

**Oregon Transportation Safety Committee**  
**June 14, 2023**  
**CONSENT CALENDAR**

1. Approve the minutes of the May 10, 2023, Committee meeting
2. Approve new projects to the 2023 Highway Safety Plan: N/A
3. Review 2023 grant adjustments to the 2023 Highway Safety Plan:

<u>Project #</u>	<u>Project Name</u>	<u>Project Total</u>
<b>M5X-23-14-03</b>	DRE TOXICOLOGY	\$400,000 (+\$160,000) 405(d)

The original grant application and budget completed in August 2022 forecast average expenditures of \$60,000 per grant quarter. This was an educated estimate based on the trajectory of spending in previous grant quarters, but more recent reimbursement claims reflect blood sample submissions for drug testing had not peaked.

Grant funding to support statewide DUII toxicology requests has proven to be instrumental in law enforcement and prosecutors' ability to hold DUII offenders accountable. This has been especially true in cases where a suspect does not cooperate with law enforcement investigations, which often requires toxicology testing following the execution of a search warrant to seize a sample of the offender's blood. The increase in drug and polysubstance impaired driving in recent years has also seen more prosecutors come to expect blood toxicology as the best evidence for proving a driver was actively under the influence of drugs, as opposed to use of urine as prescribed by Oregon's Implied Consent law.

Lieutenant Evan Sether from OSP has provided a letter in support of this request (see attached).

<u>Project #</u>	<u>Project Name</u>	<u>Project Total</u>
<b>M8DE-23-20-01</b>	Statewide Services - Media Report	\$35,000 (+\$10,000) 405(e) flex

With the new Gard Communications media contract that was signed, costs for the strategic planning sessions and final media reports have gone up, so the grant total needs to be increased in order to pay the higher invoices.

**ODOT GRANT ADJUSTMENT  
Transportation Safety Office**

Project No.: M5X-23-14-03  
 Project Name: DRE TOXICOLOGY  
 Agency: Oregon State Police

Nature of Adjustment:  
 Increase budget for existing project activities by \$160,000 from source 405(d).

Grant Adjustment No.: \_\_\_\_\_ 1  
 Grant Adjustment Effective Date: \_\_\_\_\_  
 Increase/Decrease in \$ +/-: \$ \_\_\_\_\_ 160,000  
 Fund Source: \_\_\_\_\_

**PLEASE NOTE: Two copies with original signatures & new budget attached REQUIRED to process financial adjustment**

<u>Budget Line Item</u>	<u>Current TSO Share</u>	<u>\$ + or (-) Change</u>	<u>Proposed TSO Share</u>	<u>Proposed Match</u>
Staff Assigned	\$ -	\$ -	\$ -	\$ 60,000.00
Overtime	\$ -	\$ -	\$ -	\$ -
Volunteer Time	N/A	N/A	N/A	\$ -
<b>1 Personnel Costs Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 60,000.00</b>
<b>2 Personnel Benefits Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>3 Equipment Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>4 Materials/Printing Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>5 Overhead/Indirect Costs</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
Travel In-State	\$ -	\$ -	\$ -	\$ -
Travel Out of State	\$ -	\$ -	\$ -	\$ -
Office Expenses	\$ -	\$ -	\$ -	\$ -
Other Costs	\$ -	\$ -	\$ -	\$ -
<b>6 Other Project Costs Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>7 Consult/Contractual Svcs.</b>	<b>\$ 240,000.00</b>	<b>\$ 160,000.00</b>	<b>\$ 400,000.00</b>	<b>\$ -</b>
<b>8 Mini-Grants Total</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>
<b>Total Costs</b>	<b>\$ 240,000.00</b>	<b>\$ 160,000.00</b>	<b>\$ 400,000.00</b>	<b>\$ 60,000.00</b>

\_\_\_\_\_  
 Project Director's Signature Date \_\_\_\_\_

\_\_\_\_\_  
 Authorizing Official's Signature (if changing Project Directors) Date \_\_\_\_\_

\_\_\_\_\_  
 Approved by: TSO Program Manager's Signature Date \_\_\_\_\_

\_\_\_\_\_  
 Approved by: TSO Manager's Signature (for funding increases only) Date \_\_\_\_\_

<i>TSO Office Use Only</i>		Enter Yes or No
Federal to Local Percentage	_____	Change in Total TSO Funding: _____
Reviewed by Fiscal Specialist	_____	Revised Budget Attached: _____
Reviewed by Grants/Contracts Coordinator	_____	HSP Mod./Change Order required _____
		Rvsd. Proj. Smry. (changed objectives) _____

# ODOT GRANT BUDGET AND COST SHARING

Project No.: M5X-23-14-03  
 Project Name: DRE TOXICOLOGY  
 Agency: Oregon State Police

Project Period: 10/01/22 - 09/30/23  
 (From) (To)

(Office Use Only)

Grant Adjustment #: 1  
 Grant Adjust. Effective Date: 5/22/2023  
 Project Yr. (1-2-3, Ongoing): ONGOING

This form should include all budget information. If additional information is required for clarity, please include on a separate page referencing appropriate budget item.

**1. Personnel Costs\***

A. Staff assigned and estimated hours:	Hours	Rate	Total Cost
OSP Forensic Urine Analysis	315.00 @ \$	190.44 /hr = \$	59,988.60
Calc Adjust	1.00 @ \$	11.40 /hr = \$	11.40
	0.00 @ \$	- /hr = \$	-
	0.00 @ \$	- /hr = \$	-
	0.00 @ \$	- /hr = \$	-
	0.00 @ \$	- /hr = \$	-
	<b>Staff Subtotal</b>	<b>\$</b>	<b>60,000.00</b>

B. Overtime	Hours	Rate	Total Cost
	0.00 @ \$	- /hr = \$	-
	0.00 @ \$	- /hr = \$	-
	<b>Overtime Subtotal</b>	<b>\$</b>	<b>-</b>

C. Volunteer Time	Hours	Rate	Total Cost
	0.00 @ \$	- /hr = \$	-
	0.00 @ \$	- /hr = \$	-
	<b>Volunteer Subtotal</b>	<b>\$</b>	<b>-</b>

**2. Personnel Benefits**

A.	Unit Cost	# of Units	Total Cost
	\$ - @	0 =	\$ -
B.	\$ - @	0 =	\$ -
	<b>Benefits Subtotal</b>	<b>\$</b>	<b>-</b>

**3. Equipment**

A.	Unit Cost	# of Units	Total Cost
	\$ - @	0 =	\$ -
B.	\$ - @	0 =	\$ -
C.	\$ - @	0 =	\$ -
D.	\$ - @	0 =	\$ -
	<b>Equipment Subtotal</b>	<b>\$</b>	<b>-</b>

**4. Materials/Printing**

A.	Unit Cost	# of Units	Total Cost
	\$ - @	0 =	\$ -
B.	\$ - @	0 =	\$ -
C.	\$ - @	0 =	\$ -
	<b>Materials Subtotal</b>	<b>\$</b>	<b>-</b>

**5. Overhead/Indirect Costs**

A.	Unit Cost	# of Units	Total Cost
	\$ - @	0 =	\$ -
B.	\$ - @	0 =	\$ -
	<b>Overhead Subtotal</b>	<b>\$</b>	<b>-</b>

TSO FUNDS	MATCH	TOTAL
\$0.00	\$60,000.00	\$60,000.00
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00

Project Number: DRE TOXICOLOGY

**ODOT GRANT BUDGET AND COST SHARING**

<b>6. Other Project Costs</b>				
<b>A. Travel In-State</b>	<b>Unit Cost</b>	<b># of Units</b>	<b>Total Cost</b>	
_____	\$ - @	0 =	\$	-
<b>B. Travel Out-of-State (specify)***:</b>				
_____	\$ - @	0 =	\$	-
<b>C. Office Expenses (supplies, photocopy, telephone, postage)</b>				
_____	\$ - @	0 =	\$	-
<b>D. Other Costs (specify):</b>				
1.) _____	\$ - @	0 =	\$	-
2.) _____	\$ - @	0 =	\$	-
3.) _____	\$ - @	0 =	\$	-
4.) _____	\$ - @	0 =	\$	-
5.) _____	\$ - @	0 =	\$	-
<b>Other Project Costs Subtotal</b>			\$	-

<b>7. Consultation/Contractual Services **</b>				
	<b>Unit Cost</b>	<b># of Units</b>	<b>Total Cost</b>	
<b>A. Toxicology Sample Testing (Avg.)</b>	\$ 280.00 @	1,286 =	\$	360,080.00
<b>B. Other Costs (Incl. Forensic Services)</b>	\$ 39,920.00 @	1 =	\$	39,920.00
<b>Consultation/Contractual Services Total</b>			\$	400,000.00

<b>8. Mini-Grants ***</b>				
	<b>TSO</b>	<b>Match</b>		
A. _____	\$ -	\$ -		
B. _____	\$ -	\$ -		
C. _____	\$ -	\$ -		
D. _____	\$ -	\$ -		
E. _____	\$ -	\$ -		
F. _____	\$ -	\$ -		
G. _____	\$ -	\$ -		
H. _____	\$ -	\$ -		
<b>Mini-Grants Subtotals</b>		\$ -	\$ -	

**TOTAL**

**COST SHARING BREAKDOWN**

1. TSO Funds	\$ 400,000.00	87%
2. Match: State	\$ 60,000.00	13%
3. Match: Local		
4. Match: Other (specify)		
a.) _____		
b.) _____		
c.) _____		
<b>5. TOTAL COSTS</b>	<b>\$ 460,000.00</b>	<b>100%</b>

<b>TSO FUNDS</b>	<b>MATCH</b>	<b>TOTAL</b>
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
\$0.00	\$0.00	\$0.00
\$400,000.00	\$0.00	\$400,000.00
\$0.00	\$0.00	\$0.00
<b>\$400,000.00</b>	<b>\$60,000.00</b>	<b>\$460,000.00</b>

Budget Comments:

\* Job descriptions for all positions assigned to grant for 500 hours or more must be included in Exhibit B.  
 \*\* TSO approval required prior to expenditures.



# Oregon

Tina Kotek, Governor

**Oregon State Police**  
Headquarters  
3565 Trelstad Ave Se  
Salem, Oregon 97317  
503-378-3720  
503-378-8282 Fax  
503-585-1452 TTY

May 23<sup>rd</sup>, 2023

Ryan Stone  
Oregon Department of Transportation  
Transportation Safety Office  
4040 Fairview Industrial Dr SE  
Salem, OR 97317

**RE: Request for funding increase – M5X-23-14-03 DRE Toxicology**

Mr. Stone,

The Oregon State Police (OSP) requests a grant adjustment to increase the FFY22-23 DRE Toxicology budget from \$240,000 to \$400,000.

The original grant application and budget completed in August 2022 forecasted average expenditures of \$60,000 per grant quarter. This was an educated estimate based on the trajectory of spending in previous grant quarters, but more recent reimbursement claims reflect blood sample submissions for drug testing had not peaked.

October-December 2020 (20-21 Q1)	\$ 0.00
January-March 2021 (20-21 Q2)	\$ 71,309.00
April-June 2021 (20-21 Q3)	\$ 39,382.59
July-September 2021 (20-21 Q4)	\$ 67,698.25
<b>Total:</b>	<b>\$178,389.84</b>

October-December 2021 (21-22 Q1)	\$ 23,602.00
January-March 2022 (21-22 Q2)	\$ 36,057.00
April-June 2022 (21-22 Q3)	\$ 94,262.92
July-September 2022 (21-22 Q4)	\$ 73,142.62
<b>Total:</b>	<b>\$227,064.54</b>



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October-December 2022 (22-23 Q1)	\$ 82,440.33 (actual)
January-March 2023 (22-23 Q2)	\$ 83,926.37 (actual)
April-June 2023 (22-23 Q3)	\$ 100,000.00 (est. based on activity)
July-September 2023 (22-23 Q4)	\$ 100,000.00 (projected)
<b>Total:</b>	<b>\$366,366.70 (projected)</b>

Unfortunately, it is my assessment that several factors have contributed to a rise in blood sample submissions to NMS Labs, beyond original projections.

- The impact of the May 2021 Oregon Court of Appeals decision in *State v. Shevyakov 311 Or App 82*, and subsequent procedural recommendations to law enforcement from the Oregon Department of Justice, has frequently bypassed standardized field sobriety testing at roadside and breath testing via the Implied Consent process. This limits the evidence law enforcement considers when assessing the potential impairing substance(s) a given driver is under the influence of.
- As a result, law enforcement frequently author search warrants to collect blood and/or urine samples from drivers. Anecdotally, it appears Oregon law enforcement are more comfortable utilizing the search warrant process in their jurisdictions, so breath test refusals, urine test refusals, and DRE evaluation refusals are more often overcome with search warrant applications.
- Since the OSP Forensic Services Division still lacks the capacity to test blood samples for drugs in DUII cases, only blood alcohol, many of these blood samples are submitted to NMS Labs for broad testing.
- Data from the OSP Forensic Services Division suggests drugs are more frequently detected in urine and post-mortem blood samples, and the prevalence of poly-substance and poly-category samples has risen. Data from the Oregon Department of Transportation reflects recent increases in crashes involving drug-impaired drivers.



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- Lastly, the increase of blood sample submissions and testing at NMS Labs – and previously at the Washington State Patrol lab – means increasing legal services provided by these outside labs. More frequent litigation packages, case consultations, grand jury or preliminary hearing testimony, and trial testimony is a logical consequence. We want to ensure our budget can support legal services.

We believe a grant adjustment from \$240,000 to \$400,000 will meet projected demand and allow for higher-than-expected submissions this summer, without the need to approach you again for another grant adjustment during the current federal fiscal year.

Please contact me with any questions or concerns. I appreciate your consideration.

Sincerely,

Lieutenant Evan Sether  
Grant Manager / Interim DRE State Coordinator  
Oregon State Police  
Patrol Services Division  
541-991-9374  
[Evan.Sether@osp.oregon.gov](mailto:Evan.Sether@osp.oregon.gov)