

2023 Enforcement grant program

Award period: Oct. 1, 2022 – Sept. 30, 2023

* Signature of person representing an agency receiving federal highway safety funds from an DPS-OTS grantee acknowledges that the certifications and assurances (FY23 program guidelines, terms and conditions, and federal audit requirements) have been received and read in their entirety.

Partner Agency:

Signed: _____

Print Name: _____

Title: _____

Date: _____

Office of Traffic Safety Grant Program Guidelines

Financial Requirements:

Payments under this grant agreement will be made from federal funds obtained by the State under the U. S. Department of Transportation's Catalog of Federal Domestic Assistance (CFDA) Assistance Listings Number 20.600, 20.608 and 20.616. The grantee is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any consequences imposed by the grantee's failure to comply with federal requirements.

Reimbursement of Funds

Only costs associated with approved activities on this project can be claimed for federal reimbursement. The grantee will report on all expenditures and program income pertaining to this grant agreement. Claims shall be supported by written documentation including receipts, invoices, and personnel time reports. All costs reimbursed with these federal funds must be actual costs to the billing agency. Federal grant funding cannot be used for general costs of government as specified in 2 CFR §200.444.

The State has an obligation to determine if fringe benefit costs to be reimbursed by this grant contract are reasonable. If requested, the grantee must furnish an explanation of the basis for such rates. Fringe benefits must be accounted for separately from salary costs on back-up documentation of invoices.

Expenditures for each state fiscal year of this grant contract must be for services performed within applicable state fiscal years. Every state fiscal year begins on July 1 and ends on June 30. NHTSA federally funded projects run on the federal fiscal year, beginning on October 1 and ending on September 30. The final claim for reimbursement for the project for costs incurred through June 30, 2023 (the first state fiscal year) must be received by July 31, 2023. The final claim for reimbursement for the project for costs incurred through September 30, 2023 must be received no later than October 25, 2023.

Reporting Requirement

Reporting requirements are those agreed upon terms in the Work Plan that was approved by OTS. All projects require a final report as described in the Work Plan that was approved by OTS.

Quarterly Invoices and Progress Reports are required to be submitted to the OTS on the following schedule (unless otherwise stated within grant documentation):

- Monday, Jan. 23, 2023: All project activity between Oct. 1 and Dec. 31, 2022
- Monday, April 17, 2023: All project activity between Jan. 1 and March 31, 2023
- Monday, July 16, 2023: All project activity between April 1 and June 30, 2023
- Monday, Oct. 22, 2023: All project activity between July 1 and Sept. 30, 2023
- Final Report Requirement, Oct 22, 2023: Providing a summary of the FY

Match

Matching funds are not a requirement for the grant, however, expenses related to the project that are paid for with state, county, municipal and/or private funding clearly demonstrate a vested interest and real commitment to the project. Appropriate matching funds must be reported on the invoice and documentation for them included with the invoice.

Budget Revision

The grantee shall submit a written budget revision request and obtain written approval from the OTS Authorized Representative before any expenditure may be made based on a revised budget.

Record Retention

Under [Minn. Stat. 16B.98, subd. 8](#), the grantee shall retain all financial records for a minimum of six years after the expiration of the grant agreement or until any audit findings and/or recommendations from prior audit(s) have been resolved between the grantee and DPS, whichever is later.

Program Income

Is any revenue/cash received for an activity funded by the grant or contract? Program income would include a fee for services (such as a registration fee for a conference or class in full or in part subsidized with federal funds) or fees from the sale of commodities or items made with grant funds. The grantee is responsible for tracking all program income with the same level of detail as federal funds and reporting earned income to OTS along with invoices. Program Income can be either must be deducted from the costs of the project to OTS, or, with the prior written approval of OTS and NHTSA, can be an addition to the project budget provided by OTS; which option must be specified and detailed in the budget and work plan. Income approved and specified in the work plan and budget to be used as an addition to the project can only be used for purchases that would be considered allowable expenses.

Resolutions

A Resolution from a city council or county board is required from the applicant agency. This resolution authorizing the agency to apply for and accept the grant funding is needed before the project begins. Information and an example of a resolution can be found in the RFP. Deviations from the example (such as including a specific dollar amount or an individual's name rather than title, or changing the date) will likely cause delays in processing grants and may not be acceptable. The OTS is unable to enter into an agreement until the resolution has been passed and a copy has been received by the state's authorized representative.

Equipment

Because of the strict timelines for final claims for reimbursement, it is usually not possible to order, receive and pay for equipment during the last quarter. Any piece of equipment that costs more than \$5,000 (including taxes, shipping and installation), is subject to the Buy America Act. Whether the NHTSA funds are used for the entire purchase or any portion of the purchase, it must be approved in writing by the NHTSA before it is ordered. Contact the OTS authorized representative to request that approval.

Any equipment requested to be purchased, either entirely or partially with grant funding, must be used to support the traffic safety program and pre-approved in writing by the OTS. Further, it shall be used primarily for grant-related purposes during the life of the equipment. The grantee may not deviate from this requirement. The grantee shall be responsible for all operating, maintenance, and repair costs of equipment purchased under this grant contract unless otherwise specified. Title to equipment acquired under this grant contract shall vest upon the grantee. NHTSA may reserve the right to transfer title to equipment purchased with this grant to the Federal government or to a third party when such party is eligible under Federal statute. Grantee must obtain prior written approval from OTS of any plan to trade-in, sell, surplus, or otherwise dispose of any piece of equipment purchased in whole or in part through this agreement.

Training Requirements

The grantee shall attend meetings and training as required by the Office of Traffic Safety.

Travel

Travel costs must be planned on a separate line in the budget and discussed in the work plan. When approved, reimbursement for travel and subsistence expenses actually and necessarily incurred by the Grantee as a result of this grant contract will be paid in the same manner and in no greater amount than provided in the current "Commissioner's Plan" promulgated by the commissioner of Employee Relations which is incorporated into this grant contract by reference. The authorized representative must approve all out of state travel in writing prior to travel.

Approval of Subcontracts/partner agencies

All sub-contracts must be reviewed and approved in writing by the OTS authorized representative before the sub-contracting process begins. The OTS Coordinator must be provided with a copy of the sub-contract, risk assessment and acknowledgment of understanding of certification and assurances, including but not limited Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.

Invoices from a sub-contract not approved by the OTS Coordinator may not be eligible for federal reimbursement.

Evaluation and Monitoring

OTS shall have the authority to evaluate and monitor the performance and financial records of the grantee.

Risk Assessment:

The federal government requires a pre-award risk assessment for all sub recipients. The Office of Traffic Safety has a section within the E-grants application to provide the information needed from applying agencies, in order to complete the risk assessment.

Federal and State Provisions

This grant agreement is subject to all applicable federal and state statutes and regulations, including, but not limited to the following: 23 CFR 1300, 2 CFR 200, and 2 CFR 1201.

Nondiscrimination

Compliance with all Federal statutes and implementing regulations relating to nondiscrimination (“Federal Nondiscrimination Authorities”). These include but are not limited to:

- **Title VI of the Civil Rights Act of 1964** (42 U.S.C. 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin) and 49 CFR part 21;
- **The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970**, (42 U.S.C. 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- **Federal-Aid Highway Act of 1973**, (23 U.S.C. 324 et seq.), and Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683 and 1685-1686) (prohibit discrimination on the basis of sex);
- **Section 504 of the Rehabilitation Act of 1973**, (29 U.S.C. 794 et seq.), as amended, (prohibits discrimination on the basis of disability) and 49 CFR part 27;
- **The Age Discrimination Act of 1975**, as amended, (42 U.S.C. 6101 et seq.), (prohibits discrimination on the basis of age);
- **The Civil Rights Restoration Act of 1987**, (Pub. L. 100-209), (broadens scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal aid recipients, sub-recipients and contractors, whether such programs or activities are Federally- funded or not);
- **Titles II and III of the Americans with Disabilities Act** (42 U.S.C. 12131-12189) (prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing) and 49 CFR parts 37 and 38;
- **Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations** (prevents discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low- income populations); and
- **Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency** (guards against Title VI national origin discrimination/discrimination because of limited English proficiency (LEP) by ensuring that funding recipients take reasonable steps to ensure that LEP persons have meaningful access to programs (70 FR at 74087 to 74100)).

During the performance of this contract/ funding agreement, the contractor / funding recipient agrees

1. To comply with all Federal nondiscrimination laws and regulations, as may be amended from time to time;
2. Not to participate directly or indirectly in the discrimination prohibited by any Federal non-discrimination law or regulation, as set forth in appendix B of 49 CFR PART 21 herein;
3. To permit access to its books, records, accounts, other sources of information, and its facilitates as required by the State highway safety office, US DOT or NHTSA;
4. That, in event a contractor/funding recipient fails to comply with any nondiscrimination provisions in this contract/funding agreement, the State highway safety agency will have the right to impose such contact/agreement sanctions as it or NHTSA determine are appropriate, including but not limited to

withholding payments to the contractor/ funding recipient unmade the contract/agreement until the contractor/funding recipient complies; and/or cancelling, terminating, or suspending a contract or funding agreement in whole or in part; and

5. To insert this, including paragraphs (a) through (e), in every subcontract and sub agreement and in every solicitation for a subcontract or sub-agreement, which receives Federal funds under this program.”

Political activity (hatch act)

The State will comply with provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Certification regarding federal lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-award at all tiers (including subcontracts, sub-grants, and contracts under grant, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Restriction on state lobbying

None of the funds under this program will be used for any activity specifically designed to urge or influence a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body. Such activities include both direct and indirect (e.g., "grassroots") lobbying activities, with one exception. This does not preclude State official whose salary is supported with NHTSA funds from engaging in direct communications with State or local legislative officials, in accordance with customary State practice, even if such communications urge legislative officials to favor or oppose the adoption of a specific pending legislative proposal.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters-Primary Covered Transactions

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 proposal 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 records, making false statements, or receiving stolen property;

- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

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 this proposal.

Instructions for Lower Tier Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below and agrees to comply with the requirements of 2 CFR Parts 180 and 1200.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal 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*, *debarment*, *suspension*, *ineligible*, *lower tier*, *participant*, *person*, *primary tier*, *principal*, and *voluntarily excluded*, as used in this clause, are defined in 2 CFR Part 180 and 1200. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is 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 NHTSA.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Instructions for Lower Tier Certification" including the "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 and will require lower tier participants to comply with 2 CFR Parts 180 and 1200.
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 is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals as well as the eligibility of any prospective lower tier participants, each participant may, but is not required, to check the System of Award Management Exclusions website (<https://www.sam.gov>)
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 debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion --Lower Tier

Covered Transactions:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Buy America Act

The State and each sub-recipient will comply with the Buy America requirement (23 U.S.C. 313) when purchasing items using Federal funds. Buy America requires a State, or sub-recipient, to purchase only steel, iron and manufactured products produced in the United States with Federal funds, unless the Secretary of Transportation determines that such domestically produced items 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. In order to use Federal funds to purchase foreign produced items, the State must submit a waiver request that provides an adequate basis and justification for approval by the Secretary of Transportation.

Prohibition on using grant funds to check for helmet usage

The State and each sub-recipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage or to create checkpoints that specifically target motorcyclists.

The Grantee (which refers to the applicant's status after it has been awarded grant funds) shall comply with all applicable federal, state and local laws, ordinances, rules and regulations and provisions stated herein in the performance of the grant award.

1. Survival of Terms

The following clauses survive the expiration or cancellation of the award: 9. Liability; 10. Audits; 11. Government Data Practices; 13. Publicity and Endorsement; 14. Governing Law, Jurisdiction and Venue; 16. Data Disclosure and 17. Intellectual Property Rights.

2. Financial and Administrative Provisions

The Grantee will comply with all program guidelines specified in the Grant Program Guidelines (Guidelines) and application which are incorporated herein by reference.

Budget Revisions: The Grantee will submit a written change request for any substitution of budget items or any deviation in accordance with the Guidelines included in this application. Grantees whose requests have been approved will be notified in writing by the State's Authorized Representative to the Grantee's Authorized Representative. Requests must be approved prior to any expenditure by the Grantee.

3. Payment Terms

Payment: The State will promptly pay the Grantee after the Grantee presents an invoice for the services actually performed and the State's Authorized Representative accepts the invoiced services in accordance with the Guidelines included in this application. Expenditures for each state fiscal year (July through June) of the grant agreement must be for services satisfactorily performed within applicable state fiscal years.

Under Minn. Stat. § 16B.98 Subd. 1, the Grantee agrees to minimize administrative costs.

Under Minn. Stat. § 16B.98, Subd. 5 and 7, payments to the Grantee may not be issued until funds are encumbered and the grant agreement is fully executed.

4. Time

The Grantee must comply with all the time requirements described in the application and grant agreement. In the performance of the award, time is of the essence.

5. Consideration and Payment

The State will pay for all services performed by the Grantee under the grant agreement as a reimbursement according to the breakdown of costs contained in the Guidelines and Grantee's application that will be incorporated into the grant agreement. The Grantee must promptly return to the State any unexpended funds that have not been accounted for annually in a financial report to the State due at grant closeout.

5.1 Contract and Bidding Requirements – Municipal grantees

Per Minn. Stat. §471.345, grantees that are municipalities must do the following if contracting funds from this grant contract agreement for any supplies, materials, equipment or the rental thereof, or the construction, alteration, repair or maintenance of real or personal property

- a. If the amount of the contract is estimated to exceed \$175,000, a formal notice and bidding process must be conducted in which sealed bids shall be solicited by public notice. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in Minn. Stat. §16C.28, Subd. 1, paragraph (a), clause (2)
- b. If the amount of the contract is estimated to exceed \$25,000 but not \$175,000, the contract may be made either upon sealed bids or by direct negotiation, by obtaining two or more quotations for the purchase or sale when possible, and without advertising for bids or otherwise complying with the requirements of competitive bidding. All quotations obtained

shall be kept on file for a period of at least one year after receipt thereof. Municipalities may, as a best value alternative, award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in Minn. Stat. §16C.28, Subd. 1, paragraph (a), clause (2) and paragraph (c).

- c. If the amount of the contract is estimated to be \$25,000 or less, the contract may be made either upon quotation or in the open market, in the discretion of the governing body. If the contract is made upon quotation it shall be based, so far as practicable, on at least two quotations which shall be kept on file for a period of at least one year after their receipt. Alternatively, municipalities may award a contract for construction, alteration, repair, or maintenance work to the vendor or contractor offering the best value under a request for proposals as described in Minn. Stat. §16C.28, Subd. 1, paragraph (a), clause (2)
- d. Support documentation of the bidding process utilized to contract services must be included in the grantee's financial records, including support documentation justifying a single/sole source bid, if applicable.
- e. For projects that include construction work of \$25,000 or more, prevailing wage rules apply per; Minn. Stat. §§177.41 through 177.44 consequently, the bid request must state the project is subject to *prevailing wage*. These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany these bid submittals.

5.2 Contract and Bidding Requirements – Non-governmental grantees

A nongovernmental organization is an organization that is a nonprofit, also known as a charitable organization, that is formed for the purpose of fulfilling a mission to improve the common good of society rather than to acquire and distribute profits. The organization meets the definition in Minn. Stat. 309.50 Subd. 4 and meets the definitions defined in the Internal Revenue Service code, with the most common type being a 501 (c) (3).

- a. Any services and/or materials that are expected to cost \$100,000 or more must undergo a formal notice and bidding process.
- b. Services and/or materials that are expected to cost between \$25,000 and \$99,999 must be competitively awarded based on a minimum of three (3) verbal quotes or bids.
- c. Services and/or materials that are expected to cost between \$10,000 and \$24,999 must be competitively awarded based on a minimum of two (2) verbal quotes or bids or awarded to a targeted vendor.
- d. The grantee must take all necessary affirmative steps to assure that targeted vendors from businesses with active certifications through these entities are used when possible:
 - i. State Department of Administration's Certified Targeted Group, Economically Disadvantaged and Veteran-Owned Vendor List
 - ii. Metropolitan Council's Targeted Vendor list: Minnesota Unified Certification Program
 - iii. Small Business Certification Program through Hennepin County, Ramsey County, and City of St. Paul: Central Certification Program
- e. The grantee must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of

contracts.

- f. The grantee must maintain support documentation of the purchasing and/or bidding process utilized to contract services in their financial records, including support documentation justifying a single/sole source bid, if applicable.
- g. Notwithstanding (a) - (d) above, the State may waive bidding process requirements when:
 - Vendors included in response to competitive grant request for proposal process were approved and incorporated as an approved work plan for the grant
 - It is determined there is only one legitimate or practical source for such materials or services and that grantee has established a fair and reasonable price.
- h. For projects that include construction work of \$25,000 or more, prevailing wage rules apply per; Minn. Stat. §§177.41 through 177.44 consequently, the bid request must state the project is subject to *prevailing wage*. These rules require that the wages of laborers and workers should be comparable to wages paid for similar work in the community as a whole. A prevailing wage form should accompany these bid submittals.
- i. The grantee must not contract with vendors who are suspended or debarred in MN: <http://www.mmd.admin.state.mn.us/debarredreport.asp>

6. Conditions of Payment

All services provided by the Grantee under the grant agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative so named in the grant agreement and in accordance with all applicable federal, state, and local laws, ordinances, rules and regulations. The Grantee will not receive payment for work found by the State to be unsatisfactory or performed in violation of federal, state or local law.

7. Authorized Representative

The State's Authorized Representative or his/her successor, is so named in the grant agreement and has the responsibility to monitor the Grantee's performance and has the authority to accept the services provided under the grant agreement opportunity. If the services are satisfactory, the State's Authorized Representative will certify acceptance on each invoice submitted for payment.

The Grantee's Authorized Representative is so named in the grant agreement. If the Grantee's Authorized Representative changes at any time during the grant agreement, the Grantee must immediately notify the State.

8. Assignment, Amendments, Waiver, and Grant Agreement Complete

The Grantee may neither assign nor transfer any rights or obligations under the grant agreement without the prior consent of the State and a fully executed Amendment, executed and approved by the same parties who executed and approved the grant agreement, or their successors in office.

Any amendment to the grant agreement must be in writing and will not be effective until it has been executed and approved by the same parties who executed and approved the original grant agreement, or their successors in office.

If the State fails to enforce any provision of the grant agreement, that failure does not waive the provision or its right to enforce it.

The grant agreement contains all negotiations and agreements between the State and the Grantee. No other understanding regarding the grant agreement, whether written or oral, may be used to bind either party.

9. Liability

Grantee must indemnify, save and hold the State, its agents, and employees harmless from any claims or causes of action, including all attorneys' fees incurred by the State arising from the performance of the grant agreement by the Grantee or the Grantee's agents or employees. This clause will not be construed to bar any legal remedies the Grantee may have for the State's failure to fulfill its obligations under the grant contract agreement and subsequent grant agreements. The liability for Grantees that are municipalities is governed by Minn. Stat. § 466 and any other applicable law, rule or regulation.

10. Audits

Under Minn. Stat. § 16B.98, Subd. 8, the books, records, documents, and accounting procedures and practices of the Grantee or other party that are relevant to the grant agreement or transaction are subject to examination by the State, and/or the State Auditor or Legislative Auditor as appropriate, for a minimum of six years from the grant agreement end date, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later. Federal audits shall be governed by requirements of federal regulations.

If applicable, if the Grantee (known as the "subrecipient" in the Code of Federal Regulations) receives federal assistance from the State of Minnesota, it will comply with the Single Audit Act Amendments of 1996 and the Office of Management and Budget's Uniform Guidance: Cost Principles, Audit, & Administrative Requirements for Federal Awards, Subpart F (2 CFR 200) ; and, required audit reports must be filed with the State Auditor's Office, Single Audit Division, and with federal and state agencies providing federal assistance, and the Department of Public Safety within nine months of the Grantee's fiscal year end.

11. Government Data Practices

The Grantee and the State must comply with the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, as it applies to all data provided by the State under the grant agreement, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by the Grantee under the grant agreement. The civil remedies of Minnesota Statutes, section 13.08 apply to the release of the data referred to in this clause by either the Grantee or the State.

If Grantee receives a request to release the data referred to in this clause, the Grantee must immediately notify the State. The State will give the Grantee instructions concerning the release of the data to the requesting party before the data is released. The Grantee's response to the request shall comply with the applicable law.

12. Workers' Compensation

Grantee certifies that it is in compliance with Minnesota Statutes, § 176.181, Subdivision 2, pertaining to workers' compensation insurance coverage. The Grantee's employees and agents will not be considered State employees. Any claims that may arise under the Minnesota Workers' Compensation Act on behalf of these employees and any claims made by any third party as a consequence of any act or omission on the part of these employees are in no way the State's obligation or responsibility.

13. Publicity and Endorsement

Any publicity regarding the subject matter of the grant agreement must be in accordance with the Guidelines included in this application. Any publicity regarding the subject matter of this grant contract must identify the State as the sponsoring agency and must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this grant contract. All projects primarily funded by state grant appropriation must publicly credit the State of Minnesota, including on the grantee's website when practicable. The Grantee must not claim that the State endorses its products or services.

14. Governing Law, Jurisdiction, and Venue

Minnesota law, without regard to its choice-of-law provisions, governs the grant agreement. Venue for all legal proceedings out of the grant agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

15. Termination

Termination by the State. The State may terminate the grant agreement at any time, with or without cause, upon 30 days' written notice to the Grantee. Upon termination, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed.

Termination for Cause. The State may terminate the grant agreement immediately if the State finds that there has been a failure to comply with the provisions of the grant award, that reasonable progress has not been made or that the purpose for which the funds were granted have not been or will not be fulfilled. The State may take action to protect the interests of the State of Minnesota, including the refusal to disburse additional funds and requiring the return of all or part of the funds already disbursed.

Termination for Insufficient Funding. The State may immediately terminate the grant agreement if it does not obtain funding from the Minnesota Legislature, or other funding source; or if funding cannot be continued at a level sufficient to allow for the payment of the services under the grant agreement. Termination must be by written or fax notice to the Grantee. The State is not obligated to pay for any services that are provided after notice and effective date of termination. However, the Grantee will be entitled to payment, determined on a pro rata basis, for services satisfactorily performed to the extent that funds are available. The State will not be assessed any penalty if the grant agreement is terminated because of the decision of the Minnesota Legislature, or other funding source, not to appropriate funds. The State must provide the Grantee notice of the lack of funding within a reasonable time of the State receiving that notice.

Termination by Grantee, the Grantee may request termination upon 30 day's notice to the State's Authorized Representative. Upon termination, the Grantee is entitled to payment for services actually performed satisfactorily and agrees to return any unused funds to the State.

16. Data Disclosure

Under Minnesota Statutes, § 270C.65, Subd.3 and other applicable law, the Grantee consents to disclosure of its social security number, federal employer tax identification number, and/or Minnesota tax identification number, already provided to the State, to federal and state tax agencies and state personnel involved in the payment of state obligations. These identification numbers may be used in the enforcement of federal and state tax laws which could result in action requiring the Grantee to file state tax returns and pay delinquent state tax liabilities, if any, or pay other state liabilities.

17. Intellectual Property Rights, if applicable**A. Intellectual Property Rights:**

The State owns all rights, title, and interest in all of the intellectual property rights, including copyrights, patents, trade secrets, trademarks, and service marks in the Works and Documents created and paid for under this contract. Works shall mean all inventions, improvements or discoveries (whether or not patentable), databases, computer programs, reports, notes, studies, photographs, negatives, designs, drawings, specifications, materials, tapes, and disks, conceived, reduced to practices, created or originated by the grantee, its employees, and subcontractors, either individually or jointly with others, in the performance of the contract. Works shall include the Documents. The Documents are the originals of any databases, computer programs, reports, notes, or other materials and documents, whether intangible or electronic forms, prepared by the Grantee, its employees, or subcontractors, in the performance of this Grant Contract Agreement. The Documents shall be the exclusive property of the State and all such Documents must be immediately returned to the State by the Grantee upon completion or cancellation of this contract. To the extent possible, those Works eligible for copyright protection under the United States Copyright Act will be deemed to be "works

made for hire.” The Grantee assigns all right, title, and interest it may have in the Works and the Documents to the State. The Grantee must, at the request of the State, execute all papers and perform all other acts necessary to transfer or record the State’s ownership interest in the Works and Documents.

B. Obligations:

1. Notification:

Whenever any invention, improvement, or discovery (whether or not patentable) is made or conceived for the first time or actually or constructively reduced to practice by the Grantee, including its employees and subcontractors, in the performance of this contract, the Grantee will immediately give the State’s Authorized Representative written notice thereof, and must promptly furnish the Authorized Representative with complete information and/or disclosure thereon.

2. Representation: The Grantee must perform all acts, and take all steps necessary to ensure that all intellectual property rights in the Works and Documents are the sole property of the State, and that neither Grantee nor its employees, agents, or subcontractors retain any interest in and to the Works and Documents. The Grantee represents and warrants that the Works and Documents do not and will not infringe upon any intellectual property rights of other persons or entities. Notwithstanding Clause 8, the Grantee will indemnify; defend, to the extent permitted by the Attorney General; and hold harmless the State, at the Grantee’s expense, from any action or claim brought against the State to the extent that it is based on a claim that all or part of the Works or Documents infringe upon the intellectual property rights of others. The Grantee will be responsible for payment of any and all such claims, demands, obligations, liabilities, costs, and damages, including but not limited to, attorney fees. If such a claim or action arises, or in the Grantee’s or the State’s opinion is likely to arise, the Grantee must, at the State’s discretion, either procure for the State the right or license to use the intellectual property rights at issue or replace or modify the allegedly infringing Works or Documents as necessary and appropriate to obviate the infringement claim. This remedy of the State will be in addition to and not exclusive of other remedies provided by law.

18. Other Provisions be it understood:

- a. By filing of this application, the applicant has therefore obtained the necessary legal authority to apply for and receive the proposed grant;
- b. The filing of this application has been authorized by applicant’s governing body, and the official who has applied his/her electronic signature to this application has been duly authorized to file this application for and on behalf of said applicant, and otherwise to act as the representative of the applicant in connection with this application;
- c. The activities and services for which assistance is sought under this grant will be administered by or under the supervision and control of applicant;
- d. Fiscal control and accounting procedures will be used to ensure proper disbursement of all funds awarded;

Agreement to Acknowledge the Terms and Conditions are Incorporated Into the Grant Agreement:

By submitting this application, the authorized Representative for the Grant Applicant, acknowledges that they have read the Terms and Conditions in their entirety as stated within the Application materials and acknowledge that the Terms and Conditions will be incorporated into the Grant Agreement if funds are awarded to the Applicant under this Application. As authorized, if the Applicant is awarded funds under this Application, they will submit the required documents and certification on behalf of the Applicant Organization.

Federal Audit Requirements

1. A non-Federal entity that expends \$750,000 or more in Federal awards during the non-Federal entity's fiscal year must have a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F of OMB's Uniform Guidance: Cost Principles, Audit, & Administrative Requirements for Federal Awards ([2 CFR Part 200](#)).

Audits must be performed annually, except when:

- a. A state, local government, or Indian tribe that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits biennially
- b. Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits biennially.

Any biennial audit must cover both years within the biennial period.

2. An auditor is defined in Title 2 CFR 200.1 - Auditor means a public accountant or a Federal, state, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS) by the U.S. Government Accountability Office. The term auditor does not include internal auditors of nonprofit organizations. [79 FR 75880, Dec. 19, 2014]
3. The sub recipient agrees that the pass-through entity, the Legislative Auditor, the State Auditor, and any independent auditor designated by the pass-through entity will have access to the sub recipient's personnel, accounts, books, records, supporting documentation, and other information as needed in order to comply with the Single Audit Act Amendments of 1996 and OMB's Uniform Guidance: Cost Principles, Audit, & Administrative Requirements for Federal Awards, (2 CFR 200.508 Auditees responsibilities).
4. The auditee must prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Section 200.510 Financial Statements. Auditees must adhere to the Report retention requirements in Section 200.512(f) for three years from date of submission to the Federal Audit Clearinghouse (FAC). Minnesota Statute §16B.98, subdivision 8 includes retention requirements of a minimum of six years from the grant agreement end date, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later.
5. The auditor's report(s) must state the audit was conducted in accordance with OMB's Uniform Guidance: Cost Principles, Audit, & Administrative Requirements for Federal Awards, Subpart F (2 CFR 200.515 Audit Reporting) and include the following:
 - a. An opinion (or disclaimer of an opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and a decision as to whether the schedule of expenditures of Federal awards is fairly stated in all material respects in relation to the financial statements as a whole
 - b. A report on internal control over financial reporting and compliance with provisions of laws, regulations, contracts, and award agreements, noncompliance with which could have a material effect on the financial statements. This report must describe the scope of testing of internal control and compliance and the results of the tests, and, where applicable, it will refer to the separate schedule of findings and questioned costs described in this section
 - c. A report on compliance for each major program and a report on internal control over compliance. This report must describe the scope of testing of internal control over compliance, include an opinion or disclaimer of opinion as to whether the auditee complied with Federal statutes, regulations, and the terms and conditions of Federal awards which could have a direct and material effect on each major program and refer to the separate schedule of findings and questioned costs

described in this section.

- d. A schedule of findings and questioned costs that includes a summary of the auditor's results in a format consistent with Section 200.515 Audit Reporting, paragraph (d)(1); findings relating to the financial statements which are required to be reported in accordance with GAGAS; and findings and questioned costs for Federal awards consistent with the requirements of Section 200.515 Audit Reporting, paragraph (d)(3).
6. The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee must prepare a summary schedule of prior audit findings. The auditee must also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan must include the reference numbers the auditor assigns to audit findings under Section 200.516 Audit findings, paragraph (c). Since the summary schedule may include audit findings from multiple years, it must include the fiscal year in which the finding initially occurred. The corrective action plan and summary schedule of prior audit findings must include findings relating to the financial statements which are required to be reported in accordance with GAGAS. (2 CFR 200.511 Audit findings follow up)
7. Sub recipients and Contractors – An auditee may simultaneously be a recipient, a sub recipient, and a contractor. Federal awards expended as a recipient or sub recipient are subject to audit under this part. The payments received for goods and services provided as a contractor are not Federal awards. Section 200.331 Sub recipient and contractor determinations sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor. (2 CFR 200.501(f))
8. The FAC is the repository of record for Subpart F – Audit Requirements. The auditee must electronically submit to the FAC the data collection form described in 200.512(b) and the reporting package described in 200.512(c) within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. (2 CFR 200.512)
9. Auditees must file their single audit report(s) with the State Auditor's Office, Single Audit Division, by sending a copy to singleaudit@osa.state.mn.us, and the program grant manager at the Department of Public Safety within nine months of the fiscal year end.