**R940. Transportation Commission, Administration.**

**R940-11. Guidelines for Partnering with Local Governments.**

**R940-11-1. Purpose and Authority.**

The purpose of this rule is to increase the department's and commission's ability to carry out improvements on state highways by allowing local governments to provide local matching dollars or participate through other methods, such as providing right-of-way. This rule is required by Subsection 72-2-123(1) and is enacted under the authority of Title 63G, Chapter 3, Utah Administrative Rulemaking Act and Section 72-1-303.

**R940-11-2. Definitions**.

(1) "Commission" means the Transportation Commission created in Section 72-1-301.

(2) "Department" means the Department of Transportation created in Section 72-1-201.

(3) "Local government" means a municipality or county.

(4) "Long-range transportation plan" means any one of the five plans developed by the department and the state's four Metropolitan Planning Organizations that forecast the state's transportation needs for the next 20-plus years and may also be known as a regional transportation plan.

**R940-11-3. Process for Submitting and Accepting Proposals--Department Recommendation--Notification.**

(1)(a) If a local government is seeking to partner on, then the local government shall notify the department and the commission, in writing, at the earliest available opportunity and provide the information listed in Subsection (2).

(b) The local government is encouraged to work with the department in formulating and developing the necessary information.

(2)(a) When making the notification described in Subsection (1)(a), the local government shall provide the following information:

(i) A written description of the state highway project, including a cost estimate and any engineering or technical information that may have been prepared.

(ii) A statement indicating whether the state highway project has already been programmed into the Statewide Transportation Improvement Program (STIP) or Transportation Improvement Program (TIP) and, if not, whether it is in the long-range transportation plan and the phase of the long-range transportation plan.

(iii) A statement indicating whether any environmental or other federal clearances or permits will be necessary and, if so, the status of any federal applications.

(iv) A description of how the local government plans to partner with the department on the state highway project, including the source of any local matching funding.

(v) A written description of why the project is needed at this time and the benefit that the project will bring to the state highway system and the local government.

(b) If the proposal includes local matching dollars described in Subsection (4)(d), then the local government shall also provide an economic impact analysis that includes the estimated economic impact to the local government and the state and the projected tax revenue impact that will likely occur as a result of the project being completed.

(3) The department and commission may only accept a local government proposal if:

(a) environmental clearances are completed or highly probable;

(b) the proposal complies with this rule, is complete, and is feasible; and

(c)(i) the project is already programmed in the Statewide Transportation Improvement Program (STIP) or the Transportation Improvement Program (TIP); or

(ii) the project is part of the long-range transportation plan and the commission determines that advancing the project will not defer other projects that are already prioritized and programmed in the Statewide Transportation Improvement Program (STIP) or Transportation Improvement Program (TIP).

(4)(a) The commission may not consider local matching dollars unless the state provides an equal opportunity to raise local matching dollars for state highway projects within each county, as required by Subsection 72-1-304(3)(b).

(b) Local matching dollars cannot be funded by federal funds, except with:

(i) Federal transportation highway formula funds, normally programmed by local entities, including funds programmed by a Metropolitan Planning Organization; or

(ii) Federal discretionary funds with prior joint agreement by UDOT and the local government.

(c) Private sources or contributions may be considered part of local matching dollars if they pass through the local government.

(d) Local matching dollars may include new revenue a local government expects will be generated as a result of the construction of the state highway project.

(5) The department shall:

(a) notify the commission at a public meeting of any partnering requests that meet the requirements of Subsection (3);

(b) evaluate each proposal and accompanying information to verify whether the proposal complies with this rule, is complete, and is feasible;

(c) calculate an independent cost estimate for the project; and

(d) make a recommendation to the commission at a public meeting regarding each proposal that meets the requirements described in Subsection (3), including the reasons for recommending denial or approval of the proposal based on the criteria in this rule.

(8) At any time in this process, the department may contact the local government for additional information and may incorporate amendments requested by the local government into the local government's proposal.

(9) The department shall provide at least 30-days written notice to the local government of the date, time, and location of the commission meeting at which the commission will hear the request for partnering.

**R940-11-4. Factors Used to Consider Proposals.**

(1) In deciding whether to approve a local government's request for partnering, the commission shall evaluate the proposal with the following factors in mind:

(a) whether the requested project is part of the Statewide Transportation Improvement Program (STIP), the Transportation Improvement Program (TIP), or the long-range transportation plan and, if part of the long-range transportation plan, will not delay any of the projects already included in the STIP or TIP;

(b) the benefits of the project to the state highway system and the local government;

(c) the costs of the project;

(d) the level of local commitment, based on the amount or percentage of local matching funding proposed;

(e) whether the proposed project was subject to a local or regional planning initiative;

(f) whether the project will alleviate significant existing or future congestion or hazards to the traveling public or provide other substantial improvements to the transportation system;

(g) whether the proposal has the potential to extend department resources to other needs;

(h) land use considerations;

(i) potential incremental revenue generation if the project is completed; and

(ii) whether the proposed project fulfills a need widely recognized by the public, elected officials, and transportation planners.

(2)(a) If a proposed project is to a surface street that approaches an interchange or ramp or for a new interchange or ramp and is being undertaken primarily for economic development, then the local government shall provide at least 50% local match. Economic development may include such things as employment growth, employment retention, retail sales, tourism growth, freight movements, tax base increase, and traveler or user cost savings as compared to construction costs.

(b) If a proposed project is to a surface street that approaches an interchange or ramp or for a new interchange or ramp and is being undertaken to relieve traffic congestion or to improve safety, the local match, if any, may be determined based on the benefit derived by the local entity.

**R940-11-5. Record of Proposal and Interlocal Agreements.**

(1) The department shall maintain a record of each request for partnering. Except for individual records in the file that may be classified as private or protected, the contents of the file shall otherwise be public.

(2) If the commission agrees to the request for partnering, then the department shall develop an interlocal agreement with the local government that will set forth the proposal, the method of participation, the work that will be done, and projected timelines.

(3) An agreement described in Subsection (2) shall include:

(a) adequate security to the department of receiving the local matching funding proposed by the local government;

(b) a statement indicating that the agreement does not preclude the department from requiring other agreements related to the proposed project;

(c) a statement indicating that the agreement does not include the work terms for the project;

(d) any indemnification clause determined necessary by the department; and

(e) a statement that incorporates the proposal that was approved by the commission.

**KEY: transportation, local governments, partnering, highways**

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