

FY 2023 Budget Request - FY-2022 Supplemental Requests - Detail

Agency Number & Name	12500 Department of Mines	Agency priority (number):	1
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Brief Description of this Funding Change: Coal Program : McGirt action

(this is the "name" that will be used on the Summary to list this particular funding request)

Justification for the Funding Change:

1. Please describe the funding change, what you intend to accomplish, and by what month the funds will be needed:

The funds will be needed to pay for salaries, and related operational expenses for the operation of the Oklahoma Coal program while the lawsuit CIV-21-0719-F is still pending. The Office of Surface Mining Reclamation and Enforcement has decided that under SMCRA (the Surface Mining Control and Reclamation Act) that the McGirt Supreme Court case (140 S. Ct. 2452 (2020) has returned the State of Oklahoma back to Indian Lands, and therefore they have jurisdiction over the operations of coal mining in Oklahoma, rather than the Oklahoma Department of Mines. The federal grant funding has been closed to the Department of Mines due to OSMRE interpretation of the McGirt case. The funds will be needed for the remained of the fiscal year (8 months). The amount requested is based upon an average monthly expenditure level that relates to the loss of federal grant funds at this time.

2. What are the short-term or long-term savings and/or cost effectiveness associated with this funding change?

The supplemental funding will restore the monies needed to operate the coal program while the lawsuit is pending.

3. Please describe the consequences that will occur for both the agency and agency clients if this supplemental request is not provided.

If the supplemental funds are not issued for the Department, effective October 1, 2021, the agency will have no position other than eliminate staff assigned to this program, close the Tulsa field office, and begin the process of eliminating the program from the state of Oklahoma's mission.

4. Describe how the agency will address the consequences outlined above if the supplemental request is not provided.

The Department will offer a VOBO for staff funded 100% by the federal program funds. Currently, there are 10 employees who will be affected. There will need to be notice given to close the Tulsa field office, and storage space will need to be procured to house records and equipment until permanent solutions can be determined. The existing staff who are partially assigned to the coal program will also need to be evaluated for possible future funding sources, and job assignments. Equipment will need to be disposed of or assigned to other programs with the federal program authorizations. Additionally, there will need to be assessments regarding the status of permits, pending revisions, inspections, and performance bonding levels and reclamation projects of the mine sites.

5. If the purpose of this funding change is to address a mandate, please specify whether it is a court ordered, state, or federal mandate, and include the appropriate legal reference and description.

- a. Type of mandate: Primacy given to Oklahoma from OSMRE
- b. Legal reference: The Surface Mining Control and Reclamation Act of 1977, P.L. 95-87 enacted August 3, 1977. Code of Federal Regulations 30, Ch. VII, Parts 700-999.
- c. Description of mandate: "An Act to provide for the cooperation between the Secretary of the Interior and the States with respect to the regulation of surface coal mining operations, and the acquisition and reclamation of abandoned mines, and for other purposes."

6. Please provide a description of the potential clients served including the number to be served through this funding change.

Coal Mining Permittees; Coal Mining Operators & Employees; Mining Consultants; Affected Private Citizens; Surface Landowners; Adjacent Landowners; Coal Royalty Owners; Federal and Other State Agencies. Local communities who benefit financially from the operation of coal mining are affected.

7. Do any other state, federal or local agencies administer a similar or cooperating program? If so, which agencies?

The Office of Surface Mining administers the coal program in Kentucky. Other states have their own programs with OSMRE oversight.

8. Explain funding sources, including details of any accounts that will be covered by federal or revolving funds (what federal program is providing the funding; are fees increases involved; etc.):

Funding Source (State, Federal, Revolving)	Estimated Annual Amount	Description of Funding Source

9. Will this supplemental funding need to be continued in subsequent years? (Yes / No).

No

10. Provide the following expenditure and funding information. If this funding needs to be annualized and continued in subsequent years, include the expanded request in the Operating Requests tab.

**Funding by Fund, Division, & Department,
Statewide Program**

Class Fund #	Division	Department	Statewide Program	FY-2022 Budgeted	Additional FY-2022 need
19X00	2	1	B0202	20,955	680,000
Total				20,955	680,000