

**COLORADO GENERAL ASSEMBLY
JOINT BUDGET COMMITTEE**



**INTERIM SUPPLEMENTAL REQUESTS
FOR FY 2013-14 AND FY 2014-15**

DEPARTMENT OF PERSONNEL

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

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Interim Supplemental Request FY 2013-14

**INTERIM SUPPLEMENTAL REQUEST #1
PRIVATE COLLECTION AGENCY FEES**

	Request	Recommendation
Total	<u>\$87,344</u>	<u>\$100,000</u>
FTE	0.0	0.0
General Fund	0	0
Cash Funds	87,344	100,000
Reappropriated Funds	0	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [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.]	YES
Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [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.]	YES
JBC staff agrees that this request meets the interim supplemental criteria of Section 24-75-111, C.R.S., and is the result of data that was not available when the original appropriation was made.	

Department Request: The Department requests an additional \$87,344 cash funds from collection fees for FY 2013-14, for the Private Collection Agency Fees line item in Collections Services in the Division of Accounts and Control – Controller.

Staff Recommendation: Staff recommends that the Committee approve an additional \$100,000 in cash funds spending authority based on the actual expenditure of \$892,542 in FY 2012-13 and the projected expenditure of \$887,344 in FY 2013-14.

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

Staff Analysis:

Staff recommended and the Committee approved a reduction to this line item at the FY 2013-14 figure setting. The following table outlines recent appropriations and expenditures.

*JBC Staff Interim Supplemental Recommendation: FY 2013-14 and FY 2014-15
Staff Working Document – Does Not Represent Committee Decision*

Private Collection Agency Fees				
	FY 2010-11	FY 2011-12	FY 2012-13	FY 2013-14
Appropriation	\$1,200,000	\$1,105,136	\$1,105,136	\$800,000
Actual or Projected Expenditure	\$775,218	\$675,154	\$892,542	\$887,344

Prior to FY 2013-14 this line item was appropriated \$1.1 million in FY 2011-12 and FY 2012-13 and \$1.2 million in FY 2010-11. Expenditures for this line totaled \$675,000 in FY 2011-12 and \$775,000 in FY 2010-11. Staff recommended a \$300,000 reduction to \$800,000 for FY 2013-14. While the FY 2012-13 appropriation was \$1.1 million, actual expenditures were \$893,000. The expenditure projected for FY 2013-14 is projected to be \$887,000. Based on the projected expenditure for the current fiscal year and the actual expenditure for the prior year, staff recommends a \$100,000 increase for this line item to \$900,000.

Interim Supplemental Request FY 2014-15

INTERIM SUPPLEMENTAL REQUEST #2 INTEGRATED DOCUMENT SOLUTIONS LEASE-PURCHASE AGREEMENT

	Request	Recommendation
Total	<u>\$401,952</u>	<u>\$0</u>
FTE	0.0	0.0
General Fund	0	0
Cash Funds	0	0
Reappropriated Funds	401,952	0
Federal Funds	0	0

Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [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.]	NO
Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [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.]	Partially

*JBC Staff Interim Supplemental Recommendation: FY 2013-14 and FY 2014-15
Staff Working Document – Does Not Represent Committee Decision*

<p>Does JBC staff believe the request satisfies the interim supplemental criteria of Section 24-75-111, C.R.S.? [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>	NO
<p>Does JBC staff believe the request meets the Joint Budget Committee's supplemental criteria? [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>	Partially
<p>JBC staff disagrees that this request meets the interim supplemental criteria of Section 24-75-111, C.R.S., because this problem was known while the General Assembly was in session and due to the additional statutory requirements for capital lease approval by the General Assembly, it should have been addressed by bill during the session. JBC staff partially agrees that the request meets the JBC's supplemental criteria. The request does not technically involve an original appropriation, however this request might be considered to be an emergency or an unforeseen contingency due to the lack of adequate timing, foresight, and planning the Department used in addressing the expiration of its current equipment lease.</p>	

Department Request: The Department requests an additional \$401,952 reappropriated funds from the Department of Personnel Revolving Fund for FY 2014-15, for the Mail Equipment Purchase line item in Integrated Document Solutions in Central Services.

Staff Recommendation: Staff recommends that the Committee deny the request on the basis that the request does not meet the interim supplemental criteria specified in statute and on the basis that approving the request would violate the additional statutory criteria required for the legislative approval of a capital lease that exceeds \$500,000 prior to its execution.

The rules governing interim supplementals in Section 24-75-111 (5), C.R.S., require the Committee to introduce all interim supplementals that it approves.

Staff Analysis:

Section 24-82-801 (1) (b), C.R.S., states:

*(1) (b) Except as provided in subsection (6) of this section, no lease-purchase agreement for personal property that requires total payments exceeding five hundred thousand dollars over the term of the agreement shall be entered into **unless such agreement is specifically authorized, prior to its execution, by a bill enacted by the general assembly**, other than the annual general appropriation act or a supplemental appropriation act, or specifically authorized by appropriation in the annual general appropriation act or a supplemental appropriation act.*

The statute provides for legislative oversight and pre-approval of capital leases in excess of \$500,000 by bill or through a specific line item in an appropriation bill. On this basis, statute

does not authorize the Committee to approve a capital lease outside of a bill enacted by the General Assembly.

Legislative staff attorneys at the Office of Legislative Legal Services concur that the phrase, *prior to its execution*, restricts a capital lease from being approved using the interim supplemental process in this manner. While the supplemental bill that would be passed by the General Assembly when session starts would officially "authorize" the overexpenditure and its purpose and would then meet the requirement set forth in Section 24-82-801 (1) (b), C.R.S., the Department would enter into this lease before such a supplemental would be enacted and signed by the Governor, and thus it fails the requirement that the authority be obtained "prior to [the lease agreement's] execution".

Additional Information

The Department's request is to purchase custom printer equipment for Integrated Document Solutions, totaling \$2.8 million to be paid over seven years. The current printing equipment provides support for benefits eligibility notices for the Colorado Benefits Management System (CBMS) among other customer jobs. The current printing equipment has been paid since 2008 through an operating lease out of operating expenses and the lease expires in September 2014. The Department began soliciting bids in January 2014 for an equivalent operating lease for new equipment. By about mid-February the Department realized they had a failed RFP. An operating lease requires the vendor to retain ownership of the equipment, which includes the liability of the asset including insurance and taxes. The Department failed to receive any responses due to the liability incurred by vendors for an operating lease of this size and the custom nature of the equipment involved. Based on the timing, the Department had the opportunity to present an emergency budget request for the Long Bill or for a special bill during the 2014 session.

The Department's request narrative offers two additional options for resolution through either a *contract extension* or an *emergency procurement*. The Department states that it will be in violation of its own procurement statute, Section 24-103-503, C.R.S., if it were to engage in a contract extension. However, an emergency procurement would not violate statute. While it appears that emergency procurement can resolve this issue until the General Assembly can address the capital lease through a bill or specified line item as required in statute, the Department prefers the replacement of this equipment immediately due to the age of the existing equipment and the Department's preference to avoid delay of having access to the new equipment's high speed print in a color format consistent with the new Colorado Operating Resource Engine (CORE) system.

Although administratively cumbersome and slightly costlier due to the monthly issuance of purchase orders rather than payments specified by contract, an emergency procurement would not violate statute as the other options would. The Department can resolve its problem with an emergency procurement for four to six months until the General Assembly can properly address a capital lease through a supplemental bill or special bill in January 2015.

	FY 2012-13	FY 2013-14	Fiscal Year 2013-14 Interim Supplemental		
	Actual	Appropriation	Requested Change	Recommended Change	New Total with Recommendation
DEPARTMENT OF PERSONNEL					
Kathy Nesbitt, Executive Director					
Interim Supplemental #1 - Private Collection Agency Fees					
<i>(5) Division of Accounts and Control -- Controller</i>					
<i>(D) Collections Services</i>					
Private Collection Agency Fees	<u>892,542</u>	<u>800,000</u>	<u>87,344</u>	<u>100,000</u>	<u>900,000</u>
Cash Funds	892,542	800,000	87,344	100,000	900,000
Totals					
DEPARTMENT OF PERSONNEL					
TOTALS for ALL Departmental line items	<u>151,490,059</u>	<u>196,532,032</u>	<u>87,344</u>	<u>100,000</u>	<u>196,632,032</u>
<i>FTE</i>	<i>350.1</i>	<i>393.1</i>	<i>0.0</i>	<i>0.0</i>	<i>393.1</i>
General Fund	6,492,208	31,439,880	0	0	31,439,880
Cash Funds	10,234,819	13,628,813	0	0	13,628,813
Reappropriated Funds	134,763,032	151,463,339	87,344	100,000	151,563,339
Federal Funds	0	0	0	0	0

	FY 2013-14	FY 2014-15	Fiscal Year 2014-15 Interim Supplemental		
	Appropriation	Appropriation	Requested Change	Recommended Change	New Total with Recommendation

DEPARTMENT OF PERSONNEL
Kathy Nesbitt, Executive Director

Interim Supplemental #2 - Integrated Document Solutions Lease-Purchase Agreement

(5) Central Services

(B) Integrated Document Solutions

Mail Equipment Purchase	<u>223,754</u>	<u>223,754</u>	<u>401,952</u>	<u>0</u>	<u>223,754</u>
General Fund	46,130	46,130	0	0	46,130
Reappropriated Funds	177,624	177,624	401,952	0	177,624

Totals

DEPARTMENT OF PERSONNEL

TOTALS for ALL Departmental line items	<u>196,532,032</u>	<u>173,354,939</u>	<u>401,952</u>	<u>0</u>	<u>173,354,939</u>
<i>FTE</i>	<i>393.1</i>	<i>393.6</i>	<i>0.0</i>	<i>0.0</i>	<i>393.6</i>
General Fund	31,439,880	6,767,176	0	0	6,767,176
Cash Funds	13,628,813	13,231,074	0	0	13,231,074
Reappropriated Funds	151,463,339	153,356,689	401,952	0	153,356,689
Federal Funds	0	0	0	0	0