

ANALYSIS

Item 41: Department of Consumer and Business Services Oregon OSHA COVID-19 Activities

Analyst: Ben Ruef

Request: Approve, retroactively, the submission of the federal grant application to the U.S. Department of Labor, Occupational Safety and Health Administration in the amount of \$2,900,000 to help employers and employees deal with COVID-19; and increase Federal Funds expenditure limitation by \$2,900,000.

Analysis: The Department of Consumer and Business Services (DCBS) received notification from the U.S. Department of Labor regarding additional federal Occupational Safety and Health Administration (OSHA) grant funds made available through the American Rescue Plan Act. The federal law was enacted March 12, 2021, the grant application deadline was March 15, 2021 and DCBS submitted a notice of intent to the Legislative Fiscal Office on March 17, 2021. The rapid federal timelines did not allow for advance notice and routine 2021 session action.

On August 5, 2021, DCBS was awarded \$2,900,000 in federal grant funds to be used for the period October 1, 2020, through September 30, 2023. A 50% match is required which will be covered by Other Funds freed up by the federal grant award. Total program funding is \$5,800,000. DCBS intends to spend 100% of these funds in the 2021-23 biennium.

The grant supports COVID-19-related activities, including issuing COVID-19 guidance or standards; handling COVID-19 enforcement and inspections; conducting outreach and training; testing of compliance safety and health officers; and buying personal protective equipment. Paying the Bureau of Labor and Industries for investigations of COVID-19-related whistleblower complaints and paying litigation costs from the Department of Justice for COVID-19-related formal appeals will also be included as part of these activities.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means approve, retroactively, the submission of a federal grant application to the U.S. Department of Labor, Occupational Safety and Health Administration; and recommend including an increase of \$2,900,000 in the Federal Funds expenditure limitation, for the Department of Consumer and Business Services, in a budget reconciliation bill during the 2022 legislative session, to help employers and employees deal with COVID-19.

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**Department of Consumer and Business Services
Health**

Request: Retroactive authorization for the Department of Consumer and Business Services (DCBS) to apply for a three-year, \$2.9 million grant from the U.S. Department of Labor (DOL) to support the Department's response to the COVID-19 pandemic. Increase Federal Funds expenditure limitation by \$2.9 million to account for receipt of the Department of Labor grant.

Recommendation: Approve the request. Consider the request for Federal Funds expenditure limitation during the 2022 Legislative Session.

Discussion: DCBS is requesting retroactive authorization for its application for a three-year, \$2.9 million DOL grant to support the Department's response to the COVID-19 pandemic. The grant would support the Oregon Occupational Safety and Health Administration (OR-OSHA) program, which is leading statewide efforts in protecting workplace safety in response to COVID-19. In addition to writing rules around workplace safety, OR-OSHA is responding to an elevated level of worker complaints of unsafe work practices and is also inspecting indoor spaces to ensure compliance with public health guidelines. To date, OR-OSHA has spent an estimated \$14.7 million on COVID-19 response activities.

The \$2.9 million grant is being passed through from funding received by DOL as part of the American Rescue Plan Act of 2021. DOL is moving this funding quickly, which is why the Department was not able to meet the 10-day notification deadlines for grant approval. The grant was announced on March 12, 2021 and applications were due on March 15. The application consisted of an email stating the amount of supplemental funding the state health and safety program could spend within the grant period.

The grant requires a 50% match. DCBS plans to use existing Other Funds revenues as the source of the match. OR-OSHA's work is jointly funded by an existing federal DOL grant and dedicated state revenues, primarily the Workers Compensation Premium Assessment.

DCBS will spend almost all the \$2.9 million on staffing costs, with some funds potentially being used for Attorney General charges to support rulemaking activities. The Department is working to determine whether grant funds will reduce the need for the program's Other Funds. As of the time of this analysis, the Department was also finalizing its 2019-21 expenditures from the grant funds so it is unclear how much grant revenue will be available to support the ongoing costs of DCBS' COVID-19 response in 2021-23.



October 18, 2021

The Honorable Senator Elizabeth Steiner Hayward, Co-Chair
The Honorable Senator Betsy Johnson, Co-Chair
The Honorable Representative Dan Rayfield, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Dear Co-Chairpersons:

Nature of the Request

On March 17, 2021, the Department of Consumer and Business Services (DCBS) provided a notice of intent requesting retroactive approval to apply for authority to expend federal grants from the American Rescue Plan (ARP) Act 2021.

On Aug. 5, 2021, DCBS was provided a notice of award amount of \$2,900,000 to be used Oct. 1, 2020, through Sept. 30, 2023. The award requires an other funds state match.

Background

On March 12, 2021, with the passing of the American Rescue Plan Act 2021, the U.S. Department of Labor notified DCBS by email that additional federal OSHA grant funds were available. The funds available for state plans, such as Oregon OSHA, total \$90 million. DCBS had to respond to the U.S. Department of Labor by March 15, 2021.

The funds would be administered through a grant that covers up to a three-year period, ending Sept. 30, 2023. Funds would likely be available as early as May 2021, depending on approval of Oregon OSHA's spending plan. State plans are required to match the funds received through this grant and must obligate all funds claimed by September 2023.

These grant funds would benefit Oregonians by providing more resources to help employers and employees deal with COVID-19. The grant funds must be used to support COVID-19-related activities, which may include, but are not limited to, the following: issuing COVID-19 guidance or standards, handling COVID-19 enforcement and inspections, conducting outreach and training, testing of compliance safety and health officers (CSHOs), buying personal protective equipment (PPE) for staff, paying the Bureau of Labor and Industries for investigations of COVID-19-related whistleblower complaints, and paying litigation costs from the Department of Justice for COVID-19-related formal appeals. DCBS would use the awarded federal funding for the prescribed activities, typically paid from other funds, thereby saving state dollars.

Due to the extremely short timeline to respond to the Department of Labor, DCBS notified the Department of Labor we want to seek \$2.9 million in federal grant funds. The grant requires other fund match for a total expected expenditure of \$5.8 million. The federal portion of this grant would replace \$2.9 million in other fund expenditures. DCBS would require additional federal limitation authority, but does not anticipate the need for other fund limitation.

Action Requested

DCBS respectfully requests retroactive approval to apply for authority to expend federal grants from the American Rescue Plan (ARP) Act 2021. In addition, DCBS requests the approval to accept and increase federal funds expenditure limitation for Oregon OSHA.

Legislation Affected

Approval of this request will increase federal fund expenditure limitation in Chapter 503, Section 2, Subsection (1) Oregon Laws 2021 for the Department of Consumer and Business Services, Oregon OSHA, in the amount of \$2,900,000 for the 2021-23 biennium.

Sincerely,



Andrew R. Stolfi

Director

Department of Consumer and Business Services