



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

POLICE DEPARTMENT

COUNTY OF MAUI

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

October 23, 2018



TIVOLI S. FAAUMU
CHIEF OF POLICE

DEAN M. RICKARD
DEPUTY CHIEF OF POLICE

Mr. Sananda Baz
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

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: DEPARTMENT OF TRANSPORTATION HIGHWAY SAFETY GRANTS

In accordance with Ordinance No. 4861, Bill 57 (2018) Fiscal Year 2019 Budget, we are hereby transmitting to you a copy of the grant agreement with the State of Hawaii, Department of Transportation for the MPD Seat Belt Enforcement grant for the period of October 1, 2018 to September 30, 2019 in the amount of \$100,766.10.

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

APPROVED FOR TRANSMITTAL

 10/26/18
Mayor Date

RECEIVED
2018 NOV -1 PM 3:32
OFFICE OF THE
COUNTY CLERK

COUNTY COMMUNICATION NO. 18-401

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT

Grant No: OP19-05 (01-M-03)

Page 1 (To be completed by applicant agency)

1. Grant Title

MPD SEATBELT PROGRAM

2. Name and Address of Applicant Agency

MPD Traffic Section
55 Mahalani Street
Wailuku, HI 96793

4.

Duration

Month – Day – Year

A. Grant Period

From: October 01, 2018

To: September 30, 2019

B. Project Period

From: October 01, 2018

To: September 30, 2019

3. Agency Unit to Handle Grant (Name and Address)

Maui Police Department
55 Mahalani Street
Wailuku, HI 96793

5. Location of Project

MPD Traffic Section
55 Mahalani Street
Wailuku, HI 96793
(808)244-6346

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 Maui Police Department will continue to provide after-hours enforcement of the occupant protection laws on drivers and passengers of motor vehicles being operated on the public roadways. The goal of this enforcement is to reduce injuries and fatalities in motor vehicle crashes. The Maui Police Department will also participate in the national Click-It-or-Ticket campaign. MPD will expend 830 hours of overtime enforcement and issue 1,660 or more citations.

8. Federal funds allocated under this agreement shall not exceed

\$100,766.10

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)

(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)

(Date)

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT - PART II

Grant No: OP19-05 (01-M-03)

Page 2 (To be completed by Highway Safety Office)

10. Grantee: Maui Police Department

11. Standard Area: Occupant Protection

13a. Federal Fiscal Year: 2019

12. Effective Date of Agreement: Oct 1, 2018 - Sep 30, 2019

13b. Addendum: ☐ Yes ☒ No

14. Benefit of : ☐ State ☒ County

15. Action Taken

Grant agreement approved.

16. Funding Disposition & Status

Fiscal Year	Amount
2015 _____	120,225.00 _____
2016 _____	119,587.50 _____
2017 _____	112,170.00 _____
2018 _____	105,850.00 _____
2019 _____	100,766.10 _____
Total	\$558,598.60
Present Obligation	\$100,766.10
Previously Obligated	\$457,832.50 _____
TOTAL FUNDS OBLIGATED	\$558,598.60

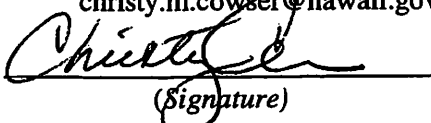
17. Budget Summary (From Schedule B - Detailed Budget Estimate) - Fiscal Year Grant Period Ending: Sep 30, 2019

Cost Category	Cost Estimates
A. Personnel Costs	100,156.10
B. Travel Expenses	610.00
C. Contractual/Consultant Services	0.00
D. Equipment	0.00
E. Other Direct Costs	0.00
TOTAL FEDERAL FUNDS	\$ 100,766.10

18. Grant Approval & Authorization to Expend Obligated Funds

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

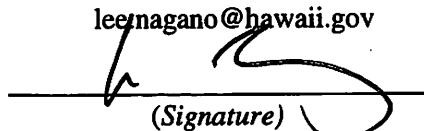
Name: Christy Cowser
Title: Highway Safety Specialist
Phone/E-Mail: (808)587-2360 /
 christy.m.cowser@hawaii.gov


 (Signature)

9/28/18
 (Date)

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

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


 (Signature)

9/28/18
 (Date)

STATE OF HAWAII HIGHWAY SAFETY OFFICE

GRANT AGREEMENT – PART III

Grant No: OP19-05 (01-M-03)

Page 3 (To be completed by Highway Safety Office)

19. Addendum (For Highway Safety Office Use Only)

EXHIBIT II

SCHEDULE A

Grant No: OP19-05 (01-M-03)

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.

Unrestrained drivers and occupants suffer serious and sometimes fatal injuries in motor vehicle crashes which may have been prevented had they been using the vehicle's passenger restraint systems. By vigorously enforcing the motor vehicle occupant protection laws, we hope to reduce the number of persons fatally injured in crashes.

In 2015 there were 22,441 occupants of passenger vehicles killed in motor vehicle traffic crashes. Of these 22,441 occupants, 10,635 (52%) were known to be restrained. Looking at only occupants where the restraint status was known, 48 percent were unrestrained at the time of the crash. Restraint use was not known for 1,932 occupants. (source: USDOT, NHTSA National Center for Statistics and Analysis)

Maui County summary of unrestrained fatalities

	Number Fatal Crashes	Unrestrained fatalities (operators & passengers)	% of unrestrained fatalities
2014	21	5	23%
2015	21	4	19%
2016	21	9	42%
2017	18	9	50%
TOTAL	81	27	34%

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 Maui County are listed below:

1. Expend 830 overtime hours in occupant protection enforcement and issue 1,660 or more occupant protection citations by September 30, 2019.

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. To conduct active enforcement of the occupant protection laws primarily during the off-peak traffic times between 05:00pm to 11:59pm;
2. To conduct at least one (1) night time checkpoint per quarter of the grant period;
3. Participate in the national Click-It-or-Ticket campaign by conducting checkpoints in areas of low compliance;
4. To conduct at least two (2) earned media coverage during the grant period;
5. Two MPD personnel to attend in the State Click-It-or-Ticket proclamation held at the State Capitol on Oahu; and
6. Issue 1,660 occupant protection violation citations and one hundred (100) Other citations (mobile electronic device/illegal window tints) on State and County roadways by September 30, 2019.

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.

The Maui Police Department will evaluate the progress of the grant activities by including in the quarterly report the number of seatbelt citations; number of child restraint citations; the number of "Other" citations issued while enforcing the occupant protection laws. Also, we will be providing evidence of media coverage demonstrating the objectives that are being met. These will be sent with the quarterly report to the Highway Safety Office.

Effectiveness of the grant goals and objectives and whether or not the grant was cost-effective will be achieved by analyzing the year-end data on traffic fatalities and surveys and comparing them to the previous data.

SCHEDULE B-1
Grant No: OP19-05 (01-M-03)

BUDGET NARRATIVE

PAGE #1

Personnel Costs

Maui Police Department with conduct active and aggressive enforcement of the occupant protection laws using the grant funds for after-hours (overtime) funding of officers. Cost is based on an average overtime rate using a Police Officer 9/L3 at the overtime hourly rate of \$66.39 plus an estimate fringe fate of 81.76%. Total overtime rate is \$120.67 per hour. This rate of pay is based on the average officer participating in the programs overtime enforcement. Some officers will have a lower/higher pay rate. Using 830 hours of overtime.

Travel Expenses

Two officers to attend the Click It or Ticket proclamation press conference held on Oahu.

Contractual/Consultant Services

None.

Equipment

None.

Total

Exhibit III

Page 1

Detailed Budget Estimate
Grant No: OP19-05 (01-M-03)

COST CATEGORY		COST ESTIMATES	
A. Personnel Costs			
<u>Employee Salaries and Benefits</u> <u>Child Restraint Enforcement</u> Position Title(s) and Overtime Hourly Rate(s) PO 9/L3 @66.39 hr. + fringe (81.76) = \$120.67 Time to be spent on project: 830 hours			
		100,156.10	
Category Sub-Total		100,156.10	
B. Travel Expenses			
<u>In-State</u> Event: CIOT State Proclamation Press Release Air Travel: 2 people \$250.00 per trip ea. To: <u>Honolulu, HI</u> From: <u>Kahului, HI</u> Surface Travel: Car Rental (daily rate, # of days, fuel, taxes, etc.) \$70.00 day Private Car: (_____ miles @ _____ per mile) Per Diem: 2 @ \$20.00 ea. _____ days @ \$ _____ per day Baggage Fee:			
		500.00	
		70.00	
		40.00	

SCHEDULE B**Exhibit III****Page 2****Detailed Budget Estimate
Grant No: OP19-05 (01-M-03)**

COST CATEGORY	COST ESTIMATES
Category Sub-Total	610.00
C. Contractual/Consultant Services	
None.	
Category Sub-Total	0.00
D. Equipment	
None.	
Category Sub-Total	0.00
E. Other Direct Costs	
None.	
Category Sub-Total	0.00
GRANT TOTAL	100,766.10

EXHIBIT IV

SCHEDULE C

SCHEDULE C**Exhibit IV****Grant No: OP19-05 (01-M-03)**

MILESTONES		PAGE #1
Month	Activity	
October 2018	Enforcement	
November 2018	Enforcement Night time enforcement	
December 2018	Enforcement 1st quarter report	
January 2019	Enforcement	
February 2019	Enforcement Night time enforcement	
March 2019	Enforcement 2nd quarter report	
April 2019	Enforcement	
May 2019	Enforcement Click-It-Or-Ticket Campaign CIOT Event Proclamation Night time enforcement	
June 2019	Enforcement 3rd quarter report	
July 2019	Enforcement	
August 2019	Enforcement Night time enforcement	
September 2019	Enforcement 4th quarter report and Evaluation of program report	

Hawaii

SCHEDULE D

SCHEDULE D

Certifications and Assurances for Fiscal Year 2019 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.