



Legislative Fiscal Bureau

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April 18, 2018

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Military Affairs: Section 13.10 Request for Funding and Position Authority Associated with the Interoperability Program -- Agenda Item VIII

REQUEST

Provide the following to the Department of Military Affairs (DMA) related to the statewide interoperability program: (a) transfer \$98,400 PR and 1.0 PR position from the Department of Transportation to DMA to assist with the interoperability radio network program; (b) release \$464,000 GPR annually from the reserved portion of Committee's supplemental appropriation to DMA's emergency management services, general program operations appropriation to support the purchase of information technology (IT) equipment and services necessary to operate the statewide interoperability system; and (c) create 1.0 PR program and planning analyst position funded at \$98,400 PR in 2018-19 to be an interoperability subject matter expert and assist with other program projects, funded from Justice Information System fees, and delete 0.2 FED position and \$12,300 FED in 2018-19.

BACKGROUND

Under current law, "interoperability" as it applies to emergency services means the ability of public safety agencies (a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services) to communicate with each other and with agencies and entities such as public works and transportation agencies, hospitals, and volunteer emergency services agencies by means of radio or associated communications systems, including the exchange of voice, data, or video communications on demand and in real time, as needed and authorized. In many communities, local emergency responders may be able to communicate with responders from adjacent communities by programming public safety radios with a small number of shared "mutual aid" channels. This method does not support communications between agencies outside of these mutual aid networks. The statewide public safety interoperable communication

system (commonly referred to as WISCOM) was developed to permit state, local, and federal emergency responders statewide to communicate with each other.

Prior to the 2017-19 biennial budget (2017 Act 59), the state duties for establishing the statewide interoperability system were primarily the responsibility of the Department of Justice (DOJ), with DOT providing staff dedicated to maintenance and operation of the system. Under Act 59, state law was modified as follows:

a. *Transfer functions associated with the Interoperability Council and a statewide public safety interoperable communications system from DOJ to DMA.* The Interoperability Council was directed to assist and advise DMA (rather than DOJ) in identifying, obtaining, and allocating funding to implement WISCOM. [The Interoperability Council is a 15-member council comprised of various state executives and local officials. The Council is generally charged with making recommendations and providing advice for the purpose of achieving a statewide interoperable communication system.] Further, the Council was required to make recommendations to DMA, rather than DOJ, regarding various current law aspects of the administration of public safety interoperable communication systems. In addition, Act 59 required that DMA provide staff support to the Interoperability Council and oversight of the development and operation of a statewide public safety interoperability communication system. The act also transferred the authority to charge a public safety agency that is a state agency, as well as a person that is not a state agency, a fee for use of the statewide public safety interoperable communication system from DOJ to DMA. Finally, Act 59 specified that the Interoperability Council no longer be attached to the Department of Administration (DOA) for administrative purposes, but rather, to DMA.

Regarding funding and positions, Act 59 transferred the following PR annual appropriations, as well as funding and position authority, from DOJ to DMA's emergency management services program: (a) interoperable communications system [\$1,085,700 PR in 2017-18, \$1,085,800 PR in 2018-19, and 2.0 PR positions annually]; (b) public safety interoperable communication system, general usage fees [no funding or position authority]; and (c) public safety interoperable communication system, state fees [no funding or position authority]. In addition, \$80,600 PR and 1.0 PR position annually was transferred from DOJ's Wisconsin justice information sharing program appropriation to DMA's interoperable communications system PR appropriation (which was transferred from DOJ to DMA). Finally, \$12,300 FED and 0.2 FED position annually was transferred from DOJ's law enforcement services federal aid, state operations appropriation to DMA's emergency management services federal aid, state operations appropriation.

Act 59 transferred all tangible assets and liabilities, positions and employees (with incumbency status), tangible personal property, pending matters, contracts, and rules and orders related to interoperable communications, as determined by the Secretary of DOA, from DOJ to DMA on the effective date of the budget act.

b. *Transfer of positions from DOT to DMA.* Act 59 authorized DMA to request that the Joint Committee on Finance take action under s. 13.10 of the statutes to transfer funding and positions from the Department of Transportation (DOT) to DMA for the ongoing maintenance of a statewide public safety interoperable communication system in 2017-18.

c. *Funding for purchasing software and IT equipment for WISCOM.* Act 59 placed \$464,000 GPR annually in reserve in the Joint Committee on Finance's supplemental GPR appropriation for the purpose of purchasing software and other IT equipment or services for a statewide public safety interoperable communication system. The Department of Military Affairs was authorized to request the transfer of these funds for such a purpose under s. 13.10 of the statutes.

d. *Creation of a Director of Emergency Communications in DMA, Reporting Requirements, and Requirement for a Request for Proposal.* Act 59 created an annual SEG appropriation in DMA's emergency management services program to support general program operations of the Interoperability Council funded at \$199,400 SEG in 2017-18, \$212,600 SEG in 2018-19, with 2.0 SEG positions annually in the new appropriation. Funding for the SEG appropriation is from the Police and Fire Protection Fund, and supports 1.0 Director of Emergency Communications and 1.0 administrative support assistant position.

Act 59 specified that the Adjutant General (the head of DMA) appoint a Director of Emergency Communications within the Division of Emergency Management (known as Wisconsin Emergency Management -- WEM), and that the Director serve at the pleasure of the Adjutant General in the unclassified service. By January 1, 2019, DMA, in consultation with the Interoperability Council and the 911 Subcommittee [a statutorily specified 19-member subcommittee, with one member appointed by the Adjutant General and 18 members by the Governor, created to advise and assist DMA regarding Next Generation 911 matters], is required to submit a report to the Governor and Legislature that includes all of the following: (a) recommendations for changing the statutory authority of the Interoperability Council; (b) a description of the progress made toward creating a statewide public safety interoperable communication system; (c) a description of the obstacles that hinder the progress toward interoperability; and (d) recommendations for executive or legislative action to promote interoperability. [Act 59 provided \$6.7 million SEG in 2018-19 to make and administer Next Generation 911 emergency services internet protocol (IP) network contracts and for the 911 Subcommittee to administer its duties.]

During 2017-18, DMA is required to do the following: (a) consult with DOJ on how to effectively transfer from DOJ to DMA resources and responsibilities relating to the Interoperability Council and the statewide public safety interoperable communication system; and (b) consult with DOT and other state agencies on the effective use of staff at DOT and other state agencies for the ongoing maintenance of a statewide public safety interoperable communication system. During the 2017-19 biennium, DMA is required to conduct a request for proposals regarding a statewide public safety interoperable communication system.

Current funding for staffing and operation of the Office of Emergency Communications, excluding funding and positions in the request, is identified in the following table.

<u>Appropriation</u>	<u>Fund Source</u>	<u>2017-18</u>	<u>2018-19</u>	<u>Positions</u>
Interoperable Communications System	PR	\$1,166,300	\$1,166,300	3.00
Public Safety Interoperable Communication System; State Fees	PR	0	0	0.00
Public Safety Interoperable Communication System; General Usage Fees	PR	0	0	0.00
Federal Aid; State Operations	FED	12,300	12,300	0.20
Interoperability Council	SEG	<u>199,400</u>	<u>212,600</u>	<u>2.00</u>
Total		\$1,378,000	\$1,391,200	5.20

ANALYSIS

The Department's s. 13.10 request currently before the Committee is a three-part request associated with: (a) transfer of 1.0 position from DOT to DMA; (b) the release of funding in the Committee's appropriation reserved for DMA for the purchase of interoperability IT equipment and services; and (c) creation of an additional PR position in the interoperable communication systems appropriation. Each of these components is individually addressed below.

Position Transfer From DOT. Under Act 59, section 9132(1yy), in 2017-18, DMA may request the Committee take action under s. 13.10 of the statutes to transfer funding and positions from DOT to DMA for the ongoing maintenance of a statewide public safety interoperable communications system. Currently, DOT staff provide ongoing maintenance of WISCOM (3.0 technicians and 1.0 information systems business automation position). Prior to Act 59, these positions were supported by funds provided through DOJ from the Justice Information Systems (JIS) fee. Subsequent to Act 59, the positions have been supported by funds provided through DMA from the JIS fee.

According to DMA, "Discussions continue between the two agencies regarding the technicians; however, the 1.0 FTE IS Business Automation Senior, which is currently vacant, is needed for interoperability program operations at DMA." While at DOT, the vacant position was used to invoice DOJ for WISCOM work performed by DOT. The Department of Military Affairs indicates that, if the position is transferred to DMA, the position would be reclassified as a program and planning analyst, and used to "administer contracts and user agreements for the interoperability radio network and emergency services internet protocol network." Since DMA is already funding the cost of the position, no increase in funding is necessary. Rather, funding for the position would be reallocated within the existing appropriation. Given that the position is one of the positions in DOT that performs WISCOM related activities and is also vacant, the Committee could approve transfer to DMA. [Alternative 1(a)]

The request currently before the Committee addresses one of the four DOT WISCOM positions. It is, however, likely that DMA will request the transfer of other positions to address the technicians at DOT once the two agencies have concluded their discussions. The future of technician positions will be dependent on the type of interoperable system that is eventually established. In the interim, the technicians continue to work on and maintain WISCOM. While DMA would utilize the

position requested for transfer for WISCOM, given that a subsequent request is likely, the Committee could deny the Department's requested transfer at this time and address all transferred DOT positions simultaneously. [Alternative 2a]

Release of Supplemental Funding. Act 59 placed \$464,000 GPR in 2017-18 and \$464,000 GPR in 2018-19 in the Committee's supplemental appropriation reserved for WISCOM software and information technology. According to the Department, funding would be used:

"to replace some equipment as well as hire a contractor to assist with completing the requirements in Wis. Stats. s. 323.29(3)(a)2. which requires the Department to conduct a request for proposals regarding a statewide public safety interoperable communication system. Additionally, this contractor will provide a third party objective analysis of the implementation of the system after the request for proposal is awarded and implemented."

The Department's request indicates that the equipment to be replaced includes "outside infrastructure (antennas and feed lines), UPS (uninterruptible power supplies), and network equipment (switches and routers and VPN equipment). These are items that have begun failing and will still need to be maintained/operational until we complete any contract for the new statewide communications system. In addition, we have some identified coverage issues that require additional repeaters and site equipment to outfit these sites." Funding would be provided on a one-time basis. [Alternative 1(b)]

The Department has estimated the total cost of the above items to be \$597,000 in 2017-18 and \$660,000 in 2018-19. In addition, costs of the contractor (which have not yet been determined) would need to be funded. The Department has indicated that subsequent to the release of funding, projects would be more precisely prioritized and project budgets would be further refined to more closely align with the funding provided. If funding is released, DMA indicates that it could be utilized within the fiscal year. However, since the scope of the projects are not yet specified and the cost of the contractor is unknown, it could be argued that release of funding at this time is premature. Therefore, the Committee could deny the request. [Alternative 2b] The Department could submit a request at a future s. 13.10 meeting for release of the reserved funding which identifies the specific projects and costs to be funded. Since the Committee's supplemental appropriation is biennial, monies not released in 2017-18 would be available in 2018-19 and could be released for use in the later fiscal year.

Creation of 1.0 PR program and planning analyst position. The Department requests that the Committee create and fund 1.0 PR program and planning analyst position funding from JIS fees. This position would serve as subject matter expert and assist with other program projects. In conjunction with creation of this position, DMA requests the deletion of 0.2 FED position and \$12,300 FED annually. The Department's request would expand current staffing for the Office of Emergency Communications by a net 0.8 position, to from 5.2 total 6.0 (not including the transfer of the DOT position in this request).

According to DMA, when the 0.2 position was at DOJ it was combined with a 0.8 position to equal 1.0 position. The duties of the 0.8 position were not associated with WISCOM, and therefore, did not transfer to DMA. Regarding the 0.2 position in DMA, the Department indicates that since

the position does not meet the definition of a permanent position ("employment in a position in which permanent status in class may be obtained and which requires the services of an employee for 600 hours or more on an annual basis..."), DMA cannot fill the position. Further, the Department states that it "does not have any federal funding for this position and does not anticipate having federal funding at this time." [Alternative 1(c)]

In reviewing the Department's request for an additional 1.0 PR position, the Committee should note that the requested funding source is the Justice Information System fee. The JIS fee is generated from a \$21.50 fee which is assessed with a circuit court fee for the commencement or filing of certain court proceedings, including: civil, small claims, forfeiture, wage earner or garnishment actions; appeals from municipal court; a third party complaint in a civil action; or a counterclaim or cross complaint in a small claims case. Monies from the JIS fee are deposited into a receipts appropriation and then transferred to appropriations in DMA, DOJ, DOA and the Department of Corrections.

The receipts appropriation for JIS currently has an unsupported cash deficit. According to DOA, the appropriation ended 2016-17 with a deficit of \$3,471,171. Under 2015 Act 55, unencumbered balances in the appropriations supported by the JIS fee revert to the receipts appropriation at the end of the fiscal year to offset any accumulated deficit. However, despite these reversions, the appropriation remains in deficit. The Department of Administration currently has an unsupported cash overdraft plan before the Committee that includes this appropriation deficit. Under its plan to address the deficit, DOA indicates "Legislative changes to the Justice Information Fee/Surcharge and/or number of amount of appropriations supported by surcharge revenue will be required to eliminate the growing unsupported overdraft balance." Such modifications are typically addressed in reviewing the state's biennial budget when appropriations for all state agencies may be addressed. As such, the Committee could deny the Department's request for increased staffing from this fund source at this time and address JIS fee-funded programs in the 2019-21 biennial budget. [Alternative 2c]. Under this alternative, DMA would retain the 0.2 FED position for the remainder of the 2017-19 biennium. This position could also be addressed in the 2019-21 biennial budget.

If the Committee denies DMA's request, the Department would continue to administer the program as currently structured (5.2 positions in DMA and 4.0 positions with DOT funded by DMA for WISCOM), and \$464,000 GPR annually would remain in the Committee's reserve appropriation for potential release at a later time in the 2017-19 biennium. [Alternative 3]

ALTERNATIVES

1. Provide the following to the Department of Military Affairs related to the statewide interoperability program: (a) transfer of \$98,400 PR and 1.0 PR position from the Department of Transportation to DMA to assist with the interoperability radio network program; (b) release of \$464,000 GPR annually in the reserved portion of Committee's supplemental appropriation to support the purchase of information technology equipment and services for the statewide interoperability system; and (c) create 1.0 PR program and planning analyst position funded at \$98,400 PR in 2018-19 to be an interoperability subject matter expert and assist with other program projects, funded from Justice Information System fees, and delete 0.2 FED position and \$12,300 FED in 2018-19.

2. Modify the Department's request to delete any of the following provisions from the request:
 - a. the transfer of 1.0 PR position from the Department of Transportation to DMA.
 - b. the release of \$464,000 GPR annually in the reserved portion of Committee's supplemental appropriation to support the purchase of information technology equipment and services for the statewide interoperability system.
 - c. the creation of 1.0 PR program and planning analyst position funded from Justice Information System fees, and the deletion of 0.2 FED position and \$12,300 FED in 2017-18 and 2018-19.
3. Deny the request.

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