

POLICE DEPARTMENT

COUNTY OF MAUI



ALAN M. ARAKAWA
MAYOR
MM/lu
OUR REFERENCE
YOUR REFERENCE

55 MAHALANI STREET
WAILUKU, HAWAII 96793
(808) 244-6400
FAX (808) 244-6411
November 16, 2017

TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

Ms. Lynn A.S. Araki-Regan 
Budget Director, County of Maui
200 South High Street
Wailuku, Hawaii 96793

Honorable Alan M. Arakawa
Mayor, County of Maui
200 South High Street
Wailuku, Hawaii 96793

APPROVED FOR TRANSMITTAL


Mayor 11/17
Date

For transmittal to:

Honorable Mike White, Chair
and Members of the Maui County Council
200 South High Street
Wailuku, Hawaii 96793

Dear Chair White and Members:

SUBJECT: MPD TRAFFIC SERVICES GRANT

In accordance with Ordinance No. 4456, Bill 65 (2017) Fiscal Year 2018 Budget, we are hereby transmitting to you a copy of the grant agreement with the State of Hawaii, Department of Transportation for the MPD Traffic Services grant for the period of October 1, 2017 to September 30, 2018 in the amount of \$105,433.00.

Thank you for your attention to this matter. If you have any questions, please feel free to contact our accountant, Lesley Ann Uemae, at ext. 6309.

Sincerely,


TIVOLI S. FAAUMU
Chief of Police

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2017 NOV 22 AM 10:37
OFFICE OF THE
COUNTY CLERK

COUNTY COMMUNICATION NO. 17-461

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT
Grant No: DD18-10 (03-M-01)

Page 1 (To be completed by applicant agency)

1. Grant Title
 MPD DISTRACTED DRIVING GRANT

2. Name and Address of Applicant Agency
 MPD Traffic Section
 55 Mahalani Street
 Wailuku, HI 96793

3. Agency Unit to Handle Grant (Name and Address)
 Maui Police Department
 55 Mahalani Street
 Wailuku, HI 96793

4. Duration
 Month – Day – Year

A. Grant Period
 From: October 01, 2017
 To: September 30, 2018

B. Project Period
 From: October 01, 2017
 To: September 30, 2018

5. Location of Project
 MPD Traffic Section
 55 Mahalani Street
 Wailuku, HI 96793
 (808)244-6344

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.)
 Effective July 1, 2013 Act 74 regarding the statewide Distracted Driving bill became a statewide law. Police will conduct 625 hours of overtime enforcement on this grant. Police will also provide information at traffic safety events to curb distracted driving. Police hope to see a reduction in crashes as a result of someone using a mobile electronic device and operating a vehicle at the same time.

8. Federal funds allocated under this agreement shall not exceed

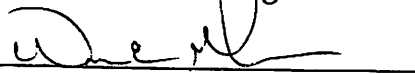
~~\$68,251.68~~ *68,248.84* ^{SDM}

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: William E. Gannon **Phone:** (808)244-6346
Title: Lieutenant **Fax:** (808)244-6394
Address: Maui Police Department
 55 Mahalani Street
 Wailuku, HI 96793
E-Mail: william.gannon@mpd.net

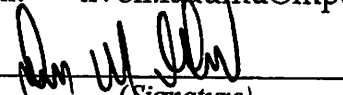


 (Signature) 9/25/17

 (Date)

9b. Authorizing Official of Agency Unit

Name: Tivoli S. Faaumu **Phone:** (808)244-6300
Title: Chief of Police **Fax:** (808)244-6411
Address: Maui Police Department
 55 Mahalani Street
 Wailuku, HI 96793
E-Mail: tivoli.faaumu@mpd.net



 (Signature) 9/25/17

 (Date)

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT – PART II

Grant No: DD18-10 (03-M-01)

Page 2 (To be completed by Highway Safety Office)

10. Grantee: Maui Police Department

11. Standard Area: Distracted Driving

13a. Federal Fiscal Year 2018

12. Effective Date of Agreement: Oct 1, 2017 – Sep 30, 2018

13b. Addendum: Yes No

14. Benefit of : State County

15. Action Taken

Grant approved.

16. Funding Disposition & Status

Fiscal Year	Amount
2014	\$46,433.52
2015	\$49,052.17
2016	\$50,065.02
2017	\$57,601.08
2018	\$68,248.84
Total	\$271,400.63

Present Obligation \$68,248.84
 Previously Obligated \$203,151.79

TOTAL FUNDS OBLIGATED \$271,400.63

17. Budget Summary (From Schedule B – Detailed Budget Estimate) – Fiscal Year Grant Period Ending: Sep 30, 2018

Cost Category

Cost Estimates

A. Personnel Costs	\$67,458.84
B. Travel Expenses	
C. Contractual/Consultant Services	
D. Equipment	
E. Other Direct Costs	\$790.00

TOTAL FEDERAL FUNDS \$ 68,248.84

18. Grant Approval & Authorization to Expend Obligated Funds

**A. Approval Recommended By
(Program Area Specialist)**

**B. Agreement & Funding Authorized By
(Highway Safety Manager)**

Name: Lianne D. Yamamoto
 Title: Highway Safety Specialist
 Phone/E-Mail: (808) 587-6315 /
 lianne.yamamoto@hawaii.gov

Name: Lee Nagano
 Title: Highway Safety Manager
 Phone/E-Mail: (808) 587-6301 /
 leenagano@hawaii.gov

Lianne D. Yamamoto
 (Signature)

9/29/17
 (Date)

Lee Nagano
 (Signature)

9/29/17
 (Date)

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT – PART III

Grant No: DD18-10 (03-M-01)

Page 3 (To be completed by Highway Safety Office)

19. Addendum (For Highway Safety Office Use Only)

EXHIBIT II

SCHEDULE A

Grant No: DD18-10 (03-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.

Driving is a multi-tasking operation that involves manual, visual and cognitive tasks. Distracted driving is defined as any non-driving activity a person engages in, that has the potential to distract him or her from the primary task of driving and increases the risk of crashing.

In 2015, the National Highway Traffic Safety Administration (NHTSA) reported that 3,477 people were killed in crashes involving a distracted driver. This accounts for 10% of all crash fatalities. An additional 391,000 people were injured in motor vehicle crashes involving a distracted driver.

Drivers who use hand-held devices are four times more likely to be involved in a crash serious enough to injure them. (Source: Insurance Institute for Highway Safety).

Using a cell phone while driving, whether it is hand held or hands-free, delays a driver's reaction as much as having blood alcohol concentration at the legal limit of .08 percent (Source: University of Utah).

The 2016 Hawaii Seat Belt Survey, conducted by the University of Hawaii at Manoa during January 2016, showed that the statewide daytime cell phone use rate decreased from 2.84 to 1.75%. However, Maui County had the highest daytime cell phone use rate in the state at 1.88%.

On July 01, 2013, Act 74 took effect which became the Statewide Distracted Driving law which created a statewide ban of the use of a handheld mobile electronic device while operating a motor vehicle. The Maui Police Department's enforcement statistics show non-compliance with this section as shown in Table I.

Table I

Maui Police Department Mobile Device Citations (County wide)

C-YEAR	CITATIONS
2012	937
2013	2,752
2014	1,531
2015	1,301
2016	3,030
Total	9,551

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 Maui Police Department's (MPD) goal in FFY 2018 is to achieve the following:

1. Actively enforce the distracted driving law by issuing 1,250 or more citations for drivers using a hand held electronic device while driving on an overtime basis; and
2. Conduct 16 hours of overtime in conducting education at traffic safety events regarding distracted driving by September 30, 2018.

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.

To achieve this goal, the MPD will implement the following enforcement programs by September 30, 2018:

- Continue with electronic mobile device use enforcement activities on state and county roadways where there is a high volume of vehicular traffic in FFY 2018;
- Enhance electronic mobile device use enforcement by expending 625 hours for officer's overtime and issuing 1,250 or more citations for electronic mobile device use while driving and 60 other citations by September 30, 2018;
- Higher vehicle rentals (Jeep/Sport Utility Vehicles) would provide MPD with the ability to blend in with standard vehicular traffic to better identify violators;
- Expend 16 hours of overtime in conducting education at traffic safety events in by September 30, 2018;and
- Participate in the National Distracted Driving campaign during the month of April 2018, to include a press release.

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.

This project will be evaluated administratively by using the accomplishments of the following task objectives:

1. Record the number of grant funded citations from electronic mobile device enforcement operations conducted through September 30, 2018; and
2. Record the number of traffic safety events at which electronic mobile device flyers and pamphlets were distributed.

SCHEDULE B

Exhibit III

Page 1

Detailed Budget Estimate

Grant No: DD16-10 (03-M-01)

COST CATEGORY	COST ESTIMATES
A. Personnel Costs	
Overtime Enforcement PO9/L3 Pay Scale of \$62.56 + (fringe 68.22%) \$105.24 x 625 hours	\$65,775.00
Traffic Safety Event PO9/L3 Pay Scale of \$62.56 + (fringe 68.22%) \$105.24 x 16 hours	\$1,683.84
Category Sub-Total	\$67,458.84
B. Travel Expenses	
C. Contractual/Consultant Services	
D. Equipment	
E. Other Direct Costs	
SUV/Jeep rentals to better identify the MED violators. 1 vehicle @ \$79 x 10 days	\$790
Category Sub-Total	\$790
TOTAL	\$68,248.84

BUDGET NARRATIVE

PAGE # _____

Personnel Costs

The Maui Police Department (MPD) will conduct active and aggressive enforcement of the Distracted Driving and use grant funds for after-hours (overtime) funding of officers. Cost is based on an average overtime rate a Police Officer 9/L3 at the overtime rate of \$62.56 plus an estimated fringe rate of 68.22%. Total OT rate is about \$105.24 per hour. This rate of pay is based on the average officer participating and that some officers have a lower/higher pay rate. MPD will participate in the National Distracted Driving Awareness Month in April 2018.

MPD officers will conduct two or more traffic safety events using 16 hours of overtime. They will distribute flyers and pamphlets regarding the prohibited use of electronic mobile devices while operating a motor vehicle at the traffic safety events.

Travel Expenses

None

Contractual/Consultant Services

None

Equipment

None

Other Direct Costs

MPD will rent vehicles with elevated lift such as Jeeps and Sport Utility vehicles during MED enforcement efforts. This will increase the ability to see into vehicles and address violations.

EXHIBIT IV

SCHEDULE C

SCHEDULE C**Exhibit IV****Grant No: DD18-10 (03-M-01)**

MILESTONES		PAGE #
Month	Activity	
October 2017	Enforcement Education at Traffic Safety Event	
November 2017	Enforcement	
December 2017	Enforcement 1st quarter report	
January 2018	Enforcement Education at Traffic Safety Event	
February 2018	Enforcement	
March 2018	Enforcement Education at Traffic Safety Event 2nd quarter report	
April 2018	Enforcement National Distracted Driving Awareness Month	
May 2018	Enforcement	
June 2018	Enforcement 3rd quarter report	
July 2018	Enforcement Education at Traffic Safety Event	
August 2018	Enforcement	
September 2018	Enforcement 4th quarter and evaluation of program report	

SCHEDULE D

SCHEDULE D

AGREEMENT OF UNDERSTANDING & COMPLIANCE

Grant No: DD18-10 (03-M-01)

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:

REIMBURSEMENT OF ELIGIBLE EXPENDITURES

It is mutually agreed and promised that upon written application by APPLICANT and approval by STATE and the UNITED STATES DEPARTMENT OF TRANSPORTATION, STATE shall obligate said Federal funds to APPLICANT'S account for reimbursement of eligible expenditures as set forth in the application.

It is mutually agreed and promised that APPLICANT shall reimburse STATE for any ineligible or unauthorized expenditures for which Federal funds have been claimed and payment received as determined by a State or Federal audit. Costs are not allowable for construction, rehabilitation, remodeling, or for office furnishings and fixtures - for State, local or private buildings or structures. The following are examples of items considered as furnishings or fixtures, for which reimbursement is not eligible:

- | | | |
|------------|-----------------|-----------------------|
| Desks | Credenzas | Storage Cabinets |
| Chairs | Bookcases | Portable Partitions |
| Tables | Filing Cabinets | Pictures, Wall Clocks |
| Shelving | Floor Coverings | Draperies |
| Coat Racks | Office Planters | Fixed Lighting/Lamps |

It is further agreed and promised that where reimbursement is made to APPLICANT in installments, STATE shall have the right to withhold any installments to make up reimbursement received for any ineligible or unauthorized expenditures until such time as the ineligible claim is made up or corrected by APPLICANT.

PROPERTY AGREEMENT

It is mutually agreed and promised that the APPLICANT shall immediately notify the STATE if any equipment purchased under this project ceases to be used in the manner as set forth by the project agreement. In such event, APPLICANT further agrees to either give credit to the project cost or to another active Highway Safety project for the residual value of such equipment in an amount to be determined by the STATE, or to transfer or otherwise dispose of such equipment as directed by STATE.

It is mutually agreed and promised by the APPLICANT that no purchased equipment under this project will be conveyed, sold, salvaged, transferred, etc. without the express written approval of the STATE.

It is mutually agreed and promised that the APPLICANT shall maintain or cause to be maintained for its useful life, any equipment purchased under this project.

EQUAL OPPORTUNITY

It is mutually agreed and promised that pursuant to the requirements of Section 22 (a) of the Federal-Aid Highway Act of 1968, Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), and the Age Discrimination Act of 1975, the APPLICANT, as a condition to receiving approval of this application submitted under the Highway Safety Act of 1966, hereby gives its assurance that employment in connection with the subject Highway Safety Program project will be provided without regard to race, color, creed, sex, handicap, age, or national origin. The APPLICANT further agrees that, as a condition to receiving approval of this application, it will be subject to, and will comply with, Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 (hereinafter referred to as the Act), and all applicable requirements pursuant to the Regulations of the Department of Commerce (Title 15, Code of Federal Regulations, Part 8, which have been adopted by the Department of Transportation, and hereinafter referred to as the Regulations), to the end that, in accordance with the Act and the Regulations, no person in the United States shall on the ground of race, color, creed, sex, handicap, age, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the subject Highway Safety Program or project.

It is mutually agreed and promised that if the APPLICANT fails or refuses to comply with its undertaking as set forth in these provisions, the STATE of the UNITED STATES DEPARTMENT OF TRANSPORTATION may take any or all of these following actions.

- (1) Cancel, terminate, or suspend in whole or in part the agreement, contract, or other arrangement with respect to which the failure or refusal occurred; and

- (2) Refrain from extending any further Federal financial assistance to the applicant agency under the program with respect to which the failure or refusal occurred until satisfactory assurance of future compliance has been received from the applicant agency.

NON-DUPLICATION OF GRANT FUND EXPENDITURES

It is mutually agreed and promised that the APPLICANT has no ongoing or completed projects under agreement with any other Federal fund source which duplicate or overlap any work contemplated or described in this project.

It is mutually agreed and promised that the APPLICANT will either revise this project or revise any pending or proposed request for other Federal grant funds which would duplicate or overlap work under this project to exclude any such duplication of grant fund expenditures.

It is further mutually agreed and understood that the APPLICANT shall reimburse the STATE OF HAWAII for any such duplicate expenditures for which Federal grant funds have been claimed and payment received as determined by State or Federal audit.

PROJECT INCOME AND APPLICABLE CREDITS

It is mutually agreed and understood that the APPLICANT shall apply all proceeds or credits generated under the project, such as but not restricted to: The sale of real or personal property royalties received from copyrights and patents, sale of publications or from personal or incidental services, to the project in accordance with OMB Circular A-87 (FMC 74-7) or A-21, as applicable and NHTSA/FHWA Order 460-4/7510.1.

COPYRIGHTS AND PATENTS

It is mutually agreed that any copyrightable materials produced in the course of a project may be the property of the State or applicant agency; however, provisions should be made to obtain for the United States Government, the State Governments and their political subdivisions a royalty-free nonexclusive, and irrevocable license to use in any manner such copyrightable material.

It is mutually agreed that the ownership of all rights accruing from any patentable discoveries or inventions resulting from a project should be covered in the agreement. An irrevocable, nonexclusive, nontransferable, and royalty-free license to practice each discovery or invention in the manufacture, use and disposition, according to law, of any article or material, and in the use of any method developed as part of the work under the agreement should be obtained for the United States Government, the State Governments and their political subdivisions.

MINORITY BUSINESS ENTERPRISE REQUIREMENTS

It is the policy of the Department of Transportation that minority business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the MBE requirements of 49 CFR Part 23 apply to this agreement.

The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

REQUIREMENTS

It is mutually agreed and promised that the applicant shall follow the State and Federal requirements and guidelines set forth in the State of Hawaii Project Procedures Manual as amended. All project expenditure records are to be retained for at least three years after the date of the final expenditure report.

AUTHORIZATION TO PROCEED

It is mutually agreed between the STATE and the APPLICANT that this AGREEMENT OF UNDERSTANDING AND COMPLIANCE shall become effective upon the STATE'S agreement and authorization to proceed as set forth in PART II (2) of this application.

The following is taken from Appendix A to Part 1200 – Certification and Assurances for Highway Safety Grants (23 U.S.C. Chapter 4):

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. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (Pub. L. 101-336), as amended (42 U.S.C. 12101, *et seq.*), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100-259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Sections 523 and 527 of the Public Health Service Act

of 1912, as amended (42 U.S.C. 290dd-3 and 290ee-3), relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, *et seq.*), relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

THE DRUG-FREE WORKPLACE ACT OF 1988 (41 U.S.C. 8103)

The State will provide a drug-free workplace by:

- Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- Establishing a drug-free awareness program to inform employees about:
 - The dangers of drug abuse in the workplace.
 - The grantee's policy of maintaining a drug-free workplace.
 - Any available drug counseling, rehabilitation, and employee assistance programs.
 - The penalties that may be imposed upon employees for drug violations occurring in the workplace.
 - Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
- Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—
 - Abide by the terms of the statement.
 - Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.
- Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction.
- Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—
 - Taking appropriate personnel action against such an employee, up to and including termination.
 - Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

BUY AMERICA ACT

(applies to subrecipients as well as States)

The State will comply with the provisions of the Buy America Act (49 U.S.C. 5323(j)), which contains the following requirements:

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases 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. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

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 Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.
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 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 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 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.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *proposal*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary 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 participant further agrees by submitting this proposal that it will include the clause titled "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.
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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
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 this transaction for cause or default.

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

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded 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 record, 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 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 Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
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 and/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, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. 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 "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. (See below)
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 may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.

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 and/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 participation in this transaction 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.

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 on how to implement such a program, or statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's Web site at www.nhtsa.dot.gov. Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in the Washington, DC metropolitan area, and dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to provide technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 90 percent seat belt use. NETS can be contacted at 1 (888) 221-0045 or visit its Web site at www.trafficsafety.org.

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 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.