



MICHAEL N. FEUER
CITY ATTORNEY

To: The Honorable Eric Garcetti
Mayor of Los Angeles
City Hall
Los Angeles, CA 90012
Attention: Cary Gross

Honorable City Council
City of Los Angeles
City Hall
Los Angeles, CA 90012
Attention: Holly Wolcott

From: Janette Flintoft, Grants Director 

Date: August 11, 2020

Re: FY 2020-21 California Office of Traffic Safety Grant Award
Council File Number 18-0838

Transmitted herewith for Mayor and City Council consideration is grant funding totaling \$980,000 awarded by the Office of Traffic Safety, which is the pass through agency for the National Institute of Traffic and Highway Safety Agency. Now in its eighth year, this award will provide reimbursable funding for the salaries and fringe benefits for four Deputy City Attorney positions from October 1, 2020 through September 30, 2021. Together, this team will aggressively prosecute driving under the influence offenders (both alcohol and drugs) within the City of Los Angeles as part of the "Alcohol and Drug Impaired Driving Vertical Prosecution Program."

Impaired driving is a significant public safety issue. During the first three quarters of the FY 2019-20 grant period (9/1/2019 – 6/30/2020), the Los Angeles City Attorney's Office reviewed 5,245 driving while impaired referrals and filed 4,918 cases. Of these, 753 cases filed involved driving under the influence of drugs (DUID).

It is anticipated that grant funding will continue beyond FY 2020-21 as a result of grantee performance and the ongoing need for resources in this area.



City of Los Angeles
Grant Award Notification and Acceptance

Recipient Department			
This Grant Award is: <input checked="" type="checkbox"/> New <input type="checkbox"/> Continuation/Renewal <input type="checkbox"/> Supplemental <input type="checkbox"/> Suballocation			
Grants Coordinator:	Vanessa Chavez	E-Mail:	vanessa.chavez@lacity.org
Project Manager:	Vanessa Chavez	E-Mail:	vanessa.chavez@lacity.org
Department/Bureau/Agency:	City Attorney	Date:	08/11/2020

Grant Information			
Name of Grantor:		Pass Through Agency:	
NHTSA		Office of Traffic Safety	
Grant Program Title:		Notification of Award Date:	
California Office of Traffic Safety (OTS): General Grants - FY 2021		08/29/2020	
Funding Source (Public / Private):	Grant Type:	Funds Disbursement:	Agency's Grant ID:
State	Competitive/Discretionary		CFDA#: 18-0838
			Other ID#:
			eCivis ID#: CA 1628
Match Requirement:	No	Amount:	\$0.00
Match Type:	N/A	Identify Source of Match:	%Match 0
Fiscal Information:	Awarded Funds:	Match/In-Kind Funds:	Additional/Leverage Funds:
	\$980,000.00	\$0.00	
			Total Project Budget:
			\$980,000.00

Approved Grant Budget Summary				
Category	Awarded	Match	Additional	Explanation
Personnel				
SALARY	540,446	\$0.00		FT SALARY FOR 5 STAFF
FRINGE	246,551	\$0.00		FRINGE BENEFITS FOR 5 STAFF
Travel				
TRAVEL	8000	\$0.00		TRAVEL FOR 5 STAFF
Other				
INDIRECT COST	185003	\$0.00		% OF INDIRECT COSTS AWARDED
Total	980,000	\$0.00		

Approved Project			
Descriptive Title of Funded Project: DUID FY 2020-21			
Performance Period Start/End Dates (Month/Day/Year):		Citywide: all	
Start: 10/01/2020	End: 09/30/2021	Affected Council District(s): all	
		Affected Congressional District(s): all	
Purpose:			
Identify Internal Partners (City Dept/Bureau/Agency):			
Identify External Partners:			

Summary
Please provide a project summary including goals, objectives (metrics), specific outcomes, and briefly describe the activities that will be used to achieve these goals. You may attach an additional sheet of paper if necessary.

Transmitted herewith for Mayor and City Council consideration is grant funding totaling \$980,000 awarded by the Office of Traffic Safety, which is the pass through agency for the National Institute of Traffic and Highway Safety Agency. Now in its ninth year, this award will provide reimbursable funding for the salaries and fringe benefits for four Deputy City Attorney positions and one support staff from October 1, 2020 through September 30, 2021. Together, this team will aggressively prosecute driving under the influence offenders (both alcohol and drugs) within the City of Los Angeles as part of the Alcohol and Drug Impaired Driving Vertical Prosecution Program. Impaired driving is a significant public safety issue within the City of Los Angeles. During the first three quarters of the FY 2019-20 grant period (9/1/2019-6/30/2020), the Los Angeles City Attorneys Office reviewed 5,245 driving while impaired referrals and filed 4,918 cases. Of these, 753 cases filed involved driving under the influence of drugs (DUID).

Recommendations

Please provide a complete list of necessary actions for implementation, including acceptance of the award by the City, Controller instructions for fund and accounts set-up, coordination of project activities (such as contract and position authorities).

1. Authorize the City Attorney or his designee to APPROVE the accompanying grant award between the City and the Office of Traffic Safety and authorize the City Attorney or his designee to EXECUTE said grant award on behalf of the City, subject to the approval of the City Attorney as to form and legality.
2. Authorize the City Attorney or his designee to ACCEPT the grant award in the amount of \$980,000 for funding the Alcohol and Drug Impaired Driving Prosecution Program for the period of October 1, 2020 through September 30, 2021.
3. AUTHORIZE the Controller to:
 - a. ESTABLISH a receivable in the amount of \$980,000 within Fund 368, Department 12.
 - b. ESTABLISH Appropriation Account 12T231 - Impaired Driving Prosecution within Fund 368, Department 12 in the amount of \$980,000.
 - c. TRANSFER \$364,176 from Fund 368, Department 12, Account 12T231-Impaired Driving Prosecution to Fund 100, Department 12, Account 001010 Salaries General.
 - d. Upon receipt of grant funds, TRANSFER up to \$431,554 from Fund 368, Department 12, Account 12T231 - Impaired Driving Prosecution to Fund 100, Department 12, to Account Revenue Source #5346 Related Costs Reimbursement - Grants.
5. AUTHORIZE the City Council to Instruct the City Clerk to place on Council Calendar for July 1, 2021, the following action relative to the Alcohol and Drug Impaired Driver Vertical Prosecution Program:
 "That the City Council, subject to the approval of the Mayor, AUTHORIZE the Controller to transfer \$176,270 from Fund 368, Department 12, Account No. 12T231 - Impaired Driving Prosecution to Fund 100, Department 12, Account 001010 Salaries General."
6. AUTHORIZE the Office of the City Attorney to prepare Controller's instructions for any necessary technical adjustments, subject to the approval of the City Administrative Officer.

Fiscal Impact Statement

Please describe how the acceptance of this grant will impact the General Fund. Provide details on any additional funding that may be required to implement the project/program funded by this grant.

The total project cost is \$1,066,031, of which \$980,000 will be reimbursed by the grant. The general fund contribution is \$86,031 for indirect costs (Central Service and Department Administration) not reimbursed from the grant. These costs are associated with existing staff positions and are included in the adopted City's FY 2021 budget.

Acceptance Packet

The above named Department has received an award for the Grant Program identified above, accepts full responsibility for the coordination and management of all Grant funds awarded to the City, and will adhere to any policies, procedures and compliance requirements set forth by the Grantor and its related agencies or agents, as well as those of the City, and its financial and administrative departments. The following items comprise the Acceptance Packet and are attached for review by the CAO Grants Oversight Unit:

- | | |
|---|---|
| <input checked="" type="checkbox"/> Grant Award Notification and Acceptance | <input checked="" type="checkbox"/> Copy of Award Notice |
| <input checked="" type="checkbox"/> Grant Project Cost Breakdown (Excel Document) | <input checked="" type="checkbox"/> Copy of Grant Agreement (if applicable) |
| <input type="checkbox"/> Detail of Positions and Salary Costs (Excel Document) | <input type="checkbox"/> Additional Documents (if applicable) |

Department Head Name:

Department Head Signature:

Date:

For CAO Use Only

The Office of the City Administrative Officer, Grants Oversight Unit has reviewed the information as requested, and has determined that the Acceptance Packet is:

- ☐ Complete The Acceptance Packet has been forwarded to appropriate CAO analyst
☐ Returned to Department (Additional information/documentation has been requested.)
☐ Flagged (See comments below.)

Comments:

CAO Grants Oversight Unit Signature:

Date:

Grant Award Notification and Acceptance
Grant Project Cost Breakdown

Grant Name: Alcohol and Drug Impaired Driving Vertical Prosecution		Additional Costs**			Department:
Grant Project Breakdown	Grant Funds	City Funds	Non-City Funds	Total	Comments
Salaries					
1010 Salaries General	540,446			540,446	
1020 Salaries Grant Reimbursed				-	
1070 Salaries As Needed				-	
1090 Overtime				-	
Salaries Total:	540,446	-	-	540,446	
Related Costs*					
	CAP Rate				
Fringe Benefits	45.62%	246,551		246,551	
Indirects	50.15%	185,003	86,031	271,034	
		-	-	-	
Related Costs Total:		431,554	86,031	517,585	
Expense					
2120 Printing & Binding				-	
2130 Travel	8,000			8,000.00	
3040 Contractual Services				-	
3310 Transportation				-	
4160 Governmental Meetings				-	
6010 Office Supplies				-	
6020 Operating Supplies				-	
7300 Equipment				-	
Other				-	
Expenses Total:		8,000	-	8,000	Annual state conference
Grand Total:		980,000	86,031	1,066,031	
<p>*Please use the full Cost Allocation Plan (CAP) rates unless disallowed by the Grantor. CAP rates should be applied to Gross Salaries (including Compensated Time Off.)</p> <p>**Other sources of funding. Please indicate whether these funds are part of a match requirement and whether they are already provided or new funding is required.</p>					

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PF2 (091222

Osuna, Nicole@OTS

From: OTS Email <contact@ots.ca.gov>
Sent: Wednesday, June 10, 2020 12:05 PM
To: Osuna, Nicole@OTS
Subject: OTS Tentatively Approved Your Application

CAUTION: External Email. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Congratulations! Through a competitive process, the Office of Traffic Safety (OTS) has tentatively approved your application 21-002422 in the amount of \$980,000 with the proposal titled "Alcohol and Drug Impaired Driver Vertical Prosecution Program." This tentative award is contingent on approval from the National Highway Traffic Safety Administration.

Your OTS Coordinator will contact you to discuss your proposal and explain the grant agreement process. It is our goal to have all new grants start the first of October. If approval from a City Council or the Board of Supervisors is required, you should begin that process now. Do not incur grant reimbursable costs yet, as this is a tentative award.

The Office of Traffic Safety will initiate a statewide media news release regarding this year's applications selected for funding. Your agency should not publicly announce this tentative award until the grant agreement is fully negotiated and signed by OTS.

Again, congratulations on the success of your application.

Sincerely,
Barbara L. Rooney
Director

GRANT AGREEMENT

DI21022

1. GRANT TITLE Alcohol and Drug Impaired Driver Vertical Prosecution Program			
2. NAME OF AGENCY Los Angeles		3. Grant Period From: 10/01/2020 To: 09/30/2021	
4. AGENCY UNIT TO ADMINISTER GRANT Los Angeles City 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:		\$980,000.00	
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: Janette Flintoft TITLE: Grant Director EMAIL: janette.flintoft@lacity.org PHONE: 310-570-0686 ADDRESS: 200 N. Main Street, 8th floor Los Angeles, CA 90012		B. AUTHORIZING OFFICIAL OF AGENCY NAME: Leela Kapur TITLE: Chief of Staff EMAIL: leela.kapur@lacity.org PHONE: 213-978-8100 ADDRESS: 200 N. Main Street, 8th floor Los Angeles, CA 90012	
_____ (Signature)		_____ (Signature)	
_____ (Date)		_____ (Date)	
C. FISCAL OFFICIAL NAME: Michiko Reyes TITLE: Budget Director EMAIL: michiko.reyes@lacity.org PHONE: 213-978-7020 ADDRESS: 200 N. Main Street, 8th floor Los Angeles, CA 90012		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	
_____ (Signature)		_____ (Signature)	
_____ (Date)		_____ (Date)	

E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY

NAME: Carolyn Vu

ADDRESS: 2208 Kausen Drive, Suite 300
Elk Grove, CA 95758

9. DUNS INFORMATION

DUNS #: 156092066

REGISTERED

ADDRESS: 200 N. Main Street, Los Angeles, CA 90012

CITY: Los Angeles

ZIP+4: 90012-4110

10. PROJECTED EXPENDITURES

FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
				AGREEMENT TOTAL		\$980,000.00
				AMOUNT ENCUMBERED BY THIS DOCUMENT		\$980,000.00
				PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT		\$ 0.00
OTS ACCOUNTING OFFICER'S SIGNATURE			DATE SIGNED		TOTAL AMOUNT ENCUMBERED TO DATE	
					\$980,000.00	

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.

E. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY

NAME: Carolyn Vu
 ADDRESS: 2208 Kausen Drive, Suite 300
 Elk Grove, CA 95758

9. DUNS INFORMATION

DUNS #: 156092066
 REGISTERED
 ADDRESS: 200 N. Main Street, Los Angeles, CA 90012
 CITY: Los Angeles
 ZIP+4: 90012-4110

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	\$980,000.00
				AGREEMENT TOTAL		\$980,000.00
				AMOUNT ENCUMBERED BY THIS DOCUMENT		\$980,000.00
<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		\$980,000.00
OTS ACCOUNTING OFFICER'S SIGNATURE <i>Carolyn Vu</i> <small>Carolyn Vu (Aug 7, 2020 11:03 PDT)</small>			DATE SIGNED Aug 7, 2020			

1. PROBLEM STATEMENT

As the **largest city in the state of California** and the second largest city in the nation, local traffic safety is paramount in Los Angeles due to the magnitude of traffic related injury and fatality rates. Per the latest OTS Collision Ranking data, in 2017 the City of Los Angeles had the highest number (**36,037 individuals**) of victims killed or injured in vehicular collisions for cities with populations over 250,000.

While speed and alcohol regularly contribute to injury and fatality rates, the recent legalization of recreational cannabis use has resulted in more drug impaired drivers on the road than ever, along with a greater incidence of alcohol/drug combo drivers. As a result, drug impaired driving arrest rates have soared throughout the City. Sixty percent (60%) of these drivers have cannabis detected in their blood samples, with a majority yielding poly drug use test results. Moreover, certain regions of the city are defined by different drugs of choice, now requiring further specialization, deployment of resources, and focused efforts to combat.

Compounding Los Angeles' drug impaired driving problem are the complex legal and scientific issues that drug impaired (DUID) prosecutions involve. Successfully prosecuting DUID offenders and securing sentences that deter future conduct are challenging even for the most experienced of attorneys. Notwithstanding this, to date the Los Angeles City Attorney's (LACA) Vertical Prosecution Team has proven effective in achieving successful case outcomes. Nonetheless, resources are urgently needed to expand the Team's staffing to implement both proven and emerging DUID strategies vital to combating the escalating DUID problem in Los Angeles.

EXISTING PROSECUTORIAL RESOURCES ARE STRAINED

As noted above, with the advent of legalized recreational cannabis use/enforcement, coupled with statewide propositions that have reduced the penalties for drug use/possession, the LACA's existing Vertical Prosecution Team resources have come to be under tremendous strain. Comprised of three attorneys, they cover six courthouses whereby **1,148 DUID cases underwent review in FFY 2019**. Of these, the Team **reviewed 1,001 cases, filed 613 cases, and secured 531 guilty verdicts**.

As the sole prosecution agency for misdemeanor impaired driving cases in the city of Los Angeles, the LACA's Vertical Prosecution Team's spans more than 500 square miles. It's jurisdiction covers the highest reaches of the north San Fernando Valley all the way south to the San Pedro Harbor (a distance of nearly 50 miles). This includes two courthouses located in downtown Los Angeles, two in the Van Nuys area, one in the Pacific region (near LAX) and one in San Pedro.

Each Vertical Prosecutor Team member files nearly 350 cases filed per year and carries an ongoing average load of 150 cases at any given time. This is in addition to other duties that entail writing/arguing pretrial motions, responding to discovery requests, visiting scenes, interviewing witnesses, and assisting fellow deputies. Additional roles relate to training, data collection, roundtables, and DUID policy. While meeting the demands of the Vertical Prosecutor position demonstrates each attorney's commitment to traffic safety, additional resources are critically need to help support them under the weight of this escalating problem.

CITYWIDE COVERAGE IS LIMITED DUE TO EXISTING RESOURCES

An ongoing challenge to the Vertical Prosecution Team is covering the entire jurisdiction of the Los Angeles region. Their presence throughout the city is vitally needed due to their unique expertise prosecuting DUID cases. Unfortunately, the large distances between each courthouse makes it difficult, if not impossible to cover everything. Moreover, coverage becomes even more strained when a trial gets assigned to a Team member outside the City region, such as to Lancaster (42 miles north of downtown Los Angeles). Geographic reassignment is not unusual when courtrooms are unavailable at the originating courthouse. The vast territory these vertical prosecutors must cover in their current assignments is unwieldy and disproportionate.

Further staffing the current Vertical Prosecution Team is a 55.3% increase in its caseload since 2017 - yet staffing levels remain the same. Currently, the team currently staffs two attorneys at Metro to handle downtown, West LA, and San Pedro cases, and one attorney staffs the Valley cases – yet all provide citywide coverage as needed.

This staffing burden can be relieved and efficiencies in geographic coverage achieved through the addition of two new members to the Vertical Prosecution team. Otherwise, DUID cases may risk being ineffectively addressed and prosecuted due to inexperienced “line” Deputy City Attorneys covering. In this climate, savvy defense attorneys know to “forum shop” based on the availability/unavailability of the Vertical Prosecutor to maximize the most favorable outcomes for their clients.

SPECIALIZED DUID MOTIONS REQUIRE INCREASED ATTENTION

Another facet to the problem is that DUID trial convictions are among the most challenging to secure even for the most experienced and dedicated attorneys. This is due to evidentiary issues related to impairment and the public’s perception regarding certain drugs being “non-offensive.” While the Vertical Prosecution Team is equipped to handle these challenges, due to recent changes in the law involving diversion into treatment for DUI offenders in lieu of jail, the Team has experienced an increased amount of legal motions seeking mental health and military diversion, which is straining their current resources.

For example, in FFY 2019, 43% of all legal motions filed at the Metropolitan Branch involved diversion. These motions are complicated, entail legal research, a dearth of supporting materials, and involve an undue consumption of time to prepare. Most significantly, responding to these motions requires specialized knowledge about drug impairment. This includes knowing different therapeutic levels and articulating the difference between perceived mental health issues as compared to drug induced psychosis. Time spent preparing these motions takes away from other DUID enforcement for which new resources can address.

IMPORTANT DUID TRAINING DISPLACES PROSECUTORIAL FUNCTIONS

Similarly to the time displaced due to preparing legal motions, the LACA’s Vertical Prosecutor Team is routinely requested to provide training to both the California Highway Patrol, the Los Angeles Police Department, and other stakeholders, which takes away from core prosecutorial functions. Yet, this training is paramount to increase the likelihood of DUID cases being filed by the Vertical Prosecution Team and being successful at trial. Training is also necessary to stay abreast of changes in the law, changes in personnel at different agencies, and impaired driving policy changes. While training is a key component to improving traffic safety, insufficient resources currently exist for the Vertical Prosecution Team to do it all, for which new resources can help alleviate.

DATA COLLECTION REMAINS A CHALLENGE

One final problem to be addressed through new resources is the lack of data being recorded as it relates to drug impaired driving. Accurate and reliable data is the first step to address the escalating DUID problem. Without accurate data one cannot understand the magnitude and characteristics of the problem. Data provides stakeholders intelligence to address and implement individual, regional, and legislative countermeasures to the DUID problem. As depicted below, the current data detection systems all lack the type of drug that is detected in drivers and the amount of drug. While not obligated to, the Vertical Prosecution Team independently tracks this data, yet going this extra step consumes resources.

With the expansion of the Vertical Prosecution Team, data collection can continue uninterrupted. Without it, the Team may have to begin to prioritize how best to allocate resources to address the escalating DUID problem. If unavoidable, scaling back data collection would be a missed opportunity as Los Angeles is the most ideal location for data collection: it is the first Group A city in California to legalize commercial sales, it covers a diverse group of people, has the infrastructure such as the Los Angeles Police Department Drug Recognition Experts to conduct evaluations, and the LAPD crime lab to analyze the toxicology.

CONCLUSION

TO COMBAT INCREASING DUI/D cases and address the problem of overcrowding for the existing Vertical Prosecution Team to carry out its core prosecutorial functions, prepare legal motions around diversion for impaired driving cases, fill training requests, and provide comprehensive data collection critical to traffic safety, the LACA is seeking additional resources through the addition of two attorneys, bringing the total LACA Vertical Prosecution Team staff number to five.

The expanded Vertical Prosecution Team will continue to serve provide in-house expertise across LACA criminal branches as needed, assume the most difficult and challenging DUI/D cases, achieve higher conviction rates than branch trial deputies, and maintain a personal fidelity to the cases they prosecute that inspires others to achieve the same goal of zero deaths. Moreover, their roles will continue to help drive impaired driving policy improvements through their participation in task forces, roundtables with other prosecuting agencies, research projects, and other innovative new initiatives. This Team will work with other prosecuting agencies and law enforcement to ensure that the aggressive and sustained enforcement of drivers under the influence of drugs in the City of Los Angeles remains in full force and effect.

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.	5
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 assistance needs for training on DUI investigation and court testimony. OTS staff, local law enforcement, CHP and probation staff should be included in the	4

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. 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

3. METHOD OF PROCEDURE

A. Phase 1 – Program Preparation (1st Quarter of Grant Year)

- Recruit and hire all staff for the grant.
- Procure all materials necessary to implement the grant.
- Identify dates and schedule four Round-table 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 round-table. 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.

Media Requirements

- 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 pio@ots.ca.gov, and copied to your OTS Coordinator, 14 days prior to the issuance date of the release.

B. Phase 2 – Program Operations (Throughout Grant Year)

- 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:
 - 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 Round-table 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

- 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 with a copy to your OTS

Coordinator. The following requirements are for grant-related activities and are distinct 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 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 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.

GRANT AGREEMENT

DI21022

Schedule B

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405d AL-21	20.616	Impaired Driving Countermeasures	\$980,000.00

COST CATEGORY	FUND NUMBER	UNIT COST OR RATE	UNITS	TOTAL COST TO GRANT
A. PERSONNEL COSTS				
Positions and Salaries <u>Straight Time</u>				\$0.00
<u>Overtime</u>				
Deputy City Attorney II	405d AL-21	\$60.84	2,080	\$126,547.00
Benefits-Deputy City Attorney II	405d AL-21	\$126,547.00	1	\$57,731.00
Deputy City Attorney II	405d AL-21	\$66.68	2,080	\$138,694.00
Benefits-Deputy City Attorney II	405d AL-21	\$138,694.00	1	\$63,272.00
Deputy City Attorney I	405d AL-21	\$46.98	2,080	\$97,718.00
Benefits-Deputy City Attorney I	405d AL-21	\$97,718.00	1	\$44,579.00
Deputy City Attorney I	405d AL-21	\$49.01	2,080	\$101,941.00
Benefits- Deputy City Attorney I	405d AL-21	\$101,941.00	1	\$46,505.00
Administrative Coordinator I	405d AL-21	\$36.32	2,080	\$75,546.00
Benefits- Administrative Coordinator I	405d AL-21	\$75,546.00	1	\$34,464.00
Category Sub-Total				\$786,997.00
B. TRAVEL EXPENSES				
In State Travel	405d AL-21	\$8,000.00	1	\$8,000.00
				\$0.00
Category Sub-Total				\$8,000.00
C. CONTRACTUAL SERVICES				
				\$0.00
Category Sub-Total				\$0.00
D. EQUIPMENT				
				\$0.00
Category Sub-Total				\$0.00
E. OTHER DIRECT COSTS				
				\$0.00
Category Sub-Total				\$0.00
F. INDIRECT COSTS				
Indirect Cost- 50.15%	405d AL-21		1	\$185,003.00
Category Sub-Total				\$185,003.00
GRANT TOTAL				\$980,000.00

GRANT AGREEMENT

DI21022

Schedule B-1

BUDGET NARRATIVE**PERSONNEL COSTS**

Deputy City Attorney II - 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 Attorneys Office.

1 X \$60.80/Hr X 2080 Hrs

Benefits-Deputy City Attorney II - TOTAL BENEFIT RATE: 45.62%

Retirement - 25.78%

Flex Benefits - 11.01%

Employee Assistance - 0.01%

Ordinance Life Insurance - 0.08%

Medicare - 1.36%

Union Sponsored Benefits - 0.03%

Unused Sick/Vacation Payout - 1.31%

Unemployment Claims - 0.01%

Workers Compensation - 1.24%

Carry Forward - 4.79%

Deputy City Attorney II - 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 City Attorneys Office.

1 X \$66.68/HR X 2080 HRS

Benefits-Deputy City Attorney II - TOTAL BENEFIT RATE: 45.62%

Retirement - 25.78%

Flex Benefits - 11.01%

Employee Assistance - 0.01%

Ordinance Life Insurance - 0.08%

Medicare - 1.36%

Union Sponsored Benefits - 0.03%

Unused Sick/Vacation Payout - 1.31%

Unemployment Claims - 0.01%

Workers Compensation - 1.24%

Carry Forward - 4.79%

Deputy City Attorney I - 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 Attorneys Office.

1 X \$46.98/HR X 2080 HRS

Benefits-Deputy City Attorney I - TOTAL BENEFIT RATE: 45.62%

Retirement - 25.78%

Flex Benefits - 11.01%

Ordinance Life Insurance - 0.08%

Medicare - 1.36%

Union Sponsored Benefits - 0.03%

Unused Sick/Vacation Payout - 1.31%

Unemployment Claims - 0.01%

Workers Compensation - 1.24%

Carry Forward - 4.79%

Deputy City Attorney I - 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 Attorneys Office.

1 X \$49.01/HR X 2080 HRS

Benefits- Deputy City Attorney I - TOTAL BENEFIT RATE: 45.62%

Retirement - 25.78%

Flex Benefits - 11.01%

Employee Assistance - 0.01%

Ordinance Life Insurance - 0.08%

Medicare - 1.36%

Union Sponsored Benefits - 0.03%

Unused Sick/Vacation Payout - 1.31%

Unemployment Claims - 0.01%

Workers Compensation - 1.24%

Carry Forward - 4.79%

Administrative Coordinator I - Position will assist the vertical prosecution team with preparing DUID case filings, securing evidence such as toxicology reports, coordinating witnesses, assisting with legal discovery requests and data collection. In addition, the Administrative Coordinator will ensure grant compliance and oversee fiscal and administrative operations.

1X \$36.32/HR X 2080 HRS

Benefits- Administrative Coordinator I - TOTAL BENEFIT RATE: 45.62%

Retirement - 25.78%

Flex Benefits - 11.01%

Employee Assistance - 0.01%

Ordinance Life Insurance - 0.08%

Medicare - 1.36%

Union Sponsored Benefits - 0.03%

Unused Sick/Vacation Payout - 1.31%

Unemployment Claims - 0.01%

Workers Compensation - 1.24%

Carry Forward - 4.79%

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

-

OTHER DIRECT COSTS

-

INDIRECT COSTS

Indirect Cost- 50.15% - Indirect costs per federally approved rate.

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.

GRANT AGREEMENT

DI21022

Exhibit A

**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

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

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.

DOT 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.