

Draft Commission Policy on Federal Reauthorization Highway Program Earmark Requests

Summary of Major Changes

Based on comments from stakeholders and internal review, ODOT has made the following major changes to the draft ODOT Policy on Federal Reauthorization Highway Program Earmark Requests and the guidance document that will go to ACTs, MPOs, and other stakeholders.

Purpose: The purpose of the policy has been rewritten to better reflect the intent behind it. The purpose statement now emphasizes the desire to seek input from local stakeholders, advance broadly supported projects, clearly explain expectations for earmarks on the state highway system, strengthen regional prioritization processes, and secure funding to help deliver projects.

Role of Metropolitan Planning Organizations: MPOs are given an explicit role in the project recommendation process. MPOs are asked to provide input on project priorities to ACTs, and the ACTs are directed to consider this input. The OTC will also consider MPO input provided to ACTs when it selects projects.

Strategic Investment: To better define the types of projects ODOT will put forward, the “Strategic Investment” criterion now notes that projects should provide significant benefits to Oregon and the state transportation system in terms of economic development, freight mobility, environmental quality, congestion relief, and safety, and other areas.

Funding: The “Funding” criterion has been modified to state that earmarks, when combined with funding already committed to the project and additional available resources, will be used to complete the project or a project phase. The phases are now defined, including environmental work, preliminary engineering, right of way acquisition, and construction. Due to concerns that the “last dollar” requirement could disqualify many projects, the “last dollar” language has been moved to another section of the policy to serve as guidance rather than a firm requirement, and the intent of this language has been clarified.

Local Agency Roles and Responsibilities: ODOT has modified the language in this section of the policy to more clearly explain its intent. The revised language emphasizes that ODOT will not make any advance commitment to allocate additional funds for projects not on the OTC request list while noting that these projects will still be able to compete for funding within the normal STIP process. In addition, the language on requiring local agencies to make up funding shortfalls has been dropped, as the OTC cannot compel any agency to fully fund a project. However, the intent of this statement has been retained: given the agency’s limited resources, ODOT will not be able to fund every project for which a local agency or other organization secures an earmark, and ODOT will only commit to funding and delivering projects that the OTC has requested. The revised language also notes that the policy applies to any entity that requests and secures an earmark.

Preclusion of Local Requests: Based on concerns expressed by some local agencies, ODOT has added a paragraph noting that this policy would not preclude a local agency from seeking an earmark from the congressional delegation. Local agencies will be able to request any project—including state highway projects—from the congressional delegation, but the policy explains that they will not be able to expect that ODOT will dedicate its scarce resources to funding projects the State has not requested.

Local Contribution: ODOT has eliminated the original language that would generally prohibit local agencies from using an earmark to cover the local contribution to a state highway project. ODOT has substituted a policy that would allow local agencies to count federal earmarks toward their local contribution when a project is fully funded. When an earmark is not fully funded, the earmark will first be applied to closing any funding gap, and any remaining funds could be applied to the local contribution.

Project Selection Guidelines: ODOT has provided additional guidelines on project selection to ACTs, MPOs, local agencies, and other advisory bodies in the guidance document. These include guidelines related to project type, timeline, and size of earmark request. The guidelines also direct ACTs to ensure that a contingency plan is in place to ensure a project can move forward if full funding is not secured.

Transit Projects: The guidance document has been modified to allow ACTs to include a separate list of priority transit projects in order to show regional support for requests made by local transit agencies.