

INTRADEPARTMENTAL CORRESPONDENCE

20-0183
RECEIVED

NOV 25 2020

POLICE COMMISSION

November 11, 2020
14.1

TO: The Honorable Board of Police Commissioners

REVIEWED *[Signature]* 11/25/20
RICHARD M. TEFANK DATE
EXECUTIVE DIRECTOR

FROM: Chief of Police

SUBJECT: BUDGET MODIFICATION FOR THE 2019-2020 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT – (COUNCIL FILE #19-0990)

RECOMMENDED ACTIONS

1. That the Board of Police Commissioners (Board) REVIEW and APPROVE this report.
2. That the Board TRANSMIT the attached grant modifications, pursuant to Administrative Code Section 14.6(a), to the Mayor, Office of the City Administrative Officer (CAO), Office of the Chief Legislative Analyst and to the City Clerk for Committee and City Council reference.
3. That the Board REQUEST the Mayor and City Council to:
 - A. AUTHORIZE the Los Angeles Police Department (LAPD) to transfer funds totaling \$108,909 within the 2019-2020 Selective Traffic Enforcement Program (STEP) Grant, approved by the California Office of Traffic Safety, as follows:

Category	Current Budget	Change	New Budget
Personnel Costs	\$ 4,822,000	\$ 103,919	\$ 4,925,919
Travel (Out-of-State)	\$ 10,000	\$ (8)	\$ 9,992
Contractual Services	\$ 40,000	\$ 0	\$ 40,000
Other Direct Costs (Supplies)	\$ 128,000	\$ (108,901)	\$ 19,099
Other Direct Costs (Software)	\$ 0	\$ 4,990	\$ 4,990
Total	\$ 5,000,000	\$ 0	\$ 5,000,000

- B. AUTHORIZE the Controller to transfer appropriations as follows:

<u>From</u>	<u>Fund No</u>	<u>Account No</u>	<u>Amount</u>
2019-2020 STEP Grant	339	70S527	\$103,919
 <u>To</u>	 <u>Fund No</u>	 <u>Account No</u>	 <u>Amount</u>
Sworn Overtime	100	001092	\$51,000
Civilian Overtime	100	001090	\$52,919

- C. AUTHORIZE the LAPD to prepare Controller Instructions for any technical adjustments, subject to the approval of the CAO, and AUTHORIZE and INSTRUCT the Controller to implement the instructions.

DISCUSSION

The LAPD is seeking approval to transfer funds totaling \$108,909 within the 2019-2020 STEP grant budget. The California Office of Traffic Safety has approved funds to be transferred from the Out-of-State Travel and Supplies budget categories to the Overtime and Software budget categories. This budget modification allows the Department to fund sworn and civilian overtime to conduct 18 additional grant-related traffic enforcement operations and 46 additional grant-related driving under the influence saturation patrols as well as fund software for traffic-related equipment.

If you have any questions, please contact Senior Management Analyst II Stella Larracas, Grants Section, Risk Management Legal Affairs Group, at (213) 486-0380.

Respectfully,



MICHEL R. MOORE
Chief of Police

BOARD OF
POLICE COMMISSIONERS
Approved December 8, 2020
Secretary *Maria Libra*

Attachments

INTRADEPARTMENTAL CORRESPONDENCE

November 11, 2020
14.1

TO: Chief of Police

FROM: Commanding Officer, Risk Management Legal Affairs Group

SUBJECT: BUDGET MODIFICATION FOR THE 2019-2020 SELECTIVE TRAFFIC ENFORCEMENT PROGRAM GRANT – (COUNCIL FILE #19-0990)

Attached for your approval and signature is an Intradepartmental Correspondence to the Board of Police Commissioners, seeking approval to transmit the attached budget modification, transferring funds totaling \$108,909 within the 2019-2020 Selective Traffic Enforcement Program (STEP) Grant budget. The California Office of Traffic Safety has approved funds to be transferred from the Out-of-State Travel and Supplies budget categories to the Overtime and Software budget categories. This budget modification allows the Department to fund sworn and civilian overtime to conduct 18 additional grant-related traffic enforcement operations and 46 additional grant-related driving under the influence saturation patrols as well as fund software for traffic-related equipment.


If you have any questions, please contact Senior Management Analyst II Stella Larracas, Grants Section, Risk Management Legal Affairs Group, at (213) 486-0380.



DANIEL RANDOLPH, Commander
Commanding Officer
Risk Management Legal Affairs Group

Attachments

10. PROJECTED EXPENDITURES

FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
405d AL-20	20.616	0521-0890-101	2019	2019	23/19	\$300,000.00
402PT-20	20.600	0521-0890-101	2019	2019	23/19	\$1,500,000.00
164 AL-20	20.608	0521-0890-101	2019	2019	23/19	\$3,200,000.00
					AGREEMENT TOTAL	\$5,000,000.00
<i>I CERTIFY upon my own personal knowledge that the budgeted funds for the current budget year are available for the period and purpose of the expenditure stated above.</i>					AMOUNT ENCUMBERED BY THIS DOCUMENT \$5,000,000.00	
					PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT \$ 0.00	
					TOTAL AMOUNT ENCUMBERED TO DATE \$5,000,000.00	
OTS ACCOUNTING OFFICER'S SIGNATURE 			DATE SIGNED			

1. PROBLEM STATEMENT

The City of Los Angeles (City) has a population of approximately 4 million community members and covers over 468 square miles. Within the City, there are approximately 7,500 miles of street, 10,750 miles of sidewalks, and 40,000 intersections. Over the last year, the City has seen an increase in almost every category of traffic collisions, including overall fatal and injury, pedestrian injury, bicycle fatal, motorcycle injury, hit and run fatal and injury, nighttime fatal and injury, right of way fatal and pedestrian fatal and injury traffic collisions. The below statistics highlight this upward trend:

- Fatal collisions have increased two percent from 235 in 2017 to 239 in 2018;
- Injury collisions have increased two percent from 22,635 in 2017 to 23,078 in 2018;
- Pedestrian injury collisions have increased three percent from 3,138 in 2017 to 3,242 in 2018;
- Pedestrian fatal collisions have increased 15 percent from 110 in 2017 to 130 in 2018.
- Pedestrian injury collisions have increased 36 percent from 2,088 in 2017 to 3,242 in 2018.
- Bicycle fatal collisions have increased 15 percent from 17 in 2017 to 20 in 2018;
- Motorcycle injury collisions have increased 15 percent from 634 in 2017 to 747 in 2018;
- Hit and Run fatal collisions have increased 11 percent from 48 in 2017 to 54 in 2018;
- Hit and Run injury collisions have increased one percent from 4,880 in 2017 to 4,936 in 2018;
- Nighttime fatal collisions have increased 11 percent from 71 in 2017 to 80 in 2018;
- Nighttime injury collisions have increased 14 percent from 2,980 in 2017 to 3,453 in 2018;
- Right of Way fatal collisions have increased 41 percent from 19 in 2017 to 32 in 2018; In 2018, nearly 700 people were killed or injured in driving under the influence (DUI) and driving under the influence of drugs (DUID) traffic collisions in the City. On January 1, 2018, the use of recreational marijuana was legalized. In January 2018, Proposition 64 legalized the recreational sales of cannabis in California. As a result, cannabis is not only legal to possess and use, but readily available to the public. Therefore, increased DUID education and enforcement is needed to address the anticipated increase in related traffic collisions.

Over the last year, the City has taken a very proactive approach to improve road designs to accommodate and encourage community to walk and cycle. As more community members are opting for public transportation, the City has placed an emphasis on addressing the “first and last mile” and providing options to encourage public transportation. Unfortunately, the number of traffic collisions involving pedestrians and bicyclists has increased. Last year, the number of bicycle and pedestrian related traffic collisions accounted for over 60 percent of all fatal traffic collisions in the City. In an effort to reduce the number of bicycle and pedestrian traffic collisions, increased traffic enforcement will complement educational and enforcement programs designed to ensure all road users are adhering to the various California Vehicle Codes.

Although the Los Angeles Police Department (Department) currently has 10,049 sworn personnel, only 140 (1.4%) are trained as Drug Recognition Experts (DRE). The expertise and courtroom testimony of DREs is crucial to secure convictions at DUID trials, especially ones involving marijuana. As a result, the Department seeks to increase the number of DREs assigned to a traffic assignment by offering additional training and increasing prerequisite courses to attend the DRE course, such as the Impaired Driver Apprehension Program (IDAP) and Advanced Roadside Impaired Driving Enforcement (ARIDE) courses.

2. PERFORMANCE MEASURES

A. Goals:

1. Reduce the number of persons killed in traffic collisions.
2. Reduce the number of persons injured in traffic collisions.
3. Reduce the number of pedestrians killed in traffic collisions.
4. Reduce the number of pedestrians injured in traffic collisions.
5. Reduce the number of bicyclists killed in traffic collisions.
6. Reduce the number of bicyclists injured in traffic collisions.
7. Reduce the number of persons killed in alcohol-involved collisions.
8. Reduce the number of persons injured in alcohol-involved collisions.
9. Reduce the number of persons killed in drug-involved collisions.

10. Reduce the number of persons injured in drug-involved collisions.
11. Reduce the number of persons killed in alcohol/drug combo-involved collisions.
12. Reduce the number of persons injured in alcohol/drug combo-involved collisions.
13. Reduce the number of motorcyclists killed in traffic collisions.
14. Reduce the number of motorcyclists injured in traffic collisions.
15. Reduce hit & run fatal collisions.
16. Reduce hit & run injury collisions.
17. Reduce nighttime (2100 - 0259 hours) fatal collisions.
18. Reduce nighttime (2100 - 0259 hours) injury collisions.

B. Objectives:	Target Number
1. Issue a press release announcing the kick-off of the grant by November 15. The kick-off press releases and media advisories, alerts, and materials must be emailed to the OTS Public Information Officer at pio@ots.ca.gov , and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.	1
2. Participate and report data (as required) in the following campaigns, National Walk to School Day, National Teen Driver Safety Week, NHTSA Winter Mobilization, National Distracted Driving Awareness Month, National Motorcycle Safety Month, National Bicycle Safety Month, National Click it or Ticket Mobilization, NHTSA Summer Mobilization, National Child Passenger Safety Week, and California's Pedestrian Safety Month.	10
3. Develop (by December 31) and/or maintain a "HOT Sheet" program to notify patrol and traffic officers to be on the lookout for identified repeat DUI offenders with a suspended or revoked license as a result of DUI convictions. Updated HOT sheets should be distributed to patrol and traffic officers monthly.	12
4. Send law enforcement personnel to the NHTSA Standardized Field Sobriety Testing (SFST) (minimum 16 hours) POST-certified training.	200
5. Send law enforcement personnel to the NHTSA Advanced Roadside Impaired Driving Enforcement (ARIDE) 16 hour POST-certified training.	300
6. Send law enforcement personnel to the Drug Recognition Expert (DRE) training.	40
7. Send law enforcement personnel to the DRE Recertification training.	48
8. Conduct DUI/DL Checkpoints. A minimum of 1 checkpoint should be conducted during the NHTSA Winter Mobilization and 1 during the Summer Mobilization. To enhance the overall deterrent effect and promote high visibility, it is recommended the grantee issue an advance press release and conduct social media activity for each checkpoint. For combination DUI/DL checkpoints, departments should issue press releases that mention DL's will be checked at the DUI/DL checkpoint. Signs for DUI/DL checkpoints should read "DUI/Driver's License Checkpoint Ahead." OTS does not fund or support independent DL checkpoints. Only on an exception basis and with OTS pre-approval will OTS fund checkpoints that begin prior to 1800 hours. When possible, DUI/DL Checkpoint screeners should be DRE- or ARIDE-trained.	150
9. Conduct DUI Saturation Patrol operation(s).	118
10. Conduct Traffic Enforcement operation(s), including but not limited to, primary collision factor violations.	104
11. Conduct highly publicized Distracted Driving enforcement operation(s) targeting drivers using hand held cell phones and texting.	50
12. Conduct highly publicized Motorcycle Safety enforcement operation(s) in areas or during events with a high number of motorcycle incidents or collisions resulting from unsafe speed, DUI, following too closely, unsafe lane changes, improper turning, and other primary collision factor violations by motorcyclists and other drivers.	12
13. Conduct highly publicized pedestrian and/or bicycle enforcement operation(s) in areas or during events with a high number of pedestrian and/or bicycle collisions resulting from violations made by pedestrians, bicyclists, and drivers.	75
14. Conduct Traffic Safety educational presentation(s) with an effort to reach community members. Note: Presentation(s) may include topics such as distracted driving, DUI, speed, bicycle and pedestrian safety, seat belts and child passenger safety.	48
15. Conduct Know Your Limit campaigns with an effort to reach members of the community.	16
16. Conduct highly visible collaborative DUI Enforcement operations	8

17. Conduct Street Racing and Modified Vehicle enforcement operations in areas of during events with a high number of incidents or collisions resulting from primary collision factor violations associated with street racing and "sideshows."

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3. METHOD OF PROCEDURE

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

- The department will develop operational plans to implement the “best practice” strategies outlined in the objectives section.
- All training needed to implement the program should be conducted this quarter.
- All grant related purchases needed to implement the program should be made this quarter.
- In order to develop/maintain the “Hot Sheets,” research will be conducted to identify the “worst of the worst” repeat DUI offenders with a suspended or revoked license as a result of DUI convictions. The Hot Sheets may include the driver’s name, last known address, DOB, description, current license status, and the number of times suspended or revoked for DUI. Hot Sheets should be updated and distributed to traffic and patrol officers at least monthly.
- Implementation of the STEP grant activities will be accomplished by deploying personnel at high collision locations.

Media Requirements

- Issue a press release announcing the kick-off of the grant by November 15, but no earlier than October 1. If unable to meet the November 15 date, communicate reasons to your OTS Coordinator. The kick-off press releases and any related media advisories, alerts, and materials must be emailed for approval to the OTS Public Information Officer at pio@ots.ca.gov, and copied to your OTS Coordinator, 14 days prior to the issuance date of the release.

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

- The department will work to create media opportunities throughout the grant period to call attention to the innovative program strategies and outcomes.

Media Requirements

- Send all grant-related activity press releases, media advisories, alerts and general public materials to the OTS Public Information Officer (PIO) at pio@ots.ca.gov, with a copy to your OTS Coordinator. The following requirements are for grant-related activities and are different from those regarding any grant kick-off release or announcement.
 - If an OTS-supplied, template-based press release is used, there is no need for pre-approval, however, the OTS PIO and Coordinator should be copied when at the same time as the release is distributed to the press.
 - If an OTS-supplied template is not used, or is substantially changed, a draft press release shall be sent to the OTS PIO for approval. Optimum lead-time would be 10 days prior to the release distribution date, but should be no less than 5 working days prior to the release distribution date.
 - Press releases reporting the immediate and time-valued results of grant activities such as enforcement operations are exempt from the recommended advance approval process, but still should be copied to the OTS PIO and Coordinator when the release is distributed to the press.
 - Activities such as warrant or probation sweeps and court stings that could be compromised by advanced publicity are exempt from pre-publicity, but are encouraged to offer embargoed media coverage and to report the results.
- Use the following standard language in all press, media, and printed materials: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Email the OTS PIO at pio@ots.ca.gov and copy your OTS Coordinator at least 30 days in advance, a short description of any significant grant-related traffic safety event or program so OTS has sufficient notice to arrange for attendance and/or participation in the event.
- Submit a draft or rough-cut of all printed or recorded material (brochures, posters, scripts, artwork, trailer graphics, etc.) to the OTS PIO at pio@ots.ca.gov and copy your OTS Coordinator for approval 14 days prior to the production or duplication.
- Space permitting, include the OTS logo, on grant-funded print materials; consult your OTS Coordinator for specifics and format-appropriate logos.
- Contact the OTS PIO or your OTS Coordinator, sufficiently far enough in advance of need, for consultation when deviation from any of the above requirements might be contemplated

C. Phase 3 – Data Collection & Reporting (Throughout Grant Year)

- Invoice Claims (due January 30, April 30, July 30, and October 30)
- Quarterly Performance Reports (due January 30, April 30, July 30, and October 30)
 - Collect and report quarterly, appropriate data that supports the progress of goals and objectives.
 - Provide a brief list of activity conducted, procurement of grant-funded items, and significant media activities. Include status of grant-funded personnel, status of contracts, challenges, or special accomplishments.
 - Provide a brief summary of quarterly accomplishments and explanations for objectives not completed or plans for upcoming activities.
 - Collect, analyze and report statistical data relating to the grant goals and objectives.

4. METHOD OF EVALUATION

Using the data compiled during the grant, the Grant Director will complete the “Final Evaluation” section in the fourth/final Quarterly Performance Report (QPR). The Final Evaluation should provide a brief summary of the grant’s accomplishments, challenges and significant activities. This narrative should also include whether goals and objectives were met, exceeded, or an explanation of why objectives were not completed.

5. ADMINISTRATIVE SUPPORT

This program has full administrative support, and every effort will be made to continue the grant activities after grant conclusion.

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405d AL-20	20.616	Impaired Driving Countermeasures	\$300,000.00
402PT-20	20.600	State and Community Highway Safety	\$1,500,000.00
164 AL-20	20.608	Minimum Penalties for Repeat Offenders for Driving While Intoxicated	\$3,200,000.00

COST CATEGORY	CFDA	TOTAL COST TO GRANT
A. PERSONNEL COSTS		
<u>Straight time</u>		\$0.00
<u>Overtime</u>		
DUI/DL Checkpoints	20.608	\$2,190,789.00
DUI Saturation Patrols	20.608	\$925,600.00
Know Your Limit	20.608	\$28,512.00
Collaborative DUI Enforcement operations	20.608	\$0.00
Traffic Enforcement	20.600	\$594,018.00
Distracted Driving	20.600	\$250,000.00
Motorcycle Safety	20.600	\$60,000.00
Pedestrian and Bicycle Enforcement	20.600	\$358,000.00
Traffic Safety Education	20.600	\$76,800.00
CHLA - LA Street Smarts	20.600	\$40,000.00
CHLA - Bicycle Rodeos	20.600	\$0.00
Illegal Street Racing Training	20.600	\$4,200.00
Administrative/Auditing Costs	20.600	\$8,000.00
SFST/ARIDE/DRE Instruction	20.616	\$300,000.00
Street Racing Enforcement	20.600	\$90,000.00
Category Sub-Total		\$4,925,919.00
B. TRAVEL EXPENSES		
In State Travel	20.600	\$0.00
Out-of-State Travel	20.600	\$9,992.00
Category Sub-Total		\$9,992.00
C. CONTRACTUAL SERVICES		
Phlebotomist	20.608	\$40,000.00
Category Sub-Total		\$40,000.00
D. EQUIPMENT		
		\$0.00
Category Sub-Total		\$0.00
E. OTHER DIRECT COSTS		
DUI Checkpoint Supplies	20.608	\$99.00
PAS Device/Calibration Supplies	20.608	\$15,000.00
Lidar Device	20.600	\$0.00
Printing/Duplication	20.600	\$4,000.00
Crash Mapping Software	20.600	\$4,990.00
Category Sub-Total		\$24,089.00

F. INDIRECT COSTS		
		\$0.00
Category Sub-Total		\$0.00
GRANT TOTAL		\$5,000,000.00

BUDGET NARRATIVE	
PERSONNEL COSTS	QUANTITY
DUI/DL Checkpoints - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	141
DUI Saturation Patrols - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	164
Know Your Limit - Overtime for grant funded traffic safety presentations or campaigns conducted by appropriate department personnel.	10
Collaborative DUI Enforcement operations - Collaborative DUI Enforcement Operations: 1 sergeant (\$100) and 2 officers (\$93/ea.) = \$286 per hour X 10 hours = \$2,860 per operation X 8 operations = \$17,160.	
Traffic Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	122
Distracted Driving - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	50
Motorcycle Safety - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	12
Pedestrian and Bicycle Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	75
Traffic Safety Education - Overtime for grant funded traffic safety presentations or campaigns conducted by appropriate department personnel.	48
CHLA - LA Street Smarts - LA Street Smarts Pedestrian Educational Presentations: 1 sergeant (\$100), 2 officers (\$93/ea.) and 4 officers (\$84/ea.) = \$622 per hour X 10 hours = \$6,220 per presentation X 8 presentations = \$49,760	8
CHLA - Bicycle Rodeos -	
Illegal Street Racing Training - Illegal Street Racing/Modified Emissions Course: 1 sergeant (\$98), 2 officers (\$88/ea.) = \$274 per hour X 6 hours = \$1,644 per class X 12 classes = \$19,728 5 22 20 modified to 3 @ 1400 per ok DD	3
Administrative/Auditing Costs - 1 officer (\$84) X 250 hours throughout the span of the grant = \$21,000 for overtime	1
SFST/ARIDE/DRE Instruction - Overtime for grant funded instructor training conducted by appropriate department personnel.	1
Street Racing Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	12
TRAVEL EXPENSES	
In State Travel -	

Out-of-State Travel - Costs are included for appropriate staff to attend conferences and training events supporting the grant goals and objectives and/or traffic safety. Local mileage for grant activities and meetings is included. All conferences, seminars or training not specifically identified in the Budget Narrative must be approved by OTS. All travel claimed must be at the agency approved rate. Per Diem may not be claimed for meals provided at conferences when registration fees are paid with OTS grant funds.	1
CONTRACTUAL SERVICES Phlebotomist - to draw and collect blood samples from suspected DUI drivers on scene as evidence in support of DUI convictions in a court of law.	1
EQUIPMENT -	
OTHER DIRECT COSTS DUI Checkpoint Supplies - on-scene supplies needed to conduct sobriety checkpoints. Costs may include 28" traffic cones, MUTCD compliant traffic signs, MUTCD compliant high visibility vests (maximum of 10), traffic counters (maximum of 2), generator, gas for generators, lighting, reflective banners, electronic flares, PAS device supplies, heater, propane for heaters, fan, anti-fatigue mats, and canopies. Additional items may be purchased if approved by OTS. The cost of food and beverages will not be reimbursed.	1
PAS Device/Calibration Supplies - preliminary alcohol screening device to detect the presence of alcohol in a person's breath and calibration supplies to ensure accuracy. Costs may include mouth pieces, gas and accessories.	15
Lidar Device - light detection and ranging device used to measure the speed of motor vehicles. This device will be used for speed enforcement.	
Printing/Duplication - costs include the purchase of paper, production, printing and/or duplication of materials associated with daily grant operations.	1
Crash Mapping Software - Software to map out crash scenes	1
INDIRECT COSTS -	
STATEMENTS/DISCLAIMERS There will be no program income generated from this grant. Nothing in this "agreement" shall be interpreted as a requirement, formal or informal, that a particular law enforcement officer issue a specified or predetermined number of citations in pursuance of the goals and objectives here under.	

CERTIFICATIONS AND ASSURANCES
HIGHWAY SAFETY GRANTS
(23 U.S.C. CHAPTER 4 AND SEC. 1906, PUB. L. 109-59, AS AMENDED)

Failure to comply with applicable Federal statutes, regulations, and directives may subject Grantee Agency officials to civil or criminal penalties and/or place the State in a high-risk grantee status in accordance with 49 CFR §18.12.

The officials named on the grant agreement, certify by way of signature on the grant agreement signature page, that the Grantee Agency complies with all applicable Federal statutes, regulations, and directives and State rules, guidelines, policies and laws in effect with respect to the periods for which it receives grant funding. Applicable provisions include, but are not limited to, the following:

- 23 U.S.C. Chapter 4—Highway Safety Act of 1966, as amended
- 49 CFR Part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments
- 23 CFR Part 1300—Uniform Procedures for State Highway Safety Grant Programs

NONDISCRIMINATION

(applies to subrecipients as well as States)

The State highway safety agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, subrecipients and contractors, whether such programs or activities are Federally-funded or not);
- Titles II and III of the Americans with Disabilities Act (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;

- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations); and
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access 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—

- To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
- 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;
- 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;
- 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
- To insert this clause, including paragraphs (a) through (e), in every subcontract and sub agreement and in every solicitation for a subcontract or sub-agreement, that receives Federal funds under this program.

POLITICAL ACTIVITY (HATCH ACT)

(applies to subrecipients as well as States)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

CERTIFICATION REGARDING FEDERAL LOBBYING

(applies to subrecipients as well as States)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, subgrants, and contracts under grant, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

RESTRICTION ON STATE LOBBYING

(applies to subrecipients as well as States)

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude a State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

(applies to subrecipients as well as States)

Instructions for Primary Tier Participant Certification (States)

1. By signing and submitting this proposal, the prospective primary tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR parts 180 and 1200.

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

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

- (1) The prospective primary tier participant certifies to the best of its knowledge and belief, that it and its principals:
 - (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

- (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(2) Where the prospective primary tier participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Lower Tier Participant Certification

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

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.

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

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

BUY AMERICA ACT

(applies to subrecipients as well as States)

The State and each subrecipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or subrecipient, to purchase with Federal funds only steel, iron and manufactured products produced in the United States, unless the Secretary of Transportation determines that such domestically produced items would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

PROHIBITION ON USING GRANT FUNDS TO CHECK FOR HELMET USAGE

(applies to subrecipients as well as States)

The State and each subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

LAW ENFORCEMENT AGENCIES

All subrecipient law enforcement agencies shall comply with California law regarding profiling. Penal Code section 13519.4, subdivision (e), defines "racial profiling" as the "practice of detaining a suspect based on a broad set of criteria which casts suspicion on an entire class of people without any individualized suspicion of the particular person being stopped." Then, subdivision (f) of that section goes on to provide, "A law enforcement officer shall not engage in racial profiling."