

City of Carson City
Agenda Report

Item # 17A

Date Submitted: October 23, 2009

Agenda Date Requested: November 5, 2009

Time Requested: 5 Minutes

To: Mayor and Supervisors

From: Max Cortes, Court Administrator
Chief Rory Planeta, Department of Alternative Sentencing

Subject Title: Action to approve the State of Nevada, Department of Public Safety, Office of Traffic Safety Project Number 210-K8-18-14, Grant Award of \$56,325.00 for the period of (10/1/2009 – 9/30/2010) to fund a Case Manager position. (Max Cortes/Chief Rory Planeta)

Staff Summary: In collaboration with the Carson City Department of Alternative Sentencing the District Court applied for funding through the State of Nevada, Department of Public Safety, Office of Traffic Safety. The funding will be utilized to hire a full time case manager. The Case Manager will be responsible for the oversight and coordination of third time DUI offenders participating in the Western Regional DUI Felony Court and second time DUI offenders. (Max Cortes/Chief Rory Planeta)

Type of Action Requested: (check one)

☐ Resolution ☐ Ordinance
☒ Formal Action/Motion ☐ Other (Specify)

Does This Action Require A Business Impact Statement: ☐ Yes ☒ No

Recommended Board Action: I move to approve the State of Nevada, Department of Public Safety, Office of Traffic Safety Project Number 210-K8-18-14, Grant Award of \$56,325.00 for the period of (10/1/2009 – 9/30/2010) to fund a Case Manager position.

Explanation for Recommended Board Action: The Western Regional DUI Offender Specialty Court is comprised of a Specialty Court Judge, the Carson City District Attorney's Office, the State Public Defender, and the Departments of Alternative Sentencing in Carson City and Douglas County. The grant will allow for the hiring of a case manager to coordinate and ensure that convicted third time DUI offenders are meeting all program requirements. Additionally, the case manager will coordinate treatment needs and other ancillary services and court requirements for second time DUI offenders.

Applicable Statue, Code, Policy, Rule or Regulation: NRS 484.37941 Evaluation and treatment for alcohol or drug abuse: Application by third-time offender to undergo program of treatment; sentencing of offender and conditional suspension of proceedings; requirements to participate in program of treatment; certain previous convictions preclude offender from participating in program of treatment.

1. An offender who enters a plea of guilty or nolo contendere to a violation of NRS 484.379 or 484.379778 that is punishable pursuant to paragraph (c) of subsection 1 of NRS 484.3792 may, at the time he enters his plea, apply to the court to undergo a program of treatment for alcoholism or drug abuse which is certified by the Health Division of the Department of Health and Human Services for at least 3 years if:

(a) The offender is diagnosed as an alcoholic or abuser of drugs by:

(1) An alcohol and drug abuse counselor who is licensed or certified, or a clinical alcohol and drug abuse counselor who is licensed, pursuant to chapter 641C of NRS, to make that diagnosis; or

(2) A physician who is certified to make that diagnosis by the Board of Medical Examiners; and

(b) The offender agrees to pay the costs of the treatment to the extent of his financial resources.

→ An alcohol and drug abuse counselor, a clinical alcohol and drug abuse counselor or a physician who diagnoses an offender as an alcoholic or abuser of drugs shall make a report and recommendation to the court concerning the length and type of treatment required for the offender.

2. A prosecuting attorney may, within 10 days after receiving notice of an application for treatment pursuant to this section, request a hearing on the matter. The court shall order a hearing on the application upon the request of the prosecuting attorney or may order a hearing on its own motion.

3. At the hearing on the application for treatment, the prosecuting attorney may present the court with any relevant evidence on the matter. If a hearing is not held, the court shall decide the matter and other information before the court.

4. If the court determines that an application for treatment should be granted, the court shall:

(a) Immediately, without entering a judgment of conviction and with the consent of the offender, suspend further proceedings and place him on probation for not more than 5 years upon the condition that the offender be accepted for treatment by a treatment facility, that he complete the treatment satisfactorily and that he comply with any other condition ordered by the court.

(b) Advise the offender that:

(1) If he is accepted for treatment by such a facility, he may be placed under the supervision of the facility for not more than 5 years and during treatment he may be confined in an institution or, at the discretion of the treatment facility, released for treatment or supervised aftercare in the community.

(2) If he is not accepted for treatment by such a treatment facility, or if he fails to complete the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (c) of subsection 1 of NRS 484.3792. Any sentence of imprisonment may be reduced by a time equal to that which he served before beginning treatment.

(3) If he completes the treatment satisfactorily, the court will enter a judgment of conviction for a violation of paragraph (b) of subsection 1 of NRS 484.3792.

5. The court shall administer the program of treatment pursuant to the procedures provided in NRS 458.320 and 458.330, except that the court:

(a) Shall not defer the sentence or set aside the conviction upon the election of treatment, except as otherwise provided in this section; and

(b) May enter a judgment of conviction and proceed as provided in paragraph (c) of subsection 1 of NRS 484.3792 for a violation of a condition ordered by the court.

6. To participate in a program of treatment, the offender must:

(a) Serve not less than 6 months of residential confinement;

(b) Install, at his own expense, a device for not less than 12 months;

(c) Not drive any vehicle unless it is equipped with a device;

(d) Agree to be subject to periodic testing for the use of alcohol or controlled substances while participating in a program of treatment; and

(e) Agree to any other conditions that the court deems necessary.

7. An offender may not apply to the court to undergo a program of treatment for alcoholism or drug abuse pursuant to this section if he has previously applied to receive treatment pursuant to this section or if he has previously been convicted of:

(a) A violation of NRS 484.3795;

(b) A violation of NRS 484.37955;

(c) A homicide resulting from driving or being in actual physical control of a vehicle while under the influence of intoxicating liquor or a controlled substance or resulting from any other conduct prohibited by NRS 484.379, 484.3795 or 484.37955;

(d) A violation of paragraph (c) of subsection 1 of NRS 484.3792;

(e) A violation of subsection 2 of NRS 484.3792; or

(f) A violation of law of any other jurisdiction that prohibits the same or similar conduct as set forth in paragraph (a), (b), (c) or (d).

8. As used in this section:

(a) "Device" has the meaning ascribed to it in NRS 484.3941.

(b) "Treatment facility" has the meaning ascribed to it in NRS 484.3793.

(Added to NRS by 2007, 1058)

Fiscal Impact: No fiscal impact.

Explanation of Impact:

Funding Source:

Alternatives:

Supporting Material:

Prepared By:

Reviewed By:

(James T. Russell, District Court Judge)

(James E. Wilson Jr., District Court Judge)

(City Manager)

(District Attorney)

(Finance Director)

Date: _____

Date: 10-27-09

Date: 10-27-09

Date: 10-27-09

Date: 10/27/09

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

Jim Gibbons
Governor



Jearld L. Hafen
Director

Nevada Office of Traffic Safety

555 Wright Way
Carson City, Nevada 89711-0525
Telephone (775) 684-7470 • Fax (775) 684-7482

DATE: October 13, 2009

TO: Chief Planeta
OF: Carson City Dept. Of Alternative Sentencing

RE: Traffic Safety Project: 210-K8-18-14 – Felony DUI Court

Enclosed is an Authorization to Proceed for the above grant project. **This is your authority to start your project.** Please be sure to note the authorization date, as well as the amount.

In reviewing your Authorization to Proceed, it is also important to note:

- The Authorization to Proceed only covers a maximum one-year period.
- For multi-year grants, a new Authorization to Proceed is needed at the beginning of each grant year (October).
- Expenses incurred prior to the effective date on the Authorization to Proceed will **NOT** be eligible for reimbursement.
- Expenses incurred after the grant period ending date on the Authorization to Proceed will **NOT** be reimbursed.
- Be sure to check the amount authorized. You may have been awarded less than the amount awarded in your Project Agreement. Often, when Congress does not pass the federal budget by October, they allow departments limited funding to operate through a process called continuing resolution. When this happens, we are forced to fund projects incrementally until a budget is passed. If you only receive a portion of the amount specified in the project agreement, keep in mind that expenses incurred in excess of the amount authorized **will NOT** be eligible for reimbursement.

Please log on to our website at <http://www.ots.state.nv.us/>, 'Forms & Publications' link to access the Grant Administration Manual and forms that explain everything you need to know about 'running your grant.' You can also call our office with questions at 775.684.7470.

Sincerely,

Traci Pearl

Highway Safety Coordinator, Office of Traffic Safety

Capitol Police • Criminal Justice Assistance • Division Of Emergency Management • Emergency Response Commission
State Fire Marshal • Investigations Division • Highway Patrol Division • Office of Traffic Safety
Parole and Probation • State Board of Parole Commissioners • Training Division



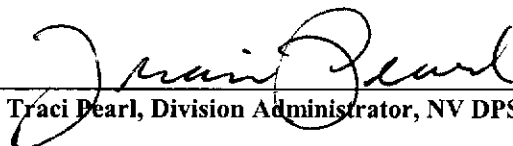
OFFICE OF TRAFFIC SAFETY
555 Wright Way
Carson City, NV 89711
(775) 684-7471

AUTHORIZATION TO PROCEED CFDA #20.600

Project Title: Carson City Felony DUI Court	Project Number: 210-K8-18-14
Applicant Agency: Carson City District Court 885 East Musser 89701	Governmental Unit: Carson City Co., Nevada
Grant Period: From: October 1, 2009 To: September 30, 2010	
PROJECT PURPOSE : To provide the position of case Manager for coordination all aspects of treatment program for individuals convicted of DUI and providing relevant information to the Judge and all other members of the DUI Court team.	
TOTAL AMOUNT OF AWARD FOR FFY2010	\$ 56,325.00
AMOUNT OF THIS AUTHORIZATION	\$ 56,325.00
FFY2010 FUNDS PREVIOUSLY AUTHORIZED	\$ -0-
TOTAL FFY2010 FUNDS AUTHORIZED TO DATE	\$ 56,325.00
FFY2010 FUNDS REMAINING	\$ -0-

Effective Date: October 1, 2009, **Grantee:** Carson City District Court is authorized to proceed with the above project and to request reimbursement for expenses up to the authorized amount.

Signature:

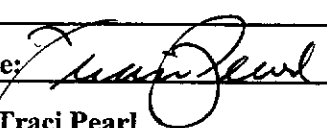
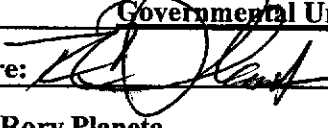
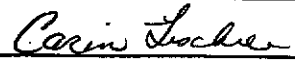

Traci Pearl, Division Administrator, NV DPS-OTS

Date: October 1, 2009

RECEIVED

Project Number:

OCT 02 2009
STATE OF NEVADA
DEPARTMENT OF PUBLIC SAFETY
Office of Traffic Safety
TRAFFIC SAFETY
PROJECT AGREEMENT

Project Title: Carson City Felony DUI Court		Project Number: 210-K8-18-14	
Applicant Agency: Carson City District Court 885 East Musser Street, #2007 Carson City, NV, 89701		Governmental Unit: District Court Carson City County, Nevada	
Grant Period: From October 1, 2009		To: September 30, 2010	
PROJECT PURPOSE : To provide the position of Case Manager for coordinating all aspects of treatment program for individuals convicted of DUI and providing relevant information to the Judge and all other members of the DUI Court team.			
Federal Funds Funding Level	FY2010	\$ 56,325.00	CFDA # 20.601
Future Funding Requests	Yes FY2011	Yes FY2012	Fund Source 410
Future Requests will be reviewed each applicable Federal Fiscal Year and awarded based on available funds, previous performance and a reassessment of priority concerns.			
ACCEPTANCE OF CONDITIONS: It is understood and agreed by the undersigned that a grant received as a result of this agreement is subject to Public Law 89-564 (Highway Safety Act of 1966) and Nevada Revised Statutes, Chapter 223.200 and all administrative regulations governing grants established by the U.S. Department of Transportation and the State of Nevada. It is expressly agreed that this project constitutes an official part of the State's Highway Safety Plan and that said Applicant Agency will meet the requirements as set forth herein, including Schedules A, B & C which are incorporated herein and made a part of this agreement. The Applicant Agency <u>MAY NOT</u> proceed with this project, or any portion thereof, until funds are appropriated by the U.S. Congress and written authorization is received from the Office of Traffic Safety. It is also understood by the Applicant Agency that any funds expended prior to receipt of the written <u>Authorization to Proceed</u> <u>WILL NOT</u> be reimbursed.			
Department of Public Safety		Authorizing Official Governmental Unit	
Signature:  Date: 10-1-09		Signature:  Date: 9/30/09	
Name: (Traci Pearl)		Name: Rory Planeta	
Title: Administrator, NV DPS - OTS		Title: Chief, Alternative Sentencing	
		Project Director	
		Signature:  Date: 9/30/09	
		Name: Carin Fischer	
		Title: Fiscal Officer	

SCHEDULE A
DESCRIPTION OF PROJECT

Project Number:
210-K8-18-14

PROBLEM STATEMENT: The ongoing effort to reduce the number of impaired drivers on Nevada's roadways begins with enforcement efforts to identify and arrest drivers impaired by alcohol and/or drugs. A known problem is the high rate of recidivism of these individuals. While the offence of impaired driving has been addressed by the criminal justice system the underling cause has not been addressed.

PROBLEM SOLUTION: To address the underling cause of recidivism (dependence on alcohol and/or drugs) the dependency must be addressed. To achieve this it is necessary to combine the criminal sanctions with treatment for the dependency. This will address both the offence of impaired driving and the substance abuse/dependency that underlies the high recidivism rate for those individuals who do not address their dependency.

GOAL: To develop a self-sustaining program for the treatment of those found guilty of impaired driving that will reduce the recidivism by 50%.

OBJECTIVES: To develop an evaluation driven program of treatment that will address both the criminal offence and the substance abuse. This program will be based on the "threat" of criminal sanctions to encourage completion of the treatment program.

ACTIVITIES: Hire Supervising Case Manager

Track status of all participants by state in the program

Present status and recommendations on current participants in DUI court staffing meetings.

Ensure compliance with all program requirements

Maintain data from program such as: Evaluation results, prior arrests/convictions, arrests while in program, and arrests after graduation (two years follow-up). This data is summary only and deals with total numbers of participants.

Plus 3 below

1. Hold a press conference or submit press release to local newspaper(s) detailing the program, funding source, goals and objectives and the probable outcome within 30 days of receipt of Authorization to Proceed.
2. To track, account for and report all in-kind contributions pertaining to this project. Vehicle operation and maintenance, in addition to officer and supervisor salaries/benefits when not in a grant overtime mode, are examples of in-kind contributions.
3. To submit quarterly progress reports detailing the status of each objective and activity on January 15, April 15, July 15 and October 15 of the current year, as well as final *Annual* report summarizing the project's accomplishments or shortcomings submitted by October 31. Progress reports should include copies of any reports, documents, press releases, promotional items, and print media coverage related to the grant project.

EVALUATION: Quarterly reports showing progress will be submitted on Jan. 15, April 15, July 15, and Oct. 15. In addition a annual report summarizing the entire year will be submitted by Oct. 30, 2010.

Items to be included in the report will include:

Number of participants by status

Evaluation results (please do not use identifiers, use quarterly totals)

Number of participants with ignition interlock

Number of participants with other technology monitoring

Number of prior arrests/convictions before entry into program

Number of arrests for active participants

Number of arrests for graduates of program for two years after graduation

**Amount of program income from fees
(identify that income was returned to program)**

SCHEDULE B**210-K8-18-14****FY2010 ITEMIZATION OF BUDGET**

Line Item	Fed Funds	Match Funds	Total
Personnel	56,325.00	9,405.00	65,730.00
Operating		2,700.00	2,700.00
Equipment		1,000.00	1,000.00
Total	56,325.00	13,105.00	69,430.00

Important Notes:

1. As a grant applicant, your agency included in-kind contribution funds when preparing the Schedule B (project budget). The grantee is required to report on or substantiate in-kind contributions for all quarterly and annual reports. The Office of Traffic Safety grant analyst assigned to the project can help you with this. Refer to your Grant Administration Manual that accompanied this agreement for more information.
2. Public information and educational (PI&E) materials/promotion items must be approved by OTS prior to purchase. All media activities require prior approval of DPS-OTS and educational material must include the phrase: "Funding provided (in whole or in part) by the Nevada Office of Traffic Safety."
This includes PSA's, any program artwork, key chains, etc.
3. Funds cannot be expended prior to receiving a written Authorization to Proceed from the Department of Public Safety - Office of Traffic Safety.
4. State and local agencies selected for federal funds are subject to federal single line audit requirements. Non-profit agencies are required to provide a copy of an audited, financial status report to their OTS grant analyst.

SCHEDULE C
AGREEMENT OF UNDERSTANDING AND COMPLIANCE

THIS AGREEMENT made and entered into by and between the STATE OF NEVADA by and through the Department of Public Safety, Office of Traffic Safety, hereinafter referred to as "STATE" and the Governmental unit or organization named in this application, hereinafter referred to as "APPLICANT."

WHEREAS, THE NATIONAL HIGHWAY SAFETY ACT OF 1966 (Public Law 89-564) provides Federal funds to the State for approved traffic safety projects, and

WHEREAS, STATE may make said funds available to various state, county, or municipal agencies or governments or political sub-divisions upon application and approvals by STATE and the United States Department of Transportation, and

WHEREAS, the APPLICANT must comply with the requirements listed herein, to be eligible for Federal funds in approved traffic safety projects, and

WHEREAS, the APPLICANT has submitted an application for Federal funds for traffic safety projects, and is aware that this agreement is dependent upon availability of funds as appropriated by Congress

NOW THEREFORE, IN CONSIDERATION OF MUTUAL PROMISES AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

I. Reimbursement of Eligible Expenditures

- A. It is mutually agreed and promised that upon written application by APPLICANT and approval by STATE and the United States Department of Transportation, STATE shall obligate said Federal funds to APPLICANT'S account for reimbursement of eligible expenditures as set forth in the application.
- B. It is mutually agreed and promised that APPLICANT shall reimburse STATE for any ineligible or unauthorized expenditure for which Federal funds have been claimed and payment received as determined by a State or Federal audit.
- C. It is mutually agreed and promised that where reimbursement is made to APPLICANT in installments, STATE shall have the right to withhold any installments to make up reimbursement received for any ineligible or unauthorized expenditure until such time as the ineligible claim is made up or corrected by APPLICANT.
- D. It is further agreed that a clear audit trail must be established to determine costs charged against this agreement. Claims with documents to substantiate all costs will be submitted quarterly.

II. Property Agreement

- A. Property purchased through this project which has an anticipated useful life extending beyond one year, is not consumed in use, is not attached permanently as a non-movable fixture and which costs more than \$1,000 will be recorded in the property management file of the agency in accordance with the State Administrative Manual. The STATE retains the right to inspect and to reclaim custody of any or all of the property described above if, in the opinion of the STATE, the property is not being used as intended; not being used to the capacity that it could be; or being used in a negligent manner.
- B. It is mutually agreed and promised by the APPLICANT that no property will be conveyed, sold, salvaged, transferred, etc. without the express written approval of the STATE.

III. Records

It is mutually agreed and promised that records of the project, including substantiation for reimbursement, shall be maintained for a period of three years upon reimbursement of final voucher and shall be subject to audit during that period.

IV. Audit Responsibility

All agencies that expend \$500,000 or more in Federal awards in a Federal fiscal year must have a single or program specific audit in compliance with the Single Audit Act of 1984 (Public Law 98-502). Therefore, funding from this traffic safety grant must be included when a Single Audit is performed. It is the responsibility of the applicant agency to insure an accepted copy of this audit is submitted to the STATE. If the agency expended < \$500,000 in federal funding for the fiscal year, a copy of their most recent financial statement will be forwarded to the STATE.

V. Reports

The APPLICANT shall submit required reports on the progress of the grant, and shall submit all financial, performance, and other reports required, as a condition of the grant, to the STATE within 30 days after the date of the completion of the contract. The final report of each fiscal year will include a narrative summary of the year including the successes and shortcomings, if any, of the project.

VI. Public Information Materials

It is agreed by the APPLICANT prior to production of public information materials proofs, scripts or concept will be submitted for STATE approval. Public information materials includes, but not limited to, TV and radio public service announcements, billboards, pamphlets/brochures and posters, and other promotional materials.

VII. Copyrights and Patents

- A. Any copyrightable materials produced in the course of a project may be the property of the STATE and APPLICANT AGENCY; however, provisions should be made to obtain for the United States Government, the State Government and its political subdivisions, a royalty-free, nonexclusive and irrevocable license to use in any manner such copyrightable material.
- B. The ownership of all rights accruing from any patentable discoveries or inventions resulting from a project should be covered in the agreement. An irrevocable, non-exclusive, nontransferable, and royalty-free license to practice each discovery or invention in the manufacture, use, and disposition, according to law, of any article or material, and in the use of any method developed as a part of the work under the agreement should be obtained for the United States Government, the State Government and its political subdivisions.

VIII. Minority Business Enterprise Certification

- A. The APPLICANT agrees to ensure that the recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any subcontracts financed in whole or in part with Federal funds.
- B. Recipient will notify the Office of Traffic Safety prior to the announcement or award of any third-party contract.

IX. Certification of Non-Duplication of Grant and Matching Fund Expenditures

The APPLICANT hereby certifies, as a condition of receiving Federal funds under the above-numbered traffic safety project, that:

- A. There are no Federally funded projects currently active or anticipated that would duplicate expenditures for the work to be carried out and reimbursable under this agreement and that;
- B. The non-Federal funds used to match Federal funds obligated under this project are not being used to match any other Federal funds from any source, and that;
- C. Any such duplication of Federal fund expenditures subsequently determined by audit will be subject to recovery by the State of Nevada and the United States Government and that;
- D. Any such duplication of non-Federal matching fund expenditures subsequently determined by audit will subject the Federal funds obligated under this project subject to recovery by the State of Nevada and the United States Government.

X. Drug-free Workplace Act of 1988

The APPLICANT will comply, and all of its subcontractors will comply, with the applicable provisions of the Drug-free Workplace Act of 1988 (49CFR Part 29 Sub-part F).

XI. Lobbying

No federally appropriated funds have been paid or will be paid, by or on behalf of the APPLICANT, 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. If such funds other than Federal appropriated funds have been paid or will be paid as above, the APPLICANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

XII. Certification Regarding Debarment and Suspension: Instructions for Certification

- A. By signing and submitting this Agreement, the APPLICANT is providing the certification set out below.
- B. The re-certification of 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.
- C. The APPLICANT shall provide immediate written notice to the person to which this proposal is submitted if at any time it learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- D. The terms covered transactions, "debarred," "suspended," "ineligible," "lower tier-covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and coverage sections of 49 CFR Part 29. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
- E. The APPLICANT 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 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.
- F. The APPLICANT further agrees that it will include this 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)
- G. 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 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 Non-procurement List.
- H. Nothing contained in the foregoing shall be construed to be 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.
- I. Except for transactions authorized under paragraph XII (E) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is 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.

XIII. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions:

- A. 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 participation in this transaction by any Federal department or agency.
- B. 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.

XIV. BUY AMERICA ACT

The State will comply with the provisions of the Buy America Act (23 USC 101 Note) 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 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.

XV. CIVIL RIGHTS COMPLIANCE

As a condition of receiving federal funding, recipients must comply with applicable federal civil rights laws, including: Title VI of the Civil Rights Act of 1964; Section 504 of the Rehabilitation Act of 1973; Title IX of the Education Amendments of 1972, and the Age Discrimination Act of 1975. Collectively, these laws prohibit a recipient of federal funding from discriminating either in employment or in the delivery of services or benefits on the basis of race, color, national origin, sex, religion, age, or disability. Compliance with Title VI of the Civil Rights Act of 1964 also entails taking reasonable steps to ensure that persons with limited English proficiency (LEP) have meaningful access to funded programs or activities.

XVI. Failure to Comply

In addition, the APPLICANT agrees that if it fails or refuses to comply with these undertakings, the STATE may take any or all of the following actions:

- A. Cancel, terminate, or suspend this agreement in whole or part;
- B. Refrain from extending any further assistance to the APPLICANT under the program, until satisfactory assurance of future compliance has been received.
- C. Refer the case to the Attorney General for appropriate legal proceedings.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts, or other Federal financial assistance extended after the date hereof to the APPLICANT by the Department of Public Safety under the U.S. Department of Transportation under the Highway Safety Programs and other participants in the Highway Safety Programs.

It is mutually agreed between the STATE and the APPLICANT that this AGREEMENT OF UNDERSTANDING AND COMPLIANCE shall be come effective upon the STATE'S AGREEMENT and Authorization to Proceed.