



Contract Number

20-689

SAP Number

## District Attorney

Department Contract Representative  
Telephone Number

Claudia Walker  
(909) 382-7689

Contractor  
Contractor Representative  
Telephone Number  
Contract Term  
Original Contract Amount  
Amendment Amount  
Total Contract Amount  
Cost Center

California Office of Traffic Safety  
Nicole Osuna, Program Coordinator  
(916) 509-3052  
10/01/20 – 09/30/21  
\$296,000.00  
\$0.00  
\$296,000.00  
4500001000

### Briefly describe the general nature of the contract:

Grant funding in the amount of \$296,000 from the Office of Traffic Safety will offset the cost of 1.0 FTE Deputy District Attorney position and related training to file and vertically prosecute alcohol and drug impaired driving cases throughout each step of the criminal process. This grant will commence on October 1, 2020 through September 30, 2021. There is no match for this grant.

#### FOR COUNTY USE ONLY

Approved as to Legal Form

Katherine Hardy, Deputy County Counsel

Date 8-19-20


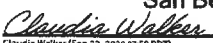

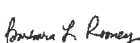
Reviewed for Contract Compliance

Date

Reviewed/Approved by Department

Jason Anderson, District Attorney

Date 8/20/2020

<b>1. GRANT TITLE</b> <b>Alcohol and Drug Impaired Driver Vertical Prosecution Program</b>	
<b>2. NAME OF AGENCY</b> <b>San Bernardino County</b>	<b>3. Grant Period</b> From: 10/01/2020 To: 09/30/2021
<b>4. AGENCY UNIT TO ADMINISTER GRANT</b> <b>San Bernardino County District Attorney's Office</b>	
<b>5. GRANT DESCRIPTION</b> The County District Attorney's Office (or City Attorney's Office) will assign a specialized team to prosecute alcohol and drug impaired driving cases. The DUI prosecution team will handle cases throughout each step of the criminal process. Prosecution team members will work to increase the capabilities of the team and the office by obtaining and delivering specialized training. Team members will share information with peers and law enforcement personnel throughout the county and across the state. The office will accomplish these objectives as a means to prevent impaired driving and reduce alcohol and drug-involved traffic fatalities and injuries.	
<b>6. Federal Funds Allocated Under This Agreement Shall Not Exceed:      \$296,000.00</b>	
<b>7. TERMS AND CONDITIONS:</b> The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement: <ul style="list-style-type: none"> <li>• Schedule A – Problem Statement, Goals and Objectives and Method of Procedure</li> <li>• Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)</li> <li>• Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable)</li> <li>• Exhibit A – Certifications and Assurances</li> <li>• Exhibit B* – OTS Grant Program Manual</li> <li>• Exhibit C – Grant Electronic Management System (GEMS) Access</li> </ul> <p>*Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto.</p> <p>These documents can be viewed at the OTS home web page under Grants: <a href="http://www.ots.ca.gov">www.ots.ca.gov</a>.</p> <p>We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.</p> <p>IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.</p>	
<b>8. Approval Signatures</b>	
<b>A. GRANT DIRECTOR</b> NAME: Michael Fermin TITLE: Assistant District Attorney EMAIL: mfermin@sbcda.org PHONE: 909-382-7714 ADDRESS: 303 W 3rd Street, 6th floor San Bernardino, CA 92415  <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">         _____        (Signature)     </div> <div style="text-align: center;">       Sep 22, 2020        _____        (Date)     </div> </div> <b>C. FISCAL OFFICIAL</b> ADDRESS: Claudia Walker Chief, Bureau of Administration cwalker@sbcda.org (909) 382-7689 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502  <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">         _____        (Signature)     </div> <div style="text-align: center;">       Sep 23, 2020        _____        (Date)     </div> </div>	<b>B. AUTHORIZING OFFICIAL</b> ADDRESS: Jason Anderson District Attorney da@sbcda.org (909) 382-3660 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502  <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">         _____        (Signature)     </div> <div style="text-align: center;">       Sep 23, 2020        _____        (Date)     </div> </div> <b>D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY</b> ADDRESS: Barbara Rooney Director barbara.rooney@ots.ca.gov (916) 509-3030 2208 Kausen Drive Suite 300 Elk Grove, CA 95758  <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;">         _____        (Signature)     </div> <div style="text-align: center;">       Sep 23, 2020        _____        (Date)     </div> </div>



<b>E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY</b>  NAME: Carolyn Vu ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758	<b>9. DUNS INFORMATION</b>  DUNS #: 626913172 REGISTERED ADDRESS: 303 West 3rd Street CITY: San Bernardino ZIP+4: 92415-0502
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10. PROJECTED EXPENDITURES						
FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
405d AL-21	20.616	0521-0890-101	2020	2020	BA/20	\$296,000.00
				<b>AGREEMENT TOTAL</b>		<b>\$296,000.00</b>
<i>I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.</i>				AMOUNT ENCUMBERED BY THIS DOCUMENT		
				<b>\$296,000.00</b>		
				PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT		
		DATE SIGNED		TOTAL AMOUNT ENCUMBERED TO DATE		<b>\$296,000.00</b>

## 1. PROBLEM STATEMENT

In 2018, the Highway Loss Data Institute observed an increase in overall collision claims as much as 6% after retail sales of marijuana began in Colorado, Washington, Oregon and Nevada when compared with nearby states whose laws regarding marijuana did not change over the same period. (HLDI April 2018). Similarly, the Insurance Institute for Highway Safety reported a 5.2% rate of "police-reported crashes" in Colorado, Washington and Oregon as compared to neighboring states that did not legalize retail sales. (Monfort October 2018). The Centers for Disease and Prevention found that marijuana use is increasing and 13-percent of the time, weekend drivers have the drug in their system. The study also stated that marijuana users were about 25 percent more likely to be involved in a crash than drivers with no evidence of marijuana use. And drugs other than alcohol - both legal and illegal - are involved in about 16 percent of vehicular accidents. (CDC 2017.)

Currently eleven states have zero-tolerance laws that criminalize driving with any amount of marijuana in a person's body, while five states have criminalized specific amounts of marijuana in the person's body. These laws may apply only to THC or THC and its metabolites while there is variance on the type of specimen and the amount depending on the specimen collected. (IIHS December 2019) While driving under the influence of marijuana is illegal in all 50 states and D.C., the absence of a per se law regarding marijuana and driving in California poses a significant challenge in successfully prosecuting a driving under the influence of marijuana case. While there are tools on the horizon to detect THC-delta-9-tetrahydrocannabinol in the breath of a suspect, many questions remain. (Paris, *Scientists Unveil Weed Breathalyzer, Launching Debate Over Next Steps* 2019). Unlike alcohol, the amount of marijuana present in a person's body doesn't consistently relate to impairment. THC, or Tetrahydrocannabinol, is the primary psychoactive component of cannabis. A positive test for THC and its active metabolite doesn't mean the driver was impaired at the time of the crash. Habitual users of marijuana may have positive blood tests for THC days or weeks after using the drug. Specialized training is necessary to understand the challenges posed to prosecution and how to overcome those challenges. Recreational marijuana has become the new norm in society, but the use and abuse must be understood and regulated. With an area of approximately 20,105 square miles, San Bernardino County is the largest county in the United States by area and is located on the eastern side of the Los Angeles metropolitan area. In 2017, the average census estimated population size was 2,157,404, an increase of over 20.1% since 2000. Marijuana use is already having an impact in San Bernardino County. As such, the magnitude and effect can only be mitigated through sufficient education, training, enforcement, and prosecution.

While driving under the influence of marijuana poses a significant risk to the public, there is an emerging regional crisis involving methamphetamine. The National Drug Early Warning System published in 2018 their findings of regional variation across the United States. The NDEWS Sentinel Community Epidemiologists noted "treatment systems in the West [are] overwhelmed with primary methamphetamine admissions, while there were almost no such admissions in the East sites [which were studied] (12% to 29% vs. <1%)." (National Drug Early Warning System, "Methamphetamine A Regional Drug Crisis", Sept. 2018). With a looming regional crisis involving a drug of abuse, we need to be ready to vigorously prosecute these offenders who get behind the wheel while under the effects of methamphetamine or a combination of drugs.

Another significant danger on our roadways is the issue of unsafe speed. In 2017, using the SWITRS data, the number of collisions which had as their primary collision factor as unsafe speed resulted in 5 more fatal collisions leaving 8 more victims deceased than driving under the influence being the primary collision factor. The data also shows there were close to 5 times as many total collisions due to unsafe speed than driving under the influence with approximately 4 times as many victims injured. The severity of those injuries also outnumbered those of driving under the influence by 44. Such disparity was similarly seen in 2018. There were approximately 4.78 more collisions due to unsafe speed, 11 more fatal collisions with 15 more victims killed with approximately 3.9 times more victims injured. While there were reductions in the number collisions in 2019, the disparity of the number of collisions remained.

In 2019, there were approximately 5 times more collisions due to unsafe speed, 11 more fatal collisions with 14 more victims killed with approximately 4.5 more victims injured, with 70 more of those victims experiencing severe injuries than in those cases of driving under the influence. When these cases result in a death, a robust and specialized prosecution team is necessary to help direct investigations, answer questions from both law enforcement and the surviving families of the victims and if necessary, prosecute the offender in court. Such prosecutions would require specialized training and understanding of the law and facts to explain to the juries the importance of such cases. Such specialization naturally crosses over with the skills and training needed to successfully prosecute a driving under the influence case. Due to system limitations, the number of felony and misdemeanor cases may be underreported. When a case is reviewed and turned down for filing, currently, there is not a mechanism to show whether it was a misdemeanor or a felony offense.

The San Bernardino County District Attorney's Office continues to expand in the area of education of both our general staff as well as local law enforcement, to reach out to local law enforcement to strengthen teambuilding and will be making further inroads in the community for awareness and prevention. Through active education, training, and prosecution the San Bernardino County District Attorney's Office stands ready to combat the effects of not only driving under the influence cases but all vehicular crimes committed within our county.

## 2. PERFORMANCE MEASURES

### A. Goals:

1. Improve the prosecution knowledge and expertise of DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combination cases.
2. Increase the number of DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combination cases filed and prosecuted.

### B. Objectives:

	Target Number
1. Issue a press release announcing the kick-off of the grant by November 15. The kick-off press releases and media advisories, alerts, and materials must be emailed to the OTS Public Information Officer at pio@ots.ca.gov, and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.	1
2. Create or expand a ?Vertical Prosecution Program? with the City Attorney or District Attorney's Office by November 30. The program will facilitate the prosecution of all DUI drug cases, all DUI alcohol and drug combination cases, and if applicable, all felony DUI alcohol cases with death or injury.	1
3. Designate prosecutor position(s) and investigator position(s) to the DUI caseload to prosecute DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combo cases. The individual(s) will be dedicated solely to this assignment allowing them to gain expertise in the investigation and prosecution of DUI Alcohol, DUI Drug, and DUI Alcohol/Drug Combo cases. While employed by the City Attorney's or District Attorney's Office, the individual(s) in the grant-funded DUI Vertical Prosecutor position(s) should remain the same throughout the term of the grant.	1
4. Develop and implement a system for gathering, tracking, and reporting all DUI case reviews, filings, and outcomes in the county/city by December 31, differentiating between: 1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination	1
5. Report on all DUI case reviews, filings and outcomes in the county or city throughout the grant, differentiating between: 1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination Alcohol and Drug cases.	1
6. Partner with the California Traffic Safety Resource Prosecutor Training Network to provide comprehensive training in the prosecution of DUI Alcohol and DUI Drug cases with an effort to reach prosecutors and investigators.	1
7. Send the funded prosecutor(s) to trainings/meetings sponsored by OTS and/or the California Traffic Safety Resource Prosecutor Training Network.	1
8. Coordinate and host four regional roundtable law enforcement meetings (one each quarter, with telephone or internet conference capabilities) to provide information on the DUI Vertical Prosecution Program, interact with law enforcement to identify means to improve DUI investigation and prosecution, and assess technical	4

<p>assistance needs for training on DUI investigation and court testimony. OTS staff, local law enforcement, CHP and probation staff should be included in the roundtable. Agenda and minutes should be produced and distributed. All four meetings for the year should be scheduled in the first quarter of the grant.</p>	
<p>9. Coordinate with local law enforcement agencies on the development of an on-call response protocol for the investigation of fatal and major injury DUI vehicle crashes, and to report on response activities</p>	<p>1</p>
<p>10. Participate in at least one DUI saturation ride-along and attend/observe at least one DUI checkpoint. Note: The funded vertical prosecutor(s) and investigator should participate within the first quarter of the grant. Saturation patrol ride-along and checkpoint observation may be combined into one evening.</p>	<p>1</p>
<p>11. Respond to at least one fatal DUI crash investigation scene. Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.</p>	<p>1</p>
<p>12. Assist agencies outside of the District Attorney's Office with at least 5 EDR or Infotainment system data extractions in support of a DUI drug, DUI alcohol and drug combination cases or vehicular homicide case. Note: this objective should be achieved within the first three quarters of the grant.</p>	<p>5</p>
<p>13. Expand a Vertical Prosecution Program with the District Attorney's Office by November 30. The program will also facilitate the prosecution of all vehicular homicides as well as training and mentorship of general staff to do the same, as staffing permits.</p>	<p>1</p>
<p><b>3. METHOD OF PROCEDURE</b></p> <p><b>A. Phase 1 – Program Preparation (1<sup>st</sup> Quarter of Grant Year)</b></p> <ul style="list-style-type: none"> <li>Recruit and hire all staff for the grant.</li> <li>Procure all materials necessary to implement the grant.</li> <li>Identify dates and schedule the four Roundtable Meetings (one each quarter with telephone conference capabilities). Notify the OTS coordinator of the dates. Meetings are meant to provide information on the DUI Vertical Prosecution Program, interact with law enforcement to identify means to improve DUI investigation and prosecution, and assess technical assistance needs for training on DUI investigation and court testimony. OTS staff, TSRP staff, local law enforcement, CHP and probation staff should be included in the roundtable. Agenda and minutes should be produced and distributed. All four meetings for the year should be scheduled in the first quarter of the grant.</li> <li>Develop protocols to be used to measure the success of the DUI Prosecution Program.</li> <li>Conduct training for all program staff outlining the goals and objectives of the project.</li> <li>Refer cases for prosecution to the grant-funded Deputy District/City Attorney(s).</li> <li>Transfer all pending DUI cases which qualify under this program so that vertical prosecution may begin.</li> <li>Develop a training protocol for law enforcement agencies within the county, and start a process of coordinating all reporting, investigation, and referral of cases that qualify under the grant.</li> </ul> <p><b>Media Requirements</b></p> <ul style="list-style-type: none"> <li>Issue a press release announcing the kick-off of the grant by November 15, but no earlier than October 1. If unable to meet the November 15 date, communicate reasons to your OTS Coordinator. The kick-off press releases and any related media advisories, alerts, and materials must be emailed for approval to the OTS Public Information Officer at <a href="mailto:pio@ots.ca.gov">pio@ots.ca.gov</a>, and copied to your OTS Coordinator, 14 days prior to the issuance date of the release.</li> </ul> <p><b>B. Phase 2 – Program Operations (Throughout Grant Year)</b></p> <ul style="list-style-type: none"> <li>Prosecution will be on-going. The Deputy District/City Attorney(s) will review DUI cases from all law enforcement agencies in the county/city.</li> <li>Training for law enforcement personnel, District Attorney Investigators and other Deputy District/City Attorneys will begin and continue throughout the program.</li> <li>Prosecutor(s) will: <ul style="list-style-type: none"> <li>a) Work to secure convictions (as justice requires) and appropriate sentences that reflect the public safety risk posed by the offender.</li> <li>b) Mentor trial attorneys on how to successfully try high-risk DUI offenders.</li> <li>c) Host Quarterly Roundtable meetings with law enforcement personnel, TSRP and OTS Coordinator.</li> </ul> </li> </ul>	

- d) Work with the TSRP to obtain and deliver high quality DUI prosecution training programs to non-grant-funded prosecutors.
- e) Work with the TSRP to obtain and deliver high quality DUI investigation, report writing and courtroom testimony training programs to law enforcement personnel (police officers, deputies, District Attorney Investigators and crime lab scientists).
- f) Attend training programs that cover evaluation and preparation of DUI drug cases, marijuana, prescription drugs, drug trends, people's experts, defense challenges, cross-examination of experts, SFST evidence, jury considerations and toxicology evidence, and incorporate this information into DUI trainings for attorneys and law enforcement personnel.
- g) Send the funded vertical prosecutor(s) and investigator to the NHTSA "Advanced Roadside Impaired Driving Enforcement" (ARIDE) 16 hour POST-Certified training, if not already trained. Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.

#### Media Requirements

- Send all grant-related activity press releases, media advisories, alerts and general public materials to the OTS Public Information Officer (PIO) at [pio@ots.ca.gov](mailto:pio@ots.ca.gov), with a copy to your OTS Coordinator. The following requirements are for grant-related activities and are different from those regarding any grant kick-off release or announcement.
- If an OTS-supplied, template-based press release is used, there is no need for pre-approval, however, the OTS PIO and Coordinator should be copied when at the same time as the release is distributed to the press.
- If an OTS-supplied template is not used, or is substantially changed, a draft press release shall be sent to the OTS PIO for approval. Optimum lead-time would be 10 days prior to the release distribution date, but should be no less than 5 working days prior to the release distribution date.
- Press releases reporting the immediate and time-valued results of grant activities such as enforcement operations are exempt from the recommended advance approval process, but still should be copied to the OTS PIO and Coordinator when the release is distributed to the press.
- Activities such as warrant or probation sweeps and court stings that could be compromised by advanced publicity are exempt from pre-publicity, but are encouraged to offer embargoed media coverage and to report the results.
- Use the following standard language in all press, media, and printed materials: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Email the OTS PIO at [pio@ots.ca.gov](mailto:pio@ots.ca.gov) and copy your OTS Coordinator at least 30 days in advance, a short description of any significant grant-related traffic safety event or program so OTS has sufficient notice to arrange for attendance and/or participation in the event.
- Submit a draft or rough-cut of all printed or recorded material (brochures, posters, scripts, artwork, trailer graphics, etc.) to the OTS PIO at [pio@ots.ca.gov](mailto:pio@ots.ca.gov) and copy your OTS Coordinator for approval 14 days prior to the production or duplication.
- Space permitting, include the OTS logo, on grant-funded print materials; consult your OTS Coordinator for specifics and format-appropriate logos.
- Contact the OTS PIO or your OTS Coordinator, sufficiently far enough in advance of need, for consultation when deviation from any of the above requirements might be contemplated

#### **C. Phase 3 – Data Collection & Reporting (Throughout Grant Year)**

1. Prepare and submit invoice claims (due January 30, April 30, July 30, and October 30)
2. Prepare and submit Quarterly Performance Reports (QPR) (due January 30, April 30, July 30, and October 30)
  - Collect and report quarterly, appropriate data that supports the progress of goals and objectives.
  - Provide a brief list of activity conducted, procurement of grant-funded items, and significant media activities. Include status of grant-funded personnel, status of contracts, challenges, or special accomplishments.
  - Provide a brief summary of quarterly accomplishments and explanations for objectives not completed or plans for upcoming activities.
  - Collect, analyze and report statistical data relating to the grant goals and objectives.

#### **4. METHOD OF EVALUATION**

Using the data compiled during the grant, the Grant Director will complete the "Final Evaluation" section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary



of the grant's accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.

**5. ADMINISTRATIVE SUPPORT**

This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405d AL-21	20.616	Impaired Driving Countermeasures	\$296,000.00

COST CATEGORY	FUND NUMBER	UNIT COST OR RATE	UNITS	TOTAL COST TO GRANT
<b>A. PERSONNEL COSTS</b>				
Positions and Salaries				
<b><u>Straight Time</u></b>				
Prosecutor	405d AL-21	\$78.91	2,080	\$164,133.00
Benefits Prosecutor	405d AL-21	\$164,133.00	1	\$79,572.00
<b><u>Overtime</u></b>				
				\$0.00
Category Sub-Total				\$243,705.00
<b>B. TRAVEL EXPENSES</b>				
In State Travel	405d AL-21	\$2,295.00	1	\$2,295.00
				\$0.00
Category Sub-Total				\$2,295.00
<b>C. CONTRACTUAL SERVICES</b>				
DUI Drug Testing and Confirmation by Mass Spectrometry	405d AL-21	\$50,000.00	1	\$50,000.00
Category Sub-Total				\$50,000.00
<b>D. EQUIPMENT</b>				
				\$0.00
Category Sub-Total				\$0.00
<b>E. OTHER DIRECT COSTS</b>				
				\$0.00
Category Sub-Total				\$0.00
<b>F. INDIRECT COSTS</b>				
				\$0.00
Category Sub-Total				\$0.00
<b>GRANT TOTAL</b>				<b>\$296,000.00</b>

**BUDGET NARRATIVE**

**PERSONNEL COSTS**

Prosecutor - Hours for prosecutor dedicated to vertically prosecute all felony cases involving driving under the influence of alcohol and/or drugs. Hours may include wages or authorized absences, such as annual leave and sick leave, provided they are accrued during the grant term. The prosecutors will attend training provided by the Traffic Safety Resource Prosecutor Program and deliver training to law enforcement, investigators and other attorneys within the District Attorney's Office.

1 x \$78.91 x 2080

Benefits Prosecutor - TOTAL BENEFIT RATE 48.48%

Health Insurance - 8.33%

Life Insurance - 1.03%

Medicare - 1.33%

Retirement - 33.17%

State Disability/SDI - .84%

Vision Insurance - 0.05%

Workers Compensation Insurance - 3.73%

**TRAVEL EXPENSES**

In State Travel - Costs are included for appropriate staff to attend conferences and training events supporting the grant goals and objectives and/or traffic safety. Local mileage for grant activities and meetings is included. All conferences, seminars or training not specifically identified in the Budget Narrative must be approved by OTS. All travel claimed must be at the agency approved rate. Per Diem may not be claimed for meals provided at conferences when registration fees are paid with OTS grant funds.

**CONTRACTUAL SERVICES**

DUI Drug Testing and Confirmation by Mass Spectrometry - The current evaluation of drug impaired driving within San Bernardino County relies upon the submission of blood evidence to make a toxicological determination of drug(s) present in a suspected DUI driver. The types of toxicological evaluations performed are based primarily on what drug(s) are suspected to be present by the arresting officer/deputy, with an evaluation generally consisting of a 6-panel drug of abuse screen. But oftentimes, impaired drivers do not solely have just one drug present in their blood at the time of their arrest, but rather are poly-drug (including alcohol) users. Further, many of the additional drugs may not be detected in the standard 6-panel drug of abuse screen, but could be detected in a more expansive toxicology test battery. Whereas a majority of drugs used by drug-impaired drivers fall into one of the six drug of abuse categories, drug use trends are increasing toward poly-prescription drugs and novel psychoactive drugs that are not included in the standard 6-panel drug of abuse screen. Based on recommendations published by the National Safety Council's Alcohol, Drug and Impairment Division 5 (formerly known as the Committee on Alcohol and Other Drugs), it is the goal to be a front runner in evaluating DUID prevalence in one of California's largest counties by expanding upon the current toxicology testing per case to better assess what drug(s) and drug combinations are present in San Bernardino County DUI/DUID drivers. The proposed expanded testing is as follows to better assess impaired driving in the county:

- 1) Perform a 6/10-panel drug of abuse screen with subsequent drug confirmation(s), and alcohol testing on all San Bernardino County (and contracted cities) misdemeanor DUI cases.
- 2) Perform a 6/10-panel drug of abuse screen with subsequent drug confirmation(s), and alcohol testing on all San Bernardino County (and contracted cities) felony DUI cases.
- 3) Testing to be performed by Bio-Tox Laboratories, Riverside, California; currently performing toxicological testing for the majority of San Bernardino County.

The expanded testing on all relevant DUI/DUID samples will assist in evaluating the DUID prevalence for the county. In addition, all collected data can be shared with neighboring Orange County to provide an expanded assessment of DUI/DUID prevalence in Southern California.

**EQUIPMENT**

-

**OTHER DIRECT COSTS**

-

**INDIRECT COSTS**

-

**STATEMENTS/DISCLAIMERS**

There will be no program income generated from this grant.

Salaries may include wages, salaries, special compensations, or authorized absences such as annual leave and sick leave provided the cost for the individual employee is (a) reasonable for the services rendered, and (b) follows an appointment made in accordance with state or local laws and rules and meets federal requirements.

Any non-grant funded vacancies created by reassignment to a grant-funded position must be filled at the expense of the grantee agency.

**CERTIFICATIONS AND ASSURANCES**  
**HIGHWAY SAFETY GRANTS**

**(23 U.S.C. CHAPTER 4 AND SEC. 1906, PUB. L. 109-59, AS AMENDED)**

Failure to comply with applicable Federal statutes, regulations, and directives may subject Grantee Agency officials to civil or criminal penalties and/or place State in a high-risk grantee status in accordance with 49 CFR 18.12.

The Officials named on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include but are not limited to the following:

**GENERAL REQUIREMENTS**

- 23 U.S.C. Chapter 4 – Highway Safety Act of 1966, as amended
- 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 49 CFR Part 18- Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- 23 CFR part 1300 – Uniform Procedures for State Highway Safety Grant Programs

**NONDISCRIMINATION**

**(applies to subrecipients as well as States)**

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination ("Federal Nondiscrimination Authorities"). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 *et seq.*), and **Title IX of the Education Amendments of 1972**, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 *et seq.*), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR 74087-74100).

The State highway safety agency:

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;
- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:

"During the performance of this contract/funding agreement, the contractor/funding recipient agrees—

- a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
- c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
- d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
- e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

#### **POLITICAL ACTIVITY (HATCH ACT)**

**(applies to subrecipients as well as States)**

The state will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

#### **CERTIFICATION REGARDING FEDERAL LOBBYING**

**(applies to subrecipients as well as States)**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

### **RESTRICTION ON STATE LOBBYING**

#### **(applies to subrecipients as well as States)**

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

### **CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

#### **(applies to subrecipients as well as States)**

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective primary tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary tier participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default or may pursue suspension or debarment.

4. The prospective primary tier participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary tier participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency may terminate the transaction for cause or default.

*Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Tier Covered Transactions*

(1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification



1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

*Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions:*

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

## **BUY AMERICA ACT**

**(applies to subrecipients as well as States)**

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

## **PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE**

**(applies to subrecipients as well as States)**

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

## **POLICY ON SEAT BELT USE**

In accordance with Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the Grantee is encouraged to adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this Presidential initiative. For information and resources on traffic safety programs and policies for employers, please contact the Network of Employers for Traffic Safety (NETS), a public-private partnership dedicated to improving the traffic safety practices of employers and employees. You can download information on seat belt programs, costs of motor vehicle crashes to employers, and other traffic safety initiatives at [www.trafficsafety.org](http://www.trafficsafety.org). The NHTSA website ([www.nhtsa.gov](http://www.nhtsa.gov)) also provides information on statistics, campaigns, and program evaluations and references.

## **POLICY ON BANNING TEXT MESSAGING WHILE DRIVING**

In accordance with Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, States are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving company-owned or rented vehicles, Government-owned, leased or rented vehicles, or privately-owned vehicles when on official Government business or when performing any work on or behalf of the Government. States are also encouraged to conduct workplace safety initiatives in a manner commensurate with the size of the business, such as establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving, and education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

## INSTRUCTIONS FOR ADDING OR UPDATING GEMS USERS

1. Each agency is allowed a total of **FIVE (5) GEMS Users**.
2. GEMS Users listed on this form will be authorized to login to GEMS to complete and submit Quarterly Performance Reports (QPRs) and reimbursement claims.
3. Complete the form if adding, removing or editing a GEMS user(s).
4. The Grant Director must sign this form and return it with the Grant Agreement.

### GRANT DETAILS

Grant Number:	DI21006
Agency Name:	San Bernardino County District Attorney's Office
Grant Title:	Alcohol and Drug Impaired Driver Vertical Prosecution Program
Agreement Total:	\$296,000.00
Authorizing Official:	Jason Anderson
Fiscal Official:	Claudia Walker
Grant Director:	Michael Fermin

### CURRENT GEMS USER(S)

#### 1. Rhonda Neill

Title: Staff Analyst II  
Phone: (909) 382-3678  
Email: rneill@sbcda.org

Media Contact: No

#### 2. Adam Pierce

Title: Deputy District Attorney  
Phone: (909) 382-3651  
Email: apierce@sbcda.org

Media Contact: No

#### 3. Claudia Walker

Title: Chief, Bureau of Administration  
Phone: (909) 382-7689  
Email: cwalker@sbcda.org

Media Contact: No

#### 4. Karen White

Title: Administrative Supervisor  
Phone: (909) 382-3674  
Email: kwhite@sbcda.org

Media Contact: No

Complete the below information if adding, removing or editing a GEMS user(s)

<b>GEMS User 1</b>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/> Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>
Name	Job Title
Email address	Phone number
<b>GEMS User 2</b>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/> Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>
Name	Job Title
Email address	Phone number
<b>GEMS User 3</b>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/> Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>
Name	Job Title
Email address	Phone number
<b>GEMS User 4</b>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/> Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>
Name	Job Title
Email address	Phone number
<b>GEMS User 5</b>	
Add/Change <input type="checkbox"/>	Remove Access <input type="checkbox"/> Add as a media contact? Yes <input type="checkbox"/> No <input type="checkbox"/>
Name	Job Title
Email address	Phone number
Form completed by:	Date:
As a signatory I hereby authorize the listed individual(s) to represent and have GEMS user access.	
Signature	Name
	Grant Director
Date	Title












# Grant Agreement - DI21006










Final Audit Report

2020-09-23

Created:	2020-08-17
By:	Nicole Osuna (Nicole.osuna@ots.ca.gov)
Status:	Signed
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