


State of California – Office of Traffic Safety  
**GRANT AGREEMENT**

**GRANT NUMBER**  
**DI18019**

<b>1. GRANT TITLE</b> <b>Alcohol and Drug Impaired Driver Vertical Prosecution Program</b>	
<b>2. NAME OF AGENCY</b> <b>Orange County</b>	<b>3. Grant Period</b>  From: 10/01/2017 To: 09/30/2018
<b>4. AGENCY UNIT TO ADMINISTER GRANT</b> <b>Orange County District Attorney's Office</b>	
<b>5. GRANT DESCRIPTION</b> The County District Attorney's Office (or City Attorney's Office) will assign a specialized team to prosecute alcohol and drug impaired driving cases. The DUI prosecution team will handle cases throughout each step of the criminal process. Prosecution team members will work to increase the capabilities of the team and the office by obtaining and delivering specialized training. Team members will share information with peers and law enforcement personnel throughout the county and across the state. The office will accomplish these objectives as a means to prevent impaired driving and reduce alcohol and drug-involved traffic fatalities and injuries.	
<b>6. Federal Funds Allocated Under This Agreement Shall Not Exceed:</b> <b>\$672,541.00</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> *Items shown with an asterisk (*), are hereby incorporated by reference and made a part of this agreement as if attached hereto.  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> .  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.  IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.	
<b>8. Approval Signatures</b>	
<b>A. AUTHORIZING OFFICIAL OF DEPARTMENT</b> NAME: Tony Rackauckas      PHONE: 714-347-3600 TITLE: District Attorney      FAX: 714-834-4326 ADDRESS: 401 Civic Center Drive West Santa Ana, CA 92701 EMAIL: tony.rackauckas@da.ocgov.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 #: 038417239 REGISTERED ADDRESS: 401 West Civic Center Drive, Floor 1 CITY: Santa Ana      ZIP+4: 92701-4515

<b>10. PROJECTED EXPENDITURES</b>						
<b>FUND</b>	<b>CFDA</b>	<b>ITEM/APPROPRIATION</b>	<b>F.Y.</b>	<b>CHAPTER</b>	<b>STATUTE</b>	<b>PROJECTED EXPENDITURES</b>
405d AL-18	20.616	0521-0890-101	2017	2017	14/17	\$672,541.00
				<b>AGREEMENT TOTAL</b>		<b>\$672,541.00</b>
				AMOUNT ENCUMBERED BY THIS DOCUMENT		<b>\$672,541.00</b>
				PRIOR AMOUNT ENCUMBERED FOR THIS AGREEMENT		<b>\$ 0.00</b>
ACCOUNTING OFFICER'S SIGNATURE			DATE SIGNED	TOTAL AMOUNT ENCUMBERED TO DATE		
				<b>\$672,541.00</b>		
<p><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></p>						

**1. PROBLEM STATEMENT**

Since 2011, The Orange County District Attorney's Office (OCDA) has been working in partnership with OTS to aggressively prosecute DUI-D cases and to train as many deputy district attorneys (DDAs) as feasible to become subject matter experts on these cases. This team of prosecutors has prosecuted thousands of cases since 2011.

Prior to our partnership with OTS, DUI – D cases were rarely filed or taken to trial. In the limited instances when these cases were taken to trial, the results were often mixed, meaning “not guilty” or “hung jury” verdicts. Unlike our success in traditional DUI cases, prosecutors taking drugs impaired driving cases to a jury found the challenges to be unique and necessitating a certain level of expertise that was missing in our office. Over the course of the last several years, OCDA has made a targeted effort to educate a diverse and large number of prosecutors in these cases. Beyond that, our office has committed resources and OTS funding to make sure that our specialty team members become regional subject matter expert in this area of law.

At OCDA, our approach to the DUID prosecution model has always been one of consistency, with an understanding that we must adapt our program to be responsive to the changes in the industry. The program has been modified as drug trends have been identified, jury attitudes have been more readily apparent, and as the testing technology available to our forensic partners has improved. For example, with the passage of Proposition 64, and the broader acceptance of marijuana as a recreational drug, we have seen a dramatic shift in juror attitudes towards marijuana-impaired driving. Specifically, there is a great deal of effort that must be made in educating jurors and the judiciary regarding the impact of marijuana on the task of driving. This continues to be a challenge for our prosecutors, especially those that are new to the DUID team. There is a definite learning curve with these cases and our prosecutors are always encouraged to try new strategies to convey the scientific concepts that exist in DUID and Marijuana impairment prosecutions.

Thus far, OCDA has made great strides in our prosecution efforts. DUID is now a key function of our office, and although we continue to file alcohol cases, the majority of the cases handled by our DUID team involve drug and combination cases. Our model continues to serve us well in our prosecution efforts. Despite our progress, we have found that there is still much more work to be done. Because of the many changes taking place in the industry, the OCDA must continue to improve prosecution knowledge and expertise in DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combination cases.

**2. PERFORMANCE MEASURES****A. Goals:**

1. Improve the prosecution knowledge and expertise of DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combination cases.
2. Increase the number of DUI Alcohol, DUI Drug and DUI Alcohol/Drug Combination cases filed and prosecuted.

**B. Objectives:**

	<b>Target Number</b>
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 <a href="mailto:pio@ots.ca.gov">pio@ots.ca.gov</a> , and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.	1
2. Create or expand a “Vertical Prosecution Program” with the City Attorney or District Attorney’s Office by November 30. The program will facilitate the prosecution of all DUI drug cases, all DUI alcohol and drug combination cases, and if applicable, all felony DUI alcohol cases with death or injury.	1
3. Designate prosecutor position(s) and investigator position(s) to the DUI caseload to prosecute DUI Alcohol and DUI Drug cases. The individual(s) will be dedicated solely to this assignment allowing them to gain expertise in the investigation and prosecution of DUI Alcohol and DUI Drug cases. While employed by the City Attorney’s or District Attorney’s Office, the individual(s) in the grant-funded DUI Vertical Prosecutor position(s) should remain the same throughout the term of the grant.	8
4. Develop and implement a system for gathering, tracking, and reporting all DUI case reviews, filings, and outcomes in the county/city by December 31, differentiating between:	1

1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination	
5. Report on all DUI case reviews, filings and outcomes in the county or city throughout the grant, differentiating between: 1) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination Alcohol and Drug cases.	4
6. Partner with the California Traffic Safety Resource Prosecutor Training Network to provide comprehensive training in the prosecution of DUI Alcohol and DUI Drug cases with an effort to reach prosecutors and investigators.	25
7. Send the funded prosecutor(s) to trainings/meetings sponsored by OTS and/or the California Traffic Safety Resource Prosecutor Training Network.	1
8. Coordinate and host four regional roundtable law enforcement meetings (one each quarter, with telephone conference capabilities) to provide information on the DUI Vertical Prosecution Program, interact with law enforcement to identify means to improve DUI investigation and prosecution, and assess technical assistance needs for training on DUI investigation and court testimony. OTS staff, local law enforcement, CHP and probation staff should be included in the roundtable. Agenda and minutes should be produced and distributed. All four meetings for the year should be scheduled in the first quarter of the grant.	4
9. Coordinate with local law enforcement agencies on the development of an on-call response protocol for the investigation of fatal and major injury DUI vehicle collisions, and to report on response activities	1
10. Participate in at least one DUI saturation ride-along and attend/observe at least one DUI checkpoint. Note: The funded vertical prosecutor(s) and investigator should participate within the first quarter of the grant. Saturation patrol ride-along and checkpoint observation may be combined into one evening.	1
11. Respond to at least one fatal DUI collision investigation scene. Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.	1
<b>3. METHOD OF PROCEDURE</b>	
<b>A. <u>Phase 1 – Program Preparation (1<sup>st</sup> Quarter of Grant Year)</u></b>	
<ul style="list-style-type: none"> <li>• Recruit and hire all staff for the grant.</li> <li>• Procure all materials necessary to implement the grant.</li> <li>• Identify dates and schedule the four Roundtable Meetings (one each quarter with telephone conference capabilities). Notify the OTS coordinator of the dates. Meetings are meant to provide information on the DUI Vertical Prosecution Program, interact with law enforcement to identify means to improve DUI investigation and prosecution, and assess technical assistance needs for training on DUI investigation and court testimony. OTS staff, TSRP staff, local law enforcement, CHP and probation staff should be included in the roundtable. Agenda and minutes should be produced and distributed. All four meetings for the year should be scheduled in the first quarter of the grant.</li> <li>• Develop protocols to be used to measure the success of the DUI Prosecution Program.</li> <li>• Conduct training for all program staff outlining the goals and objectives of the project.</li> <li>• Refer cases for prosecution to the grant-funded Deputy District/City Attorney(s).</li> <li>• Transfer all pending DUI cases which qualify under this program so that vertical prosecution may begin.</li> <li>• Develop a training protocol for law enforcement agencies within the county, and start a process of coordinating all reporting, investigation, and referral of cases that qualify under the grant.</li> <li>• <b><u>Media Requirements</u></b> <ul style="list-style-type: none"> <li>• 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 <a href="mailto:pio@ots.ca.gov">pio@ots.ca.gov</a>, and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release</li> </ul> </li> </ul>	
<b>B. <u>Phase 2 – Program Operations (Throughout Grant Year)</u></b>	
<ul style="list-style-type: none"> <li>• Prosecution will be on-going. The Deputy District/City Attorney(s) will review DUI cases from all law enforcement agencies in the county/city.</li> <li>• Training for law enforcement personnel, District Attorney Investigators and other Deputy District/City Attorneys will begin and continue throughout the program.</li> <li>• Prosecutor(s) will: <ul style="list-style-type: none"> <li>a) Work to secure convictions (as justice requires) and appropriate sentences that reflect the public safety risk</li> </ul> </li> </ul>	

posed by the offender.

b) Mentor trial attorneys on how to successfully try high-risk DUI offenders.

c) Host Quarterly Roundtable meetings with law enforcement personnel, TSRP and OTS Coordinator.

d) Work with the TSRP to obtain and deliver high quality DUI prosecution training programs to non-grant-funded prosecutors.

e) Work with the TSRP to obtain and deliver high quality DUI investigation, report writing and courtroom testimony training programs to law enforcement personnel (police officers, deputies, District Attorney Investigators and crime lab scientists).

f) Attend training programs that cover evaluation and preparation of DUI drug cases, marijuana, prescription drugs, drug trends, people's experts, defense challenges, cross-examination of experts, SFST evidence, jury considerations and toxicology evidence, and incorporate this information into DUI trainings for attorneys and law enforcement personnel.

g) Send the funded vertical prosecutor(s) and investigator to the NHTSA "Advanced Roadside Impaired Driving Enforcement" (ARIDE) 16 hour POST-Certified training, if not already trained. Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.

- 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.
  - 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](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.
- 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**

**GRANT NUMBER**

Schedule B

**DI18019**

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION	TOTAL AMOUNT
405d AL	20.616	Impaired Driving Countermeasures	\$672,541.00

COST CATEGORY	CFDA	TOTAL COST TO GRANT
<b>A. PERSONNEL COSTS</b>		
Positions and Salaries		
<b>Full-Time</b>		
Deputy District Attorney III	20.616	\$436,800.00
Benefits	20.616	\$235,741.00
<b>Overtime</b>		\$0.00
<b>Part-Time</b>		\$0.00
Category Sub-Total		\$672,541.00
<b>B. TRAVEL EXPENSES</b>		
		\$0.00
		\$0.00
Category Sub-Total		\$0.00
<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>		
		\$0.00
Category Sub-Total		\$0.00
<b>F. INDIRECT COSTS</b>		
		\$0.00
Category Sub-Total		\$0.00
<b>GRANT TOTAL</b>		<b>\$672,541.00</b>

<b>BUDGET NARRATIVE</b>	
<p><b>PERSONNEL COSTS</b>                      Deputy District Attorney III - The Deputy District Attorneys (DDAs) will be dedicated full-time to vertically prosecute cases involving driving under the influence of drugs or combination of drug and alcohol. Funded attorneys will obtain specialized training for DUI prosecution and deliver training to law enforcement and other attorneys within the District Attorney’s Office. Funded attorneys will be responsible for community outreach and education and for providing guidance to misdemeanor attorneys handling traffic safety cases.</p>	<p><b>QUANTITY</b> 8</p>
<p>Benefits - 53.97%                      00.84% - Dental Insurance                      09.85% - Health Insurance                      00.04% - Life Insurance                      00.02% - Accidental Death &amp; Dismemberment Insurance                      01.43% - Medicare                      00.54% - Salary Continuance Insurance                      36.04% - Retirement                      02.64% - Workers’ Compensation                      02.57% - Optional Benefit Plan</p>	<p>1</p>
<p><b>TRAVEL EXPENSES</b> -</p>	
<p><b>CONTRACTUAL SERVICES</b> -</p>	
<p><b>EQUIPMENT</b> -</p>	
<p><b>OTHER DIRECT COSTS</b> -</p>	
<p><b>INDIRECT COSTS</b> -</p>	
<p><b>STATEMENTS/DISCLAIMERS</b>                      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.</p>	



**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.