


<b>1. GRANT TITLE</b> Acquisition of LC-MS/MS and GC/MS Technology for Enhancement of DUI/DUID Forensic Testing	
<b>2. NAME OF AGENCY</b> Solano County	<b>3. Grant Period</b> From: 10/01/2017 To: 09/30/2018
<b>4. AGENCY UNIT TO ADMINISTER GRANT</b> Solano County District Attorney's Office	
<b>5. GRANT DESCRIPTION</b> The Solano County District Attorney's Office, Bureau of Forensic Services (BFS) will purchase a Liquid Chromatograph with Tandem Mass Spectrometry (LC-MS/MS) instrument and 2 Gas Chromatograph Mass Spectrometry (GC/MS) instruments (one with a headspace sampler). The instruments will provide the BFS with the capabilities of full-spectrum toxicological analysis and quantitation of Tier 1 drugs from blood samples taken from drivers suspected in DUI cases to investigators and prosecutors. Training of staff, instrument data integration, method development, and validation will be conducted in this project.	
<b>6. Federal Funds Allocated Under This Agreement Shall Not Exceed:</b> <b>\$803,215.00</b>	
<b>7. TERMS AND CONDITIONS:</b> The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement: <ul style="list-style-type: none"> <li>Schedule A – Problem Statement, Goals and Objectives and Method of Procedure</li> <li>Schedule B – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)</li> <li>Schedule B-1 – Budget Narrative and Sub-Budget Narrative (if applicable)</li> <li>Exhibit A – Certifications and Assurances</li> <li>Exhibit B* – OTS Grant Program Manual</li> </ul> <p>*Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto.</p> <p>These documents can be viewed at the OTS home web page under Grants: <a href="http://www.ots.ca.gov">www.ots.ca.gov</a>.</p> <p>We, the officials named below, hereby swear under penalty of perjury under the laws of the State of California that we are duly authorized to legally bind the Grant recipient to the above described Grant terms and conditions.</p> <p>IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.</p>	
<b>8. Approval Signatures</b>	
<b>A. AUTHORIZING OFFICIAL OF DEPARTMENT</b> NAME: Krishna A. Abrams      PHONE: 707-784-6800 TITLE: District Attorney      FAX: 707-784-7986 ADDRESS: 675 Texas Street, Suite 4500 Fairfield, CA 94533 EMAIL: kabrams@solanocounty.com  _____ (Signature)      (Date)	<b>B. AUTHORIZING OFFICIAL OF OFFICE OF TRAFFIC SAFETY</b> NAME: Rhonda L. Craft      PHONE: (916) 509-3030 TITLE: Director      FAX: (916) 509-3055 ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758 EMAIL: rhonda.craft@ots.ca.gov  _____ (Signature)      (Date)
<b>C. ACCOUNTING OFFICER OF OFFICE OF TRAFFIC SAFETY</b> NAME: Carolyn Vu ADDRESS: 2208 Kausen Drive, Suite 300 Elk Grove, CA 95758	<b>9. DUNS NUMBER</b> DUNS #: 043278352 REGISTERED ADDRESS: 675 Texas St., Suite 6500 CITY: Fairfield      ZIP+4: 94533-6372

10. PROJECTED EXPENDITURES						
FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
<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>				AGREEMENT TOTAL		\$803,215.00
				AMOUNT ENCUMBERED BY THIS DOCUMENT		\$803,215.00
				PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT		\$ 0.00
ACCOUNTING OFFICER'S SIGNATURE			DATE SIGNED	TOTAL AMOUNT ENCUMBERED TO DATE		
				\$803,215.00		

## 1. PROBLEM STATEMENT

Of the fifty-eight counties that comprise the State of California, Solano County has the 11<sup>th</sup> highest rate of fatal traffic crashes and the 8<sup>th</sup> highest rate of fatal crashes involving alcohol. It stands that Solano County would rank similarly in fatal crashes involving drug impairment. Solano County ranks 20<sup>th</sup> in population size out of the 58 California counties. With Interstate 80 connecting the Sacramento Region with the San Francisco Bay Area Region and running through the three major cities in Solano County, there is a high likelihood of a larger proportion of impaired drivers driving through the county.

With the increased use of medical marijuana and the recent passage of Proposition 64 in California, legalizing the use of recreational marijuana, there is an expected increase in the number of drivers impaired with marijuana. According to data from the state of Washington, there is the potential of greater than one-third of all drivers stopped for impairment, testing positive for marijuana and/or its metabolites. This data has shown an increase in the percentage of total driving cases confirmed positive for THC rising from 18% in 2009 to 33% in 2015<sup>[i]</sup>.

The BFS is currently limited in its scope and ability to test for drugs from driving impairment cases. The lab currently utilizes an ELISA system to screen for classes of illicit drugs and Gas Chromatography/Mass Spectrometry (GCMS) instrumentation for the confirmation and quantitation of drugs. And while the scope of drugs tested for is limited, the levels of sensitivity for the quantity of drugs within blood is also limited due to the current technology. The technology advancement of Liquid Chromatography with Tandem Mass Spectrometry (LC-MS/MS) has become the preferred method for testing of toxicology samples due to increased sensitivity, efficiency and ease of sample preparation. With LC-MS/MS, the BFS would have the ability to confirm marijuana (THC and metabolites) on DUID samples as well as increase the types of drugs tested to include all Tier 1<sup>[ii]</sup> substances as well as increase sensitivity to eventually meet the NHTSA recommended testing sensitivity levels. In addition to the added compounds for testing, the volume of sample required would be significantly less, utilizing LC-MS/MS for most compounds.

The BFS currently *screens* blood samples for the following classes of drugs &/or their metabolites:

- Cocaine
- Amphetamines
- Marijuana
- Opiates
- Benzodiazepines

Of these drug classes screened for, the BFS is currently limited to confirming and quantitating the following drugs &/or their metabolites:

- Cocaine & one metabolite
- Amphetamine, Methamphetamine, MDA & MDMA
- Codeine, Morphine, & 6-MAM

Additional drugs (benzodiazepines, other limited opiates, and some basic pH prescription drugs) can be identified, but are not capable of quantitation with current methods.

Because of the challenges in testing for THC and its metabolites by GCMS, those compounds have not yet been validated by the BFS for confirmation and quantitation. While the BFS currently has plans to validate THC methods by GCMS, the technology will limit the number of samples that can be tested as well as the sensitivity for detecting compounds from samples. The chemistry of THC analysis by GCMS requires significant instrument downtime that is not a condition for LC-MS/MS; leading to more efficiency. Additionally, certain THC metabolites are not conducive for testing with GCMS.

With the increase in DUID cases, Solano County DA BFS also requests 2 Gas Chromatograph/Mass Spectrometers (one with a headspace sampler) and 2 Breath Alcohol Testing Devices. One instrument would also allow for replacement of the current instrument which has been in use for eight years and is nearing its lifespan. Additionally, the second instrument would be utilized for the forensic toxicology analysis in support of the Driving Under the Influence of Drugs/Intoxicants (DUID) program. The breath testing devices are needed as the BFS has had several occasions that multiple instruments were out of service at one time. This has created a strain on the law enforcement agencies within Solano County as there have been instances that law enforcement have had to travel a significant distance to obtain a breath test on a suspected drunk driver.

The BFS is also unable to forward DUID cases to the California Department of Justice, Bureau of Forensic Services Toxicology Laboratory (DOJ BFS) due to policy. The DOJ BFS will not accept cases from local government laboratories where the local laboratory performs any level of testing in a particular forensic discipline. While the BFS only conducts limited toxicology testing, the DOJ BFS will not accept any samples for work above and beyond what the BFS can test for.

*With current BFS laboratory capabilities and the DOJ BFS unavailability, the laboratory is reliant on outsourcing many of the drug confirmations to a private laboratory. In the previous fiscal year (FY 16/17) this resulted in an expense in excess of \$15000. However, due to enhanced prosecution efforts for DUID, the costs for outsourcing in the first six months of the current fiscal year (FY 17/18) have already exceeded \$25,000. With laws legalizing recreational marijuana use, it is expected that the demand for marijuana confirmation in DUID cases will increase significantly. Those are cases that are currently outsourced and require additional expense to the laboratory and the resulting prosecution.*

[i] Data provided by Fiona Couper, Washington State Toxicologist

[ii] 2013 Journal of Analytical Toxicology

## 2. PERFORMANCE MEASURES

### A. Goals:

1. Increase spectrum of drugs tested to include all NHTSA recommended Tier 1 drugs
2. Increase sensitivity for detection and quantitation of drugs to NHTSA recommended levels for Tier 1 drugs
3. Decrease overall turnaround time for DUID toxicology testing
4. Maintain high quality Blood Alcohol Concentration testing.
5. Reduce the number of persons injured in alcohol/drug involved collisions.
6. Reduce the number of persons killed in alcohol/drug involved collisions.
7. Reduce the number of persons injured in traffic collisions.
8. Reduce the number of persons killed in traffic collisions.
9. To identify and purchase two new gas chromatography mass spectrometry (GC-MS) instruments (one with headspace sampler).
10. To identify and purchase 1 LC-MS/MS instrument.

### 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.
2. Conduct analyses of suspected marijuana toxicology submissions using LC/MS/MS methods capable of detecting the psychoactive components of marijuana.
3. Create a validation plan for the upgraded GCMS for use in DUID analysis.
4. Procure and install 2 Gas Chromatography Mass Spectrometers.
5. Provide training to stakeholders regarding laboratory toxicological capabilities, including screening and confirmation of submissions utilizing LC/MS/MS.
6. Provide training to stakeholders regarding laboratory toxicological capabilities, including screening and confirmation of submissions utilizing GC/MS and GC/MS with Headspace Sampler
7. Provide training to stakeholders regarding laboratory toxicological capabilities, including screening and confirmation of submissions utilizing GC/MS and GC/MS with Headspace Sampler
8. Purchase and install an LC/MS/MS instrument.
9. Train appropriate personnel to use and maintain the new LC/MS/MS instrument and the data management system.
10. Validate the LC/MS/MS instrument for use in marijuana toxicology confirmation and quantitation casework.

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## 3. METHOD OF PROCEDURE

### A. Phase 1 – Program Preparation (1<sup>st</sup> Quarter of Grant Year)

Once notified of grant award, the BFS will begin site preparations for ensuring the laboratory meets all necessary infrastructure requirements and begin instrument purchasing process:

1. Prepare laboratory space for the LC-MS/MS instrument and GC/MS instruments.
  1. Evaluation of current and expanded electrical needs

2. Prepare ventilation infrastructure to handle the expanded needs.
3. Determine any additional cabinetry needs or reconfiguration to accommodate the instrument footprint.
2. Working with Solano County Purchasing Department, initiate RFQ (Bid Specifications) for instrument purchase.
  1. Determine final specifications for the instrument
  2. Ensure county, state and federal purchasing requirements are incorporated.
2. Begin preparations and evaluation of employee training.
  1. Determine entire scope of instrument and method validation.
  2. Determination of specific training programs or workshops. Media Requirements
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.

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

On-site training by manufacturer for utilizing the LC-MS/MS

Off-site training for staff for method validation and pharmacology to ensure adequate knowledge of drugs to be tested by LC-MS/MS and GC-MS.

Method validation for drugs to be tested. Utilizing OTS grant-funded overtime, validation will be a sequential building of methods to achieve ability to test for all Tier 1 drugs.

Establish lab testing process work flow for efficient processing of samples.

Establish streamlined flow for evaluation, review, and reporting of test data to ensure efficient publishing of test reports.

### 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.
  - If an OTS template-based press release is used, the OTS PIO and Coordinator should be copied when the release is distributed to the press. If an OTS 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 10-20 days prior to the release date to ensure adequate turn-around time.
  - Press releases reporting the 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.
- Include the OTS logo, space permitting, on grant-funded print materials; consult your OTS Coordinator for specifics.

## **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.

**GRANT AGREEMENT**

Schedule B

**DI18027**

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405d AL	20.616	Impaired Driving Countermeasures	\$803,215.00

COST CATEGORY	CFDA	TOTAL COST TO GRANT
<b>A. PERSONNEL COSTS</b>		
Positions and Salaries		
<b><u>Full-Time</u></b>		\$0.00
<b><u>Overtime</u></b>		
Criminalist - OT	20.616	\$22,440.00
Benefits- Criminalist OT	20.616	\$18.00
<b><u>Part-Time</u></b>		\$0.00
Category Sub-Total		\$22,458.00
<b>B. TRAVEL EXPENSES</b>		
In State Travel	20.616	\$3,000.00
Out-of-State Travel	20.616	\$13,000.00
Category Sub-Total		\$16,000.00
<b>C. CONTRACTUAL SERVICES</b>		
		\$0.00
Category Sub-Total		\$0.00
<b>D. EQUIPMENT</b>		
Liquid Chromatograph Tandem Mass Spectrometer	20.616	\$390,000.00
Gas Chromatography-Mass Spectrometry (GS-MS) with Headspace Sampler	20.616	\$177,500.00
Gas Chromatography-Mass Spectrometry (GS-MS)	20.616	\$150,805.00
Evidential Breath Testing Instruments	20.616	\$21,452.00
Category Sub-Total		\$739,757.00
<b>E. OTHER DIRECT COSTS</b>		
Consumable Testing Supplies	20.616	\$25,000.00
Category Sub-Total		\$25,000.00
<b>F. INDIRECT COSTS</b>		
		\$0.00
Category Sub-Total		\$0.00
<b>GRANT TOTAL</b>		<b>\$803,215.00</b>

**GRANT AGREEMENT**

Schedule B-1

**DI18027**

<b>BUDGET NARRATIVE</b>	
<b>PERSONNEL COSTS</b>	<b>QUANTITY</b>
Criminalist - OT - Overtime hours will be utilized by the Criminalist for instrument and method validation of new equipment.	330
Benefits- Criminalist OT - Total Benefit Rate: .08 FICA- .08	1
<b>TRAVEL EXPENSES</b>	
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. Anticipated travel may include the Society of Forensic Toxicologist (SOFT) in Minneapolis, Borkenstein training, MassHunter Training, and California Association of Toxicologist (CAT). All conferences, seminars or training not specifically identified in the Schedule B-1 (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
In 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. Anticipated travel may include Spring and Fall California Association of Toxicologist (CAT) meetings. All conferences, seminars or training not specifically identified in the Schedule B-1 (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
<b>CONTRACTUAL SERVICES</b>	
-	
<b>EQUIPMENT</b>	
Liquid Chromatograph Tandem Mass Spectrometer - Complete LCMSMS system to include: liquid chromatograph with multi-sampler and other required components; triple quadrupole mass spectrometer; nitrogen generator; workstation PC, instrument-specific software & licenses, and printer; installation and setup; chemical analysis application consulting & training.	1
Gas Chromatography-Mass Spectrometry (GS-MS) with Headspace Sampler - Purchase a GC-MS with Headspace Sampler to provide reliable high quality DUID testing to law enforcement agencies. The total for this system includes the GC-MS with Headspace Sampler equipment and data integration system.	1
Gas Chromatography-Mass Spectrometry (GS-MS) - Purchase 1 GC/MS to provide reliable high quality DUID testing to law enforcement agencies. The total for this system includes the GC-MS equipment and data integration system.	1
Evidential Breath Testing Instruments - Cost includes the instrument, printer, dry gas, and mouth pieces.	2
<b>OTHER DIRECT COSTS</b>	
Consumable Testing Supplies - Consumable supplies for training, validation, and initial casework period for LC-MS/MS instrument. This includes items such as; autosampler vials and caps, Nitrogen Dry Down Station and head, Zinc Sulfate Heptahydrate, Ammonium Acetate LCMS Grade, Ammonium Formate LCMS Grade, LCMS grade Formic Acid, Tech Grade Formic Acid (88%), LC MS Grade Water, LC MS Grade Acetonitrile, LC MS Grade Methanol, LC MS Grade IPA, Pigs Blood as reference blank, Clean Solvent Bottles, Vortexer, Pipettes, Pipette tips, Pipette Holder, Repeater Pipette, Volumetric Flasks, 96 well collection plates, SPE Plates, SPE Manifold, Pump for Manifold, Sealing Caps for plates, and UPLC Column.	1
<b>INDIRECT COSTS</b>	



**STATEMENTS/DISCLAIMERS**

There will be no program income generated from this grant.

Salaries may include wages, salaries, special compensations, or authorized absences such as annual leave and sick leave provided the cost for the individual employee is (a) reasonable for the services rendered, and (b) follows an appointment made in accordance with state or local laws and rules and meets federal requirements.

Any non-grant funded vacancies created by reassignment to a grant-funded position must be filled at the expense of the grantee agency.

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 hereunder.

**CERTIFICATIONS AND ASSURANCES**

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 1200—Uniform Procedures for State Highway Safety Grant Programs

**NONDISCRIMINATION**

The Grantee Agency will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (Pub. L. 88- 352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (Pub. L. 101-336), as amended (42 U.S.C. 12101, et seq.), which prohibits discrimination on the basis of disabilities (and 49 CFR Part 27); (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Civil Rights Restoration Act of 1987 (Pub. L. 100-259), which requires Federal-aid recipients and all sub-recipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities; (f) the Drug Abuse Office and Treatment Act of 1972 (Pub. L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (g) the comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (Pub. L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (h) Sections 523 and 527 of the Public Health Service Act of 1912, as amended (42 U.S.C. 290dd-3 and 290ee-3), relating to confidentiality of alcohol and drug abuse patient records; (i) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601, et seq.), relating to nondiscrimination in the sale, rental or financing of housing; (j) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (k) the requirements of any other nondiscrimination statute(s) which may apply to the application.

**BUY AMERICA ACT**

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

Only steel, iron and manufactured products produced in the United States may be purchased with Federal funds unless the Secretary of Transportation determines that such domestic purchases would be inconsistent with the public interest, that such materials are not reasonably available and of a satisfactory quality, or that inclusion of domestic materials will increase the cost of the overall project contract by more than 25 percent. Clear justification for the purchase of non-domestic items must be in the form of a waiver request submitted to and approved by the Secretary of Transportation.

**POLITICAL ACTIVITY (HATCHACT)**

The Grantee Agency 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, sub-grants, and contracts under grant, loans, and cooperative agreements) and that all sub-recipients 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 Primary Certification

1. By signing and submitting this grant agreement, the Grantee Agency Official is providing the certification set out below.
2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the Grantee Agency Official 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 Grantee Agency Official knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
4. The Grant Agency Official shall provide immediate written notice to the department or agency to which this grant agreement is submitted if at any time the Grantee Agency Official learns its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
5. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *grant agreement*, and *voluntarily excluded*, as used in this clause, have the meaning set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the department or agency to which this grant agreement is being submitted for assistance in obtaining a copy of those regulations.
6. The Grantee Agency Official agrees by submitting this grant agreement 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 Grantee Agency Official further agrees by submitting this grant agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of Parties Excluded from Federal Procurement and Non-procurement Programs.
9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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

1. The Grantee Agency Official certifies to the best of its knowledge and belief, that its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency;
  - b. Have not within a three-year period preceding this grant agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of record, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - d. Have not within a three-year period preceding this application/grant agreement had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the Grantee Agency Official is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to this grant agreement.

#### **Instructions for Lower Tier Certification**

1. By signing and submitting this grant agreement, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this grant agreement is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms *covered transaction*, *debarred*, *suspended*, *ineligible*, *lower tier covered transaction*, *participant*, *person*, *primary covered transaction*, *principal*, *grant agreement*, and *voluntarily excluded*, as used in this clause, have the meanings set out in the Definition and Coverage sections of 49 CFR Part 29. You may contact the person to whom this grant agreement is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this grant agreement 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 grant agreement that it will include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion— Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions. (See below)
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Non-procurement Programs.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

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

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