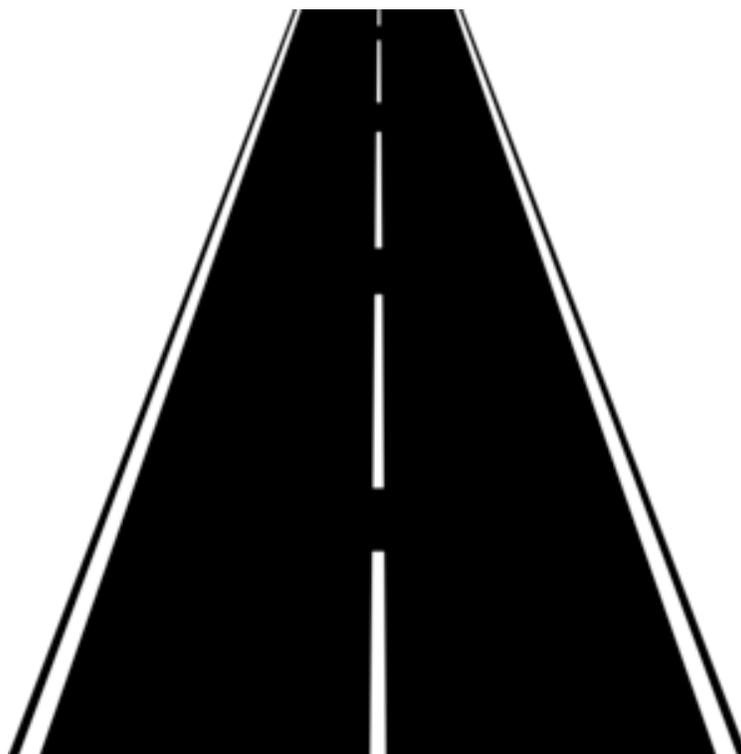


**North Dakota Department of Transportation  
Safety Division**

**SAFETY DIVISION  
OPERATIONS MANUAL**



**Revised October 2015**

# North Dakota Department of Transportation Safety Division

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# Table of Contents

- Chapter I. Introduction
- Chapter II. Planning
- Chapter III. Project Development
- Chapter IV. Grant Selection and Execution
- Chapter V. Grant Administration and Management
- Chapter VI. Fiscal Procedures
- Chapter VII. Annual Report (AR)
- Chapter VIII. Closeout
- Glossary
- Attachment Index

# Chapter I Introduction

I. Introduction	
A. Background and Purpose	1-2
B. Updating Manual	1-2
C. Reference to NDDOT Policies and Procedures	1-2
D. Federal Laws and Regulations	1-2
i. Highway Safety Act of 1966	1-3
ii. OMB Uniform Guidance for FY 2016 Grants	1-3
iii. Lobbying Restrictions	1-3
iv. Internal Management Controls	1-4
v. Other Applicable Office of Management and Budget Circulars	1-4
E. State Highway Safety Office Structure and Mission	1-4
i. State and NDDOT Hierarchy	1-4
F. State Laws and Federal Regulations Governing Delegation of Authority for the State	1-5
Highway Safety Office	
i. Delegation of Authority – State Laws	1-5
ii. Delegation of Authority – Federal Regulations	1-6
Table 1. Delegation of Signature Authority	1-7
G. Roles of Federal Agencies	1-7
i. NHTSA	1-7
ii. NHTSA Regional Offices	1-8
iii. FHWA	1-9
iv. FHWA Regional Office	1-9
v. FHWA Division Office	1-9

Attachment 1 – Governor’s Highway Safety Representative Appointment (p. 1-5)

Attachment 2 – Delegation of Authority Letter (p. 1-6)

## **I. Introduction**

### **A. Background and Purpose**

The purpose of this manual is to establish consistent program and project management procedures for staff and sub-recipients to guide the administration of the state's traffic safety program in compliance with U.S. Department of Transportation (USDOT), National Highway Traffic Safety Administration (NHTSA) regulations.

Best practice requires that the state's Safety Division have in place a current manual that documents standard operating procedures and the management of the traffic safety program. This manual contains a written record of approved current administrative and financial procedures. It serves as a guide to assist staff and administrators to perform their assigned functions. It does not, however, specifically address all regulations that must be followed. Occasional references to other regulations and department manuals and policies are necessary.

This manual is intended for use by Safety Division personnel, North Dakota Department of Transportation (NDDOT) employees, state and local government officials, and anyone interested in the procedures which are followed by the Safety Division.

### **B. Updating Manual**

The Safety Division reviews the content of the manual at least annually to assure that the procedures remain current and accurate. Program and regulatory revisions received from state and federal sources will be made and distributed upon receipt of notification.

The Finance/Contract Manager is assigned the responsibility to update the manual, including the table of contents and appendices, as needed. Revisions requiring immediate attention may be initiated at any time. The manual is maintained on the Safety Division website for easy access by Safety Division personnel and other interested persons.

All members of the Safety Division staff are advised where to obtain an electronic copy of this manual and are held accountable for following the processes outlined in it. Where applicable, Safety Division staff performance evaluations may be tied to compliance with this manual.

### **C. Reference to NDDOT Policies and Procedures**

The laws and regulations of the Safety Division's state department – the NDDOT – also govern the Safety Division. The NDDOT has policies and procedures that may be pertinent to the administration of the traffic safety program. These policies should be reviewed periodically and serve as a guide to assist Safety Division staff and administrators to perform their assigned functions. NDDOT policies can be located at: <http://mydot.nd.gov/policies/policies.htm>.

### **D. Federal Laws and Regulations**

The U. S. Congress authorizes traffic safety funds to be appropriated to the USDOT, NHTSA. NHTSA apportions the funds and distributes them to the states and provides a limitation on obligations that indicates the amount of funds available to each state. The states liquidate these funds through the state's annual Highway Safety Plan (HSP) which is subject to NHTSA review and approval.

Federal regulations govern the daily administration of traffic safety grants at the state level. Administrators of traffic safety grants will be familiar with and follow each cited title and rule to effectively design and manage programs. Thorough knowledge of these regulations will reduce a majority of grant questions before they become problems.

### **i. Highway Safety Act of 1966**

The state traffic safety program operates under the provisions of the Federal Highway Safety Act of 1966, 23 USC 402, et seq., specifically 402(b)(1).

The corresponding regulation contained in the Code of Federal Regulations (CFR), 23 CFR Part 1200.10-15 requires the state's HSP to have certain features before it is approved. These features are contained in a number of federal regulations and guidelines.

The *NHTSA Highway Safety Grant Management Manual* contains pertinent regulations and guidelines: <http://www.nhtsa.gov/About+NHTSA/Highway+Safety+Grant+Programs/Resources+Guide>

The Federal Highway Safety Act of 1966 makes the state's Governor responsible to prepare and administer a statewide traffic safety program designed to reduce traffic crashes and the resulting fatalities, injuries, and property damage. The Governor has named the NDDOT Deputy Director for Driver and Vehicle Services to act as the representative for the state's traffic safety program, known as the GR (Governor's Highway Safety Representative).

### **ii. OMB Uniform Guidance FY 2016 Grants**

Effective with FY 2016 grants, the U.S. Department of Transportation adopted the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), referred to as the Uniform Guidance. This part supersedes and repeals the requirements of the DOT Common Rules (49 CFR part 18 –Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and 49 CFR part 19 – Uniform Administrative Requirements – Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), except that grants and cooperative agreements executed prior to December 26, 2014, shall continue to be subject to 49 CFR parts 18 and 19 as in effect on the date of such grants or agreements.

### **iii. Lobbying Restrictions**

Lobbying restrictions are contained in two federal laws. The Anti-Lobbying Act, 18 USC, Part 1913, prohibits the use of federal funds for "grassroots" lobbying campaigns that encourage third parties, members of special interest groups, or the general public to contact members of Congress; of a state or local legislature; or an official of any government in support of or in opposition to a legislative, policy, or appropriations matter. It applies to activities both before and after the introduction of legislation. These prohibitions apply to all DOT funds, including NHTSA funds awarded to states under grants, cooperative agreements, and contracts. These prohibitions apply to state officials whose salaries are supported, in whole or in part, by NHTSA funds and to recipients of NHTSA funds awarded under contracts, grants, cooperative agreements, and sub-awards.

The Transportation Equity Act for the 21st Century (TEA-21), which is unchanged by SAFETEA-LU (Safe, Accountable, Flexible, Efficient, Transportation Equity Act – A Legacy for Users, Public Law 109-59) and the most recent reauthorization Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21), prohibits the use of NHTSA funds for "any activity specifically designed to urge a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body." These restrictions do not apply to state officials engaged in state-sanctioned communications with their legislatures, even if their salaries are supported, in whole or in part, with NHTSA funds. Any direct

communications between state executive officials and state or local legislators properly are governed by the laws, regulations, and customary practices in the state.

State and local officials and legislative bodies are authorized to invite federal officials to testify before legislative bodies on pending legislation. Such invitations should be documented in writing.

These restrictions apply to sub-recipients as well. Sub-recipient certifications must include a prohibition from using federal grant funds in violation of the lobbying restrictions. If any funds other than federal funds have been paid for by lobbying, the provisions of the federal Lobbying Disclosure Act of 1995, as amended (2 USC Part 1601) must be followed. For additional federal guidance, see NHTSA Guidance on Lobbying Restrictions.

State officials and sub-recipients may engage in advocacy activities as distinguished from lobbying. Such advocacy may include but is not limited to: holding periodic briefings for elected officials, developing general materials about legislation such as fact sheets, sharing research reports with legislative staff, giving testimony upon request (unless prohibited by state restrictions), and involving elected officials in programs, meetings, and press events.

#### **iv. Internal Management Controls**

The Safety Division shall operate to reasonably ensure that: (a) programs achieve their intended results; (b) resources are consistent with agency mission; (c) programs and resources are protected from waste, fraud, and mismanagement; (d) laws and regulations are followed; and (e) reliable and timely information is obtained, maintained, reported, and used for decision making.

#### **v. Other Applicable Office of Management and Budget Circulars**

Beginning with the FY 2016 highway safety grants, the federal regulations at 2 CFR Parts 200 and 1201 supersede requirements from OMB Circulars A-21, A-50, A-87, A-89, A-102, A-110, A-122 and A-133. NHTSA recipients are responsible for following all standards in 2 CFR Part 200 as modified by 2 CFR Part 1202.

## **E. State Highway Safety Office Structure and Mission**

The State Highway Safety Office within the NDDOT is identified as the Safety Division. The Safety Division serves to reduce traffic crashes and related fatalities and injuries through the development, implementation, and evaluation of programs designed for this purpose. The Safety Division includes the Traffic Safety Program, the Traffic Records Section and the Strategic Highway Safety Plan and processes.

### ***i. State and NDDOT Hierarchy***

The NDDOT Director reports directly to the Governor and the GR reports to the NDDOT Director. More information on the hierarchy of North Dakota State Government can be located at the following link to the North Dakota Governor's Office. <http://www.governor.nd.gov/administration>

The most current organizational charts for the NDDOT and the NDDOT Safety Division can be located at the following link. <http://mydot.nd.gov/divdist.htm>

## F. State Laws and Federal Regulations Governing Delegation of Authority for the State Highway Safety Office

The laws and regulations of the state also govern the Safety Division.

### i. Delegation of Authority – State Laws

At the state level, the Governor authorizes the traffic safety program. North Dakota Century Code (NDCC) 54-07-05, from July 1, 1967, authorizes North Dakota's Governor to enter into grants and contracts to carry out a duty or activity that is part of the program as follows:

***54-07-05. Highway safety assent.** The governor, in addition to other duties and responsibilities conferred upon the governor by the constitution and laws of this state, is hereby empowered to contract and to do all other things necessary in behalf of this state to secure the full benefits available to this state under the Highway Safety Act of 1966 [Pub. L. 89-564; 80 Stat. 731; 23 USC 401 et seq.], and in so doing, to require compliance by state agencies and political subdivisions; to cooperate with federal and state agencies, agencies private and public, interested organizations, and with individuals; to effectuate the purposes of that enactment and any and all subsequent amendments thereto. The governor is the official of this state having ultimate responsibility for dealing with the federal government with respect to programs and activities pursuant to the Highway Safety Act of 1966 [Pub. L. 89-564; 80 Stat. 731; 23 USC 401 et seq.] and any amendments thereto. To that end the governor shall coordinate the activities of any and all departments and agencies of this state and its subdivisions, relating thereto.*

The Governor, in turn, per authority under CFR 23, 1200.4(a), *Policy*, positioned the State Highway Safety Office within the NDDOT. The Governor appoints the GR. See Attachment 1. As such, the GR assumes the responsibilities for the State Highway Safety Agency outlined in NDCC 54-07-05 and fulfills the obligations of CFR 23, 1200.4(b) and 1200.4(c) as follows:

***23 CFR 1200.4(b) Authority.** Each State Highway Safety Office shall be authorized to:*

- (1) Develop and execute the Highway Safety Plan and highway safety program in the State;*
- (2) Obtain information about programs to improve highway safety and projects administered by other State and local agencies.*
- (3) Maintain or have ready access to information contained in State highway safety data systems, including crash, citation, adjudication, emergency medical services/injury surveillance, roadway and vehicle record keeping systems, and driver license data;*
- (4) Periodically review and comment to the Governor on the effectiveness of programs to improve highway safety in the State from all funding sources that the State plans to use for such purposes;*
- (5) Provide financial and technical assistance to other State agencies and political subdivisions to develop and carry out highway safety strategies and projects; and*

*(6) Establish and maintain adequate staffing to effectively plan, manage, and provide oversight of highway safety projects approved in the Highway Safety Plan.*

**23 CFR 1200.4(c) Functions.** *Each State Highway Safety Office shall:*

*(1) Develop and prepare the Highway Safety Plan based on evaluation of highway safety data, including crash fatalities and injuries, roadway, driver and other data sources to identify safety problems within the State;*

*(2) Establish highway safety projects to be funded within the State under 23 USC Chapter 4 based on identified safety problems and priorities;*

*(3) Provide direction, information and assistance to sub-recipients concerning highway safety grants, procedures for participation, and development of projects;*

*(4) Encourage and assist sub-recipients to improve their highway safety planning and administration efforts;*

*(5) Review approve and evaluate the implementation and effectiveness of State and local highway safety programs and projects from all funding sources that the State plans to use under the HSP, and approve and monitor the expenditure of grant funds awarded under 23 USC Chapter 4;*

*(6) Assess program performance through analysis of highway safety data and data-driven performance measures;*

*(7) Ensure that the State highway safety program meets the requirements of 23 USC Chapter 4 and applicable Federal and State laws, including but not limited to the standards for financial management systems. (8) Ensure that all legally required audits of the financial operations of the State Highway Safety Agency and of the use of highway safety grant funds are conducted;*

*(9) Track and maintain current knowledge of changes in State statute or regulation that could affect State qualification for highway safety grants or fund transfer programs; and*

*(10) Coordinate the Highway Safety Plan and highway safety data collection and information systems activities with other federally and non-federally supported programs relating to or affecting highway safety, including the State strategic highway safety plan as defined in 23 USC 148(a).*

## **ii. Delegation of Authority – Federal Regulations**

NHTSA regulations require a formalized process be established by the state as to who can act on behalf of the GR in his absence. The Safety Division is required to establish a written Delegation of Authority.

The NHTSA Region 8 Office shall be notified in writing by the Safety Division Manager of the name and type of authorization and provided with the signature of each person currently assigned signature authority on behalf of the Safety Division. Whenever a temporary or permanent change occurs in the authorization assignment or the person assigned to the named authorized position, the NHTSA Regional Office shall be notified in writing and provided the new information. The most recent *Delegation of Authority* letter is included as Attachment 2.

The following table lists signature authority related to the Safety Division traffic safety grant program functions.

**Table 1. Delegation of Signature Authority**

<b>Document</b>	<b>Signature Authority</b>
Highway Safety Plan	Approved by the GR or delegate
Certifications and Assurances of the Highway Safety Plan	Signed by the GR or delegate
Federal Cooperative Agreements	Signed by the GR or delegate
NHTSA Agreements	Signed by the GR or delegate
Federal Grant Applications	Signed by the GR or delegate
Grant Agreement/Service Contracts	Approved as to content by the Safety Division Director or delegate and signed by the NDDOT Director or delegate
State Vouchers for Federal Reimbursement	NDDOT Financial Management Division
Requests to NHTSA to purchase equipment (\$5,000 or more) with federal funds	Safety Division Program Manager or delegate

In the absence of the Safety Division Director, Safety Division signature authority is delegated to the Safety Division Contracts/Finance Manager.

## **G. Roles of Federal Agencies**

### ***I. NHTSA***

The primary mission of NHTSA is twofold. NHTSA supports the national goals and statutory responsibilities of the Secretary of Transportation by developing and administering programs that implement legislation designed to reduce motor vehicle crashes with resulting deaths, injuries, and economic losses. NHTSA also safeguards the motor vehicle consuming public through regulation, research, information, and education. In furtherance of this primary mission, the additional missions of NHTSA are shown below.

1. To administer a coordinated national program of leadership to the states and other public and private sector groups designed to accelerate highway safety programs, and to administer technical and financial assistance programs at the state and local levels.
2. To publish and distribute uniform standards for developing state highway safety programs.
3. To conduct an evaluation to assist states and local communities to achieve comprehensive highway safety programs.
4. To establish and enforce federal motor vehicle safety performance standards and to improve operation and performance safety by eliminating motor vehicle and equipment defects.
5. To emphasize and support compliance with federal motor vehicle safety standards.
6. To publish and distribute rules for the disclosure of odometer mileage and prosecution of odometer fraud.

*ii. NHTSA Regional Offices*

NHTSA regional offices provide a variety of services, as shown below.

1. Administer federal grant programs (including incentive and demonstration) for highway safety activities in states and local communities. The regional office for North Dakota is located in Lakewood, Colorado, and:
  - a. Provides technical leadership and assistance to the states and their political subdivisions in planning, developing, implementing, and reviewing highway safety programs;
  - b. Serves as a focal point for coordination and exchange of traffic safety and motor vehicle information and research and demonstration project findings among the states;
  - c. Serves as a point of contact for the public, industry representatives, other federal agencies, and interested organizations, and provides interpretation of standards applied to highway safety-related activities; and
  - d. Reviews states' administrative, financial, and program review processes, recommends improvements, and assists in their implementation.
2. Review and recommend approval or disapproval of Highway Safety Plans for state and community highway safety programs.
3. Monitor and evaluate state and local projects for conformance with approved programs, determine progress and effectiveness of total state highway safety efforts, recommend improvements, and assist in their implementation. Review state and local activities for the continued eligibility for federal financial assistance under the Highway Safety Act of 1966, as amended.
4. Coordinate with the regional and division offices of the Federal Highway Administration (FHWA) on all highway-oriented aspects of highway safety including the states' Highway Safety Plans and program guidance.
5. Provide contract technical management for NHTSA Section 403 projects assigned to the region.
6. Provide accounting services for NHTSA programs and FHWA regional offices and their respective states for the obligation of funds, reimbursement to states, advance financing of the federal share of program expenditures, and preparation of monthly status reports on program funds.
7. Evaluate and coordinate implementation of findings and recommendations of audits of highway safety activities in the region.
8. Perform preliminary vehicle defects investigations and provide information to headquarters offices.
9. Provide input to headquarters offices regarding staffing needs, research requirements, and other matters having impact on the national highway safety picture.
10. Implement public information in cooperation with state and local traffic safety officials' efforts by providing published materials, participating in public information activities or arranging for public information materials for local television, civic, and professional association activities.

## Chapter I - Introduction

11. Serve on various regional Department of Transportation committees to affect maximum impact on safety operations.
12. Provide training orientation to states and communities in the area of highway safety.

### ***iii. FHWA***

In accordance with the provisions of the Highway Safety Act of 1966, FHWA administers a coordinated national program of financial assistance to the states to accelerate development and implementation of highway safety programs at state and local levels in the following areas.

1. Highway design and construction and maintenance, including highway-related aspects of pedestrian safety.
2. Identification and surveillance of crash locations.
3. Traffic control devices.

### ***iv. FHWA Regional Office***

The regional FHWA carries out the highway-related aspects of the state and community safety programs.

1. The regional FHWA has been delegated authority (jointly with the appropriate NHTSA official) to:
  - a. approve multi-year comprehensive plans,
  - b. determine state agency acceptability,
  - c. approve Highway Safety Plans,
  - d. execute agreements, and
  - e. grant authorization to proceed.

The FHWA's and NHTSA's Regional Administrators shall cooperatively:

- a. establish an acceptable balance of activity among the safety standards,
- b. assure the adequacy of planning and administration, and
- c. review activity in closely associated standards administered by NHTSA.

### ***v. FHWA Division Office***

In keeping with the FHWA policy of maximum decentralization, the division offices have been delegated the following highway-related program responsibilities.

1. Coordinate with and assist the GR.
2. Provide technical assistance and advice to state and local governments.
3. Monitor and evaluate state and local highway safety programs.

## Chapter II Planning

II. Planning	2-3
A. Overview	2-3
B. Highway Safety Plan Development Process and Calendar	2-4
Table 2. HSP Development Process Calendar	2-5
i. NHTSA Review and Approval Procedures	2-6
C. Coordination with the State’s Strategic Highway Safety Plan	2-6
D. Identification of State and Local Problems (Data Analysis Procedure)	2-7
Table 3. Categories of Traffic Safety Data	2-8
Table 4. Questions to Help with Data Analysis and Problem Identification	2-8
Table 5. Information That May Be Applied to Problem Analysis	2-8
E. Key Program Areas, Targets, and Strategies	2-9
i. Description of Target Setting Processes	2-9
ii. Performance Targets	2-9
iii. Evidence-Based Countermeasure Strategies	2-10
iv. Evidence-Based Traffic Safety Enforcement Program	2-11
v. National Mobilizations	2-11
F. Performance Measures	2-11
Core Performance Measures	2-11
G. Section 405 Application Information – Appendix D	2-14
i. Maintenance of Effort	2-14
ii. Planning and Administration (P&A) Costs	2-15
iii. Eligible Uses of Section 405 Funds	2-15
iv. NHTSA Section 405 Award Determinations and Appeals	2-16
H. Performance Report	2-17
I. Teen Traffic Safety Program – Appendix C	2-17
J. Public Outreach	2-17
K. Funding and the Program Cost Summary – Appendix B	2-18
i. Program Cost Summary Form (HS-217)	2-18
ii. List of Projects	2-18
iii. Changes and Updates to the HS-217	2-19
iv. HSIP Funds	2-19
v. Planning and Administration Costs	2-19

## Chapter II - Planning

vi. Automated Traffic Enforcement Systems Prohibition	2-19
vii. Apportionment and Obligation of Federal Funds	2-19
L. Benefit to Locals	2-20
Use of Transfer Funds for Section 402 Purposes – Benefits to Locals	2-21
M. Transfer Funds	2-22
N. Advertising	2-23
Sports Marketing	2-23
O. Certifications and Assurances	2-24
P. Three Years Plus One Federal Obligation Restriction	2-24
Q. Fund Liquidation	2-25
R. Delegation of Authority	2-25
Table 6. Delegation of Signature Authority	2-26
S. Federal Spending Transparency	2-26
T. Buy America Act	2-27

## II. Planning

### A. Overview

Each federal fiscal year (October 1 – September 30) the Safety Division shall develop an HSP to qualify for federal highway safety funding. The HSP is prepared and submitted by the Safety Division Director for review and comment. The Safety Director then provides the HSP for all NDDOT approvals.

The HSP is due to NHTSA on July 1 for approval and is submitted to NHTSA by email to [NHTSAGrants@dot.gov](mailto:NHTSAGrants@dot.gov). The NHTSA Region 8 Office has access to the plan from the email site as does FHWA.

Federal approval of the HSP is in the form of a letter from NHTSA Region 8 acknowledging that the state's submission of the performance plan, highway safety plan, certificates and assurances, and cost summary complies with all federal requirements.

Significant changes pertaining to the HSP were made in interim federal regulations as a result of the passage of the transportation reauthorization bill signed into law on July 6, 2012. The reauthorizing law is called "Moving Ahead for Progress in the 21<sup>st</sup> Century" Act and is referred to as MAP-21. A consolidated application process for the Section 402 program and six National Priority Safety Programs, codified into a single section as the Section 405 program, was established effective with the fiscal year 2014 application.

At the beginning of the HSP development process, the Safety Division considers a number of factors to determine project priorities and areas of emphasis. These factors are:

- Federal legislation and regulations
- State statutes
- Federal and national priorities and targets/goals
- State and local problems

Other influences can be federal and state legislative bodies, community-based organizations, local and national interest groups, state and local traffic safety-related nonprofit organizations, and local governments. Projects can be proposed by members of any of these organizations, directly or indirectly. The key goal is to assure that all projects in the HSP are data driven.

Title VI of the Civil Rights Act of 1964 provides that no person in the United States shall be subjected to discrimination on the basis of race, color, or national origin. The purpose of Title VI is to eliminate discrimination in any agency receiving federal financial assistance. Public involvement procedures are designed in a manner that will comply with Title VI. The Safety Division undertakes two distinct processes to identify contractors:

- Procurement of services – request for proposal (RFP)
- Grants – request for application (RFA)

RFPs/RFAs are solicited from potential sub-recipients. Solicitation announcements are posted to the Safety Division webpage. The RFP/RFA is a tool to encourage input, and it provides the decision-makers with valuable information to be considered in the process. When projects are solicited, grant review committees are established to review and score proposals/applications received in response to the solicitation.

The procedure for selecting members for advisory or workgroup representation is designed to assure selection without regard to race, color, or national origin; to assure participation of an adequate number of people; and to assure appropriate level of expertise. The criteria used in making selections include the following:

- Specific needs for advisory groups – particularly project-related groups – for continuity
- The need for achieving the proper level of knowledge and skill
- Recommendations to Safety Division from traffic safety stakeholders
- Inclusion of 'new' agencies not currently participating in Safety Division HSP activities

From time to time, Congress designates or earmarks federal highway safety funds for specific purposes and uses. Projects developed in response to these earmarked funds must be data driven as well, with the earmarked funds dedicated to the areas of the state with the greatest threat to public safety.

The NHTSA interim regulations under MAP-21 eliminated national priority areas. States may use grant funds more broadly in accordance with an HSP approved by NHTSA to address their traffic safety problems. These program areas then form the framework for providing detailed descriptions of the selected traffic safety projects.

NEW: MAP-21 provides for two new uses for funds apportioned under Section 402. A state may use the funds in cooperation with neighboring states for highway safety programs or related projects that may confer benefits on neighboring states. And states may use Section 402 funds to assist in demonstration projects carried out by NHTSA under Section 403 research and development projects.

## **B. Highway Safety Plan Development Process and Calendar**

The HSP is required by the USDOT, NHTSA regulations. The federal regulations outline the required contents of the HSP: planning process, performance plan, strategies and projects, performance report, program cost summary, certifications and assurances, Teen Traffic Safety Program, and Section 405 grant application.

The HSP describes the processes used to identify the state's traffic safety problems, establish performance measures, and propose the projects and activities the state plans to implement to reach its performance goals. Performance measures for each goal track progress from a baseline toward meeting the goal by the specified target date. The HSP describes the grant projects and activities the state plans to implement to reach the goals identified in the Performance Plan.

The HSP development process consists of a number of stages:

- Problem identification
- Planning to select and prioritize goals, objectives, and countermeasure strategies
- Identification of performance measures
- Participation from traffic safety-related partners
- Development of funding priorities, the Program Cost Summary, and list of projects
- Issuance of Request for Proposals (RFP) or Request for Applications (RFA), as necessary
- Review, negotiation, and approval of grant agreements
- Implementation

The Safety Division's HSP is produced annually and is developed through discussions coordinated by the Safety Division. The Safety Division may work with interagency groups, state and local government agencies, community coalitions, and other identified stakeholders to develop the annual HSP. The initial discussion is with Safety Division staff only. The discussion allows for the review of previous year

comments on prior activities (by federal, state, and local partners) and the development of an initial budget and the production of rough drafts for each program area.

Once a draft is produced, the HSP development meetings may be expanded to include other Safety Division traffic safety partners for solicitation of comments and input on potential strategies. Regional NHTSA and divisional FHWA representatives may be invited to meet with the Safety Division during the planning process to provide input and make recommendations as well.

The following table illustrates the approximate twelve-month planning calendar for the Safety Division HSP development process.

**Table 2. HSP Development Process Calendar**

<b>Month</b>	<b>Activity</b>
January-April	<p>Debrief the previous year's program results with staff and review the NHTSA Regional Office priority letter to help set state goals.</p> <p>Conduct internal planning to guide funding distribution and overall direction of the traffic safety program including ongoing problem identification and goals, strategies, and performance measures within each program area.</p>
March-April	<p>As funding allows, solicit RFPs/RFAs from potential sub-recipients. Post any solicitation announcements to the Safety Division webpage.</p>
May-June	<p>Continue the problem identification process to include the review of state traffic crash data from the most recent year and other related data sources.</p> <p>If projects are solicited, establish a Grant Review Committee(s) to review and score proposals/applications received in response to the solicitation.</p> <p>Select projects for inclusion in the HSP.</p>
June-July	<p>Determine revenue estimates and draft an initial HSP budget.</p> <p>Develop the draft HSP for internal review by June 15.</p> <p>Review the draft with NDDOT officials and other appropriate local, state, and federal officials. If the Safety Division did not solicit grant applications/proposals due to lack of discretionary funding, conduct a public comment period or another process to allow for adequate input from stakeholders and the general public.</p> <p>Finalize HSP budget.</p> <p>Conduct Safety Division final internal review of HSP for compliance with federal requirements, completeness, and accuracy.</p> <p>Submit HSP for approval by Safety Division Director and for approval and signature by GR.</p> <p>Submit the final HSP to NHTSA Region 8 Office for review by July 1.</p>
July-September	<p>Begin to draft Safety Division grant agreements/contracts.</p> <p>Notify successful sub-recipients and develop final grant agreements/contracts.</p> <p>Submit grant agreements/contracts for NDDOT approval.</p>
October 1	<p>Implement HSP, grants, and contracts.</p>
November	<p>Begin preparation of annual evaluation report for previous fiscal year.</p>
December 29	<p>Submit annual evaluation report to NHTSA Region 8 Office.</p>

### **i. NHTSA Review and Approval Procedures**

Beginning with MAP-21 in FY2014, the Safety Division is required to submit the HSP electronically to NHTSA via email to [NHTSAGrants@dot.gov](mailto:NHTSAGrants@dot.gov) no later than July 1 preceding the fiscal year to which the HSP applies. The deadline is **firm**. MAP-21 specifies that NHTSA must approve or disapprove the HSP within 60 days after receipt. NHTSA may need to request additional information from the Safety Division regarding the content of the HSP to determine whether the statutory requirements have been met. To ensure that the HSP is approved or disapproved within the 60 days, the Safety Division must respond promptly to any requests from NHTSA. Failure to respond promptly may delay approval and funding of the state's Section 402 grant. See 23 CFR 1200.12.

Within 60 days, NHTSA will issue a letter of approval or disapproval of the HSP to the state's GR and specify any conditions. If the HSP is disapproved, the reasons will be specified. The Safety Division is then required to resubmit the HSP with the necessary modifications to NHTSA. NHTSA will notify the Safety Division within 30 days of receipt of the revised HSP, via a letter, whether the HSP is approved or disapproved. The decision of the Regional Administrator (RA) may be appealed by submitting a letter. The letter will be forwarded by the RA for consideration by the Associate Administrator, Regional Operations and Program Delivery, at NHTSA Headquarters. If the state's plan is not approved, NHTSA shall reduce the Section 402 funds by 20 percent of the amount that would otherwise be apportioned. The funds can either later be apportioned to the state when the plan is approved, or, if not approved, the funds will be apportioned to the other states.

Beginning in FY2014, the Section 405 grant application is consolidated with the HSP. NHTSA plans to notify states in writing, and specify any conditions or limitations, of Section 405 grant qualification before the start of the fiscal year of the grant and to notify states of grant award amounts early in the fiscal year. The decision of the NHTSA Administrator is final – there is no appeal process. Because the calculation depends on the number of states meeting the qualifications, states must respond promptly to NHTSA's requests for additional information. Failure to provide requested information for any of the Section 405 grant applications may result in **disqualification** from receiving consideration for Section 405 grants, see 23 CFR 1200.14(a).

## **C. Coordination with the State's Strategic Highway Safety Plan**

The Safety Division is responsible for the development of the state's Strategic Highway Safety Plan (SHSP).

This allows the Safety Division to coordinate with the SHSP process to maximize integration and use of data analysis resources, fully represent driver behavior issues and strategies, and use any statewide safety committees to obtain input from state and local traffic safety partners for the Safety Division HSP development, implementation, and evaluation.

The Safety Division shall assure that the goals and objectives contained in the SHSP are considered in the annual development of the HSP and incorporated to the fullest extent possible. The Safety Division shall review the SHSP and HSP to identify any gaps in addressing driver behavior issues and eliminate any redundancy for the maximum use of resources.

Under MAP-21, the Safety Division is required to include in the HSP a description of the efforts made to coordinate the HSP, and the outcomes of the coordination, data collection, and information systems with the SHSP. Examples of outcomes might include the joint use of the same databases, common targets in the HSP as derived from the SHSP, or the creation of joint teams to collaboratively develop countermeasure strategies.

This information can be provided within the HSP in a number of ways, such as: 1) including a description of the SHSP process while highlighting the specific interaction between the SHSP and the HSP planning processes; 2) including in the HSP a link to the SHSP; and 3) including relevant segments of the SHSP within the HSP, such as listing the SHSP emphasis areas or strategies and goals or inserting the relevant SHSP information in the corresponding program section of the HSP.

Beginning with grants awarded after FY2014, the performance measures common to the HSP and the Highway Safety Improvement Program (HSIP) (fatalities, fatality rate, and serious injuries) are required to be defined identically, as coordinated through the SHSP.

## **D. Identification of State and Local Problems (Data Analysis Procedure)**

A description of the data sources and processes used by the state to identify its highway safety problems is required in the HSP. The state is also required to identify the participants involved (committees, stakeholders, constituent groups, etc.). The information and all data sources used in these processes must be listed. The core required performance measures should be examined as part of this initial problem identification process. See Sections E and F for more information.

The purpose of the HSP problem identification and assessment process is to:

- Understand the scope of the state's traffic crash problem and causation factors
- Develop effective countermeasures to reduce or eliminate the problems
- Design evaluation mechanisms to measure changes in problem severity
- Manage influencing factors by using statistical crash data to highlight a particular problem in order to obtain the necessary support to institute effective countermeasures

The problem identification process used by the Safety Division includes analysis of traffic safety data from established statewide sources. The statistics analyzed are historical data collected over time through a uniform process. These statistics include:

- State traffic crash database - crash, vehicle, and person data
- Data on average daily traffic counts and vehicle miles traveled
- Federal Fatality Analysis Reporting System (FARS)
- Vehicle and driver information from the state's driver license, vehicle registration, and citation/conviction files
- Trauma Registry, injury data, and EMS databases
- Census and demographic data
- Other sources (for example, the North Dakota Behavior Risk Factor Surveillance Survey [BRFSS] and the North Dakota Youth Risk Behavior Survey [YRBS])

The result of the Safety Division problem identification process is to establish the major traffic safety program areas to focus the state's efforts.

Data elements fall into three general categories: (1) people, (2) vehicles, and (3) roadway. These categories may be broken down into subgroups and assigned relevant characteristics, as shown in the following table.

**Table 3. Categories of Traffic Safety Data**

Data Category	Subgroups	Notes:
People	Drivers, occupants, pedestrians	Age; gender; alcohol content; driver's education, experience, and training
Vehicles	Passenger cars, trucks, buses, motorcycles, bicycles, etc.	Sedans, SUVs, convertibles, airbags, anti-lock brakes, electronic stability control
Roadway	Interstate, primary, secondary	Political subdivisions, lighting conditions, surface conditions

Data subgroups should be reviewed to determine over-representation. Such over-represented subgroups indicate traffic safety problems. A good example is the high percent of crashes among teenage drivers compared to the lower percent of crashes among all drivers. Further analysis identifying subgroup characteristics (for example, increased severity) or any other specific factors suggested by the data when asking the traditional “who, what, where, why, and how” questions.

Over-represented factors can be determined by comparing the rate of crashes for a subgroup or characteristic within the jurisdiction to the same rate in a comparable or larger jurisdiction. The rate may be expressed either as a percent or a ratio.

**Percent Example:** If the percent of adult vehicle occupants that do *not* use seat belts within a jurisdiction is greater than the statewide percent, then that characteristic is over-represented.

**Ratio Example:** Dividing nighttime (10 p.m. to 6 a.m.) crashes by the total number of crashes for the jurisdiction within a given time frame produces a ratio. If that ratio is higher than the statewide ratio, a DUI problem may be indicated since typically most nighttime crashes are DUI-related.

Asking the following questions may help with data analysis and problem identification.

**Table 4. Questions to Help with Data Analysis and Problem Identification**

Question	Examples
Are high crash incidence locations identified?	Specific road sections, highways, streets, and intersections
What appears to be the major crash causation?	Alcohol, other drugs, speed, other traffic violations, weather, and road condition
What characteristics are over-represented or occur more frequently than would be expected in the crash picture?	Number of crashes involving 16- to 19-year-olds versus other age groups, or, number of alcohol crashes occurring on a particular roadway segment as compared with other segments
Are there factors that increase crash severity which are or should be addressed?	Non-use of occupant protection devices (seat belts, motorcycle helmets, etc.)

The following table shows an array of information that may be applied in the analysis of a crash problem.

**Table 5. Information That May Be Applied to Problem Analysis**

Causal Factors:	Crash Characteristics:	Factors Affecting Severity:
<ul style="list-style-type: none"> <li>• violation</li> <li>• loss of control</li> <li>• weather</li> <li>• alcohol involvement</li> <li>• roadway design</li> </ul>	<ul style="list-style-type: none"> <li>• time of day</li> <li>• day of week</li> <li>• age of driver</li> <li>• gender of driver</li> </ul>	<ul style="list-style-type: none"> <li>• occupant protection non-use</li> <li>• position in vehicle</li> <li>• roadway elements (markings, guardrail, shoulders, surface, etc.)</li> </ul>

Safety Division staff should be alert to the following factors that may impede effective problem identification and make appropriate adjustments when they appear:

- Data access restrictions/limitations
- Inability to link automated files
- Poor data quality
- Reporting threshold fluctuations (variations among jurisdictions in the minimum damage or crash severity they routinely report)
- Lack of location-specific data
- Insufficient data (property damage only, non-reportable crashes, near misses, bicycle crashes, etc.)

## **E. Key Program Areas, Targets, and Strategies**

Using the data and information gathered through the problem identification process, the Safety Division selects key program areas for emphasis and coordinates the development of priority traffic safety performance targets, performance measures, and strategies for each program area using a documented planning process.

### **i. Description of Target Setting Processes**

The HSP is required to include a brief description of the processes used to define highway safety targets and develop projects and activities to address problems and achieve targets. The description of the process followed should be thorough and complete. In describing these processes, the information and data sources consulted are listed. The process for setting targets must be based on data trends and a resource allocation assessment. The Safety Division is required to identify all participants, agencies, and organizations involved in the process, and the manner in which they were involved must be described. Collaboration strategies should be included.

### **ii. Performance Targets**

The performance plan is required to list the performance measures and data-driven targets that are planned to be implemented in the fiscal year. At least one performance measure and performance target that is data driven is required for each program area that enables the Safety Division to track progress, from a specific baseline, toward meeting the target (e.g., a target to increase seat belt use from XX percent in 20\_\_ to YY percent in 20\_\_, using a performance measure of percent of restrained occupants in front outboard seating positions in passenger motor vehicles). See Section F, *Performance Measures* below.

Selected targets should, whenever reasonable, represent an improvement from the current status rather than a simple maintenance of the current number or rate. Targets for each program area should be consistent, compatible, and provide sufficient coverage of the state's geographic areas and road users.

For performance targets that are common across DOT agencies, the projects that will be deployed to achieve those targets may be a combination of those projects contained in the Safety Division's HSP and other state and local plans. If so, it is required that the funds used to carry out the program area strategies from those other sources, including federal, state, local, and private sector funds, be identified in the HSP.

A template for developing clear and concise performance target statements was developed by the Governor's Highway Safety Association (GHSA) in conjunction with NHTSA for the core performance measures. All states are encouraged to use the template which lays out a target statement that is clear and concise. The template includes a sample target statement for the 11 core performance measures

which must be used as a minimum in developing the state's performance measures and targets. They were developed by NHTSA in collaboration with GHSA and others in the document *Traffic Safety Performance Measures for States and Federal Agencies*.

The *Uniform Guidelines for State Highway Safety Programs* promulgated by NHTSA describe the guidelines with which the state's programs must comply. The overall goal is to reduce traffic safety related crashes, deaths, and injuries.

The most recent update of the HSP targets occurred in 2013. Within the Safety Division, responsibility for development and review of the annual key program areas, targets, measures, and strategies is assigned to the Safety Division Program Managers.

For the most part, the HSP development is an internal activity conducted within the Safety Division under the leadership of the Safety Division Director. Input and information collected throughout the year from federal, state, and local traffic safety sources and partners are considered by the Safety Division. In some cases the Safety Division may specifically solicit input from selected partners or others with experience in a selected program area. This process ensures that state and local agencies, as well as public and private organizations, using the program areas, targets, and strategies developed by the Safety Division, can then propose projects that directly support and implement those strategies.

### **iii. Evidence-Based Countermeasure Strategies**

This section of the HSP is typically organized by program area and can be organized in the same order that the performance measures and targets are listed in the performance plan. Although it is not necessary to restate the performance measures and targets, the Safety Division may choose to do so. Each task or activity must be identified with the corresponding target the state intends to reach by selecting that countermeasure. This is done to clearly show that the selected activities and funding are directly related to the targets determined earlier through data analysis and problem identification.

The HSP is required, at a minimum, to describe one year of Section 402 and Section 405 countermeasure strategies and projects, and, identify funds from other sources, including federal, state, local, and private sector funds that the Division plans to use for such projects or to achieve program area performance targets. In addition, the HSP is required to include a description of the projects that make up each program area that will implement the program area strategies.

The HSP is required to provide a description of the process used and participants consulted (ensure the correct disciplines are included) to develop and select evidence-based countermeasure strategies and projects to address its problems and achieve its performance targets. When aggregated, strategies should lead logically to overall statewide performance and be linked to the anticipated success of the countermeasures or strategies selected and funded in the HSP (23 CFR 1200.11(b)). In selecting the strategies and projects, the Safety Division should be guided by the data and data analysis supporting the effectiveness of the proposed countermeasures. All data and data analysis supporting the effectiveness of the proposed countermeasures are required to be included. If applicable, the emphasis areas in the state's SHSP may also be a reference source and may be included within the HSP.

There are a number of resources which may be helpful for accomplishing this task. See *Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices, Seventh Edition, 2013*, an annually-updated reference guide to help in the selection of effective, science-based countermeasures for major highway safety problem areas. This NHTSA publication was originally prepared with the assistance of GHSA. The GHSA website contains the latest version. The AASHTO Strategic Highway Safety Plan is supported by the National Cooperative Highway Research Program (NCHRP) 500 guidebooks covering a variety of countermeasures. The guidebooks contain the recent scientific research and knowledge regarding countermeasures effectiveness. The guides are

posted at this website <http://safety.transportation.org> which contains other tools developed for the implementation of the plan.

#### **iv. Evidence-Based Traffic Safety Enforcement Program**

The HSP is required to include a description of the evidence-based (data driven) traffic safety enforcement program which will be implemented during the year by the Safety Division to prevent traffic violations, crashes, and crash fatalities and injuries in areas most at risk for such incidents. At a minimum, the state is required to provide: (1) an analysis of crashes, crash fatalities, and injuries in areas of highest risk; (2) deployment of resources based on that analysis; and (3) continuous follow-up and adjustment of the enforcement plan.

The Safety Division may either develop a comprehensive enforcement program which covers all program areas or provides a separate enforcement program in each applicable program area. If a comprehensive enforcement program is developed, a reference to the applicable page within the HSP should be made in each program area. The Safety Division must specifically describe within this section(s) the Safety Division's planned process for ensuring that there will be continuous follow-up and adjustment of the enforcement plan(s) by the Safety Division during the fiscal year.

#### **v. National Mobilizations**

The HSP is required to include a description of the Safety Division's planned high visibility enforcement strategies to support national mobilizations, which is referenced in Appendix A to Part 1200, Certifications and Assurances.

### **F. Performance Measures**

The performance plan of the HSP must state a performance measure for each Safety Division target to track progress from a baseline toward meeting the target by the specified date using absolute numbers, percentages, or rates. Performance measures are reviewed and updated each year, when necessary. The purpose of measuring performance is to determine whether programs are working and to what extent.

In the state's performance plan section of the HSP each target is required to be accompanied by at least one performance measure that enables the state to track progress from a specific baseline toward meeting the target (e.g., a target to "increase seat belt use from XX percent in 20\_\_ to YY percent in 20\_\_", using a performance measure of "percent of restrained occupants in front outboard seating positions in passenger motor vehicles"). The most recently released state and FARS data shall be used. See 23 CFR 1200.11.

#### **Core Performance Measures**

Beginning with MAP-21, 11 core performance measures developed by NHTSA in collaboration with GHSA and others, described in *Traffic Safety Performance Measures for Federal and State Agencies* (DOT HS 811 025), are required to be used as a minimum in developing the state's performance measures and targets. Therefore, it is essential to examine each of these measures as part of the initial problem identification process. There are also three activity measures which must be reported annually. The measures are:

## Chapter II - Planning

### CORE OUTCOME (C) AND BEHAVIOR MEASURES (B)

#### Fatalities (Actual-FARS)

- C1. Number of serious injuries (state crash file)
- C2. Fatality rate per 100M VMT (FARS, FHWA)
- C3. Number of unrestrained passenger vehicle occupant fatalities, all seating positions (FARS)
- C4. Number of fatalities involving driver or motorcycle operator with .08 BAC or above (FARS)
- C5. Number of speeding-related fatalities (FARS)
- C6. Number of motorcyclist fatalities (FARS)
- C7. Number of unhelmeted motorcyclist fatalities (FARS)
- C8. Number of drivers age 20 or younger involved in fatal crashes (FARS)
- C9. Number of pedestrian fatalities (FARS)
- C10. Number of bicyclist fatalities (FARS) (FY 2015)
- B1. Percent observed belt use for passenger vehicles – front seat outboard occupants (state survey)

#### ACTIVITY (A) MEASURES

- A1. Number of seat belt citations issued during grant-funded enforcement activities (grant activity reports)
- A2. Number of impaired driving citations issued and arrests made during grant-funded enforcement activities (grant activity reports)
- A3. Number of speeding citations issued and arrests made during grant-funded enforcement activities (grant activity reports)

Program areas outside of the GHSA-NHTSA core performance measures, such as distracted driving and bicycle safety, may be included if sufficient justification for addressing those issues has been established in the problem identification process and appropriate performance measures have been developed by the state.

Performance measures (and corresponding performance targets) are required to be developed for each program area that receives funding by the Safety Division. If the Safety Division intends to fund programs outside the core measures, for each of these other programs, performance measures are required as well as: (1) documentation of current safety levels; (2) quantifiable annual performance targets, and; (3) justification for each performance target that explains why the target is appropriate and data driven.

NOTE: Beginning with grants awarded after FY2014, the performance measures common to the state's HSP and the State HSIP (fatalities, fatality rate, and serious injuries) are required to be defined identically, as coordinated through the state's SHSP. The state's annual targets are required to support the longer range SHSP targets.

A performance measure is an indicator to express the activity that will be used to establish a performance target and must be directly aligned to the target(s) of a project. Performance measures, when combined with the performance target, provide the basis for determining the degree of achievement of established objectives. Acceptable activity levels or outputs shall be established as part of each grant agreement.

There are two common types of performance measures: direct and proxy. *Direct measures* are preferred. Examples of direct measures include: number of crashes, citations, people trained, units purchased, etc. Sometimes it is impossible to obtain direct measures. If such is the case, a proxy measure might be used. *Proxy measures* are indicators that provide an indirect assessment of desired activity. An example is a self-reporting survey conducted among a statistically valid sample of the population to determine behavioral change (recognition of public service announcements on television or radio, seat belt use, impaired driving issues, etc.).

The characteristics of a good performance measure are that it is:

- Quantifiable, where possible
- Directly linked to objectives
- Accurate and clearly defined
- Understandable
- Objective
- Practical

For a more detailed explanation of the measures, see *GHSA/NHTSA Frequently Asked Questions on Performance Measures* and *Traffic Safety Performance Measures for State and Federal Agencies DOT HA811 025*.

States began conducting an annual attitudes survey in FY2010. The survey contains nine recommended (or equivalent) questions on occupant protection, impaired driving, and speeding that states may use. See the following on the GHSA website, projects page, *Survey Recommendations for the NHTSA-GHSA Working Group*. Additional related resources are available on this page. The results of the annual attitudes survey should be summarized in the data section of the following year's annual HSP and the complete findings reported in the following year's Annual Report.

*Model Performance Measures for State Traffic Records Systems* is a collection of 61 voluntary model measures to help the Safety Division monitor and improve the quality of the data in their traffic records systems. It covers all six traffic records systems: crash, driver, vehicle, roadway, citation/adjudication, and EMS/injury surveillance; and provides basic definitions for the six critical performance attributes: timeliness, accuracy, completeness, uniformity, integration, and accessibility. The measures are intended for use by federal, state, and local governments to monitor the development and implementation of traffic record data systems, strategic plans, and data improvement grant processes. They have been grouped by performance attributes across the six core state traffic record data systems: crash, vehicle, driver, roadway, citation/adjudication, and emergency medical services (EMS)/injury surveillance. These common performance measures and the attendant guidance on their application are expected to help stakeholders quantify systemic improvements to their traffic records systems. The model performance measures are intended to help monitor and improve the quality of the data in their traffic record systems. These measures can be used to develop and track performance targets in Traffic Records Strategic Plans, Traffic Records Assessments, and Highway Safety Plans; establish data quality improvement measures for specific traffic records projects; and support data improvement goals in the Strategic Highway Safety Plan. See the *Model Minimum Uniform Crash Criteria* website for guidance on collecting consistent crash data at <http://www.mmucc.us/>.

Within the Safety Division, responsibility for development and review of the annual performance measures is assigned to the Safety Division Program Managers.

## **G. Section 405 Application Information – Appendix D**

Beginning with FY2014, MAP-21 specifies a single application deadline for all highway safety grants including the traditional Section 402 program and incentive grant programs. The National Priority Safety Programs, or incentive grant programs, are referred to as Section 405. These programs include: Occupant Protection, State Traffic Safety Information Systems (Traffic Records), Impaired Driving Countermeasures, Motorcyclist Safety, and two new grant programs – Distracted Driving and State Graduated Driver Licensing.

The Interim Final Regulations (IFR) issued on January 23, 2013, in the Federal Register (Vol. 78, No. 15) to implement MAP-21 are posted by NHTSA at Part 1200 Uniform Procedures for State Highway Safety Grant Programs. The specific requirements are detailed in the IFR for the Safety Division to make application for any of the Section 405 grant programs in the FY2014 application.

Within the IFR and electronically provided by NHTSA, is a required template (Appendix D) for states wishing to apply for these grant programs. As part of the Section 405 application, the state is required to provide specific information which varies depending on the National Priority Safety Program incentive grant(s) for which the state wishes to receive funding consideration. This information may either be provided as attachments to the HSP or be included within the HSP. In some instances the information is lengthy or is contained in a separate document that may be available electronically on the internet. In those instances, the only practical method to include the information is as an HSP attachment or an electronic link. However the IFR should be referenced to determine specific requirements.

Although a consolidated Section 402 and Section 405 application is required to be submitted by the Safety Division, it is recommended that the Safety Division prepare separate sections within the HSP for Section 402 and Section 405. The Section 402 application is reviewed by the NHTSA Region 8 Office. The program portion of the Section 405 application is reviewed by a NHTSA team and the legal requirements are reviewed by the NHTSA legal counsel. In order to avoid providing redundant information in the Section 405 portion, the Safety Division may provide reference to the pertinent page number(s) within the HSP where the required information can be located. The shared information typically related to the program area, such as, problem identification, data analysis, performance measures, and performance targets.

At the end of each program area, the Safety Division may include two separate program and budget summaries for each program area – one for the projects to be funded by Section 402 and other funding sources and one for the projects that would be funded under the Section 405 grant program. Or, the Safety Division may decide to provide a combined program and budget summary which includes all projects within the program area and identifies the appropriate funding source within the table.

### **i. Maintenance of Effort**

MAP-21 mandates maintenance of effort (MOE) where states are receiving Section 405 funding for occupant protection, state traffic safety information systems, and impaired driving countermeasures. When MOE is calculated, there must be consistency from year to year. States are required to maintain aggregate levels of expenditures for all state sources at or above the average level in fiscal years 2010 and 2011. States are required to document the state funding sources for MOE and to identify as part of their planned program in the HSP all sources of funds that contribute to the achievement of their program targets, see 23 CFR 1200.11(c)(1). MOE consists of direct state expenditures, state match, and indirect costs by the Safety Division and other state agencies, such as highway patrol, health, etc. Highway safety programs are defined as anything eligible for MAP-21. There must be like uses only for the MOE required of each program. FY2010 and FY2011 are the basis. NHTSA does count local grants funded by the Safety Division using federal dollars but will not examine activities funded solely by local

dollars. The same three programs were covered under SAFETEA-LU. Section 402 was not included. Their base year was 2004-2005.

WAIVER: There is a one-time exception allowed for the Safety Division to request a waiver which is typically for fiscal and natural disasters.

For additional information, see the *NHTSA Highway Safety Grants Management Resources/MAP-21/Maintenance of Effort, GHSA-NHTSA Update Webinar 1/2014, GHSA Members Only/Webinars and GHSA MOE Advisory.*

**ii. Planning and Administration (P&A) Costs**

No P&A costs are allowed from Section 405 grant funds.

**iii. Eligible Uses of Section 405 Funds**

The eligible uses of grant funds awarded under Section 405 is dependent upon the specific program for which funds are awarded and shall be limited to the following, see 23 CFR 1200.21 - 26:

Section 405 Program	Eligible Uses and Limitations
<p>Occupant Protection (OP) 23 CFR 1200.21</p> <p>Lower use states cannot use Section 405 funds for OP assessments. High use states can use up to 75 percent of Section 405(b) funds for Section 402 activities including OP assessment costs.</p>	<ul style="list-style-type: none"> <li>• High Use States: Up to 75% for any project or activity eligible for funding under 23 USC 402 and 25% for the OP projects below.</li> <li>• Low Use States – only the following:                             <ul style="list-style-type: none"> <li>- High-visibility enforcement mobilizations, including paid media that emphasizes publicity for the program and law enforcement;</li> <li>- Training OP safety professionals, police, fire, and EMS personnel, educators, and parents concerning all aspects of the use of child restraints and OP;</li> <li>- Educating the public on the proper use and installation of child restraints, including related equipment and information systems;</li> <li>- Providing community CPS services, including programs on proper seating positions for children and how to reduce the improper use of child restraints;</li> <li>- Establishing and maintaining information systems containing data concerning OP, including the collection and administration of CPS and OP surveys; and</li> <li>- Purchasing and distributing child restraints to low-income families provided not more than 5 percent of the funds received in a fiscal year are used for such purpose.</li> </ul> </li> </ul>
<p>Traffic Records 23 CFR 1200.22</p>	<p>100 percent to make quantifiable, measurable progress improvements in the accuracy, completeness, timeliness, uniformity, accessibility, or integration of data in a core highway safety database</p>
<p>Impaired Driving (AL) 23 CFR 1200.23</p> <p>For formula grant states (identified as low, mid, or high range) Section 405 funds cannot be used for AL assessments.</p>	<ul style="list-style-type: none"> <li>• Low Range State:                             <ul style="list-style-type: none"> <li>- High-visibility enforcement (HVE) efforts</li> <li>- Hiring a full-time or part-time AL coordinator</li> <li>- Court support of HVE efforts, training, and education of criminal justice professionals to assist in handling AL cases, hiring traffic safety resource prosecutors, hiring judicial outreach liaisons, and establishing DWI courts</li> <li>- Alcohol ignition interlock programs</li> <li>- Improving BAC testing and reporting</li> <li>- Paid and earned media in support of HVE of alcohol laws and conducting SFST training, ARIDE training, and DRE training for law</li> </ul> </li> </ul>

Section 405 Program	Eligible Uses and Limitations
	<p>enforcement, equipment, and related expenses used in connection with AL enforcement</p> <ul style="list-style-type: none"> <li>- Training on the use of alcohol screening and brief intervention</li> <li>- Developing AL information systems</li> <li>- Costs associated with 24 – 7 sobriety programs</li> <li>- Programs designed to reduce AL based on problem identification</li> </ul> <ul style="list-style-type: none"> <li>• Mid-Range State: Any of the programs listed for Low Range States IF advance approval is received from NHTSA</li> <li>• High Range State: Any of the programs listed for Low Range States IF the proposed uses are described in a statewide AL plan submitted to and approved by NHTSA prior to incurred expenses or vouchers submitted. See 23 CFR 1200.23 penalties for failure to timely provide the AL plan.</li> </ul>
Ignition Interlock 23 CFR 1200.23 (4)	<ul style="list-style-type: none"> <li>• For any authorized use described in 23 CFR 1200.23 AL</li> <li>• For any eligible project or activity under 23 USC 402</li> </ul>
Distracted Driving (DD) 23 CFR 1200.24	<ul style="list-style-type: none"> <li>• At least 50 percent to educate the public through advertising containing information about the dangers of texting or using a cell phone while driving, for traffic signs that notify drivers about the DD state law, or for law enforcement costs related to DD law enforcement</li> <li>• Not more than 50 percent for any eligible project or activity under 23 USC 402</li> </ul>
Motorcyclist Safety (MC) 23 CFR 1200.25 (Territories not eligible)  Note: A state that receives a MC grant may sub-allocate funds to a nonprofit organization incorporated in that state to carry out grant activities under this section.	<ul style="list-style-type: none"> <li>• Improvements to MC training curricula;</li> <li>• Improvements in program delivery of motorcycle training to both urban and rural areas, including (A) purchase or repair of practice motorcycles; (B) instructional materials; (C) mobile training units; and (D) leasing or purchasing facilities for closed-course motorcycle skill training;</li> <li>• Measures designed to increase recruitment or retention of MC training instructors; and</li> <li>• Public awareness, PSAs, and other outreach programs to enhance driver awareness of motorcyclists.</li> </ul>
Graduated Driver Licensing (GDL) 23 CFR 1200.26	<ul style="list-style-type: none"> <li>• At least 25 percent in connection with the state's GDL law to: (i) enforce the GDL process; (ii) provide training for law enforcement and other relevant state agency personnel relating to enforcement of the GDL process; (iii) publish relevant educational materials that pertain to the state's GDL law directly or indirectly; (iv) carry out administrative duties to implement the GDL process; or, (v) carry out a teen traffic safety program described in 23 USC 402(m)</li> <li>• Not more than 75 percent for any eligible project or activity under 23 USC 402</li> </ul>

#### iv. NHTSA Section 405 Award Determinations and Appeals

NHTSA has provided summaries of the key compliance issues identified among states that applied for FY2013 grants for Distracted Driving, Graduated Driver Licensing, and Ignition Interlock. Also GHSA and NHTSA conducted informational webinars in late 2013, *MAP-21: NHTSA Highway Safety Grant Program Legal Requirements*. The slides and the recorded webinar are available on the GHSA website under Members Only – Webinars. After reviewing applications and making award determinations, NHTSA shall, in writing, distribute funds available for obligation to qualifying states and specify any conditions or limitations imposed by law on the use of the funds. Grant awards are subject to the availability of funds.

If there are insufficient funds to award full grant amounts to qualifying states, NHTSA may release interim amounts and release the remainder, up to the state's proportionate share of available funds, when it becomes available in the fiscal year. The administration, reconciliation, and noncompliance provisions apply to fiscal year 2013 grants awarded to qualifying states. See 23 CFR 1200.61. The Section 405 application review is a final decision of the NHTSA Administrator and is not subject to appeal.

## **H. Performance Report**

Within the HSP, the Safety Division is required to provide a program-area level report on the state's success in meeting its performance targets which were identified in the previous fiscal year's HSP. NHTSA has provided the States with a suggested template for reporting this information. At a minimum the state should provide an update on the previous year's performance measures and targets using the most recent data available. This could be in the form of an update of the performance measures matrix from the previous year.

NOTE: This is NOT the same level of information which is required of the states to provide in the comprehensive Annual Report (AR) under 23 CFR 1200.35. This is a much briefer status report focusing mainly on the prior year's results for the state's core performance measures.

## **I. Teen Traffic Safety Program – Appendix C**

MAP-21 provides for a new Teen Traffic Safety Program for statewide efforts to improve traffic safety for teen drivers. It is optional for the state to elect to incorporate a statewide program as an HSP program area in accordance with 23 USC 402(m).

If the state chooses to do so, a description of the strategies and projects it intends to conduct is required to be included in the HSP as well as assurances, which must be signed by the GR, that the program meets the statutory requirements. The template provided in Appendix C of Part 1200 is required to be used by the Safety Division. See 23 CFR Part 1200 *Uniform Procedures for State Highway Safety Grant Programs*.

## **J. Public Outreach**

NHTSA regulations require the Safety Division to provide a brief description in the performance plan section of the HSP of the processes used to identify its highway safety problems, define its highway safety goals and performance measures, and develop projects and activities to address its problems and achieve its goals. In describing these processes, the Safety Division will identify the participants in the processes (e.g., highway safety committees, community and constituent groups, etc.), discuss the strategies for project or activity selection (e.g., constituent outreach, public meetings, solicitation of proposals), and list the information and data sources consulted.

To the extent possible, the state should summarize information that shows an understanding of the major highway safety activities of other agencies and organizations and how the Safety Division is collaborating with other agencies and partners. One method used by states to reach their constituency groups is a pre-proposal application conference or meeting.

The Safety Division strives to prevent the loss of life, personal injury, and property damage caused by traffic crashes and to reduce the resulting economic losses to the residents of the state. The efforts necessary to reach these goals require partnerships with public agencies and special interest groups to foster the sense of cooperation vital to accomplishing the mission. This includes:

- **Interagency Working Groups:** The Safety Division promotes interagency cooperation relating to traffic safety issues using the resources of various state departments and agencies to the best advantage possible.
- **Community Partners:** The Safety Division encourages the development of community-based partners in order to engage citizen involvement in the health and safety of communities.
- **Pedestrian, Motorcyclist, and Bicycle Safety Groups:** The Safety Division promotes cooperation related to traffic safety issues using resources of various groups and agencies to the best advantage possible.

## **K. Funding and the Program Cost Summary – Appendix B**

The U.S. Congress authorizes traffic safety funds to be appropriated to NHTSA. NHTSA apportions and distributes these funds to the states. The states obligate these funds through the annual HSP which is subject to NHTSA review. Any earmarked or special purpose funds will be used only in that particular program area and cannot be transferred to any other program area. When developing the HSP, new revenue estimates for each funding source are obtained by the Safety Division annually from the NHTSA Region 8 Office typically in the first quarter of the calendar year for the following fiscal year. This information along with estimated prior year unexpended funds is used to develop the estimated total highway safety funding available for the upcoming fiscal year.

The Safety Division is responsible to annually allocate the estimated amount of revenue by program area for the HSP budget based on the information gathered in the problem identification, program goal, and strategy processes to assure the greatest potential impact on the state's overall goal to reduce traffic safety-related crashes, deaths, and injuries. The process to make the budget allocation decision should be documented in the HSP.

Beginning in FY2014, the Safety Division annually submits a consolidated application for Section 402 funds and Section 405 funds for the six National Priority Safety Program Grant program. The Safety Division may also receive penalty transfer funds. Planned funds are subject to revision depending on the actual amount of funding received by the state.

### **i. Program Cost Summary Form (HS 217)**

The Program Cost Summary Form (HS 217) or its electronic equivalent is required annually. A template and specific instructions for completing the HS 217 or the electronic equivalent is provided in Appendix B of 23 CFR Part 1200 *Uniform Procedures for State Highway Safety Grant Programs* and is required to be used by the Safety Division. The summary provides the state's proposed allocations of funds (including carry-forward funds) by program area based on the targets and activities identified in the HSP and the projects and activities. The funding level used shall be an estimate of available funding for the upcoming fiscal year.

In addition to the cost information, Appendix B requires other information be provided (state name, number, date, and the names and titles of state and federal authorizing officials). Appendix B is not required to be signed. The Safety Division has the option of completing the HS Form 217 or its electronic equivalent; the other sections in Appendix B should be provided as part of the complete certification document.

### **ii. List of Projects**

Under MAP-21, for each program area the Safety Division is required to include a list of projects and an estimated amount of federal funds for each project that the state proposes to conduct for the upcoming

fiscal year to meet the identified performance targets. The Safety Division may also provide this information as a separate list from the HS 217 even if other information is included as long as the required level of detail is provided and the aggregate of the project level funds matches the total funding in that program area. No specific format is required as long as the list includes the projects, project identifier, and estimated federal funding for each project. If the Safety Division reports at the project level in the Grant Tracking System (GTS), this will satisfy the project list requirement, providing the information in GTS meets the requirements of 23 CFR 1200.11, 1200.15, 1200.32, and 1200.33.

### **iii. Changes and Updates to the HS-217**

The HS-217 is required to be resubmitted by the Safety Division to the NHTSA Region 8 Office within 30 days of any reallocation of funds between program areas or changes, including an updated list of projects under each program area. The amended HS-217 and list of projects is subject to the approval of the NHTSA Region 8 Office. See 23 CFR 1200.32.

Prior to and as a condition of reimbursement, the project list is also required to be **updated** to include identifying project numbers for each project on the list. (This may also be necessary if the project numbers are not available at the time of submitting the HSP for NHTSA approval.)

### **iv. HSIP Funds**

If the state has shifted HSIP funds to the Safety Division, programs funded with those monies are required to be identified in the HSP. NOTE: The Safety Division is also required to identify funding from other sources for projects that the Safety Division is considering as necessary to reach the performance targets identified in the HSP. This is especially true of state designated funds and major projects where the Safety Division is directly partnering with agencies to achieve a target included in the HSP. However it is not necessary for the Safety Division to search out every activity of that type within the state which may possibly be taking place.

### **v. Planning and Administration Costs**

The tasks and related costs for Planning and Administration (P&A) are required to be included in a P&A program area within the HSP. There are definitions of P&A eligible costs, limitations on the federal share of total P&A costs and sources of funds, and limits on the amount of funds that can be spent on P&A programs. See Chapter IV. Grant Selection and Execution, Section H. Safety Division Internal Administration Processes for additional information.

### **vi. Automated Traffic Enforcement Systems Prohibition**

Beginning with MAP-21 in FY2014, the Safety Division may not expend funds apportioned under Section 402 to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. The prohibition includes any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement. NOTE: This does not include hand-held radar and other devices operated by law enforcement to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation. See also Chapter VI. Fiscal Procedures, Section E. Allowable Costs.

### **vii. Apportionment and Obligation of Federal Funds**

The funds distributed are available for expenditure by the Safety Division to satisfy the federal share of expenses under the approved traffic safety program, and shall constitute a contractual obligation of the federal government, subject to any conditions or limitations identified in the distributing documentation. Reimbursement of state expenses is contingent upon the submission of an updated *HS Form 217* (or its

electronic equivalent) within 30 days after either the beginning of the fiscal year or the date of the written approval required under 23 CFR 1200.13, whichever is later. The updated *HS Form 217* (or its electronic equivalent) will reflect the state's estimated allocation of funds made available for expenditure during the fiscal year, including known carry-forward funds under 23 CFR 1200.15.

Vouchers that request reimbursement for projects whose project numbers or amounts claimed do not match the list of projects (submitted by the Safety Division) or exceed the estimated amount of federal funds provided under 23 CFR 1200.11(e), or exceed the allocation of funds to a program area in the *HS Form 217*, shall be rejected, in whole or in part, until an amended list of projects and/or estimated amount of federal funds and an amended *HS Form 217* is submitted to and approved by the NHTSA Region 8 Office in accordance with 23 CFR 1200.32.

Within the Safety Division, responsibility for development of the estimated annual HSP budget is assigned to the Safety Division Program Managers. The required *HS Form 217* Cost Summary form, list of projects, and any necessary revisions are prepared by the finance/contract manager for approval by the Safety Division Director and inclusion in the HSP submitted annually to NHTSA.

In the event that authorizations exist but no applicable appropriation act has been enacted by Congress by October 1 of a fiscal year, NHTSA and FHWA Administrators shall, in writing, distribute a part of the funds authorized under 23 USC Chapter 4 contract authority to assure program continuity and will specify any conditions or limitations imposed by law on the use of the funds. Upon appropriation of Section 402 funds, the NHTSA Administrator will, in writing, promptly adjust the obligation limitation and specify any conditions or limitations imposed by law on the use of the funds. See 23 CFR 1200.15(b).

## L. Benefit to Locals

States are required to assure that at least 40 percent of all new federal funds apportioned under Section 402 for any fiscal year are *expended\** by the political (local) subdivisions of the state, including Indian tribal governments, in carrying out local highway safety programs. A State may request a waiver. These local highway safety programs must be approved by the governor and operated in accordance with the minimum standards established under Section 402 of the Highway Safety Act. See 23 USC Chapter 4, Section 402(b) and Appendix E to 23 CFR Part 1200 – Participation by Political Subdivisions.

When sub-grants are directed to state agencies and local benefit is claimed, the Safety Division shall ensure that local benefit source documentation is readily available on site, including evidence of an active local voice in the initiation, development, and implementation of the programs. There are exceptions for a political subdivision which has not had an active voice but agrees in advance of implementation to accept or requests the benefits of the program. Evidence of the acceptance or request must be established in writing and maintained on file until all such funds are expended.

When the Safety Division proposes to use the salary and benefits of a state employee toward meeting the 40 percent requirement, the Safety Division should ensure that the required documentation is in place before any work is carried out and that it evidences that the local government consented and accepted the work of the state employee on its behalf. Refer to the Local Benefit guidance issued by NHTSA on December 1, 2011, for a description of the type of activities that may be considered. See *NHTSA Highway Safety Grant Management Manual – Local Benefit Guidance*.

With regard to state expenditures, such as State Highway Patrol/police enforcement or statewide paid media, the Safety Division may designate such expenditures as benefiting local government to meet the 40 percent requirement. The Safety Division may credit such expenditures only where the political subdivision has had either an active voice, or agreed in advance of implementation to accept the benefits of the program. And, the active voice or pre-agreement must be documented annually in writing from the local government.

**\*NOTE:** The Safety Division is required not only to obligate 40 percent of the Section 402 funds to the benefit of locals but must also assure that the required percent of funds is actually expended to the benefit of locals. This requires the Safety Division to periodically monitor local grant expenditure rates during the fiscal year. Each voucher entered into the Federal Grant Tracking System (GTS) shall provide the dollar amount of federal funds for each program area which was allocated to local benefit at least at mid-year (by March 31) and with the final voucher at fiscal year closeout. If at March 31 the percentage of local benefit reported appears to be significantly low, further research should be done to determine the cause including slow vouchering by sub-recipients or an insufficient number or dollar amount of local sub-grants. See Appendix E to 23 CFR 1200.-33(b)(3).

To meet the terms of this regulation, the Safety Division has added a requirement to the grant application process for applicants to obtain the written acknowledgement from political subdivisions to be served by the program. The following information is provided by applicants.

**GRANT APPLICATION COVER SHEET**  
North Dakota Department of Transportation, Safety Division

**Documentation from County or Counties of Operation of Local Benefit for Traffic Safety Programs**

States that receive federal funds under Section 402 of the Highway Safety Act must assure that at least 40 percent of all funds are expended to the benefit of the political (local) subdivisions of the state, including Indian tribal governments, in carrying out local highway safety programs. Please have the cities or counties in which the project will operate complete the following information and submit the information with your application packet. *Note: Applicants that are political subdivisions or tribes are exempt from this documentation.*

This is the documentation of our involvement in the NDDOT-funded traffic safety program performed in our jurisdiction.	
<input type="checkbox"/> We will be involved in the initiation, development, and implementation of the program. <input type="checkbox"/> We agree in advance of implementation to accept the benefits of the program. <input type="checkbox"/> Other (please explain):	
Jurisdiction Name (City or County)	Date
Jurisdiction Representative Name	Jurisdiction Representative Title
Signature	

Contracts with political subdivisions and tribal governments are automatically counted toward local benefit. Recipients not subject to grant application processes may be requested to collect local benefit documentation if it is necessary to meet the local benefit requirement.

**Use of Transfer Funds for Section 402 Purposes – Benefit to Locals**

Section 154 and 164 transfer funds obligated and spent on alcohol-impaired driving countermeasures (not hazard elimination) or directed to state and local law enforcement agencies for the enforcement of impaired driving laws or regulations (154AL and 164AL) take on the characteristics and requirements of the Section 402 program. No matching funds are required for these transfer funds; per Section 154(c)(4) and Section 164(b)(4), the federal share of the project cost shall be 100 percent.

However, at least 40 percent of the annual 154AL and 164AL funds must be used by or for the benefit of political (local) subdivisions of the state. Local benefit applies to 157 and 163 Incentive funds if they are

used as 402 funds. See *Highway Safety Grant Funding Policy, Part I, C and Appendix A, Section 163 Guidance and Section 154/164 Guidance*.

## M. Transfer Funds

Section 402 funds are used by the Safety Division to support projects and activities within any national program area or any other highway safety program area that is identified in the HSP as encompassing a major highway safety problem in the state and for which effective countermeasures have been identified. In addition to the Section 402 funds, the state may be eligible to receive funds from other federal incentive and transfer program sources. The specific available programs typically change with each federal reauthorization of the highway safety program. The most recent reauthorization is commonly referred to as MAP-21 (Moving Ahead for Progress in the 21st Century Act). The reauthorization, was originally effective until October 1, 2014. The prior reauthorization was referred to as SAFETEA-LU (Safe, Accountable, Flexible, Efficient Transportation Equity Act - A Legacy for Users) which expired in 2012.

Regarding transfer funds, an annual determination is made by the USDOT regarding the state's inability to enact or enforce specified state traffic safety laws or policies to address a program area as prescribed by the U.S. Congress in the current reauthorization. Information regarding the state's laws and policies is requested by the USDOT to determine the state's eligibility. The state is notified annually through FHWA's Advance Notice of Apportionments (July 1) and FHWA's Final Notice of Apportionments (October 1). Two and one-half percent (2.5%) of federal-aid funds apportioned for the National Highway Performance Plan (NHPP) and Surface Transportation Program (STP) (23 USC 104(b)(1) and 23 USC 104(b)(2)) are reserved, applied separately for each program, until the state certifies how it will use the reserved funds. The state DOT determines the division of transfer funds and notifies the USDOT by letter, known as the "split letter," due 60 days after the funds have been transferred.

The Safety Division is required to update the HSP, and may also include the funds in the HS-217, to indicate how it intends to use its split of penalty transfer funds, if any, from Section 154 and 164. Alternatively, the Safety Division may plan ahead knowing that there will be transfer funds in October and include a program plan for these funds in the HSP submission prior to that date.

The Federal P&A share shall not exceed 50 percent of total P&A costs. No match is required for penalty transfer funds (Section 154 or 164 funds) when repurposed for Section 402 programs, for U.S. Territories (23 USC 120(i)), or for federally recognized Indian Tribal governments (23 CFR 1252) under the Indian highway safety program. Beginning with FY2014 up to 13 percent of the new Section 154 or 164 funds may be designated for P&A purposes. However such funds may only be expended for P&A activities which support alcohol-impaired driving projects funded by Section 154 or 164 funds.

The Safety Division and NHTSA are responsible for the oversight of funds transferred to NHTSA's Section 402 program for alcohol-impaired driving programs under MAP-21. NDDOT and FHWA are responsible for the oversight of funds released for HSIP eligible activities under MAP-21. All alcohol-impaired driving funds and Hazard Elimination funds transferred to the Section 402 program under SAFETEA-LU are still the responsibility of the Safety Division and NHTSA.

For behavior-related activities, the use of Section 154 and 164 funds is limited to supporting alcohol impaired driving projects and shall not be used to support drug-impairment-related projects. States may also use funds for paid media to support alcohol-impaired driving countermeasures or for purchase of equipment and training of officers for enforcement of DUI-related laws. States may not use penalty transfer funds for any non-alcohol related activities.

The most current information regarding the requirements and limitations of the transfer fund programs can be found in NHTSA's electronic *Highway Safety Grant Management Manual*.

## N. Advertising

The NHTSA *Guidance for States Using Section 402 Funds for Purchasing Advertising for Highway Safety Messages* was updated in May 2013 to provide information to states using Section 402 funds and other highway safety funds to purchase advertising for highway safety messages. The Safety Division has had the authority to use funds to purchase advertising in a variety of mediums, including television and radio, cinema, internet, print, outdoor (billboard space), and sports marketing for highway safety messages. While the TEA-21 reporting requirement was not continued in SAFETEA-LU, states are still required to report on the purchase of media with federal funds and its effectiveness in their annual report. This guidance helps those interested in purchasing advertising by implementing a strategic communications approach to promote traffic safety. NHTSA advocates the use of a sustained high visibility enforcement model that focuses on strategically deploying enforcement and communications resources at targeted times and locations throughout the year based on state problem identification. The objective is to influence and sustain year-round behavioral change while getting higher returns on investment and further improvements in traffic safety.

When a state plans to use funds for this purpose, the Safety Division documents in their annual HSP information describing the following:

- (a) what program/policy the advertising is supporting;
- (b) how the advertising will be implemented to support an operational enforcement program, whether it be a periodic crackdown/mobilization or an on-going saturation or roving patrol;
- (c) the amount allocated for paid advertising; and
- (d) the measures that will be used to assess message recognition and penetration of target audience.

If a sub-recipient is granted advertising funds, the sub-recipient should likewise be required to report this information to the state so that the information can be included in their annual report.

As with other activities, paid advertising must be part of a comprehensive program designed to address specific highway safety goals identified in the HSP Performance Plan. Advertising should not be a stand-alone program or activity. For example, the communications plan should be preceded by the enforcement plan. If promotional items/giveaways are part of the overall strategy, they must be justified as furthering the program and be distributed in a systematically planned manner. Similarly, if the Safety Division enters into a sports marketing sponsorship agreement, with a team, stadium, or arena, it must further the achievement of the program's performance targets. Additional information and specific recommendations are provided within the NHTSA guidance for developing state communication plans including evaluation requirements.

Television public service announcements and advertising created with the aid of federal funds must contain closed-captioning of the verbal content. See *NHTSA Highway Safety Grant Funding Policy, Section E. Public Communications*.

States should obligate funds used for paid advertising in the program area code PM. See also *Chapter V. Grant Administration and Management, Section D. Public Information and Education (PI&E)*.

**Sports Marketing:** In conjunction with the purchase of paid advertising, attendance at sporting and entertainment events that charge admission may occur which could be deemed an unallowable cost. See *Chapter V, Section D, Public Information and Education (PI&E) iii*, for guidance on applicable tests for such expenditures and examples of possible circumstances and their appropriate resolution.

## O. Certifications and Assurances

Each fiscal year the Safety Division signs Certifications and Assurances with the submission of the HSP that the state complies with all applicable federal statutes, regulations, and directives in effect with respect to the period for which it is receiving grant funding.

A Certification Statement for the Section 402 program, which can be signed only by the state's GR, is required in the HSP. The statement provides assurances that the state will comply with applicable laws and regulations, financial and programmatic requirements, and the special funding conditions of the programs. The Safety Division must use only the exact format and language specified in Appendix A (make no changes in the required language) and include every certification. NOTE: NHTSA will provide an electronic Certification and Assurances document for use by the Safety Division. An electronic signature will not be accepted.

The NHTSA Region 8 Office should be consulted annually to assure that the Safety Division is using the most current version. The most current version is posted on the GHSA website under Members Only/Management Review and also provided by NHTSA annually in the *Highway Safety Grant Management Manual* available online. These resources should be checked by the Safety Division.

Sub-recipient Certifications and Assurances: The Safety Division must also be aware that federal regulations require that the Safety Division ensure that every sub-grant and contract (i.e., purchase order, etc.) include any clauses required by federal statute and Executive Order and their implementing regulations and that the sub-recipient or contractor is aware of the requirements imposed upon them. See 2 CFR 200. Under MAP-21, Appendix A of Part 1200 identifies for the Safety Division the following certifications and assurances that are required to be imposed upon sub-recipients. They are:

- Nondiscrimination
- Buy America Act
- Political Activity (Hatch Act)
- Certification Regarding Federal Lobbying
- Restriction on State Lobbying
- Certification Regarding Debarment and Suspension

The Safety Division may alter the language of the federal certifications and assurances for sub-recipients (only) as it is ultimately the state's responsibility to ensure that sub-recipients are complying with the terms of the grant. The Safety Division may, at their option, require additional sub-recipient state certifications and assurances, such as seat belt use policies or training requirements for law enforcement officers.

Failure to comply with applicable federal statutes, regulations, and directives may subject state officials to civil or criminal penalties and/or place the state in a high risk recipient status in accordance with 2 CFR 200, *Remedies for Non-Compliance Part 338-342*, for FY 2016 and forward. See Chapter IV, Grant Selection and Execution, Section D, Final Contract Preparation, iii, for additional information.

## P. Three Years Plus One Federal Obligation Restriction

23 USC Chapter 1, Section 118(b) states, "Except as otherwise specifically provided, funds apportioned or allocated pursuant to this title in a State shall remain available for obligation in that State for a period of 3 years after the last day of the fiscal year for which the funds are authorized. Any amounts so apportioned or allocated that remain unobligated at the end of that period shall lapse."

Section 402 and Section 405 grant funds are authorized for apportionment or allocation each fiscal year. The state should, to the fullest extent possible, expend these funds during the fiscal year. When developing the annual HSP funding plan, the Safety Division must be aware of the limitations placed upon the length of time that the funds are available. Grant funds are available for expenditure for three years after the last day of the fiscal year of apportionment or allocation (referred to as "three years plus one").

NOTE: Beginning with MAP-21, during the last year of availability of funds, NHTSA will notify the state of unexpended grant funds subject to this requirement not later than 180 days before the end of the period of availability. The Safety Division may then commit the unexpended grant funds to a specific project before the end of the period of the availability. The funds committed to a specific project must then be expended before the end of the succeeding fiscal year and only on that project. At the end of that time period, unexpended grant funds will **lapse** and NHTSA will **deobligate** unexpended balances. See 23 CFR 1200.41.

## Q. Fund Liquidation

The Safety Division shall promptly obligate and expend federal highway safety grant funds and track fund liquidation including transfer and incentive funds by funding year and source. The oldest funds should be expended first whenever possible.

The Safety Division Program Managers, or the manager's delegate, shall be responsible for periodically examining the current liquidation of each funding source by year and shall promptly notify the Safety Division Director of any unreasonably large amounts of unliquidated funds. This examination shall include a prompt review of the GTS fund liquidation reports and reconciliation of all categories with the Safety Division records. The Safety Division shall monitor closely the spending rates of all sub-recipients and make periodic projections to assure the prompt start of projects and determine if there are impediments to full expenditure of funds by the project end. The Safety Division shall deobligate unspent funds in a timely manner to allow carryover into the next fiscal year.

The Safety Division shall document the specific rationale and anticipated timeframe for expenditure of any federal funds which are not going to be promptly obligated.

The Safety Division shall proactively bring any issues regarding unliquidated federal incentive or transfer funds split by the Safety Division and the NDDOT to the responsible party at the NDDOT. Under MAP-21, the Safety Division and NHTSA are only responsible for spending oversight for the funds shifted to the Safety Division.

See also section P. Three Years Plus One Federal Obligation Restriction above.

## R. Delegation of Authority

NHTSA regulations require a formalized process be established by the state as to who can act on behalf of the Safety Division Director in her absence. The Safety Division is required to establish a written Delegation of Authority.

The following table lists signature authority related to the Safety Division traffic safety grant program.

**Table 6. Delegation of Signature Authority**

<b>Document</b>	<b>Signature Authority</b>
Highway Safety Plan	<i>Approved by the GR or delegate Submitted by the Safety Division Program Managers</i>
Certifications and Assurances of the Highway Safety Plan (Appendix A)	<i>GR or delegate</i>
Highway Safety Program Cost Summary (Appendix B)	<i>Safety Division Program Managers or delegate</i>
Federal Cooperative Agreements	<i>GR or delegate</i>
Assurance for Teen Traffic Safety Program (Appendix C)	<i>GR or delegate</i>
Certifications and Assurances for National Priority Safety Program Grants (Section 405) (Appendix D)	<i>GR or delegate</i>
NHTSA Agreements	<i>GR or delegate</i>
Federal Grant Applications	<i>GR or delegate</i>
Reimbursable Service Agreements	<i>Approved as to content by the Safety Division Director or delegate and signed by the NDDOT Director or delegate</i>
Traffic Safety Program Grant Agreements and Amendments (any amount)	<i>Approved as to content by the Safety Division Director or delegate and signed by the NDDOT Director or delegate</i>
State Vouchers for Federal Reimbursement	<i>NDDOT Financial Management Division</i>
Requests to NHTSA to purchase equipment (\$5,000 or more) with Federal funds	<i>Safety Division Program Managers or delegate</i>

The NHTSA Region 8 Office shall be notified in writing of the name and type of authorization and provided with the signature of each person currently assigned signature authority on behalf of the Safety Division. Whenever a temporary or permanent change occurs in the authorization assignment or the person assigned to the named authorized position, the NHTSA Region 8 Office shall immediately be notified in writing and provided the new information.

## **S. Federal Spending Transparency**

The Safety Division is required to report certain information to NHTSA as mandated in the Federal Funding Accountability and Transparency Act (FFATA) and subsequent OMB guidance. This information is then made available to the public at the [www.USAspending.gov](http://www.USAspending.gov) website.

Prime awardees (the Safety Division and the Bureau of Indian Affairs) of federal grants of \$25,000 or higher that are awarded on or after October 1, 2010, are responsible for reporting. The FFATA Sub-award Reporting System (FSRS) is the reporting tool the Safety Division uses to capture and report sub-award data and/or sub-awardee executive compensation data. See [www.fsr.gov](http://www.fsr.gov).

Prime awardees (the Safety Division) must:

- obtain the NDDOT DUNS number from the Financial Management Division (for new, obtain from Dun & Bradstreet at <http://fedgov.dnb.com/webform> or call 1-866-705-5711);
- register in the System for Award Management (SAM) (<http://sam.gov>); and,
- register in FSRS.

Sub-awardees must obtain a DUNS number from Dun and Bradstreet. In addition, the Safety Division is required to collect the names and total compensation of the five most highly compensated officers of the sub-awardee agency if, in the preceding year, the agency:

- received 80 percent or more of its annual gross revenues from federal awards; AND,
- \$25 million or more in annual gross revenues from Federal awards; AND,
- if the public does not have access to this information from reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 or Section 6104 of the Internal Revenue Code of 1986.

The following guidance documents are available on the GHSA website at Resources/Management Tools/Transparency Requirements: Transparency Act 101, OMB Guidance on Sub-award and Executive Compensation Data Reporting, and Draft Guidance to Regions and States/Federal Spending Transparency Act.

NOTE: For the system to work properly, it is important for the Safety Division to use the correct DUNS numbers and to be actively registered in the SAM.

## T. Buy American Act

Under MAP-21 Appendix A of Part 1200 identifies for the Safety Division all of the certifications and assurances that are required, see Chapter II-Planning, subsection P. Certifications and Assurances. One of the required certifications is compliance with the Buy America Act, 23 U.S.C. Section 313. The Act prohibits states from using highway grant funds under 23 U.S.C. Chapter 4 to purchase products unless they are produced in the United States. The prohibition applies to steel, iron and all manufactured products unless a waiver has been requested from the Secretary of Transportation. The Secretary may waive the requirement if: it would be inconsistent with the public interest; the products are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality; or, use of the products produced in the United States would increase the overall cost by more than 25 percent.

NHTSA has determined that for compliance purposes American-made covers any product that is manufactured **OR assembled** in the United States. This requirement applies to all items purchased with Federal funds including office supplies. There are no waivers for classes of items. The waiver process generally takes 60 days. The waiver goes into effect at the time of its publication in the Federal Register. The waiver determination will state if the waiver applies only to the requestor or to others wishing to purchase the same item. The duration of the waiver will be stated in the Federal Register publication.

A public interest waiver issued by NHTSA became effective July 30, 2015. The waiver allows states to purchase any manufactured product with a purchase price of \$5,000 or less, excluding a motor vehicle defined in 49 USC 30102(a)(6), when the product is purchased using federal grant funds administered under Chapter 4 of Title 23 of the U.S. Code. The purchase of foreign-made cars, motorcycles, trailers and other similar conveyances must be made with using a waiver regardless of price. Effective July 30, 2015, any pending waiver requests for an item with a purchase price of \$5,000 or less were no longer necessary.

NHTSA has issued guidance dated January 23, 2014, which details the waiver criteria and the process for submitting a written waiver request to the applicable NHTSA Regional Administrator, see [NHTSA Highway Safety Grant Management Resources](#). NHTSA and GHSA conducted a webinar on January 29, 2014, "NHTSA Highway Safety Grant Program Updated GHSA-NHTSA Webinar" which included additional information on the Buy America Act requirements and the waiver process, see the GHSA website/Members Only/Webinar for a complete copy of the presentation.

## Chapter III Project Development

III. Project Development	3-2
A. Overview	3-2
B. Request for Proposal and/or Application	3-2
C. Grant Guidance Manual	3-3
D. Grant Development Calendar	3-4
Table 7. Grant Development Calendar	3-4
E. Contract Preparation Process	3-5
i. Time Period	3-5
ii. Problem Identification	3-5
iii. Agency Qualifications	3-5
iv. Project Goals	3-6
v. Project Activities	3-6
vi. Performance Measures/Evaluation	3-6
vii. Budget	3-8
viii. Contractual Services	3-9
ix. Travel and Subsistence	3-10
x. Grant Extensions	3-10
xi. Sub-Recipient Matching Funds	3-10
xii. Other Contract Stipulations	3-11
Attachment 3 – Appendix B of Contract (p. 3-11)	

## III. Project Development

### A. Overview

Traffic safety projects may be initiated as a result of several types of “needs,” including:

- Statewide and local problem identification
- State agency initiative
- Community initiative
- Key events

In alignment with the problem identification, performance goals, and key strategies identified in the annual HSP, the Safety Division will select projects designed to reduce the number of deaths and serious injuries resulting from traffic crashes and may solicit applications for grants to fund for this purpose.

If the Safety Division chooses to solicit grant applications, grant application processes should collect the most current data available to identify a traffic safety problem and provide for a workable solution linked to the identified problem, performance targets, detailed action plans, and budgets that demonstrate an understanding of the various issues to be resolved and a reasonable approach to resolving the identified problem. Proposed projects must be data driven, and the Safety Division must be able to show that the strategies chosen are evidence-based.

The development of final grant agreements is a two-step process. Proposed grant applications are first submitted to the Safety Division by potential sub-recipients following a prescribed process and deadlines. For successful applicants, the application form is used to draft the final grant agreement or contract.

The Safety Division contract is a legally binding document when fully executed by both parties. It includes all terms and conditions, a detailed scope of work, the approved budget, and certain required certifications and assurances.

RESOURCES: [Partnering with Highway Safety Offices: Tips and Tactics for Success](#)

### B. Request for Proposal and/or Application

The Safety Division undertakes two distinct processes to identify contractors.

- **Procurement of Services.** Contractors providing services to the Safety Division (i.e., consulting, media placement, evaluation, etc.) are procured via North Dakota procurement law (North Dakota Century Code 54-44.4, *State Purchasing Practices*), which requires competitive procurement for service purchases in excess of \$25,000 over the life of the contract. Requests for Proposals (RFPs) are issued every two to four years to assure quality, cost-effective services.
- **Grants.** Grant applications are solicited through a more informal process. The Safety Division invites various partner agencies and organizations (traditional and non-traditional) to respond to a Request for Applications (RFA) for projects that will address the state's identified traffic safety problems and assist the Safety Division to achieve established performance goals. RFAs may be issued per the Safety Division's discretion and are typically issued annually.

The responsibility for compiling the necessary information to revise and finalize the annual RFA and RFP processes is assigned to the Safety Division Manager, or the manager's delegate.

If the Safety Division chooses to solicit grant applications, potential recipients are sent an email with grant guidance and instructions to complete the grant application.

Grant applications are reviewed and scored by established teams that may include the Safety Division, other NDDOT staff, and various state and local program partners. Proposal evaluation is designed to provide an increased number of points to contractors or grant recipients with proposals that best support the needs of the HSP. Evaluation questions include:

- Does the proposal adequately describe the traffic safety problem?
- Are the program objectives SMART (specific, measurable, attainable, realistic, and time-framed)? (The SMART principle is a guideline to assess performance goals. See also page 3-6.)
- Is there a level of confidence in the recipient and project personnel?
- Is the evaluation plan adequate?
- Is the budget realistic and cost-effective?

After all the grant applications are scored, they are ranked from most to least relevant based on their ability to impact traffic safety performance measures, and accepted as funding levels permit.

All proposals remain confidential until the grant agreement is signed by the NDDOT and the applying agency. After both parties have signed, the grant agreements are public records as defined in the state's open records laws.

Grant solicitation documents can be located on the Safety Division webpage at <http://www.dot.nd.gov/divisions/safety/trafficsafety.htm> under "Applying for Funds."

**Note:** All traffic safety contracts must comply with the *NDDOT's Contract Manual for Non-Construction Contracts*.

## C. Grant Guidance Manual

The purpose of the Grant Guidance Manual (i.e., *Grant Guidelines for Traffic Safety Grant Programs* document) is to establish program and grant management procedures and provide guidance to sub-recipients for the development and administration of grant agreements. The guidance should assist sub-recipients to understand grant development requirements, including an outline of the specific objectives of the project, budget, performance measures, and commitment of responsibility by the Safety Division and the sub-recipient.

The guidance should contain the following:

- Key elements of the grant application
- Grant review and approval process
- Equipment record requirements
- Certifications and assurances
- Applicable federal regulations and any recent revisions
- Timelines
- Reporting and invoicing requirements
- Allowable and unallowable costs
- Lobbying restrictions
- Other information

Revisions are made as soon as possible to accommodate any changes in state or federal laws or regulations. Safety Division staff are informed when revisions are made to the guidance.

On the Safety Division's *Grant Application Cover Sheet*, sub-recipients are required to acknowledge that they've reviewed and understand the terms of the grant as outlined in the grant guidance.

The guidance can be located on the Safety Division webpage at <http://www.dot.nd.gov/divisions/safety/trafficsafety.htm> under "Applying for Funds."

## D. Grant Development Calendar

When the Safety Division decides that there is adequate discretionary funding to allow for the solicitation of grant applications, the following processes are used.

- Grant application solicitation notices containing the issues to be addressed, including identified problems and goals, are sent by the Safety Division to public and private agencies who are deemed best able to help attain the Safety Division goals.
- Potential sub-recipients are asked to submit to the Safety Division a grant application form containing a problem statement, a description of proposed activities, and a complete budget. Projects must have a direct link to the Safety Division identified problems and goals identified within the HSP. The grant application cover page requires the applicant to provide a project name and brief description along with their agency name, address, and authorizing official signature.
- The Safety Division Program Managers review each application to verify that it addresses the identified problems and meets all of the application requirements, and review the budget component of each of the proposals. If necessary, the Program Managers work with the potential sub-recipient to resolve any questions and develop a fully detailed and complete proposed grant application prior to the Grant Review Team referral. The Grant Review Team scores the proposals. The Program Managers resolve any remaining questions. The Safety Division Program Managers make grant selection recommendations to the Safety Division Director for final approval.

**Table 7. Grant Development Calendar**

Month	Activity
March-May	As funding allows, solicit RFAs from potential sub-recipients  Post RFA on Safety Division website
May-June	Receive and review proposed grant applications and contact applicants for clarification or missing information
May-June	Invite Safety Division Grant Review Team to review proposed grant applications
May-June	Grant Review Teams review grant applications and identify agreements for potential funding  Complete grant negotiations and make final grant selections
June 15	Complete the draft HSP to include selected projects and submit the draft to NDDOT leadership for approval
July 1	Submit HSP to the NHTSA Region 8 Office for approval
July-September	Notify successful applicants and finalize grant agreements  Obtain approval for grants and contracts from the appropriate NDDOT officials
October	Implement grant agreements

## E. Contract Preparation Process

Proposed contracts must support the goals and strategies established for the emphasis program areas in the HSP. Grant projects implement the HSP.

The contract serves to:

- Produce a clearly defined problem statement
- Produce a clearly specified scope of work
- Define goals and performance measures
- Define respective roles and responsibilities
- Achieve understanding among all parties
- Reach consensus
- Assure accountability

The key elements of a contract are:

- Problem identification
- Objectives (applicable goals are normally listed in the HSP)
- Performance measures
- Action plan with tasks, activities, and timelines (if applicable)
- Evaluation plan
- Budget/budget narrative
- Terms and conditions
- Certifications and assurances

### i. Time Period

The grant period is the time during which the sub-recipient may incur reimbursable costs to carry out the project. The grant period should be long enough to allow the project to be completed. The typical time period is October 1 through September 30. However, based on specific circumstances and project goals, the Safety Division may also approve other grant time periods within a fiscal year and extend grant time periods, although generally not longer than three years. See section x. *Grant Extensions*.

### ii. Problem Identification

The problem identification section of each proposed grant application should include a problem statement which is supported by crash data analysis, program and community needs assessment information, or other relevant data. The Safety Division may assist potential applicants with obtaining the necessary data.

Applicants should review the key funding priorities and problem areas identified in the HSP for the upcoming grant year. All proposed grant applications must support the primary goal to reduce the number of injuries and deaths resulting from traffic crashes. The problem identification section must focus on one or more of the primary or secondary goals and emphasis areas described in the HSP.

Additional guidance for preparation of the problem identification statement can be found in *Chapter II. Planning, Section D. Identification of State and Local Problems (Data Analysis Procedure)*.

### iii. Agency Qualifications

The Safety Division must determine if the applicant agency is qualified to receive federal highway safety grant funds and is the appropriate agency to conduct the proposed project activity based on past

experience, education, skills, and/or community or statewide leadership authority. The applicant must provide information in the proposed grant application regarding the agency's background, such as, prior funds managed, relevant project experience, etc. This is especially important if the Safety Division has no past experience working with the applicant.

Eligible agencies must be able to perform the following:

- Deliver services promptly
- Manage public funds efficiently and provide good internal controls
- Collaborate with other community, governmental, and private organizations
- Develop data-driven problem solving plans
- Adequately evaluate the success of a project

#### **iv. Project Goals**

Proposed grant applications must address one or more of the traffic safety issues identified in the HSP in order to receive consideration. The project goals stated in the proposed grant application should clearly state the ultimate outcome the applicant hopes to accomplish and in measurable terms. For example, "increase enforcement of DUI laws as measured by ..." or "reduce the incidence of incorrect use of child safety seats as measured by ..."

A guideline called the SMART principle to assess performance goals is recommended. See page 3-3.

It is generally preferred that goals be based on outcomes (i.e., seat belt use rate) rather than by output or activity based (i.e., number of tickets written). Depending on the exact nature of the funded activity, in some cases a combination of outcome- and output-based goals or just output goals may be most appropriate.

#### **v. Project Activities**

Activities must be identified in the proposed grant application and must clearly explain in detail the anticipated activities that will be funded. This explanation should show a logical sequence of events that will take place to accomplish the goal(s). The proposed activity must be an evidence-based countermeasure. In selecting the strategies and projects, the sub-recipient should be guided by the data and data analysis supporting the effectiveness of the proposed countermeasures. Innovative countermeasures that may not be scientifically proven to work but that contain promise based on limited practical applications are encouraged when a clear data-driven safety need has been identified. Justification of new countermeasures can also be based on the prior success of specific elements from other effective countermeasures.

In selecting countermeasure activities, the project proposal should clearly identify both the target audience (i.e., impaired drivers, unbuckled vehicle occupants, etc.) and target area (i.e., a specific segment of roadway during night time, on weekends, or during daylight hours; northeast quadrant of city; jurisdiction wide during daylight hours; etc.).

Countermeasures must relate directly to the proposal's project objectives and the performance targets and emphasis areas in the HSP.

See also *Chapter II. Planning, Section E, Key Program Areas, Targets, and Strategies*, for countermeasure development resources.

#### **vi. Performance Measures/Evaluation**

Performance measures and standards are required to be clearly defined in each project proposal in the

proposed grant application. Although not required, activities and funding should be directly related to the Safety Division performance measures and goals in the annual HSP which were established through data analysis and problem identification. Sub-recipients should detail how they will evaluate and measure the effectiveness of their project toward achieving its goals. Evaluation should be expressed in terms of what they intend to measure (numbers, attitudes, knowledge, etc.) and what they plan to accomplish, or a measure of what will change. These measures and standards provide guidelines to determine the efficiency and effectiveness of the grant. Performance measures must be negotiated and acceptable to all grant personnel. A well thought-out project evaluation process is critical.

Performance measures may be shown as specific requirements. For example:

- "Improve seat belt usage by X percentage points from (date) to (date)"
- "Increase child safety seat use by X percentage points from (date) to (date)"

For some types of projects, however, the work unit must be specific. For example:

- "Submit one report"
- "Produce one public service announcement"

Additional guidance for preparation of performance measures can be found in *Chapter II. Planning, Section F. Performance Measures* and should be referenced by applicants and Safety Division staff.

Evaluation brings the traffic safety process full circle as the results help the Safety Division determine whether any of the preceding steps need adjustment. For this reason, evaluation is an ongoing process in the management of the state's traffic safety program. To reliably evaluate a project, performance measures must have been identified ahead of time as they will comprise the basis for the evaluation design.

Evaluation allows all involved to:

- Assess project or program effectiveness
- Improve countermeasures
- Allocate scarce resources more efficiently

The following should be considered by the Safety Division when considering evaluation:

- Require all grants and contracts contain an evaluation component
- Select scientific evaluation vs. process evaluation (size of project, type of activity)
- Select evaluator, objectives, and grant length
- Determine baseline and timing of data collection
- Develop an overall program evaluation process to assess long-term impact

The Safety Division will review and analyze grant progress reports and evaluation reports and interpret analysis results to determine the appropriate application of the information within the program.

The results of the evaluation can be used to:

- Summarize findings for distribution to appropriate persons and organizations (i.e., website publication)
- Incorporate results into future program planning
- Publish, distribute, and encourage use of the Safety Division Annual Report
- Present information to the media and elected officials

### vii. Budget

The applicant provides a proposed project budget as a component of the grant application. After negotiation with the Safety Division to determine a final budget, the budget becomes incorporated into the final grant agreement.

The Safety Division RFA provides applicants with a Budget Summary format to prepare a proposed budget for submission with the application. A detailed cost breakdown must be negotiated to justify proposed costs. The approved project budget should be as detailed as appropriate for fiscal control.

The Safety Division Budget Summary form may include the following line items:

1. Salaries and Wages
2. Fringe Benefits
3. Travel
4. Contractual Services
5. Equipment (each individual piece of equipment valued at \$5,000 or more must be identified)
6. Other Direct Costs
7. Indirect (only when the contracted entity has an approved indirect cost rate) – See Chapter V(I) for more information on indirect cost.

For each line item, the applicant is required to identify both the Safety Division share requested, the applicant matching share (if applicable), and any other funding sources. Local or applicant resources used and in-kind contributions, such as personnel costs, etc., should be itemized and added in the total budget.

The method of payment is a negotiated item, within the constraints of federal or state guidelines. No reimbursement is allowed before work has been performed or costs have been incurred.

The following deviations by the sub-recipient from the approved budget normally require the PRIOR approval of the Safety Division:

- a. A specific item of cost not included in the approved budget.
- b. An increase in the number of a specific item over and above the total authorized.
- c. A transfer between budget categories.

Costs incurred before the contract start date listed in the contract (typically October 1) are not eligible for reimbursement. Costs incurred after the grant agreement expires are also not eligible for reimbursement.

Sub-recipients may be reimbursed on the basis of actual cost, cost per unit, specific rates, fixed costs, or a combination of these methods. Explanations of the methods of payment follow.

- **Actual Cost:** Actual cost agreements authorize the Safety Division to reimburse the sub-recipient for all costs incurred under the project, subject to cost principles included in *2 CFR 200, Subpart E*. This is the most common type of agreement.

Traffic safety grants are limited to the amounts and items authorized in the budget. Adjustments between cost categories within the budget may be allowed with written approval from the Safety Division.

- **Cost Per Unit of Work:** Some agreements are reimbursed on the basis of units of work performed. This method of payment uses a negotiated per-unit cost, with each component documented and approved in a detailed cost proposal. This method of payment eliminates the need to document each element included in the sub-recipient invoice, requiring instead that the *performance* of work be documented. However, the negotiated rate must be based on documented actual costs and experience in performing the prescribed task. **EXAMPLES:** \$100 per person trained *or* \$40 per car seat distributed.
- **Specific Rates:** Grants may authorize payment on the basis of specific rates. This method uses a composite of all or selected costs. **EXAMPLES:** Salary: \$50 per hour; per diem and travel: \$85 per day, \$0.56 per mile, respectively
- **Fixed Cost (Fee for Service):** The grant may authorize payment of an agreed upon fixed amount not subject to modification. Payments are made periodically at agreed upon intervals or once, upon completion of the project.

Documentation must be on file demonstrating that the fixed cost is reasonable.

- **Overtime Rate:** The majority of grants involving increased enforcement of traffic laws rely on the payment of overtime hours for patrol officers. The overtime pay rate for officers is based on actual cost per employee in accordance with the sub-recipient's policy for payroll and salary rate or a flat rate as approved through the city/county commission that meets Fair Labor Standards Act (FSLA) requirements and is in accordance with other flat rate activity within the agency. When a project includes overtime salary or wages, traffic safety funds can pay for the additional cost of fringe benefits directly associated with the overtime hours not covered by the employee's basic benefit package (an example of an eligible fringe benefit cost associated with overtime would be an employer's contribution to a retirement plan). The costs of fringe benefits are allowable to the extent that the benefits are reasonable and are required by law, employee agreement, or an established policy.
- **Allowable Costs:** Reference should be made to *Chapter VI. Fiscal Procedures, Section E. Allowable Costs*, for discussion of sub-recipient allowable costs.
- **Proportionate Funding:** For all activities and equipment to be funded, which have components both related and unrelated to a highway safety grant, the federal share shall be based proportionately on the projected use for the NHTSA grant purposes. For example, the NHTSA participation in the cost of Gas Chromatograph Mass Spectrometers for quantitative testing of drug evidential samples shall be on a pro-rata basis. If a police department plans to use this equipment 20 percent of the time to identify impaired driving evidence and 80 percent of the time to identify evidence for the narcotics squad, the federal participation must not exceed 20 percent of the total cost of the equipment. See NHTSA Highway Safety Grant Funding Guidance Part II.E. See also Chapter VI Fiscal Procedures, Section E. Allowable Costs.

#### viii. Contractual Services

Contractual services are services of individual consultants or consulting firms engaged in performing special service pertinent to traffic safety. All sub-recipients awarding subcontracts shall comply with the terms and conditions of *2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*.

A sub-recipient shall not enter into any subcontract without prior written concurrence by the Safety Division.

Subcontracts shall contain all required provisions of the sub-recipient's grant agreement terms and conditions. No subcontract will relieve the sub-recipient of its responsibilities under the grant agreement. Subcontracts can be between government agencies as well as with non-government entities for professional services.

Per NHTSA's *Highway Safety Grant Funding Policy for Field-Administered Grants, Part II, D.1*: "Costs are allowable for highway safety consultant services from universities, public agencies, non-government organizations and individuals for State or local highway safety support services or products consistent with the applicable Cost Principles, provided applicable State procurement procedures are followed and the State's official contract and procurement manual is maintained in the State's Highway Safety Office."

#### **ix. Travel and Subsistence**

Travel directly related to traffic safety and linked to the grant objective(s) is allowable. In-state travel is subject to prevailing state rates and state travel regulations. Lodging costs may be approved at a higher rate per Office of Management and Budget (OMB) Fiscal and Administrative Policy 505, *Reimbursement for Meals and Lodging*.

The Safety Division's reimbursement for airfare, car rental, per diem, and other travel costs will be based on state travel policy. Reimbursement of travel costs cannot exceed established state rates, unless negotiated in the grant agreement.

In-state mileage, if applicable, will be reimbursed at the state rate at the time the contract is written. This rate will be effective throughout the term of the contract for those agencies required to use the Law Enforcement Web-based Reporting (LEWR) system.

*Out-of-state travel must be pre-approved by the Safety Division either through the grant application process or a separate request to travel during the course of the grant year.* Out-of-state travel expenses for lodging and per diem are reimbursed at GSA (U.S. General Services Administration) rates.

See *Chapter V. Grant Administration and Management, Section H. Sub-recipient Travel*.

#### **x. Grant Extensions**

If both the Safety Division and the sub-recipient agree that the project has demonstrated great merit and has potential long-range benefit, or if the project scope is modified or expanded, the sub-recipient may apply for continued funding assistance.

Although not mandatory, a general rule is to limit grant projects to not more than three years. Any project being considered for extension beyond three years should be reviewed for exceptional project performance and:

- Include revisions or expansions to the scope of the project (assuming that the sub-recipient will continue the portion of the project previously supported with federal funds)
- Document a continued need for the project
- Receive specific approval from the Safety Division

Like any grant agreement, multi-year projects may be stopped or cancelled for cause or convenience, including termination for poor or non-performance. A letter to the sub-recipient is required if funds are not available to continue the project.

#### **xi. Sub-Recipient Matching Funds**

The Safety Division may provide the required federal matching funds by directly soliciting match from state and local agencies in a consolidated manner or may require sub-recipients provide a minimum soft or hard match for certain grants. Both methods are acceptable as long as the minimum federal matching requirements are met.

See *Chapter IV. Grant Selection and Execution, Section H. Safety Division Internal Administration Processes*, and *Chapter VI. Fiscal Procedures, Section C. Matching Funds*.

#### **xii. Other Contract Stipulations**

***Seat Belt Use, Drug Free Workplace, and Ban on Text Messaging While Driving.*** All contractors must have policies on seat belt use, drug free workplace, and a ban on text messaging while driving in place before requesting reimbursement for any work completed under the grant agreement. The Safety Division Program Managers will locate and review the policy during scheduled on-site monitoring visits, if applicable. Absence of any policy may result in the NDDOT withholding payment until a policy is in place.

***Appendix B.*** The contract's Appendix B includes all general terms, conditions, certifications, and assurances. (Attachment 3)

## Chapter IV Grant Selection and Execution

IV. Grant Selection and Execution	4-2
A. Proposed Grant Application Submission Process	4-2
Proposal Submission Instructions	
B. Grant Application/Distribution Log	4-2
C. Grant Selection Process	4-3
i. Safety Division Initial Review	4-3
ii. Grant Review Team	4-4
iii. Grant Application Evaluation Procedure	4-4
iv. Pre-Award Risk Assessment	4-4
v. Grant Negotiations	4-5
vi. Award	4-5
vii. Debriefing Conferences	4-6
D. Final Contract Preparation	4-6
i. Special Conditions	4-6
ii. Signatures	4-6
a. Safety Division Requirements	4-6
b. Sub-Recipient Requirements	4-6
c. Educational Institutions and Hospitals	4-7
iii. Certification	4-7
E. NHTSA Equipment Purchase Approval of \$5,000 or More	4-8
F. Reporting Requirements	4-9
i. Regular Progress Reports	4-9
ii. Final Progress Report	4-9
iii. Special Progress Reporting	4-9
G. Contract Revisions	4-10
H. Safety Division Internal Administration Processes	4-10
i. P&A Match Requirement	4-10
ii. Safety Division Employee Time Allocation and Certification Requirement	4-12
iii. Time and Attendance Records	4-12
iv. Sub-recipient Timekeeping Requirements	4-13
v. Safety Division Invoicing and Reporting	4-13

## **IV. Grant Selection and Execution**

### **A. Proposed Grant Application Submission Process**

If grant applications are solicited by the Safety Division, grant processes must comply with the state and federal regulations. High priority shall be given to proposed grant applications that address the traffic safety issues identified through the annual HSP problem identification process. The grant selection procedure shall be reviewed and updated as needed. When grants are solicited, a Request for Application (RFA) package shall be posted to the Safety Division website to assure adequate and uniform notice to all prospective recipients of the prescribed requirements and deadlines.

The following agencies/organizations are eligible to submit applications for Safety Division traffic safety grants:

- State agencies
- Cities, counties, and their sub-agencies
- Non-profit organizations with existing IRS 501(c)(3) status
- For profit agencies

Proposals must be either:

- Best practice/proven strategy supported by research, or
- A demonstration project using an innovative approach if a clear data-driven safety need has been identified and the project is supported with a strong evaluation plan that will allow the Safety Division to assess the effectiveness of the project at its conclusion

The RFA contains the deadlines for submission and submission instructions. In lieu of a pre-proposal conference, applicants are asked to address questions to Safety Division personnel by mail, telephone, fax, or email.

#### **Proposal Submission Instructions:**

1. Only one signed copy of the proposed grant application should be submitted, and it is preferred that the application be submitted by email (mailed or faxed applications will also be accepted).
2. Late applications will not be accepted, with the exception of law enforcement applications which are accepted as received.
3. Applicants mailing applications will be instructed to allow normal mail delivery time to assure timely receipt. Applicants assume the risk of non-delivery or late arrival associated with the method of delivery selected. The Safety Division assumes no responsibility for delays caused by external delivery systems.
4. The Safety Division will notify applicants by email of receipt of their applications.
5. Organizations claiming non-profit or not-for-profit status must submit a letter showing current 501(c)(3) status has been granted by the IRS with their application.

### **B. Grant Application/Distribution Log**

The Safety Division will track the receipt and handling of all proposed grant applications received to assure that all required actions are completed in a timely manner.

## C. Grant Selection Process

### i. Safety Division Initial Review

Proposed grant applications are first reviewed internally by the Safety Division Managers to:

- Assure that the application meets the required criteria
- Check for budget availability and available resources
- Compare the application with current activities
- Determine whether the proposed grant activity will impact traffic safety, will work towards established goals by assuring that the problem is adequately described, and that objectives, performance measures, and resources requested will address the problem
- Determine that the potential sub-recipient is the appropriate entity to perform the activities

See *Chapter III. Project Development, Section D. Grant Development Calendar* for applicable timelines.

A Grant Review Form will be completed by Safety Division reviewing staff to record all comments, questions, and additional information obtained from the applicant. After the first review of each proposed grant application within the Safety Division, the applicable Program Manager will request any additional information needed by contacting the applicant or others as necessary and recording their responses on the Grant Review Form. When completed, the Program Manager will print the Grant Review Form and circulate it to the Grant Review Team for consideration.

The determination of whether the application has the potential to impact traffic safety goals will be based on its ability to be innovative, implement evidence-based strategies, show a commitment to sustain and contribute to success, have measurable outcomes, and address the greatest demonstrable need/problem. Proposals that target high-risk populations, high-risk behaviors, and high crash locations will receive additional consideration. The proposed strategy must be either a best practice/proven strategy supported by research, or a demonstration project if a clear data-driven safety need has been identified or the project is supported with a strong evaluation plan that will allow the Safety Division to assess the effectiveness of the activity at its conclusion.

Following are some guiding questions for Safety Division staff conducting a technical analysis of a proposed grant application:

- Has a traffic safety related problem been adequately identified and appropriately described in the problem statement?
- Do the objectives and performance measures directly address the identified problem?
- Are the objectives clearly stated and achievable?
  - Is a completion date indicated for each objective?
  - Is sufficient time allocated to achieve each objective?
- Will performance measures provide adequate evidence of project activity and accomplishment of objectives?
- Are personnel needs accurately identified? For example:
  - If an objective requires roadway safety studies, an engineer must be involved.
  - If an objective involves public information and education activity, does the sub-recipient have the resources available to perform and complete the activity?
  - If the objectives involve law enforcement agencies, a sufficient number of appropriately trained officers must be available.
- Will any special equipment be needed? If so, will it be available for grant implementation, or does the applicant require funding to acquire the equipment?
- Are there other considerations that might affect sub-recipient performance? If so, are they adequately addressed?

## **ii. Grant Review Team**

Applications recommended for funding after the initial review by the Safety Division staff are then evaluated by the Grant Review Team (GRT). The GRT is composed of representatives of the NDDOT and other agencies and organizations selected by the Safety Division who have worked with the Safety Division in the past and have traffic safety or grant-related experience. The GRT is created to review and score proposals to establish a fair process for selecting grants. Applications are prescreened by the Safety Division before being sent to the GRT members. Only qualified grant applicants are forwarded to the GRT. If the GRT recommends changes to any application, those changes will be negotiated by the Safety Division.

To avoid any conflict of interest, the GRT members are requested to sign a statement provided by the Safety Division (See Appendix D. Non-Conflict of Interest Statement).

## **iii. Grant Application Evaluation Procedure**

- When the grant reviewer has received an application, they read through each one completely, at least one time with no points awarded. This method ensures a full understanding of each proposal before awarding points. It also will help to eliminate or reduce the psychological tendency to award fewer points to the first offer reviewed.
- Each grant reviewer will be supplied with a scoring sheet developed by the Safety Division for the application being reviewed.
- Comments should be added as needed for clarification on the reason points were given. Grant reviewers are not responsible for determining the actual award of the proposal; they are only scoring the proposal. Offers will be determined upon a compilation of points awarded as a combined effort of the GRT scoring and the Safety Division.
- Once a reviewer is satisfied with their review, they will submit the results via email to the Safety Division on or before the deadline. Reviews can also be faxed.
- Any questions identified by the GRT members will be resolved by the Safety Division before a final selection is made by the Safety Division.
- Final selections are made only with the approval of the NDDOT Safety Division Director.

## **iv. Pre-Award Risk Assessment**

Beginning with FY2016 grants, the Safety Division will conduct a risk evaluation for each sub-recipient (not contractors) receiving NHTSA funds prior to making the grant award to the sub-recipient. The Safety Division, as a pass-through entity, is required to evaluate each sub-recipient's risk of noncompliance with federal statutes, regulations and the terms and conditions of the sub award for purposes of determining the appropriate sub-recipient monitoring. The Safety Division shall develop, implement and document the outcome of a risk assessment process containing the four factors listed in 2 CFR Part 200.331(b):

- (1) The sub-recipient's prior experience with the same or similar sub awards;
- (2) The results of previous audits including whether or not the sub-recipient receives a Single Audit in accordance with Subpart F—Audit Requirements of Part 200.331(b), and the extent to which the same or similar sub-award has been audited as a major program;
- (3) Whether the sub-recipient has new personnel or new or substantially changed systems; and
- (4) The extent and results of Federal awarding agency monitoring (e.g., if the sub-recipient also receives Federal awards directly from a Federal awarding agency).

If a sub-recipient of the Safety Division passes on federal grant funds via a sub-award, the sub-recipient has the same obligation as a pass-through entity for all requirements of 2 CFR Part 200.331 including conducting a pre-award risk assessment of their sub-recipient.

The Safety Division shall consider imposing specific sub-award conditions upon a sub-recipient if appropriate as described in 2 CFR Part 200.207 Specific conditions. See also *Chapter V, Section N. Monitoring*.

#### **v. Grant Negotiations**

After a successful applicant has been notified that their proposed grant application has been accepted, the applicant completes any final contract development issues through negotiations and discussions with the Safety Division. The contract outlines the specific components of a project, the final authorized budget, the specific performance measures and objectives, and the commitment of responsibilities by the Safety Division and the sub-recipient.

Final contract development typically involves some level of negotiation to ensure that the final agreement meets all of the Safety Division requirements, expectations, and conditions. The applicable Program Manager negotiates on behalf of the Safety Division. Negotiation allows the Safety Division and the applicant to arrive at an understanding on the specific details of the contract (such as budget detail amounts, enforcement activity locations, evaluation criteria, etc.). Negotiating involves discussion, clarification, or modifications to the proposed grant application. Items to be discussed during the negotiation phase include, but are not limited to, the following:

- Problem identification
- Project description
- Anticipated outcome
- Time period
- Location and frequency of activity
- Acquisition of equipment or other items
- Frequency of reporting and invoice submissions
- Budget content
- Performance measures

#### **vi. Award**

All applicants should be notified of their award status. Following successful completion of negotiations and receipt of all required documentation, the Safety Division issues a contract to each successful applicant. The contract is effective October 1 of the new grant year unless otherwise specified in the contract terms.

Contracts are fully executed when signed by the sub-recipient and the NDDOT Director, typically in the months of September and October, but are retroactive to the October 1 start date unless otherwise specified in the contract terms. Contracts delayed for signature in the month of October (for example, a political subdivision's inability to appear before the city/county commission for contract approval) are signed as soon as practicable, with a note to the file explaining the delay, but are still retroactive to the October 1 start date.

### **vii. Debriefing Conferences**

Upon request, a debriefing conference may be scheduled for an unsuccessful applicant by contacting the Safety Division no later than five business days after receiving notice that the proposed grant application was not accepted. The Safety Division will schedule the debriefing conference within five business days of the request. The Safety Division may conduct debriefing conferences in person or by telephone. Discussion will be limited to a critique of the proposed grant application. Comparisons between other applications or evaluations of other applications are not permitted.

## **D. Final Contract Preparation**

### **i. Special Conditions**

In addition to the general required terms and conditions which apply to every traffic safety contract, the Safety Division may determine that special conditions should be imposed upon a specific sub-recipient. Some reasons for the special condition may be the nature of the specific strategy being addressed, past experience with the sub-recipient, or a special requirement that is not otherwise addressed in the general terms and conditions. If a special condition is imposed upon a sub-recipient, the special condition shall be documented in the project file. Following are some examples of a special condition:

- The sub-recipient is required to share equipment purchased under the grant with other agencies in their geographic region
- The sub-recipient is limited to using specific personnel to complete grant activity

### **ii. Signatures**

#### **a. Safety Division Requirements**

When the NDDOT executes a contract by signing it, the agency is certifying that the agreement:

- Is legal and payable
- Includes all required and applicable provisions
- Complies with all applicable federal and state regulations and laws
- Has received federal approval when such approval is required
- Has been budgeted with available funds
- Has been authorized by the Safety Division as part of the HSP

Before approval, the Safety Division Project Managers and Safety Division Director will review all contracts for form and content, applicable provisions, eligibility of costs, consistency, and accuracy.

#### **b. Sub-Recipient Requirements**

A final contract submitted to the Safety Division must be signed by the authorizing official (person with contracting authority) for the applicant agency or organization. The authorizing official, and in some cases the project manager, must also certify and ensure that all of the conditions contained in the certifications and assurances, reporting requirements, invoicing requirements, certification regarding lobbying, and restriction against lobbying sections of the contract will be met, including any special conditions.

For local grants, the agreement must be made with the unit of local government or political subdivision of the state, not with an operating division or function of the local governmental unit or political subdivision of the state. Likewise, for statewide grants, the agreement must be made with the parent agency, not a bureau or division.

A contract must be approved and executed in accordance with sub-recipient procedures as well. This may involve placement on the agenda for a city council meeting, the county commissioners' court, or a state agency's director, board, or commission. Scheduling time frames vary from agency to agency. Some local governments require agenda items to be heard at three consecutive meetings which adds significantly to the time required for contract approval. Scheduling requirements must be considered in the approval process to ensure that the grant can be activated on time.

### **c. Educational Institutions and Hospitals**

*2 CFR Part 200 Appendix III* for FY2016 grants and forward require that educational institutions and hospitals provide a "Certificate of Indirect Costs (F&A) Costs" for federally funded projects. The certificate must be signed on behalf of the institution by the chief financial officer or an individual designated by an individual at a level no lower than vice president or chief financial officer. An indirect (F&A) cost rate is not binding upon the federal government if the most recent required proposal from the institution has not been certified. *Appendix IX of 2 CFR Part 200* states that the existing OMB principles located at 45 CFR Part 75 Appendix E, entitled "Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals," remain in effect until such time as revised OMB guidance is proposed and implemented for hospitals.

#### **iii. Certification**

The Safety Division contract must contain required terms and conditions as well as requiring compliance with the NHTSA certifications and assurances. See 2 CFR 200.

The sub-recipient or contractor must be aware of the requirements imposed upon them, see 2 CFR 200.331(a)(2) for FY 2016 grants and forward.. Under MAP-21, Appendix A of Part 1200 identifies the following certifications and assurances that are required to be imposed upon sub-recipients. They are:

- Nondiscrimination
- Buy America Act
- Political Activity (Hatch Act)
- Certification Regarding Federal Lobbying
- Restriction on State Lobbying
- Certification Regarding Debarment and Suspension

The Safety Division may alter the language of the federal certifications and assurances for sub-recipients (only) as it is ultimately the state's responsibility to ensure that sub-recipients are complying with the terms of the contract. The Safety Division may require additional sub-recipient State certifications and assurances, such as, seat belt use or training requirements for law enforcement officers.

Sub-recipients should be required to become familiar with the contents of the final contract form and notified that failure to do so will not excuse nonperformance or noncompliance.

If a non-federal entity fails to comply with federal statutes, regulations or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 CFR Part 200.207 *Specific Conditions*, or terminate the award in whole or part as provided in 2 CFR Part 200.337 and 338.

Failure to comply with applicable federal statutes, regulations, and directives may subject state officials to civil or criminal penalties and/or place the state in a high-risk recipient status. Each fiscal year, the Safety Division signs certifications and assurances with the submission of the HSP that the state complies with all applicable federal statutes, regulations, and directives in effect with respect to the period for which it is receiving grant funding. The state certifications are explained in the *NHTSA Highway Safety Grant Management Manual* which is available on line and should be referenced to ensure that the most current requirements have been incorporated.

See *Chapter II. Planning. Section O. Certifications and Assurances* for additional information.

### **E. NHTSA Equipment Purchase Approval of \$5,000 or More**

For all major equipment purchases and equipment upgrade purchases with a useful life of more than one year and an acquisition cost of \$5,000 or more in value, the Safety Division shall receive prior written approval from the NHTSA Regional Administrator. This procedure is required by *23 CFR 1200.31* and the *NHTSA Highway Safety Grant Funding Policy for NHTSA/FHWA Field-Administered Grants*.

The Safety Division shall include a sub-recipient procedure in the grant guidance for purchases of major equipment of \$5,000 or more in value in accordance with the applicable state and NHTSA regulations and describe allowable and unallowable equipment purchases as specified by the federal regulations. The unit cost for equipment is the unit's purchase price *plus* any accessories necessary to make the equipment operational for its intended purpose.

During the review of proposed grant applications, the Safety Division program personnel shall: (1) identify all equipment purchase requests by sub-recipients which meet the above criteria, and (2) assure that the equipment has been identified within the Safety Division HSP (inclusion of the equipment request within the HSP is not mandatory but is preferred) for prior approval. For equipment purchases not identified in the Safety Division HSP, Safety Division personnel will assure that written approval from the NHTSA Regional Administrator has been obtained. The request to the NHTSA Regional Administrator will describe the type of equipment, a complete description of the equipment, the sub-recipient's organization name, total cost, useful life, and how the equipment would support the state's highway safety program.

Contracts for equipment purchase will not be initiated by the Safety Division in advance of receipt of required approvals.

The *NHTSA Highway Safety Grant Funding Guidance* Part IV.A states that costs for construction, rehabilitation or remodeling of any buildings or structures or the purchase of office furnishings and fixtures are *unallowable*. The following are some examples:

desk	credenza	storage cabinet
chair	bookcase	portable partition
table	filing cabinet	picture or wall clock
shelving	floor covering	draperies and hardware
coat rack	office planter	fixed lighting or lamp

Part IV.A. of the Guidance should be consulted for other unallowable costs and equipment costs.

The Safety Division, as part of its oversight responsibility, will systematically monitor all sub-recipients with grant-funded equipment to assure that sub-recipients are in compliance with all federal and any state requirements for property management and inventory.

Equipment will be used by the sub-recipient for the purpose for which it was acquired as long as needed, whether the program continues to be supported by Safety Division funds. When no longer needed for the original program, the equipment may be used in other traffic safety activities. If it is determined that the equipment is no longer needed for the purpose acquired or any other traffic safety purpose, the equipment shall be handled in accordance with Safety Division policy and federal requirements.

The Safety Division must seek equipment disposition approval from NHTSA Region 8 Office in advance for equipment with a value of \$5,000 or more, unless the equipment has exceeded its useful life as determined under state law and procedures.

See *Chapter V. Grant Administration and Management, Section G. Property Management*

## **F. Reporting Requirements**

The Safety Division requires three types of progress reports in conjunction with traffic safety grant projects: monthly or quarterly progress reports during the life of a grant, a final report at the conclusion of a grant (this is to include training and consultant reports, if applicable), and special reports as required.

Progress reports provide the Safety Division with information that can be used to strengthen the state's overall traffic safety program. These reports should keep the Safety Division informed of a grant's progress, explain any difficulties encountered, provide background information that can be shared with others, and suggest ways in which the Safety Division can assist and aid in the distribution of funds.

### **i. Regular Progress Reports**

The reports are to be submitted monthly or quarterly and are due to the Safety Division within thirty (30) or forty-five (45) calendar days, as specified in the contract, after the end of the reporting month. A report must be filed every month or quarter regardless of whether activity has taken place or grant-related expenditures have occurred unless the assigned Program Manager has approved that no reporting is required.

The report should indicate progress that has been made on the project. Any original or innovative ideas or methods employed in the project should be incorporated into the reports.

A progress report is required with each submission of an invoice to the Safety Division for grant cost reimbursement. **Note:** this does not apply to equipment grants.

### **ii. Final Progress Report**

Final reports are due from sub-recipients to the Safety Division no later than November 14 for activities funded in the previous fiscal year. The reports are to be detailed and must describe whether the grant objectives were accomplished, if technical and fiscal problems were encountered, and what improvements in traffic safety have resulted or probably will result. Included in final reports may be copies of publications, training reports, and any statistical data generated in grant execution.

### **iii. Special Progress Reporting**

Special reporting may be required. If so, reporting frequency and requirements will be detailed by the Safety Division in the contract. However, performance reports will not be required more frequently than quarterly except for unusual circumstances. See 2 CFR Part 200.327 for FY 2016 and beyond.

## G. Contract Revisions

Proposed grant applications and final contracts may be altered or amended prior to or after signing by mutual agreement of the parties. The alterations or amendments are not binding unless they are in writing and signed by persons authorized to bind each of the parties. The signature of the NDDOT Director or delegate is necessary to bind the Safety Division.

Contract amendments that extend the period of performance without the expenditure of funds in the new fiscal year (a no-cost time extension) are permitted with the prior approval of the Safety Division. If additional tasks or costs are authorized in the amendment, the sub-recipient must not begin work on the additional tasks or incur the additional costs until the amendment is fully executed or as is consistent with the effective date of the amendment.

The following deviations from the approved grant budget require approval from the Safety Division:

- (a) A specific item of cost not included in the approved budget.
- (b) An increase in the number of a specific item over and above the total authorized.
- (c) A transfer between budget categories. An email notification describing the action being taken shall be sent to the Safety Division by the sub-recipient for approval.

The HS-217 is required to be resubmitted by the Safety Division to the NHTSA Region 8 Office within 30 days of any reallocation of funds between program areas or changes, including an updated list of projects under each program area. The amended HS-217 and list of projects is subject to the approval of the NHTSA Region 8 Office. See 23 CFR Part 1200.32.

## H. Safety Division Internal Administration Processes

Planning and Administration (P&A) and Program Management costs to support the operation of the Safety Division highway safety program are developed with consideration to recurring costs and anticipated increases in costs.

**Definition of P&A Costs:** P&A costs are those direct and indirect expenses that are attributable to the overall management of the state's HSP. Costs include salaries and related personnel benefits for management and for other technical, administrative, and clerical staff for the Safety Division. P&A costs also include other costs, such as travel, equipment, supplies, rent, and utility expenses necessary to carry out the functions of the Safety Division.

**Definition of Program Management Costs:** Program management costs are those direct and indirect expenses that are attributable to a highway safety program area. Costs include salaries and related personnel benefits and other related costs such as travel, equipment, materials, and supplies.

Costs related to internal operation of the Safety Division program will be charged to the Safety Division internal grant project code as appropriate.

### i. P&A Match Requirement

The Safety Division Director shall ensure that the internal P&A grant line-item complies with applicable federal regulations, including the provision of a match in the amount of 50 percent (or the applicable sliding scale rate) of the costs claimed for eligible P&A functions. These requirements are contained in the NHTSA *Highway Safety Grant Funding Policy for Field-Administered Grants*, Part I, A and B. See *Chapter VI. Fiscal Procedures, Section C. Matching Funds*.

Match is defined as the direct expenditure of actual state funds or state or local funds that are expended in support of other qualifying traffic safety programs (such as, the salaries of highway safety related, state-funded employees). The state must have documentation to support an audit.

2 CFR 200.306(b), *Cost sharing or matching*, states:

For all Federal awards, any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the non-Federal entity's cost sharing or matching when such contributions meet all of the following criteria:

- (1) Are verifiable from the non-Federal entity's records;
- (2) Are not included as contributions for any other Federal award;
- (3) Are necessary and reasonable for accomplishment of project or program objectives;
- (4) Are allowable under Subpart E—Cost Principles of this part;
- (5) Are not paid by the Federal Government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;
- (6) Are provided for in the approved budget when required by the Federal awarding agency; and
- (7) Conform to other provisions of this part, as applicable.

States can carry over unexpended P&A funds if they were programmed in GTS by September 30.

The federal P&A share shall not exceed 50 percent of total P&A costs, except for select states using the sliding scale for match (See *NHTSA Order 462-6C, Matching Rates for State and Community Highway Safety Program*). No match is required for Section 163, Section 406, and Sections 154 or 164 funds transferred to Section 402 purposes for U.S. Territories (23 USC 120(i)) or for federally recognized Indian Tribal governments (as defined by 23 CFR 402(h)) under the Indian highway safety program.

The Safety Division shall limit federal participation in P&A funding to not exceed 50 percent (or the applicable sliding scale rate) of the total cost of such activities. The Safety Division shall ensure that the federal contribution does not exceed 13 percent (increased in MAP-21 from 10 percent beginning FY2014) of the total new funds the state receives annually under Section 402 and for Section 154 and 164 transfer funds when used for section 402 purposes to support impaired driving programs. (See Appendix F of 23 CFR Part 1200 and the *NHTSA Highway Safety Grant Funding Policy for NHTSA Administered Grants*, Part 1, A (1) Funding Ceiling.)

If the Safety Division is found by NHTSA to have miscalculated or not provided sufficient P&A match, the correct amount will be determined by NHTSA and the Safety Division will be required to take the appropriate corrective action.

## **ii. Safety Division Employee Time Allocation and Certification Requirement**

Charges to federal awards for salaries and wages, whether treated as direct or indirect costs, will be based on payrolls documented in accordance with the generally accepted practice of the governmental unit and approved by a responsible official(s) of the governmental unit and approved by a responsible official(s) of the governmental unit.

2 CFR Part 200.430 requires the Safety Division to rely on strong internal control standards and allows more flexibility on how to meet timekeeping standards. Biannual certifications and personnel activity reports (PAR) are no longer required although the Safety Division is encouraged to choose to use them. Charges to federal awards for salaries and wages must be based on records that accurately reflect work performed. Part 430 (i) establishes *Standards for Documentation of Personnel Expenses*. Part 430 (8) states that where the records of the sub-recipient does not meet these standards, the Federal agency may require PARs including certifications that support the records as required by this section.

For Safety Division employees working on P&A functions, the Safety Division shall ensure that only direct and indirect expenses for salaries and other costs that are attributable to the overall management of the State's HSP and necessary to carry out its functions are charged to P&A. The Safety Division shall ensure that employees who process grant claims or perform other P&A type duties are working on P&A for only the applicable fund program type e.g. an employee charging 100% to 410 or 154AL P&A must work on P&A only for alcohol programs. See Appendix F to 23 CFR Part 1200 - P&A Costs which states that if the Safety Division elects to allocated costs based on actual time spent, the recordkeeping system must be approved by the appropriate NHTSA Approving Official.

The Safety Division shall periodically examine the cost data used to determine employee time allocation and certification methods to ensure continued accuracy and amend the data when significant changes occur.

The Safety Division shall periodically determine compliance through review of the Safety Division employee timesheets to verify the time distribution and costs by employee position and specific program to ensure that P&A and program funds are being appropriately charged. See *NHTSA Highway Safety Funding Guidance*.

## **iii. Time and Attendance Records**

All employee time and attendance records shall be signed by the appropriate supervisor or timekeeper as required by state law, regulation, rule, policy, or guideline. The attendance record of salaried employees shall also be accurately documented whether federally funded or funded by state match. There are sample time certification and timekeeping forms provided on the GHSA website in the Members Only section under Planning and Management Tools, Sample SHSO Personnel Activity Reports.

**LEAVE TIME:** When an employee is charging time to more than one award (e.g., 402 and 405), the allocation of leave time must be equitably and reasonably charged to the funds. The Safety Division may choose at the beginning of the year to cost allocate leave time throughout the year based on proportional work, number of projects, and/or funds managed. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences, such as annual leave, sick leave, holidays, etc., are allowable if: they are provided under established written leave policies; the costs are equitably allocated to all related activities, including federal awards; and the accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the governmental unit. See 2 CFR Part 200.431 for FY 2016 and forward.

**iv. Sub-Recipient Timekeeping Requirements**

Sub-recipients of federal awards are subject to the same requirements for time allocation and certification as the primary award recipients. The Safety Division shall ensure that sub-recipients are informed of the applicable federal time allocation and certification requirements and are operating in compliance by periodically examining their records to verify full compliance with these provisions.

**v. Safety Division Invoicing and Reporting**

The Safety Division receives more than one million dollars in NHTSA funds annually; therefore, in compliance with 23 CFR 1200.23, the Safety Division shall complete and submit monthly invoices to NHTSA to request federal reimbursement for allowable costs. The invoice shall be submitted within 15 working days of the end of each month.

See Section F. *Reporting Requirements*, for additional information regarding sub-recipient progress reports.

## Chapter V Grant Administration and Management

V. Grant Administration and Management	5-3
A. Overview	5-3
B. Grant Management	5-3
C. Submission of Claims	5-4
i. Conditions	5-4
ii. Payment Procedures	5-4
iii. Documentation	5-4
iv. Reimbursement Policy	5-4
v. Advances	5-5
vi. Costs Incurred	5-5
D. Public Information and Education (PI&E)	5-5
i. Promotional Materials	5-5
ii. Advertising	5-5
iii. Sports Marketing	5-6
E. Procurement of Goods and Services – Contracts	5-7
F. Food/Beverage Costs	5-7
i. Safety Division and Sub-Recipient Purchases – Federal Requirements	5-7
ii. Safety Division Purchases – State Requirements	5-7
G. Property Management	5-8
i. Federal and State Requirements and Thresholds	5-8
ii. Sub-Recipient Property Management Systems	5-8
iii. Sub-Recipient Property Records Requirements	5-9
iv. Sub-Recipient Inventory	5-9
v. Safety Division Inventory	5-9
vi. Disposition	5-10
H. Sub-Recipient Travel	5-11
i. Sub-Recipient Travel Expenses	5-11
ii. Costs of Advisory Councils	5-11
I. Indirect Costs	5-12
J. Program Income	5-14
K. Supplanting	5-16
L. Grant File Maintenance	5-16
M. Monitoring	5-17

## Chapter V – Grant Administration and Management

i. Purpose	5-17
ii. Types of Monitoring	5-18
iii. Major Elements of Monitoring Procedures	5-18
Table 8. Monitoring Criteria	5-18
iv. Ongoing Monitoring	5-18
v. On-site Monitoring	5-19
Table 9. Source Documents Reviewed During On-Site Monitoring	5-20
Table 10. On-Site Monitoring Warning Signs	5-21
N. Resolution of Monitoring Findings	5-21
i. Minor Findings	5-21
ii. Repeated Incidence/More Serious Findings	5-22
iii. Significant Findings Requiring Immediate Action	5-22
iv. Resolution of Repeated, More Serious, and Significant Findings	5-23
v. Removal of “Recipient on Notice” Status	5-24
O. Federal Funding Accountability and Transparency Act (FFATA)	5-24
i. Reporting Timeline for Prime Contractors	5-25
ii. Reporting Timeline for Prime Grant Recipients	5-25
iii. Procedures	5-25
P. Fraud Prevention	5-25
i. Special Attention for High Risk Grants and Activities	5-25
ii. Recognition of Risk Factors for Personnel Services Grants	5-26
iii. Incorporation of Prevention Strategies into Safety Division Policies and Monitoring Practices	5-26
iv. Preventive Oversight for Law Enforcement Agencies	5-26
v. Utilization of Federal and Other Training Resources	5-27
Attachment 4 – Depreciation Guide (p. 5-11)	
Attachment 5 – Program and Financial On-Site Monitoring Report (SFN 18039) (p. 5-21)	
Attachment 6 – Monitoring Form for Law Enforcement Agencies (p. 5-21)	
Attachment 7 – See Chapter VI. (p. 5-25)	

## **V. Grant Administration and Management**

### **A. Overview**

This chapter contains sections on a wide range of procedures, most of which are administrative in nature, for specific methods involved in the administration and management of the state's traffic safety program.

Some of the sections contained in this chapter pertain to sub-recipients, some only to the specific staff within the Safety Division, and some to all involved in the traffic safety program.

### **B. Grant Management**

The Safety Division employee responsible for the day-to-day oversight of a grant is the Program Manager. The Program Manager is responsible for tasks associated within their program area(s) of responsibility (for example, impaired driving, occupant protection, police traffic services, etc.), including final grant agreement preparation, execution, and administration. Failure to perform these tasks correctly can result in significant grant management and payment problems. New program personnel will attend applicable NHTSA program management courses (Managing Federal Finances, Program Management, Impaired Driving, Occupant Protection, Traffic Records, etc.) within 12 months of hire (if funding allows and authority to travel is provided).

The Program Manager will monitor and evaluate the sub-recipient's performance and will expedite invoice processing without unnecessary delays.

The Program Manager will not:

- Impose any task upon the sub-recipient or permit any substitute activity not specifically provided for in the grant agreement.
- Give direction to the sub-recipient or to employees of the sub-recipient, except as provided in this document.
- Approve expenses for activities that do not meet performance specifications contained in the grant agreement.
- Offer advice to the sub-recipient that may adversely affect performance, compromise the Safety Division rights, or provide the basis of a claim against the Safety Division that may affect any pending or future determination of fault or negligence.
- Authorize or agree to any change in the grant agreement, standard provisions, certifications, project period, delivery schedule, maximum amount eligible for reimbursement, or other terms and conditions of the grant agreement, unless such change is specifically authorized in the grant agreement.
- Allow supplanting (e.g. replacing routine and/or existing State or local expenditures with the use of federal grant funds and/or using federal grant funds for costs of activities that constitute general expenses required to carry out the overall responsibilities of state, local or federally-recognized Indian tribal governments.)
- Promise that a future grant or extension of a grant for another year is approved prior to Safety Division approval.

## C. Submission of Claims

### i. Conditions

Reimbursement of costs under a final grant agreement is contingent upon the following conditions:

- The availability of appropriated funds
- Actual costs having been incurred (services provided, hours worked, etc.) in accordance with the approved project budget
- Compliance with the cost principles established in the 2 CFR 200 referenced in the grant agreement

Sub-recipients use a Safety Division-provided reimbursement form (referred to as a “voucher”) to “bill” the Safety Division for costs incurred under the terms of grant agreements.

### ii. Payment Procedures

The Safety Division has established the following payment procedures for sub-recipients.

- Sub-recipients will submit claims to the Safety Division on a monthly basis or as provided in accordance with the terms of their contract agreements.
- Sub-recipients will include a progress/activity report with claims in order to provide sufficient background information for verification of the accuracy and appropriateness of program charges with some exceptions. (See also Chapter IV. *Grant Selection and Execution, Section F. Reporting Requirements*).
- All claims for goods received or services performed on or prior to September 30 of the grant year must be received by the Safety Division no later than November 14. However, at the close of the state fiscal year (June 30), claims must be submitted no later than July 15. Claims received after this date may not be reimbursed.
- Sub-recipients must submit their final claim within 45 days of the end of the grant period if the grant time period is not based on the federal fiscal year.
- Claims received after the above cutoff dates cannot be reimbursed. Sub-recipients are responsible for informing their accounting office of the above invoice submission deadlines.

### iii. Documentation

The Safety Division requires the sub-recipient to maintain complete financial and programmatic documentation of claims in the form of source documents to support the amounts claimed. Such records, and other records reasonably considered as pertinent to program regulations or the grant agreement, are required to be maintained by 2 CFR 200.333 for FY 2016 and forward and must be retained for a three-year period after submittal of the final claim to the Safety Division.

### iv. Reimbursement Policy

- The Safety Division requires all agreements to include a “maximum amount eligible for reimbursement.” This maximum amount is the grant reimbursable amount and is the Safety Division’s share of the estimated grant cost. The budget can specify that each line item is not to be exceeded, or the budget can specify that each line item is an estimate and that the actual cost will be paid but not to exceed the maximum amount approved in the grant agreement. (A line item in the budget is the authorization for funds to be expended on that item.)
- Grants do not allow payment of any profit to the sub-recipient. If the Safety Division or a sub-recipient subcontracts with a commercial (for profit) firm, the fee becomes an actual cost and is eligible for reimbursement if all other payment criteria meet the terms of the agreement.

The Safety Division requires that the sub-recipient submit the source documents with their claim including time sheets, receipts, and other records of costs incurred, with the exception of fixed cost/fee-for-service contracts. For these contracts, payment is made based on documentation of service delivery consistent with contract requirements. However, source documentation of project expenditures are reviewed during on-site monitoring visits to assure funds were expended as allowable.

#### **v. Advances**

Capital advances are not allowed. Reimbursement will be made only for costs incurred during the grant period. The incurrence of cost depends on the accounting system used.

#### **vi. Costs Incurred**

1. If an **accrual** accounting system is used, then cost is incurred when a recorded liability exists. (Examples include invoices, bills of lading, vouchers of individual travel performed, and cash receipts of expenses incurred. Advances for anticipated costs are prohibited.)
2. If a **cash** accounting system is used, then cost is incurred when a cash disbursement has been made.

The Safety Division will review all proposed and submitted costs to determine that they are necessary, reasonable, and in compliance with applicable cost principles. The NDDOT Financial Management Division is available to assist the Safety Division in the analysis if requested to do so.

### **D. Public Information and Education (PI&E)**

#### **i. Promotional Materials**

2 CFR 200.421(e)(3) excludes the costs of promotional items and memorabilia, including models, gifts and souvenirs.

See *Use of NHTSA Funds to Purchase Items for Distribution* memo dated January 19, 2016, for details.

#### **ii. Advertising**

The limited purchase of media time or space (television, radio, print, social mediums, etc.) by sub-recipients for grant funded PI&E campaigns is permitted but must be specifically approved by the Safety Division and be included in the HSP.

Federally-funded public service announcements or video materials intended for television or cable television must be closed captioned.

Sub-recipients that obtain grant funds through the Safety Division to support paid advertising are subject to the same requirements as the Safety Division and must provide the required federal reporting information in their progress reports to the Safety Division.

### iii. Sports Marketing

2 CFR Part 200.438 states that *costs of entertainment, including amusement, diversion, and social activities and any costs directly associated with such costs (such as **tickets** to shows or sports events, meals, lodging, rentals, transportation, and gratuities) are unallowable.*

When considering communications, paid media, and public information expenditures that involve attendance at sporting and entertainment events that charge admission, apply the following tests. (*From NHTSA Guidelines for Sports Marketing, January 22, 2011*)

- Determine if the amount of the contract would decrease, if the entertainment items (tickets) were removed from the contract price. If the cost of the contract is lower after the entertainment items (tickets) are removed, then the activity is unallowable. One remedy would be the reduction of the chargeable amount by the value of the tickets.
- Determine if the contract costs would remain the same with or without the tickets in the package. If the cost is unaffected by the inclusion of tickets or other entertainment items, then the activity is allowable.
  - If entertainment items are included in the contract, but specific costs for tickets, for example, cannot be identified upon review, the Safety Division should request the contractor provide highway safety public service messages throughout the venue in lieu of the entertainment items.
  - If program benefit substitutions (for example, additional ads on the scoreboard) are not available, the Safety Division should give any entertainment items away as incentives for strong performance in the highway safety grant program, in order to avoid any appearance of impropriety.
- Determine if state/local regulations concerning purchase and acceptance of entertainment-related events apply.

When attending an event that charges admission, care should be taken to avoid any charges that could be interpreted as entertainment, including, but not limited to tickets to shows or sports events, transportation, rentals, gratuities, lodging, and meals.

Examples:

- The Safety Division team is assigned to work at a highway safety booth, which was rented with highway safety funds or donated by the venue. If the primary purpose for being at the event is the conduct of official highway safety business that meets the above tests, then admission for the Safety Division team to the venue may be accepted.
- The Safety Division team attends a sports or other entertainment event and performs minimal highway safety business or simply has the run of an executive suite, then the accepting admission (whether characterized as free or not) would be unallowable.
- Multiple members of a Safety Division attend a sports or other entertainment event with the purpose of monitoring the placement of highway safety message on the arena scoreboard and/or perimeter boards and perform no other highway safety business, the basic allowable tests stated above and other state or local regulations will determine whether admission should be accepted.

## E. Procurement of Goods and Services - Contracts

State procurement laws, administrative rules, and policies govern the purchase of goods and services for the direct use and benefit of Safety Division operations. State procurement laws, administrative rules, and policies can be located at: <http://www.nd.gov/spo/legal/>

NDDOT procurement policies can be accessed at: <http://mydot.nd.gov/policies/finance/financepolicies.htm> (under Purchasing)

Federal rules that apply include 2 CFR Part 200.317-200.326.

The Safety Division shall monitor periodically the state and all sub-recipient contracts and professional service agreements to verify compliance with the established state and/or local procurement procedures.

## F. Food/Beverage Costs

### i. Safety Division and Sub-Recipient Purchases – Federal Requirements

Federal traffic safety grant regulations allow the reimbursement of meeting and conference costs including meals (disallowed per state law, see *State Requirements* below), transportation, rental of meeting facilities, and other incidental costs when the training supports objectives of the State's highway safety program. This requirement applies to the Safety Division and sub-recipients. See *NHTSA Highway Safety Grant Funding Part III Allowable Costs, C. Training*. Records must be maintained to document the primary purpose of the meeting and should include the persons in attendance. Unallowable training costs include an individual's salary while pursuing training (except when the salary is already supported with highway safety funds under an approved project) and overtime for police officers attending drug recognition expert (DRE) training, see *NHTSA Highway Safety Grant Funding Guidance Part IV Unallowable Costs, C. Training*.

The Safety Division meeting and conference documentation or a sub-recipient's progress report shall include a statement describing the date, location, number of attendees, the food (disallowed per North Dakota state law, see *State Requirements* below) and beverage items to be purchased, and a description of the meeting purpose.

Costs of alcoholic beverages are unallowable. Costs of entertainment, including amusement, diversion, and social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodging, rentals, transportation, and gratuities), are unallowable.

For additional information, refer to 2 CFR Part 200.423, *Alcoholic Beverages* and 2 CFR Part 200.438 *Entertainment*. . See also Chapter VI. *Fiscal Procedures, Section E. Allowable Costs*.

### ii. Safety Division Purchases – State Requirements

North Dakota state law disallows the purchase of food for meetings, etc. Only coffee and soft drinks are allowed for purchase based on the following documentation from the North Dakota OMB.

#### ***OMB Policy 515 - Coffee and Soft Drink Expense***

*It is realized that coffee and soft drinks are an important part of meetings required by state agencies to inform and train the general public, interested parties, consultants, etc. Payment for coffee and soft drinks will be honored for processing by submitting a travel expense voucher. Coffee and soft drinks for state employees during staff meetings are not allowed.*

***Letter to NDDOT Financial Management Division from North Dakota's OMB dated March 9, 2001***

*This letter specifically denied an earlier request for the NDDOT to be included as a promotional agency under OMB policy 207. Classification as a promotional agency would have given the NDDOT latitude regarding the types of expenses the agency could make with regard to public meetings.*

***E-mail to NDDOT Financial Management Division from North Dakota OMB dated October 25, 2005***

*This e-mail clarifies and affirms that "Coffee and soft drinks (no food) can be ordered and paid for when" ... "NDDOT arranges for and holds training or educational sessions for NDDOT employees, consultants, and non-state agency participants..."*

## **G. Property Management**

The Safety Division requires that any purchase of equipment using contract funds, regardless of cost, receive prior approval through the Safety Division. Typically, equipment purchases are approved through the grant application/contract process. If equipment was not pre-approved through the application/contract process, the sub-recipient must submit a written request via email to the Safety Division program manager to obtain written approval in advance of the purchase.

For equipment approved for purchase with a useful life of more than one year and an acquisition cost of \$5,000 or more, the following applies.

### **i. Federal and State Requirements and Thresholds**

Federal requirements regarding the use, management, and disposition of grant-funded equipment are found in 23 CFR 1200.31, and specify that states and their sub-recipients manage and dispose of equipment acquired under 23 USC Chapter 4 in accordance with *state* laws and procedures.

For equipment with a useful life of more than one year and an acquisition cost of \$5,000 or more, see Chapter IV, Grant Selection and Execution, Section E, NHTSA Equipment Purchase Approval of \$5,000 or more.

### **ii. Sub-Recipient Property Management Systems**

Sub-recipients must establish and administer a system to procure, control, protect, preserve, use, maintain, and dispose of property furnished to them by the Safety Division or purchased through a grant, sub-grant, or other agreement in accordance with their own property management procedures, provided that the procedures are not in conflict with the standards contained in this section or federal property management standards procedures specified in 2 CFR Part 200.313 *Equipment*, as appropriate.

Equipment and other property acquired under a grant agreement for use in highway safety projects shall be used and kept in operation for highway safety purposes.

State Agencies: See v. Safety Division Inventory below

The contractor shall seek disposition instructions from the Safety Division prior to disposing of any item of equipment purchased. The sub-recipient may follow their own existing property management standards if they exceed the state or federal requirements.

### iii. Sub-Recipient Property Records Requirements

The sub-recipient property management requirements include, but are not limited to, the maintenance of accurate property records. Such records will include:

- A description of the property
- Manufacturer's serial number, model number, federal stock number, national stock number, or other identification number
- Inventory number
- Source of the property (including grant or agreement number)
- Indication of with whom title is vested (generally vests with the sub-recipient)
- Acquisition date
- Percentage (at the end of the budget year) of federal participation in the cost
- Location, use, and condition of the property and the date the information was reported
- Unit acquisition cost
- Ultimate disposition date in accordance with 2 CFR 200.313(e) (including date of disposal and sales price or the method used to determine current fair market value)

### iv. Sub-Recipient Inventory

Sub-recipients will maintain an inventory control system to ensure adequate safeguards to prevent loss, damage, or theft of the property. Sub-recipients will provide a copy of their inventory to the Program Manager upon request. Sub-recipients will institute adequate maintenance procedures to keep the property in good condition.

### v. Safety Division Inventory

*North Dakota Century Code 54-27-21, Fixed asset minimum reporting value*, establishes the requirements that all state agencies must follow regarding asset reporting, and reads:

"All state departments, agencies, boards, bureaus, commissions, industries, and institutions shall include all fixed assets under their control in their financial statements, except those having a value of five thousand dollars or less. The state auditor is authorized to provide for the written exemption of specific fixed assets having a value of more than five thousand dollars when an exemption is justified upon generally accepted accounting principles."

When a grant-funded item that exceeds the \$5,000 threshold is in the control of the Safety Division, the Safety Division must include the item in the NDDOT's fixed asset reporting.

To track grant-funded equipment purchases, the Safety Division uses a Microsoft Excel spreadsheet which includes the purchasing agency, make and model, serial number, purchase date, and cost. The Safety Division verifies the status of the equipment with the grant-funded entity every two to three years. The results of the verification process are also tracked on the spreadsheet.

To verify equipment status, an email form letter is sent to each agency having possession of Safety Division -funded equipment. The letter requires a response from the agency to certify via electronic response the status of the equipment (i.e., in use or not in use). A response also confirms the equipment is still in the agency's possession.

The Finance/Contract Manager is responsible to track equipment through disposition or estimated useful life has been exceeded, whichever occurs first.

While there is no requirement that the state physically inventory grant-funded activity, the Safety Division does complete this to some degree through on-site monitoring processes. The Safety Division's *On-Site Monitoring Report* has an area for Program Managers to document responses to the following equipment-related questions and issues:

- Was equipment purchased during this contract agreement period?
- Was written approval from the state office obtained prior to equipment purchase?
- Does the sub-recipient have a system in place to tag, control, protect, preserve, use, maintain, and inventory (annually) the property?
- Is equipment still accounted for and being used for designated highway safety purposes?
- Verify the source documentation for all expenditures over \$5,000.
- Is equipment certification current?

#### **vi. Disposition**

Equipment shall be used by the sub-recipient in the program or project for which it was acquired as long as needed, including after the project or program is no longer supported by federal funds. Prior written approval must be received from the NHTSA Regional Office by the Safety Division for the disposition of equipment with a useful life of one year and a value of \$5,000 or more unless the equipment has exceeded its useful life as determined under State law and procedures. See 2 CFR Part 200.31(e).

Upon completion or termination of a traffic safety grant or sub-grant, or if it is determined by the Safety Division that equipment is no longer needed for the purpose for which it was acquired, the equipment may, at the option of the Safety Division, become the property of the Safety Division.

Permission for any other disposition must be obtained from Safety Division before any action can be taken regarding the equipment. Other disposition actions include, but are not limited to:

However, equipment which is no longer tracked by the Safety Division does not require approval of the Safety Division for disposal.

The Safety Division may determine that a unit of equipment is no longer appropriate for tracking by using the following criteria:

- The equipment is no longer used or needed for the original purpose;
- The equipment is damaged beyond repair or salvage; or
- The equipment has passed its expected useful life.

A Depreciation Guide for the estimated useful life of typical traffic safety equipment has been developed for use by the Safety Division to determine useful life (Attachment 4).

NDDOT surplus property will be disposed of in accordance with the following NDDOT policies: NDDOT Purchasing Policies and Procedure Manual and NDDOT Policy Manual, Purchasing Policies and Procedures, 21.07 – Disposal of Surplus Property.

See also Chapter IV. Grant Selection and Execution, Section E. NHTSA Equipment Purchase Approval of \$5,000 or More.

## H. Sub-Recipient Travel

### i. Sub-Recipient Travel Expenses

Reimbursement for out-of-state travel expenses by sub-recipients requires prior approval of the Safety Division. To request approval for out-of-state travel, a sub-recipient must:

1. Assure that the grant agreement includes a provision for the travel and that there are sufficient funds to cover the cost of the trip.
2. If the trip was not included in the grant agreement, submit a written request for approval to the Safety Division.

To qualify for approval and reimbursement, the travel must be:

- **Necessary** to assist in the completion of project and program goals and objectives
- **Specific** to the purpose of the grant (for example, an anti-impaired driving conference for a community alcohol project)
- **Appropriate** to the position and responsibility of the individual or individuals traveling (for example, project director to attend a community project seminar)
- **Of direct benefit** to the state, with such benefit unavailable through other means (for example, travel for a national, one-of-a-kind event)

Travel to attend in-state meetings or training not included in the approved contract requires the sub-recipient to submit a request for prior written authorization for attendance from the Safety Division. Upon receiving a travel request in writing, the Safety Division will send a written response (typically e-mail) approving or denying the trip, with an explanation, to the sub-recipient.

Sub-recipients are eligible for per diem reimbursement of in-state travel costs at the state-approved rate. Lodging costs may be approved at a higher rate. See Chapter III Project Development, E. Contract Preparation Process, ix. Travel and Subsistence for further details. Out-of-state per diem rates will be reimbursed in accordance with the U.S. General Services Administration schedule available on line.

### ii. Costs of Advisory Councils

2 CFR Part 200.422 states that costs incurred by advisory councils or committees are unallowable unless authorized by statute, the federal awarding agency or as an indirect cost where allocable to federal awards. In a publication entitled, *“State Questions from the April 2015 Webinar on the OMB Uniform Guidance”* dated August 20, 2015, NHTSA stated it will use this authority to authorize use of an advisory council or committee (which includes task forces and advisory boards) subject to certain conditions and limitations. States shall obtain authorization from the Regional Administrator before vouchering for costs of an advisory council under an approved highway safety plan.

NHTSA will authorize an advisory council if it:

- Supports the state's highway safety program;
- Is an eligible use of the specific grant funds used (e.g., if an advisory council is paid for using Section 154 or 164 grant funds, the task force must be limited to addressing alcohol-impaired driving countermeasures); and
- Is allocable (e.g. if an advisory council is used for both grant purposes and other purposes, the costs must be apportioned accordingly) (see 2 CFR Part 200.405).

Even if an advisory council is authorized by the Regional Administrator, the following costs are not allowable:

- All costs, if the advisory council is required to qualify for the grant by which it is funded (e.g., the costs of a task force required to qualify for a Section 405 grant may not be reimbursed using Section 405 funds, but may be eligible for funding using other NHTSA grant funds);
- General costs of government (2 CFR Part 200.444);
- Travel—and associated costs such as mileage, meals, lodging expenses—for members of an advisory committee who are not SHSO employees (2 CFR Part 200.474 provides that certain travel costs are allowable, but only for employees of a recipient);
- Conference and training costs—including associated lodging, registration, travel, and meals—of Advisory Council members;
- Unreasonable costs (e.g., costs in excess of normal market value or costs inconsistent with typical purchasing policies of the SHSO) (see 2 CFR Part 200.404); and
- Costs that are otherwise unallowable under the Uniform Guidance Cost Principles or under federal or State statutes, regulations and procedures (see 2 CFR Part 200.403).

## I. Indirect Costs

Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated to a federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a federal award as a direct cost.

Once an entity (recipient or sub-recipient) has a federally negotiated indirect cost rate, it **must** be accepted and used by all federal agencies and pass-through entities unless prohibited or limited by statute.

### **The state cannot negotiate a lesser indirect cost rate with sub-recipients.**

If a sub-recipient does not have an approved federally recognized indirect cost rate, the state may negotiate a rate with the sub-recipient using the rules in 2 CFR 200, or may extend the ten percent de minimis indirect cost rate.

If the sub-recipient is a state, local government, or Indian tribe, it may only use the de minimis rate if it receives less than \$35 million in direct federal funding.

Any non-federal entity that has a federally negotiated indirect cost rate may apply for a one-time extension of a current negotiated indirect cost rate for a period of up to four years.

Indirect costs are normally charged to federal awards by the use of an indirect cost rate. A separate indirect cost rate is usually necessary for each department or agency of the governmental unit claiming indirect costs under federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the HHS entitled, *A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government*. A copy of this brochure may be obtained from the HHS Cost Allocation Services or at their Web site at <https://rates.psc.gov>.

For additional information regarding indirect costs, refer to Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals.

The NHTSA Region 8 Office may be consulted for assistance in verifying federally approved indirect cost rates for sub-recipients, including approved rates for universities, colleges, and hospitals. The Safety Division shall require that sub-recipients approved by the Safety Division to receive indirect costs provide annually a current approval letter from the cognizant federal agency stating the negotiated indirect cost rate (IDCR). Federally approved IDCRs are good for the specified time period. An application can be made for a one-time extension of a current negotiated indirect cost rate for a period of up to four years per 2 CFR Part 200.414(g). The Safety Division shall ensure that claims received from sub-recipients which include indirect costs are determined to be charged accurately.

Appendix III to Part 200 provides additional guidance on indirect (F&A) cost rates for *Institutions of Higher Education (IHEs)* e.g. *Universities* and should be consulted for complete information which apply only to IHEs. Universities are allowed to apply the indirect cost rate to a broader range of costs as specifically identified in the regulation and referred to as “modified total direct costs”. The modified total direct costs, referred to as “facilities and administration (F&A) costs” may include all salaries and wages, fringe benefits, materials and supplies, services, travel, and sub grants and subcontracts up to the first \$25,000 of each sub grant or subcontract (regardless of the period covered by the sub grant or subcontract). In addition, unless a new rate has been negotiated, there is a 26% rate cap applied to modified total direct costs for *Off-Campus - All Programs* (non-research related work such as surveys, etc.).

Appendix IV to Part 200 provides additional guidance on indirect cost rates for non-profit organizations and should be consulted for special requirements.

Appendix V to Part 200 provides additional guidance on indirect cost rates for *State and Local Governments and Indian Tribes* and should be consulted for special requirements.

Some sub-recipients may request reimbursement only for direct costs, choosing not to negotiate an indirect cost rate or use the de minimus rate. Indirect costs are not readily assignable to the cost objectives specifically benefited. They are incurred for a common or joint purpose benefiting more than one cost objective. Care must be taken to make sure that the indirect costs (now being reported as direct costs) are not part of a central services take down. And the costs must be allocable. Test: Would the activity still exist, and thereby result in the same costs being incurred, if the grant were terminated?

Note: the general costs of government are unallowable. The same costs may not be reported as both indirect and direct. The Safety Division must be consistent and treat the costs the same way as other state agencies - either as direct or indirect.

If a state/local governmental sub-recipient is considering changing a position to direct cost federal funding, care must be taken to avoid supplanting – the substitution of federal funding for a general cost of government.

**MATCHING REQUIREMENTS:** The Safety Division may use state funds to pay the indirect cost rate and those funds will count toward the 20 percent state share requirements. If state law permits, a sub-recipient may use any allowable cost, including indirect costs, for match if the HSO requires cost sharing for a sub award.

**STATE SUB-RECIPIENTS:** A state agency may be paid the state’s negotiated rate obtained from a cognizant federal agency as evidenced by a letter on file.

LOCAL and NON-PROFIT SUB-RECIPIENTS: Where a local government is not a primary recipient of federal funds, the Safety Division may negotiate and/or monitor the sub-recipient's indirect cost plan and an annual approval letter approved by a local government containing a certification signed by a government official specifying the year applied, see 2 CFR Part 200.331 (a)(4). The rate proposal and related documentation must be made available for federal and state and should be maintained annually in the sub-recipient's file. The rate does not have to be federally approved. The Safety Division cannot routinely grant an indirect cost rate to sub-recipients. Each sub-recipient must have submitted an indirect cost rate plan for review and acceptance.

Non-profit agencies must also provide an annual approval letter containing a certification signed by the Board of Directors, a CPA or an Executive Director and specifying the year applied and the rate.

The level of risk and exposure should be determining factors when determining the required oversight. NOTE: The responsibility does not end after a signed agreement or certificate is placed in the project file. The Safety Division must periodically review **AND** monitor sub-recipient IDCR plans to provide reasonable assurance that the requirements are being followed. This monitoring should ensure that the plan is current and accurately reflects indirect costs. As a good practice, the involved governmental unit should provide a signed certification letter that the IDCR claimed is "true and correct" similar to what a cognizant federal agency would receive and "approve".

Negotiating and monitoring an indirect cost rate is a complex and time consuming task. The Safety Division may (and is encouraged to) use the expertise of their state audit or finance office to review and approve the indirect cost rate plan proposed by a sub-recipient.

## J. Program Income

Many traffic safety grants are intended to provide financial start-up for projects so that they can become self-sustaining. Some projects conduct activities that generate income to cover present and future costs. When sub-recipients earn money for their services or products, they may be earning what is defined in the federal regulations as "program income." Income earned by the sub-recipient with respect to the conduct of the grant (e.g., sale of publications, registration fees, service charges, etc.) must be accounted for fully and applied to project purposes or used to reduce costs.

As defined in 23 CFR, Part 1200.34, and 2 CFR200.80, program income means gross income earned by the sub-recipient from grant-supported activities. Such earnings may include, but are not limited to:

- Income from fees for services performed
- Use or rental fees of real or personal property acquired with grant funds
- Sale of commodities or items fabricated under the grant agreement
- **Payments** of principal and interest on loans made with grant funds

See 23 CFR 1200.34(c) for specific exclusions.

Note: If program income is applied to the program and then generates other income, that income is not considered program income and is not required to be tracked as outlined in this policy.

Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the federal awarding agency authorized otherwise. Program income that the non-federal entity did not anticipate at the time of the federal award must be used to reduce the federal award and non-federal entity contributions rather than to increase the funds committed to the project. See 2 CFR Part 200.307 for additional guidance regarding the use and restrictions on program income. The Safety Division must approve a sub-recipient's request to earn program income. There should be an indication in the Safety Division HSP project description that the grant will generate program income. There also must be a clause in the grant agreement which states that the grant will earn program income and the sub-recipient will expend the funds to fulfill the objectives of the program area under which it was generated. Recommended language for grants generating program income is as follows:

- All program income earned during the grant period shall be retained by the sub-recipient and, in accordance with the grant or other agreement, shall be added to federal funds committed to the project and be used to further eligible program objectives.
- Program income that remains unexpended after the grant ends shall continue to be committed to the original grant objectives.

Program income may be used to meet cost sharing or matching requirements only upon written approval of the NHTSA Region 8 Office. And, such use shall not increase the commitment of federal funds.

Sub-recipients must record the receipt of program income as a part of the grant project transactions in accordance with the grant agreement. Program income should be recorded and submitted with the sub-recipient claim form.

Sub-recipients must also record and report the expenditure and disbursement of program income revenues as a part of the grant transactions in accordance with the grant agreement. Program income expenditures should be recorded and submitted with the sub-recipient claim form.

For projects that **accumulate** program income, each claim form must contain information about the program income. The following information must be included:

- The amount of program income earned in this period (supported by an entry on the form for reporting program income received)
- The previously accumulated program income by cost category where it was expended (supported by previous entries on the form for reporting program income received)
- The amount of program income previously expended by cost category
- The amount of program income expended in the current period by cost category (supported by entries on the form for reporting program income disbursed)
- The remaining program income balance, if any, by cost category

Donations (monetary or in-kind) are considered program income if the recipient or sub-recipient receives funds directly generated by a grant supported activity or earned as a result of the grant agreement during the relevant time period.

## K. Supplanting

The replacement of routine and/or existing state or local expenditures with the use of federal grant funds for the cost of activities that constitute general expenses required to carry out the overall responsibility of a state or local agency is considered to be supplanting and is not allowable. Refer to *NHTSA Highway Safety Grant Funding Policy for Field-Administered Grants, Part III, D(1). Program Administration, Supplanting.*

The Safety Division and sub-recipients shall not use grant funds to supplant state or local funds or other resources that would otherwise have been made available for the grant program.

**Sub-recipient employees:** The Financial Officer and the Authorizing Official for a sub-recipient may not be funded under a grant.

## L. Grant File Maintenance

Sound fiscal and program management of the Safety Division traffic safety program can be verified through the development and maintenance of complete, accurate, and accessible files. The Safety Division must establish a physical project file for every grant. The contents of the file of record will vary, depending on the type of agreement. The file of record will include any or all of the following:

- Signed grant application, if applicable
- Signed contract and any amendments
- Correspondence
- Claims with all supporting documentation
- Progress reports with all supporting documentation
- Monitoring reports
- Project accomplishment/final reports
- Data collection and trainings conducted
- Indirect cost approval letter, if applicable
- Soft match documentation, if required
- Other supporting documentation

Project files will be maintained electronically per the NDDOT's Electronic Document Management System (EDMS). Original project documents are scanned and maintained via EDMS.

**Public access:** All file information is a matter of public record. However, proper file management precludes public access to the files, which may include information of a sensitive nature such as personnel salaries, budget information, and internal correspondence. Access to the file of record will therefore generally be limited to those governmental officials with responsibility for the submission, operation, and close-out of the projects.

**File retention:** Federal regulation requires that recipients maintain contract and grant agreement records for three years from the date of final payment, until completion of audits, or until pending litigation has been fully resolved, whichever occurs last. A clause to this effect is included in each contract. The term "records" includes all books, documents, papers, accounting records, and other evidence pertaining to costs incurred and work performed.

The NDDOT records retention policies are as follows:

- Safety Division contracts are retained for the life of the contract plus six years and then disposed.

- Contracts that were canceled (signed but then terminated) are retained for the current contract year plus six years, and then disposed.
- Contracts that were never signed by the department are retained for the current contract year plus two years, and then disposed.
- Reference materials are retained in the office until updated or obsolete, and then disposed.

The Safety Division Manager, Program Managers, and Finance/Contract Manager are responsible for maintenance of the grant filing system in compliance with this policy. Files should be reconciled annually after the fiscal year close out to assure that all required documents are in place. The contents of the file will vary, depending on the type of agreement.

## **M. Monitoring**

### **i. Purpose**

According to 2 CFR 200.331(d), the Safety Division is responsible to manage the day-to-day operations of grant and sub-grant supported activities. The Safety Division must monitor grant and sub-recipient supported activities to assure compliance with applicable federal requirements and that performance goals are being achieved. Monitoring must cover each program function or activity.

The outcome of the 2 CFR Part 200.331(b) required pre-award risk assessment for each sub-recipient must be used for purposes of determining the appropriate sub-recipient monitoring. Depending upon the pass-through entity's assessment of risk posed by the sub-recipient, the following monitoring tools may be useful to ensure proper accountability and compliance with program requirements and achievement of performance goals:

- (1) Providing sub-recipients with training and technical assistance on program-related matters; and
- (2) Performing on-site reviews of the sub-recipient's program operations;
- (3) Arranging for agreed-upon-procedures engagements as described in Part 200.425 Audit services.

Pass-through entity monitoring of the sub-recipient must include:

- (1) Reviewing financial and performance reports required by the pass-through entity.
- (2) Following-up and ensuring that the sub-recipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the sub-recipient from the pass-through entity detected through audits, on-site reviews, and other means.
- (3) Issuing a management decision for audit findings pertaining to the Federal award provided to the sub-recipient from the pass-through entity as required by 2 CFR Part 200.521 Management decision.

Monitoring is done to maintain control of a project, detect problems, identify changes or training needed, provide data for planning and evaluation, and create an opportunity for the Safety Division to provide technical assistance when needed. It also is a way to encourage accountability on behalf of the sub-recipient. Monitoring requires forms to be completed for documentation and maintained in the grant file.

## ii. Types of Monitoring

The Safety Division will use the following types of monitoring:

- Ongoing contact with the sub-recipient through emails, phone calls, meetings, and correspondence
- On-site monitoring reviews of project operations, management, and financial systems
- Ongoing review of progress reports
- Ongoing review and approval of claims

## iii. Major Elements of Monitoring Procedures

There are several important elements to consider when determining what level of monitoring is appropriate for a specific sub-recipient. These elements include:

- Frequency of the monitoring
- Items to cover
- Procedures to follow
- Persons to involve
- Documentation to complete
- Evidence of present or potential problems

Answering the questions of how often, who to involve, and how to monitor depends on the following criteria:

**Table 8. Monitoring Criteria**

Criteria	Explanation
The length and complexity of the project	The longer and more complex the project, the more frequent and formal the monitoring should be
The capabilities and experience with the sub-recipient	Lower capabilities and/or lack of experience with the sub-recipient normally require more frequent and formal monitoring
Any indications of problems, lack of performance, or change in direction	The more problems and changes, the more frequent and formal monitoring should be

## iv. Ongoing Monitoring

Ongoing monitoring occurs every time a Program Manager (or other applicable Safety Division personnel) holds a discussion or communicates with a sub-recipient project manager through phone calls, meetings, email, or correspondence.

- **Frequency:** Ongoing monitoring can occur daily, weekly, or monthly. Weekly phone calls may be appropriate if there are problems. Monthly status meetings might be needed for complex projects. Some form of ongoing monitoring will be conducted by the Program Manager with each sub-recipient in their program area at least monthly.
- **Problems:** If problems are identified, the situation could require a meeting between the sub-recipient and Safety Division personnel or even the scheduling of an on-site monitoring visit. (See *Subsection v. On-Site Monitoring*, below. Reference should also be made to *Section O. Resolution of Monitoring Findings*.) The determination of the appropriate action to be taken should be made by the Program Manager and the Safety Division Manager. Any additional monitoring requirements will be documented in the grant file.

- **Approach:** The Program Manager will rely on regular correspondence and on-site visits to handle routine project issues. The sub-recipient's project manager should monitor work under the agreement with sufficient frequency to be sure that the work is progressing according to the plan and to quickly identify any major problems or variances from the plan. Careful monitoring of work is the best method to assure compliance with the grant and preventing disputes.
- **Items:** Any item related to the progress and management of the grant should be covered in ongoing monitoring. Although usually limited to the progress of activities, ongoing monitoring should also cover budget issues, problems encountered, procurement procedures, projected changes, etc.
- **Procedures:** The Program Manager will routinely set aside time to call or meet with sub-recipient personnel. The Program Manager should make a list of issues or questions to cover prior to the contact. The Program Manager should ensure that all issues are covered or that a deadline has been agreed upon to resolve any issues. Routine meetings will be specified in the grant agreement as necessary.
- **Participants:** Ongoing monitoring can involve any grant personnel with management or oversight responsibility for the project. In addition to the Program Manager, this may include the Finance/Contract Manager and any other key project personnel.
- **Documentation:** Copies of correspondence are to be kept in the Safety Division grant file. A note to the file should be provided to document significant changes in the project activities, budget, or personnel as necessary. The documentation is also extremely important at the end of the project as it is used to evaluate grant and sub-recipient performance.

#### **v. On-Site Monitoring**

Calls, letters, and occasional meetings may not be sufficient to monitor a project, particularly those that are more complex. In some cases, a Program Manager will need to go on-site to review project status, documents, and sub-recipient management and financial systems. This type of in-depth review is called "on-site monitoring" because the Program Manager must actually go to the location of the project and the offices of the sub-recipient to conduct this monitoring. On-site monitoring will not be conducted for out-of-state contractors unless problems are identified. The need for an on-site monitoring may also be identified by the Program Manager during ongoing monitoring activity.

**Frequency:** The Program Manager shall conduct at least one on-site monitoring visit per year for in-state sub-recipients meeting the following criteria:

- Total cost of the grant agreement exceeds \$25,000
- A recent ongoing monitoring identified a potential problem

The Program Manager will identify the list of sub-recipients to be monitored each fiscal year using the above criteria and develop a proposed monitoring schedule. On-sites should be scheduled to occur early to mid-fiscal year (February to May ideally) to allow for adequate work to occur under the contract, but to provide adequate time for the sub-recipient to correct any deficits identified during the on-site monitoring. Law enforcement on-site monitoring will be conducted mid- to late fiscal year to account for the extensive travel and time required to complete them.

**Items to Review:** An on-site monitoring includes an examination of all issues related to the effective and efficient operation of the project. The following, though not all-inclusive, are the most important items to review:

- Progress toward achievement of objectives and performance goals
- Adherence to milestones and action plan
- Programs and resources are protected from waste, fraud, and mismanagement
- Status of budget

- Accounting records
- Personnel records and time sheets
- Any necessary pre-approvals (such as out of state travel)
- Supporting documentation (verification of costs, invoices, subcontracts, etc.)
- Equipment purchased or leased as part of the project (i.e., inventory, and inspect to ensure that it is being used for the purpose for which it was bought or leased under the grant agreement)

Advance Preparation: Prior to the on-site monitoring, the Program Manager should:

- Plan each site visit in advance (preferably two to four weeks)
- Carefully review the grant agreement to determine which activities in the action plan should have been accomplished by the on-site monitoring date
- Note any special terms or conditions that need monitoring
- Review all correspondence, performance reports, and requests for claim reimbursement submitted prior to the visit
- Set appointments with the sub-recipient's project staff
- Provide to the sub-recipient a list of the types of documents to be reviewed, including time sheets, purchase vouchers, and forms
- Note items requiring follow-up from previous monitoring visits or ongoing monitoring

Review of Source Documents: The Program Manager will review source documents and evidence of task completion depending upon the activities to be conducted and the types of costs involved in the project. Examples of source documents to be included are shown in the following table:

**Table 9. Source Documents Reviewed During On-Site Monitoring**

<b>Document Type</b>	<b>Notes</b>
Time sheets	Time sheets, pay records, payroll registers, and possibly personnel (salary rate) records must be reviewed to determine that salary and wage costs are fully supported. Time sheets must account for 100 percent of time, regardless of the amount charged to a grant. If only a percent of time is to be reimbursed, then the prorated amount must be correct.
Fringe benefits	If reimbursable, fringe benefits (such as health insurance, pension plan, etc.) must correspond to the amount or percent eligible.
Travel costs	Only travel directly associated with the grant may be reimbursed. This might include, for example, travel to meetings called by the Safety Division.
Claims and payments	Only those costs in the approved budget may be reimbursed. Any discounts must be credited; the discounted amount would be reimbursable. Any payments must be directly attributable to the grant costs.

In the case of a high volume of documents, a sampling methodology may be used, either randomly or selectively (such as, every fifth voucher or every other time sheet). The purpose of the financial document review is to ensure that costs claimed reconcile to the documentation.

Review of Project Status: The Program Manager will review the status of project activities. Examples of evidence of progress toward task completion might include:

- Attendance rosters for training projects or events
- Citations and warnings for enforcement projects
- Newspaper clippings of events for public information activities
- Analyses and reports for data or problem identification projects

- Survey or questionnaire results
- Personnel training records

Review of Budget Requirements: The Program Manager will review the records for adherence to the budget requirements, including, but not limited to, determining whether:

- Expenditures are on schedule
- Costs are in the approved budget or any subsequent amendment
- Any necessary prior approvals for travel, equipment purchases, or changes have been obtained
- Appropriate procedures have been followed for all expenditures
- Appropriate supporting documentation is available and filed
- Reimbursements are up to date

Direct Observations: Although not required, on-site monitoring may also include direct observation of activities performed. These might include attendance or participation in a:

- Meeting, workshop, or training course
- Press conference or other media event
- Presentation to a school, organization, or civic club
- Task force or committee meeting
- Shift of overtime enforcement

Documentation: The Program Manager will complete the required on-site Safety Division monitoring report form entitled, *Program and Financial On-Site Monitoring Report (SFN 18039)* (Attachment 5). The Program Manager will sign the form according to the instructions provided and include documentation and attach copies of all appropriate records and other documents reviewed during the visit. The form, with attachments, will be placed in the sub-recipient file at the Safety Division.

A monitoring form for law enforcement has also been developed (Attachment 6) and is used by Program Managers when on-site with law enforcement recipients. While the Safety Division policy does not require that law enforcement agencies that receive less than \$25,000 receive an on-site monitoring, it is typically completed as Program Managers conduct on-site visits with law enforcement through the fiscal year.

**Table 10. On-Site Monitoring Warning Signs**

Late project start	Frequent personnel changes
Low activity level	Revisions to the grant
Slow expenditure rate	No records or inconclusive records
Late reports	Evasive answers
Low morale/poor attitude	Submission of questionable claims or back-up documentation
Incorrect claims	Failure to obtain required Safety Division approvals

## **N. Resolution of Monitoring Findings**

### **i. Minor Findings**

The Program Manager will notify the sub-recipient’s project director in writing upon any initial indication of minor discrepancies or errors in reporting, project implementation, or accounting. Examples of minor discrepancies include:

- Delays in activities that will not adversely affect the timely completion of the grant
- Typographical errors in an invoice that would not affect the amount reimbursed

A written notification of any finding must include the following information:

- A detailed description of the finding
- A description of any actions or options the sub-recipient may make in response to the finding
- A date by which the sub-recipient should implement the recommended action or advise the Safety Division of a proposed alternative or both. Under most circumstances, this date should be no more than 30 days after written notification by the Safety Division.

Copies of this correspondence, including copies of e-mail exchanges, are to be included in the grant file.

### **ii. Repeated Incidence/More Serious Findings**

Upon a repeated incidence of a minor finding or a more serious error or discrepancy, the Program Manager will request through the Safety Division Manager that a notice in writing, entitled "Recipient on Notice," be sent to the sub-recipient with the Safety Division Director's approval and signature. Examples of more serious errors or discrepancies include:

- Untimely submission or omission of required reports or invoices, including required supporting documentation
- Invoice for an unallowable or unapproved item
- Typographical or mathematical error that affects the amount of reimbursement
- Actions taken without prior approval when the grant stipulated prior approval
- Significant delay in achievement of objectives and performance goals

In addition to the information required for a minor finding or first notification, the "Recipient on Notice" letter will include any potential ramifications or imposed requirements. These remedies might include temporary delays in reimbursement or modification of the agreement, including the reduction of funding or cancellation of the project agreement.

### **iii. Significant Findings Requiring Immediate Action**

In the event there are serious problems or issues identified, the Program Manager will immediately notify the Safety Division Manager who will notify the Safety Division Director to determine the appropriate course of action. If serious financial problems are identified, the Safety Division may request a full audit be completed by an outside auditor before taking further action. Consideration should also be given to notifying the NHTSA Region 8 Office.

Significant findings are to be addressed immediately by a "Recipient on Notice" letter to the sub-recipient with the Safety Division Director's approval and signature. Significant findings include, for example:

- Work not being performed as written in the grant agreement
- Delays that are likely to significantly impact the successful implementation of the grant
- Indication of fraud or other illegal activity associated with management or implementation of a project
- Continuing delays or omissions in the submission of required documents
- Consistent failure to abide by a provision in the grant agreement.

If fraud is detected, the Safety Division shall determine whether the state/local district attorney, State Auditor, or USDOT Office of the Inspector General (OIG) should be contacted for consultation and the possible initiation of criminal action.

#### **iv. Resolution of Repeated, More Serious, and Significant Findings**

Immediate action to correct the problem will be negotiated by the Safety Division and the sub-recipient, and implemented by the sub-recipient. The sub-recipient will be required to submit a Corrective Action Plan (CAP) to the Safety Division which details how and when the identified deficiencies will be addressed and will be signed as appropriate by the parties involved. A date for an on-site follow-up review will be established, and corrective action will be monitored by the Safety Division for compliance.

In addition, the following statement may be included in the CAP:

“The Safety Division has determined that the sub-recipient is a ‘Recipient on Notice’ during federal fiscal year (20\_\_) due to the following reasons: (list applicable reasons). Your agency is informed that if similar failures to meet the grant requirements occur in the current fiscal year, the Safety Division may modify the agreement, including the withholding of grant reimbursement, suspension of all or part of the grant, or termination of the grant as provided by 2 CFR 200.338. The Safety Division will work with your agency wherever possible to assist your agency to fulfill the requirements of the grant agreement.”

If the problems or issues cannot or have not been resolved, the following actions may be imposed by the Safety Division consistent with *2 CFR Part 207*:

1. Temporarily withhold grant reimbursement – Requires the Safety Division Director to provide written notice to the sub-recipient’s project director detailing the specific problem or issue, the action required to correct the situation, and applicable penalty for failure to make the correction(s).
2. Suspension of grant or part of grant – Requires the Safety Division Director to provide written notice to the sub-recipient’s project director at least 10 days before effective date of the suspension and should include the part or activity in the grant which is being suspended and the action to be taken by the sub-recipient to remove the suspension.
3. Whole or in-part termination of grant – (A last-resort action to be used only when a sub-recipient or any recipient of federal funds under the grant fails to fulfill the terms and conditions of the grant agreement in a timely and proper manner, refuses to abide by specific terms or conditions, or violates the terms of a contract.) Requires the Safety Division Director to provide written notice to the sub-recipient’s project director at least 30 days before effective date of the termination and shall include:
  - a. Effective date of the grant termination
  - b. Specific terms and/or conditions violated
  - c. Requirement to forward to the Safety Division all grant-related materials, whether or not completed
4. Debarment – Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency). The enforcement remedies, including suspension and termination, do not preclude the sub-recipient from being subject to “Debarment and Suspension” under Executive Order 12549 – Debarment and Suspension. In addition to this review, the federal awarding agency must comply with the guidelines on government-wide suspension and debarment in 2 CFR Part 180, and must require non-federal entities to comply with these provisions. These provisions restrict federal awards, sub-awards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in federal programs or activities.

5. Withhold further awards for the program or take other remedies that may be legally available.

In taking an enforcement action, the Safety Division will provide the sub-recipient an opportunity for such hearing, appeal, or other administrative proceeding to which the sub-recipient is entitled under any statute or regulation applicable to the action involved. See [2 CFR Part 341](#).

Costs to the non-federal entity resulting from obligations incurred by the non-federal entity during a suspension or after termination of a federal award or sub award are not allowable unless the federal awarding agency or pass-through entity expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:

(a) The costs result from obligations which were properly incurred by the non-Federal entity before the effective date of suspension or termination, are not in anticipation of it; and

(b) The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect. See [2 CFR Part 200.342](#).

Equipment purchased with grant funds shall revert to the Safety Division for disposition. Copies of any action involving suspension or cancellation will also be forwarded to the Regional Administrator of the NHTSA Regional Office.

#### **v. Removal of “Recipient on Notice” status**

A sub-recipient designated as a “Recipient on Notice” will remain as such until the Safety Division has determined through a review that all deficiencies have been corrected. If all deficiencies are found by the Safety Division to have been corrected, the sub-recipient will be removed from “Recipient on Notice” status at the beginning of the next fiscal year. If one or more of the initial reasons for designating the sub-recipient as a “Recipient on Notice” is found to still exist any time during the fiscal year, the sub-recipient will remain as a “Recipient on Notice.” If a sub-recipient is designated as a “Recipient on Notice” for a duration of six months or more during the fiscal year, the Safety Division will automatically place any requests by the sub-recipient for funding in the next fiscal year within the “not to be funded” category.

### **O. Federal Funding Accountability and Transparency Act (FFATA)**

The Federal Funding Accountability and Transparency Act (FFATA) was signed on September 26, 2006. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. The FFATA legislation requires information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is [www.USASpending.gov](http://www.USASpending.gov).

The FFATA Sub-award Reporting System (FSRS) is the reporting tool federal prime awardees (i.e., prime contractors and prime grants recipients) use to capture and report sub-award and executive compensation data regarding their first-tier sub-awards to meet the FFATA reporting requirements. Prime contract awardees will report against sub-contracts awarded, and prime grant awardees will report against sub-grants awarded. The sub-award information entered in FSRS will then be displayed on [www.USASpending.gov](http://www.USASpending.gov) associated with the prime award furthering federal spending transparency.

### **i. Reporting Timeline for Prime Contractors**

Prime Contractors awarded a federal contract or order that is subject to Federal Acquisition Regulation clause 52.204-10 (Reporting Executive Compensation and First-Tier Subcontract Awards) are required to file a FFATA sub-award report by the end of the month following the month in which the prime contractor awards any subcontract greater than \$25,000.

### **ii. Reporting Timeline for Prime Grant Recipients**

Prime Grant Recipients awarded a new federal grant greater than or equal to \$25,000 as of October 1, 2010, are subject to FFATA sub-award reporting requirements as outlined in the OMB's guidance issued August 27, 2010. The prime awardee is required to file a FFATA sub-award report by the end of the month following the month in which the prime recipient awards any sub-grant greater than or equal to \$25,000.

### **iii. Procedures**

To assure compliance with the FFATA requirements, the Safety Division collects the required sub-recipient information from contractors during the contract execution process using the form entitled, Sub-recipient Information (SFN 60019). This form is included in Chapter 6 as Attachment 7.

Sub-recipient information is then entered into the FFATA Sub-award Reporting System (FSRS) at [www.fsr.gov](http://www.fsr.gov) by the Safety Division's Finance/Contract Manager.

Data entry cannot occur until the Federal Award Identifier Number (FAIN) is made available. A delay in FAIN availability may impact the ability to file a report within the required timeframe.

## **P. Fraud Prevention**

Investigations by the federal OIG and NHTSA have detected more cases of fraud involving sub-recipients receiving federal highway safety grant funds. A comprehensive monitoring program is one of the most effective ways to prevent fraud. Such a program includes the elements outlined in Section N. Monitoring. Also essential is sufficient management oversight to ensure that the monitoring program is fully implemented. Onsite monitoring of grants that include personnel services is essential. The following information has been compiled to assist the Safety Division in communicating with sub-recipients, implementing safeguards, monitoring, and taking action when fraud is detected.

NOTE: Personnel services grants – including law enforcement overtime typically associated with high visibility enforcement grants and grants containing subcontracts – have been identified as high risk for fraud. Such grants should require strong internal supervision by the sub-recipient and extra attention by the Safety Division.

### **i. Special Attention for High Risk Grants and Activities**

- Identify law enforcement and other types of grants which contain claims for personnel services as requiring special attention to detect fraud
- Closely examine and compare personnel log sheets to actual activity documentation (such as date and time worked as recorded on paper tickets and time reports) to ensure that only actual time worked on grant-funded approved activities is submitted for reimbursement
- Ensure that only approved hourly rates for subcontractors and contractors are charged to the grant and that legitimate original invoices from subcontractors and contractors for actual work completed are available for examination

## **ii. Recognition of Risk Factors for Personnel Services Grants**

- Lack of communication of specific clear benchmarks, goals, and deliverables for enforcement and other contracts
- Lack of training for supervisors and officers to emphasize unique conditions of grant programs
- Lack of supervision of grant procedures during overtime patrols, time and attendance quality checks, and use of paper forms

## **iii. Incorporation of Prevention Strategies into Safety Division Policies and Monitoring Practices**

- Provide specific pre-award guidance to sub-recipients to explain the federal requirements and discuss the need for their own internal control systems
- Require sub-recipients to allow review of their policy/internal controls by the Safety Division to certify compliance with generally accepted practices.
  - Do supervisors sign off on completed work?
  - Do officers check in and out of shifts with a supervisor or dispatch?
  - Do supervisors conduct reviews and spot checks of officer records?
  - Are work schedules prepared in advance?
  - Do managers have access to global positioning system (GPS) records or other location records for patrol vehicles?
- Review original documents (not copies) at the sub-recipient or third-party sub-contract level.
  - Could an officer falsify elements like date and time of the violation?
  - Are records retained for review?
- When conducting onsite monitoring, over sample vouchers.
- Establish clear performance benchmarks and expectations.
- Develop an action plan to follow when possible fraud is detected.
- Use state auditors to randomly audit selected sub-recipients and to follow up fraud allegations for the Safety Division.
- Document and disseminate information on identified cases of fraud and the consequences to law enforcement officers, project personnel, and their departments as a deterrent.

## **iv. Preventive Oversight for Law Enforcement Agencies**

- Build supervision into the grant project
- Develop and implement an enforcement or project action plan based on the data
- Utilize GPS units on patrol vehicles
- Use log sheets or personal activity reports (PARs) to verify actual hours worked on shifts
- Providing training, including refresher roll call reviews of expectations
  - Are officers informed about requirements and expectations?
  - Are veteran officers asked to complete refresher training?
  - Do managers have adequate training on grant administration?

Is there any emphasis placed on detecting fraud or conducting periodic reviews?

Are training records maintained?

- Review the type of ticketing system – automated systems are less likely to be subject to fraudulent activities than handwritten paper citations.

#### **v. Utilization of Federal and Other Training Resources**

The following are beneficial resources related to fraud prevention.

- The “risk level decision tree” available from NHTSA Regional Offices
- The OIG Information Memo [OIG Memo 5-21-12 on STEP Fraud](#)
- The NHTSA/GHSA 2012 Webinar titled: Strategies to Prevent Fraud and Misuse of Federal Funds
- Other State Highway Safety Office best practices such as, the Michigan Grant Management Quarterly Webinar for Sub-recipients titled: Fiscal Information and You
- Applicable federal regulations: 2 CFR 200.302.

## Chapter VI Fiscal Procedures

VI. Fiscal Procedures	6-2
A. In-house Grant Payment and Federal Reimbursement Voucher Process	6-2
i. Review Process	6-2
Table 11. Safety Division Sub-Recipient & State Agency Claim Review & GTS Process	6-2
ii. Entry of State/Local Matching Share	6-3
iii. Reporting of Benefit to Locals	6-4
iv. Submission of Federal Reimbursement Voucher	6-4
v. Federal Reimbursement Rejection	6-4
B. Federal Grant Tracking System (GTS)	6-5
i. Types of GTS Transactions	6-5
ii. GTS Reports	6-5
iii. Electronic Transfer of Funds	6-6
C. Matching Funds	6-6
D. Grant Tracking Spreadsheet	6-7
E. Allowable Costs / Cost Principles	6-8
Table 12. Applicable Federal Cost Principles by Organization Type	6-8
i. Federal Regulations – Allowable Costs	6-9
ii. NHTSA Grant Funding Policy – Allowable and Unallowable Costs	6-9
iii. Automated Traffic Enforcement Systems Funding Prohibition	6-10
iv. Proportional Benefit	6-10
v. Collection of Unallowable Costs	6-10
F. Single Audit Procedures – 2 CFR 200, Subpart F – Audit Requirements	6-11
Attachment 8 – Sub-Recipient Information (SFN 60019) (p. 6-11)	

## VI. Fiscal Procedures

### A. In-house Grant Payment and Federal Reimbursement Voucher Process

#### i. Review Process

The Safety Division Program Managers review claims submitted by sub-recipients for reimbursement of grant-related expenses. After review and verification, the Safety Division Finance/Contract Manager conducts a second-level financial review of the claim, and, upon finding it accurate and appropriate, proceeds to submit the claim to the Safety Division Director for final approval. The claim is then processed through the NDDOT's accounting system for payment.

The NDDOT Financial Management Division performs certain required accounting actions in the state accounting system and the federal GTS system to assist with grant payment and the Safety Division federal reimbursement voucher submission.

**Note:** It is imperative that the Safety Division assign a high priority to processing claims in order for reimbursement payments to be made in a timely manner.

**Note:** Final claims may not be approved for payment without the receipt of the final progress report (See *Chapter IV. Grant Selection and Execution, Section F. Reporting Requirements*).

**Table 11. Safety Division Sub-Recipient & State Agency Claim Review & GTS\* Process**

Responsible Party	Action
Safety Division Finance/Contract Manager or Program Manager	<ul style="list-style-type: none"> <li>Opens mail, date stamps reimbursement voucher/report, and delivers to appropriate Program Managers, etc.</li> </ul>
Program Manager	<ul style="list-style-type: none"> <li>Reviews voucher/report for grant compliance. Resolves any issues, signs, and dates.</li> </ul>
Safety Division Finance/Contract Manager	<ul style="list-style-type: none"> <li>Reviews voucher/report and meets with program manager to resolve any additional issues. Saves voucher/report on computer (except any saved on computer through law enforcement web-based reporting), prepares claim for payment, assigns code, and electronically submits claim for payment with voucher/report to Safety Division Director for approval.</li> </ul>
Safety Division Director	<ul style="list-style-type: none"> <li>Reviews claim for payment with voucher/report and approves claim for payment. After approval, the electronic Contract Management System automatically submits claim for payment to the Financial Management Division for data input (payment) in state accounting system.</li> </ul>
Financial Management	<ul style="list-style-type: none"> <li>Receives claim for payment with voucher/report, processes claim (enters into state accounting system), and a check is issued. Claim for payment and voucher page are electronically stored in FileNet through EDMS.</li> </ul>
Financial Management	<ul style="list-style-type: none"> <li>During the first week of each month (usually the 1<sup>st</sup> working day of the month), the Financial Management Division runs reports showing all NHTSA projects along with a cash trial balance and prints copies for the time period to use for billing.</li> <li>The amounts from the NHTSA reports are entered into the monthly NHTSA billing spreadsheet to determine the current month's billing. This amount is then reconciled to the negative cash on the cash trial balance.</li> </ul>

	<ul style="list-style-type: none"> <li>• When the spreadsheet is completed, the Financial Management Division logs into the GTS website and enters the state, federal, and local benefit amounts applicable for each NHTSA project billing in that period. If there are any critical errors, these are forwarded to the Safety Division for them to resolve in GTS or instruct Financial Management on how to resolve.</li> <li>• Once all critical errors in GTS have been resolved, journal entries are prepared in the state accounting system to record the receivable for each fund and the revenue for each project. This is done to verify there are no problems in the state accounting system with the voucher.</li> <li>• When the journal entry has been verified in the state accounting system, changes are made to the voucher in GTS if there were issues with the journal entry. When the voucher is ready, it is submitted to NHTSA for approval.</li> <li>• When the voucher has been approved by NHTSA, the Financial Management Division posts the voucher on the GTS website. The journal entry is also submitted to the Accounts Receivable Federal Aid Supervisor for approval in the state accounting system.</li> <li>• After the funds are received, Financial Management deposits the funds directly to the fund-specific receivables previously created.</li> </ul>
Financial Management	<ul style="list-style-type: none"> <li>• Reviews GTS report and verifies entries</li> <li>• Reviews any GTS “error” messages and works with the Safety Division to resolve</li> <li>• Posts and authorizes the voucher using electronic signature authority</li> <li>• Enters federally required benefit to locals (40 percent) See Chapter II, Planning, Section L. <i>Benefit to Locals</i></li> </ul>
Financial Management	<ul style="list-style-type: none"> <li>• At the beginning of each fiscal year the Financial Management Division posts the grant dollar amounts for the Safety Division to the State Accounting System including match amounts and Project Development Authority codes.</li> </ul>
Safety Division Finance/Contract Manager	<ul style="list-style-type: none"> <li>• The Safety Division enters the federal obligation information into GTS from the HS-217 Cost Summary for the current fiscal year.</li> </ul>

\* See *Section B. Federal Grant Tracking System* for additional information on GTS.

## ii. Entry of State/Local Matching Share

In addition to actual costs to be reimbursed to the state, federally required match funds must be calculated annually by the Safety Division and entered into the GTS. This calculation determines the total funds, federal and state match, which have been spent for all the NHTSA funding sources.

The Safety Division will establish a reliable process which assures that federal program match information entered into GTS for all traffic safety grants is based on the actual program match amounts collected (whether through sub-recipient vouchers submitted to the Safety Division for reimbursement or other match sources). The Safety Division will assure that the actual program match amounts as reported in the GTS are fully supported and documented in the project file(s).

The entry of required state/local match information into GTS should be completed at the beginning of the federal fiscal year and then rechecked at fiscal year closeout. See *Section C. Matching Funds*.

### iii. Reporting of Benefit to Locals

Local benefit expenditures must be reported in GTS by March 31 each year AND reconciled at closeout to ensure full compliance when preparing the final voucher. The 40 percent minimum need not be met by March 31, but whatever local benefit that has been expended should be reported by that date. If the percentage appears to be significantly low on March 31, the Safety Division should do further research to determine the cause – i.e., slow vouchering by locals or insufficient number or dollar amount of local sub-grants. See 23 CFR Part 1200.33(b)(3). Current local benefit source documentation must be readily available on site, including evidence of an active local voice in the initiation, development, and implementation of the programs when sub-grants are directed to state agencies and local benefit is claimed. See *23 CFR Part 1200 Appendix E-Participation by Political Subdivisions*. See also Chapter II. Planning, Section L. *Benefit to Locals*.

### iv. Submission of Federal Reimbursement Voucher

The Safety Division receives funds by electronic transfer at an annualized rate of one million dollars or more; therefore, vouchers must be submitted on a monthly basis. The Financial Management Division shall submit the federal reimbursement voucher to NHTSA no later than 15 working days after the end of each month. A final voucher shall be submitted no later than 90 days after the end of the fiscal year, and all unexpended balances shall be carried forward to the current fiscal year.

There is no requirement that the monthly voucher requirement pertain to only “new” funding, only that vouchering must be conducted monthly.

At a minimum, each voucher shall provide the following information for expenses claimed in each program area:

- a) Program area for which expenses were incurred and an itemization of project numbers and amount of federal funds expended for each project for which reimbursement is being sought
- b) Federal funds obligated
- c) Amount of federal funds allocated to local benefit, provided no less than mid year (by March 31) and with the final voucher
- d) Cumulative total cost to date
- e) Cumulative federal funds expended
- f) Previous amount claimed
- g) Amount claimed this period
- h) Matching rate (or special matching write off used, i.e., sliding scale rate authorized under 23 USC 120).

Copies of each project agreement for which expenses are being claimed under the voucher (and supporting documentation for the vouchers) shall be made promptly available for review by the NHTSA Region 8 Office upon request. Each project agreement shall bear the project number to allow the NHTSA Region 8 Office to match the voucher to the corresponding activity.

The Safety Division will work with the various NDDOT divisions responsible for the state and federal accounting and reimbursement process to ensure that federal reimbursement vouchers are complete, accurate, and in full compliance with the requirements contained in 23 CFR 1200.33(a) through (e).

### v. Federal Reimbursement Rejection

Failure to provide the required information shall result in rejection of the voucher. Failure to meet the stated deadlines may result in delayed reimbursement. Vouchers that request reimbursement for projects whose project numbers or amounts claimed do not match the list of projects (submitted by the

Safety Division), exceed the estimated amount of federal funds provided under 23 CFR 1200.11(e), or exceed the allocation of funds to a program area in the HS 217 shall be rejected, in whole or in part, until an amended list of projects and/or estimated amount of federal funds and an amended HS 217 is submitted to and approved by the NHTSA Region 8 Office in accordance with 23 CFR 1200.32.

## B. Federal Grant Tracking System (GTS)

The GTS is a Windows-based data base program developed by NHTSA to assist the states in the financial management of federal grants. GTS was designed primarily to automate the financial information process, produce the required federal financial documents at the program area level, and electronically transmit this information to NHTSA's accounting department.

### i. Types of GTS Transactions

GTS handles five major types of automated transactions. Each transaction type depends on the order of completion, validity, and accuracy. These five transaction types, with explanations, are:

- **Obligation Limitation** – The “Obligation Limitation” establishes the amount of federal funds available for expenditure under NHTSA 402 and designated incentive grant funds. The amounts of these funds available for the “Obligation Limitation” are downloaded into GTS.
- **Obligation Cost Summary** – The Obligation Cost Summary (HCS) produces the documents that officially obligate funds for the federal computerized accounting system (DELPHI). The overall process involves entering obligations for the current year and carry-forward funds into the GTS system. All entered information is verified and posted. After all posting has been processed, GTS automatically sends an electronic approved copy to the NHTSA Region 8 Office and to DELPHI.
- **Advance of Funds** – The Advance Request transaction is used to request federal funds electronically and prior to submission of a voucher. Prior to requesting federal funds or an advance request, federal funds must be obligated. This step will electronically request funds to be transferred to the state's bank to then be used for reimbursement of highway safety projects. This is an optional step that some states have elected to use.
- **Advance Reduction** – Only states using the advance method of reimbursement with an outstanding advance balance can complete this transaction. Advance reduction transactions result when a state issues a check to NHTSA for either: reducing an outstanding advance balance *or* paying NHTSA an amount owed that resulted from an audit finding. Paying an amount that resulted from an audit finding can also be accomplished through a “Voucher Reduction” transaction.
- **Voucher** – This transaction allows the user to process vouchers which are the documents that keep track of state spending. Expenditure of funds cannot exceed the level that the funds were obligated for the program, project, task, or sub-task category. The NHTSA Region 8 Office must approve vouchers. Voucher reductions can also be entered just like a regular progress voucher, except that the amount entered will be a credit entry only.

### ii. GTS Reports

A variety of GTS reports are available to streamline the state's fiscal management process and reduce the workload associated with meeting federal reporting requirements. These reports are:

- **HSP Transactions Report** – This report itemizes all HSP transactions, provides detailed information on federal funds, and assists to determine data entry errors.

- **HSP Cost Summary Report** – This report reflects detailed information by project, program area, and specific funding sources sub-totaled by NHTSA section 402 or 410, or other incentive funds. The format of this report replicates the federal HS-217 Cost Summary Form and shows the increase or decrease for each program area. This report can be printed in detail, showing each project or task, or summarized by program level amounts only.
- **HSP Approved Program Amounts Report** – This report details the same information as the HSP Cost Summary report but does not report the decrease or increase for each program area.
- **Obligated Programs Amount Report** – This report itemizes all detailed information by project, program area, NHTSA sections, or other obligations. It also shows the amount of current and carry-forward funds.
- **Highway Safety Program Cost Summary** – This report is strictly for obligation purposes. The report format replicates the HS-217 Cost Summary Form and shows the increase or decrease for each program area. It can be printed in detail to reflect each project or task, or summarized to show program level amounts only.
- **Voucher Transactions Report** – This report details all voucher transactions.
- **Status of Obligations and Expenditures** – This report is for information purposes only and shows the unobligated and unexpended amounts for each program area.
- **Status of Current and Carry Forward Funds** – This report separates the obligations, expenditures, and unexpended funds by current fiscal year and by carry-forward (from previous years). This report also shows federal share-to-local benefit and state and local expenditures.

### iii. Electronic Transfer of Funds

Within 7-10 business days of approval of the voucher by the NHTSA Region 8 Office, funds are electronically transferred from NHTSA to the State Treasury.

## C. Matching Funds

Match is defined as state and local funds that are expended in support of other qualifying traffic safety programs and have not been used by another federal, state, or local agency as matching funds for a separate federal project.

The Safety Division can collect match through sub-recipients, other qualifying sources, or a combination of both.

For sub-recipient match, the Safety Division will assure that the actual program match amounts reported by sub-recipients and reflected in the GTS are fully supported and documented in the individual project files. The Safety Division will assure that the federal program match information entered into the GTS for all traffic safety grants is based on the actual program match amounts reflected on sub-recipient vouchers submitted to the Safety Division for reimbursement. The Safety Division will assure that sub-recipients clearly understand the program matching requirements of the funding source for their project and that the amount of match required may be substantially higher than the federal funds they receive for expenditure.

The Safety Division is responsible to calculate, document, and record required match by program. Special attention should be paid to unique requirements of specific programs. Written documentation of match must be on file and updated annually. The match funds must relate to the program type of the funding source (i.e., funds used to support impaired driving related programs must be used to meet Section 410 match requirements). Section 402 match funds may have a general traffic safety purpose. For all match funds identified and documented by the Safety Division, no other program (federal, state, or local) may use the same funds as program match.

**INDIRECT COSTS:** Indirect costs may be used as match for the federal highway safety program. If the Safety Division uses indirect costs as match then the costs would be auditable. The Safety Division also must document indirect costs to its share for the highway safety benefit only. If indirect costs are used as match, the Safety Division must be able to document that the match is not being used elsewhere or for matching another program.

More information on grant match requirements including a match matrix can be located in NHTSA's *Highway Safety Grant Funding Guidance, Appendix A*. See also 23 CFR Part 1200.20(f) for Section 405 and 23 USC Part 120(b).

#### MATCHING REQUIREMENTS:

##### **MAP–21 (beginning FY2014)**

##### **Section 402 and Section 405:**

- Federal share is not to exceed 80%.
- No match is required for U.S. Territories or for the Indian Highway Safety Program.

##### **Matching Requirements for P&A:** Section 402 (including Section 154 & 164 funds transferred to Section 402)

- The federal P&A share shall not exceed 50% of total P&A costs, except for select states using the sliding scale for match (See NHTSA Order 462-6C).
- The limit on the amount of Section 402 funds (and repurposed 402 funds) that can be spent on P&A is 13 percent of the total new 402 funds programmed for expenditure. The funds are required to be used in support of alcohol-impaired driving programs only.
- No match is required for Section 154 or 164 funds transferred to Section 402. Section 154 or 164 funds may be moved from P&A back to program purposes but not back to P&A.
- No match is required for U.S. Territories (23 USC 120(i)), or for federally recognized Indian Tribal governments (23 USC 402(h)) under the Indian highway safety program.

**SAFETEA-LU Programs:** Refer to Federal Regulations for NHTSA grant fund requirements.

## **D. Grant Tracking Spreadsheet**

A federal expense worksheet is maintained by the Safety Division to help track the current financial status and other related information regarding each approved grant agreement. The spreadsheet is created and maintained by the Safety Division's Finance/Contract Manager as new grant agreements are approved.

The spreadsheet contains the following information for each grant agreement, at a minimum:

- Funding source
- Program name

- HSP project number
- Project name
- Contract amount
- Match information, if any
- Contract number

The federal expense worksheet should be reviewed frequently by the Safety Division staff to assure the accuracy and completeness of the information and to check the financial status of each grant agreement, and to assure continuous compliance with all state and federal requirements.

## E. Allowable Costs / Cost Principles

Beginning with FY2016 grants, 2 CFR Part 200 Uniform Guidance is the controlling Federal regulation. Cost principles are contained in Subpart E. Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

- Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.
- Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also Part 200.306 Cost sharing or matching paragraph (b).
- Be adequately documented. See also Part 200.300 Statutory and national policy requirements through 200.309 Period of performance of this part.

Applicable cost principles. For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following table lists the kinds of organizations and the applicable cost principles.

**Table 12. Applicable Federal Cost Principles by Organization Type**

<b>For the costs of a --</b>	<b>Use the principles in --</b>
State, local or Indian tribal governments; Educational Institutions and Nonprofit organizations	2 CFR Part 200 Subpart E
Nonprofit Organizations Exempted From Subpart E	Appendix VII to 2 CFR Part 200
Hospitals	Appendix IX to 2 CFR Part 200

### **i. Federal Regulations – Allowable Costs**

**Prior to FY2016** 2 CFR Part 225 "Cost Principles for State, Local and Indian Tribal Government: (OMB Circular A-87) established principles for determining the allowable costs incurred by State, local, and federally-recognized Indian tribal governments (governmental units) under grants, cost reimbursement contracts, and other agreements with the Federal Government. Appendix A of A-87, General Principles for Determining Allowable Costs, provided principles to be applied in establishing the allowability or unallowability of certain items of cost. Appendix B of A-87, Selected Items of Cost for guidance regarding specific items commonly addressed by States.

**For FY2016 and forward** 2 CFR Part 200 *General Provisions of Costs* is applicable, see Parts 421 – 475. This section provides principles to be applied in establishing the allowability of certain items involved in determining cost, in addition to the requirements of Subtitle II. Basic Considerations, of that subpart. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described in Part 200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs. In case of a discrepancy between the provisions of a specific Federal award (NHTSA) and these provisions, the Federal award governs. Criteria outlined in Part 200.403 Factors affecting allowability of *costs* must be applied in determining allowability. See also Part 200.102 Exceptions.

### **ii. NHTSA Grant Funding Policy – Allowable and Unallowable Costs**

The *NHTSA Highway Safety Grant Funding Guidance, Part III and IV*, are available on line and should also be consulted. See below for the topic areas included in Parts III and IV.

Part III. Allowable costs under specific conditions or limitations for selected items:

- Equipment
- Travel
- Training
- Program administration (consultant services; purchase of alcohol [also see Part IV, D.3.], but in no case for consumption, in "sting" type operations as long as the operations are not in conflict with any federal, state, or local law; meetings, and conferences; research; working with neighboring states)
- Public communications (advertising space)

Part IV. Unallowable costs for selected items:

- Facilities and construction including office furnishings and fixtures
- Equipment (automated enforcement systems, etc.)
- Training (salary for law enforcement officer training, etc.)
- Program administration (supplanting, civilian or military agencies, alcoholic beverages, entertainment, commercial driver, drug impaired activities with Section 154/164 funds)
- Lobbying

See also NHTSA Uniform Guidance Questions and Answers from March 5, 2015, and August 20, 2015.

**iii. Automated Traffic Enforcement Systems Funding Prohibition**

Beginning with MAP-21 in FY2014, the Safety Division may not expend funds apportioned under Section 402 to carry out a program to purchase, operate, or maintain an automated traffic enforcement system. The prohibition includes any camera which captures an image of a vehicle for the purposes only of red light and speed enforcement. NOTE: This does not include hand-held radar and other devices operated by law enforcement to make an on-the-scene traffic stop, issue a traffic citation, or other enforcement action at the time of the violation.

**iv. Proportional Benefit**

The Safety Division or a sub-recipient may have a cost for a project or activity that benefits two or more projects or activities. As provided in the Uniform Guidance at 2 CFR Part 200.405, if a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost must be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis.

Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required.

**v. Collection of Unallowable Costs**

As provided by 2 CFR Part 200.410, payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal Government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this part, Part 200.300 Statutory and national policy requirements through 200.309 Period of performance.

See also Chapter III. Project Development, Section E. Grant Proposal Preparation Process, vii. Budget, and, Chapter V. Grant Administration and Management.

## **F. Single Audit Procedures - 2 CFR 200, Subpart F - Audit Requirements**

Sub-recipients expending \$750,000 or more in federal awards from all sources must have a Single Audit conducted in accordance with 200.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of 200.501.

The Safety Division includes a standard paragraph in all sub-recipient agreements that audits must be in accordance with 2 CFR 200. The paragraph states that sub-recipients must submit copies of any audits covering the term of the agreement.

The NDDOT monitors grant funding to sub-recipients and maintains procedures to comply with related directives. This includes, but is not limited to, maintaining a database to track completion dates of audits, receipt dates of audit reports, and identification of audit issues. The Safety Division has a process to assure that copies of all audits and other review reports pertaining to sub-recipients are received and reviewed to determine the potential existence of findings that may require appropriate and timely corrective action. To achieve this, the Safety Division collects applicable information during the contracting process as shown in Attachment 8.

The Safety Division Finance/Contract Manager assures the collection of this information and verifies as necessary through the Single Audit Database maintained on line by the Federal Audit Clearinghouse. The Safety Division will review the audit reports, requesting assistance from the Audit Services Division if needed, and will determine whether the audit meets the requirements of 2 CFR 200. The Audit Services Division will issue a management decision on audit findings within six months after receipt of the sub-recipient's audit report.

The Safety Division will ensure that sub-recipients take appropriate and timely corrective action to address audit findings.

In cases of continued inability or unwillingness to have an audit conducted in accordance with this part, federal agencies and pass-through entities shall take appropriate action using sanctions such as:

- (a) Withholding a percentage of federal awards until the audit is completed satisfactorily
- (b) Withholding or disallowing overhead costs
- (c) Suspending federal awards until the audit is conducted
- (d) Terminating the federal award

Recipients of federal funds must use their own procedures to arrange for independent audits that are to be made on an organization-wide basis, rather than on a grant or project basis. If this organization-wide audit complies with the specific requirements of *2 CFR 200*, then no additional audit requirements are normally imposed and all grantor agencies will rely on such audits.

## Chapter VII Annual Report (AR)

VII. Annual Report (AR)	7-2
A. Overview	7-2
B. Federal Requirements	7-2
i. Required AR Contents	7-2
ii. Progress Report	7-2
iii. Recommended Elements – Optional	7-3
C. AR Development Process Calendar	7-4
Table 13. AR Development Process Calendar	7-4

## **VII. Annual Report (AR)**

### **A. Overview**

The Safety Division is responsible to submit the AR to the NHTSA Region 8 Office. The report describes the accomplishments of the Safety Division in the fiscal year. The report is due within 90 days after the end of each federal fiscal year (December 29).

The Region 8 Office uses a standard checklist to review the AR and provides a formal review letter to the Safety Division. The review assures that the Safety Division adequately followed specified requirements and procedures in developing the plan and compared the goals and performance measures in the HSP to the AR and used the most recently available data to measure state safety performance progress.

### **B. Federal Requirements**

#### **i. Required AR Contents**

As prescribed in *23 CFR Part 1200.35*, within 90 days after the end of the fiscal year, the Safety Division is required to submit an AR describing:

- a. A general assessment of the state's progress in achieving its highway safety performance goals identified in the Highway Safety Plan (HSP).
- b. A general description of the projects and activities funded and implemented under the HSP.
- c. The amount of federal funds expended on projects from the HSP.
- d. How the projects and activities funded during the fiscal year contributed to meeting the state's highway safety goals. Where data becomes available, a state should report progress from prior year projects that have contributed to meeting current state highway safety goals.

#### **ii. Progress Report**

The Safety Division compiles the information contained in the sub-recipient final reports, year-end statistics, fund expenditure reports, and other pertinent information. The AR progress report section includes:

- Identification of the highway safety performance targets established in the HSP and a general assessment of the state's progress in working toward achievement of those targets.
- A general description of each of the projects and activities funded and implemented under the HSP – like projects and activities can be aggregated for this description.
- Identification of the final amount of federal funds expended on each project. If the Safety Division enters data into the GTS system at the project level, the final voucher will meet this requirement.
- A description of how the projects funded contributed to meeting the highway safety targets. This includes projects from a prior year if data is recently available which indicates the project contributed to meeting the current highway safety targets.

## Chapter VII – Annual Report (AR)

- Paid media projects may be reported within the applicable individual program area or grouped in a separate summary report. If a separate summary report for paid media is provided, a reference should also be included in the respective program area to identify the contribution to the program area performance measure target. See *NHTSA Highway Safety Grants Management Resources-Advertising Guidance*.
- If under SAFETEA-LU section 2011 funds were received which have been expended in the fiscal year, a report must be included within the AR for each fiscal year until all Child Restraint grant funds are expended. See 23 USC 405 Section 2011 and *Implementing Guidance for Child Restraint Grant Program* for the specific information required to be included in the report.
- If an attitude survey is conducted, the complete findings are required to be reported in the following year's AR. While conducting the surveys is not required in MAP-21, states are strongly urged to continue doing them and reporting the results.

### iii. Recommended Elements - Optional

These ideas are not required but examples which are considered by NHTSA to enhance the AR.

- Cover page containing the names of the state, Governor, GR, and the Highway Safety Program Coordinator, including contact information (name, address, phone, fax, email)
- Table of contents
- Message from the GR
- Executive summary, including discussion of any difficulties which may have affected the full attainment of stated targets
- Mission and vision statements
- Legislative summary – significant accomplishments
- Statewide program overview, including information on the highway safety programs, who is involved with administering the programs, and significant administrative accomplishments
- State enforcement plan results
- Data in easy to read format, such as charts, graphs, or columns showing performance measures and results, and highlighting key information and special selections
- Analysis of key projects describing how they contributed to meeting the state's highway safety goals
- Fiscal overview of obligations and expenditures by program areas with graphs and charts
- List of traffic safety partners and/or groups used in the programs
- Future goals to be reached or targeted (national and/or statewide)
- Fiscal overview of obligations and expenditures by program area with graphs and charts
- Future plans and targets to be set

### C. AR Development Process Calendar

The Safety Division develops the AR in accordance with a schedule of activities and assigned responsibilities to assure completion of the AR by the NHTSA deadline. The following table illustrates the AR development process within the Safety Division.

**Table 13. AR Development Process Calendar**

<b>Timeline</b>	<b>Activity</b>
October-September	Review sub-grantee and Safety Division progress and monitoring reports to identify significant highlights/accomplishments
November	Develop draft of Annual Report
November	Develop crash data and trends
November	Analyze performance goals and trends
October-December	Review sub-recipient final reports and develop a summary for each program area: <ul style="list-style-type: none"> <li>• problem statement</li> <li>• objectives</li> <li>• performance measures and targets</li> <li>• description of each project and activity funded and implemented</li> <li>• federal funding amount expended and source for each project implemented (paid media projects may be reported within the applicable individual program area or may be grouped)</li> </ul>
December 23	Assemble AR components for final review and approval by Safety Division Director
December 29	Submit final AR to NHTSA Region 8 Office
January	Post AR on the Safety Division website

## Chapter VIII Closeout

VIII. Closeout	8-2
A. Overview	8-2
B. Deadlines, Penalties, and Extensions	8-2
i. Penalties	8-3
ii. Extensions	8-3
C. Federal Grant Tracking System Closeout Process	8-3
Table 14. Safety Division Closeout Process.	8-3
D. Grant File Closeout	8-4
E. Financial Obligation Closeout Summary	8-4

## VIII. Closeout

### A. Overview

The federal fiscal year closeout for grant activities begins when all required progress reports, final reports, and final invoices have been received from sub-grantees by the Safety Division.

When final claims are processed, the NDDOT procedures for submittal of the final federal reimbursement voucher must be followed. Included in this process is the final determination of the amount of program funds actually expended and the underrun amount which is available for carry forward to the new program year.

Part of this process also involves the final determination of the amount of federal funds expended for local benefit (40 percent minimum required), see *Appendix E to 23 CFR Part 1200 – Participation by Political Subdivisions*, and that the state and local match to the program met or exceeded the minimums based on the federal funding source requirements.

### B. Deadlines, Penalties, and Extensions

The state's HSP for a fiscal year and the state's authority to incur costs under that plan expire on the last day of the fiscal year. Beginning with MAP-21, the state is no longer permitted to extend the right to incur costs under the old fiscal year's HSP. Grant funds remaining at the end of the fiscal year are available for expenditure during the next fiscal year provided the state has a new HSP approved by NHTSA and the remaining funds (carry forward) are identified and programmed in the HSP and in an updated and approved HS 217. See 23 CFR 1200.41(a). See *Chapter II. Planning, Section P. Three Years Plus One Federal Obligation Restriction*.

NOTE: Funds obtained under SAFETEA-LU may continue to be expended under the previous rules and will be tracked (coded) separately in the GTS system from MAP-21 funds.

The Uniform Guidance provides that the pass-through entity (Safety Division) will close out the federal award when it determines that all applicable administrative actions and all required work of the federal award have been completed by the non-federal entity. See 2 CFR Part 200.434 for the actions the non-federal entity and federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

The Safety Division **must** submit the state's final billing for the closing grant year to NHTSA by **December 29**.

In order to meet this deadline, all final project reimbursement claims must be received by the Safety Division from sub-grantees by November 14 (45 days after close of the federal fiscal year) and be entered for payment into the state's accounting system by December 15. Any invoices received from sub-grantees after November 14 cannot be processed or approved for payment with federal funding.

The expiration of the HSP does not affect the ability of NHTSA to disallow costs and recover funds on the basis of a later audit or other review or the state's obligation to return any funds due as a result of later refunds, corrections, or other transactions.

**i. Penalties**

The final voucher constitutes the final financial reconciliation for each fiscal year. See 23 CFR 1200.40. There are penalties for failure to provide the information specified, meet the deadlines, or to specify only projects whose project numbers or amounts match the list of projects and do not exceed the estimated amount of federal funds for the project or the allocation of funds to a program area. The penalties may include rejection of the voucher in whole or in part. See 23 CFR 1200.33(e).

**ii. Extensions**

Extraordinary circumstances to request an extension may be brought to the attention of the NHTSA Regional Administrator at the discretion of the Safety Division; however, it is expected that this would occur very rarely. In this case, the Safety Division is required to submit a written request for an extension which describes the extraordinary circumstances necessitating an extension. The approval of any such extension request is required to be in writing, to specify the new deadline for submitting the final voucher and must be signed by the NHTSA Regional Administrator (Approving Official).

All grant-related records shall be retained for at least three years from the date the final voucher is submitted to NHTSA.

**C. Federal Grant Tracking System Closeout Process**

The Safety Division vouchering process for project closeout and final reimbursement is as follows:

**Table 14. Safety Division Closeout Process**

<b>Responsible Person</b>	<b>Action</b>
Final invoice received by mail via Safety Division Administrative Support or by e-mail by applicable program manager	<ul style="list-style-type: none"> <li>• Those received via mail are date stamped and routed to applicable Program Manager</li> </ul>
Program Manager	<ul style="list-style-type: none"> <li>• Reviews and assures compliance with contract and receipt of sub-grantee's final report</li> <li>• As necessary, obtain additional supporting documentation from sub-grantee or return to agency for completion</li> <li>• Approves payment</li> <li>• Forwards to Finance/Contract Manager</li> </ul>
Finance/Contract Manager	<ul style="list-style-type: none"> <li>• Determines all final invoices have been received for the grant year (deadline November)</li> <li>• Submits invoices to the Financial Management Division for final payments by December 1</li> <li>• Phones or sends email notification to the Financial Management Division that final invoices have been paid</li> <li>• Determines the final required matching shares and 40 percent benefit to locals amount and transmits information to the Financial Management Division</li> </ul>
GTS Manager in Financial Management Division	<ul style="list-style-type: none"> <li>• Conducts standard invoice payment reconciliation processes</li> <li>• Enters final invoice postings to the GTS</li> <li>• Works with the Safety Division to check accuracy of information and enters required state matching</li> </ul>

	<ul style="list-style-type: none"> <li>share and 40 percent benefit to locals to GTS</li> <li>• Closes out the Safety Division fiscal year</li> </ul>
Safety Division Manager	<ul style="list-style-type: none"> <li>• Determines amount of known carry forward funding by funding source, if any, for programming in the next fiscal year</li> </ul>

See also *Chapter VI. Fiscal Procedures, Section A. In-house Grant Payment and Federal Reimbursement Voucher Process.*

In addition to actual costs to be reimbursed to the state, the state's share of matching funds must be finally calculated based on the final expenditures and entered into the GTS. This calculation determines the total funds, federal and state matching, which have been spent for NHTSA funding sources.

### D. Grant File Closeout

After the final federal reimbursement voucher for the grant year has been submitted, the Safety Division closes out each grant number and file for that fiscal year. The program managers are responsible for completing the grant file closeout. Each file will be reviewed for completeness, accuracy of filing, and resolution of any pending matters.

### E. Financial Obligation Closeout Summary

The financial obligation closeout is a final accounting of all Safety Division expenditures for the year. As required in the 23 CFR Subpart E – Annual Reconciliation – and Part 1200.40, the financial obligation closeout will include a copy of the final official voucher for total expenses incurred. The following information for expenses claimed in each program area will be identified in the final voucher as follows:

- Program area for which expenses were incurred and an itemization of project numbers and amount of federal funds expended for each project
- Federal funds obligated
- Amount of federal funds allocated to local benefit (March 31 and with the final voucher)
- Cumulative total cost to date
- Cumulative federal funds expended
- Previous amount claimed
- Amount claimed this period
- Matching rate (or special matching write off used if applicable)

The Safety Division Manager is responsible for completing the final NHTSA Highway Safety Program Cost Summary Form HS 217 and submitting it to the Safety Division Director for signature prior to electronic transmittal of the form to NHTSA for approval by December 29 each year.

The NHTSA Region 8 Office conducts a first and last voucher review each fiscal year after closeout and usually no later than mid-March.

## Definitions and Acronyms

*This manual uses the following terms and acronyms to designate individuals, offices, and processes involved in the traffic safety program:*

**Accrued expenditures** - The charges incurred by the sub-grantee during a given period requiring the provision of funds for: (1) goods and other tangible property received; (2) services performed by employees, contractors, sub-grantees, sub-contractors, and other payees; and (3) other amounts becoming owed under programs for which no current services or performance is required, such as annuities, insurance claims, and other benefit payments.

Accrued income means the sum of: (1) earnings during a given period from services performed by the grantee and goods and other tangible property delivered to purchasers, and (2) amounts becoming owed to the grantee for which no current services or performance is required by the grantee.

**Acquisition cost** - The net invoice unit price of purchased equipment including the cost of modifications, attachments, accessories, or auxiliary apparatus necessary to make the property usable for the purpose for which it was acquired. Other charges such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

**Administrative requirements** - Those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from "programmatic" requirements, which concern matters that can be treated only on a program-by-program or grant-by-grant basis, such as kinds of activities that can be supported by grants under a particular program.

**AR** – Annual Report

**Audit** – A review of programmatic and financial records conducted by a certified public accountant, which is the basis of an organization's legally required audit report.

**Awarding agency** - (1) with respect to a grant, the federal agency, and (2) with respect to a sub-grant, the party that awarded the sub-grant.

**BRFSS**– North Dakota Behavior Risk Factor Surveillance Survey.

**CAP**– Corrective Action Plan.

**Cash contributions** - The sub-grantee's cash outlay, including the outlay of money contributed to the sub-grantee by other public agencies and institutions, and private organizations and individuals. When authorized by federal legislation, federal funds received from other assistance agreements may be considered as sub-grantee cash contributions.

**CCR**– Central Contractor Registration System.

**CFR** – Code of Federal Regulations

**Cost sharing or matching** – The value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the federal government. Cost-type contract means a contract or subcontract under a grant in which the contractor or subcontractor is paid on the basis of the costs it incurs, with or without a fee.

**Contract** – A legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or sub-award.

**Contractor** – An entity that receives a contract (see above).

**DD**– Distracted Driving.

**Designee** – A person or legal entity authorized by contract to perform certain duties on behalf of the Safety Division.

**DOT**– Department of Transportation.

**EMS**– Emergency Medical Services.

**Equipment** - Tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. A grantee may use its own definition of equipment provided that such definition would at least include all equipment defined above.

**FAIN**– Federal Award Identifier Number.

**FARS** – Fatality Analysis Reporting System

**FFATA**– Federal Funding Accountability and Transparency Act.

**FHWA** – Federal Highway Administration

**FSRS**– FFATA Sub-Award Reporting System.

**GDL**– Graduated Driver Licensing.

**GHSA** – Governor's Highway Safety Association

**Government** - A state or local government or a federally recognized Indian tribal government.

**GPS**– Global Positioning System.

**GR**– Governor's Highway Safety Representative.

**Grant** - An award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the federal government to an eligible grantee. The term does not include technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, which the grantee is not required to account for.

**Grantee (NHTSA definition)** - The government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant award document.

**GRT**– Grant Review Team.

**GSA**– U.S. General Services Administration.

**GTS** – Grant Tracking System

**HHS**– Health and Human Services.

**HSIP**– Highway Safety Improvement Program.

**HSP** – Highway Safety Plan

**HSPP** – Highway Safety Performance Plan

**IFR**– Interim final Regulations.

**LEWR**– Law Enforcement Web-Based Reporting.

**Local government** – A county, municipality, city, town, township, local public authority (including any public and Indian housing agency under the United States Housing Act of 1937) school district, special district, intrastate district, council of governments (whether or not incorporated as a nonprofit corporation under state law), any other regional or interstate government entity, or any agency or instrumentality of a local government.

**MAP-21**– Moving Ahead for Progress in the 21<sup>st</sup> Century Act, Public Law 112-141.

**MC**– Motorcyclist Safety.

**MOE**– Maintenance of Effort.

**Monitoring** – A process whereby the Safety Division assesses program progress and compliance by reviewing project-related reports and files, financial records, and interviews sub-grantees.

**NCHRP**– National Cooperative Highway Research Program.

**NDCC**– North Dakota Century Code.

**NDDOT**– North Dakota Department of Transportation.

**NHTSA** – National Highway Traffic Safety Administration.

**Obligations** - The amounts of orders placed, contracts and sub-grants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.

**OIG**– Office of the Inspector General.

**OMB** – The Office of Management and Budget (state or federal is specified).

**Outlays (expenditures)** – Charges made to the project or program. They may be reported on a cash or accrual basis. For reports prepared on a cash basis, outlays are the sum of actual cash disbursement for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the amount of cash advances and payments made to contractors and sub-grantees. For reports prepared on an accrued expenditure basis, outlays are the sum of actual cash disbursements, the amount of indirect expense incurred, the value of in-kind contributions applied, and the new increase (or decrease) in the amounts owed by the grantee for goods and other property received, for services performed by employees, contractors, sub-grantees, subcontractors, and other payees, and other amounts becoming owed under programs for which no current services or performance are required, such as annuities, insurance claims, and other benefit payments.

**P & A** – Planning and Administration

**PARs**– Personal Activity Reports.

**Percentage of completion method** – A system under which payments are made for construction work according to the percentage of completion of the work, rather than to the sub-grantee's cost incurred.

**PI&E** – Public Information and Education

**Prior approval** – Documentation evidencing consent prior to incurring specific cost.

**Program Area** – An area within a highway safety program eligible for traffic safety funding. Examples include: AL (Alcohol), OP (Occupant Protection), TR (Traffic Records), PT (Police Traffic Services), PA (Planning & Administration), etc.

**Program Manager** – The staff person at the Safety Division assigned to monitor and oversee project activities.

**Project** – Activities proposed or implemented by the Safety Division to address highway safety problems falling within one or more program areas.

**Project Agreement (i.e., contract)** – The written agreement between the NDDOT and a sub-grantee under which the NDDOT agrees to provide funds in exchange for the sub-grantee's performance of one or more projects supporting Safety Division programs.

**Project Manager** – The person assigned by the grantee to assume direct responsibility for administering all phases of the project agreement.

**RA**– Regional Administrator.

**Real property** - Land, including land improvements, structures, and appurtenances thereto, excluding movable machinery and equipment.

**RFA** – Request for Application

**RFP** – Request for Proposal

**Scope of Work** – The objectives and activities noted on the project agreement, which the sub-grantee agrees to perform in compliance with instruction provided by the Safety Division. The sub-grantee shall provide and charge only for those services requested by the Safety Division.

**SAFETEA-LU** – Safe, Accountable, Flexible, Efficient, Transportation Equity Act – A Legacy for Users, Public Law 109-59

**Share** – When referring to the awarding agency's portion of real property, equipment, or supplies, means the same percentage as the awarding agency's portion of the acquiring party's total costs under the grant to which the acquisition costs under the grant to which the acquisition cost of the property was charged. Only costs are to be counted--not the value of third-party in-kind contributions.

**SHSP** – Strategic Highway Safety Plan

**SMART**– Specific, Measurable, Attainable, Realistic, and Time-Framed.

**State** – Any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of a State exclusive of local governments. The term does not include any public and Indian housing agency under United States Housing Act of 1937.

**Sub-grant** – An award of financial assistance in the form of money, or property in lieu of money, made under a grant by a grantee to an eligible sub-grantee. The term includes financial assistance when provided by contractual legal agreement, but does not include procurement purchases, nor does it include any form of assistance which is excluded from the definition of "grant".

**Sub-grantee** – The government or other legal entity to which a sub grant is awarded and which is accountable to the grantee for the use of the funds provided.

**Sub-recipient** – A non-Federal entity that receives a sub-award from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A sub-recipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**Supplies** – All tangible personal property other than “equipment” as defined.

**Suspension** - Depending on the context, either (1) temporary withdrawal of the authority to obligate grant funds pending corrective action by the grantee or sub-grantee or a decision to terminate the grant, or (2) an action taken by a suspending official in accordance with agency regulations implementing E.O. 12549 to immediately exclude a person from participating in grant transactions for a period, pending completion of an investigation and such legal or debarment proceedings as may ensue.

**TEA21** – Transportation Equity Act for the 21<sup>st</sup> Century, Public Law 105-178

**Termination** – Permanent withdrawal of the authority to obligate.

**USC**– United States Code.

**USDOT**– United States Department of Transportation.

**YRBS**– North Dakota Youth Risk Behavior Survey.

## Attachment Index

Attachment 1 – Governor’s Highway Safety Representative Appointment (Chapter I)

Attachment 2 – Delegation of Authority Letter (Chapter I)

Attachment 3 – Appendix B of Contract (Chapter III)

Attachment 4 – Depreciation Guide (Chapter V)

Attachment 5 – Program and Financial On-Site Monitoring Report (SFN 18039) (Chapter V)

Attachment 6 – Monitoring Form for Law Enforcement Agencies (Chapter V)

Attachment 7 – Sub-recipient Information (SFN 60019) (Chapter V p. 25, Chapter VI p. 11)



# North Dakota Department of Transportation

Grant Levi, P.E.  
*Director*

Jack Dalrymple  
*Governor*

December 15, 2015

Mr. Bill Watada  
Regional Administrator  
National Highway Traffic Safety Administration (NHTSA)  
Region 8 Office  
12300 West Dakota Avenue, Suite 140  
Lakewood, CO 80228-2583

Dear Mr. Watada:

As Governor of the state of North Dakota, I hereby appoint Mark Nelson, the Deputy Director for Driver and Motor Vehicle Services of the North Dakota Department of Transportation, to serve as my Governor's Representative for Highway Safety.

As the Governor's Representative, Mr. Nelson will continue to administer federal highway safety funds received under 23 U.S.C. 402, et seq. and will function within the provisions of 23 CFR 1200 to implement an approved program.

Mr. Nelson's contact information is as follows:

Mark Nelson, Deputy Director for Driver and Motor Vehicle Services  
North Dakota Department of Transportation  
608 E Boulevard Avenue  
Bismarck, ND 58505-0700  
Email: [mnelson@nd.gov](mailto:mnelson@nd.gov)  
Phone: 701-328-2727

Sincerely,

A handwritten signature in cursive script that reads "Jack Dalrymple".

Jack Dalrymple  
Governor

01/slg  
C: Mark Nelson, NDDOT



# North Dakota Department of Transportation

Attachment 2

Grant Levi, P.E.  
*Director*

Jack Dalrymple  
*Governor*

September 2, 2014

Mr. Bill Watada  
Regional Administrator  
National Highway Traffic Safety Administration (NHTSA) Region 8 Office  
12300 West Dakota Avenue, Suite 140  
Lakewood, CO 80228-2583

Dear Mr. Watada:

Effective July 1, 2014 and until further written notice, the officials authorized to sign documents and take other actions necessary to administer the North Dakota Department of Transportation's (NDDOT) Highway Safety Program are as follows.

### **Authorized Administrative Personnel**

As the Governor's Representative I will continue to oversee and maintain ultimate responsibility and full signature authority for all federal highway safety grant applications, certifications and assurances, and reports as required by the National Highway Traffic Safety Administration and the North Dakota Department of Transportation.

As the Safety Division Director, Karin Mongeon will be responsible for the Traffic Safety Office per the Highway Safety Act of 1966 and the planning, managing, evaluating, administering, and reporting of transportation funds granted to the state, and subsequently awarded to local agencies for traffic safety grant projects, as authorized under 23 CFR 1200. In this role, Ms. Mongeon is responsible for signing all of the documents relating to the daily operation (programmatic and financial) of the Highway Safety Program.

Signatures for these individuals are included for your records (Attachment 1).

### **Delegation of Authority for NHTSA's Grants Tracking System (GTS)**

The purpose of GTS is to automate the financial information process, produce the required federal financial documents at the program area level, and electronically transmit this information to the National Highway Traffic Safety Administration's accounting department.

Mr. Bill Watada  
Page 2  
September 2, 2014

According to the GTS State Users Manual:

- The owner of GTS has the ability to change settings, add users, and deny access to GTS. The two rights are Owner and User. There can be only one owner of this right in each state and that person has the ability to manage all user settings within the state as well as grant others the right to do the same.
- The user of GTS has the same privileges as the owner to access and manipulate the GTS data/documents for the state, except he/she may not grant the "manage users" right to others.

The delegation of authority for the GTS is provided to Dorothy Christensen, Financial Management Division.

The following individuals are authorized to produce the following GTS documents electronically and transmit them to your office.

**Highway Safety Plans (HSP), Obligation Cost Summary (HCS) Documents:** Karin Mongeon (Safety Division), and Lory Harsche (Safety Division).

**Federal Aid Reimbursement Vouchers:** Sherry Hermanson (Financial Management Division), Dorothy Christensen (Financial Management Division), and Julie Fleck (Financial Management Division).

Sincerely,



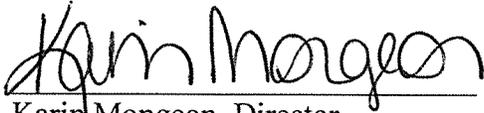
Mark Nelson  
Deputy Director, Driver and Vehicle Services  
Governor's Representative for Highway Safety

Attachment

**Attachment 1**

A handwritten signature in black ink, appearing to read 'Mark Nelson', written over a horizontal line.

Mark Nelson, Deputy Director  
For Driver and Vehicle Services

A handwritten signature in black ink, appearing to read 'Karin Mongeon', written over a horizontal line.

Karin Mongeon, Director  
Safety Division

## **GENERAL TERMS, CONDITIONS, CERTIFICATIONS AND ASSURANCES**

### **Buy America Act**

The Contractor 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.

### **Debarment and Suspension**

#### **Instructions for Primary Certification**

1. By signing the traffic safety contract, the Contractor certifies the following.
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 prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency may terminate this transaction for cause or default.
4. The prospective primary participant shall provide immediate written notice to the department or agency to which this contract is submitted if at any time the prospective primary participant 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*, *proposal*, 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 contract is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by signing the traffic safety contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR Part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
7. The prospective primary participant further agrees by signing the traffic safety contract 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 prospective primary participant 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 contract 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 contract had one or more public transactions (Federal, State, or local) terminated for cause or default.
2. Where the prospective primary participant is unable to certify to any of the Statements in this certification, such prospective participant shall attach an explanation to the traffic safety contract.

#### Instructions for Lower Tier Certification

1. By signing the traffic safety contract, 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 whom this contract 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*, *proposal*, 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 contract is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by signing the traffic safety contract 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 signing the traffic safety contract 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 signing the traffic safety contract, 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 the traffic safety contract.

**Drug-Free Workplace Act of 1988 (41 U.S.C. 8103)**

The Contractor will comply with the requirements of the Drug-Free Workplace Act of 1988 by:

- A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- B. Establishing a drug-free awareness program to inform employees about:
  1. The dangers of drug abuse in the workplace.
  2. The grantee's policy of maintaining a drug-free workplace.
  3. Any available drug counseling, rehabilitation, and employee assistance programs.
  4. The penalties that may be imposed upon employees for drug violations occurring in the workplace.
- C. Making it a requirement that each employee engaged in the performance of the grant be given a copy of the statement required by paragraph (a).
- D. Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
  1. Abide by the terms of the statement.
  2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction.

- E. Notifying the agency within ten days after receiving notice under subparagraph (d) (2) from an employee or otherwise receiving actual notice of such conviction.
- F. Taking one of the following actions, within 30 days of receiving notice under subparagraph (d) (2), with respect to any employee who is so convicted:
  - 1. Taking appropriate personnel action against such an employee, up to and including termination.
  - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.
- G. Making a good faith effort to continue to maintain a drug-free workplace through implementation of all of the paragraphs above.

### **Environmental Impact**

Signatories to this agreement hereby declare that no significant environmental impact will result from implementing this grant or service. If, under a future revision, this grant or service is modified in a manner that could result in a significant environmental impact and trigger the need for an environmental review, the North Dakota Department of Transportation (NDDOT) has certified to the National Highway Traffic Safety Administration (NHTSA) that it is prepared to take the action necessary to comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) and the implementing regulations of the Council on Environmental Quality (40 CFR Parts 1500-1517).

### **Federal Funding Accountability and Transparency Act (FFATA)**

The Contractor will report for each **sub-grant** awarded:

- Name of the entity receiving the award;
- Amount of the award;
- Information on the award including transaction type, funding agency, the North American Industry Classification System code or Catalog of Federal Domestic Assistance number (where applicable), program source;
- Location of the entity receiving the award and the primary location of performance under the award, including the city, State, congressional district, and country; and an award title descriptive of the purpose of each funding action;
- A unique identifier (DUNS);
- The names and total compensation of the five most highly compensated officers of the entity if:
  - (i) the entity in the preceding fiscal year received:
    - (I) 80 percent or more of its annual gross revenues in Federal awards;
    - (II) \$25,000,000 or more in annual gross revenues from Federal awards; and
  - (ii) the public does not have access to information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986;

- Other relevant information specified by Office of Management and Budget guidance.

### **Lobbying Restrictions**

#### *Federal Lobbying*

#### Certification for Contracts, Grants, Loans, and Cooperative Agreements

The Contractor 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 Contractor 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 Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor 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.

#### *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.

### **Non-Discrimination**

The Contractor will comply with all Federal statutes and implementing regulations relating to nondiscrimination. These include but are not limited to:

1. Title VI of the Civil Rights Act of 1964 (P.L. 88-352), which prohibits discrimination on the basis of race, color or national origin (and 49 CFR Part 21);
2. 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;
3. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and the Americans with Disabilities Act of 1990 (P.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);
4. The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age;
5. The Civil Rights Restoration Act of 1987 (P.L. 100-259), which requires Federal-aid recipients and all subrecipients to prevent discrimination and ensure nondiscrimination in all of their programs and activities;
6. The Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse;
7. The comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism;
8. 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;
9. 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;
10. Any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and
11. The requirements of any other nondiscrimination statute(s) which may apply to the application.

### **Policy on Seat Belt Use**

Pursuant to Paragraph X of the traffic safety contract, Contractors must have a seat belt use policy in place. By Executive Order 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, Contractors are encouraged to include the following language in their policy:

Adopt and enforce on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles.

**Policy on Banning Text Messaging While Driving**

Pursuant to Paragraph X of the traffic safety contract, Contractors must have a distracted driving policy in place. By Executive Order 13513, Federal Leadership On Reducing Text Messaging While Driving, and DOT Order 3902.10, Text Messaging While Driving, Contractors are encouraged to include the following language in their policy:

Adopt and enforce workplace safety policies to decrease crashes caused by distracted driving, including policies to ban text messaging while driving:

1. Company-owned or rented vehicles, or
2. Government-owned, leased or rented vehicles; or
3. Privately-owned vehicles when on official Government business or when performing any work on behalf of the Government.

Contractors are also encouraged to:

1. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
  - a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
  - b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

**Political Activity (Hatch Act)**

The Contractor 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.

## ESTIMATED USEFUL LIFE AND DEPRECIATION GUIDE

*Revised April 2012*

The estimated useful life and depreciation guide used by the North Dakota Department of Transportation, Safety Division is as follows:

ASSET	ESTIMATED USEFUL LIFE	SOURCE	DEPRECIATION GUIDE*
<b>Alcohol</b>			
Gas Chromatograph	8 years	North Dakota Office of Attorney General	
Generators	8 years	North Dakota Office of Attorney General	
Headspace Analyzer	6 years	North Dakota Office of Attorney General	
Headspace Autosampler	6 years	North Dakota Office of Attorney General	
Hemoximeter	8-10 years	North Dakota Office of Attorney General	
Intoxilyzer	8-10 years	North Dakota Office of Attorney General	
Preliminary Breath Test Devices	3 years	North Dakota Office of Attorney General	
SCRAMs (Secure Continuous Remote Alcohol Monitoring)	2-3 years	North Dakota Office of Attorney General	
Simulator System Workstation	5 years	North Dakota Office of Attorney General	
<b>Speed</b>			
Radar	4 years	NDDOT, Traffic Safety Office	15 years
Speed Monitoring Devices	10 years	NDDOT, Traffic Safety Office	
<b>Other</b>			
Digital Surveillance Camera	3 years	NDDOT, Traffic Safety Office	5 years
Computer	5 years	NDDOT, Traffic Safety Office	5 years
Scanner	5 years	NDDOT, Traffic Safety Office	10 years
Seat Belt Convincer	5 years	NDDOT, Traffic Safety Office	

\*From the Internal Revenue Service.

# PROGRAM AND FINANCIAL ON-SITE MONITORING REPORT

Attachment 5

North Dakota Department of Transportation, Safety Division  
SFN 18039 (Rev. 08-2015)

Date of Review
Project Number
Fiscal Year

<b>Agency Name</b>	
<b>Project Name</b>	
<b>Brief Description</b>	
<b>Contract Start Date</b>	<b>Contract End Date</b>
<b>Program Coordinator Name</b>	
<b>Name of Person(s) Contacted to Arrange On-site Review</b>	<b>Title of Person(s) Contacted to Arrange On-site Review</b>
<b>Month Selected to Complete On-site Review:</b> (Obtain all supporting financial documents for claims filed during this month and attach them to this form.)	
<b>Date On-Site Review Notice Sent to Agency</b>	<b>Date the Safety Division Program Manager Completed the On-Site Report</b>
<b>Review completed by:</b> (Choose one) <input type="checkbox"/> On-site <input type="checkbox"/> Telephone	
<b>Agency Signature (acknowledging review of the on-site report)</b>	
<b>Attach agency comments related to the on-site report, if any.</b>	

## CONTRACT ACTIVITIES

	Yes	No	N/A	Comments, if any
1. Are the project goals/objectives and milestones on schedule?				
2. Are <input type="checkbox"/> monthly <input type="checkbox"/> quarterly report forms current and complete?				
3. Is an employee texting while driving ban in place as recommended per contract?				
4. Is an employee seat belt use policy in place as required per contract?				
5. Are there any special accomplishments identified?				
6. Are there any problems identified?				
7. Is there a need for budget or activity revisions to facilitate the project?				
8. Are there any special contract terms or conditions that require monitoring?				
9. Is the contract consistent with the approved Highway Safety Plan?				

**Contract Activities Review (if not addressed above):**

**FINANCIAL**

	<b>Federal</b>	<b>Match</b>	<b>Local</b>	<b>Program Income</b>
Contract amount				
Costs reimbursed to date				
Difference				
Match claimed to date				

	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Explanation, if needed.</b>
1. Were claimed costs eligible for reimbursement?				
2. Were vouchers submitted on a regular and timely basis?				
3. Is program match documented?				
4. Are funds being expended appropriately for approved activities?				
5. Are adequate records being maintained regarding all project costs and activities?				
6. Do fiscal documents agree with reimbursement claims?				
7. Are grant funds identified separately in the grantee's official accounting records?				
8. Is program income generated?				
9. Is program income identified separately in the grantee's official accounting records?				
10. Is program income spent for the benefit of the program?				
11. Are supporting documents for grants and/or sub-grants filed in such a manner to be readily located?				
12. Is there documentation on file to support the local match claims?				
a. Fair market wages for volunteers.				
b. Costs and contributions counting toward satisfying a cost sharing or matching requirement must be verifiable.				
13. Has pre-approval been obtained as required (for out-of-state travel, equipment purchases, promotional items, etc.)?				

**Financial Review (if not addressed above):**

**PERSONNEL/TIMEKEEPING**

	<b>Yes</b>	<b>No</b>	<b>N/A</b>	<b>Explanation, if needed.</b>
1. Are methods in place to account for the time of sub-grantee employees who work on other activities in addition to this grant?				
2. Describe the timekeeping system used. (Obtain a copy of the form used.)				
3. Are timesheets completed for all personnel working on the grant and signed by a supervisor?				
4. Do the fringe benefits being paid match current fringe benefit calculations?				

**Personnel/Timekeeping Review (if not addressed above):**

**EQUIPMENT**

	Yes	No	N/A	Explanation, if needed.
1. Was equipment purchased during this contract agreement period? (If no, skip questions 2-6.)				
2. Was written approval from the state office obtained prior to equipment purchase?				
3. Does the sub-grantee have a system in place to tag, control, protect, preserve, use, maintain, and inventory (annually) the property?				
4. Is equipment still accounted for and being used for designated highway safety purposes?				
5. Verify the source documentation for all expenditures over \$5,000.				
6. Is equipment certification current?				

**Equipment Review (if not addressed above):**

**EVALUATION**

	Yes	No	N/A	Explanation, if needed.
1. Is the sub-grantee evaluating the effectiveness of grant activity?				
2. What process evaluation data exists? (For example, citations and warnings for enforcement projects, newspaper clippings for public information projects, attendance rosters for training events, survey or questionnaire results, data analysis reports, etc.)				
3. Has any other form of evaluation been completed (outcomes-based)?				
4. Can we determine, at this point, the programmatic effectiveness of this project?				

**Evaluation Review (if not addressed above):**

**POST-AWARD RISK ASSESSMENT PLAN**

	Yes	No	N/A	Explanation, if needed.
1. Problem:				
2. Corrective action?				
3. Completion date:				
4. Responsible party:				

**Corrective Action Review (if not addressed above):**

**OTHER COMMENTS**

## PROGRAM/FINANCIAL ON-SITE MONITORING REPORT LAW ENFORCEMENT

North Dakota Department of Transportation, Safety Division

Date of review:
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<b>Agency Name:</b>		
<b>Program Coordinator Name:</b>		
<b>Name and Title of Individual Interviewed:</b>		
<b>Contract Number:</b>	<b>Contract Amount:</b>	<b>Contract Start Date:</b>
<b>NDDOT Program Manager:</b>		

**FINANCIAL** (current federal fiscal year plus three)

	Yes	No	Explain, if necessary.
1. Does the agency receive funding for the following?			
a. Impaired Driving			
b. Underage Drinking Enforcement			
c. Occupant Protection			
d. Distracted Driving			
e. In-Car Video Camera			
f. Radar/LIDAR Equipment			
2. Do fiscal documents agree with reimbursement claims? (Have the vouchers & log sheets been submitted?)			
3. Has agency submitted all monthly/quarterly vouchers as required by contract?			
4. Are supporting documents for grants and/or sub-grants filed in such a manner to be readily located?			
5. Does agency have grant contract file that contains the following?			
a. Copy of, or readily available access to, a fully signed contract and know where to access all log sheets and vouchers?			

**PERSONNEL/TIMEKEEPING/PAYROLL**

	Yes	No	Explain, if necessary.
1. Documentation of department regular work schedules.			
2. Department policy for comp and overtime hours earned.			
3. Does the schedule/timekeeping method reflect that officers' grant hours are eligible for overtime pay?			
4. Are timesheets completed for all personnel working on the grant and signed by a supervisor?			
5. Verify copies on file of all vouchers submitted.			
6. Verify copies of all log sheets for all shifts worked are on file			
7. Documentation of payroll verification for overtime and hours worked.			

**Financial review comments:**

**Is there a need for budget/activity revisions?**

# PROGRAM/FINANCIAL ON-SITE MONITORING REPORT LAW ENFORCEMENT

North Dakota Department of Transportation, Safety Division

## PROGRAM REQUIREMENTS AND REPORTING

	Yes	No	Explain, if necessary.
1. Are there any issues/concerns with online reporting system through CJIS (LEWR)?			
2. Has agency conducted the required enforcement periods per the contract specifications?			
3. Is the LEWR system utilized to monitor agency results and performance of officers?			

## EQUIPMENT

	Yes	No	Explain, if necessary.
1. Was equipment purchased during this contract agreement period?			
2. Does the sub-grantee have a system in place to tag, control, protect, preserve, use, maintain, and inventory (annually) the property? (conduct random/spot check)			
3. Is equipment still accounted for and being used for designated highway safety purposes? (7 Year depreciation schedule)			
4. Verify the source documentation for all expenditures over \$5,000.			
5. Is certification current on alcohol testing devices? (PBT and Intox)			

**Equipment review comments:**

## EVALUATION

	Yes	No	Explain, if necessary.
1. How is the sub-grantee evaluating the effectiveness of the grant activity, or performance?			
2. How do you measure success?			
3. How are the purpose and goals of the grant funding relayed to the employees working the programs? (applies to ID and OP)			
4. How do you communicate the hours available?			
5. How are the officers assigned or chosen to work the programs?			
6. Have Operational Orders been developed?			
7. Can we determine, at this point, the programmatic effectiveness of this project?			

# PROGRAM/FINANCIAL ON-SITE MONITORING REPORT LAW ENFORCEMENT

North Dakota Department of Transportation, Safety Division

## AGENCY DEMOGRAPHICS

	Total	Patrol	Comments
1. Number of sworn officers			
2. Number of patrol vehicles			
3. Number of in-car surveillance cameras			
4. Number of radar units			
5. PBTs (what type, needs, issues?)			
6. Laptops –MDC			
7. What type of CAD system is used?			
8. What type of RMS system is used?			

## TRAINING (SFST required for officers working impaired driving grant) (TOPS required for officers working OP)

	Yes	No	If no, how many need training?	Best time to schedule?
1. Have all officers working ID been certified in SFST?				
2. If certified beyond 5 years, have officers attended SFST refresher courses?				
3. How are the 5-year time periods verified and documented?				
4. SFST – Full (DOT requirement)				
5. SFST – Refresher (DOT requirement)				
6. ARIDE (recommended, not required)				
7. TOPS (DOT required)				

### Training Requested:

## OFFICE POLICIES

	Yes (Verify)	No	If no, when will policy be drafted?
1. Employee seatbelt policy in place?			
2. Employee texting while driving ban in place?			
3. Pursuit policy in place?			

### Comments on Department Policies:

# PROGRAM/FINANCIAL ON-SITE MONITORING REPORT LAW ENFORCEMENT

North Dakota Department of Transportation, Safety Division

## TRACS

If Program is Used: 10 Or Web Based?	Yes (Verified)	No	If no, are plans in place to implement TRACS?
1. Is TRACS used for crashes?			
2. Is TRACS used for citations?			
3. Is TRACS used for Report and Notice?			
4. DOT will be requiring all crash reporting to be web based by January 1, 2016. CJIS is also requiring this change.			Officers already using TRACS 10 will not notice any difference in the web based reporting. The only difference is the 'end shift' or how it is saved.

## Place Based Enforcement Practices

	Yes	No	If no, what is needed to develop this?
1. Is agency aware of evidence, or place -based enforcement models? (DDACTS)			
2. Has agency looked at development of this type of enforcement model?			
3. What information would benefit the agency if this were developed?			

## POST-AWARD RISK ASSESSMENT PLAN

	Yes	No	N/A	Explanation, if needed.
1. Problem:				
2. Corrective action?				
3. Completion date:				
4. Responsible party:				

**Corrective Action Review (if not addressed above):**

## OTHER COMMENTS

Discussion Topics:

**Dates of upcoming enforcement.**

**Verbal warnings will be eliminated from the reporting structure due to being unable to verify the contact and with agencies entering information into CJIS and TraCS for records management.**

**Are there any problems with fulfilling grant requirements? Such as enforcement periods, manpower?**

