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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

September 15, 2017

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

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

Requested Action

1. Pursuant to RSA 124:15 and contingent upon approval of requested action #2, authorize the Department of Safety, Bureau of Hearings, to establish two (2) temporary full-time Hearings Paralegal (LG 16) positions for the purpose of supporting the current grant-funded Hearing Examiner prosecutors of DWI/DUI alcohol and drug impaired driving cases for New Hampshire State Police in circuit courts statewide. Effective upon Fiscal Committee and Governor and Council approvals through September 30, 2018. Funding source: 100% Agency Income.

2. Authorize the Department of Safety, Bureau of Hearings, to accept and expend federal pass-through funds in the amount of \$82,960.00 from the Department of Safety, Office of Highway Safety, for the purpose of providing paralegal support to the Hearing Examiner prosecutors for the New Hampshire State Police for the prosecution of DWI/DUI cases statewide. Effective upon Governor and Council approval through September 30, 2018. Funding source: 100% Agency Income.

Funds will be budgeted as follows.

02-23-23-231010-51250000 Dept. of Safety – Office of the Commissioner – Hearings-Highway Safety Grants

Class	Description	SFY 2018 Adjusted	Requested Action	Revised SFY 2018
		Authorized Appropriation		Adjusted Authorized
009-407085	Agency Income	(\$136,153.00)	(\$82,960.00)	(\$219,113.00)
020-500215	Current Expense	250.00	0.00	250.00
030-500311	Equipment	0.00	4,000.00	4,000.00
039-500215	Telecommunications	479.00	1,390.00	1,869.00
040-500800	Indirect Costs	14,608.00	7,716.00	22,324.00
059-500117	Temp Full Time	65,020.00	34,242.00	99,262.00
060-500601	Benefits	32,836.00	23,612.00	56,448.00
070-500705	In State Travel Reimbursement	22,960.00	12,000.00	34,960.00
	Total	\$136,153.00	\$82,960.00	\$219,113.00

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Explanation

These funds will provide for two (2) temporary full-time paralegal positions to support the prosecution of DWI/DUI cases in circuit courts statewide with an emphasis on the northern and western parts of the state. The cases being prosecuted are not only alcohol-related, but also include driving under the influence of drugs including opioids. Currently, the traveling prosecuting attorneys assigned to areas such as the North Country and the Keene area in the western section of the State are only able to prosecute approximately 50% of the impaired driving cases due to the caseload involving these offenses. The remaining cases are being prosecuted by NH State Police troopers from the troop stations in these areas. 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.

These paralegal positions will provide file preparation, research, and other prosecution case support services for the two current grant-funded prosecutors. These positions will also assist these DWI/DUI prosecutors with tasks such as answering legal questions by phone and email, reviewing search warrant applications on DWI cases, thus allowing the prosecutors to provide greater assistance in the larger troops and assume responsibility for the DWI prosecution in all secondary courts in Troops A, B, and D. Other areas of support from these paralegals will be additional training to State Police which will include having DWI focused prosecution schools and mock trial seminars throughout the year, along with training on DWI case investigation and on sobriety checkpoints.

These positions will enhance the DOS prosecution unit's mission to support the effective prosecution of all DWI/DUI cases for State Police, which will result in State Troopers spending more time patrolling and less time on the administrative work that case prosecution requires. This will allow the State to achieve a greater likelihood of successful case prosecution so that fewer drunk drivers are able to avoid consequences by exploiting legal technicalities.

The funds are to be budgeted as follows:

Funds in Class 30, Equipment, are needed to pay for computers.

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.

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 Paralegals (LG 16- step 1, and LG 16 Step 3)

2) *Nature, Need, and Duration:* These positions assist and provide all support work for two (2) attorneys currently 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 was previously 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 support of attorney prosecution of DWI/DUI cases with the goal being to have all State Police DWI cases prosecuted by an attorney rather than a trooper. The support work will include preparing all case files for attorney grant prosecutors, research and writing to support the case prosecution, scheduling hearings and trials for prosecutors, issuing subpoenas to witnesses, and cancelling witnesses when not needed, and acting as the liaison for all case prosecutions with citizens, defense attorneys, and the circuit courts. These positions will continue as long as funding is received.

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3) *Relationship to existing agency programs:* The two (2) paralegals will support the current DWI prosecutors and, thereby, continue to enhance the Department of Safety Prosecution Unit's prosecution of alcohol and drug impaired driving which, in turn, benefits State Police and other DOS law enforcement divisions.

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.

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 \$57,854.00 per year.

Respectfully submitted,


John J. Barthelmes
Commissioner of Safety

Department of Safety
Hearings - OHS Grants
Fiscal Situation

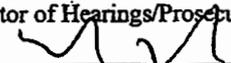
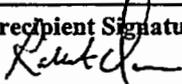
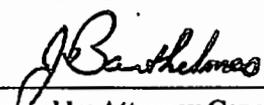
Federal Funds awarded:	
FFY 2017 - Impaired Driving Prosecutors Grant - 10/1/2016-9/30/2017	\$ 270,978.16
FFY 2018 - Impaired Driver Prosecutor Paralegal Support Grant 10/1/2016-9/30/2018	\$ 82,960.46
Total Grant Funds Awarded	\$ 353,938.62
Less SFY 2017 expenses	\$ 134,824.59
Total	\$ 134,824.59
Net Grant Funds Remaining	\$ 219,114.03
Less SFY 2018 Adjusted Authorized 02-23-23-231010-51250000	\$136,153.00
Excess grant funds available to appropriate	\$ 82,961.03
This Request	\$ 82,960.00

OFFICE OF HIGHWAY SAFETY GRANT AGREEMENT

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

Project Title: Department of Safety Impaired Driving Prosecutors Paralegal Support Project #: 308-18S-111

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, Second Floor 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))		1.4.2 DUNS 060340564	
1.5. Subrecipient Phone # 223-8047	1.6. Effective Date 10/01/17	1.7. Completion Date 9/30/18	1.8. Grant Limitation \$82,960.46 *
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 Casko Administrator of Hearings/Prosecution NH 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 _____, on / / , 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	
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>10-2-17</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").

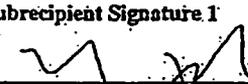
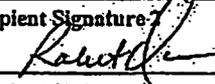
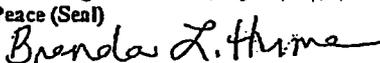
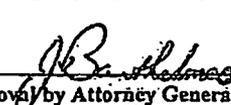
OFFICE OF HIGHWAY SAFETY GRANT AGREEMENT

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 Casko Administrator, Bureau of Hearings Department of Safety	
Subrecipient Signature 2 		Name & Title of Subrecipient Signor 2 Robert L. Quinn, DQS Assistant Commissioner	
Subrecipient Signature 3		Name & Title of Subrecipient Signor 3	
1.13. Acknowledgment: State of New Hampshire, County of Merrim, on 9/28/16 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 Brenda L. Hume, Justice of the Peace Merrim, NH 8-5-20	
1.14. State Agency Signature(s) 		1.15. Name & Title of State Agency Signor(s) John J. Barthelme, Commissioner NH Department of Safety Date: 9-29-16	
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").

Subrecipient Initials CC
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Rev. 04/2016

Date 4/28/16

TITLE IX ACQUISITION OF LANDS BY UNITED STATES; FEDERAL AID

CHAPTER 124 FEDERAL AID

Miscellaneous

Section 124:15

124:15 Positions Restricted. –

I. In addition to the positions authorized by law, no new personnel positions, or consultants, or both may be created by the acceptance of federal moneys or moneys from any other source unless such positions, or consultants, or both are approved by the fiscal committee of the general court; provided, however, that the governor and council may accept all moneys available for any emergency or disaster as defined by the authority awarding such moneys; and provided further that all such moneys available to the general court or to either of its houses may be accepted by the respective presiding officers with the prior approval of the fiscal committee. Nothing herein shall be construed to affect the provisions of RSA 98:17-a.

II. Every board, agency, department or commission receiving such federal or other moneys shall attempt to apply them in whole or in part to the cost of personnel positions authorized by law so as to reduce the obligation of general funds, but if the salaries of such personnel positions cannot be paid out of such moneys then such positions shall be considered as specified in paragraph I.

III. All such moneys which fund personnel positions subject to the restrictions of this section shall be used only for the purposes or programs specified in the application for approval of the positions or as otherwise authorized by law, and all such moneys which are accepted in accordance with law are hereby appropriated.

Source. 1983, 469:84, eff. July 1, 1983.