

GRANT AGREEMENT**DI22029**

1. GRANT TITLE Alcohol and Drug Impaired Driver Vertical Prosecution Program	
2. NAME OF AGENCY San Bernardino County	3. Grant Period From: 10/01/2021 To: 09/30/2022
4. AGENCY UNIT TO ADMINISTER GRANT San Bernardino County District Attorney's Office	
5. GRANT DESCRIPTION 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.	
6. Federal Funds Allocated Under This Agreement Shall Not Exceed: \$553,000.00	
7. TERMS AND CONDITIONS: 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"> Schedule A – Problem Statement, Goals and Objectives and Method of Procedure Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable) Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable) Exhibit A – Certifications and Assurances Exhibit B* – OTS Grant Program Manual Exhibit C – Grant Electronic Management System (GEMS) Access <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: www.ots.ca.gov.</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>	
8. Approval Signatures	
A. GRANT DIRECTOR 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="text-align: right; margin-right: 50px;"> _____ (Signature) (Date) </div>	B. AUTHORIZING OFFICIAL NAME: Jason Anderson TITLE: District Attorney EMAIL: da@sbcda.org PHONE: (909) 382-3660 ADDRESS: 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502 <div style="text-align: right; margin-right: 50px;"> _____ (Signature) (Date) </div>
C. FISCAL OFFICIAL NAME: Claudia Walker TITLE: Chief, Bureau of Administration EMAIL: cwalker@sbcda.org PHONE: (909) 382-7689 ADDRESS: 303 West 3rd Street, 6th Floor San Bernardino, CA 92415-0502 <div style="text-align: right; margin-right: 50px;"> _____ (Signature) (Date) </div>	D. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY NAME: Barbara Rooney TITLE: Director EMAIL: barbara.rooney@ots.ca.gov PHONE: (916) 509-3030 ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758 <div style="text-align: right; margin-right: 50px;"> _____ (Signature) (Date) </div>

E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY NAME: Carolyn Vu ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758	9. SAM INFORMATION SAM #: E81BMEGBU6R3 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
				AGREEMENT TOTAL		\$553,000.00
				AMOUNT ENCUMBERED BY THIS DOCUMENT		\$553,000.00
<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>				PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT		\$ 0.00
				TOTAL AMOUNT ENCUMBERED TO DATE		\$553,000.00
OTS ACCOUNTING OFFICER'S SIGNATURE			DATE SIGNED			

1. PROBLEM STATEMENT

Between Fiscal Year 2019 and 2020, San Bernardino County has seen a significant increase in the number of combination drug filings. In 2019 the San Bernardino County District Attorney's Office filed 384 misdemeanor combination drug cases. In 2020, the San Bernardino County District Attorney's Office filed 677 misdemeanor combination drug cases, an increase of approximately 76%. The increase in filings could also be seen in felony filings as well. In 2019, the San Bernardino County District Attorney's Office filed 69 felony combination drug cases. In 2020, the San Bernardino County District Attorney's Office filed 90 felony combination drug cases, an increase of approximately 42.86%.

In May of 2018, the Governors Highway Safety Association published Drug-Impaired Driving, Marijuana and Opioids Raise Critical Issues for States. In that report, it was observed that in 2016, 43.6% of fatally injured drivers with known drug test results were positive for drugs. Of those drivers 50.5% were positive for two or more drugs. 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 it's 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.

Driving under the influence of alcohol filings also experienced a problematic change. In 2019 the San Bernardino County District Attorney's Office filed 4421 misdemeanor alcohol cases. In 2020, the San

Bernardino County District Attorney's Office filed 5643 misdemeanor alcohol cases, an increase of 27.64%, while felony alcohol filings dropped by approximately 2.14%. What is also troubling is that many of these offenses, both combination drug and alcohol related driving under the influence cases occurred in a year in which we had lockdowns due to the pandemic.

Another significant danger on our roadways in San Bernardino County is the issue of unsafe speed. Using SWITRS data we can observe that in 2020, there were 56 fatal collisions which had unsafe speed as a primary collision factor leaving 62 victims killed compared to 39 fatal collisions with 44 killed victims which had driving or bicycling under the influence of alcohol or drug as a primary collision factor in San Bernardino County. Crimes involving negligently or grossly negligent operation of motor vehicles often involve similar facts and issues faced by a prosecutor of an alcohol involved offense involving a similar driving pattern. 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.

With both the increase in filings of combination drug impaired driving felonies and misdemeanors as well as a significant number of fatal collisions where unsafe speed is a primary collision factor, the County of San Bernardino needs specialized prosecutors to confront this significant and dangerous problem.

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:

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.	Target Number 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	4

means to improve DUI investigation and prosecution, and assess technical 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.	
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	1
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.	1
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.	1
3. METHOD OF PROCEDURE A. Phase 1 – Program Preparation (1st Quarter of Grant Year) <ul style="list-style-type: none"> Recruit and hire all staff for the grant. Procure all materials necessary to implement the grant. 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. Develop protocols to be used to measure the success of the DUI Prosecution Program. Conduct training for all program staff outlining the goals and objectives of the project. Refer cases for prosecution to the grant-funded Deputy District/City Attorney(s). Transfer all pending DUI cases which qualify under this program so that vertical prosecution may begin. 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. <u>Media Requirements</u> Issue a press release approved by the OTS PIO announcing the kick-off of the grant by November 15, but no sooner than October 1. The kick-off release must be approved by the OTS PIO and only distributed after the grant is fully signed and executed. If you are unable to meet the November 15 deadline to issue a kick-off press release, communicate reasons to your OTS coordinator and OTS PIO. B. Phase 2 – Program Operations (Throughout Grant Year) <ul style="list-style-type: none"> Prosecution will be on-going. The Deputy District/City Attorney(s) will review DUI cases from all law enforcement agencies in the county/city. Training for law enforcement personnel, District Attorney Investigators and other Deputy District/City Attorneys will begin and continue throughout the program. Prosecutor(s) will: <ul style="list-style-type: none"> a) Work to secure convictions (as justice requires) and appropriate sentences that reflect the public safety risk posed by the offender. b) Mentor trial attorneys on how to successfully try high-risk DUI offenders. c) Host Quarterly Roundtable meetings with law enforcement personnel, TSRP and OTS Coordinator. 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

- The following requirements are for all grant-related activities
- Send all media advisories, alerts, videos, graphics, artwork, posters, radio/PSA/video scripts, storyboards, digital and/or print educational materials for grant-related activities to the OTS PIO at pio@ots.ca.gov for approval and copy your OTS coordinator. Optimum lead time would be 7 days before the scheduled release but at least 3 business days prior to the scheduled release date for review and approval is appreciated.
- The OTS PIO is responsible for the approval of the design and content of materials. The agency understands OTS PIO approval is not authorizing approval of budget expenditure or cost. Any cost approvals must come from the Coordinator.
- Pre-approval is not required when using any OTS-supplied template for media advisories, press releases, social media graphics, videos or posts, or any other OTS-supplied educational material. However, copy the OTS PIO at pio@ots.ca.gov and your OTS coordinator when any material is distributed to the media and public, such as a press release, educational material, or link to social media post. The OTS-supplied kick-off press release templates and any kickoff press releases are an exception to this policy and require prior approval before distribution to the media and public.
- If an OTS-supplied template, educational material, social media graphic, post or video is substantially changed, the changes shall be sent to the OTS PIO at pio@ots.ca.gov for approval and copy to your OTS Coordinator. Optimum lead time would be 7 days prior to the scheduled release date, but at least 3 business days prior to the scheduled release date for review and approval is appreciated.
- Press releases, social media posts and alerts on platforms such as NextDoor and Nixle reporting immediate and time-sensitive grant activities (e.g. enforcement operations, day of event highlights or announcements, event invites) are exempt from the OTS PIO approval process. The OTS PIO and your Coordinator should still be notified when the grant-related activity is happening (e.g. car seat checks, bicycle rodeos, community presentations, DUI checkpoints, etc.).
- Enforcement activities such as warrant and probation sweeps, court stings, etc. that are embargoed or could impact operations by publicizing in advance are exempt from the PIO approval process. However, announcements and results of activities should still be copied to the OTS PIO at pio@ots.ca.gov and your Coordinator with embargoed date and time or with "INTERNAL ONLY: DO NOT RELEASE" message in subject line of email.
- Any earned or paid media campaigns for TV, radio, digital or social media that are part of a specific grant objective, using OTS grant funds, or designed and developed using contractual services by a subgrantee, requires prior approval. Please send to the OTS PIO at pio@ots.ca.gov for approval and copy your grant coordinator at least 3 business days prior to the scheduled release date.
- Social media posts highlighting state or national traffic safety campaigns (Distracted Driving Month, Motorcycle Safety Awareness Month, etc.), enforcement operations (DUI checkpoints, etc.), or any other grant-related activity such as Bicycle rodeos, presentations, or events, are highly encouraged but do not require prior approval.
- Submit a draft or rough-cut of all digital, printed, recorded or video material (brochures, posters, scripts, artwork, trailer graphics, digital graphics, social posts connected to an earned or paid media campaign grant objective) to the OTS PIO at pio@ots.ca.gov and copy your OTS Coordinator for approval prior to the production or duplication.
- Use the following standard language in all press, media, and printed materials, space permitting: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Space permitting, include the OTS logo on all grant-funded print materials, graphics and paid or earned social media campaign grant objective; consult your OTS Coordinator for specifics, format-appropriate logos, or if space does not permit the use of the OTS logo.

- Email the OTS PIO at pio@ots.ca.gov and copy your OTS Coordinator at least 21 days in advance, or when first confirmed, a short description of any significant grant-related traffic safety event or program, particularly events that are highly publicized beforehand with anticipated media coverage so OTS has sufficient notice to arrange for attendance and/or participation in the event. If unable to attend, email the OTS PIO and coordinator brief highlights and/or results, including any media coverage (broadcast, digital, print) of event within 7 days following significant grant-related event or program. Media and program highlights are to be reflected in QPRs.
- Any press releases, work plans, scripts, storyboards, artwork, graphics, videos or any educational or informational materials that received PIO approval in a prior grant year needs to be resubmitted for approval in the current grant year.
- Contact the OTS PIO or your OTS Coordinator for consultation when changes from any of the above requirements might be warranted.

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-22	20.616	Impaired Driving Countermeasures	\$553,000.00

COST CATEGORY	FUND NUMBER	UNIT COST OR RATE	UNITS	TOTAL COST TO GRANT
A. PERSONNEL COSTS				
Positions and Salaries <u>Straight Time</u> Deputy District Attorney	405d AL- 22	\$83.58	4,160	\$347,693.00
Benefits- DDA	405d AL- 22	\$347,693.00	1	\$154,932.00
<u>Overtime</u>				\$0.00
Category Sub-Total				\$502,625.00
B. TRAVEL EXPENSES				
				\$0.00
				\$0.00
Category Sub-Total				\$0.00
C. CONTRACTUAL SERVICES				
DUI Drug Testing and Confirmation by Mass Spectrometry	405d AL- 22	\$50,375.00	1	\$50,375.00
Category Sub-Total				\$50,375.00
D. EQUIPMENT				
				\$0.00
Category Sub-Total				\$0.00
E. OTHER DIRECT COSTS				
				\$0.00
Category Sub-Total				\$0.00
F. INDIRECT COSTS				
				\$0.00
Category Sub-Total				\$0.00
GRANT TOTAL				\$553,000.00

BUDGET NARRATIVE

PERSONNEL COSTS

Deputy District Attorney - 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.

2 x \$483.58 x 4160

Benefits- DDA - TOTAL BENEFIT RATE 44.56%

Health Insurance – 3.35%

Life Insurance - 1.02%

Medicare - 1.42%

Retirement - 33.84%

State Disability/SDI - .87%

Vision Insurance - 0.04%

Workers Compensation Insurance - 3.63%

457b Match 0.39%

TRAVEL EXPENSES

-

CONTRACTUAL SERVICES

DUI Drug Testing and Confirmation by Mass Spectrometry - To draw and collect blood samples from suspected DUI drivers on scene as evidence in support of DUI convictions in a court of law.

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 FOR HIGHWAY SAFETY GRANTS
(23 U.S.C. Chapter 4; Sec. 1906, Pub. L. 109-59, As Amended By Sec. 4011, Pub. L. 114-94)

The officials named on the grant agreement, certify by way of signature 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
- Sec. 1906, Pub. L. 109-59, as amended by Sec. 4011, Pub. L. 114-94
- 23 CFR part 1300 – Uniform Procedures for State Highway Safety Grant Programs
- 2 CFR part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
- 2 CFR part 1201 – Department of Transportation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

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 Subgrantee-

- 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 sub agreement 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 in to. 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. The NHTSA website (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.