

## CHANGE REQUEST for FY 08-09 BUDGET REQUEST CYCLE

Department:	Labor and Employment, Division of Oil and Public Safety
Priority Number:	1 of 3
Change Request Title:	Public School Construction

**SELECT ONE (click on box):**

- Decision Item FY 08-09
- Base Reduction Item FY 08-09
- Supplemental Request FY 07-08
- Budget Request Amendment FY 08-09

**SELECT ONE (click on box):**

Supplemental or Budget Request Amendment Criterion:

- Not a Supplemental or Budget Request Amendment
- An emergency
- A technical error which has a substantial effect on the operation of the program
- New data resulting in substantial changes in funding needs
- Unforeseen contingency such as a significant workload change

Short Summary of Request:

This Supplemental and Budget Amendment request is for additional full-time equivalent employees and associated costs to permanently address the inspection related issues revealed in the audit released June 11<sup>th</sup> by the State Auditor's Office for the public school construction program run by the division of Oil and Public Safety. The request is for 2.5 FTE and \$195,347 in FY 2007-08 and 10.0 FTE and \$645,880 in FY 2008-09.

Background and Appropriation History:

The Division of Oil and Public Safety is responsible for enforcing statutes governing public school construction. The Division works in conjunction with the Division of Fire Safety within the Department of Public Safety to enforce statute, building code and fire code in respects to school construction projects.

This request has been developed in coordination and collaboration with the Department of Public Safety, Division of Fire Safety.

The public safety unit within the Division consists of boilers, carnivals and amusement park rides, explosives, and public school construction - this request is solely for the

public school construction program. The Public School Construction Program was established in 1964 and oversees the construction of public school projects for all K-12 and junior (community) colleges statewide. The Division is responsible for adopting building code standards, reviewing and approving building construction plans, issuing building permits, inspecting the schools throughout the construction phase to ensure the schools have been designed and built in compliance and issues certificates of occupancy. Public school construction projects include new schools, additions, remodels, and freestanding structures.

The Office of the State Auditor conducted a performance audit on the public safety division and their final report was released on June 11, 2007. The public safety unit under the Division consists of boilers, carnivals and amusement park rides, explosives, and public school construction. The report found several deficiencies within the public school program specifically that need to be addressed immediately in order to ensure the safety of public schools. This request is a permanent solution for the public school construction program and does not address other unit areas within the unit.

General Description of Request:

The performance audit surrounding the public school program focused on building plan reviews, required inspections, code violations, documentation, resources, and fee collection. The audit review determined that the Division is insufficiently protecting the safety of students and staff in schools by inadequately permitting and inspecting construction projects and insufficiently enforcing building codes. The audit identified weaknesses in all areas – from initial plan review through final building inspection. The audit revealed insufficient resources and expertise to its oversight responsibilities.

Through FY 2005-06 only 1.0 FTE was allocated to these activities and since FY 2005-06 there have been only 2.0 FTE overseeing the school inspection program. On large school construction projects it is customary to perform about 200 inspections. Under these current resource conditions, the Division is only performing an average of 2 inspections for such projects.

A number of recommendations by the auditor were identified and agreed upon by the Division. An Emergency Supplemental in the amount of \$271,273 was submitted and approved in August 2007 that addressed the immediate nature of the findings and was a temporary solution. The Emergency Supplemental request was not a permanent solution or a request for on-going funding. This current request represents a permanent solution for the ongoing implementation of the program.

Specifically, the audit recommended the following:

1) “The Division of Oil and Public Safety should conduct a comprehensive evaluation of its resources and determine the resources needed to adequately conduct all plan reviews and inspections for public school construction projects. This should include working with the General Assembly to evaluate the State’s role in overseeing public school construction projects and pursuing statutory change as necessary. This should also include considering options for ensuring that all required and necessary plan reviews and inspections occur. Among the options the Division should consider are:

- a. Contracting with a qualified third-party inspection agency to conduct plan reviews and building inspections.
- b. Requiring schools to obtain plan reviews and inspections from approved independent third-party contractors and submit them to the division for review and approval. This option may require statutory authority.
- c. Delegating plan reviews and inspections to local building departments, where possible.”

In order to perform the evaluation, the Division brought together the following stakeholder group:

**School Districts:**

- Adams 12 School District
- Douglas County School District, 2006 President for CSPMA
- Cortez School District

- Pueblo 60 School District
- Thompson School District
- Jefferson County School District
- Roaring Fork School District, CSPMA

**Fire Marshalls:**

- Elizabeth Fire District
- Golden Fire Department
- Parker Fire District

**Local Jurisdiction, Building Department**

- City of Golden, ICC
- City of Thornton, ICC

**State Government:**

- Department of Labor and Employment, Division Oil & Public Safety
- Department of Public Safety, Division Fire Safety

**Architects:**

- Neenan & Company
- Gensler Architects

This collaborative stakeholder group met at least twice every month for the last four months to assist in rule development, proposed statutory provisions and program implementation which included resource needs. After intense analysis it was determined that a combination of the auditor recommendations be proposed for implementation.

It was decided by the stakeholder group to continue delegating plan reviews and inspections to local building departments, wherever possible. Local building departments can negotiate a Memorandum of Agreement (MOA) with the Division where they would agree to adopt the same codes and rules that the State adopts. With this pre-approved agreement the building departments could solicit business from their local school districts demonstrating that their rules would not be any more stringent than the Division. Local delegation of the School Construction Program is a strategic part of the future implementation of this program. Without the statutory change encouraging more

business with local jurisdictions the State's requirement for FTE would be considerably higher.

It was also decided that the Division will contract with third-party inspection agencies from which school districts may select and pay for qualified inspectors to perform their inspections. The school districts will also have the option of obtaining inspections from independent qualified third party contractors. The role of the Division concerning inspections will primarily be to provide quality control and oversight. Since some projects may require as many as 200 inspections, and based upon the seasonality of the construction, it was deemed to be impractical and inefficient for the Division to hire enough FTE to perform the majority of the inspections. It was estimated during the stakeholder meetings that the Division would need to hire as many as 40 FTE to complete the required inspections.

The Division will perform a key inspection during construction of each of the estimated 400 projects as well as the final inspection for every project. The Division will also perform the annual inspections for the annual permits at approximately 100 schools. It is also anticipated that re-inspections and/or enforcement will be required at each of the schools (400) and that quality control inspections will occur at approximately 200 of the projects delegated to local jurisdictions. It is anticipated that an additional 4.0 Inspector III FTE will be required to accomplish these tasks.

2) The audit also identified the following:

“The Division of Oil and Public Safety should ensure building plans for public schools are adequately reviewed and approved with regard to special inspections, mechanical systems, and energy efficiency...”

The decision was made during the stakeholder group meetings, that third-party plan reviews should not be allowed. Based upon the number of plans received and permitted in the last 12 months, it is anticipated that the Division will review approximately 400 plans per year. As identified above, all plans must receive a comprehensive review

including special inspections, mechanical systems, and energy efficiency. Recent changes to regulations require that all projects greater than \$500,000 (approximately 100) receive a preliminary review and that the Division coordinate all plan review comments for both the Division of Fire Safety and the Division of Oil and Public Safety with the School Boards. Also required as part of the plan reviews are review and approval of annual inspections (100) and quality control reviews of plans reviewed by delegated authorities (100). Based upon this analysis, 3.0 additional General Professional IV FTE are needed to perform the required plan reviews. Currently only 1.0 FTE is allocated to this function.

3) The audit also identified areas where technical assistance is necessary to meet the objectives of the program. Examples from the audit include:

“Implementing a process for ensuring that final building plans are stamped “reviewed for compliance’ and a copy is sent back to the architect.”

“Verifying that the approved plans are on-site...”

“The division of Oil and Public Safety should evaluate controls for ensuring that building permits and certificates of occupancy for public school construction projects are issued appropriately.”

“Providing copies of inspection reports to the school district and building contractor.”

“Ensuring copies of all inspections conducted by either the Division or other state agencies are maintained in the Division’s files and periodically reviewing files to ensure they include all of the appropriate documentation.”

The Division currently has no FTE allocated for technical assistance. It is anticipated that 3.0 Administrative Assistant III FTE will be required to answer phones, assist customers, log-in projects, track projects, ensure all inspections are in files, perform invoicing, store and retrieve documents and schedule inspections.

In summary, the Department is requesting \$195,347 in FY 07-08 and \$645,880 in FY 08-09 in cash fund spending authority from the Public Safety Fund to permanently fix the audit findings.

Consequences if Not Funded:

School construction, additions, and renovations may be delayed for use and/or safety issues may not be properly identified and mitigated. The delays may result in overcrowding, busing issues, and misplaced children. However, and more importantly, the paramount risk is to our school children whose safety may be at risk if proper inspections are not performed.

Calculations for Request:

<b>Summary of Request FY 07-08</b>	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Cash Funds Exempt</b>	<b>Federal Funds</b>	<b>FTE</b>
<b>Total Request</b>	<b>\$195,347</b>	<b>\$0</b>	<b>\$195,347</b>	<b>\$0</b>	<b>\$0</b>	<b>2.5</b>
Personal Services and Benefits	\$155,127	\$0	\$155,127	\$0	\$0	2.5
Operating Expense	\$40,220	\$0	\$40,220	\$0	\$0	

<b>Summary of Request FY 08-09</b>	<b>Total Funds</b>	<b>General Fund</b>	<b>Cash Funds</b>	<b>Cash Funds Exempt</b>	<b>Federal Funds</b>	<b>FTE</b>
<b>Total Request</b>	<b>\$645,880</b>	<b>\$0</b>	<b>\$645,880</b>	<b>\$0</b>	<b>\$0</b>	<b>10.0</b>
Personal Services and Benefits	\$620,164	\$0	\$620,164	\$0	\$0	10.0
Operating Expense	\$25,716	\$0	\$25,716	\$0	\$0	

STATE OF COLORADO FY 08-09 BUDGET REQUEST CYCLE: Department of Labor and Employment

<b>Inspections</b>	projects	# inspections	hours	FTE/yr	2080
			hours	hours	
Perform oversight inspections/non delegated	400		2 4	3200	
Perform inspections for annual permits	100		1 8	800	
Perform re-inspections/enforcement	400		3 3	3600	
Perform QA/QC inspections/delegated	200		1 4	800	
<b>Total inspections</b>				<b>8400</b>	
				<b>4.04</b>	<b>FTE</b>
<b>Inspector III</b>					
<b>Plan Reviews</b>	projects		hours	hours	
Preliminary plan reviews	100		6	600	
Plan reviews	400		12	4800	
Coordinate comments w/ fire safety/school boards	400		4	1600	
Review/approve annual inspections	100		6	600	
Perform QA/QC plan reviews/delegated	100		6	600	
				<b>8200</b>	
<b>General Professional IV (already have 1.0FTE so net 3.0 FTE New)</b>				<b>3.94</b>	<b>FTE</b>
<b>Technical Assistance</b>				hours	
Answer phones/assist customers				1040	
Log in projects				780	
Track projects				1040	
Ensure all inspec in files				780	
Invoicing				1040	
Storage and retrieval				780	
Schedule inspections				780	
				<b>6240</b>	
				<b>3.00</b>	<b>FTE</b>
<b>Administrative Assistant III</b>			<b>3.00</b>		

STATE OF COLORADO FY 08-09 BUDGET REQUEST CYCLE: Department of Labor and Employment

FTE and Operating Costs								GRAND TOTAL	
Fiscal Year(s) of Request		FY 07-08	FY 08-09	FY 07-08	FY 08-09	FY 07-08	FY 08-09	FY 07-08	FY 08-09
<b>PERSONAL SERVICES</b>		<b>Inspector III</b>		<b>General Prof IV</b>		<b>Admin Asst III</b>			
Number of PERSONS / class title	Title:	4.0	4.0	3.0	3.0	3.0	3.0		
Number of months working in FY 07-08 and FY 08-09		3	12	3	12	3	12		
Number months paid in FY 7-08 and FY 08-09		3	12	3	12	3	12		
Calculated FTE per classification		<b>1.0</b>	<b>4.0</b>	<b>0.8</b>	<b>3.0</b>	<b>0.8</b>	<b>3.0</b>	<b>2.5</b>	<b>10.0</b>
Annual base salary		\$61,224	\$61,224	\$66,390	\$66,390	\$33,492	\$33,492		
Salary		\$61,224	\$244,896	\$49,793	\$199,170	\$25,119	\$100,476	\$136,136	\$544,542
PERA	10.15%	\$6,214	\$24,857	\$5,054	\$20,216	\$2,550	\$10,198	\$13,818	\$55,271
Medicare	1.45%	\$888	\$3,551	\$722	\$2,888	\$364	\$1,457	\$1,974	\$7,896
Prior Year SAED	N/A	\$0	\$459	\$0	\$373	\$0	\$188	\$0	\$1,020
<b>Subtotal Personal Services at Division Level</b>		<b>\$68,326</b>	<b>\$273,763</b>	<b>\$55,569</b>	<b>\$222,647</b>	<b>\$28,033</b>	<b>\$112,319</b>	<b>\$151,928</b>	<b>\$608,729</b>
<b>Subtotal AED at EDO Long Bill Group Level</b>	<b>1.60%</b>	<b>\$980</b>	<b>\$3,918</b>	<b>\$797</b>	<b>\$3,187</b>	<b>\$402</b>	<b>\$1,608</b>	<b>\$2,179</b>	<b>\$8,713</b>
<b>Subtotal SAED at EDO Long Bill Group Level</b>	<b>Varies</b>	<b>\$459</b>	<b>\$1,224</b>	<b>\$373</b>	<b>\$996</b>	<b>\$188</b>	<b>\$502</b>	<b>\$1,020</b>	<b>\$2,722</b>
<b>OPERATING EXPENSES</b>									
Supplies @ \$500/\$500	\$500	\$500	\$2,000	\$375	\$1,500	\$375	\$1,500	\$1,250	\$5,000
Training	\$1,000	\$0	\$4,000	\$0	\$0	\$0	\$0	\$0	\$4,000
Computer @ \$900/\$0	\$900	\$0	\$0	\$2,700	\$0	\$2,700	\$0	\$5,400	\$0
Laptop	\$1,000	\$4,000	\$0	\$0	\$0	\$0	\$0	\$4,000	\$0
Portable Printer/Fax/Copier	\$500	\$2,000	\$0	\$0	\$0	\$0	\$0	\$2,000	\$0
Fixed Cost Fleet Vehicle (\$14.50/mo x 4 Vehicles)	\$15	\$174	\$696	\$0	\$0	\$0	\$0	\$174	\$696
Variable Cost Fleet Vehicle (1000mi/mo x \$0.24mi)	\$240	\$720	\$11,520	\$0	\$0	\$0	\$0	\$720	\$11,520
Office Suite Software @ \$330/\$0	\$330	\$1,320	\$0	\$990	\$0	\$990	\$0	\$3,300	\$0
Office Equipment @ \$2,225 /\$0	\$2,225	\$8,900	\$0	\$6,675	\$0	\$6,675	\$0	\$22,250	\$0
Telephone Base @ \$450/\$450	\$450	\$450	\$1,800	\$338	\$1,350	\$338	\$1,350	\$1,126	\$4,500
<b>Subtotal Operating Expenses</b>		<b>\$18,064</b>	<b>\$20,016</b>	<b>\$11,078</b>	<b>\$2,850</b>	<b>\$11,078</b>	<b>\$2,850</b>	<b>\$40,220</b>	<b>\$25,716</b>
<b>GRAND TOTAL ALL COSTS</b>		<b>\$87,829</b>	<b>\$298,921</b>	<b>\$67,817</b>	<b>\$229,680</b>	<b>\$39,701</b>	<b>\$117,279</b>	<b>\$195,347</b>	<b>\$645,880</b>

The audit specifically noted that staff performing plan reviews and inspections need to have adequate experience and training:

“The Division of Oil and Public Safety should improve its process of conducting plan reviews for public school construction projects by ensuring staff are experienced and receive adequate training for conducting plan reviews...”

“The Division of Oil and Public Safety should improve its process for conducting inspections of public schools by ensuring staff have experience and are adequately trained...”

There are a limited number of inspectors and plan reviewers that meet the qualifications of technical certification through an organization such as ICC and have the experience level adequate to perform the required functions. Higher job levels are being proposed for both inspectors and plan reviewers in order to compete with third-party contractors and local jurisdictions in hiring qualified individuals.

Public Safety Fund Estimated Revenue/Expense and Fund Balance		
	<u>FY 07-</u>	<u>FY 08-09</u>
Beginning Fund Balance	\$ 140,525	\$ 45,593
Estimated Annual	\$ 425,000	\$ 425,000
Additional Revenue due to Fee Increase for Emer Supp	\$ 250,000	
Additional Revenue due to Fee Increase for BA/Supp	\$ 175,000	\$ 650,000
Total	\$ 850,000	\$ 1,075,000
Estimated Annual	\$ 400,000	\$ 400,000
CDPS Fire Safety Emergency Supplemental	\$ 78,312	
CDLE Public School Emergency Supplemental	\$ 271,273	\$ -
CDLE Public School	\$ 195,347	\$ 645,880
Total	\$ 944,932	\$ 1,045,880
Net Change to Fund Balance	\$ (94,932	\$ 29,120
<b>Estimated Fund</b>	<b>\$ 45,593</b>	<b>\$ 74,713</b>

Impact on Other Government Agencies:

This request has been coordinated with the Department of Public Safety, Division of Fire Safety. A future additional appropriation request may likely be requested by the Division of Fire Safety in the future.

Cost Benefit Analysis:

This request is to permanently address the health/safety issues that were identified in a recent audit performed by the State Auditor's Office. The Division of Oil and Public Safety has performed a thorough analysis of the audit findings and in conjunction with the aforementioned stake holders, has developed a proposal to address the long term issues as identified within the audit report.

On August 20, 2007 representatives of the Division of Oil and Public Safety presented progress reports to the Legislative Audit Committee regarding developments in the Public School Construction Program. At the same time general concepts for legislative changes were also presented. The Committee accepted our proposals and authorized us to work with the legislative drafter to develop language for a proposed bill. On September 24, 2007 we presented the actual draft legislation to the Legislative Audit Committee and received their unanimous approval to go forward.

Implementation Schedule:

<b>Task</b>	<b>Month/Year</b>
Begin Hiring Process	February 2008
FTE Hired	April 2008

Statutory and Federal Authority:

22-32-124 Building codes - zoning - planning - rules - definitions.

(2) (a) (I) The division shall conduct the necessary plan reviews and inspections to assure that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division; except that, at the request of the affected board of education, the state charter school institute created in section 22-30.5-503, or the charter school, the division may delegate this responsibility to the appropriate building department of a

county, town, city, or city and county or to the appropriate fire department, as defined in section 24-33.5-1202, C.R.S., in the location of the building or structure.

23-71-122 Junior college board of trustees - specific powers.

(v) (II) (A) The division shall conduct the necessary plan reviews and inspections to determine that a building or structure constructed pursuant to subparagraph (I) of this paragraph (v) has been constructed in conformity with the building and fire codes and standards adopted by the director of the division; except that the division may delegate this responsibility to the appropriate building department of a county, town, city, or city and county or to the appropriate fire department, as defined in section 24-33.5-1202, C.R.S., in the location of the building or structure.

Performance Measures:

Performance Measures		FY 05-06 Actual	FY 06-07 Actual	FY 07-08 Estimate	FY 08-09 Projected
Minimize the incidences of what cause injuries through proper allocation of resources with appropriate qualifications and training as identified through issues noted during internal quality control checks: Percent of issues noted during internal quality control checks	Target	New	New	50%	10%
	Actual	New	71%		

It is anticipated that without the proper allocation of resources with appropriate qualifications and training, that the percent of issues noted during internal quality control checks concerning public school construction plan reviews and inspections will not appreciably decrease in the foreseeable future.