

**COLORADO GENERAL ASSEMBLY  
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUEST FOR FY 2010-11  
DEPARTMENT OF PERSONNEL & ADMINISTRATION**

**JBC Working Document - Subject to Change  
Staff Recommendation Does Not Represent Committee Decision**

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September 20, 2010**

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**Interim Supplemental #1, Governor's Transition Line Item Spending Authority**

|              | Request         | Recommendation  |
|--------------|-----------------|-----------------|
| Total        | <u>\$28,750</u> | <u>\$12,650</u> |
| General Fund | 28,750          | 12,650          |

|   |           |
|---|-----------|
| <p><b>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.?</b> [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]</p> | <b>NO</b> |
| <p><b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]</p>   | <b>NO</b> |
| <p>This request <i>does not meet interim supplemental criteria</i> because the Department was aware January 6, 2010, that the current Governor would not seek re-election, and that statute requires an appropriation to fund a portion of the transition expenses between administrations. It is unclear to staff why there was a nine month delay in submitting this request. However, pursuant to Section 24-8-105, C.R.S., <b>the General Assembly is required to appropriate at least \$10,000 to pay the expenses incurred by the Governor-elect between the general election and the inauguration.</b> Staff recommends an appropriation of \$12,650 General Fund for this purpose.</p>  |           |

**Department Request:** The Department requests an appropriation of \$28,750 General Fund for FY 2010-11, which would be included in a new line item in the Executive Director's Office titled "Governor's Transition". The funds are for FY 2010-11 only, and would support transition activities related to a new Governor taking office in January, 2011. A portion of the requested funds are statutorily required, because pursuant to Section 24-8-105, C.R.S., the General Assembly shall appropriate to the Department of Personnel and Administration a sum of *not less than \$10,000* to pay the necessary expenses of the governor-elect that are incurred between the general election and the inauguration. The Department's request is detailed in the following table.

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| <b>Interim Supplemental Request: Governor Transition Expenses</b> |                      |                      |                     |                 |
|---|----------------------|----------------------|---------------------|-----------------|
|   | <b>November 2010</b> | <b>December 2010</b> | <b>January 2011</b> | <b>Total</b>    |
| Lease of temporary space (\$8/sq. ft, total of 750 sq. ft.)       | \$2,000              | \$6,000              | \$1,000             | \$9,000         |
| Contracted services (I.T. professional, clerical support, etc.)   | 3,000                | 3,500                | 1,500               | 8,000           |
| Equipment (office furniture, Blackberries, etc.)                  | 3,500                | 1,750                | 500                 | 5,750           |
| Office supplies   | 1,000                | 1,000                | 250                 | 2,250           |
| Postage   | 500                  | 1,500                | 250                 | 2,250           |
| Phone & data lines (\$75/line)                                    | <u>375</u>           | <u>750</u>           | <u>375</u>          | <u>1,500</u>    |
| <b>Total</b>  | <b>\$10,375</b>      | <b>\$14,500</b>      | <b>\$3,875</b>      | <b>\$28,750</b> |

**Staff Recommendation:** Staff recommends that the Committee add a new Long Bill line item in the Department's Executive Director's Office, titled "Governor's Transition", and appropriate \$12,650 General Fund for this purpose. This is a one-time appropriation for FY 2010-11 only.

**Staff Analysis:** This request does not meet interim supplemental criteria because the Department was aware no later than January 6, 2010, of the upcoming change in administrations. The Executive Branch submitted numerous budget amendments after the traditional January 1st deadline, and it is unclear to staff why this request was not included. However, pursuant to Section 24-8-105, C.R.S., during those years in which a new Governor is elected, the General Assembly is to appropriate no less than \$10,000 for expenses associated with the transition. This **statutory requirement overrides staff's concerns** about whether the request meets interim supplemental criteria.

During prior years, the General Assembly has appropriated the statutory minimum of \$10,000 General Fund for this line item. Staff was unable to identify a transition year when this line item was overspent, or when an administration submitted additional funding requests for this purpose. **This indicates that prior administrations have identified other fund sources to pay expenses that exceeded the \$10,000 appropriation.** Staff's recommendation of \$12,650 General Fund accounts for inflationary factors such as increases in postage and office supplies during the prior four years.

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The main differences between the Department's request and staff's recommendation are due to: (1) the availability of alternative funding sources; (2) certain items are already available within existing appropriations; and (3) whether legislation intends for leased space outside of the Capitol Complex to justify increasing the appropriation amount. Additional detail is provided below.

- ❑ Availability of alternative fund sources: The request states that the amount of \$28,750 is based on the experience of the current administration, whose transition costs were "considerably higher" than the \$10,000 General Fund appropriated for FY 2006-07. However, the line item was not overspent, nor did the administration submit a request for additional funds. The Governor's Office did not indicate how it funded the additional costs, and staff assumes that it used available funds that were already appropriated to the Governor's Office through the Long Bill.

Staff vacancies increase during the months prior to a change in administrations, so that personal services and operating funds become available for other purposes. It is reasonable to assume that a portion of the current Long Bill appropriation for the Governor's Office will again be available to fund transition expenses in excess of the \$12,650 General Fund appropriation.

- ❑ Items available through existing resources: Certain components of the request can be fulfilled through existing resources. For example:

IT staff: The Long Bill currently includes appropriations for IT personnel to perform the functions identified in the request, which are to set-up a basic network (10 hrs total) and to provide troubleshooting/on call assistance (6 hrs/week). It is reasonable to assume that current IT staff can absorb these short-term duties. (\$2,300)

Equipment: The request includes funds to lease 10 laptop computers and a copier. Particularly considering the increased vacancies during the last few months of an administration, it is reasonable to assume that these items are available, for a short-term basis, through existing surplus equipment. (\$4,800)

- ❑ Lease Space: Pursuant to Section 24-8-102, C.R.S., the Department of Personnel shall provide the Governor-elect and his staff with suitable **office space in the Capitol building**. It is questionable as to whether statute intends for leased space to justify an increase in the line item's appropriation. Staff's understanding is that prior administrations were able to temporarily lease office space when the Long Bill appropriation was \$10,000. It is

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reasonable to assume that the recommended appropriation of \$12,650 will not limit the upcoming administration's ability to also lease office space, if it desires. (\$9,000)

**Interim Supplemental #2, E-procurement Spending Authority**

|            | Request          | Recommendation |
|------------|------------------|----------------|
| Total      | <u>\$755,000</u> | <u>\$0</u>     |
| Cash Funds | 755,000          | 0              |

|   |           |
|---|-----------|
| <p><b>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.?</b> [The Controller may authorize an overexpenditure of the existing appropriation if it: (1) Is approved in whole or in part by the JBC; (2) Is necessary due to unforeseen circumstances arising while the General Assembly is not in session; (3) Is approved by the Office of State Planning and Budgeting (except for State, Law, Treasury, Judicial, and Legislative Departments); (4) Is approved by the Capital Development Committee, if a capital request; (5) Is consistent with all statutory provisions applicable to the program, function or purpose for which the overexpenditure is made; and (6) Does not exceed the unencumbered balance of the fund from which the overexpenditure is to be made.]</p> | <b>NO</b> |
| <p><b>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria?</b> [An emergency or act of God; a technical error in calculating the original appropriation; data that was not available when the original appropriation was made; or an unforeseen contingency.]</p>   | <b>NO</b> |
| <p>This request does not meet interim supplemental criteria because the Department has known for over a year that it wouldn't purchase the system during FY 2009-10. This allowed ample time for it to submit supplemental requests while the General Assembly was in session. Additionally, the Department does not intend to purchase the system until the third quarter of FY 2010-11, and therefore <b>there is no emergency or immediate need for these funds.</b></p>   |           |

**Department Request:** The Department requests an additional \$755,000 cash funds appropriation for the Supplier Database, Operating Expenses line item. Senate Bill 09-099 directed DPA to develop and implement a statewide E-procurement system and it established a cash fund for the collection of associated vendor fees. The legislation also appropriated \$1,861,178 cash funds for the purpose of developing and implementing an e-procurement system. The Department did not purchase the system during FY 2009-10 as initially intended, and this request would give the Department the spending authority to purchase the system during FY 2010-11.

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**Staff Recommendation:** Staff does not recommend that the Committee approve this request. It does not meet interim supplemental criteria, and staff does not agree that an interim supplemental request is necessary to prevent "significant delay" in purchasing the system. There are also concerns about whether there will be sufficient funds for the purchase, as well as the appropriation amount itself.

**Staff Analysis:** Staff's recommendation is based on the following key components: (1) the request does not meet interim supplemental criteria; (2) staff does not agree that the request is necessary to prevent a "significant delay" in purchasing the system; (3) the Department has collected much less revenue from the intended revenue source than it initially indicated; and (4) the method for acquiring the system has changed since factoring the initial appropriation, but in the absence of updated calculations based on the new approach, it is unclear how the Department determined that it still requires the initial appropriation amount.

- ❑ Does not meet interim supplemental criteria: The Department chose to acquire the e-procurement system through a different method than it initially indicated in the information provided to the Legislative Council fiscal note analyst in February, 2009. The Department was aware that working with the Western State Contracting Alliance (WSCA) to acquire the system would delay its procurement, but that it decided that the other benefits of the partnership outweighed the delay. Additionally, it was apparent in July, 2009, that the intended revenue source was significantly below projections, and that it would not have the necessary funds to purchase the system during FY 2009-10.

Considering that **the Department was aware of the timeline and revenue issues approximately 15 months ago**, it is unclear to staff why the Department did not alert the Committee about this issue while the General Assembly was in session, which would also have permitted the Committee to adjust *both* the FY 2009-10 and FY 2010-11 appropriations accordingly. Additionally, given the many statewide benefits of an e-procurement system, it is concerning that the Committee was not previously informed that its purchase had been delayed by over a year.

- ❑ Consequences of potential delay: The Department states that the interim supplemental request is necessary because waiting for spending authority through the normal supplemental process would "severely delay" the purchase of the new system. Staff questions this justification because the Department autonomously chose to delay the system's purchase by at least one year in exchange for the benefits of partnering with WSCA. Furthermore, the request indicates that the Department anticipates purchasing the system during the third

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quarter of FY 2010-11. **The Department does not immediately require these funds**, and pursuing this request through the normal supplemental process in January would *potentially* delay the purchase by *up to* two months (assuming that the funds are available). **Staff does not agree that this interim supplemental request is necessary to prevent "severe delays" in the acquisition of an e-procurement system.**

- Revenue source: In February, 2009, the Department indicated to the Legislative Council fiscal note analyst that it had *already* negotiated contracts with vendors that would generate \$1.3 million in retroactive fee revenue for FY 2008-09. The Department stated that if the legislation was enacted, it would collect the \$1.3 million in August, 2009, and that the vendor fees for FY 2009-10 were written into the current purchasing contracts.

The Department has since informed JBC staff that it collected only \$390,000 of the anticipated \$1.3 million because it "was unable to reach contract terms for all of the vendors". However, the **Department was unable to retain any of the FY 2008-09 revenue for the intended purpose due to accounting errors**, and that as a result of these errors, the vendor fees were deposited into the General Fund. It is not clear to staff how, in the absence of additional legislation, vendor fees that were statutorily directed to be deposited into a specific cash fund can be diverted to the General Fund.

Staff is not able to determine why the information initially provided to Legislative Council indicated that the FY 2008-09 vendor fees had already been negotiated and were a reliable fund source for the bill's implementation, but in actuality the Department collected only a small portion of the anticipated revenue (and subsequently retained none of it). Staff is concerned that **the disparities between the anticipated (\$1.3 million) and actual (\$0) fee revenue for FY 2008-09 could indicate an unstable fund source**. The Department has also indicated that there is a lag in quarterly payments, so that \$300,000 of the funds anticipated for FY 2010-11 will not be available until FY 2011-12. Due to the disparities in the anticipated versus collected fee revenue, misunderstandings regarding the contracted agreements with vendors, and the lag in the timing of quarterly payments, **staff questions whether the \$1.8 million will be available for FY 2010-11.**

- Differing assumptions than those used to determine the initial appropriation amount: The supplemental request describes a method for acquiring the system that is different than the information provided to the Legislative Council staff fiscal analyst in February, 2009. The legislation's appropriations clause was based on the Department's information that it planned to work with the Governor's Office of Information Technology to create the system, or

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alternatively that the State would purchase it from an external vendor. The interim supplemental request states that the Department is working with the Western State Contracting Alliance (WSCA) on a cooperative solicitation process, which was not mentioned in the information initially provided to the Legislative Council fiscal note analyst.

The Department states that working with WSCA offers the State many benefits, including leveraging a better price from vendors because it negotiates on behalf of all member states. Staff does not question the benefits of engaging in a cooperative purchasing endeavor through WSCA. However, if assumptions regarding the system's procurement and implementation change, staff anticipates that the requested appropriation would be adjusted to reflect these changes. For example, the Department states that "there are substantial savings realized by Colorado's partnership with WSCA", and that it "will likely result in a better price for an e-procurement system". Despite these additional savings, the requested amount is the same as the original appropriation, which was based on the Department working with the Governor's Office of Information Technology or individually purchasing a system. Given the disparities between the information initially provided to the Legislative Council fiscal note analyst in February, 2009, and the procurement method described in the current request, **it is unclear to staff how the Department calculated its request for \$755,000**, because the initial assumptions no longer apply. The Department would benefit from additional time to re-calculate the e-procurement system's cost, based on its partnership with WSCA.

|  | FY 2009-10    | FY 2010-11       | Fiscal Year 2010-11 Interim Supplemental |                    |                               |
|--|---------------|------------------|--|--------------------|-------------------------------|
|  | Appropriation | Appropriation    | Requested Change                         | Recommended Change | New Total with Recommendation |
| <b>DEPARTMENT OF PERSONNEL &amp; ADMINISTRATION</b>      |               |                  |  |                    |                               |
| <b>Executive Director - Rich Gonzales</b>                |               |                  |  |                    |                               |
| <b>Interim Supplemental #1 - Governor's Transition</b>   |               |                  |  |                    |                               |
| <i>(1) Executive Director's Office</i>                   |               |                  |  |                    |                               |
| <i>(B) Statewide Special Purpose</i>                     |               |                  |  |                    |                               |
| <i>(4) Other Statewide Special Purpose</i>               |               |                  |  |                    |                               |
| Governor's Transition (new line item)                    | <u>0</u>      | <u>0</u>         | <u>28,750</u>                            | <u>12,650</u>      | <u>12,650</u>                 |
| General Fund   | 0             | 0                | 28,750                                   | 12,650             | 12,650                        |
| <b>Interim Supplemental #2 - E-procurement System</b>    |               |                  |  |                    |                               |
| <i>(5) Division of Accounts and Control - Controller</i> |               |                  |  |                    |                               |
| <i>(C) Supplier Database</i>                             |               |                  |  |                    |                               |
| Operating Expenses                                       | <u>44,121</u> | <u>1,150,510</u> | <u>755,000</u>                           | <u>0</u>           | <u>1,150,510</u>              |
| Cash Funds   | 44,121        | 1,150,510        | 755,000                                  | 0                  | 1,150,510                     |
| <b>Totals</b>  |               |                  |  |                    |                               |
| DEPARTMENT OF PERSONNEL & ADMINISTRATION                 |               |                  |  |                    |                               |
| TOTALS for ALL Departmental line items                   | 176,469,873   | 172,205,054      | 783,750                                  | 12,650             | 172,217,704                   |
| FTE  | <u>393.6</u>  | <u>391.3</u>     | <u>0.0</u>                               | <u>0.0</u>         | <u>391.3</u>                  |
| General Fund   | 5,576,326     | 5,476,140        | 28,750                                   | 12,650             | 5,488,790                     |
| Cash Funds   | 10,813,867    | 9,579,235        | 755,000                                  | 0                  | 9,579,235                     |
| Reappropriated Funds                                     | 160,079,680   | 157,149,679      | 0  | 0                  | 157,149,679                   |
| Federal Funds  | 0             | 0                | 0  | 0                  | 0                             |