

VERTICAL PROSECUTION
SCHEDULE A
GRANT DESCRIPTION
GRANT NO. DI1625

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1. PROBLEM STATEMENT

In 2013 Driving Under the Influence (DUI) cases remained the largest proportion of misdemeanor case filings for the San Francisco District Attorney's Office (SFDA). Additionally District Attorney Investigators (DAI) handled investigations for approximately 400 these cases, just under a third of the total DUI caseload. DUI investigation requests are extremely demanding and take a significant amount of the Bureau of Investigations resources.

The San Francisco Police Department and the California Highway Patrol are the primary police arresting agencies for DUIs in the City and County of San Francisco. Both of these agencies have been significantly under resourced for the last several years. As a result of these limited resources and possible "rising blood alcohol" defense the SFDA has increased investigative responsibilities. When a police agency arrests someone for a DUI, they often focus on the person driving the vehicle. Attention is directed toward what the driver blew on the the initial sobriety test and then their blood alcohol level through a blood test. Other passengers in the vehicle are often not interviewed at the scene. In San Francisco, the initial sobriety results and chemical tests are often not enough to successfully prosecute a DUI case.

Currently, when the SFDA receives a case, the Assistant District Attorney requests that DAI conduct interviews on all witnesses that were passengers inside the vehicle. Passengers are typically interviewed because they will commonly appear in court as defense witnesses and their accounts must be analyzed prior to trial. Most of the time, these witnesses are friends of the driver, further confounding their willingness to respond to questions. The process of locating and interviewing new witnesses is extremely time consuming. Having a specific investigator to conduct all of these interviews would be a tremendous help and would produce beneficial outcomes to more of our DUI cases.

In 2013 the SFDA Misdemeanor Unit was one of the most successful trial teams in the San Francisco District Attorney's Office. Despite an overall increase in the number of cases taken to trial the Misdemeanor Unit was able to achieve a 45% reduction in Not Guilty findings when compared to 2012. While the unit is extremely successful, misdemeanor DUI, Drug and Combo cases remain amongst the most difficult to prosecute. This is especially true when inadequate investigation has been conducted during the incident, e.g., witnesses have not been interviewed. A separate challenge to successful prosecution of these cases arises from the backlog of blood testing by the Medical Examiner. Blood tests are necessary for Drug and Combo cases. Oftentimes, for DUI cases involving blood tests, the test results will be unavailable for periods exceeding six months, resulting in a decrease in the quality of the case (e.g., missed opportunity to conduct follow up investigation).

Grant Service Target Population

The San Francisco District Attorney's Office serves all of the residents of and visitors to the City and County of San Francisco. The District Attorney is mandated by the California Constitution and the Government Code to review, charge and prosecute criminal violations of the laws of California that take place within the geographic boundaries of San Francisco. The District Attorney's Office brings actions on behalf of the People of the State of California. As such the population served and targeted is the population of San Francisco and those who work in and visit our great city.

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The City and County of San Francisco is the financial and cultural core of a metropolitan area of five and a half million people. The City and County San Francisco spans approximately 49 square miles with an estimated 805,235 culturally, ethnically, and linguistically diverse residents (16,500 residents per square mile), 44% of which are family households. San Francisco is the only city-county dual jurisdiction government in California and has one of the most diverse cities in the nation and has the highest per capita immigration rate in the country.

San Francisco's ethnic diversity includes approximately 45% White, 31% Asian/Pacific Islander, 14% Hispanic/Latino, and 6% African American residents. Amongst this ethnic diversity the low-income African Americans and Latinos disproportionately live in neighborhoods which are most impacted by violent crime. San Francisco is the only city-county dual jurisdiction government in California.

San Francisco is made up of a diverse array of populations, many of whom are Limited English Proficient (LEP). According to the most recent U.S. Census (2010) estimates, the demographics of the City included 33% people of Asian descent, 15% of Hispanic or Latino descent, approximately 36% foreign born, and 45% spoke a language other than English at home (U.S. Census Bureau State & County Quick Facts). The six most common languages spoken in San Francisco other than English are: Chinese (Cantonese), Spanish, Tagalog, Russian, Vietnamese, and Japanese (U.S. Census Bureau, 2011 American Community Survey). According to this survey, 26% of San Francisco residents speak one of the above Asian Pacific Islander (API) languages, and more than 60% of these report speaking English less than very well. Spanish speakers represent approximately 12% of the population of the City, and almost 46% of these people report not speaking English very well.

Community Impact

In 2012, Trulia compiled rankings using the most recent U.S. Census data, including County Business Patterns data showing that San Francisco has more restaurants and bars than any other similarly sized jurisdiction in the United States. According to San Francisco's sustainable communities index research strongly suggests that density of alcohol outlets is closely related to crime and violence. They further cite the Pacific Institute for Research and Evaluation, "Neighborhoods where bars, restaurants and liquor and other stores that sell alcohol are close together suffer more frequent incidences of violence and other alcohol-related problems, according to recent research by the Prevention Research Center and others." While San Francisco is a premiere destination city for work, culture and the arts it also contains a dense concentration of alcohol outlets; both offsite liquor retail and bars. This density data suggests that there is a significant potential for drivers under the influence of substances to be navigating San Francisco's streets and major highways.

While the rate of alcohol involved fatalities in San Francisco remains below the state average, there continue to be issues with alcohol and drug impaired drivers injuring and threatening the safety of San Francisco's residents and visitors. The following baseline data demonstrates the ongoing need for resources to be directed toward successful apprehension of offenders, investigation, prosecution and public education. This will serve as a measure to evaluate the impact of the proposed grant on the identified problem.

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Currently, several Assistant District Attorneys work with a variety of District Attorney Investigators (DAI) on DUI cases. As noted above, our office faces a high volume of DUI cases, and these cases are very demanding on DAI time. A dedicated DA Investigator will improve the effectiveness of DUI case processing, however, it is the *coordination* of a dedicated investigator with a dedicated prosecutor that will maximize our efficiency. This dedicated investigative and prosecutorial team will exhibit streamlined communication, resulting increased case filings as well as speedier filings. We anticipate that this new staffing arrangement could increase our filing rate by up to 10 percentage points. In 2013, the average time between arrest and filing for DUIs was 31 days, ranging from 1 day to 354 days. The dedicated prosecutor, working in concert with the dedicated DA Investigator, could bring the average down to 20 days or less.

A. Traffic Data Summary:

- **Data:** Using SWTRS data, complete the table below.

	2010				2011				2012			
Collisions	Fatal	Injury	Killed	Injured	Fatal	Injury	Killed	Injured	Fatal	Injury	Killed	Injured
Alcohol-Involved	10	262	10	361	13	340	13	480	12	357	12	465

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

	2010		2011		2012	
	Felony	Misdemeanor	Felony	Misdemeanor	Felony	Misdemeanor
Countywide DUI Arrests	64	1416	64	1700	61	1666

- **Data:** Using your own data, complete the table below. If your data system cannot differentiate DUI cases by alcohol, drug, and combo, report all cases on the alcohol row and include an explanation below the table.

	FFY-2012						FFY-2013						FFY-2014					
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
Alcohol	194	2150	128	1691	100	1511	168	1609	82	1319	51	1049	170	1187	56	1019	33	794
Drug			43	184					59	153			10	29	2	26	0	3
Combo													0	6	0	7	0	1

Due to modifications to our case management system we are now able to provide case type detail. This is not available for previous years at this time.

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2. PERFORMANCE MEASURES

A. 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.

B. Objectives:

- 1) To 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 Misdemeanor DUI Alcohol, Drug and Combo cases
- 2) To designate 1 prosecutor position(s) and 1 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.
- 3) To 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) DUI Alcohol-only; 2) DUI Drug-only; and 3) DUI Combination Alcohol and Drug cases.
- 4) To 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.
- 5) To work with the Traffic Safety Resource Prosecutor (TSRP) to provide comprehensive training in the prosecution of DUI Alcohol and DUI Drug cases, in addition to any information conveyed at TSRP quarterly meetings, to 2 prosecutors and 2 investigators.
- 6) To work in conjunction with the TSRP to provide continuous comprehensive training in the investigation, report writing, and courtroom testimony for prosecution of DUI Alcohol and DUI Drug cases, in addition to any information conveyed at TSRP quarterly meetings, with an effort to reach 13 local law enforcement officers.

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- 7) To meet with the TSRP quarterly to provide updates on the Vertical Prosecution Program.
- 8) To send the funded prosecutor(s) to training seminars sponsored by OTS and California District Attorneys Association.
- 9) To 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, 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.
- 10) To 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.
- 11) To participate in at least one ride-along during a DUI saturation patrol 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.*
- 12) To 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.*
- 13) To send the funded vertical prosecutor(s) and investigator to the NHTSA "Advanced Roadside Impaired Driving Enforcement" (ARIDE) 16 hour POST-Certified training. *Note: The funded vertical prosecutor(s) and investigator(s) should achieve this objective within the first quarter of the grant.*
- 14) To have the grant-funded personnel actively participate in the preparation and review of the Quarterly Performance Reports and Schedule C data sheets that are submitted to OTS, as a means to improve on the quality and accuracy of the information and data.

3. METHOD OF PROCEDURE

A. Phase 1 - Program Preparation, Training and Implementation (1st Quarter of Grant Year)

- Recruit and hire all staff for the grant.
- Procure all materials necessary to implement the grant.

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- Identify dates and schedule the four Regional Roundtable Meetings (one each quarter), and notify the OTS coordinator of the dates.
- Develop protocols to be used to measure the success of the DUI Prosecution Program.
- Conduct training for all program staff outlining the goals and objectives of the project.
- Cases for prosecution will be referred to the grant-funded Deputy District/City Attorney(s).
- Transfer all pending DUI cases which qualify under this program so that vertical prosecution may begin.
- 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.
- Plan, schedule and coordinate any educational components included in the grant.

Media Requirements

- Issue a press release announcing the kick-off of the grant by November 15. The kick-off press releases and media advisories, alerts, and materials must be emailed to the OTS Public Information Officer at pio@ots.ca.gov, and copied to your OTS Coordinator, for approval 14 days prior to the issuance date of the release.

B. Phase 2 - Program Operations (Throughout Grant Year)

- 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.
- Prosecutor(s) will:
 - a) Work to secure convictions (as justice requires) and appropriate sentences that reflect the public safety risk posed by the offender.
 - b) Mentor trial attorneys on how to successfully try high-risk DUI offenders.

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- 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.

Media Requirements

- Send all grant-related activity press releases, media advisories, alerts and general public materials to the OTS Public Information Officer (PIO) at pio@ots.ca.gov, with a copy to your OTS Coordinator.
 - a) 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.
 - b) 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.
 - c) Activities such as warrant service operations and court stings that could be compromised by advanced publicity are exempt from pre-publicity, but are encouraged to offer embargoed media coverage and to report the results.
- Use the following standard language in all press, media, and printed materials: Funding for this program was provided by a grant from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration.
- Email the OTS PIO at pio@ots.ca.gov and copy your OTS Coordinator at least 30 days in advance, a short description of any significant grant-related traffic safety event or program so OTS has sufficient notice to arrange for attendance and/or participation in the event.

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- Submit a draft or rough-cut of all printed or recorded material (brochures, posters, scripts, artwork, trailer graphics, etc.) to the OTS PIO at pio@ots.ca.gov and copy your OTS Coordinator for approval 14 days prior to the production or duplication.
- Include the OTS logo, space permitting, on grant-funded print materials; consult your OTS Coordinator for specifics.

C. Phase 3 – Data Collection & Reporting (Throughout Grant Year)

- Agencies are required to collect and report quarterly, appropriate data that supports the progress of goals and objectives.
 - 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.
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- 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 as specified in the Grant Program Manual.

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 support of the City and County of San Francisco. Every effort will be made to continue the activities after the grant conclusion.

SCHEDULE B
DETAILED BUDGET ESTIMATE
GRANT NO. DI1625

FUND NUMBER	CATALOG NUMBER (CFDA)	FUND DESCRIPTION			TOTAL AMOUNT
405d AL	20.616	National Priority Safety Programs			\$ 290,704.00
COST CATEGORY		FISCAL YEAR ESTIMATES 10/1/15 thru 9/30/16			TOTAL COST TO GRANT
A. PERSONNEL COSTS		CFDA	FY-1		
Positions and Salaries					
<u>Full-Time</u>					
Assistant District Attorney					
1 x 26.1 pay periods x \$4223 x 98%		20.616	\$ 108,016.00		\$ 108,016.00
Benefits @ 31.50%		20.616	\$ 34,025.00		\$ 34,025.00
District Attorney Investigator					
1 x 26.1 pay periods x \$4439 x 98%		20.616	\$ 113,541.00		\$ 113,541.00
Benefits @ 28.22%		20.616	\$ 32,042.00		\$ 32,042.00
Category Sub-Total			\$ 287,624.00		\$ 287,624.00
B. TRAVEL EXPENSE					
In-State		20.616	\$ 3,080.00		\$ 3,080.00
Out-of-State					\$ -
Category Sub-Total			\$ 3,080.00		\$ 3,080.00
C. CONTRACTUAL SERVICES					
			\$ -		\$ -
Category Sub-Total			\$ -		\$ -
D. EQUIPMENT					
			\$ -		\$ -
Category Sub-Total			\$ -		\$ -
E. OTHER DIRECT COSTS					
			\$ -		\$ -
Category Sub-Total			\$ -		\$ -
F. INDIRECT COSTS					
			\$ -		\$ -
Category Sub-Total			\$ -		\$ -
GRANT TOTAL			\$ 290,704.00		\$ 290,704.00

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BUDGET NARRATIVE

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PERSONNEL COSTS

Assistant District Attorney

The Assistant District Attorney (ADA) will be dedicated to vertically prosecute all misdemeanor cases involving driving under the influence of alcohol and/or drugs. The prosecutor will attend training provided by the California Traffic Safety Resource Prosecutor (TSRP) Program and work with the TSRPs to deliver training to law enforcement, investigators and to other attorneys within the District Attorney's Office. The Prosecutor will review all misdemeanor DUI cases submitted for filing and vertically prosecute the cases accepted and or filed, appear at arraignments, conduct preliminary hearings, file/respond to motions, conduct jury trials and appear at sentencing hearings. Prosecutor will work closely with the District Attorney Investigator to address emerging defense strategies and conduct outreach efforts designed to increase awareness of alcohol-related injuries and deaths. The 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) Establish and continue 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.

NOTE:

The Assistant District Attorney will be working full time (100% FTE) on vertical prosecution cases. The grantee will absorb the remaining costs that are not funded by this grant.

Full -Time Benefit Rates

Dental Insurance	0.76%
Health Insurance	1.60%
Medicare	1.45%
Retirement	18.51%
Social Security/FICA/OASDI	6.20%
Unemployment Insurance	0.27%
Dependent Coverage	2.71%
TOTAL BENEFIT RATE	31.50%

District Attorney Investigator

The District Attorney Investigator will be dedicated to assisting the Assistant District Attorney in the prosecution of DUI Alcohol and DUI Drug cases by gathering evidence, following up on leads, conducting follow-up investigations, interviewing witnesses and victims, and other duties to support prosecution.

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BUDGET NARRATIVE

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NOTE:

The District Attorney Investigator will be working full time (100% FTE) on vertical prosecution cases. The grantee will absorb the remaining costs that are not funded by this grant.

Full -Time Benefit Rates

Dental Insurance	1.41%
Health Insurance	1.66%
Medicare	1.45%
Retirement	17.23%
Unemployment Insurance	0.27%
Dependent Coverage	6.20%
TOTAL BENEFIT RATE	28.22%

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.

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 attendance at DUI-related training provided by the California District Attorneys Association (CDAA) and Lifesavers. *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

None

INDIRECT COSTS

None

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PROGRAM INCOME

There will be no program income generated from this grant.

EXHIBIT A
CERTIFICATIONS AND ASSURANCES

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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.

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CERTIFICATIONS AND ASSURANCES

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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, 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.

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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

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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

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- 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.

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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.