining together to manage their STF 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 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 program, 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 Program at least once per year.

#### 732-005-0071

##### Protest Procedure

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

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

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

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

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

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

732-005-0076

#### Recipient Qualifications

(1) To be eligible to receive STF 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 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 moneys.

(2) A STF Agency may require additional eligibility qualifications of Recipients as necessary to implement its STF 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.

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

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.

(2) The STF Plan may 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 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

(e) 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) A STF Agency may adopt as its STF Plan another plan with content meeting the intent of this rule including, and not limited to, a county Transportation System Plan, a transit development plan, the transportation element of an Area Plan for an Area Agency on Aging, or any other plan that comprehensively addresses the transportation needs of the elderly and people with disabilities.

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

(5) 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.

(6) 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.

## The Special Transportation Fund Formula Program

732-010-0005

### Formula Program

- (1) Revenues from the STF are made available annually.
- (2) STF Agencies may apply at any time.
- (3) Money is paid regularly to the STF Agency upon approval of its application, and submission of reports required by OAR 732-005-0051.
- (4) In order to be eligible to receive Formula Program moneys, the STF Agency has, or will have, one or more Projects eligible for funding, as specified by OAR 732-005-0016.

732-010-0010

### Formula Distribution

For those STF moneys distributed by formula:

- (1) The Division will distribute STF moneys regularly, and at least quarterly.
- (2) Each January, prior to the state biennium, the Division will estimate the STF moneys to be distributed during the biennium:
  - (a) The estimate will include the reconciliation of STF receipts from prior years and funds unclaimed by STF Agencies; and
  - (b) If necessary, the estimate may be adjusted during the biennium, in January, to reflect actual tax receipts and other revenues contributing to the STF moneys.
- (3) Formula allocation moneys will be made available to STF Agencies on the basis of population distribution:
  - (a) Each STF Agency will receive a portion of the moneys based on their share of the state's population;
  - (b) The county population of STF Agencies that are counties and Districts will be determined by the most recent annual estimate of population of cities and counties by the State Board of Higher Education (ORS 190.510 to ORS 190.610); and
  - (c) Each Indian Tribe that is a STF Agency will receive STF moneys as share of their tribal population residing in Oregon:
    - (A) Tribal population is defined as the members of each tribe residing in Oregon;
    - (B) Each Indian Tribe will provide to the Division its population residing in Oregon by county of residence; and
    - (C) The tribal populations will be subtracted from county populations before calculating the population of the Districts and counties.
- (4) The Division will supplement the Formula Allocation with Discretionary Account moneys as necessary to ensure that each STF Agency receives the Minimum Allocation or the Formula Allocation, whichever is greater.

732-010-0015

### Application Procedures for Formula Program Moneys

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

#### 732-010-0020

##### Formula Program Application Review

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

#### 732-010-0025

##### Submission of Amended Formula Program Applications

- (1) The STF Agency may amend their application at any time by filing an amended application with the Division.
- (2) The STF Agency will retain authority over costs and allocations within its jurisdiction and may shift funds among Recipients and Projects identified in an application approved by the Division as necessary for the desired services:

- (a) The STF Agency will submit an amended application if there are additional Recipients or Projects;
- (b) Changes in the distribution of funds among already approved Recipients do not require Division approval. The STF Agency will notify the Division of any changes; and
- (c) Changes in the Advisory Committee do not require an amended application.

#### 732-010-0030

##### Disbursement of Formula Program Moneys

- (1) Upon approval of the application for the Formula Program moneys, the Division will enter into an agreement with the STF Agency.
- (2) After the agreement is signed by both parties, the Division will disburse the moneys.

#### 732-010-0035

##### STF Agency's Distribution of Formula Program Moneys

- (1) The STF Agency will determine the purposes for which the Formula Program moneys will be used, in accordance with their STF Plan.
- (2) The STF Agency may use procedures of its choice to distribute Formula Program moneys.
- (3) The STF Agency that is a District is responsible for funding Projects benefiting the Elderly and People with Disabilities both within its boundaries and outside them in the surrounding county(ies):
  - (a) Projects outside the district will receive a proportionate amount of the Formula Program moneys based on the population outside the District;
  - (b) The proportion is based on the last decennial federal census; and
  - (c) The District will report the distribution of Formula Program moneys in its application to the Division.

#### 732-010-0045

##### Redistribution of Program Funds

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

## The Special Transportation Fund Discretionary Grant Program

732-020-0005

### Discretionary Program

(1) Discretionary Account moneys may be distributed through a Discretionary Program managed by the Division.

(2) The Division will announce the amount of funds available for distribution and will make applications and application procedures publicly available.

(3) The Oregon Transportation Commission may establish requirements for the Discretionary Program, including and not limited to:

- (a) Specific goals and objectives;
- (b) Priorities;
- (c) Project type and purpose; and
- (d) A matching contribution.

(4) The Discretionary Program will:

- (a) Be available on a cycle to be determined by the Oregon Transportation Commission;
  - (b) Be a competitive award process; and
  - (c) Award moneys based on the requirements of the Discretionary Program.
- (5) The Division may combine moneys from the Discretionary Account with other state and federal moneys available to the Division into a unified discretionary grant program.

(6) A STF Agency may request Discretionary Program moneys by submitting a complete application. The STF Agency may submit more than one application, and may submit applications prepared by entities other than the STF Agency.

(a) If an application is prepared for submission by an entity other than the STF Agency, the STF Agency will:

(A) Acknowledge the application by providing a signature;

(B) Verify willingness to enter into an agreement with the applicant to receive and disburse the Discretionary Grant moneys for the Project; and

(C) Submit the application to the Division.

(b) Prior to submitting an application to the Division, the STF Agency will:

(A) Consult with its Advisory Committee regarding the proposed project; and

(B) Ensure that the proposed project is consistent with the STF Agency's STF plan or other plan addressing the transportation needs of the public including the Elderly and People with Disabilities.

(C) The STF Agency is not obligated to submit an application to the Division that does not meet its approval.

(c) The Advisory Committee will meet at least one time to review all of the applications and make recommendation to the STF Agency.

(d) If more than one application is prepared for submission, the STF Agency will rank the projects reviewed in priority order before submitting them to the Division.

732-020-0020

### Application Review

(1) The Division will establish a process for reviewing Discretionary Program applications that will include, and is not limited to:

(a) An initial screening of applications for compliance with Discretionary Program requirements. If program requirements are not met:

(A) The Division may ask for further information or clarification; and

(B) May recommend disapproval of the application to the Oregon Transportation Commission and advise the STF Agency of the reasons for recommending disapproval;

(C) Reasons for the Division to disapprove an application may include, and are not limited to, the following:

(i) No advisory committee, or improper membership;

(ii) STF Agency failure to confer with the Advisory Committee;

(iii) Purpose of the project is not in accordance with the requirements of the program; and

(iv) The potential recipient identified in the application is ineligible to receive STF moneys.

(b) A review of the qualified applications will be conducted by the appointed grant review panel;

(c) The Discretionary Program application review may be conducted in conjunction with the review of other state and federal grant applications submitted to the Division; and

(d) After consideration of the grant review panel's recommendation, the Division shall submit a final recommendation for funding to the Oregon Transportation Commission.

(2) Criteria for review and selection of Discretionary Grants will be established by the Oregon Transportation Commission, and may include, and not be limited to:

(a) Public support for the proposed Project;

(b) The need for the proposed Project;

(c) The effectiveness of the proposed Project;

(d) The efficiency of the proposed Project;

(e) The appropriateness in scope or scale of the proposed Project;

(f) A satisfactory history of applicant performance, if appropriate;

(g) Consistency with state and local priorities and needs as identified in planning documents; and

(h) Demonstration of Coordination of transportation resources.

732-020-0025

Discretionary Grant Review Panel

(1) The Division will establish a grant review panel to review Discretionary Program applications and recommend Discretionary Grant awards.

(2) The grant review panel will be composed of members with knowledge of the transportation needs of the Elderly and People with Disabilities:

(a) Members of the panel, and the agencies they represent, may not benefit monetarily from any funding decision; and

(b) The Oregon Transportation Commission will appoint individuals to serve on the grant evaluation panel. The panel members may represent state agencies, local government, organizations representing the Elderly and People with Disabilities, the community, local transportation planners and the transportation service industry.

(3) The grant review panel will:

(a) Use the criteria established in accordance with OAR 732-020-0020(2) when reviewing the applications; and

(b) Adhere to the Oregon Public Meeting Law.

(4) The grant review panel may review and recommend procedures and additional review criteria to the Division as necessary to perform their duties in a timely manner.

#### 732-020-0030

##### Award of Funds

(1) Upon approval of the Discretionary Program applications by the Oregon Transportation Commission, the Division will:

(a) Notify the applicant of the approval or denial of their application; and

(b) For an approved application, enter into a written agreement with the STF Agency to award funds.

(2) Discretionary Grants that are for planning, needs assessment, research, demonstration and operating projects:

(a) Payments will be made based on reported expenditures; and

(b) Final payment will be made upon receipt of final reports.

(3) Discretionary Grants that are for capital projects, payment may be made upon receipt of vendor invoice or billing.

(4) Other arrangement for payment is at the discretion of the administrator of the Division.

#### 732-020-0035

##### Use of Funds

The uses of the STF Discretionary Grant moneys will be consistent with purposes defined by OAR 732-005-0016, and will be directly associated with activities conducted to complete the project.

#### 732-020-0040

##### Discretionary Project Monitoring

(1) The Division will monitor each Discretionary Grant agreement on an ongoing basis by:

(a) Review of project reports;

(b) An on-site visit to the STF Agency, as appropriate; and

(c) Review of other information, as appropriate.

(2) Discretionary grant agreements may be terminated or suspended by the Division before the date indicated in the agreement. Grounds for termination or

suspension of an agreement will include, and are not limited to, a finding by the Division that:

- (a) A Recipient is in clear violation of state or local laws or regulations governing passenger transportation;
- (b) A Recipient is in clear violation of the laws or rules of this program, or is improperly using program funds; and
- (c) A project is incapable of being performed, or has not been performed, in a safe, prudent and timely manner.

732-020-0045

#### Redistribution of Funds

For Discretionary Account moneys, the Division will return funds awarded, but not used, back to the Discretionary Account upon termination of a grant.