

MICHAEL P. VICTORINO  
Mayor

DON S. GUZMAN  
Prosecuting Attorney

ROBERT D. RIVERA  
First Deputy Prosecuting Attorney

ANDREW H. MARTIN  
Second Deputy Prosecuting Attorney



RECEIVED  
2019 DEC -5 AM 10:44  
OFFICE OF THE MAYOR

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

December 4, 2019

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

APPROVED FOR TRANSMITTAL

*Michael P. Victorino*  
\_\_\_\_\_  
Mayor Date

For Transmittal to:

Honorable Kelly King, Chair  
and Members of Maui County Council  
200 South High Street  
Wailuku, Hawaii 96793

**SUBJECT: MAUI PROSECUTOR'S OFFICE TRAFFIC RECORDS**

Dear Chair King:

In accordance with Ordinance No. 4988 Bill 36 (2019) Fiscal Year 2020 Budget, we are hereby transmitting to you a copy of the notice of grant award from the State of Hawaii, Department of Transportation for the program listed above, grant number TR-20-03 (08-M-01) for the period of October 1, 2019 – September 30, 2020 in the total amount of \$10,636.89.

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

Attachment

COUNTY COMMUNICATION NO. 19-498

DAVID Y. IGE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

JADE T. BUTAY  
DIRECTOR

Deputy Directors  
LYNN A.S. ARAKI-REGAN  
DEREK J. CHOW  
ROSS M. HIGASHI  
EDWIN H. SNIFFEN

IN REPLY REFER TO:

HWY-V 9.6306

November 27, 2019

Mr. Donald S. Guzman  
Prosecuting Attorney  
County of Maui  
150 South High Street  
Wailuku, Hawaii 96793

RECEIVED  
PROSECUTOR'S OFFICE  
2019 DEC -3 AM 9:04  
COUNTY OF MAUI  
WAILUKU, HI 96793

Dear Mr. Guzman:

Enclosed for your action is a copy of the approved highway safety reimbursement project No. TR20-03 (08-M-01), entitled "Maui Prosecutor's Office Traffic Records." A total of \$10,636.89 has been obligated to the project.

The grant funds will be used to work with a contractor to interface with the e-citation pilot project on Maui. The funds will also be used for travel to the International Forum on Traffic Records, as well as to attend e-citation subcommittee meetings.

Progress reports must be submitted quarterly within 15 days (ending December, March, June and September) and a final report must be submitted within 30 days of the end of the grant period. A quarterly report must be submitted even if no activities were done during that quarter. Reimbursement claims must be submitted in accordance with the agreement (monthly or quarterly) by the 20th of the month following the claim period. A claim must be submitted even if no expenditures were made.

This grant will be funded using National Highway Traffic Safety Administration FAST Act Section 405c program funds. Due to the federal budgeting process, the program funding source is subject to change. The project is subject to the audit requirements of 2 CFR §200 Subpart F. Note that the Assistance Listings Number (formerly known as Catalog of Federal Domestic Assistance (CFDA) Program Number) and Title that this project should be associated with in the Schedule of Federal Assistance Programs section of your single agency audit report are: Department of Transportation/CFDA 20.616 – National Priority Safety Programs. A copy of the single audit report covering the grant period must be sent to the Hawaii Department of Transportation – Highway Safety Section, 98-339 Ponohana Place, Aiea, Hawaii 96701.

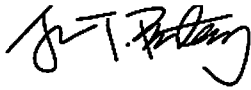
Mr. Donald S. Guzman  
November 27, 2019  
Page 2

HWY-V 9.6306

Within 60 days of the date of project approval, the Highway Safety Section should be advised of your cognizant Federal audit agency and of when you anticipate the audit report covering the period of this grant to be issued.

If you have any questions, please contact Karen Kahikina at (808) 587-2355 or email at Karen.G.Kahikina@hawaii.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jade T. Butay", with a stylized flourish at the end.

JADE T. BUTAY  
Director of Transportation

Enclosure

**STATE OF HAWAII HIGHWAY SAFETY SECTION**

**GRANT AGREEMENT**

Grant No: TR-20-03 (10-M-01)  
*OR*

**Page 1 (To be completed by applicant agency)**

**1. Grant Title**

Maui County, Prosecutor's Office - 2020 Traffic Records

**2. Name and Address of Applicant Agency**

Department of the Prosecuting Attorney, County of Maui  
150 S. High Street  
Wailuku, HI 96793

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

District Court Unit  
150 S. High Street  
Wailuku, HI 96793

**4.**

**Duration**

Month – Day – Year

**A. Grant Period**

From: October 1, 2019  
To: September 30, 2020

**B. Project Period**

From: October 1, 2019  
To: September 30, 2020

**5. Location of Project**

150 S. High St.  
Wailuku, HI 96793

**6a. Type of Application**

(Check Appropriate Item)

☒ Initial ☐ Revision

**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 District Court Division of the Department of the Prosecuting Attorney proposes to prioritize their efforts in collaborating with the Maui Police Department to implement electronic issuance of traffic citations and data to state agencies by September 30, 2020. Both Departments will attend the International Forum of Traffic Records in 2020, attend E-Citation Committee Meetings bi-monthly with other counties on Oahu to continue to implement this project and achieve the goal of electronic issuance of traffic citations and other data.

**8. Federal funds allocated under this agreement shall not exceed**

\$ 10,636.89


**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

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


  
(Signature)

11-4-19  
(Date)

**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:** Susan.S.Clements@co.maui.hi.us

  
(Signature)

11-4-19  
(Date)

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

**Grant No: TR20-03 (08-M-01)**

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

**10. Grantee:** Department of the Prosecuting Attorney, County of Maui

**11. Standard Area:** Traffic Records

**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	\$ 14,950.00
2017	\$ 13,230.00
2018	\$ 8,490.00
2019	\$ 18,000.00
2020	\$ 10,636.89
Total	\$ 65,306.89
Present Obligation	\$ 10,636.89
Previously Obligated	\$ 54,670.00
<b>TOTAL FUNDS OBLIGATED</b>	<b>\$ 65,306.89</b>

**17. Budget Summary (from Schedule B - Detailed Budget Estimate)**

Cost Category	Original Cost	Current Cost Estimates
A. Personnel Costs	\$ -	\$ -
B. Travel Expense	\$ 7,466.00	
C. Contractual/Consultant Services	\$ 3,170.89	
D. Equipment	\$ -	\$ -
E. Other Direct Costs	\$ -	\$ -
<b>TOTAL FEDERAL FUNDS</b>	<b>\$ 10,636.89</b>	<b>\$ -</b>

**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	
<b>Name:</b>	Karen Kahikina	<b>Name:</b>	Lee Nagano
<b>Title:</b>	Highway Safety Specialist	<b>Title:</b>	Acting MVSO Administrator
<b>Phone</b>	587-2355	<b>Phone</b>	587-6301
<b>Email:</b>	<a href="mailto:karen.g.kahikina@hawaii.gov">karen.g.kahikina@hawaii.gov</a>	<b>Email:</b>	<a href="mailto:lee.nagano@hawaii.gov">lee.nagano@hawaii.gov</a>
			
<hr/>		<hr/>	
(Signature)		(Signature)	
10/1/2019		10/1/19	
(Date)		(Date)	

**STATE OF HAWAII HIGHWAY SAFETY SECTION**

**GRANT AGREEMENT – PART III**

Grant No: TR-20-03 <sup>08</sup>✓✓✓  
(10-M-01)

**Page 3 (To be completed by Highway Safety Section)**

**19. Addendum (For Highway Safety Section Use Only)**

**SCHEDULE A**

**SCHEDULE A**  
**GRANT DESCRIPTION**  
**Federal Fiscal Year 2020**

**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.*

The current population of Maui County is estimated at 166,260 (July 1, 2017). That represents a 7.4% change in population between April 1, 2010 and July 1, 2015.<sup>1</sup> Vehicle miles of travel (VMT), a key driving indicator, has risen each year (after a brief post-recession dip in 2009), and as of 2014 was almost 15% percent higher compared to 2009.<sup>2</sup> In 2015, the VMT in Maui County continued to increase as compared to 2014.<sup>3</sup> In turn, this can negatively affect traffic patterns and traffic safety, and increases the transmittal of hard copies of traffic citations and accident reports, especially as traffic enforcement increases.

Traffic data on citations and motor vehicle accident reports are being transmitted via hard copies and then reentered into a data base. This method of data transmittal and retrieval is outdated and slow. It hampers the ability of the department and other agencies to obtain current and accurate data.

For example, there were approximately 1199 criminal traffic cases received between October 1, 2017, and September 30, 2018. This does not include dozens, if not hundreds of traffic crimes such as Driving Without a License, traffic violations such as No No-Fault Insurance, and civil traffic infractions such as speeding and electronic mobile device use, that are brought to court hearing and prosecuted. These citations currently come to us through the Judiciary's JIMS system, in both hand-written and e-citation format.

Last fiscal year, our department acquired seven licenses for access through the Thin Blue Line prosecutor's portal to e-citations issued by MPD. At the end of the pilot program, we asked prosecutors and staff take a survey to determine if (1) the e-citation program itself, and (2) direct portal access to e-citations within the Prosecutor's department, has furthered the goal of improving expediency and accuracy in intake and screening of traffic crimes and violations that are set for hearing and/or trial. Prosecutors reported that they used the Thin Blue Line system "regularly" when screening and prosecuting, primarily with regards to accessing any photographs or evidence that the citing officer took. This evidence was used to ID the Defendant at trial, as well as used as evidentiary exhibits. Direct access to citations was also useful when staff or prosecutors are informed that citations may be written under the wrong code, and use access to suggest changes.

Periodic access to evidence attached to the citations was also useful to evaluate the quality of the evidence that was being obtained by the police officers, and to offer suggestions on improving the type of evidence that could be used to obtain convictions on citations at trial. The consensus from staff is that e-citations (in general) have improved prosecutor's and staff's efficiency in intake and screening of cases, since there is a correlating reduction in typographical and/or penmanship errors with e-citations vs. hand-written citations. In other words, screening and intake is more efficient when evaluating typed e-citations.

<sup>1</sup> U.S. Census Bureau.

<sup>2</sup> Source: 2014 State Data Book, as cited in HawaiiBusiness, "As the Nation Turns, Hawaii is Still Driven," <http://www.hawaiibusiness.com/as-the-nation-turns-hawaii-is-still-driven/> (Nov. 2014).

<sup>3</sup> Source: 2015 State Data Book.



## ANNUAL EVALUATION REPORT SUMMARY

	2013	2014	2015	2016
Population	1,406,481	1,416,349	1,425,157	1,428,557
Vehicle Miles Traveled (Millions) – VMT	10,099	10,174	10,301	N/A
Traffic Fatalities	102	95	93	120
Traffic Fatalities & Serious Injuries	590	607	N/A	N/A
VMT Fatality Rate	1.01	.93	.90	N/A
VMT Fatality & Serious Injury Rate	5.84	5.97	4.45	N/A
Population Fatality Rate (100,000)	7.25	6.71	6.53	8.40
Registered Vehicle Fatality Rate	7.44	7.24	7.45	N/A
Population Fatality & Serious Injury Rate (100,000)	41.95	42.86	32.14	N/A
Alcohol-Impaired Driving Fatalities (BAC=.08+)	34	30	34	34
VMT Alcohol Fatality Rate	.34	.29	.33	N/A
Percent Population Using Seat Belts	94%	94%	93%	95%
Percent Fatal Vehicle Occupants Unbelted	55%	47%	41%	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 of this grant are to:

1. To assist Maui Police Department and the Hawaii Judiciary to continue to implement electronic issuance of traffic citations and data through state agencies with an anticipated goal of September 30, 2020.
2. To continue to assist in the transition to electronic citations for the County of Maui and the Hawaii Judiciary with an anticipated goal of September 30, 2020.
3. Improve efficiency of screening and intake of traffic cases, and decrease time it takes to access information and evidence used to prosecute traffic cases through the use of the Thin Blue Line e-citation portal system, with an anticipated goal of 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.*

The grant activities that will be conducted to achieve the grant goals are:

1. Send one Prosecuting Attorney and one Deputy Prosecutors to attend the 2020 International Forum on Traffic to obtain information on how to improve the accuracy on traffic records and highway safety data, apply performance goals/measures in traffic records system improvements, implement a model traffic records system, organize and

operate a successful traffic records committee, recognize the importance of standards and guidelines for traffic records systems, become acquainted with new technologies and ideas, network with a variety of transportation and highway safety professionals and discover how better data can help save lives.

2. Participation in the portal program with Thin Blue Line for E-Citations, with the goal to improves expediency and accuracy in intake and screening of traffic crimes and violations that are set for hearing and/or trial.

#### **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 Prosecutors office will evaluate the progress of the grant activities and include this progress in the quarterly reports to the Highway Safety Office. The Maui Prosecutors Office will document any requests for assistance from the Maui Police Department and the State Judiciary in terms of those agency's efforts to reaching its goal of initiating electronic issuance of traffic citations and data to state agencies. At the end of the e-citation portal program within Thin Blue Line, we will have prosecutors and staff take a survey to determine if (1) the e-citation program itself, and (2) direct portal access to e-citations within the Prosecutor's department, has furthered the goal of improving expediency and accuracy in intake and screening of traffic crimes and violations that are set for hearing and/or trial.

**SCHEDULE B**  
**DETAILED BUDGET ESTIMATE**  
**Federal Fiscal Year 2020**

COST CATEGORY	COST ESTIMATES
<b>A. Personnel Costs</b>	
<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	
<b>Category Sub-Total</b>	<b>\$0.00</b>
<b>B. Travel Expenses</b>	
<u>In-State</u>	
Event/Conference: E-Citation Meetings (6 Meetings)	
Number of Travelers: _____ 1 _____	
Air Travel: roundtrips To: <u>Honolulu</u> From: <u>Maui</u> \$230 x 6 round trips	\$ 1,380.00
Surface Travel: Shuttle/Taxi	
Car Rental (daily rate, # of days, fuel, taxes, etc.) \$51x6	\$ 306.00
Private Car: ( _____ miles @ _____ per mile)	
Airport Parking: \$15 x 6 trips = \$90	\$ 90.00
Excess Lodging:	

_____ nights @ \$_____ per night	
Per Diem: _____ days @ \$_____ per day	
Baggage Fee:	
Tuition, Course, Registration and Miscellaneous Fees: Individual cost: _____ x No. of attendees: _____	
Sub-Total:	\$1,776.00
<b><u>Out-of-State</u></b>	
Event/Conference: 2020 International forum of Traffic Records	
Number of Travelers: _____ 2 _____	
Air Travel: \$1,000X 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: _____ 5 _____ nights @ \$_____ 85.00 _____ per night X 2	\$850.00
Per Diem: _____ 24 _____ qtrs @ \$_____ 36.25 _____ per dayX 2	\$1,740.00
Baggage Fee: \$50 X 2	\$100.00
Tuition, Course, Registration and Miscellaneous Fees: Individual cost: _____ \$450 _____ x No. of attendees: _____ 2 _____	\$900.00
Sub-Total:	\$5,690.00
<b>Category Sub-Total</b>	<b>\$7,466.00</b>
<b>C. Contractual/Consultant Services</b>	
Current Thin Blue Line Contract - License / SOW for access to e-citation data	\$3,170.89

<b>Category Sub-Total</b>		<b>\$3,170.89</b>
<b>D. Equipment</b>		
<b>Category Sub-Total</b>		<b>\$0.00</b>
<b>E. Other Direct Costs</b>		
<b>Category Sub-Total</b>		<b>\$0.00</b>
<b>GRANT TOTAL</b>		<b>\$10,636.89</b>

BUDGET NARRATIVE		PAGE # <u>1</u>
<b><u>Travel Expenses</u></b>		
1) E-Citation meeting with other state departments and agencies on a regular basis (once every two months) with the e-citation subcommittee.		
2) Attend FY 2020 International Forum on Traffic Records conference for two Deputy Prosecuting Attorneys, with location to be announced. Through attending this conference, the prosecuting attorneys will obtain and disseminate the latest information and trends in traffic records and e-citation, and will learn how to prosecute traffic cases more efficiently and use this data to improve enforcement of traffic cases.		
<b><u>SUBTOTAL:</u></b>		<b>\$1,776.00</b>
2) Attend FY 2020 International Forum on Traffic Records conference for two Deputy Prosecuting Attorneys, with location to be announced. Through attending this conference, the prosecuting attorneys will obtain and disseminate the latest information and trends in traffic records and e-citation, and will learn how to prosecute traffic cases more efficiently and use this data to improve enforcement of traffic cases.		
<b><u>SUBTOTAL:</u></b>		<b>\$5,690.00</b>

BUDGET NARRATIVE		PAGE # <u>1</u>
CATEGORY SUB-TOTAL		\$7,466.00
<b><u>Contractual/Consultant Services</u></b>		
1) Thin Blue Line Contract - E-citation portal program for our District Court Attorneys to have access to real time or near real-time data and digital evidence created by the Maui Police Department and made available through a secure online portal.		
<b><u>SUBTOTAL:</u></b>		\$3,170.89
CATEGORY SUB-TOTAL		\$3,170.89
GRAND TOTAL		\$10,636.89

## **SCHEDULE C**



**SCHEDULE C**  
**Grant No: TR-20--03 (18-M-01)**

**Grant No: TR-20--03 (18-M-01)**

[illegible]

## **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.