

ANALYSIS

Department of Consumer and Business Services Pandemic Response

Analyst: Ben Ruef

Request: Approve, retroactively, the submission of a federal grant application to the U.S. Department of Labor in the amount of \$2.9 million for pandemic response funds through the American Rescue Plan Act of 2021 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 from the American Rescue Plan Act of 2021, which was passed on March 12, 2021. The application deadline was March 15, 2021 and DCBS submitted a notice of intent to apply on March 17, 2021. The compressed 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 from October 1, 2020, through September 30, 2023. A 50% match is required which will be covered by Other Funds offset by the federal grant award for total program funding of \$5.8 million. DCBS intends to spend 100% of these funds in the 2021-23 biennium.

The grant program specifically supports activities related to COVID-19 pandemic response, which may include but are not limited to 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 for staff. Other eligible expenditures include paying the Bureau of Labor and Industries for investigations of COVID-19-related whistleblower complaints and paying the Department of Justice for legal costs associated with COVID-19-related activities.

This same federal grant application was denied by the Interim Joint Ways and Means Committee in November 2021 due to concerns over it potentially supporting increased Oregon OSHA oversight or enforcement efforts. This resubmission clarifies how the federal funds will be used, resulting in no increase of oversight or enforcement activities. The federal funds provided by this grant will cover COVID-19 related costs that Oregon OSHA is currently paying for with Other Funds, freeing up state funding to pay for:

- Oregon OSHA safety conferences and consultations to underrepresented communities,
- Replacement of lab equipment,
- Public education material for employers, and
- The continuation of a grant program that provides funds to community organizations for health and safety training.

Recommendation: The Legislative Fiscal Office recommends approval of the retroactive federal grant application request and inclusion of an increase of \$2,900,000 in the Federal Funds expenditure limitation in a 2022 session budget reconciliation bill.



January 14, 2022

The Honorable Senator Elizabeth Steiner Hayward, 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

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 of 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

DCBS appeared before the Interim Joint Ways and Means Committee in November 2021. At that time, our request for additional federal fund dollars was denied due to concerns regarding their use for OSHA enforcement activities related to COVID. To be clear, the increase in federal funds would not increase our COVID enforcement activities, but rather expand Oregon OSHA's ability to leverage our other fund revenue stream to continue and provide direct resources to Oregonians for consultations, OSHA safety conferences to serve underrepresented communities, replacement of lab equipment that has reached its end of life, and public education material provided to employers at no charge. Also, Oregon OSHA would be able to continue its grant program that awards funds to community organizations to develop safety and health training for their target worker populations and later on Oregon OSHA's website for a broader audience. Approval or denial of this grant will not affect the level of enforcement activity already required by OSHA under statute. However, it will allow us to better serve Oregonians with the activities detailed above. The additional federal fund dollars would then allow us reallocate existing expenses related to COVID that would be eligible under this grant.

On March 12, 2021, with the passing of the American Rescue Plan Act of 2021, the U.S. Department of Labor notified DCBS by email that more 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. 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, 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. 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 more 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 of 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