

ANALYSIS

Item 38: Oregon Business Development Department Emerging Contaminants

Analyst: Michelle Deister

Request: Increase Other Funds expenditure limitation by \$165,205 and establish one full-time permanent position (0.63 FTE) to assist communities in accessing funds to address drinking water system contaminants.

Analysis: The state of Oregon has been awarded a total of \$9.94 million for the first year of federal funding provided through the Bipartisan Infrastructure Law of 2021 specifically for projects that address emerging contaminants through investments in safe drinking water infrastructure. An additional \$45.9 million is estimated to be available through this grant over the next four years. Funds are granted from the U.S. Environmental Protection Agency to the Oregon Health Authority (OHA) and \$8.8 million will be transferred to the Oregon Business Development Department (OBDD) for projects that help communities identify, plan, and execute system improvements that address contaminants in drinking water. The cost of this position will be funded from \$1.1 million in funds set aside by OHA for administrative allowances and other activities.

An Operations and Policy Analyst 3 position will act as a project manager, facilitating between 10-20 funding contracts per year, most of which require up-front technical assistance, including federal requirements, procurement assistance, and contract management. Once funds are awarded for a project, monitoring will occur until the project is completed (typically about three years). OBDD will deposit and award these funds from the Safe Drinking Water Revolving Loan Fund, and no significant expenditures related to separate programmatic design for use of these grant funds is anticipated to be necessary.

Recommendation: The Legislative Fiscal Office recommends that the Joint Interim Committee on Ways and Means recommend including an increase of \$165,205 in the Other Funds expenditure limitation and authorizing the establishment of one full-time permanent position (0.63 FTE) for the Oregon Business Development Department in a budget reconciliation bill during the 2024 legislative session to assist communities in accessing funds to address drinking water system contaminants.

Request: Increase Other Funds expenditure limitation by \$165,205 and establish one permanent, full-time Operations and Policy Analyst 3 position (0.63 FTE) as a Project Manager for the receipt of funding through the Oregon Health Authority from the U.S. Environmental Protection Agency (EPA) from the Bipartisan Infrastructure Law for a new Emerging Contaminant Program.

Recommendation: Approve the request during the 2024 Legislative Session.

Discussion: The federal Bipartisan Infrastructure Law of 2021 provided supplemental funding to state drinking water and clean water revolving fund programs through the U.S. Environmental Protection Agency. In September 2023 at a meeting of the Interim Joint Committee on Ways and Means, the Oregon Health Authority (OHA) received permission to apply for a non-competitive grant to be allocated to Oregon through the federal Infrastructure Investment and Jobs Act – commonly referred to as the Bipartisan Infrastructure Law. The funds, as part of the EPA Drinking Water State Revolving Fund (DWSRF) will provide three new sources of infrastructure funding in addition to the DWSRF. The DWSRF provides loans and other authorized assistance to water systems for eligible infrastructure projects.

This request is related to the allocation of funding for Emerging Contaminants funding, which will be used to provide forgivable loans (subsidies) and grants, twenty-five percent of which must be provided to disadvantaged communities or public water systems serving fewer than 25,000 people. The Emerging Contaminants funding will be for a five-year period (2022-26) including \$9,940,000 for the first year and \$11,493,000 per year for the remaining four years for a total of \$55,912,000. OHA is the grant recipient; however, the Oregon DWSRF program is jointly administered by OHA Drinking Water Services and the Oregon Business Development Department, Infrastructure Finance Authority (Business Oregon) through the Safe Drinking Water State Revolving Fund (SDWSRF) housed at Business Oregon. The Emerging Contaminants program will address emerging contaminants, including perfluoroalkyl and polyfluoroalkyl substances in wastewater, stormwater, and nonpoint source pollution.

The funding available through the Emerging Contaminants program will add projects to Business Oregon's portfolio of projects it currently manages under the SDWSRF. Business Oregon does not have enough staff to absorb the extra workload associated with this new funding. As such, Business Oregon is requesting a position to act as a Project Manager of these new projects (an Operations and Policy Analyst 3 position/0.63 FTE). The cost of the position (\$150,365) and the Services and Supplies (\$14,840) for a total of \$165,205 will be paid as a portion of the allowed administrative funding to be transferred from OHA to Business Oregon.

Legal Reference: Increase the Other Funds expenditure limitation established by chapter 475, section 4(3), Oregon Laws 2023, for the Oregon Business Development Department, Infrastructure, by \$165,205 for the 2023-25 biennium.

December 5, 2023



Senator Elizabeth Steiner, Co-Chair
Representative Tawna Sanchez, Co-Chair
Interim Joint Committee on Ways and Means
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairs:

Nature of the Request

The Oregon Business Development Department (the Department) is requesting authorization for one permanent federally funded project manager position to allow agency administration of a new Bipartisan Infrastructure Law emerging contaminant funding stream.

Agency Action

On November 15, 2021, the Infrastructure Investment and Jobs Act (H.R. 3684), commonly referred to as the Bipartisan Infrastructure Law (BIL), was signed into law. BIL provides significant investment in drinking water infrastructure. BIL funding is available to communities through the state's existing Drinking Water State Revolving Fund (DWSRF), implemented jointly by the Department and Oregon Health Authority Drinking Water Services (OHA-DWS) through an interagency agreement. BIL funding is provided to Oregon through United States Environmental Protection Agency (US EPA) grants.

The Department is responsible for administering contracts for community water system projects funded under the DWSRF. This work is performed by project managers who, in addition to administering grant and loan contracts, provide critical customer service to local officials operating the often low-capacity water systems targeted for assistance. Project managers communicate and help water system operators navigate complex federal requirements as well as procurement and other processes needed to secure contractors to perform work.

BIL funding is available over five years for projects that address "Emerging Contaminants" such as dangerous Per- and Poly-fluorinated Substances (PFAS) and other unregulated contaminants that impact Oregon communities. The Department requires an additional position to implement the new Bipartisan Infrastructure Law Emerging Contaminant (BIL-EC) federal funding stream.

- On August 10, 2023, the Department through its Infrastructure Finance Authority and OHA-DWS updated the DWSRF interagency agreement to add the BIL-EC funding stream.
- On September 20, 2023, the US Environmental Protection Agency (US EPA) awarded year one of BIL-EC monies totaling \$9,940,000 to OHA-DWS. The Department is tasked with performing outreach to those water systems targeted for funding in advance of funding contract development. OHA estimates an additional \$45,972,000 will be available over the next four years for BIL-EC.
- Each BIL-EC funding award includes an amount that can be accessed by the Department for administrative costs. There is currently \$400,000 available for BIL-EC administrative costs and the ability to access \$400,000 or 4% of the grant amount (whichever is higher) annually thereafter.

The new BIL-EC funding stream with \$9.94M of funding already secured represents a new forgivable loan funding stream and associated opportunity for communities. The Department lacks the project management staff to absorb the project management and contract administration responsibilities associated with this additional long-term funding stream. Staff anticipate 10 to 20 BIL-EC funding contracts per year with projects requiring significant up-front assistance and long-term engagement to identify options to address contaminants and facilitate subsequent funding. Since many communities are only now learning they are impacted by an emerging contaminant, infrastructure project scopes are not fully developed requiring additional agency assistance. BIL-EC funding for many communities will occur through a phased approach to complete preliminary project feasibility, project alternatives, and cost estimates, followed by design and construction. BIL-EC funding is subject to significant federal requirements including the new domestic preference Build America, Buy America requirement and Davis-Bacon labor standards. In addition to providing the contract administration capacity required to implement the new BIL-EC funding stream, an additional position would allow the Department to support communities as they develop projects, adhere to state and federal requirements, and implement strategies to see projects through to completion.

The five-year duration of the annual funding award and projects that extend years beyond the final award necessitate a permanent position that would be funded through allowed federal administrative monies associated with DWSRF grants. The source of funding for the proposed position would be federal funds available through the allowed administrative funds of which \$400,000 is currently available.

Action Requested

The Department respectfully requests funding and position authority for one permanent Operations and Policy Analyst 3 (OPA 3) position to act as a Project Manager. The anticipated hire date is in May 2024, making the total cost for the biennium \$165,205. This would be Federal Funds to OHA being passed through to the Department as Other Funds.

Legislation Affected

This request is not tied to recent state legislation but impactful to the Safe Drinking Water Revolving Loan Fund authorized by ORS 285A.213 and the State's ability to utilize the federal allocation from the Bipartisan Infrastructure Law.

Thank you for your consideration of this important request.

Respectfully,



Sophorn Cheang
Director