

W. S. D.

Memorandum Date: March 3, 2008
Meeting Date: March 19, 2008

TO: Board of County Commissioners
DEPARTMENT: Public Works
PRESENTED BY: Celia Barry, Transportation Planning
AGENDA ITEM TITLE: ORDER/In the Matter of Commenting on the Oregon Department of Transportation (ODOT) Draft Earmark Policy

I. MOTION

Move approval of the Order (Attachment 1).

II. AGENDA ITEM SUMMARY

With Congress expected to act on a new surface transportation authorization bill in 2009, the Oregon Department of Transportation (ODOT) requests comments on draft policy and guideline documents regarding processing and requesting federal earmarks for transportation projects. Comments are due by April 1 or very soon thereafter.

If adopted by the Oregon Transportation Commission (OTC), the policy will be implemented beginning in May, 2008 when the "Earmark Requests Lists" process starts up. Lists must be submitted to OTC by September 2008, and prepared in a similar manner to the Statewide Transportation Improvement Program, with the exception that no prioritization is required.

III. BACKGROUND/IMPLICATIONS OF ACTION

A. Board Action and Other History

The Roads Advisory Committee (RAC) acted on February 27, 2008 to request the following phrases be stricken from the draft policy in Attachment 2.c. (and these phrases are the essence of the policy document):

From the last paragraph, page 2 of 3: A local agency that secures earmark funding for a project not on the official OTC Earmark Requests List takes on the role of the project's sponsor. The local agency must provide matching funds and cover any funding shortfalls for the project.

From page 3 of 3: Local agency earmarks will not be counted toward local contributions to projects unless the local agency receives prior approval from the ODOT region.

The Metropolitan Policy Committee discussed the matter at their February 14 meeting without taking action. They requested the presence of ODOT's Director or Deputy Director at their March 13 meeting to express their concerns. ODOT's Region 2, Area 5 Manager is

working on these arrangements. The Board of Commissioners would be invited to join the MPC meeting. A second alternative is to have the ODOT Director or Deputy Director present at the Board's April 2 meeting, inviting MPC to attend.

The Transportation Planning Committee (TPC), which provides staff support for the MPC, discussed the draft policy at their February 28, 2008 meeting, along with ODOT Region 2 and Region 2/Area 5 staff. ODOT staff indicated that the purpose of the policy is to better channel limited funding to project needs which can always be expected to exceed available funding. In addition, ODOT appears to have an expectation that local governments will contribute more non-earmark funding to projects. An issue of historic concern is that in some cases local governments have pursued and obtained an earmark of significantly less money than necessary for a project, resulting in the need for ODOT to come up with the shortfall by taking money away from other projects.

B. Policy Issues

Please see the discussion under III.E., Analysis.

C. Board Goals

The following Strategic Plan Goal statements relate to this Board item:

- Provide opportunities for citizen participation in decisionmaking, voting, volunteerism and civic and community involvement; and
- Contribute to appropriate community development in the areas of transportation and Telecommunications infrastructure, housing, growth management and land development.

D. Financial and/or Resource Considerations

The proposed process as discussed in Attachment 2.d. will result in allocation of additional staff resources. The new process will require Lane County and Area Commissions on Transportation to hold public processes and compete for inclusion of projects on the official Oregon Transportation Commission (OTC) Earmarks List. The process would be similar to the existing Statewide Transportation Improvement Program (STIP) process. In addition, if Lane County did pursue an earmark and succeeded in obtaining it for a project, and the earmark did not receive prior approval to be included on the official OTC Earmark's List, Lane County could become financially responsible for any of the project's financial shortfalls. Finally, Lane County would be prevented from using locally obtained earmarks as a local match for projects unless ODOT provides prior approval.

E. Analysis

As you know Lane County and its partner local agencies routinely request federal earmarks for transportation projects. The proposed policy could have an impact on the level of funding that ODOT would be willing to contribute to projects that receive federal earmarks in the next and future surface transportation authorization bills, if they are not on the OTC-approved Earmark Requests List.

During RAC and TPC discussions, several obvious concerns were raised with regard to the draft Earmark Policy:

- The proposed policy seems contradictory to ODOT's stance that local priorities are

important and make local processes appear to be simply a formality. The proposed policy also ignores the current financial climate with regard to the likely loss of federal Secure Rural Schools funding.

- There is no clear criteria proposed for deciding which projects go on the “Official Earmarks List”.
- The process used to develop the policy and guidelines appears to have been quite insular. The policy was developed without recent local consultation.
- Will ODOT realistically be able to follow this policy? If locals succeed in obtaining earmarks not on the Official OTC Earmarks List, how will Washington D.C. view ODOT action if a project cannot go forward?

Staff is recommending the Board express it’s non-support for the policy by adopting the proposed Order and sending ODOT the letter attached as Exhibit A to the Order. Should the Board request changes to the Order or letter, ODOT staff indicated that action at your April 1 or 2 meeting would be acceptable to meet the deadline for submittal to OTC, for their April 22-23 meeting.

IV. Alternatives/Options

1. Adopt the Order and Exhibit A
2. Request revisions to the Order and/or Exhibit A, for adoption on April 1 or 2
3. Do not take action

V. TIMING/IMPLEMENTATION

The schedule on the last page of the attached materials shows timelines for local input and OTC action on both adoption of the earmark policy and on the official OTC Earmark Request List. OTC is expected to take action on the policy at their monthly April 22-23 meeting.

MPC is expected to take action on March 13, 2008. Staff will report their action to the Board at your March 19 meeting.

VI. RECOMMENDATION

Alternative 1 or 2 is recommended. Staff anticipates that a number of local governments will have similar responses to the proposed policy language.

VII. FOLLOW-UP

If the OTC takes action in April, ODOT will be contacting Lane County and others in May to begin implementing the Earmarks List process.

VII. ATTACHMENTS

1. Order and Exhibit A
2. ODOT Materials:
 - a. Email introducing the Earmark Policy materials
 - b. Background on ODOT Draft Earmark Policy
 - c. Policy Draft
 - d. Guidance for Preparing ACT Earmark Recommendation Lists

**IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY
STATE OF OREGON**

ORDER NO.

)
) In the Matter of Commenting on the Oregon
) Department of Transportation (ODOT) Draft
) Earmark Policy
)

WHEREAS, the Oregon Department of Transportation (ODOT) requested input from the Lane County Board of Commissioners on a draft Earmark Policy and proposed process; and

WHEREAS, the Board of Commissioners held a work session on this request on March 19, 2008; and

WHEREAS, the Board wishes to demonstrate its concern about the draft policy and the process used to develop it, now, therefore, it is hereby

ORDERED that a comment letter in substantial conformance to the letter attached herein as Exhibit A be sent to ODOT for consideration.

Dated this _____ day of March, 2008.

Faye Stewart, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 3-11-2008 Lane County

Stephen J. Carver
OFFICE OF LEGAL COUNSEL

Exhibit A

March 19, 2008

Gail Achterman, Chair
Oregon Transportation Commission
355 Capitol Street NE, Room 135
Salem, OR 97301

Dear Chair Achterman,

Thank you for the opportunity to comment on the draft Earmark Policy and process. Lane County has several concerns about the draft policy and the process used for its development. We are asking ODOT staff to forward this letter to Mr. Brouwer for inclusion in the materials delivered to the Oregon Transportation Commission for this item, to be discussed and tentatively acted upon in April.

The implications of adopting this policy are such that Lane County took action today to send this letter recommending the OTC table the draft policy, and redevelop it with meaningful participation by local representatives, at minimum including the Association of Oregon Counties and League of Oregon Cities.

First, we would like to acknowledge the concern we understand is primarily at issue. It is important that the process for pursuing federal earmarks to the surface transportation authorization bill brings the best possible package of statewide improvements to Oregon citizens.

Substantively, the proposed policy appears to contradict ODOT's stance that local priorities are important, and has the effect of rendering local processes as mere formalities. There are no criteria in the draft policy to show how projects would be contemplated for inclusion on the earmark list in a consistent manner. Lane County well understands that there is never enough funding to completely address statewide transportation needs; however, this policy gives ODOT the authority to deny using locally obtained earmarks as match money. Surely, ODOT is aware of the expected local reaction to this policy language given the current financial climate. Lane County and other counties can expect to permanently lose federal Secure Rural Schools funding within one to four years.

In fact, local advocacy for an earmark can be the determining factor on whether or not that earmark is authorized in the federal budget. If county and other local officials work hard to obtain critical funding for transportation projects, fulfilling their obligation to the electors, these efforts could be punished rather than rewarded under this policy. Essentially it puts local elected officials in the untenable position of being forced not to promote the interests of local constituents unless OTC gives us the approval to do so. In addition, strict adherence to the proposed policy may be unfavorably viewed by federal legislators if projects cannot go forward as a result.

Finally, a number of provisions, particularly in the 6-page "Guidance for Preparing ACT Earmark Recommendation Lists", are confusing. For instance, it is unclear whether local projects are subject to the policy or not, and how such projects will be treated under the Earmark Policy.

In conclusion, Lane County recommends that the OTC continue to promote a cooperative working relationship by tabling this policy as recommended above and gathering meaningful local input before putting a draft out for additional feedback. As we can expect funding constraints to continue, and worsen, it is important that we pull together and find solutions to these problems together.

Sincerely,

Faye Stewart
Chair

Attachment 2.a.

From: BROUWER Travis

Sent: Wednesday, January 30, 2008 3:29 PM

To: ANDERSON Arthur H; BRUCE Kelly A; CHANDRA Naveen G; CHICKERING Sonny P; CUSMA Rena M; FARNSWORTH Gary C; HANSEN Norman C * Butch; KIM David; LONG Michael T; MABEY Raymond * Ray; MATHER Paul R; MCKINLEY Larry * ODOT; PAYNE Vivian B; POTTER James T * Tim; READING Frank H; USSELMAN Mark; WATANABE Richard F

Cc: BOHARD Jerri L; NELL Lisa D

Subject: Draft earmark policy and process

Attached is an electronic version of the draft reauthorization earmark policy and guidance that I discussed last week at the Area Managers meeting. I've also attached a brief description of the policy and background to help you discuss the direction we're going.

Please provide this draft policy and process to your ACTs and other stakeholders in the near future in order to solicit their feedback. While the Oregon Transportation Commission will set the policy, we want to ensure that local agencies have an opportunity to provide input. ACTs, in particular, can provide input on the mechanics of the prioritization process that will help us refine and improve this effort.

ACT members and other local stakeholders should provide feedback by April 1st so that it can be considered in advance of the OTC's consideration of the earmark policy at its April meeting. Final guidance to ACTs and other local stakeholders will be provided in early May, after the OTC has approved the policy and before the ACTs are asked to prioritize projects. Comments on this policy and process can either be sent by ACT members directly to me, or you can collect them and send them along to me.

If you would like me to discuss this at an upcoming ACT meeting, either in person or by phone, please let me know and I will do my best to make time on my calendar.

Please let me know if you have any questions or comments.

<<Background on ODOT Draft Earmark Policy.doc>> <<OTC Earmark Policy 1-10-08 TB edits.doc>>
<<Earmark_Guidance_Jan_22_08.doc>>

Travis Brouwer

ODOT Federal Affairs Advisor

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(503) 986-3448 Fax: (503) 986-3432

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Background on ODOT Draft Earmark Policy

SAFETEA-LU, the federal surface transportation authorization act that became law in 2005, included \$327 million in project-specific highway earmarks in Oregon. This is more than twice as much funding per year as provided by ODOT's modernization program in the 2008-2011 and 2010-2013 STIPs.

Congress will again take up a surface transportation authorization bill in 2009. Given the large amount of money allocated in the reauthorization legislation, the state and its partners have a strong interest in ensuring that earmarks are allocated to projects that have been identified as priorities and that address challenges facing Oregon's transportation system.


In order to help focus earmarks on identified priorities that can be delivered, ODOT is developing a policy on reauthorization legislation earmarks that lays out expectations, roles and responsibilities, and a process for prioritization of projects by ODOT advisory bodies, including ACTs. ODOT hopes that this policy and process will make clear the responsibilities that earmark recipients take on and improve communication between ODOT and local agencies that are seeking money for state highway projects.

The draft policy has two primary components.

- *Policy:* The policy would reiterate previous policy statements by the Oregon Transportation Commission that local agencies that receive earmarks take on the role of project sponsor and are responsible for providing funding to fully fund the project; the OTC will not plan to budget additional state resources to cover matching funds or make up funding shortfalls for projects not officially requested by the OTC. The OTC will also set criteria for the earmarks it will request from the congressional delegation.
- *Process:* The draft policy lays out a process whereby ACTs and other advisory bodies will prioritize projects proposed by ODOT staff and local agencies. The OTC will forward an official earmark request list to the Oregon congressional delegation that will be largely drawn from the recommendations made by advisory bodies. This process is designed to help improve communication between ODOT and local agencies on earmark requests, provide input on regional and statewide priorities to the congressional delegation, and help the OTC request projects that are recognized priorities for funding.

Local agencies would be asked to submit their likely earmark requests to ACTs for consideration and prioritization. Nothing in the policy would prevent a local agency from requesting an earmark for a project that is not prioritized by an ACT.

Local agencies and ACT members are encouraged to provide feedback on the draft policy and guideline documents. Comments should be provided to ODOT staff by early April, in advance of the OTC's consideration of the draft policy. ACTs will be asked to prioritize projects in May through September, and final guidance that responds to feedback will be issued in May.

 POLICY (Draft Date: 11/19/07)	NUMBER TRANSPORTATION COMMISSION-99	SUPERSEDES TRANSPORTATION COMMISSION-99
	EFFECTIVE DATE 99/99/99	PAGE NUMBER 01 OF 99
	REFERENCE OREGON TRANSPORTATION COMMISSION MINUTES - Month day, 2007 POLICY ON FORMATION AND OPERATION OF AREA COMMISSIONS ON TRANSPORTATION	
SUBJECT Project Earmark Requests	STIP PROJECT ELIGIBILITY CRITERIA AND PRIORITIZATION FACTORS	

PURPOSE

The Oregon Transportation Commission (OTC) establishes the following policy to increase the likelihood that congressional earmarks in the surface transportation reauthorization legislation will contribute to advancing or completing projects that have been identified as priorities by the OTC's regional or statewide transportation advisory committees.

POLICY

The Oregon Transportation Commission intends to advance an official OTC Earmark Requests List, containing a limited number of earmark requests in the federal surface transportation reauthorization legislation for projects that are strategic investments in Oregon's transportation system and have broad support. ODOT will provide or help provide matching funds and funds to make up any shortfalls for projects on the OTC list.

In developing the official OTC Earmark Requests List, the Commission will consider recommendations from Area Commissions on Transportation (ACTs) and other advisory bodies, statewide priorities, and available budget for providing required match and fully funding the project. The Commission may give preference to earmark requests that will complete the funding necessary to fully construct a project over requests that will fund only earlier phases, such as project development activities or right-of-way acquisition, or only beginning construction of a new project.

ODOT region staff and local government agencies are expected to work together through the Area Commission on Transportation (ACT) or similar body to identify and recommend appropriate projects that are high priorities for the area, have broad support, and meet the criteria laid out in this policy. The ACTs are to prepare the ACT Earmark Recommendation Lists and supporting documentation that demonstrates how each project meets the Earmark Project Requirements. The OTC will review and consider projects on the ACT Earmark Recommendation Lists to prepare the official OTC Earmark Requests List. The OTC may also consider

recommendations from its statewide advisory committees such as the Public Transportation Advisory Committee (PTAC) or the Oregon Freight Advisory Committee (OFAC). Projects that have the support of multiple parties including local governments, area and statewide transportation advisory committees, and the ODOT region will be preferred over ones that have less support.

Earmark Project Requirements

The Commission establishes the following criteria for earmark requests:

- *Strategic Investment:* The project is a strategic investment to improve Oregon's transportation system, is included in an existing transportation plan document, and has been identified as a regional or state priority.
- *Meets STIP Criteria:* Projects recommended for earmark requests must meet the approved Statewide Transportation Improvement Program (STIP) criteria as set forth in the *STIP Project Eligibility Criteria and Prioritization Factors*.
- *Support:* The project has strong support, including support from local government agencies, area and/or statewide advisory bodies, the public, and the business community.
- *Readiness:* The project has been developed enough to identify potential environmental concerns and demonstrate that it has no known fatal flaws. Earmark funding received will be used to complete the project or a project phase, including accomplishing a project development milestone, and the work will begin during the timeframe of the transportation authorization legislation.
- *Funding:* Earmarks should provide the "last dollar" for a project or project phase to fill a shortfall after other funding has been allocated. The project may be structured in phases so that the earmark funds received will complete a segment of the project.

The OTC will only make requests for projects that meet these criteria. ACTs should only recommend projects that meet these criteria.

Local Agency Roles and Responsibilities

A local agency that secures earmark funding for a project not on the official OTC Earmark Requests List takes on the role of the project's sponsor. The local agency must provide matching funds and cover any funding shortfalls for the project. Except for funding already allocated in the STIP, ODOT does not intend to allocate additional funds to provide matching funds or cover any shortfalls for earmarks received by other agencies for projects not on the official OTC list. This policy will apply when the local agency's earmark is for a project on the state system in addition to when the earmark is for a project on the local agency's system. A local agency that secures an earmark for a local agency project also is responsible for developing and delivering the project according to all applicable federal and state requirements, with oversight and technical assistance from ODOT.

ODOT often enters into agreements with local governments for local contribution to projects. Local agency earmarks will not be counted toward local contributions to projects unless the local agency receives prior approval from the ODOT region. ODOT may allow this in certain situations, including financial hardship for the local government and projects for which a local agency is making other transportation system improvements or other significant infrastructure improvements as part of a larger development effort.

DRAFT

Guidance for Preparing ACT Earmark Recommendation Lists

PURPOSE

In the next surface transportation authorization legislation, the Oregon Transportation Commission (OTC) intends to present Oregon's congressional delegation a list of requested earmarks for transportation projects that address important problems on Oregon's transportation system and have broad support. In advancing these projects, ODOT commits to delivering each project if a sufficient earmark is secured by the congressional delegation. ODOT will therefore provide or help provide matching funds and funds to make up any shortfalls for projects on the official OTC Earmark Requests List, as per any agreements with local agencies regarding the project. ODOT will not budget to provide for matching funds or to cover any funding shortfalls for project earmarks received by other agencies for projects not on the OTC list.

The OTC intends to have Area Commissions on Transportation (ACTs) and other advisory bodies recommend the most appropriate and highest priority projects to request earmarks for in the reauthorization bill. In doing so, the OTC hopes to focus earmark funding on transportation projects that have been identified as regional and statewide priorities and that are strategic investments in Oregon's transportation system.

This guidance explains the process and the steps Area Commissions on Transportation (ACTs) and similar bodies will follow to create ACT Earmark Recommendation Lists for consideration by the OTC as required by the OTC Project Earmark Requests Policy ([provide the link](#)). The ACT Earmark Recommendation Lists will be used to prepare an official OTC Earmark Request List. The ACT lists will also be provided to members of the Oregon congressional delegation to show which projects in each have been determined to be regional priorities.

PROCESS OVERVIEW

In mid-2008, ODOT will ask ACTs and statewide advisory bodies to prepare lists of projects that are priorities and should be considered for earmarks in SAFETEA-LU's successor legislation. Each ACT and ACT-like body will prepare an ACT Earmark Recommendation List containing a small number of priority projects. ODOT will draw on the ACT Earmark Recommendation Lists for the creation of the official OTC Earmark Requests List. Projects on the OTC list may also be drawn from other sources, such as the Oregon Freight Advisory Committee (OFAC), recommendations from ODOT Regions and Areas, and statewide priorities.

ODOT will not ask the ACTs to restrict their projects to the state highway system. Local agencies and ODOT regions will be asked to submit their potential earmark requests to the ACTs for consideration and potential inclusion in ACT Earmark Recommendation Lists and OTC review. ODOT staff may provide a cursory scoping of projects to ensure some level of accuracy. Local agency projects may be

considered for inclusion on the OTC list if they meet the Oregon Highway Plan (OHP) Policy 2B: Off-System Improvements. The OHP is available online at <http://www.oregon.gov/ODOT/TD/TP/orhwyplan.shtml>.

The OTC requires documentation of the projects identification and how each project meets the project eligibility requirements listed on page 3 of this guidance and in the OTC Project Earmark Requests Policy. This summary information must be completed for all projects on the ACT Earmark Project Lists.

BACKGROUND ON EARMARKS

Projects that receive congressional earmarks are considered federal-aid highway projects and are subject to all federal-aid highway requirements. Under the federal transportation program, ODOT administers all federal-aid highway earmarks and works with local agencies to help them deliver projects. For a partial explanation of earmark and federal-aid highway requirements, see *Federal-Aid Funding for High Priority Project Sponsors*, available online at <http://www.oregon.gov/ODOT/docs/LocalProjectSponsorsGuide.pdf>.

Earmarks in the last surface transportation authorization act, SAFETEA-LU, require a non-federal match of at least 11.45% of the earmark amount, and it is anticipated earmarks in the next surface transportation authorization act will have a similar requirement. Earmarks in the next authorization bill will not be available until the legislation is signed into law, which will likely be in 2010 or 2011. Funding from earmarks comes available in a fractional amount each year, and all funding is on a reimbursement basis; no cash is provided up front to pay for projects.

LOCAL AGENCY ROLES AND RESPONSIBILITIES

A local agency that secures earmark funding for a project not on the official OTC Earmark Requests List takes on the role of the project's sponsor and is responsible for fully funding and delivering the completed project. The local agency must provide all matching funds and cover any funding shortfalls for the project. This policy will apply when the local agency's earmark is for a project on the state system in addition to when the earmark is for a project on the local agency's system. A local agency that secures an earmark for a local agency project also is responsible for developing and delivering the projects according to all applicable federal and state requirements, with oversight and technical assistance from ODOT.

ODOT often enters into agreements with local governments for local contribution to projects. Local agency earmarks may not be counted toward local contributions to projects unless the local agency receives prior approval from the ODOT region. ODOT regions may allow this in certain situations, including financial hardship for the local government and projects for which a local agency is making other transportation system improvements or other significant infrastructure improvements as part of a larger development effort.

EARMARK PROJECT ELIGIBILITY REQUIREMENTS

Earmark projects are often modernization or bridge projects and the Commission has established approval requirements for such projects in the STIP criteria. Therefore, projects recommended for earmark funding requests should meet the approved Statewide Transportation Improvement Program (STIP) criteria as set forth in the *STIP Project Eligibility Criteria and Prioritization Factors*. Earmark projects often have further requirements or special considerations due to their earmarked status; therefore, the Commission established the following additional requirements for earmark request projects. The ACTs are to recommend projects that also meet these minimum Earmark Project Eligibility Requirements:

- *Strategic Investment:* The project is a strategic investment to improve Oregon's transportation system, is included in an existing transportation plan document, and has been identified as a regional or state priority.
- *Meets STIP Criteria:* Projects recommended for earmark funding requests must meet the approved Statewide Transportation Improvement Program (STIP) criteria as set forth in the *STIP Project Eligibility Criteria and Prioritization Factors*.
- *Support:* The project has strong support, including support from local government agencies, area and/or statewide advisory bodies, the public, and the business community.
- *Readiness:* The project has been developed enough to identify potential environmental concerns and demonstrate that it has no known fatal flaws. Earmark funding received will be used to complete the project or a project phase, including accomplishing a project development milestone, and the work will begin during the timeframe of the transportation authorization legislation.
- *Funding:* Earmarks should provide the "last dollar" for a project or project phase to fill a shortfall after other funding has been allocated. The project may be structured in phases so that the earmark funds received will complete a segment of the project.

STEPS TO PREPARE AN ACT EARMARK RECOMMENDATION LIST AND SUBMIT IT TO THE OTC FOR CONSIDERATION

STEP 1: Agency/ACT Coordination

ODOT region staff and local government agencies are expected to work together through the ACT or a similar body to identify and recommend appropriate projects that are high priorities for the area and have broad support. Local agencies are advised to work with their ACT or similar body and their ODOT region and submit earmark requests with or through the ACT or region as this demonstrates support for the project and agreement on priority.

The Area Commissions on Transportation (ACTs) or similar advisory committees should participate in selecting and recommending projects for earmark requests as

they do for modernization projects. ODOT staff will provide information and assistance for the ACTs to:

- Consider any existing project needs list
- Evaluate potential earmark projects against the current *STIP Project Eligibility Criteria and Prioritization Factors*
- Evaluate potential earmark projects against the specific requirements for earmark projects described in this guidance (page 3)
- Communicate with any affected local government agencies not participating in the ACT and appropriate statewide advisory committees
- Recommend appropriate high-priority projects with broad support to the OTC for inclusion in the OTC Earmark Requests List

ODOT staff and local agencies who wish to propose projects for ACT consideration should fill out the Reauthorization Earmark Request Form and submit it to ACT staff.

The ACTs should do this work during their regular meetings that are advertised and open to the public. A full description of ACT responsibilities, duties, and expectations is presented in the *Policy on Formation and Operation of the ACTs*, available on the ACT website at http://www.oregon.gov/ODOT/COMM/act_main.shtml.

STEP 2: Prepare the ACT Earmark Recommendation List

Each ACT should prepare a list of three to six priority projects that meet the earmark requirements spelled out in the OTC earmark policy. While ACTs will not be provided funding targets, they should attempt to balance the number and size of requests. For example, ACTs that recommend large earmarks should advance fewer projects, while those that recommend smaller earmarks can advance more projects. ACTs are urged to present earmark request lists that are in line with their population; smaller ACTs should generally put forward a smaller total dollar amount, while larger ACTs such as MWACT and RVACT may request a larger total dollar amount. The ACT Earmark Recommendation list need not be put in priority order.

ACTs should generally not recommend earmarks of less than \$1 million, as the cost of administering such a small earmark may consume a substantial portion of the earmark. In addition, ACTs should limit earmark requests to no more than \$25 million, as no project in Oregon received more than this amount in SAFETEA-LU, the last surface transportation authorization bill.

ACT lists may include three different types of transportation projects: state projects, local projects that benefit the state transportation system, and local projects that benefit the local system. The official OTC Earmark Request List will include state projects and may include local projects that benefit the state transportation system. The OTC Earmark Request List will not include local projects that do not demonstrably benefit the state highway system. However, ACTs are encouraged to consider other local projects and include those that are deemed regional priorities on

their Earmark Recommendation List to demonstrate support for these projects to the congressional delegation.

It is important to note that the amount for the earmark request needs to be reasonable to ensure completion of the project or phase can occur with the earmark and the dedicated funds within the required timeline as there is no ability to fill in any remaining funding gap.

ACTs must complete their Earmark Recommendation Lists by **September 30, 2008**. Any ACT lists received after this date may not be considered by the OTC.

STEP 3: Commission Review of ACT Earmark Recommendation Lists

The OTC will review ACT Earmark Recommendation Lists received from ACTs and other advisory bodies, statewide priorities, and available budget for providing required match and fully funding the project to develop the list of transportation earmark requests that will be sent to the congressional delegation. The OTC may give preference to earmark requests that will complete the funding necessary to fully construct a project over requests that will fund only earlier phases, such as project development activities or right of way acquisition, or only begin construction of a new project. The OTC Earmark Request List will include only state transportation projects and local projects that benefit the state transportation system.

Projects that have the support of multiple parties including local governments, business and community groups, area and statewide transportation advisory committees, and the ODOT region will be preferred over ones that have less support.

