

WAYS AND MEANS – DEFERRED MAINTENANCE RESPONSE

Department of Administrative Services

JOBS

1. **This package has been billed as an economic stimulus plan. How do we know that these projects are going to create local work for local workers?** The Emergency Declaration provides procurement processes and procedures that allow contracts to be awarded to Oregon contractors and suppliers quickly. Agencies will do their best, given the legislative intent, to meet this desire as well as follow appropriate state statutes, rules and policies around procurement under an Emergency Declaration..

For example, the projects involve purchasing goods that may be obtained from local suppliers. Typically contractors provide materials, but an agency may choose to purchase these materials.

Also, the procurement processes available to the agencies provide flexibility. The legislative declaration of an emergency points to ORS 279B.080 for emergency procurements, providing a process that includes competition that is reasonable and appropriate under the circumstances. Agencies can invite the contractors to submit quotes instead of giving notice to the global market. If appropriate, agencies can directly appoint an Oregon business.

We cannot emphasize a preference for Oregon companies. The processes identified in the above paragraph do not operate as “preferences” instead of a competitive process. They enable agencies to award contracts to Oregon businesses. For example, labor may be more cost effective if acquired locally.

With respect to minority- and women-owned businesses, constitutionally permissible actions include outreach, training, relaxation of bonding and insurance requirements, and aspirational goals. Federal “reverse discrimination” court decisions prohibit participation quotas and percentage participation requirements unless supported by disparity studies. The emerging small business enterprise (ESB) program is race and gender neutral and participation goals may be set under that program.

For ordinary construction projects, not public improvements, agencies may select processes from ORS 279B, including a special procurement for this Bill, direct award up to \$5,000, informal procurement inviting quotes up to \$150,000, or emergency procurement.

These processes are likely to create local work for local workers.

2. **What is to stop some of these jobs, especially the smaller ones like repainting a room, replacing light bulbs or fixing cracks, from being farmed out to existing maintenance staff?** Fortunately, most of the projects listed in the draft form of SB338 are slightly larger or more technical than most State maintenance staffs could or would handle. And, given the legislative direction and discussion at the hearings on this bill, state agencies also understand the expectations of the legislature to put this money out into the local economy versus funding their own staff.
3. **Do we know what the regional impact will be or have an indication as to how these jobs will be spread across the state to help all Oregonians? (At first glance, it looks like many parts of the state will receive short term projects with little lasting economic impact.)** In the identification and prioritization process by legislative staff, one of the goals was to develop a list of deferred maintenance projects that represent all regions throughout the state. DAS has been asked to monitor and analyze all

project activity covered under SB 338. DAS will provide reporting, which will include forecasted labor by geographic area and the number of jobs realized by area.

- 4. Are the majority of these projects subject to Davis-Bacon wages? If so, how are local businesses supposed to get these contracts when they can't compete with bigger businesses under the regulations of Davis-Bacon?** Oregon's Little Davis-Bacon Act (1959) is prevailing wage rate (PWR) law, when no federal monies are involved. The Little Davis-Bacon Act applies only if the project costs more than \$50,000 and meets the definition of a public works project. Based upon a preliminary review of the projects, 45% of the projects are over \$50,000 and 84% of the money for the projects is subject to the Little Davis-Bacon Act. This review assumes that all of these projects meet the definition of a public works and no federal funding is involved.

DAS-State Procurement Office (DAS-SPO) provides training standard statewide training services about its Oregon Procurement Information Network (ORPIN) in rural areas. For this situation, DAS will partner with the Government Contracting Assistance Program (GCAP) and other outreach partners to ensure knowledge of the stimulus program as well as provide technical assistance to suppliers for preparation of their responses.

In the last two years, DAS-SPO attended events in 10 rural communities (500 businesses). For 2009, three rural outreaches are scheduled. DAS-SPO also responds to requests by organizations hosting supplier outreach activities, including tradeshow, local small business development centers, and chamber of commerce meetings.

- 5. Of the approximate 350 deferred maintenance projects on the list 245 of the jobs will be completed within 3 months. 169 projects would be completed in the first month. 106 projects will be completed within one week. Does this mean we give workers a pink slip once the work has been completed whether it is one week, one month, or three months?** We would anticipate a worker would only receive a layoff notice if this is the only project they were hired to complete. If the company has other work, we would expect the worker to remain employed. Our objective was to create a list of projects that would start as soon as possible to get money out in the economy. To accomplish this, projects must be ready to start (already designed or does not require a design). As mentioned, many of these projects will be complete in the first three months, getting the majority of the money in the economy quickly.
- 6. The job estimate seems high considering that many of these projects last mere days or weeks. Has anyone analyzed what the "projected" 1500 jobs really mean in terms of wages, and duration of job?** Each project estimate includes the cost of labor, materials and overhead (project management, design, support, etc.). This portion on a standard project typically runs between 15 to 30% of the project total. The remaining amount is split between labor and materials. The rule of thumb is half labor and half materials. The legislature could direct DAS to gather this information as part of the reporting and analysis it plans to do across state agencies.

- 7. Can we really call this an economic stimulus package if this doesn't create, long lasting, sustainable jobs?** It is an economic stimulus package in the sense that it quickly infuses the economy with a sum of money in order to make sure there are jobs available in the construction market (where jobs can be restored fairly quickly).
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BONDING

- 1. Have we ever bonded deferred maintenance in the past?** Yes, it is not uncommon. The Legislative Approved Budget for 2007-09 already includes bonding for deferred maintenance at Higher Education, the Department of Corrections, the Department of Human Services and the Oregon Youth Authority
- 2. Would a business go out and put new gutters or tearing down a fence on their credit card?** A business would make a decision to use or not use a credit card based on a number of considerations. If they have available sufficient cash in the bank to cover the costs they may choose to use cash (write a check). If they have a line of credit available with an interest rate significantly lower than that of a credit card, they may choose to use the line of credit to cover the costs. If due to their current circumstances the most readily available source of funds is through a credit card, then they will likely rely on the credit card in order to be able to carry out the project. In any of these situations, we do not believe that the method of payment would diminish the stimulus impact of the project. The vendors that the business is acquiring the necessary goods or services from would receive payment promptly from either the cash, source of the line of credit, or bank issuing the credit card and would have available the funds they need to continue operating their business, leading to more stimulus.
- 3. What is the total cost of these bonds after they are completely paid off?** This question cannot be answered precisely until the bonds are sold. We have made the following estimates using interest rate assumptions we believe to be conservative:
 - Issuing additional COPs of approximately \$91.5 million, including cost of issuance, will result in total payments (principal and interest) of approximately \$151.1 million when bonds are fully paid off after 20 years. For deferred maintenance projects at Higher Education using XI-G and SELP loans, our estimate of the total cost over 20 years (principal and interest) of the \$17.5 million borrowed is \$31.7 million. Assuming a 30 year maturity for \$15 million in XI-G and XI-G accelerated capital projects, total cost is projected to be \$34.5 million. Assuming the Community College projects of \$53.3 million will be repaid over 20 years, a conservative estimate of total cost (principal and interest) is \$96.7 million.
- 4. What if the May revenue forecast comes in so low that it is imprudent to bond and we wasted our last capacity on these temporary projects?** Although the State Debt Policy Advisory Commission (SDPAC) has indicated that its initial estimate of \$1.1 billion in General Fund supported debt capacity will be reduced as revenue forecasts decline, the State has some ability to react to extraordinary circumstances. Though not the preferred course of action, should it be determined that exceeding the recommended capacity targets is necessary, the State would simply reduce borrowing in future biennia to realign outstanding debt with SDPAC targets. The SDPAC process is designed for a six-year prospective analysis.

5. **The Federal government is floating around a proposed \$825 billion economic recovery package. Would supporting a proposal of bonding and deferred maintenance tie up funds that could down the road be critical to obtaining future federal dollars through as required as state match?** No. As mentioned in the response to the previous question, some flexibility exists in our debt issuance practice. Furthermore, as these projects primarily address deferred maintenance, there is a likelihood that at least some of these costs would have been incurred as systems failed.