

1. GRANT TITLE

Alcohol and Drug Impaired Driver Vertical Prosecution Program

2. NAME OF APPLICANT AGENCY

Orange County

3. AGENCY UNIT TO HANDLE GRANT

Orange County District Attorney's Office

4. GRANT PERIOD

From: 10/1/13

To: 9/30/14

5. GRANT DESCRIPTION

The County District 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 with the Traffic Safety Resource Prosecutor Program, funded by OTS, 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.

6. FEDERAL FUNDS ALLOCATED UNDER THIS AGREEMENT SHALL NOT EXCEED:


\$ 386,060.00

7. TERMS AND CONDITIONS: The parties agree to comply with the terms and conditions of the following which are by this reference made a part of the Agreement:

- Schedule A (OTS-38b) – Problem Statement, Goals and Objectives and Method of Procedure
- Schedule B (OTS-38d) – Detailed Budget Estimate and Sub-Budget Estimate (if applicable)
- Schedule B-1 (OTS-38f) – Budget Narrative and Sub-Budget Narrative (if applicable)

- Exhibit A – Certifications and Assurances
- Exhibit B* - OTS Grant Program Manual

APPROVED AS TO FORM
BY THE COUNTY COUNSEL
ORANGE COUNTY, CALIFORNIA

By: 
Date: 10/28/13

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: www.ots.ca.gov.

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.

8. APPROVAL SIGNATURES**A. GRANT DIRECTOR**

NAME: Mary Anne McCauley PHONE: 714-347-8404

TITLE: Senior Assistant District Attorney FAX: 714-834-4326

ADDRESS: 401 Civic Center Drive West
Santa Ana, CA 92701

E-MAIL: MaryAnne.McCauley@da.ocgov.com

(Signature)

(Date)

B. AUTHORIZING OFFICIAL OF APPLICANT AGENCY

NAME: Tony Rackauckas PHONE: 714-834-3600

TITLE: District Attorney FAX: 714-834-4326

ADDRESS: 401 Civic Center Drive West
Santa Ana, CA 92701

E-MAIL: Tony.Rackauckas@da.ocgov.com

(Signature)

(Date)

C. FISCAL OR ACCOUNTING OFFICIAL

NAME: Kim Dinh PHONE: 714-347-8435

TITLE: Manager, Fiscal Services FAX: 714-834-4366

ADDRESS: 401 Civic Center Drive West
Santa Ana, CA 92701

E-MAIL: Kim.Dinh@da.ocgov.com

(Signature)

(Date)

D. OFFICE AUTHORIZED TO RECEIVE PAYMENTS

NAME: Orange County District Attorney

ADDRESS: 401 Civic Center Drive West
Santa Ana, CA 92701**9. DUNS NUMBER**

DUNS #: 038417239

REGISTERED ADDRESS & ZIP: 401 West Civic Center Drive, Floor 1
Santa Ana, CA 92701 - 4515

GRANTS MADE EASY – VERTICAL PROSECUTION

SCHEDULE A
Grant No. DI1425
Page 1

GRANT DESCRIPTION**PROBLEM STATEMENT**

Using SWITRS data for your county, complete the table below.

	2009				2010				2011			
Collisions	Fatal	Injury	Killed	Injured	Fatal	Injury	Killed	Injured	Fatal	Injury	Killed	Injured
Alcohol Involved	62	1,340	69	1,888	45	1,317	51	1,918	51	1,262	58	1,792

Using the DMV DUI Management Information System (MIS) report, complete the table below.

	2009		2010		2011	
	Felony	Misdemeanor	Felony	Misdemeanor	Felony	Misdemeanor
Countywide DUI Arrests	241	16,635	257	15,586	N/A	N/A

Using your own data, complete the table below.

	FFY-2010						FFY-2011						FFY-2012					
Cases	Reviewed		Filed		Guilty		Reviewed		Filed		Guilty		Reviewed		Filed		Guilty	
DUI	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis	Fel	Mis
Alc	284	13483	283	13345	242	12680	319	14096	305	13814	231	12819	306	13460	296	13202	237	12818
Drug	294	2019	270	1367	157	1266	287	2012	273	1509	173	1407	385	2028	362	1633	202	1381
Combo	130	109	129	105	61	197	158	93	158	88	70	163	122	71	119	71	55	141

Please note: The numbers above represent defendants and not cases. To categorize the defendants into “drug”, “combo”, or “alcohol,” we identified all defendants charged with a DUI charge (all subsections of 23153 VC, 23152 VC, 23175 VC, 23550 VC, as well as 23247(b) VC and 23247(d) VC).

“Drug” Defendants –

- (a) charge only on 23152 or 23153

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GRANT DESCRIPTION

- (a) with HS charge on 23152 or 23153
- The above cases must be **without** 23577 enhancements
- A case can be tagged as a “Drug” case in our system, all defendants attached to that case with DUI charge would be a “drug” defendant
- Any case is assigned to the DUID DDA (DDAs handling our DUID caseloads)

“Combo” Defendants –

- (a) and (b) charges on 23152 or 23153 with a HS charge
- In August of 2012 we added a charging variable on (a) to indicate if drugs or alcohol were involved.
 - (a) and (b) charges on 23152 or 23153 with drug indication on (a)

“Alcohol” Defendants – all other DUI defendants not identified as “Drug” or “Combo”

Defendants were categorized as Felony or Misdemeanor based on by type of petition filed or type of charges reviewed. If no petition was filed and no charges were recorded in the case management system, the defendant was tracked as a misdemeanor defendant. Reviewed was the sum of defendants rejected and filed. Guilty are counts were the defendant was found guilty by plea or trial. If a felony defendant was reduced or was found guilty only of misdemeanor charges, he/she is counted in the Misdemeanor count. We did not track what type of charge the defendant was found guilty of in the case. For example, the defendant could have been charged with DUI and resisting arrest. If the DUI charges were dismissed and the defendant plead to the resisting arrest, he/she is still counted as guilty.

Describe the traffic safety related problem/deficiency and how was it identified. Include any data that is relevant to your request.

Driving Under the Influence of Drugs (DUID), alone and with alcohol, represents a growing threat to traffic safety. In 2002, over 11 million drivers admitted to having driven under the influence of illegal drugs in the prior year (SAMHSA, 2003). The NHTSA estimates that 10-22% of drivers involved in crashes use drugs (NHTSA, 2004). Based on national self-reporting surveys, 14% young adults 18-25 years old use illicit drugs, and almost 5% among the entire population 15 years and older (SAMHSA, 2005.) One recent study of drivers in collisions admitted to trauma centers in Maryland found that twice as many had only a drug (34%) in them as opposed to only alcohol (16%). At least half tested positive for both (Walsh, 2004).

The rise in drug impaired driving episodes has resulted in an increase of arrests and prosecutions for such cases. Law enforcement officers and prosecutors throughout the nation have experienced unique challenges associated with successful prosecution of such cases. One of the challenges that law enforcement and prosecutors face daily in regards to drug impaired driving cases, is the unfamiliarity with the various substances involved and the impact of such drugs on driving behavior. Presenting DUI Drug cases to a jury is equally challenging since most jurors have preconceived notions about the effects of some drugs, including THC and prescriptions on driving behavior. In Orange County, conviction rates on DUI-Drug cases have historically been low and many cases presented to the District Attorney’s Office by law enforcement officers were rejected due to the prosecution challenges associated with such cases, including a lack of expertise by the arresting officer.

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GRANT DESCRIPTION

The increase in drug impaired driving cases has had an impact on crime laboratories as well. The Orange County Crime Lab (OCCL), between 2005 to 2012, saw a 23% increase in DUID case submittals from 1,893 to 2,329 cases. Additionally, as is consistent with the current literature on drugs and driving impairment, trends demonstrate that many DUID subjects utilize more than one drug and use them in combination with alcohol. The OCCL's average testing per case submittal is 3.5 tests per evidence item. This has nearly doubled since 2005. The OCCL is making efforts to improve its drug detection capabilities and address toxicological interpretive challenges in DUID cases. To improve its DUID case assessment capabilities, the OCCL has obtained new drug detection and quantification technology, but due to staffing shortages, instrument validation and improved methodology has not yet been realized. The laboratory is also hoping to utilize its extensive statistical database of case submissions to benefit the forensic toxicology community as a whole by scientifically evaluating DUID cases. But again the laboratory is unable to move these efforts forward due to its reduction in qualified personnel.

Proposed Solution:

The District Attorney:

The Orange County District Attorney (OCDA) proposes to expand and enhance a collaborative effort designed to reduce the number of drug impaired driving cases in Orange County. In 2011 and 2012, the OCDA and the OCCL received grants from the Office of Traffic Safety to collaborate with law enforcement, prosecution and the laboratory to combat the increasing problem of drug impaired driving. Through the 2011 grant, OCDA and Fullerton Police Department were able to certify 92 law enforcement officers in the Drug Recognition Expert (DRE) program, as well as train over 50 law enforcement officers on the techniques and expertise of the ARIDE program.

OCDA also dedicated four prosecutors to the DUI-Drug program. These prosecutors each dedicated half of their weekly hours to handling DUI-Drug cases.

Building upon these efforts in 2013-2014, OCDA will certify 50 officers in the DRE program, as well as re-certifying 25 officers who are no longer certified DREs. Additionally, OCDA will train 50 officers in the ARIDE program.

In terms of prosecution, the OCDA will continue to dedicate four prosecutors at the DDA III level to handle DUID cases on a shared basis (50% time at each of the four courthouses). These prosecutors not only handle DUID trials and provide training to other prosecutors regarding DUID cases, but also have outreach and training responsibilities. Education regarding the impact of drugs on driving is a key component of deterring future incidents of DUID. The prosecutors speak to a minimum of three schools and/or university audiences each quarter. The prosecutors discuss topics such as texting and driving and the dangers of alcohol and drugs (including prescription and THC) on the task of driving.

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GRANT DESCRIPTION

PERFORMANCE MEASURES

GRANT GOALS

1. To improve the prosecution of DUI Alcohol, DUI Drug and DUI Combo cases.
2. To increase police officer expertise in DUI investigations and report writing.
3. To increase the filing numbers and rates of DUI Alcohol, DUI Drug and DUI Combo cases.
4. To increase prosecutor expertise in DUI cases.

GRANT OBJECTIVES

1. To issue a press release announcing the kick-off of the grant by November 15. The press releases and media advisories, alerts, and materials should be emailed to the OTS Public Information Officer at pio@ots.ca.gov, and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.
2. To send all grant-related activity press releases, media advisories, alerts and general public materials to the OTS Public Information Officer (PIO) at pio@ots.ca.gov, with a copy to your OTS Coordinator. If an OTS template-based press release is used, the OTS PIO and Coordinator should be copied when the release is distributed to the press. If an OTS template is not used, or is substantially changed, a draft press release should first be sent to the OTS PIO for approval. Drafts should be sent for approval as early as possible to ensure adequate turn-around time. Optimum lead time would be 10-20 days prior to the operation. Media communications 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.
3. To 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.
4. To expand the prosecution, training and outreach services provided by our “Vertical Prosecution Program” with the District Attorney’s Office by November 30. The program will facilitate the prosecution of all DUI Drug and DUI Combo cases.
5. To designate 4 part-time prosecutor positions to the DUI caseload to prosecute DUI Drug cases. The individuals will be dedicated, at 50% of full-time, to this assignment allowing them to gain expertise in combating defense tactics and prosecuting DUI Alcohol and DUI Drug cases. While employed by the District Attorney’s Office, the individuals in the grant-funded DUI Drug Vertical Prosecutor positions should remain the same throughout the term of the grant. If there is a change in personnel due to office needs and/or promotions, the District Attorney’s Office will notify OTS.

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GRANT DESCRIPTION

6. To develop and implement a system for gathering, tracking and reporting on all DUI case reviews, filings and outcomes in the County/City by December 31, differentiating between 1) DUI Drug-only and 2) DUI Combination Alcohol & Drug cases.
7. To report on all DUI case reviews, filings and outcomes in the City throughout the grant, differentiating between 1) DUI Drug-only and 2) DUI Combination Alcohol & Drug cases.
8. To work with the Traffic Safety Resource Prosecutor (TSRP) to provide comprehensive training in the prosecution of DUI Alcohol and DUI Drug cases to 25 prosecutors.
9. To work in conjunction with the Traffic Safety Resource Prosecutor (TSRP) to provide continuous comprehensive training in the investigation, report writing and courtroom testimony for prosecution of DUI Alcohol and DUI Drug cases to 25 local law enforcement officers.
10. To meet with the Traffic Safety Resource Prosecutor (TSRP) quarterly to provide updates on the Vertical Prosecution Program.
11. To send at least 2 of the funded prosecutor(s) to the Vehicular Homicide Seminar sponsored by OTS and CDAA.
12. To coordinate and host four regional roundtable law enforcement meetings with telephone conference capabilities to provide information on the DUI Vertical Prosecution Program, to interact with law enforcement to identify means to improve DUI investigation and prosecution and to assess technical assistance needs for training on DUI investigation and court testimony. OTS staff, Traffic Resource Prosecutors, local law enforcement, CHP and probation should be invited to participate in the roundtable. Agenda and minutes should be produced and distributed. Both meeting dates should be determined during the first quarter of the grant.
13. To participate in a ride-along on at least one DUI saturation patrol and attend and observe at least one DUI checkpoint (to be done by the funded vertical prosecutors within the first quarter of the grant---saturation patrol ride-along and checkpoint observation may be combined into one evening).
14. To submit a draft or rough-cut of all printed or recorded community education material (brochures, posters, scripts, artwork, trailer graphics, etc) to the OTS Public Information Officer at pio@ots.ca.gov and to your OTS Coordinator for approval 14 days prior to the production or duplication.
15. To include the OTS logo, space permitting, on grant funded print materials; consult your OTS Coordinator for specifics relating to this grant.
16. To conduct 10 alcohol/drug educational presentations impacting a total of 1000 students by September 30, 2014.

GRANTS MADE EASY – VERTICAL PROSECUTION

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GRANT DESCRIPTION

***Note:** When trying to establish the number of educational presentations to conduct each quarter, assess the pre-grant activity in the local schools. Only list in the educational objective the additional presentations that the grant will conduct and the number of students (specify elementary, middle school, high school, college) impacted.*

METHOD OF PROCEDURE

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

Activities include hiring staff, training, sub-contract preparation, acquisition of equipment and supplies, etc.

- The District/City Attorney's office will recruit and hire all staff for the project.
- The District/City Attorney's Office will procure all materials necessary to implement the project.
- The Deputy District/City Attorney(s) will identify dates and schedule the four (one each quarter) Regional Roundtable Meetings.
- The District/City Attorney's Office staff will develop protocols to be used to measure the success of the DUI Prosecution Program.
- The Deputy District/City Attorney will conduct training for all program staff that will outline the goals and objectives of the project.
- Cases for prosecution will be referred to the grant-funded Deputy District/City Attorney(s) as soon as the project is funded.
- Existing Deputy District/City Attorneys will transfer all pending DUI cases which qualify under this project so that vertical prosecution may begin.
- The Deputy District/City Attorney(s) will 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.
- The District/City Attorney's Office will plan and schedule and coordinate any educational components included in the grant.

Phase II (2nd, 3rd, and 4th Quarters of the Grant Year)

Activities include meeting with allied agencies to coordinate activities, coordination of media events, development of print and promotional materials, etc.

- Prosecution will be on-going. The Deputy District/City Attorney(s) will review DUI cases from all law enforcement agencies in the county/city.
- Training for law enforcement personnel, District Attorney Investigators and other Deputy District/City Attorneys will begin and continue throughout the program.

GRANTS MADE EASY – VERTICAL PROSECUTION

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GRANT DESCRIPTION

- Prosecutor(s) will work to secure convictions as justice requires and appropriate sentences that reflect the public safety risk posed by the offender.
- Prosecutor(s) will mentor trial attorneys on how to successfully try high-risk DUI offenders;
- Prosecutor(s) will host Quarterly Roundtable meetings with law enforcement personnel, and possibly the TSRP and OTS coordinator;
- Prosecutor(s) will work with Traffic Safety Resource Prosecutors to obtain and deliver high quality DUI offender trial training programs to non-grant-funded prosecutors;
- Prosecutor(s) will work with Traffic Safety Resource Prosecutors to obtain and deliver high quality DUI offender trial training programs to law enforcement personnel (police officers, deputies, District Attorney Investigators and crime lab scientists); and,
- Prosecutor(s) will attend high quality trial training programs including evaluation & 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 as noted above.

Phase 3 – Data Collection & Reporting (Throughout Grant Period)

Agencies are required to collect and report quarterly, appropriate data that supports the progress of each goal and objective.

Statistical data relating to the grant goals and objectives will be collected, analyzed, and incorporated in Quarterly Performance Reports (QPRs). QPRs for the quarter ending September 30 will include year-to-date comparisons of goals and objectives. If required, a separate quarterly data reporting form will be completed each quarter and submitted as part of the QPR.

Reports will compare actual grant accomplishments with the planned accomplishments. They will include information concerning changes made by the Grant Director in planning and guiding the grant efforts.

Reports shall be completed and submitted in accordance with OTS requirements specified in the Grant Program Manual.

METHOD OF EVALUATION

Using the data compiled during the grant, the Grant Director will prepare the Executive Summary to accompany the final QPR. The Executive Summary will: (1) briefly state the original problem; (2) specify the most significant goals and objectives; (3) highlight the most significant activities that contributed to the success of the program and the strategies used to accomplish the goals; and (4) describe the program's accomplishments as they relate to the goals and objectives.

ADMINISTRATIVE SUPPORT

GRANTS MADE EASY – VERTICAL PROSECUTION

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GRANT DESCRIPTION

This program has full support of the Orange County District Attorney's Office. Every effort will be made to continue the activities after the grant conclusion.

SCHEDULE B
DETAILED BUDGET ESTIMATE
GRANT NO. DI1425

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION
405d AL	20.616	National Priority Safety Programs

COST CATEGORY	FISCAL YEAR ESTIMATES			TOTAL COST TO GRANT
	CFDA	FY-1 10/1/13 thru 9/30/14		
A. PERSONNEL COSTS				
Positions and Salaries				
<u>Full-Time</u>				
Deputy District Attorney III		\$ -		\$ -
4 x 12 mos x \$10479.74 x 50.00%	20.616	\$ 251,514.00		\$ 251,514.00
Benefits @ 46.640%	20.616	\$ 117,306.00		\$ 117,306.00
Category Sub-Total		\$ 368,820.00		\$ 368,820.00
B. TRAVEL EXPENSE				
In-State	20.616	\$ 2,500.00		\$ 2,500.00
Category Sub-Total		\$ 2,500.00		\$ 2,500.00
C. CONTRACTUAL SERVICES				
Category Sub-Total		\$ -		\$ -
D. EQUIPMENT				
Category Sub-Total		\$ -		\$ -
E. OTHER DIRECT COSTS				
Laptop Computers	20.616	\$ 2,000.00		\$ 2,000.00
Educational Materials	20.616	\$ 12,000.00		\$ 12,000.00
California State Bar Association Fees	20.616	\$ 740.00		\$ 740.00
Category Sub-Total		\$ 14,740.00		\$ 14,740.00
F. INDIRECT COSTS				
Category Sub-Total		\$ -		\$ -
GRANT TOTAL		\$ 386,060.00		\$ 386,060.00

SCHEDULE B-1**GRANT NO. DI1425****BUDGET NARRATIVE**

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PERSONNEL COSTS

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.

Fulltime

4 Deputy District Attorneys III – The Deputy District Attorneys will be dedicated, at 50% of fulltime, to vertically prosecute cases involving driving under the influence of alcohol and/or drugs. The prosecutors will attend training provided by the Traffic Safety Resource Prosecutor Program and deliver training to law enforcement, investigators and other attorneys within the District Attorney's Office. The Deputy District Attorneys will be responsible for community outreach and education. This vertical prosecution unit will implement the following policies to achieve maximum effectiveness:

- 1) Resist pre-trial releases of charged defendants.
- 2) Charge all enhancements and prior felony convictions that might be used to increase bail.
- 3) Make personal appearances at arraignments and request bail be set at bail schedule or higher, based on the perceived threat to the safety of the public.
- 4) Vigorously advocate that continuances only be granted upon a showing of good cause, consistent with the provision of Penal Code Section 1050, to ensure that the People's right to a speedy trial will be considered by the Court.
- 5) Reduce the caseloads of unit attorneys so that they can be available to handle cases throughout the county and attend to the needs of victims or families of victims.
- 6) Establish a working relationship with law enforcement agencies countywide. The agencies will be trained on the investigative and filing expectations for the crimes covered by this grant in order to facilitate successful prosecution.

Full Time Benefit Rates

Dental Insurance	0.96%
Health Insurance	8.46%
Life Insurance	0.08%
Medicare	1.45%
Retirement	31.63%
Unemployment Insurance	0.27%
Workers Compensation	1.67%
Accidental Death & Dismemberment	0.02%
Salary Continuance Insurance	0.51%
Optional Benefit Plan*	1.59%
TOTAL BENEFIT RATE	46.64%

SCHEDULE B-1

GRANT NO. DI1425

BUDGET NARRATIVE

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*Optional Benefit Plan is a County benefit for eligible employees to cover certain job related expenses such as professional conferences, memberships, license, certificate, professional journals and periodicals.

Supplanting Statement

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

TRAVEL EXPENSE

In-State

Costs are included for appropriate staff to attend conferences and training events supporting the grant goals and objectives and/or traffic safety. Local mileage for grant activities and meetings is included. Anticipated travel may include the Vehicular Homicide Seminar, OTS Leadership and Training Seminar, Quarterly Roundtable Meetings, training provided by or in conjunction with the Traffic Safety Resource Prosecutor (TSRP) program and the training activities in association with local law enforcement agencies. *All conferences, seminars or training not specifically identified in the Schedule B-1(Budget Narrative) must be approved by OTS. All travel claimed must be at the agency approved rate. Per Diem may not be claimed for meals provided at conferences when registration fees are paid with OTS grant funds.*

CONTRACTUAL SERVICES

None

EQUIPMENT

None

OTHER DIRECT COSTS

2 Laptop Computer(s) - for use in tracking grant activities and producing required reports (excludes iPads, electronic tablets and electronic notebooks). Costs may include a printer and accessories.

Educational Materials – used to purchase, develop or print brochures, pamphlets, fliers, coloring books, posters, signs, and banners associated with grant activities, and traffic safety conference and training materials. Items shall include a traffic safety message and if space is available the OTS logo. *Additional items may be purchased if approved by OTS.*

California State Bar Association Fees – (4 @ 50%) payment of State Bar Association membership fees required for practicing lawyers in California (State Bar Association fees are limited to a maximum of \$380 per full-time attorney).

SCHEDULE B-1

GRANT NO. DI1425

BUDGET NARRATIVE

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INDIRECT COSTS

None

PROGRAM INCOME

There will be no program income generated from this grant.

EXHIBIT A
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 Chapter II - (§§1200, 1205, 1206, 1250, 1251, & 1252) Regulations governing highway safety programs
- NHTSA Order 462-6C - Matching Rates for State and Community Highway Safety Programs
- Highway Safety Grant Funding Policy for Field-Administered Grants

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 (88), 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 (101), 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 (100), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities; (f) the Drug Abuse Office and Treatment Act of 1972 (92), 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 (91), 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.

EXHIBIT A
CERTIFICATIONS AND ASSURANCES

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 (HATCH ACT)

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, 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.

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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 prospective primary participant 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.

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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.

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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.

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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.