

ANALYSIS

Item 81: Department of Consumer and Business Services Oregon OSHA Federal Shortfall

Analyst: Emily Coates

Request: Increase Other Funds expenditure limitation for the Department of Consumer and Business Services, Oregon Occupational Safety and Health Administration, by \$2,860,460, to address a federal revenue shortfall.

Analysis: The Oregon Occupational Safety and Health Administration (OSHA) program, within the Department of Consumer and Business Services (DCBS), is facing a federal revenue shortfall in the current biennium. The program is typically funded through two federal grants, received annually, and the Premium Assessment Operating Account (PAOA), which is an assessment paid by employers on the premiums paid to their insurer for workers' compensation coverage.

Federal Funds revenue available for the Oregon OSHA program through the two federal grants has been reduced by about \$1.5 million in the 2023-25 biennium. Additionally, SB 5701 (2024) included increases in Federal Fund expenditure limitation to reflect recently approved cost-of-living adjustments, for which there is no supporting federal revenue. As a result, the total Federal Funds shortfall in the Oregon OSHA program is \$2.9 million.

To cover the shortfall, DCBS is requesting an increase in Other Funds expenditure limitation to utilize available funds in the PAOA. While this account requires a minimum fund balance between six to 12 months of operating costs, the current cash balance is equivalent to 22 months, so utilizing these funds would not require a rate increase for the premium assessment.

Recommendation: The Legislative Fiscal Office recommends that the Emergency Board increase the Other Funds expenditure limitation for the Department of Consumer and Business Services, Oregon Occupational Safety and Health Administration, by \$2,860,460, to address a federal revenue shortfall.

Request: Increase Other Funds expenditure limitation by \$2,860,460 to offset a federal revenue shortfall in the Oregon OSHA program.

Recommendation: Approve the request.

Discussion: The Department of Consumer and Business Services (DCBS) requests a \$2,860,460 increase in Other Funds expenditure limitation for the Oregon OSHA program to offset a federal revenue shortfall. Oregon OSHA helps protect Oregon workers through employer inspections, employer consultations and policy development. The Department receives funding from two federal grants from the U.S. Department of Labor: the 23G grant, which helps pay for inspections and has a 50 percent federal match requirement, and the 21D grant, which helps pay for employer consultation and has a 10 percent federal match requirement. DCBS has a 2023-25 Legislatively Approved Budget specific to Oregon OSHA of \$58.4 million Other Funds, \$15.8 million Federal Funds, and 205 positions (203.88 FTE).

DCBS is projecting a Federal Funds shortfall in 2023-25 and is requesting Other Funds expenditure limitation to continue its current operations. The federal revenue shortfall stems from multiple issues:

1. Oregon OSHA's internal revenue projections at the start of the 2023-25 biennium were for federal revenues of \$14,265,886 Federal Funds, less than their 2023-25 Legislatively Adopted Budget of \$14,556,518 by approximately \$290,632.
2. The U.S. Department of Labor typically provides base grant awards for the 21D and 23G programs and then provides supplemental awards mid-fiscal year. While the amount available through supplemental awards are uncertain, in past fiscal years DCBS has received approximately \$1.2 million per year. For federal fiscal year (FFY) 2024, DCBS received just \$113,852 in supplemental awards across both grants.
3. The U.S. Department of Labor (DOL) made last-minute changes to its grant agreements with Oregon OSHA for FFY 2024, recently reducing their grants by a total of \$241,000 to address a budget shortfall in the federal OSHA program. The long-term impact of this change is unknown but the FFY 2025 appropriations bill for Health, Human Services, and Labor passed and has a not-to-exceed amount of \$121 million for state plan program inspection efforts, a modest increase over its budget for this purpose for FFY 2024. DCBS has anticipated receiving a total of \$6.4 million between its two grants for FFY 2025, a modest decrease from the amount received in FFY 2024 but has not received confirmation from U.S. DOL on how much it will receive.

4. Oregon OSHA received \$1,231,680 Federal Funds from the February 2024 Legislative Session to reflect negotiated salary increases, changes to how the state allocates its pension obligation bond expenses, and a position reclassification. These amounts were increased in proportion to the existing revenue sources used to fund OSHA's positions, but OSHA had fully budgeted its federal grant revenue and did not have enough to support those increases.

DCBS anticipates its Federal Funds revenues will continue to fall short of cost growth in 2025-27. Based on inflation and the full biennial cost of the salary increases negotiated in 2023-25, DCBS estimates this amount at \$3.8 million Federal Funds expenditures that will need to be supported with Other Funds in 2025-27 to maintain the OSHA program.

Revenue to support the Other Funds limitation will come from the fund balances associated with the Oregon OSHA program, primarily from Workers' Compensation Premium Assessment revenues. DCBS projects to finish the 2023-25 biennium with \$132.2 million in the portion of the Consumer and Business Services fund dedicated to worker safety programs, the equivalent of approximately 16 months of expenditures.

Legal Reference: Increase Other Funds expenditure limitation established by chapter 354, section 1(3), Oregon Laws 2023, for the Department of Consumer and Business Services, Oregon OSHA, by \$2,860,460 for the 2023-25 biennium.



August 29, 2024

Senator Rob Wagner, Co-Chair
Representative Julie Fahey, Co-Chair
State Emergency Board
900 Court Street NE
H-178 State Capitol
Salem, OR 97301

Dear Co-Chairs:

Nature of the Request

The Department of Consumer and Business Services, Oregon OSHA is facing an unanticipated federal fund revenue shortfall for the 2023-25 biennium. Oregon OSHA's federal fund revenue comes from two grants that are received annually from federal OSHA to administer Oregon's state program. Oregon OSHA is also funded by other funds through the Premium Assessment Operating Account, which is an assessment paid by employers on the premiums paid to their insurer for workers' compensation coverage.

Federal OSHA originally awarded Oregon OSHA \$14,265,886 for the 2023-25 biennium. Earlier this year, federal OSHA reduced the federal fund awards for Oregon OSHA by \$1,338,148 for the current biennium. This reduction did not happen solely to Oregon OSHA. Federal OSHA reduced the awards for 29 states and territories by millions of dollars.

Oregon OSHA's Legislative Adopted Budget for the 2023-25 biennium of \$14,556,518 was \$290,632 more than anticipated revenues.

Additionally, SB 5701 from the 2024 regular session increased Oregon OSHA's federal fund limitation by \$1,231,680 to pay for the salary increase tied to the cost-of-living adjustment and administrative actions. This increase in limitation is not supported by federal fund revenues. Between its federal fund limitation increase and federal fund revenue decrease, Oregon OSHA's resulting limitation is \$2,860,460 more than its anticipated federal fund revenues were at the beginning of the 2023-25 biennium.

Agency Action

Since learning about the reduction in federal funds, the department is making the following efforts to mitigate the impact of the unforeseen changes:

- Reducing its budget for laboratory equipment by \$615,916
- Reducing its budget for IT equipment by \$131,311
- Canceling its Safety and Health Grants for FFY2025, saving \$135,000
- Holding positions vacant



- Scrutinizing travel and training for potential cost-saving measures

Lastly, we have partnered with the Occupational Safety and Health State Plan Association (OSHSPA) to communicate the impact that this unanticipated revenue reduction has had on the affected 29 states and territories.

Action Requested

The Department of Consumer and Business Services respectfully requests that the State Emergency Board increase other fund expenditure limitation by \$2,860,460. The impact to the Premium Assessment Operating Account would be minimal and still within our fund balance policy of two to 4 quarters.

The department will address the federal fund expenditure limitation shortfall in the 2025-27 Agency Request Budget by introducing a revenue shortfall policy option package.

Legislation Affected

Approval of this request will increase Other Funds expenditure limitation by \$2,860,460 established by Chapter Law 354, section 01, subsection (03), for the Department of Consumer and Business Services biennium 2023-25.

Sincerely,



Andrew R. Stolfi
Director
Department of Consumer and Business Services

