

ANALYSIS

Item 27: Department of State Police Hazardous Materials Emergency Preparedness

Analyst: John Terpening

Request: Approve, retroactively, the submission of a federal grant application to the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, in the amount of \$966,156 for hazardous materials emergency preparedness.

Analysis: The Hazardous Materials Emergency Preparedness grant is a formula grant that provides funding to states, territories and tribes in developing, improving and carrying out emergency plans. The grant also provides grantees the ability to implement training and planning programs to the local level depending on the location's demographics, emergency response capabilities, commodity flow and hazard analysis.

This fiscal year 2022 grant is competitive, with \$23.4 million in funding available for a 36-month performance period, beginning September 30, 2022. The Office of the State Fire Marshal (OSFM), currently within the Department of State Police, would utilize this grant to pass through up to 75% of funding to local emergency agencies through a sub-grantee program. This would increase the effectiveness of hazardous materials preparedness and encourage a comprehensive approach to emergency training and planning which conforms to direction provided to the State Fire Marshal in statute.

The Department's grant letter notes a 25% cash or in-kind match, although the federal grant solicitation only requires 20% match. This 20% match, which would total \$193,231 of the amount applied for, is expected to be met by the local emergency agencies providing 20% match of their sub-grant award, with OSFM providing the remaining amount through in-kind personnel costs.

The grant application deadline was April 22 and the Department did not provide the Legislative Fiscal Office or DAS Chief Financial Office with the required 10-day notification letter. Going forward, the Department is expected to adhere to the interim legislative process for federal grant applications as outlined for all state agencies.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board approve the request.

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Department of State Police
McDonald

Request: Retroactive authorization to apply for a grant totaling \$996,156 from the U.S. Department of Transportation (USDOT), Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Hazardous Materials Safety for the Fiscal Year 2022 Hazardous Materials Emergency Preparedness (HMEP) grant.

Recommendation: Approve the request.

Discussion: PHMSA anticipates \$23.4 million Federal Funds will be available for states and territories through the HMEP grant program. Funding is intended to improve the safe handling of hazardous materials, particularly as it relates to emergency planning and preparedness. The grant solicitation was posted on March 1, 2022 with a deadline of May 13, 2022, and award decisions are anticipated in September 2022. The period of performance is 36 months, from September 30, 2022 through September 29, 2025.

The Oregon State Fire Marshal (OSFM), an office within the Department of State Police (OSP), intends to pass through up to 75 percent of the HMEP grant to local emergency agencies through a sub-grantee program. It is anticipated local agencies will use pass-through funds to attend and host training events, workshops, and scenario exercises, as well as develop or update emergency plans, aligning to the following objectives:

- Increase the effectiveness, safety, and efficiency of handling hazardous materials in the event of transportation accidents and incidents.
- Enhance implementation of the Emergency Planning and Community Right-to-Know Act of 1986.
- Encourage a comprehensive approach to emergency training and planning by incorporating the unique challenges faced in response to transportation situations.

Emergency planning and training for response to hazardous materials and transportation-related situations is a priority for OSFM. Moreover, OSFM is directed by ORS 453.347 to assist with emergency response planning at the local, state, and national levels to assure swift and appropriate response to a hazardous substance fixed site or transportation accident. If awarded this grant, funding will assist OSFM in continuing to meet the statutory direction.

Although the Agency's request letter reports the HMEP grant includes a 25 percent match requirement, the federal grant solicitation reports the match requirement is 20 percent. The Agency confirmed this error. The match may be satisfied either as costs incurred by the grantee or in-kind contribution. If successful, OSFM's 20 percent match would total \$193,232. The local emergency agencies will provide the 20 percent match of their sub-grant amount and OSFM will provide the remaining contribution in-kind as personnel costs.

OSP did not provide a 10-day notification to the Legislative Fiscal Office (LFO) and the Chief Financial Office (CFO) prior to their grant application submission. After discussion with both LFO and CFO, the Department is expected to adhere to the interim process in the future. If retroactive authorization is granted and the grant application is successful, OSP will return to seek additional Federal Funds expenditure limitation in accordance with the interim guidelines.



Orego

Kate Brown, Governor

Oregon State Police

General Headquarters
3565 Trelstad Ave SE
Salem, OR 97317
Voice: 503-378-3720
Fax: 503-378-8282
TTY: 503-585-1452

May 2, 2022

Senator Peter Courtney, Co-Chair
Representative Dan Rayfield, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairs:

Nature of the Request

The Oregon State Police (OSP) is requesting retroactive permission to apply to the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Hazardous Materials Safety for the Fiscal Year (FY) 2022 Hazardous Materials Emergency Preparedness (HMEP) Formula Grant in the total amount of \$966,156. There is an in-kind or cash match requirement of \$241,539, which represents 25% of the total federal formula grant.

Final award decisions will be made by the Secretary of Transportation. PHMSA plans to make awards in September 2022, with a proposed period of performance start date of September 30, 2022. The award period is for 36-months, September 30, 2022 – September 29, 2025. The deadline to submit the application was April 22, 2022.

The goal of PHMSA's Fiscal Year (FY) 2022 Hazardous Materials Emergency Preparedness Formula Grant Program is to assist States, Territories, and Native American Tribes to develop, improve, and carry out emergency plans within the National Response System and the Emergency Planning and Community Right-To-Know Act of 1986; and allows grantees the flexibility to implement training and planning programs that address differing needs for each location based on demographics, emergency response capabilities, commodity flow studies, and hazard analysis.

Agency Action

The Office of State Fire Marshal (OSFM), currently a Bureau within OSP, intends to pass-through up to 75% of the HMEP formula grant to local emergency agencies through a sub-grantee program. The purpose of the sub-grantee program is to increase effectiveness in safety and efficiency handling hazardous materials transportation accidents and incidents, enhance implementation of the Emergency Planning and Community Right-to-Know Act of 1986, and encourage a comprehensive approach to emergency training and planning by incorporating the unique challenges of responses to transportation situations.

Developing comprehensive approaches to emergency planning and training in response to hazardous materials transportation-related situations remains a priority for OSP and the OSFM. Specifically, ORS 453.347 directs the State Fire Marshal to assist with emergency response planning by appropriate agencies of government at the local, state and national levels to assure that the response to a hazardous substance fixed site or transportation accident is swift and appropriate to minimize damage to any person, property or wildlife. Funding from this federal grant opportunity, if approved, will help the State

Fire Marshal to achieve this statutory objective.

It is anticipated that grant funds will be used by local agencies for attending and hosting training/workshops, conducting scenario exercises, and developing or updating emergency plans.

The grant does require a 25% in-kind or cash match, which will be provided by the local emergency agencies that are awarded HMEP grant funds.

Action Requested

Approve the retroactive permission to apply for the FY 2022 Hazardous Materials Emergency Preparedness Formula Grant through the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), Office of Hazardous Safety, and approve reoccurring grant application requests.

Legislation Affected

None

Thank you for your consideration of this request.

Sincerely,



Terri Davie
Superintendent
Oregon State Police

cc: Constantin Severe, Governor's Office
April McDonald, Dept. of Administrative Services - Chief Financial Office
John Terpening, Legislative Fiscal Office
Jon Harrington, OSP Deputy Superintendent
Jenny Cribbs, OSP Chief Financial Officer