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State of New Hampshire

DEPARTMENT OF SAFETY
OFFICE OF THE COMMISSIONER
33 HAZEN DR. CONCORD, NH 03305
603/271-2791

JOHN J. BARTHELMES
COMMISSIONER

October 11, 2016

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

[Signature]
Approved by Fiscal Committee Date

Her Excellency, Governor Margaret W. Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Requested Action

1. Pursuant to RSA 14:30-a, authorize the Department of Safety, Bureau of Hearings to retroactively accept and expend funds in the amount of \$210,497.00 from the Department of Safety, Office of Highway Safety, (formerly the NH Highway Safety Agency) for the purpose of extending grant contracts for (2) additional prosecutors to support the New Hampshire State Police for the prosecution of DWI/DUI cases statewide for another year. Effective upon Fiscal Committee and Governor and Council approval for the period of October 1, 2016 through June 30, 2017. Funding source: 100% Agency Income.

2. Pursuant to RSA 124:15 and contingent upon approval of requested action #1, authorize the Department of Safety, Bureau of Hearings, to retroactively extend two (2) temporary full-time Department of Safety Hearings Examiner Prosecutor (LG 31) positions for the purpose of continuing to prosecute DWI/DUI and impaired driving cases for New Hampshire State Police statewide in circuit courts. Effective upon Fiscal Committee and Governor and Council approval for the period of October 1, 2016 through June 30, 2017. Funding source: 100% Agency Income.

Funding is available in the SFY 2017 operating budget as follows:
02-23-23-231010-51250000 Dept. of Safety – Office of the Commissioner – Hearings-Highway Safety Grants

Class	Description	SFY 2017 Adjusted Authorized Appropriation	Requested Action	Revised SFY 2017 Adjusted Authorized
009-407085	Agency Income	\$ (64,680.00)	\$ (210,497.00)	\$ (275,177.00)
020-500215	Current Expense	0.00	250.00	250.00
039-500188	Telecommunications	315.00	1,140.00	1,455.00
040-500800	Indirect Costs	6,743.00	21,705.00	28,448.00
059-500117	Temp Full Time	38,828.00	110,080.00	148,908.00
060-500601	Benefits	18,010.00	53,202.00	71,212.00
070-500705	In State Travel Reimbursement	784.00	22,120.00	22,904.00
080-500710	Out of State Travel Reimbursement	0.00	2,000.00	2,000.00
Total		\$ 64,680.00	\$ 210,497.00	\$ 275,177.00

Explanation

This request is retroactive due to receiving the grant award after the grant period began. These funds will provide for the continuation of two (2) temporary full-time prosecutor positions to assist with the prosecution of DWI/DUI cases in circuit courts statewide, with an emphasis on the southern and western part of the state. These cases are not only alcohol-related, but also include driving under the influence of drugs including opioids. Currently, the traveling prosecuting attorney assigned to

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areas such as the North Country and the Keene area in the western area of the State is able to prosecute approximately 50% of the impaired driving cases due to the caseload involving these offenses. Additionally, that prosecutor handles prosecutions for DWI cases in the southern part of the state. The remaining cases are being prosecuted by NH State Police troopers from the Troop stations in these areas.

These temporary, full-time positions provide not only for attorney prosecution of all DWI/DUI cases, but also provide additional training to State Police to include having a DWI focused prosecution school twice per year which provides training on DWI case investigation and on sobriety checkpoints. They are able to provide guidance in the proper investigation and presentation of DWI cases along with legal assistance, including answering legal questions by phone and email, reviewing search warrant applications on DWI cases, and other technical assistance. Moreover, this allows prosecutors to provide greater assistance in the larger troops and assume responsibility of the DWI prosecution in all secondary courts in Troops A, B, and D.

These positions enable State Troopers to spend more time patrolling and less time on the administrative work that case prosecution requires. It also allows the State to achieve a greater likelihood of successful case prosecution, and fewer drunk drivers are able to avoid consequences by exploiting legal technicalities. Currently in trooper prosecuted cases, a trooper may be at a disadvantage when the accused is represented by an attorney who, oftentimes, is an expert at defending DWI cases.

The funds are to be budgeted as follows:

Funds in Class 20, Current Expenses, are needed to pay for miscellaneous expenses, office supplies, and postage.

Funds in Class 39, Telecommunications, are needed to pay for office phones and cell phones.

Funds in Class 40, Indirect Costs, are needed to pay indirect costs on eligible expenses.

Funds in Class 59, Temp Full Time, are needed to pay salaries for these two temporary, full time positions.

Funds in Class 60, Benefits, are needed to pay the benefits associated with these two positions.

Funds in Class 70, In State Travel Reimbursement, are needed to pay expenses associated with the in-state travel required for these positions.

Funds in Class 80, Out of State Travel Reimbursement, are needed to pay for these positions to attend conferences and training related to impaired driving.

The following information is provided in accordance with the comptroller's instructional memorandum dated September 12, 1981.

- 1) *List of personnel involved:* Two temporary, full-time Hearings Examiner Prosecutors (LG 31- step 6, and LG 31 Step 1)
- 2) *Nature, Need, and Duration:* These positions assist with prosecuting DWI/DUI cases, both alcohol-related and impaired driving cases involving drugs including opioids. Currently in approximately one-half of the state courts where these cases are being tried, prosecution is being done by a Department of Safety attorney prosecutor with the remaining cases in these state courts being prosecuted by NH State Troopers. These positions provide for increased attorney prosecution of DWI/DUI cases with the goal being to have all State Police DWI cases prosecuted by an attorney prosecutor rather than a trooper. These positions will continue as long as funding is received.
- 3) *Relationship to existing agency programs:* The two (2) DWI prosecutors enhance the Department of Safety Prosecution unit which, in turn, benefits State Police and other DOS law enforcement divisions such as Maine Patrol and the Fire Marshall's office.
- 4) *Has a similar program been requested of the legislature and denied?* No.
- 5) *Why wasn't funding included in the agency's budget request?* Due to budget constraints and the limited number of available positions due to reductions of the Highway Fund, it wasn't possible to request these positions as part of the regular budget.

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6) *Can portions of the grant funds be utilized?* Since these are full time positions, portions cannot be utilized. There are no restrictions, however, indicating that the full amounts need to be expended.

7) *Estimate the funds required to continue this position:* The approximate cost to continue these positions is \$270,978.00 per year.

In the event that Federal Funds are no longer available, General Funds and/or Highway Funds will not be requested to support this program.

Respectfully submitted,


John J. Barthelmes
Commissioner of Safety

**Department of Safety
Hearings - HAS Grants
Fiscal Situation**

Federal Funds awarded:

FFY 2016 - NHSP Impaired Driving Countermeasures Grant - 12/1/2015-9/30/2016	\$ 257,346.30
FFY 2017 - Impaired Driving Prosecutors Grant - 10/1/2016-9/30/2017	<u>\$ 270,978.16</u>
Total Grant Funds Awarded	\$ 528,324.46

Less SFY 2016 expenses on FFY 2016 Grants	\$ 5,617.00
Less Adjustment for Closing Grant	<u>\$ 187,050.00</u>
Total	\$ 192,667.00

Net Grant Funds Remaining \$ **335,657.46**

Less SFY 2017 Adjusted Authorized
02-23-23-231010-51250000 \$64,680.00

Excess grant funds available to appropriate \$ 270,977.46

This Request \$ **210,497.00**

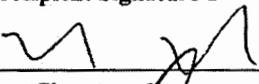
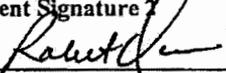
OFFICE OF HIGHWAY SAFETY GRANT AGREEMENT

The State of New Hampshire and the Subrecipient hereby
Mutually agree as follows:
GENERAL PROVISIONS

Project Title: Impaired Driving Prosecutors

Project #: 308-17S-095

1. Identification and Definitions.

1.1. State Agency Name New Hampshire Department of Safety Office of Highway Safety		1.2. State Agency Address 33 Hazen Drive, Room 109A Concord, NH 03305	
1.3. Subrecipient Name Department of Safety Bureau of Hearings		1.4. Subrecipient Address 33 Hazen Drive Concord, NH 03305	
Chief's Email Address: N/A		Grant Contact Email: christopher.casko@dos.nh.gov	
1.4.1 Subrecipient Type (State Govt, City/Town Govt, County Govt, College/University, Other (Specify) State		1.4.2 DUNS 060340564	
1.5. Subrecipient Phone # 223-3888	1.6. Effective Date 10/01/16	1.7. Completion Date 09/30/17	1.8. Grant Limitation \$270,978.16
1.9. Grant Officer for State Agency John Clegg		1.10. State Agency Telephone Number 271-2893	
"By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Subrecipient Signature 1 		1.12. Name & Title of Subrecipient Signor 1 Christopher Casco Administrator, Bureau of Hearings Department of Safety	
Subrecipient Signature 2 		Name & Title of Subrecipient Signor 2 Robert L. Quinn, DOS Assistant Commissioner	
Subrecipient Signature 3		Name & Title of Subrecipient Signor 3	
1.13. Acknowledgment: State of New Hampshire, County of <u>Merim</u> , on <u>9/28/16</u> before the undersigned officer, personally appeared the person(s) identified in block 1.12., known to me (or satisfactorily proven) to be the person(s) whose name is signed in block 1.11., and acknowledged that he/she executed this document in the capacity indicated in block 1.12.			
1.13.1. Signature of Notary Public or Justice of the Peace (Seal) 		1.13.2 Name & Title of Notary Public or Justice of the Peace <u>Brenda L. Hume,</u> <u>Justice of the Peace,</u> <u>My commission expires 8-5-20,</u>	
1.14. State Agency Signature(s) 		1.15. Name & Title of State Agency Signor(s) John J. Barthelmes, Commissioner NH Department of Safety Date: <u>9-29-16</u>	
1.16. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required) By: _____ Assistant Attorney General, On: / /			
1.17. Approval by Governor and Council (if applicable) By: _____ On: / /			

2. **SCOPE OF WORK:** In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-P:55-63, the Subrecipient identified in block 1.3 (hereinafter referred to as "the Subrecipient"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being hereinafter referred to as "the Project").

**CONTRACTUAL AGREEMENT
FOR HIGHWAY SAFETY PROJECT GRANT**

For HSA Use Only

State Of New Hampshire
Highway Safety Agency
78 Regional Drive, Building 2
Concord, NH 03301-8530

Date Received November 19, 2015	Project Number #308-15S-057
Date Approved November 20, 2015	PSP and Task # 16-02, 15

Part I

1. Project Title NHSP Impaired Driving Prosecutors (2)	2. Type of Application (Check One) <input checked="" type="checkbox"/> Initial <input type="checkbox"/> Revision <input type="checkbox"/> Continuation
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3. Applicant	
A. Name of Agency DUNS Number 060340564 NH Department of Safety Division of State Police	B. Address of Agency 33 Hazen Drive Concord NH 03305-0011
C. Government Unit (Check One) <input checked="" type="checkbox"/> State <input type="checkbox"/> City/Town <input type="checkbox"/> County <input type="checkbox"/> Other (specify):	D. Name - Address of Governmental Unit State of New Hampshire Concord, NH 03301

4. Contract Duration	Functional Area M60T-405d Impaired Driving Low
A. Contract Period	CFDA# 20.616
Start Date: December 1, 2015	Program Title Impaired Driving Countermeasures Grant
Termination Date: September 30, 2016	Funding Source National Highway Traffic Safety Administration

6. Description of Project (Describe in detail in Schedule A) and Source of Funds

Budget (Provide Itemization as called for on Schedule B) and Source of Funds					
Cost Category	Total Budget	Federal Budget	Local Budget	State Budget	Other Funds
a. Personnel Services	\$195,452.00	\$195,452.00			
b. Current Expense	\$1,390.00	\$1,390.00			
c. Equipment	\$4,000.00	\$4,000.00			
d. Indirect Costs Audit	\$29,384.30	\$29,384.30			
e. Contractual Services					
f. Travel	\$27,120.00	\$27,120.00			
Total Estimated Costs Including Non-Federal Share	\$257,346.30	\$257,346.30	*		

7. Local Benefit: It is anticipated that the federal share for local benefit will be: <u>0%</u> (\$0.00)
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