

MICHAEL P. VICTORINO
Mayor

DON S. GUZMAN
Prosecuting Attorney

ROBERT D. RIVERA
First Deputy Prosecuting Attorney

ANDREW H. MARTIN
Second Deputy Prosecuting Attorney



DEPARTMENT OF THE PROSECUTING ATTORNEY
COUNTY OF MAUI
150 SOUTH HIGH STREET
WAILUKU, MAUI, HAWAII 96793
PHONE (808) 270-7777 • FAX (808) 270-7625

March 5, 2020

Ms. Michele Yoshimura *MY*
Budget Director, County of Maui
200 South High Street
Wailuku, Hawaii 96793

Honorable Michael P. Victorino
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

For Transmittal to:

Honorable Alice L. Lee, Chair
and Members of Maui County Council
200 South High Street
Wailuku, Hawaii 96793

SUBJECT: HAWAII SAFETY GRANT PROGRAM IMPAIRED DRIVING

Dear Chair Lee and Members:

In accordance with Ordinance No. 4988 Bill 36 (2019) Fiscal Year 2020 Budget, we are hereby transmitting to you a copy of the approved highway safety reimbursement project from the State of Hawaii, Department of Transportation for the program listed above, grant number AL-20-02 (05-M-01) for the period of October 1, 2019 – September 30, 2020 in the total amount of \$72,000.00.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at ext. 7777.

Sincerely,

Don S. Guzman
DON S. GUZMAN
Prosecuting Attorney

RECEIVED
2020 MAR -5 PM 5:32
OFFICE OF THE
COUNTY CLERK

APPROVED FOR TRANSMITTAL

Seethy *3/5/2020*
Acting Mayor Date

Attachment

COUNTY COMMUNICATION NO. 20-152

RECEIVED

2020 MAR -5 PM 2: 28

OFFICE OF THE MAYOR

RECEIVED
MAR 05 2020

APPROVED FOR TRANSMITTAL

Acting Mayor
Date

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT
Grant No: AL-20-02 (05-M-01)

Page 1 (To be completed by applicant agency)

1. Grant Title
Maui County, Prosecutor's Office – 2019-2020 Impaired Driving

2. Name and Address of Applicant Agency
Department of the Prosecuting Attorney, County of Maui
150 S. High Street
Wailuku, HI 96793

4. Duration
Month – Day – Year

A. Grant Period
From: October 1, 2019
To: September 30, 2020

3. Agency Unit to Handle Grant (Name and Address)
District Court Unit
150 S. High Street
Wailuku, HI 96793

B. Project Period
From: October 1, 2019
To: September 30, 2020

5. Location of Project
150 S. High Street
Wailuku, HI 96793

6a. Type of Application
(Check Appropriate Item)
 Initial Revision Continuation

6b. Reimbursement Schedule Desired
 Monthly Quarterly

7. Grant Description (Summarize the grant plan covering activities that address the major goals and objectives in approximately 100 words. Limit to 6 lines.)
The District Court Division of the Maui Department of the Prosecuting Attorney Proposed to prioritize their efforts in prosecuting offenders charged with "operating a vehicle under the influence of an intoxicant" (OUI). The Division's goal is to increase the rate of convictions, using effective strategies and new information to prosecute and maximize conviction rates and sentencing, in order to ensure our roads and highways are as safe as possible. Attendance to key traffic-related meetings and conferences is essential for prosecutors to collaborate with police officers, learn new prosecutorial techniques, and understand developments in OUI case law and defenses.

8. Federal funds allocated under this agreement shall not exceed **\$72,000.00**

9. Approval Signatures

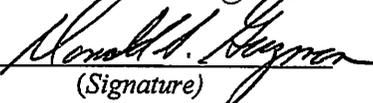
Acceptance of Conditions: It is understood and agreed by the undersigned that a reimbursement grant received as a result of this grant agreement is subject to Public Law 89-564 (Highway Safety Act of 1966) and all administrative regulations governing grants established by the U.S. Department of Transportation and the State of Hawaii. It is expressly agreed that this project constitutes an official part of the Hawaii Highway Safety Program and that said applicant agency will meet the requirements as set forth herein, including accompanying schedules A, B, B-1, C & D, which are incorporated herein and made a part of this grant agreement. Authorization to proceed with this Highway Safety Project is requested.

9a. Grant Director
Name: Donald Guzman **Phone:** 808-270-7777
Title: Prosecuting Atty **Fax:** 808-270-7625
Address: 150 S. High St., Wailuku, HI 96793

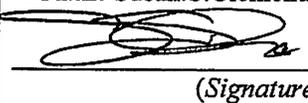
9b. Authorizing Official of Agency Unit
Name: Susan Clements **Phone:** 808-270-7777
Title: Admin Officer **Fax:** 808-270-7625
Address: 150 S. High St., Wailuku, HI 96793

E-Mail: Donald.Guzman@co.maui.hi.us

E-Mail: Susan.S.Clements@co.maui.hi.us



(Signature) 11-4-19
(Date)



(Signature) 11-4-19
(Date)

**STATE OF HAWAII HIGHWAY SAFETY OFFICE
GRANT AGREEMENT - PART II**

Grant No: AL20-02 (05-M-01)

Page 2 (To be completed by Highway Safety Office ONLY)

10. Grantee: Maui County, Prosecutor's Office

11. Standard Area: Impaired Driving

13 a. Federal Fiscal Year 2020

12. Effective Date of Agreement: Oct. 1, 2019-Sept. 30, 2020

13 b. Addendum: Yes No

14. Benefit of: State County

15. Action Taken

Grant agreement approved.

16. Funding Disposition & Status

Fiscal Year	Amount
2016	\$ 16,642.00
2017	\$ 21,468.75
2018	\$ 30,197.50
2019	\$ 72,000.00
2020	\$ 72,000.00
Total	\$ 212,308.25
Present Obligation	\$ 21,468.75
Previously Obligated	\$ 16,642.00
TOTAL FUNDS OBLIGATED	\$ 38,110.75

17. Budget Summary (from Schedule B - Detailed Budget Estimate) - Fiscal Year Grant Period End Sep 30, 2020

Cost Category	Original Cost	Current Cost Estimates
A. Personnel Costs	\$ -	\$ -
B. Travel Expense	\$ 72,000.00	
C. Contractual/Consultant Services	\$ -	
D. Equipment	\$ -	\$ -
E. Other Direct Costs	\$ -	\$ -
TOTAL FEDERAL FUNDS	\$ 72,000.00	\$ -

18. Grant Approval & Authorization to Expend Obligated Funds

A. Approval Recommended By (Program Area Specialist)	B. Agreement & Funding Authorized By Acting Motor Vehicle Safety Officer
<p>Name: Lianne Yamamoto Title: Highway Safety Specialist Phone: 587-2315 Email: lianne.yamamoto@hawaii.gov</p>	<p>Name: Lee Nagano Title: Acting MVSO Administrator Phone: 587-6301 Email: lee.nagano@hawaii.gov</p>
<p><i>Lianne Yamamoto</i> (Signature) 9/30/19 (Date)</p>	<p><i>Lee Nagano</i> (Signature) 9/30/19 (Date)</p>

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT – PART III

Grant No: AL20-02 (05-M-01)

Page 3 (To be completed by Highway Safety Office)

19. Addendum (For Highway Safety Office Use Only)

SCHEDULE A

SCHEDULE A

Grant No: AL20-02 (05-M-01)

GRANT DESCRIPTION

PAGE # _____

PROBLEM STATEMENT

Identify the traffic safety related problem or deficiency that the proposed grant is intended to correct. Identify and gather appropriate data relevant to the problem. Collision/fatalities data appropriate to the identified problem and a brief analysis of the data is required. When available, three years of data should be presented and analyzed. When identifying the problem, take into consideration changes in population, traffic patterns and other demographic dynamics that may affect traffic safety.

The County of Maui consists of the islands of Maui, Molokai, and Lanai with an estimated population of 166,260 in 2017 according to the U.S. Census Bureau. The U.S. Census Bureau estimates the growth increase of the population of Maui County was 2.34% in 2017, and 7.4% overall since April 1, 2010. This growth rate inevitably means more drivers on our highways and roads, which in turn affect traffic patterns and traffic safety.

The District Court Division of the Maui Department of the Prosecuting proposes to prioritize their efforts in prosecuting offenders charged with "operating a vehicle under the influence of an intoxicant" (OVUII) due to the high number of OVUII cases as compared to other types of court offenses. The average number of OVUII cases received from 2011 to 2015, is 955. From 2011 to 2013, OVUII cases received have increased by 8% from 2012, and 9% in 2013. In 2014 and 2015, OVUII cases received decreased by 8% and 1% respectively. Conviction rates increased in 2014 with 55% and 2015 with 70%. The goal is to continue increasing the rate of conviction to keep OVUII offenders off the highways and roads to ensure public safety.

The following table is a summary of OVUII cases received, charged & convicted:

FISCAL YEAR	OVUII CASES RECEIVED	OVUII CASES CHARGED	OVUII CASES CONVICTED
2018	625	606	~445
2017	687	665	~432
2016	711	689	~426
2015	902	837	587
2014	942	917	500
2013	1066	962	439
2012	973	834	494
2011	894	786	406

GRANT GOALS

Goals serve as the foundation upon which the grant is built. Goals are what you hope to accomplish by implementing a traffic safety grant and represent an end result. Grant goals should be stated in measurable terms (i.e., a percent reduction), be concise and deal with a specific item, be realistic with a reasonable probability of achievement, and be related to a specific time frame (a "by" date). Please notate baseline from which the reduction/increase will result.

The goals for the Department of the Prosecuting Attorney, District Court Division, in Maui County are to continue:

1. To work in collaboration with the Maui Police Department's goals of increasing the rate of OVUII arrests and increasing the Department of the Prosecuting Attorney, District Court Division's rate of conviction of OVUII cases.
2. To increase the effectiveness of prosecution with new strategies and address new defenses.
3. To increase the rate of conviction from 2019 fiscal year baseline to 75% by September 30, 2020.

GRANT OBJECTIVES

Objectives are tasks or activities conducted in order to accomplish the grant goal(s) (e.g., develop permanent fitting stations for child restraints, enforcement activities, educational activities, etc.). Grant objectives should be stated in measurable terms (i.e., a percent reduction, number of training to be held, number of roadblocks, etc.), be concise and deal with a specific item, be realistic with a reasonable probability of achievement, and be related to a specific time frame (a "by" date). Please notate baseline from which the reduction/increase will result.

1. Meet with Maui Police Department supervisors regularly to assist with appropriate content of police OVUII arrest reports to avoid cases declined by prosecutors and provide trainings
2. Send two deputy prosecutors to attend the quarterly Traffic Commanders Meetings to discuss traffic safety issues and strategize plans to improve highways and roads safety in Hawaii.
3. Send two (2) deputy prosecutors to attend the monthly Impaired Driving Task Force meetings to participate and improve strategies in prosecuting OVUII cases.
4. Send three (3) deputy prosecutors to attend the DRE In-service training on Oahu.
5. To network with law enforcement from other jurisdictions regarding DRE issues and keep up to date on current trends and defenses regarding drugged driving by allowing two (2) deputy prosecutors to attend the annual DRE conference in 2020. The deputies will disseminate information to relevant prosecutors within the department and utilize the new information in combating new defenses in our State.
6. To obtain the latest information and strategies in convicting more OUI offenders, by sending two (2) deputy prosecutors to attend the out-of-state annual Lifesavers conference in 2020, to network with law enforcement, learn new strategies for prosecution including combating new defense attorneys' strategies, disseminate information to relevant prosecutors in the Department, and provide OUI education and prevention information to the public.
7. To obtain information on calibration, data interpretation, software and legal issues concerning CMI Intoxilyzer breath test results which are exclusively used by the Maui Police Department to obtain breath alcohol results in OVUII cases and to obtain new strategies for effective and efficient prosecution of breath OVUII cases, which constitute the majority of OVUII cases in Maui County, by allowing one District Supervising Deputy Prosecutor and a Deputy Prosecutor to attend the CMI Intoxilyzer Conference in 2020.

METHOD OF EVALUATION

Using data gathered throughout the grant period, the grant manager will evaluate (1) how well the stated grant goals and objectives were accomplished, and (2) was the grant cost effective? How are you going to show effectiveness of your project? What will be the impact of the project on your identified problem and goal(s)? Provide details on the method of evaluation.

Administration will monitor the number of convictions for OVUII cases charged throughout the grant period and reasons for non-convictions on a quarterly basis and consult with the Supervisor of the District Court Division on statistics for improvement or no improvement on rate of convictions. A report shall be submitted to the Grantor on a quarterly basis to the end of the grant period, which will include the status of grant objectives. An Out of State Travel report shall also be submitted for each of the following conferences:

- DRE Conference
- Lifesavers Conference
- CMI Intoxilyzer Conference

SCHEDULE B
Page 1
Detailed Budget Estimate
Grant No: AL20-02 (05-M-01)

COST CATEGORY	COST ESTIMATES
A. Personnel Costs	
<u>Employee Salaries and Benefits</u>	
Position Title(s) and Full-Time/Part-Time Yearly Salary:	
Fringe Benefit Rate: _____ %	
Time to be spent on project: _____ hours	
Position Title(s) and Overtime Hourly Rate(s):	
Fringe Benefit Rate: _____ %	
Time to be spent on project: _____ hours	
Category Sub-Total	0
B. Travel Expenses	
<u>1) In-State - Oahu</u>	
Event/Conference: Traffic Commander's Meetings	
Number of Travelers: <u>2</u>	
Air Travel: 8 roundtrips X \$230.00	\$1,840.00
To: <u>Oahu</u>	
From: <u>Maui</u>	
Surface Travel:	
Shuttle/Taxi	
Car Rental (daily rate, # of days, fuel, taxes, etc.) 8 days X \$60	\$480.00
Private Car: (_____ miles @ _____ per mile)	
Airport Parking: \$30 x 2 x 4 trips	\$240.00
Excess Lodging:	
<u>4</u> nights @ \$ <u>110</u> per night x 2	\$880.00
Hotel Parking: \$25 x 4 nights	\$100.00

SCHEDULE B
Page 2
Detailed Budget Estimate
Grant No: AL20-02 (05-M-01)

COST CATEGORY	COST ESTIMATES
Per Diem: <u>1.75</u> days @ \$ <u>90.00</u> per day x 2 x 4 trips	\$1,260.00
Baggage Fee: Tuition, Course, Registration and Miscellaneous Fees: Individual cost: _____ x No. of attendees: _____	
SUBTOTAL	\$4,800.00
2) In-State - Oahu Event/Conference: Impaired Driving Task Force Mtg Number of Travelers: <u>2</u> Air Travel: 12 roundtrips X \$230.00 To: <u>Oahu</u> From: <u>Maui</u> Surface Travel: Shuttle/Taxi Car Rental (daily rate, # of days, fuel, taxes, etc.) \$ x meeting Private Car: (_____ miles @ _____ per mile) Airport Parking: 6 RT x \$15 x 2 =	\$2,760.00
Excess Lodging: Per Diem: <u>6</u> days @ \$ <u>45.00</u> per day x 2 = \$540	\$540.00
Baggage Fee: Tuition, Course, Registration and Miscellaneous Fees: Individual cost: _____ x No. of attendees: _____	\$0.00
SUBTOTAL	\$3,480.00

SCHEDULE B
Page 3
Detailed Budget Estimate
Grant No: AL20-02 (05-M-01)

COST CATEGORY	COST ESTIMATES
<p><u>3) In-State Oahu</u></p> <p>Event/Conference: DRE In-Service Training</p> <p>Number of Travelers: <u> 3 </u></p> <p>Air Travel: 3 roundtrips X \$230.00 \$690.00</p> <p>To: <u> Oahu </u></p> <p>From: <u> Maui </u></p> <p>Surface Travel:</p> <p>Shuttle/Taxi</p> <p>Car Rental (daily rate, # of days, fuel, taxes, etc.) 2 days X \$60 \$120.00</p> <p>Private Car: (<u> </u> miles @ <u> </u> per mile)</p> <p>Airport Parking: 3 x \$15 x 2 days \$90.00</p> <p>Excess Lodging:</p> <p><u> 1 </u> nights @ \$ <u> 110 </u> per night x 3 \$330.00</p> <p>Hotel Parking: \$25 x 1 night \$25.00</p> <p>Per Diem:</p> <p><u> 1.75 </u> days @ \$ <u> 90 </u> per day x 3 \$472.50</p> <p>Baggage Fee:</p> <p>Tuition, Course, Registration and Miscellaneous Fees:</p> <p>Individual cost: <u> </u> x No. of attendees: <u> </u></p>	
SUBTOTAL	\$1,727.50
<p><u>4) Out-of-State - Location TBA</u></p> <p>Event/Conference: IACP DRE Conference</p> <p>Number of Travelers: <u> 2 </u></p> <p>Air Travel: \$1,000 x 2 \$2,000.00</p>	

SCHEDULE B
Page 4
Detailed Budget Estimate
Grant No: AL20-02 (05-M-01)

COST CATEGORY	COST ESTIMATES
Surface Travel: Shuttle/Taxi \$50 x 2 Car Rental (daily rate, # of days, fuel, taxes, etc.) Private Car: (_____ miles @ _____ per mile)	\$100.00
Excess Lodging: _____ 4 _____ nights @ \$ _____ 90.00 _____ per night = \$360 x 2	\$720.00
Per Diem: 20 qtrs @ \$36.25 per day = \$725 x 2	\$1,450.00
Baggage Fee: \$25 x 4	\$100.00
Tuition, Course, Registration and Miscellaneous Fees: Individual cost: \$500 _____ x No. of attendees: 2	\$1,000.00
SUBTOTAL	\$5,370.00
5) Out-of-State Event/Conference: 2020 Lifesavers Conference Date of travel: TBA Number of Travelers: _____ 2 _____	
Air Travel: \$1,000.00 x 2 To: TBA From: Kahului, Maui _____	\$2,000.00
Surface Travel: Shuttle/Taxi \$50 x 2 Car Rental (daily rate, # of days, fuel, taxes, etc.) Private Car: (_____ miles @ _____ per mile)	\$100.00
Excess Lodging: _____ 4 _____ nights @ \$ _____ 90.00 _____ per night = \$360 x 2	\$720.00
Per Diem:	

SCHEDULE B
Page 6
Detailed Budget Estimate
Grant No: AL20-02 (05-M-01)

COST CATEGORY	COST ESTIMATES
Implement a pilot project "electronic warrant" system to help improve ability of law enforcement and prosecutors to obtain blood alcohol concentration or evidence of drug use after impaired driving arrest and associated collisions. In conjunction with the Maui Police Department, state or county information technology personnel, and private contractors (such as Thin Blue Line), goal is to develop and create an e-warrant platform, and security / design architecture. Scope of work also includes pilot testing, licensing, and training, as well as purchase of user equipment (electronic tablet devices, printers, etc.)	\$45,957.50
SUBTOTAL	\$45,957.50
GRAND TOTAL	\$72,000.00

SCHEDULE B-1
Grant No: AL20-02 (05-M-01)

BUDGET NARRATIVE

PAGE # _____ 1

Personnel Costs

Travel Expenses

1) Attend the Traffic Commander's quarterly meetings on Oahu for 2 Deputy Prosecutors to consult with and support participating law enforcement agencies and Maui Police Department in addressing impaired driving and other traffic safety issues. Meetings will require 8 roundtrips. Travel includes airfare, ground transportation, airport parking, excess lodging, hotel parking and per diem.

2) Attend 2019-20 Hawaii Impaired Driving Task Force meetings for 2 Deputy Prosecutors to consult and support other law enforcement agencies on impaired driving issues. Travel includes airfare, airport parking and per diem.

3) Attend DRE-In-service Training on Oahu for 3 Deputy Prosecutors. Travel includes airfare, ground transportation, airport parking, excess lodging, hotel parking and per diem.

4) Attend the 2020 IACP DRE Conference (location on mainland, date and location TBA) for 2 Deputy Prosecutors to obtain new strategies for prosecution of OVUII drug-specific cases. Travel includes airfare, ground transportation, excess lodging, per diem, baggage and registration fees.

5) Attend the 2020 Lifesavers Conference (location on mainland TBA) for 2 Deputy Prosecutors to obtain and review information on traffic safety policy, impaired driving legal issues, and effective prosecution. Travel includes airfare, ground transportation, excess lodging, per diem, baggage and registration fees.

6) Attend the 2020 CMI Intoxilyzer Conference (location on mainland, date and location TBA) for 2 Deputy Prosecutors to obtain and review information on the process for intoxilyzer breath results, legal issues on OVUII cases for efficient and effective prosecution. Travel includes airfare, ground transportation, excess lodging, per diem, baggage and registration fees.

SCHEDULE B-1
Grant No: AL20-02 (05-M-01)

BUDGET NARRATIVE

PAGE # _____ 1

Contractual/Consultant Services

7) Implement a pilot project "electronic warrant" system to help improve ability of law enforcement and prosecutors to obtain blood alcohol concentration or evidence of drug use after impaired driving arrest and associated collisions. In conjunction with the Maui Police Department, state or county information technology personnel, and private contractors (such as Thin Blue Line), goal is to develop and create an e-warrant platform, and security / design architecture. Scope of work also includes pilot testing, licensing, and training, as well as purchase of user equipment (electronic tablet devices, printers, etc.)

SCHEDULE C

SCHEDULE C

Grant No: AL20-02 (05-M-01)

MILESTONES		PAGE #1
Month	Activity	
October – December 2019	Attend Hawaii Impaired Driving Task Force Meeting on Oahu Attend Traffic Commander's Mtg on Oahu	
January – March 2020	Attend Hawaii Impaired Driving Task Force Meeting on Oahu Attend Traffic Commander's Mtg on Oahu 2020 Lifesavers Conference	
April – June 2020	Attend Hawaii Impaired Driving Task Force Meeting on Oahu Attend Traffic Commander's Mtg on Oahu	
July - September 2020	Attend Hawaii Impaired Driving Task Force Meeting on Oahu Attend the 2020 IACP DRE Conference in Out of State (location TBA) Attend the CMI Intoxilyzer Conference (location TBA) Goal date for implementation of e-warrant pilot project	
TBA	DRE In Service Training	

SCHEDULE D

SCHEDULE D

Certifications and Assurances for Fiscal Year 2020 Hawaii Highway Safety Grants (23 U.S.C. Chapter 4; Sec. 1906, Pub. L. 109-59, As Amended)

THIS AGREEMENT made and entered into by and between the STATE OF HAWAII by and through its Director of Transportation, hereinafter referred to as "State," and the Governmental Unit named in this application, hereinafter referred to as "Applicant."

WHEREAS, the National Highway Safety Act of 1966 (Public Law 89-564) provides Federal funds to the STATE for approved highway safety projects, and

WHEREAS, STATE may make said funds available to various state, county or municipal agencies or governments or political subdivisions upon application and approval by STATE and the UNITED STATES DEPARTMENT OF TRANSPORTATION, and

WHEREAS, STATE is obligated to reimburse the UNITED STATES DEPARTMENT OF TRANSPORTATION out of its funds for any ineligible or unauthorized expenditures for which Federal funds have been claimed and payment received, and

WHEREAS, the above name APPLICANT has submitted an application for Federal funds for highway safety projects.

NOW, THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

GENERAL REQUIREMENTS

The APPLICANT will comply with applicable statutes and regulations, including but not limited to:

- 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

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

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;

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

The State highway safety agency—

- Will take all measures necessary to ensure that no person in the United States shall, on the grounds of race, color, national origin, disability, sex, age, limited English proficiency, or membership in any other class protected by Federal Nondiscrimination Authorities, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any of its programs or activities, so long as any portion of the program is Federally-assisted;
- Will administer the program in a manner that reasonably ensures that any of its subrecipients, contractors, subcontractors, and consultants receiving Federal financial assistance under this program will comply with all requirements of the Non-Discrimination Authorities identified in this Assurance;

- Agrees to comply (and require its subrecipients, contractors, subcontractors, and consultants to comply) with all applicable provisions of law or regulation governing US DOT's or NHTSA's access to records, accounts, documents, information, facilities, and staff, and to cooperate and comply with any program or compliance reviews, and/or complaint investigations conducted by US DOT or NHTSA under any Federal Nondiscrimination Authority;
- Acknowledges that the United States has a right to seek judicial enforcement with regard to any matter arising under these Non-Discrimination Authorities and this Assurance;
- Agrees to insert in all contracts and funding agreements with other State or private entities the following clause:
 "During the performance of this contract/funding agreement, the contractor/funding recipient agrees—
 - a. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
 - b. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR part 21 and herein;
 - c. To permit access to its books, records, accounts, other sources of information, and its facilities as required by the State highway safety office, US DOT or NHTSA;
 - d. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contract/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to withholding payments to the contractor/funding recipient under the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement, in whole or in part; and
 - e. To insert this clause, including paragraphs (a) through (e), in every subcontract and subagreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

POLITICAL ACTIVITY (HATCH ACT)

The APPLICANT 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

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

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

Instructions for Lower Tier Participant Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *civil judgment*, *debarment*, *suspension*, *ineligible*, *participant*, *person*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR parts 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Participant Certification" including the "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions and will require lower tier participants to comply with 2 CFR parts 180 and 1200.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any prospective lower tier participants, each participant may, but is not required to, check the System for Award Management Exclusions website (<https://www.sam.gov/>).
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

BUY AMERICA ACT

The APPLICANT will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or Applicant, 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

The APPLICANT 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.