Schedule 13
Emergency Supplemental for FY 07-08 Budget Request Cycle

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

Request Title: Methamphetamine Task Force Fund
Department: Public Safety
Priority Number:

Dept. Approval by: [signature] Date: August 9, 2007
OSPB Approval: [signature] Date: 8/10/07

	Fund	1 (Appropriated) Prior-Year Actual FY 06-07	2 Appropriation FY 07-08	3 1331 Supplemental Request FY 07-08	4 Total Revised Request FY 07-08	5 Base Request FY 08-09	6 Decision/ Base Reduction FY 08-09	7 November 1 Request FY 08-09	8 Budget Amendment FY 08-09	9 Total Revised Request FY 08-09	10 Change from Base (Column 5) FY 09-10
Total of All Line Items	Total	0	0	43,739	43,739	0	0	0	0	0	0
	FTE	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
	GF	0	0	0	0	0	0	0	0	0	0
	GFE	0	0	0	0	0	0	0	0	0	0
	CF	0	0	0	0	0	0	0	0	0	0
	CFE	0	0	43,739	43,739	0	0	0	0	0	0
	FF	0	0	0	0	0	0	0	0	0	0
(4) DIVISION OF CRIMINAL JUSTICE Methamphetamine Abuse Task Force Fund *(new line)*	Total	0	0	43,739	43,739	0	0	0	0	0	0
	FTE				0.00	0.00	0.00	0.00	0.00	0.00	0.00
	GF				0			0		0	
	GFE				0			0		0	
	CF				0			0		0	
	CFE			43,739	43,739			0		0	
	FF				0			0		0	

Letternote revised text: No revisions
Cash Fund name/number, Federal Fund Grant name: Public Safety Inspection Fund (CRS 8-1-151) within the Department of Labor & Employment, Div. of Oil & Public Safety
IT Request: ☐ Yes ☑ No
Request affects other departments: ☐ Yes ☑ No If yes, list other departments here:

SUPPLEMENTAL REQUEST for FY 2007-08 BUDGET

Department:	Public Safety
Priority Number:	2
Change Request Title:	Methamphetamine Task Force Fund Spending Authority

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:

The Department requests $43,739 in Cash Funds Exempt spending authority from the *Methamphetamine Abuse Prevention, Intervention, and Treatment Cash Fund.* This spending authority is necessary in order for the Department to expend a grant received by the Division of Criminal Justice (DCJ) from the El Pomar Foundation.

Background and Appropriation History:

During the 2006 session, the General Assembly passed House Bill 06-1145, which created the State Methamphetamine Task Force, consisting of members of the Colorado Legislature, the Executive Branch, and representatives from the State's criminal justice system, among many others. This bill established the following duties for the Task Force:

> (a) Assist local communities in implementing the most effective models and practices for methamphetamine abuse prevention, intervention, and treatment and in developing the responses by the criminal justice system;

(b) Review model programs that have shown the best results in Colorado and across the United States and provide information on the programs to local communities and local drug task forces;

(c) Assist and augment local drug task forces without supplanting them;

(d) Investigate collaborative models on protecting children and other victims of methamphetamine production, distribution, and abuse;

(e) Measure and evaluate the progress of the state and local jurisdictions in preventing methamphetamine production, distribution, and abuse and in prosecuting persons engaging in these acts;

(f) Evaluate approaches to increase public awareness of methamphetamine production, distribution, and abuse;

(g) Assist local communities with implementation of the most effective practices to respond to illegal methamphetamine production, distribution, and use;

(h) Consider any other issues concerning methamphetamine production, distribution, and abuse that arise during the course of the Task Force study.

In association with creation of the Task Force, H.B. 06-1145 established that DCJ may accept and expend gifts, grants, and donations on behalf of the Task Force for purposes associated with implementation of the article (18-18.5-104, C.R.S.). The bill also created the *Methamphetamine Abuse Prevention, Intervention, and Treatment Cash Fund* to support the costs of implementing the provisions of the bill. However, the General Assembly did not appropriate any moneys to the fund; rather, the Legislature determined that the Task Force should be funded with grants, contributions, and donations. Additionally, the Legislature directed that all private and public funds received by DCJ on behalf of the Task Force shall be credited to the fund, and also asserted that all moneys in the fund shall be subject to appropriation by the General Assembly (18-18.5-105, C.R.S.).

During the process of fiscal analysis, the Legislative Council fiscal note analyst determined that it was not possible to project the total amount of such revenue that the

Fund would receive, and accordingly did not recommend the appropriation of any spending authority from the Fund.

Subsequent to passage of H.B. 06-1145, early in FY 2006-07, the El Pomar Foundation provided a $50,000 grant to the State in support of the Task Force's efforts. Based on the Colorado Supreme Court's ruling in *Colorado General Assembly v. Lamm, 700 P.2d 508, at 524 (Colo. 1985)*, it was determined that this grant qualified as custodial in nature, and was therefore not subject to appropriation by the General Assembly. Specifically, the grant met the following conditions, determined by the Court, to be deemed custodial:

- the funds are *not* guaranteed by Colorado tax revenues;
- the funds are given to the state for particular purposes; and
- the state acts as a trustee to carry out those specific purposes.

Accordingly, the Office of the State Controller (SCO), in consultation with the Governor's office, established spending FY 2006-07 spending authority for these funds. During FY 2006-07, the Task Force and DCJ expended a total of $6,261 of this grant.

In booking spending authority for FY 2007-08, the SCO identified a statutory conflict created by H.B. 06-1145, and, in consultation with the Governor's Office, declined to establish spending authority for this grant during FY 2007-08. The SCO determined that, although DCJ was expressly permitted in 18-18.5-104, C.R.S., to accept and expend donations on behalf of the Task Force, all moneys in the Fund are nevertheless subject to appropriation by the General Assembly. Both the SCO and the Governor's Office determined that the Legislature should therefore approve spending authority for the donation from the El Pomar Foundation.

Because the operations of the Task Force are presently ongoing, it is immediately necessary that the Department be authorized to expend moneys presently in the Fund. The Task Force cannot suspend its operations for the period of time necessary to allow the regular supplemental budget process to transpire, thereby necessitating that approval

of an emergency supplemental request under the provisions of 24-75-111, C.R.S. (H.B. 98-1331).

General Description of Request:

With this request, the Department would simply be authorized to expend $43,739 in funds granted to the State by the El Pomar Foundation. These expenditures would constitute administrative support of the Task Force, in strict accordance with the terms of the grant, and may include (but not be limited to) the following:

- Travel by board members to and from board meetings;
- Meeting-related expenses such as room reservations, refreshments, and basic meeting supplies;
- Reimbursement of expenses and other fees paid to outside experts who may provide information to the board; and
- Publication of the board's activities, findings, and recommendations.

These revenues and expenditures are classified as *cash funds exempt* because they are custodial in nature, and therefore not subject to the revenue limitations of the Taxpayers' Bill of Rights.

Consequences if Not Funded:

If this request is not approved, the Department will likely be unable to fulfill its statutory mandate to provide support for the Methamphetamine Task Force. Unless spending authority is established for the grant funds, the Department would be unable to expend the grant funds provided by the El Pomar Foundation, and may therefore be required to return those funds to the Foundation.

Most importantly, however, the ability of the Task Force to continue its work to abate Colorado's methamphetamine problem may be compromised.

Calculations for Request:

Summary of Request FY 08-09	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request [Items below total to this]	**$43,739**			**$43,739**		
New Line Item – Methamphetamine Abuse, Intervention, and Treatment Cash Fund	$43,739			$43,739		

Summary of Request FY 09-10	Total Funds	General Fund	Cash Funds	Cash Funds Exempt	Federal Funds	FTE
Total Request [Items below total to this]	**$43,739**			**$43,739**		
New Line Item – Methamphetamine Abuse, Intervention, and Treatment Cash Fund	$43,739			$43,739		

Assumptions for Calculations:

The FY 2006-07 El Pomar Foundation grant for Task Force operations totaled $50,000. Of this amount, DCJ expended $6,261 in FY 2006-07. The remaining grant allocation, then, is $43,739.

It is expected that this level of spending authority would continue indefinitely, thereby allowing DCJ to accept and expend any other methamphetamine-related grants, donations, and contributions that may materialize in coming years.

Cost Benefit Analysis:

Because this request is purely technical in nature, the Department has not performed a formal cost-benefit analysis.

Implementation Schedule:

With passage of this emergency supplemental request, DCJ will immediately begin to expend dollars from the Fund.

Statutory and Federal Authority:

18-18.5-104. Task force funding. (1) The division of criminal justice in the department of public safety, on behalf of the task force, is authorized to receive and expend contributions, grants, services, and in-kind donations from any public or private entity for any direct or indirect costs associated with the duties and functions of the task force set forth in this article.

18-18.5-105. Cash fund - created. (1) (a) All private and public funds received by the task force or the division of criminal justice in the department of public safety on behalf of the task force, through grants, contributions, and donations pursuant

to this article shall be transmitted to the state treasurer, who shall credit the same to the methamphetamine abuse prevention, intervention, and treatment cash fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. All moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund. All unexpended and unencumbered moneys remaining in the fund as of July 1, 2012, shall be transferred to the general fund.

Performance Measures:

This technical request does not relate to any of the high-priority objectives or performance measures highlighted in the Department's 2007 Strategic Plan.