

ANALYSIS

Item 90: Department of Administrative Services and the Department of Corrections Coronavirus Relief Fund

Analyst: Kim To

Request: Increase the Other Funds expenditure limitation for the Department of Corrections by \$30,094,199; increase the Federal Funds expenditure limitation for the Department of Administrative Services by \$30,094,199; and increase Other Funds expenditure limitation for the Department of Administrative Services by \$7,139,859 for the 2019-21 biennium to reconcile final Coronavirus Relief Fund (CRF) resources and fully expend CRF resources for eligible expenditures.

Analysis: As part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act, Oregon received \$1,635,472,404 from the Coronavirus Relief Fund (CRF). Of this amount \$246,965,567 went directly to the City of Portland, Multnomah County, and Washington County. The remaining \$1,388,506,837 was received by the state of Oregon.

In addition to the \$1,388,506,837, the state accrued \$13,993,185 in interest earnings through June 2022, bringing the total available CRF resources to \$1,402,500,022. Since April 2020, the Legislature has allocated a total of \$1,418,248,893 in CRF resources to agencies through a combination of Emergency Board, special session and regular session legislative actions. This allocated amount is higher than the total CRF anticipated to be available because CRF Other Funds expenditure limitation was not reduced for agencies when funding was reallocated to other purposes.

In order to be eligible for CRF reimbursement, the expense needed to be incurred prior to the December 31, 2021, and final payment of CRF expenditures need to be disbursed prior to September 30, 2022. CRF amounts remaining unspent after September 30, 2022 must be returned to the federal government. DAS and LFO have been monitoring CRF spending by agencies and have periodically updated the Legislature with the status of agency spending and reallocations were made through a combination of Emergency Board and special and regular session Legislative actions. DAS worked with all state agencies and grantees who received CRF resources to determine which programs have an unspent balances that needed to be returned to DAS. These unspent balances fell into three broad categories:

1. Program demand turned out to be lower than predicted.
2. Costs that were originally booked to CRF resources but were subsequently approved by the federal government for either FEMA or Medicaid reimbursement. As an example, \$3,222,369 of Personal Protective Equipment (PPE) expenses within DAS were originally paid with CRF resources but were later approved by the federal government to be completely reimbursed by FEMA.
3. Costs that were originally booked to CRF but were later identified as ineligible for CRF reimbursement. These questioned costs include \$3,917,490 of state expenses by DAS for Office 365 expenditures made during the 2019-21 biennium.

DAS has instructed those entities to rebook expenditures ineligible for CRF reimbursement with other state funds and return the CRF resources back to DAS for redistribution to other eligible expenses.

As of June 30, 2022, total cumulative CRF expenditures for the state is \$1,372,405,823 leaving \$45,843,070 in unspent allocations. Legislative action exceeding CRF received due to unspent/returned

funds already reallocated totals \$29,742,056 leaving \$16,101,014 remaining in unspent CRF resources. This unspent amount plus the \$13,993,185 in interest earnings through June 2022 totals \$30,094,199 of remaining CRF resources to be redistributed. In addition, interest earnings from July through September 2022 is anticipated to be an additional \$65,992, bringing the total revised remaining CRF resources to \$30,160,191.

In order to fully utilize the remaining \$30,160,191 in CRF resources, the Department of Administrative (DAS) recommends sending the remaining \$30,160,191 to the Department of Corrections to cover operational payroll costs that were incurred during the current biennium between July 1, 2021 and December 31, 2021. These public safety payroll expenses are explicitly allowed expenses under the CRF regulations that occurred prior to the December 31, 2021 deadline. This transfer between DAS and DOC is similar to a budgetary adjustment taken during the February 2022 legislative session.

In order to accomplish this final CRF reconciliation, the following budget adjustments need to be made:

1. DAS will need an increase of \$30,160,191 Federal Funds expenditure limitation to send the unspent CRF balance to DOC.
2. DOC will need an increase of \$30,160,191 Other Funds expenditure limitation to spend the CRF resources on payroll expenses. If this action is approved, DAS will unschedule a like amount of General Fund from the DOC operations budget and that amount will revert to the General Fund at the end of the 2021-23 biennium.
3. DAS will need two retroactive budgetary adjustments to the 2019-21 biennium to shift expense off CRF resources and onto other revenues: (1) increase the Other Funds expenditure limitation by \$3,917,490 to shift Office 365 expenses onto other resources; (2) increase the Other Funds expenditure limitation by \$3,222,369 to shift PPE expenses from CRF to FEMA resources.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board increase Other Funds expenditure limitation for the Department of Corrections by \$30,160,191; increase Federal Funds expenditure limitation for the Department of Administrative Services by \$30,160,191; and increase Other Funds expenditure limitation for the Department of Administrative Services by \$7,139,859 for the 2019-21 biennium to reconcile final Coronavirus Relief Fund resources and fully expend those resources for eligible expenditures that were incurred prior to December 31, 2021.

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Department of Administrative Services
Ball

Request: Increase Other Funds expenditure limitation for the Department of Administrative Services by \$7,139,859 for the 2019-21 biennium, increase the Federal Funds expenditure limitation for the Department of Administrative Services by \$30,094,199 for the 2021-23 biennium, and increase the Other Funds expenditure limitation for the Department of Corrections by \$30,094,199 to reconcile final Coronavirus Relief Fund resources and fully expend those resources for eligible expenditures within the Department of Corrections that were incurred prior to December 31, 2021.

Recommendation: Approve the request with the following modifications: Increase Other Funds expenditure limitation for the Department of Administrative Services by \$7,139,859 for the 2019-21 biennium, increase the Federal Funds expenditure limitation for the Department of Administrative Services by \$30,160,191 for the 2021-23 biennium, and increase the Other Funds expenditure limitation for the Department of Corrections by \$30,160,191 to reconcile final Coronavirus Relief Fund resources and fully expend those resources for eligible expenditures within the Department of Corrections that were incurred prior to December 31, 2021.

Discussion: This request from the Department of Administrative Services (DAS) is to reconcile final federal Coronavirus Relief Fund (CRF) resources and expend unallocated funds (including interest earnings) within the Department of Corrections. Under guidance from the Federal Treasury Department, CRF funds need to be spent on eligible expenses incurred prior to December 31, 2021 and funds must be disbursed prior to September 30, 2022. Any remaining unspent CRF monies must be returned to the federal government after that date.

DAS has monitored CRF spending of state agencies and grantees who received CRF resources and identified \$30.2 million in unspent CRF resources. This includes interest earnings on CRF funds, programs where demand was lower than anticipated, areas where FEMA or Medicaid reimbursement was used for costs as opposed to CRF, and instances where costs were identified as potentially an ineligible use of CRF funds. After the initial letter was submitted in late August, DAS continued to track interest earnings of CRF funds and provided an updated projection of earnings through September 2022. This update increases the projected unspent CRF funds by \$65,992.

In the instance where CRF was identified as potentially ineligible use of CRF funds, these expenditures will need to be rebooked to \$7.1 million Other Funds expenditure limitation in the 2019-21 biennium. The rebooking of these expenditures is necessary to free up \$7.1 million in CRF to be expended within the Department of Corrections and to also ensure CRF is expended on eligible expenditures. DAS will rebook these expenditures to existing Other Fund balances within the agency.

If this request is approved, the DAS Chief Financial Office will unschedule General Fund from the Department of Corrections in an amount equal to the additional CRF funds transferred to the agency.

Legal Reference: Increase Federal Funds expenditure limitation established by chapter 669, Section 81, Oregon Laws 2021 for the Department of Administrative Services, by \$30,160,191 for the 2021-23 biennium.

Increase Other Funds expenditure limitation established by chapter 669, Section 95, Oregon Laws 2021 for the Department of Corrections, by \$30,160,191 for the 2021-23 biennium.

Increase Other Funds expenditure limitation established by chapter 518, Section 2(3), Oregon Laws 2019 for the Department of Administrative Services, Office of the State Chief Information Officer - Policy, by \$3,917,490 for the 2019-21 biennium.

Increase Other Funds expenditure limitation established by the Emergency Board at its November 2020 meeting for FEMA reimbursement of PPE expenditures within the Department of Administrative Services, by \$3,222,369 for the 2019-21 biennium.



Oregon

Kate Brown, Governor

Department of Administrative Services

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August 22, 2022

Senator Peter Courtney, Co-Chair
Representative Dan Rayfield, Co-Chair
Joint Emergency Board
900 Court Street NE
H-178 State Capitol
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Dear Co-Chairs:

Nature of the Request

The Department of Administrative Services (DAS) requests an increase in expenditure authority to reconcile final federal Coronavirus Relief Fund resources and fully expend those resource for eligible expenditures within the Department of Corrections that were incurred prior to December 31, 2021.

Agency Action

In March 2020, Congress passed, and the President signed, the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) to provide funding for a variety of programs to assist businesses, individuals, health care providers and state and local governments address the impacts of the COVID pandemic across the country. As part of the CARES act, \$150 billion was established in the Coronavirus Relief Fund to be distributed nationwide to state, local and tribal governments. Oregon received a total of \$1.635 billion from the CRF, with \$247 million being provided directly to eligible local jurisdictions. The remaining \$1.389 billion was received directly by the state of Oregon.

In addition to the initial \$1.389 billion, the state of Oregon has accrued \$14.0 million in interest earnings from the CRF deposits, bringing the total available CRF resources up to \$1.403 billion. Over the course of the 2019-21 biennium, the Legislature fully allocated the available CRF resources through a combination of Emergency Board and special and regular session Legislative actions. At the time these allocations were made, many of the underlying programs were in the process of being developed and included assumptions about the program demand and various matching amounts that could be leveraged from other federal sources. As an example, Personal Protective Equipment (PPE) expenses within DAS were originally paid with CRF resources but were later approved by the federal government to be completely reimbursed by FEMA. In fact, some PPE reimbursements are still in process and may require DAS to return for future legislative action.

DAS and the Legislative Fiscal Office have continued to monitor CRF spending by agencies and have periodically updated the Legislature with the status of agency spending. At various times over the last two years, the Legislature has reallocated CRF resources among state agency programs as more information has become available.

In addition, the Secretary of State Audits Division has reviewed CRF expenditures through fiscal year 2021 across state programs and has identified various expenses that may not be eligible for CRF reimbursement. In some cases, those questioned costs relate to the core expenditure not having an adequate nexus to the COVID pandemic. In other cases, the costs were ineligible because the cost had already been built into the budget of the state agency prior to the adoption of the CARES act. This second category includes roughly \$3.9 million of state expenses by DAS for Office 365 expenditures made during the 2019-21 biennium. In cases where the Secretary of State identified potentially questionable costs, DAS has instructed those agencies to rebook those expenditures with other state funds and return the CRF resources back to DAS for redistribution to other eligible expenses.

This letter represents the final reconciliation of CRF resources across state agencies. Over the last several months, DAS has worked with all state agencies and grantees who received CRF resources to determine which programs have an unspent balance that needed to be returned to DAS. These unspent balances fell into roughly three categories. First, program demand turned out to be lower than originally anticipated. Second, costs that were originally booked to CRF resources but were subsequently approved by the federal government for either FEMA or Medicaid reimbursement. Third, and finally, costs that were originally booked to CRF, but were later identified as potentially ineligible for CRF reimbursement.

After reconciling the various programs over the course of the summer, there remains \$30.1 million in CRF resources unspent. Included within this amount are \$3.9 million of expenses incurred by DAS for Office 365 expenses and \$3.2 million of PPE expenses that occurred during the 2019-21 biennium that need to be shifted from CRF Federal Funds expenditure limitation to Other Funds expenditure limitation.

In order to be eligible for CRF reimbursement, the expense needed to be incurred prior to the December 31, 2021, and final payment of CRF expenditures need to be disbursed prior to September 30, 2022. CRF amounts remaining unspent after September 30, 2022 must be returned to the federal government.

In order to fully utilize the remaining \$30.1 million in CRF resources, DAS recommends sending the remaining \$30.1 million to the Department of Corrections to cover operational payroll costs that were incurred during the current biennium between July 1, 2021 and December 31, 2021. These public safety payroll expenses are explicitly allowable expenses under the CRF regulations, and will have occurred prior to the December 31, 2021 deadline. This transfer between DAS and the Department of Corrections is similar to a budgetary adjustment made in House Bill 5202 during the February 2022 legislative session.

Action Requested

In order to accomplish this transaction, the Department of Administrative Services will need an increase of \$30.1 million in Federal Funds expenditure limitation to send the unspent CRF balance to the Department of Corrections. The Department of Corrections will need an increase of \$30.1 million in Other Funds expenditure limitation to spend the CRF resources on payroll expenses. If this action is approved, DAS will unschedule a like amount of General Fund from the Department of Corrections operations budget and that amount will revert to the General Fund at the end of the 2021-23 biennium.

To accomplish this transaction the Department of Administrative Services will need two retroactive budgetary adjustments to the 2019-21 biennium to shift expense off CRF resources and onto other revenues. The first adjustment in 2019-21 would be to increase the Other Funds expenditure limitation by \$3.9 million to shift Office 365 expenses onto other resources. The second 2019-21 adjustment would be to increase the Other Funds expenditure limitation by \$3.2 million to shift PPE expenses from CRF to FEMA resources.

Legislation Affected

Increase the Federal Funds expenditure limitation established by chapter 669, Section 81, Oregon Laws 2021 for the Department of Administrative Services, by \$30,094,199 for the 2021-23 biennium.

Increase the Other Funds expenditure limitation established by chapter 669, Section 95, Oregon Laws 2021 for the Department of Corrections, by \$30,094,199 for the 2021-23 biennium.

Increase the Other Funds expenditure limitation established by chapter 518, Section 2(3), Oregon Laws 2019 for the Department of Administrative Services, Office of the State Chief Information Officer - Policy, by \$3,917,490 for the 2019-21 biennium.

Increase the Other Funds expenditure limitation established by the Emergency Board at its November 2020 meeting for FEMA reimbursement of PPE expenditures within the Department of Administrative Services, by \$3,222,369 for the 2019-21 biennium.

Sincerely,



Katy Coba

DAS Director | Chief Operating Officer

CC: Dustin Ball, Department of Administrative Services
Kim To, Legislative Fiscal Office
Heidi Steward, Department of Corrections