



ConnectOregon II – 11/13/07 Update

1. General Information

a. What is *ConnectOregon*?

ConnectOregon is a lottery bond-based, initiative to invest in air, rail, marine, and transit infrastructure to ensure Oregon's transportation system is strong, diverse, and efficient.

b. Who ultimately benefits from *ConnectOregon* projects?

All Oregonians will reap the benefits from enhancing Oregon's transportation infrastructure. Residents and businesses, as well as the environment, will benefit by having a more efficient, productive transportation system that improves Oregon's business environment, ultimately leading to more jobs and a more sound economy.

c. Will *ConnectOregon* benefit only urban areas?

No. Projects in all parts of the state will be considered for funding. The *ConnectOregon* legislation (House Bill 2278, 2007 Regular Session) requires that at least 10 percent of the funds be allocated in each of the five regions (regions are geographic groupings of counties; see www.oregon.gov/COMM/CO/index.shtml).

2. Communications and Outreach

a. Who are some of the key stakeholders in *ConnectOregon*?

Key stakeholders include the businesses that will benefit from the projects made possible by the investments, representatives and advisory groups from the eligible transportation modes, freight shippers and carriers, business organizations, municipalities, and the environmental community.

b. What communication channels will be used?

A *ConnectOregon* Web site (www.oregon.gov/COMM/CO/index.shtml) that contains background and current information is available through the ODOT Web site. Five informational meetings for all interested parties will be held during the application period throughout the state (one meeting in each geographic region identified in the *ConnectOregon* legislation). These meetings will provide information regarding the application and application process. ODOT is also maintaining a list of individuals and groups who want to receive regular e-mail updates; information about how to get on the mailing list is on the *ConnectOregon* Web site.

c. How can applicants and other interested parties keep current on progress or changes in this program?

To receive email updates regarding the *ConnectOregon* II process please sign up for the electronic mailing list at: <http://listsmart.osl.state.or.us/mailman/listinfo/connectoregon-news>. The *ConnectOregon* Web site will contain updates as well as other important information. Everyone on the email list will receive notification if new FAQs are added after the opening of the application period.

3. Project Eligibility

a. What considerations will be used to evaluate projects for *ConnectOregon* funds?

In selecting transportation projects, the Oregon Transportation Commission will consider the following:

- Whether a proposed transportation project reduces transportation costs for Oregon businesses or improves access to jobs and sources of labor;
- Whether a proposed transportation project results in an economic benefit to this state;
- Whether a proposed transportation project is a critical link connecting elements of Oregon's transportation system that will measurably improve utilization and efficiency of the system;
- How much of the cost of a proposed transportation project can be borne by the applicant for the grant or loan from any source other than the Multimodal Transportation Fund; and
- Whether a proposed transportation project is ready for construction.

b. Are projects that can be funded by fuel and motor vehicle tax revenues eligible for *ConnectOregon* funding?

No. Projects eligible for funding from revenues described in section 3a, Article IX of the Oregon Constitution, e.g., the Highway Trust Fund, are not eligible for *ConnectOregon* funding. If a highway or public road element is essential to the complete functioning of the proposed project, applicants are encouraged to work with their ODOT region, city or county to identify the necessary funding sources.

c. Can a publicly owned road be part of a *ConnectOregon* project?

Yes, but no *ConnectOregon* funds can be used for improvements that are otherwise eligible to be funded by highway fund revenues.

d. Is a project eligible if it contains an element eligible for state highway funds?

Yes. However, only project elements not eligible for state highway funds are eligible for *ConnectOregon* funding: therefore, the application should be for the other project elements. The *ConnectOregon* program encourages submission of projects that include a component connecting one mode to another.

e. The bill says “Transportation Projects” are eligible for funding. Does that include all the modes and types of projects and facilities defined in the ORS?

No. Only rail, marine, aviation, and transit projects are eligible.

f. Is dredging an eligible activity, if needed to deepen an existing port to serve larger ships?

Most dredging is considered a maintenance activity. Bonds are the source of *ConnectOregon* funds. It is generally not considered good practice to fund operations or maintenance activities with bond proceeds. The reviewing committees will consider this during project selection. To present a strong application, the applicant should demonstrate that the dredging would achieve a new depth as opposed to restoring previously reached depths.

g. Are capital equipment purchases eligible projects?

Yes.

h. Will applications be considered for a combined government and private project?

Yes. For private entities, a lien will be granted and a deed of trust (for real property) or a security agreement (for personal property) will be executed to effect such a lien.

i. May a private entity or public agency submit multiple project applications?

Yes.

j. Can applicants submit projects that are not yet fully funded?

Documentation of how the entire project will be funded must be submitted with the application. During the project selection process, ODOT anticipates the review committees will consider whether a project is ready to begin work.

k. What is the extent to which a project can include aspects other than construction of physical improvements?

Projects may be a combination of real estate, capital infrastructure, capital equipment, professional services (e.g. architectural and engineering services), or other expenditures. Non-capital project expenditures are not prohibited, but it is generally not considered good practice to fund non-capital assets or services with bond proceeds. A more expensive form of bonding is required for predominantly non-capital projects.

l. Can projects that were not selected for funding under ConnectOregon I apply for ConnectOregon II funds?

Yes, they can reapply.

m. If an applicant received ConnectOregon I funds, will it count against that applicant in ConnectOregon II?

No.

n. Are projects that are physically located outside the state eligible?

No.

o. What level of design has to be completed prior to application submittal?

Zero. The application includes a detailed checklist that covers the applicant's planning efforts. Applicants should demonstrate they have the knowledge and management ability to complete the project and that the project concept is feasible. However, applicants should keep in mind that readiness for construction is one of the review considerations.

4. Application Process

a. What process will be used to submit a project for ConnectOregon II funding?

All project applications will be submitted to ODOT. It is expected that application period for ConnectOregon II will open in early September 2007 and close in late November. Interested parties should watch the ODOT Web site and add their names to the ODOT email list of updates and notification: <http://www.oregon.gov/ODOT/COMM/CO/index.shtml>.

To receive automatic notification of updates sign up for the our e-list at <http://listsmart.osl.state.or.us/mailman/listinfo/connectoregon-news>

b. Will ODOT and the Aviation Board or the Oregon Economic and Community Development Department perform an initial assessment on project applications?

Yes. ODOT and the other agencies will initially screen all projects for completeness and reasonableness.

c. Will ODOT assist applicants in the project submission process?

ODOT will not provide assistance to applicants since ODOT is administering the project selection process.

d. Should applicants obtain letters of support for their project?

Yes. Letters of support from community and business supporters as well as affected local governments will be helpful to the OTC as they make their decisions. They should be addressed to the project applicant. Letters of support and letters of intent to use the project are specifically requested in the project application.

e. Are design costs eligible for project funding?

Yes.

f. How can applicants or other interested parties follow up on a project's application status after it has been submitted?

Basic information on all projects under consideration will be posted on the *ConnectOregon* Web site.

g. Are there questions in the application that do not apply to all modes?

Yes. To address all of the considerations in a structured question format, the application is written with some questions that focus on only one mode of transportation. There may be some questions that do not apply to all projects. Applicants will not be penalized if they cannot answer a question that does not apply to the project (e.g. Freight rail projects will not be expected to answer questions regarding passenger movement).

5. Project Selection**a. What process will be used to select a project for *ConnectOregon II* funding?**

The OTC will solicit project recommendations from the Oregon Aviation Board, the Freight, Public Transit, and Rail Advisory Committees, the Marine Project and Planning Advisory Committee, as well as the Area Commissions on Transportation. A public hearing is planned for May 2008 where any member of the public or interested party may provide comment on *ConnectOregon* projects to the OTC before the Commission makes its project selection decisions.

b. Who are the members of these designated advisory groups?

Membership lists for the designated advisory groups are maintained by several state agencies, please check the following Websites for the membership lists for the respective advisory group:

Aviation Board, Oregon Department of Aviation <http://www.oregon.gov/Aviation/board.shtml>

Oregon Freight Advisory Committee, ODOT Freight Mobility Section
http://www.oregon.gov/ODOT/TD/FREIGHT/OFAC_Membership_List.shtml

Rail Advisory Committee ODOT Rail Division
<http://www.oregon.gov/ODOT/RAIL/RailAdvisoryCommittee.shtml>

The Public Transit Advisory Committee, ODOT Public Transit Division
http://www.oregon.gov/ODOT/PT/ABOUT/PTAC/next_meeting.shtml

The Marine Project and Planning Advisory Committee, Oregon Economic and Community Development Department <http://econ.oregon.gov/ECDD/boards.shtml>

Membership on some of these committees may change before the review process begins – check these sites during review for any additional information.

c. Must projects be initiated by the designated advisory groups?

No. Submission of eligible projects is open to any entity whose project fits program considerations.

d. When will projects be selected?

ODOT anticipates that the OTC will approve a list of projects for funding in June 2008.

e. How will the 10 percent regional allocations be met if there are multiple project application periods?

There will be only one project selection period during which all \$100 million will be awarded, including the 10 percent regional allocation requirement.

f. What if \$10 million worth of projects is not submitted for every region?

Given the need for transportation system improvements throughout the state, ODOT anticipates that each region will submit at least \$10 million in project requests. A delay in one of the regions will not affect progress in the others.

g. How much time will the advisory boards and committees have to evaluate applications?

ODOT expects to post information on all project applications that are found to be complete and eligible on the *ConnectOregon* Web site by early January 2008. The advisory organizations will each have approximately six weeks to make project recommendations.

h. How will projects from different modes be fairly compared and evaluated?

The OTC will consider the projects that are in the best interest of the state's transportation system.

i. Are there any funds set aside for specific public entities?

No

j. How will marine projects be selected?

Marine projects will be given the same consideration and go through the same process as other projects; all applications will be received by ODOT. Prior to selecting marine projects, the OTC will solicit recommendations from the Marine Project and Planning Advisory Committee.

k. How will Area Commissions on Transportation be involved in project review?

ConnectOregon legislation does not define a role for Area Commissions. However, since funds are allocated by region and advice is requested by mode in the legislation, OTC is inviting groups of Area Commissions to work with potential applicants within each *ConnectOregon* region to identify projects that will be good candidates for *ConnectOregon* funding. The administrative rule enables this broader consultation. The Area Commissions are expected to play an important role in working with project applicants and interested parties in their regions to help shape regional priorities. The Area Commissions will have about six weeks to conduct their

review to make recommendations. The ACTs' review will follow the modal advisory committees review.

l. There is no ACT in the Portland metro area – how will input be provided from here?

A special purpose committee that will include the business community, JPACT members, and representatives from Columbia and Hood River Counties will be created by the OTC for the purposes of *ConnectOregon* project review in this area. It will disband after making recommendations.

m. How will the project recommendations from groups of ACTs and the modal review boards and committees be brought before the OTC?

The ODOT Director will convene a committee composed of the representatives from the modal committees and ACTs to bring all the recommendations from the various reviewers into a unified proposed list for adoption by the OTC. An OTC public hearing will be held in May 2008 to consider this "final review" committee list.

n. Are the five considerations equally weighted?

There is no differentiation in the legislation, however, the OTC will ask review committees to identify the first three considerations (in the order listed in HB 2278) as strategic considerations.

o. Why is ODOT using considerations as opposed to criteria – was that inherited from the bill?

The term considerations is used in the legislation.

p. Are joint sponsorship applications permitted?

Yes. Joint applications are acceptable from any combination of public-private, private-private, or public-public partnerships.

6. Project Funding Administration

a. Who will administer *ConnectOregon* funds?

ODOT is responsible for administering *ConnectOregon* funds.

b. Will the entire \$100 million in project funding be available to applicants at once?

No, funding will be provided to project applicants on a reimbursement progress payment basis. Exact terms will be negotiated with each project applicant.

c. Who will determine if a project will be funded by a grant or loan?

Applicants should state their preference, but the Oregon Transportation Commission will ultimately decide.

d. Will project applications be accepted for a grant and loan combination?

Yes.

e. What if a project provides benefits to multiple regions?

This type of project has some competitive advantages, other things being equal. Specify the regions it's in and what regions it benefits, if different.

f. What is the matching funds requirement?

ConnectOregon legislation directs the OTC to consider how much of the project cost can be borne by the applicant. Grant recipients must provide at least 20 percent of project cost in matching funds.

g. Can federal funds be used as matching funds?

Yes.

h. Please clarify the rules and requirements for the 20 percent match required for grant applications.

- 1) An applicant does not have to demonstrate that they have 20 percent of the project costs in cash up front or in a bank account.
- 2) An applicant must pay for 20 percent of the project costs, which include elements necessary for implementation, e.g. land, excavation, permits, engineering, payroll, special equipment purchase or rental.
- 3) Project costs that were paid for by the applicant prior to the agreement effective date can be used as part of the match, but are not eligible for reimbursement.
- 4) "Value" of an item, e.g. land or special equipment, isn't part of the match. The applicant's out-of-pocket payment to purchase the land or buy/rent the special equipment can be part of the match and must be specified in the application. If an applicant previously purchased a parcel of land, it is his/her payment when the land was purchased that is part of the match, not how much it would cost today to purchase the land.
- 5) Project elements that are donated to the applicant, e.g. ROW, land, equipment (even if the donation was done to benefit the project) are not part of the match. Donations are considered an in-kind contribution, not "moneys."
- 6) If an applicant has a monetary outlay for something that is required for the transportation project, then that payment can count towards the 20 percent match.

i. Can estimated operational revenues for the built project be used as matching funds?

No, and the applicant will need to demonstrate that funds to operate the project or facility are available.

j. Will Federal NEPA requirements apply?

National Environmental Policy Act requirements will apply if they are required by the federal agency involved in the project.

k. Can *ConnectOregon* funds be used in combination with a variety of other funding sources to complete a project?

Yes. The funds can be used in combination with federal, state, local, and private sources to finance the project.

l. Will ODOT require a lien or other assurance of applicant/project viability?

A recorded lien will be required to protect the state's interest if a private firm or local government goes bankrupt or is sold. This will be a component of the agreement executed between ODOT and the successful project applicant.

m. Is there a timeline in the *ConnectOregon* program that says when funds must be spent on awarded projects?

No. However, how soon a project can be constructed is one of the considerations the Oregon Transportation Commission will use to evaluate projects for funding. Once a project is selected, the Agreement with ODOT will include specific dates, based on the application.

n. When airports apply for FAA grants, there are grant assurances that must be met. Is there anything like that required for *ConnectOregon* II grants?

Yes. Project completeness and operating assurances are a part of project agreements. A draft grant agreement is included in the application packet. Applicants must be willing to sign the agreement prior to receiving funds.

o. Can previously received government grants, loans, or other types of federal, state, or municipal aid previously awarded to a transportation facility qualify toward the matching funds necessary for a *ConnectOregon* grant?

Yes. Previously received government grants, loans, or other types of aid may be used as match. However, the exact nature of these funds will need to be reviewed on a case-by-case basis. This review will be conducted throughout the application review process and finalized during negotiations of project agreements. An important consideration, when evaluating previously received government grants, loans, or other types of aid, is whether other funding is contingent on receiving *ConnectOregon* funds or are they secure regardless of receiving COII funds. Previously received funding should be secure regardless of receiving *ConnectOregon* funds.

7. Loans

a. What are the loan term, interest rate, and payback schedule on project loans?

Loan terms and conditions will be negotiated as part of the underwriting process.

b. Are loan project applications required to include matching funds?

No.

c. Are there other unique requirements for loan applications?

Yes. Loan applications must meet reasonable credit underwriting standards, including evaluation of project feasibility and risk, repayment capacity, collateral, and the applicant's fiscal performance and operational capacity to manage the project.

d. Will loans be reimbursed on the same basis as grants?

Loan agreements, including repayment schedules, will be treated on a case-by-case basis regarding disbursement and reimbursement of funds. This will be addressed in individual project contracts.

8. Project Management**a. Who will manage the physical construction of the selected projects?**

The applicant is responsible for constructing its project, including obtaining all required permits and approvals.

b. How are unavoidable cost overruns to be handled?

Once a project has been selected, the applicant is responsible for completing the project as proposed for the funding provided. There is no provision for the applicant to receive additional funds if project costs are higher than estimated. The applicant will be responsible for making up any funding deficiency. If the project cannot be completed with the funds allotted, the OTC may cancel the project and award the funds to another project.

c. Will elements of projects completed by private applicants as a part of a public/ private partnership be subject to the prevailing wage rate?

ODOT cannot make these determinations; the determination of whether any specific project is subject to the prevailing wage rate depends on the details of the specific project. Each applicant, and their legal counsel, has to make prevailing wage rate determinations based on an application of the facts to the law.

Applicants must comply with all relevant state laws, including the prevailing wage rate law, ORS 279C.800 to 279C.870, as amended by House Bill 2140 (2007). House Bill 2140 establishes a procedure to request a determination by the Commissioner of the Bureau of Labor and Industries to determine whether "a project or proposed project is or would be a public works on which payment of the prevailing wage rate is or would be required under ORS 279C.840."

9. Multi-modal Study Fee**a. The bill says each recipient must pay a fee of two percent of the recipient's total project costs to ODOT. What is the definition of "total project costs?"**

Based on the proposed administrative rule, the "total project costs" will be the sum of the ConnectOregon grant, ConnectOregon loan, and the required 20 percent match for grants.

In the proposed administrative rules, “total project costs” is defined as the funds received from the Multimodal Transportation Fund program plus the required 20 percent matching funds, if applicable. For example:

A recipient approved to receive \$100,000 in grant funds is required to provide a 20 percent match i.e. \$25,000. The “total project costs” is \$125,000; the two percent fee is \$2,500. (For the match amount, a recipient needs to use at the total dollar amount., $\$100,000 / 0.80 = \$125,000$; $\$125,000 * 0.20 = \$25,000$.)

A recipient approved to receive \$100,000 in loan funds does not have a required match to pay. The “total project costs” is \$100,000; the two percent fee is \$2,000.

Project costs born by the applicant that exceed the required 20 percent will not be considered a part of the “total project costs” used to calculate the two percent fee.

b. How will the 2 percent fee be paid to ODOT?

The two percent fee is an eligible project cost for *ConnectOregon* funds. As such, the agreement between the recipient and ODOT will include a provision for the fee to be paid directly to ODOT from the recipient’s *ConnectOregon* funds.

c. What will the 2 percent fee be used for?

The Oregon Legislature established the fee and directed the department to use the funds to conduct a statewide multimodal study of the transportation system. The study will include an assessment of the infrastructure, capacity demand and constraints, development of criteria for strategic investments and return on investment and identification of potential funding sources and strategies.