



10. PROJECTED EXPENDITURES						
FUND	CFDA	ITEM/APPROPRIATION	F.Y.	CHAPTER	STATUTE	PROJECTED EXPENDITURES
402PT-20	20.600	0521-0890-101	2019	2019	BA/19	\$125,000.00
164 AL-20	20.608	0521-0890-101	2019	2019	BA/19	\$75,000.00
					<b>AGREEMENT TOTAL</b>	<b>\$200,000.00</b>
					AMOUNT ENCUMBERED BY THIS DOCUMENT <b>\$200,000.00</b>	
<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>					PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT <b>\$ 0.00</b>	
					TOTAL AMOUNT ENCUMBERED TO DATE <b>\$200,000.00</b>	
OTS ACCOUNTING OFFICER'S SIGNATURE 			DATE SIGNED 10/1/19			

## 1. PROBLEM STATEMENT

### Problem Statement:

Hayward is the 6th largest city in the San Francisco Bay area with the 3rd largest industrial region which increases our daily population to nearly 400,000 people. Hayward is also known as the "Heart of the Bay" due to its centralized proximity to major highways (SR 92 and 238) and interstate roadways (580/880) leading to and from the region, further adding to the number of vehicles traveling through the city daily. Hayward is also home to many large retail shopping centers including the Southland Mall, along with two schools of higher education; Chabot College and California State University, East Bay.

Hayward had recently adopted a multi-dimensional approach to traffic related issues known as a "Traffic Calming" strategy, adopting the well-known pillars of Education, Empowerment, Enforcement and Engineering. Through this approach our Traffic Bureau is becoming very involved with both the community and the Public Works Division to focus on shared goals and creating a safe environment for all conveyances and pedestrians alike. Additionally, our City Council has placed a priority on reducing traffic collisions as a goal during FY2018-2019. This STEP Grant will assist the Traffic Bureau in attaining that goal.

During the past three years we have experienced a near consistent number of fatal collisions; eight in 2015, four in 2016, eight in 2017, and six in 2018. Nearly half of those fatal collisions involved bicyclists and pedestrians, and many of those parties were determined to be "at-fault." According to the 2016 OTS collision rankings, among 58 similar sized cities, Hayward is ranked poorly for victims injured/killed when they are pedestrians and bicyclists. We also rank 19th for DUI related fatal and injury collisions when drivers are between the ages of 21-34.

As mentioned above, since our city is traveled heavily by commuters daily, we have a high number of motorcyclists using our roadways. Also contributing to the high number of collisions involving motorcyclists is the mild weather climate most of the year. This may explain why we have been ranked between 27rd and 10th out of 58 similar sized cities when incidents involve injuries or deaths to motorcycle riders (OTS Rankings, 2014-2016).

Monthly over the past three years, Hayward averaged between 75-100 documented injury and non-injury collisions. Of those incidents, about one-fourth of them involved unlicensed and suspended drivers or were a result of a hit-and-run misdemeanor or felony. The relationship between those two categories is undeniably related.

The current state of the economy coupled with low unemployment rates has resulted in more vehicles on our busy roadways which may explain the increasing number of traffic collisions, despite our best enforcement efforts combined with the supplemented Grant Enforcement deployments. I believe that these numbers would be even higher if not for the Grant award. The Traffic Officers are assigned to the high-collision intersections daily for several hours during their shift where they enforce the top-3 primary collision factors relevant to those areas. A common result of these enforcement efforts is an increase in collisions in the surrounding areas. We have a positive impact when concentrating on a specific area, but it appears that after the drivers pass by our location their driving habits revert to the top-3 PCF's. To combat this result and when staffing allows, Traffic Officers deploy out into the adjoining areas to increase the area of enforcement. This approach has been proven to be effective over time.

The Traffic Bureau is currently staffed with six Motorcycle Officers, one Sergeant, a secretary and a Community Service Officer. The Department has historically staffed the Traffic Unit with ten Motorcycle Officers but due to sworn vacancies, a priority has been placed on staffing the patrol division; however, the Department anticipates all sworn vacancies to be filled in mid-2019 and it is anticipated that they will add two additional Motorcycle Officers to the Traffic Unit. To help in achieving this goal and continuing to provide high enforcement activity, two additional motorcycles will be needed to be added to the unit. Studies have proven that officers deployed on motorcycles are significantly more efficient and effective than those who conduct traffic enforcement activity in vehicles. The addition of this equipment will allow the Traffic Unit to continue to grow and increase its ability to impact traffic needs and concerns in the city.

An increase in DUI directed enforcement has increased the number of DUI arrests and as a result, the lab cost due to the blood work needed to successfully investigate and prosecute the violators. The current cost for a blood draw and lab work to be completed is \$100. With the funding requested and using the statistics from previous DUI enforcement

patrols and checkpoints, it is expected that this funding will yield approximately 70 DUI arrests requiring 70 blood draws and lab work to take place, increasing our costs by \$7000.

Future grant funding for enforcement operations will assist with the reduction of fatal and injury collisions by allowing the Traffic Officers to supplement their enforcement with overtime shifts having some measurable improvement. The long-term goal of the Department is to fully staff the Traffic Unit with the intent to maximize the use of those resources in lieu of grant funding.

**Strategies:**

The Hayward Police Department's strategy to address the local and regional collision data listed in the Problem Statement is two-fold; first, we will use the grant funding to address the goals listed in the Performance Measures. The funding received from this grant will enable the Hayward Police Department to conduct specific enforcement operations on an overtime basis with the intent to directly impact the collision injury and fatality rates. Examples include funding DUI Enforcement Operations on the weekend nights where DUI's are prevalent and deploying officers to High Collision Intersections where they will provide enforcement of the Primary Collision Factors (PCF's) relevant to that area.

Secondly, as the City's economy strengthens, and the sworn vacancies are filled, the Hayward Police Department will be able to add staffing to the Traffic Bureau to continue with the enforcement strategies without the need for grant funds. The award of this grant will assist with ensuring safer roadways within the City of Hayward until staffing levels reach pre-economic crash levels.

In an alternative method from direct enforcement to increase roadway safety, the Traffic Bureau developed a free eight-hour motorcycle safety course to offer to the public we have named "Ride to Live." This past year we offered the course twice which received tremendous interest from local motorcycle riders. Both courses had 20 "Student" riders who were instructed on various turning and stopping movements with the goal of making them a more experienced and skilled motorcycle rider. Along with specific riding skill training, the course also touches on the safety basics of motorcycle riding which includes wearing the proper clothing and protective gear. We plan on offering three courses during the spring and summer of 2019. We would like to continue this course into the future and would like for OTS to support this highly successful and desired course in 2020. The personnel costs associated with each course is \$6,840.

**Agency Qualifications:**

The Hayward Police Department's Traffic Bureau consists of six Motorcycle Officers, a Community Service Officer, a Secretary and a Traffic Sergeant (also on a motorcycle). In the spring of 201 it is anticipated there will be an additional Motorcycle Officer added to our unit if additional sworn staffing increases due to recruitment strategies. The Traffic Bureau Sergeant will be the Grant Director for the entire term of this award. The fiscal staff, the Traffic Bureau Lieutenant and the Traffic Bureau Secretary will remain in their position as well to assist with the successful administration of the grant during its term.

During the past five years, the Hayward Police Department has successfully managed five OTS Grant Awards; STEP and AVOID. Our department was designated as the "host" agency for the Alameda County AVOID the 21 Grant for FOUR Years until that program ceased statewide after FY 2016/17. All audits and performance reviews of previous grants held by our agency were reported to be managed effectively and without deficiencies. Additionally, the quarterly and final reports and claims were submitted on a timely basis. Based on the proven track record of the Hayward Police Department, there are no anticipated hurdles which would prevent future grants from being managed and administered in the same professional manner.

**Program Sustainability:**

Since 2012, OTS has identified and funded the Hayward Police Department as being the "HOST" agency for the AVOID Grant for Alameda County. Our Department has sustained a record of good standing with OTS for the managing and facilitation of the AVOID grant in each of its years of administering it. The awards for those time periods are as follows:

2012/2013	\$275,000
2013/2014	\$223,000
2014/2015	\$203,855
2015/2016	\$240,000

Also, every year since 2012, OTS has identified and funded the Hayward Police Department for the Selective Traffic Enforcement Program (STEP) Grant. This grant has objectives like the AVOID grant such as providing DUI Saturation Patrols for both drivers of vehicles and motorcycles and conducting DUI/Driver's License Checkpoints. The advantage of having this grant is that the deployment of our resources can occur during NHTSA sponsored events such as the Winter and Summer Campaigns, as well as Distracted Driving and Click it or Ticket enforcement supplemented by a media outreach. It also broadens our operations and coverage to include enforcement as it relates to bicycle, pedestrians and motorcycles. Since one of the top-3 City Council Police Department Priorities is to reduce traffic collisions, the STEP grant has allowed, and continues to allow us to enforce the traffic laws at high collision intersections, concentrating on the primary collision factors. The STEP Grant awards for the time periods are as follows:

2012/2013	\$55,000
2013/2014	\$100,000
2014/2015	\$102,700
2015/2016	\$87,000
2016/2017	\$120,000
2017/2018	\$240,000
2018/2019	\$200,000

The Hayward Police Department's Traffic Bureau currently evaluates the High Collision Intersections on a quarterly basis and assigns resources to these "Hot Spots" daily, in addition to other areas of the city that need specific enforcement. As a result of using data driven model, the deployment of resources in the Traffic Bureau is now more closely managed and specific. The Traffic Officers have a clearer focus on how and where to spend their enforcement time. As the economy rebounds and the City of Hayward becomes more financially stable and sworn vacancies are filled, staffing within the unit will increase and provide the resources necessary to continue the enforcement strategies without the need for officers to work on an overtime basis using funds from a grant source such as that gained from the STEP.

Countywide, our DUI arrests have decreased while DUI related injury collisions have increased. The AVOID Grant is media focused and combines a multitude of Press Releases with DUI enforcement activities from a collaboration of 21 Allied Agencies in the county. Together these forces convey the dangers of drunk driving with the goal of preventing the occurrence of DUI related collisions; however, this grant program has seized statewide after FY2016/2017. Alameda County law enforcement agencies will need to use their own funding resources to field extra DUI patrol units in addition to relying on any other miscellaneous grant awards such as the STEP grant.

## 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 Drug Recognition Expert (DRE) training.	2
5. 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.	3
6. Conduct DUI Saturation Patrol operation(s).	22
7. Conduct Traffic Enforcement operation(s), including but not limited to, primary collision factor violations.	52
8. Conduct highly publicized Distracted Driving enforcement operation(s) targeting drivers using hand held cell phones and texting.	52
9. 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.	47
10. Conduct Nighttime (1800-0559) Click It or Ticket enforcement operation(s).	35
11. 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.	52
12. 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.	5

**3. METHOD OF PROCEDURE**

**A. Phase 1 – Program Preparation (1<sup>st</sup> 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](mailto: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](mailto: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.
- 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](mailto: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](mailto: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
402PT-20	20.600	State and Community Highway Safety	\$125,000.00
164 AL-20	20.608	Minimum Penalties for Repeat Offenders for Driving While Intoxicated	\$75,000.00

COST CATEGORY	CFDA	TOTAL COST TO GRANT
<b>A. PERSONNEL COSTS</b>		
<u>Straight time</u>		\$0.00
<u>Overtime</u>		
DUI/DL Checkpoints	20.608	\$51,000.00
DUI Saturation Patrols	20.608	\$18,590.00
Traffic Enforcement	20.600	\$26,260.00
Distracted Driving	20.600	\$26,260.00
Motorcycle Safety	20.600	\$23,735.00
Night-time Click It Or Ticket	20.600	\$17,675.00
Pedestrian and Bicycle Enforcement	20.600	\$26,260.00
Traffic Safety Education	20.600	\$2,525.00
Category Sub-Total		\$192,305.00
<b>B. TRAVEL EXPENSES</b>		
In State Travel	20.600	\$2,285.00
		\$0.00
Category Sub-Total		\$2,285.00
<b>C. CONTRACTUAL SERVICES</b>		
		\$0.00
Category Sub-Total		\$0.00
<b>D. EQUIPMENT</b>		
		\$0.00
Category Sub-Total		\$0.00
<b>E. OTHER DIRECT COSTS</b>		
DUI Checkpoint Supplies	20.608	\$1,410.00
Phlebotomist	20.608	\$4,000.00
Category Sub-Total		\$5,410.00
<b>F. INDIRECT COSTS</b>		
		\$0.00
Category Sub-Total		\$0.00
<b>GRANT TOTAL</b>		<b>\$200,000.00</b>

<b>BUDGET NARRATIVE</b>	
<b>PERSONNEL COSTS</b>	<b>QUANTITY</b>
DUI/DL Checkpoints - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	3
DUI Saturation Patrols - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	22
Traffic Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	52
Distracted Driving - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	52
Motorcycle Safety - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	47
Night-time Click It Or Ticket - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	35
Pedestrian and Bicycle Enforcement - Overtime for grant funded law enforcement operations conducted by appropriate department personnel.	52
Traffic Safety Education - Overtime for grant funded traffic safety presentations or campaigns conducted by appropriate department personnel.	5
<b>TRAVEL EXPENSES</b>	
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. 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
<b>CONTRACTUAL SERVICES</b>	
-	
<b>EQUIPMENT</b>	
-	
<b>OTHER DIRECT COSTS</b>	
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
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.	40
<b>INDIRECT COSTS</b>	
-	
<b>STATEMENTS/DISCLAIMERS</b>	
Program Income default statement:	

There will be no program income generated from this grant.

**Enforcement Grant Quota Disclaimer:**

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—

- 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 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."