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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

March 8, 2018

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

Requested Action

Authorize the Department of Safety, Division of State Police, to accept and expend \$100,000.00 of federal pass-through funds from the NH Department of Transportation to support the administration of the State of New Hampshire's Highway Truck Weight Safety Program. Effective upon Fiscal Committee and Governor and Council approvals through June 30, 2018. Funding Source: 100% Agency Income.

Funds are to be budgeted in the following account:

02-23-23-234010-38940000 Dept. of Safety – Division of State Police – SP Agency Inc Grants

<u>Class</u>	<u>Description</u>	<u>Current Appropriations</u>	<u>Requested Action</u>	<u>Total Appropriation</u>
009-407085	Agency Income	\$0.00	(\$100,000.00)	(\$100,000.00)
020-500200	Current Expense	\$0.00	\$7,500.00	\$7,500.00
030-500311	Equipment	\$0.00	\$92,500.00	\$92,500.00
	Total	\$0.00	\$100,000.00	\$100,000.00

Explanation

The New Hampshire State Police Motor Carrier Enforcement Unit assigned to Troop G is the primary size and weight enforcement unit in the State of New Hampshire. Although RSA 266:17 states that any police officer in the state can enforce the size and weight laws stipulated in RSAs 266:9 through 266:26, the Motor Carrier Enforcement Unit is the only law enforcement agency in the state that is trained and equipped to enforce these laws anytime day or night. The Motor Carrier Enforcement Unit is also responsible for the State of New Hampshire's Size and Weight Plan that is filed annually with the Federal Highway Safety Administration and the New Hampshire Department of Transportation.

It is important that the State of New Hampshire's size and weight laws are enforced so as to protect the State's roadways and bridges from overload, which is a major factor in the degradation of the infrastructure. Failure to enforce these laws can result in a reduction in federal highway funding that is utilized by the New Hampshire Department of Transportation to maintain, replace, and build the State's roadways and bridges. As of 2016, there are currently 151 state maintained bridges and 324 municipally maintained bridges that are red listed. The Department of Safety currently provides to the Department of Transportation annual reports, which include the Unit's statistical data of enforcement activities it conducts each year.

The funds being requested will be utilized to purchase various types of size and weight tools and equipment used by the Unit to enforce the State's size and weight laws.

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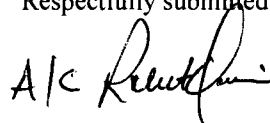
Funds are to be budgeted as follows:

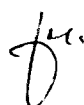
Class 020 funds, Current Expenses, are needed to purchase semi-portable and portable scale replacement parts.

Class 030 funds, Equipment, are needed to purchase new portable scales, a vehicle to haul scales, and a scale rack.

In the event that federal pass-through funds become 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

**MEMORANDUM OF AGREEMENT BETWEEN
NEW HAMPSHIRE DEPARTMENT OF SAFETY AND
NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**

This Memorandum of Agreement (MOA) is entered into by the New Hampshire Department of Safety, hereinafter referred to as NHDOS and the New Hampshire Department of Transportation, hereinafter referred to as NHDOT.

SECTION 1: PURPOSE

The purpose of this MOA is to identify all of the roles and responsibilities of NHDOS and NHDOT as they relate to the administration of the Highway Truck Weight Safety Program (HTWSP) funded by Federal Highway Administration (FHWA) through NHDOT to NHDOS.

SECTION 2: PROGRAM BACKGROUND

The Highway Truck Weight Safety Program (HTWSP) has been authorized in the 2017-2026 NHDOT Ten Year Transportation Improvement Plan (TYP) utilizing FHWA funds authorized under the Fixing America's Surface Transportation (FAST) Act of 2015. The HTWSP is designed to provide truck weight safety inspection and maintenance on New Hampshire interstate highways and all tiers of the New Hampshire roadway network.

SECTION 3: PROGRAM ADMINISTRATION

NHDOS has been designated as the state agency responsible for administering the State of New Hampshire's Highway Truck Weight Safety Program as authorized by Title 23, United States Code (USC) Sections 127, 141 and 315 and Title 23, Code of Federal Regulations (CFR), Part 657.

NHDOT is the direct recipient of HTWSP funding from FHWA, and NHDOT passes this funding through to NHDOS as the sub-recipient of funds.

As the sub-recipient of Federal-aid funds for the State of New Hampshire's HTWSP through NHDOT, NHDOS is accountable to both NHDOT and the FHWA for the proper use of the Federal funds.

As a sub-recipient of funds, NHDOS shall use its HTWSP funds in accordance with all applicable Federal legislation and regulations. NHDOS shall also follow all NHDOT Local Public Agency (LPA) processes and requirements (see link below), which are also reviewed and approved by FHWA.

<https://www.nh.gov/dot/org/projectdevelopment/planning/documents/LPAManual.pdf>

As the recipient of funds from FHWA, NHDOT shall be responsible to ensure proper compliance and oversight of the HTWSP funds by NHDOS. Therefore, all decisions regarding the use of HTWSP funds shall be made by NHDOS under the oversight of NHDOT. Any audit or Federal-aid review that determines non-participation of NHDOS expenditures will require that NHDOS be responsible for all pay back to FHWA through NHDOT.

SECTION 4: PROGRAM FUNDING

STIP/TIP

23 U.S.C. 134 and 135 requires FHWA-funded HTWSP projects to be included in the Statewide Transportation Improvement Program (STIP) and applicable Metropolitan Planning Organizations (MPOs) Transportation Improvement Plans (TIPs). NHDOS shall forward the approved annual Work Plan (how Federal funds will be used) for the HTWSP determined eligible for funding to NHDOT's Bureau of Transportation System, Management & Operations (TSMO) for incorporation into the STIP, and to applicable TIPs.

Unless the HTWSP project is determined to be regionally significant, it may be grouped and submitted as one line item to NHDOT for incorporation into the STIP, and to applicable MPOs for incorporation into their TIPs. If an HTWSP project is determined to be regionally significant by NHDOT and/or through the interagency consultation process, it must be listed individually within the STIP and any applicable TIP.

All modifications to the individual listing of projects or to the line item as listed in the STIP and appropriate TIPs shall be subject to Federal STIP requirements and subjected to the FHWA approved STIP Revision Procedures that are used to guide NHDOT STIP actions.

Obligation Limitation

The HTWSP is subject to the same annual obligation limitation as the remaining Federal-Aid Highway Program that NHDOT receives. Congress determines the annual obligation limitation through authorization legislation (FAST) or through annual appropriations acts. As specified in law, the FHWA allocates the annual obligation limitation to NHDOT.

NHDOT shall notify NHDOS, in writing, of the yearly apportionment when released by FHWA, as well as of any rescissions or adjustments to apportionment by FHWA. NHDOT, in consultation with NHDOS, shall determine the obligation limitation share that HTWSP funds shall receive for the upcoming Federal Fiscal Year so that NHDOS can plan for their program.

Funds Availability

Under 23 U.S.C. 118(b)(2), apportioned funds are available for obligation for four fiscal years: the current fiscal year plus three additional years. The funds are treated in a "first in, first out" manner; older year funds are obligated before newer year funds. Neither NHDOS nor NHDOT is required to fully use the HTWSP funds made available through Congress and FHWA if sufficient progress has not been made on existing funded projects.

Award Amount

NHDOT will provide funding in the amount of \$100,000~~0~~ in state fiscal year 2018 and \$100,000 in state fiscal year 2019 to NHDOS to support the administration of the State of New Hampshire's Highway Truck Weight Safety Program as authorized by Title 23, United States Code (USC) Sections 127, 141 and 315 and Title 23, Code of Federal Regulations (CFR), Part 657.

Reimbursements

Upon approval of this MOA, NHDOT shall reimburse up to \$100,000 in state fiscal year 2018 and \$100,000 in state fiscal year 2019 to NHDOS upon receiving appropriate documentation of expended funds from NHDOS. Supporting documentation shall include appropriate proof of cost and proof of payment (e.g., purchase orders, receipts, sign-in sheets, etc).

SECTION 5: AGENCY RESPONSIBILITIES UNDER THIS MOA

1. NHDOS shall manage the HTWSP in accordance with all applicable FHWA rules and regulations governing the use of FHWA funding, as well as in accordance with LPA requirements outlined under the most recent NHDOT LPA Manual sections 6–12 and sections 28-30. NHDOS will be responsible for:
 - i. Develop program guidance that reflects the Federal HTWSP guidance and is approved by FHWA – NH Division. An approved copy of this Program guidance and any additional FHWA HTWSP guidance must be shared with NHDOT when it becomes available;
 - ii. Conducting a competitive bid process for distribution of the HTWSP funds that is compliant with HTWSP and other Federal requirements;
 - iii. If a competitive bid process will not be completed, submission of a Public Interest Finding (PIF) to FHWA NH Division for approval will be required prior to proceeding with procurement;
 - iv. Reviewing and approving individual projects for compliance with HTWSP and other Federal requirements; and
 - v. Ensure that acceptable supporting documentation is provided and maintained for expenditures for reimbursement through the HTWSP.
2. NHDOS shall undertake the following activities for HTWSP project and financial transactions through the NHDOT TSMO:
 - i. Initiate project setup and definition, to include defining the project term and other related details. Sufficient detail must be provided so that NHDOT staff can update their Project Management System completely.
 - ii. Request the obligation, de-obligation and/or re-obligation of project funds through NHDOT TSMO for review and submission to the FHWA.
 - iii. Request reimbursement monthly for the Federal share of allowable project work completed through NHDOT TSMO. Submit copies of all supporting documentation to NHDOT for review and approval by NHDOT along with the reimbursement request.
 - iv. Work with NHDOT TSMO to ensure that completed projects are closed (final voucher) within 90-days after completion of the project, in accordance with the current NHDOT and FHWA approved processes.
3. No more than two Term Projects are allowed to be open within FMIS at any one time. One project can be starting up as another is being completed and closed.
4. If required, coordinate all required reviews for the National Environmental Protection

Act (NEPA) and submit all projects to the NHDOT Bureau of Environment for approvals, after consultation with the State Historical Preservation Office.

5. Meet annually or more as needed, with the NHDOT TSMO and the NHDOT Bureau of Finance and Contracts (F&C) about the program for billing reviews and other items if needed.
6. Maintain project files and further maintain expenditure support; documentation to include vendor contracts, procurement process, project ledgers and invoices. Such files shall be retained for a period of 3 years after final voucher.
7. NHDOS, as part of every project closeout process, shall utilize an internal auditor to verify that expenditures are allowable in accordance with FHWA guidelines. In the case that unallowable (non-participating) expenses are found through this audit or through a billing review initiated by NHDOT or FHWA, NHDOS shall be responsible for paying those funds back to NHDOT. Failure to do so will result in the current program being given a "Hold" or "Stop Work Order" until such funds are repaid. The auditor's report shall be forwarded to NHDOT TSMO with the request to close the project.
8. As the sub-recipient of Federal-aid funds for the State of New Hampshire's HTWSP, NHDOS is accountable to the NHDOT as the recipient for the use of the Federal funds.

NHDOT shall undertake the following activities for the HTWSP:

1. NHDOT TSMO shall process all initial project listings and projections through the NHDOT's Project Management System (Currently known as ProMIS) so that all projects will be included in the NHDOT's STIP and all appropriate MPO TIPs as part of the NHDOT's normal required processes.
2. NHDOT TSMO shall process all project setups and modifications through ProMIS, including but not limited to scope, schedule and budget and term end dates as provided to NHDOT from NHDOS.
3. NHDOT TSMO shall process all requests for obligation, de-obligation and/or re-obligation of project funds through ProMIS and NHDOT processes for review and submission to the FHWA.
4. NHDOT Bureau of Finance and Contracts (F&C) – Project Programming will program FMIS for obligation, de-obligation and/or re-obligation of project funds and other required project information.
5. NHDOT F&C shall process all of NHDOS's approved reimbursement requests of project work completed within State and Federal requirements through its Current Billing System (CBS). NHDOT F&C will direct the revenue received from FHWA through NHFIRST to a revenue account designated by NHDOS.
6. NHDOT F&C shall provide CBS and other financial system history when requested to document revenue activity for a project.

7. NHDOT TSMO shall work with NHDOS on STIP amendments and/or minor revisions, if necessary, for the HTWSP providing that any amendments and/or minor revisions do not negatively impact NHDOT projects.
8. As the recipient of Federal-aid funds for the State of New Hampshire, NHDOT is accountable to the FHWA for the proper use of the Federal funds.

SECTION 6: ADDITIONAL PROVISIONS OF AGREEMENT

Effective Date

This MOA shall be effective upon the signatures of NHDOS and NHDOT authorized officials and Governor and Council approval. It shall be in effect for a period not to exceed, the term of the current Federal Highway Bill, which is September 30, 2020, at which time it will be subject to review, renewal, revision, or expiration as mutually agreeable by NHDOS and NHDOT.

Amendments

Amendments to this MOA shall only be made in writing and shall be signed and dated by authorized officials from both NHDOS and NHDOT.

SECTION 7: PRINCIPAL CONTACTS FOR THIS MOA

NHDOS

Commander
Division of State Police Troop G
Highway Truck Weight Safety
91 Airport Road
Concord, NH 03301
Tel.: 603-223-8916

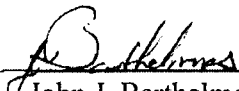
NHDOT

Administrator IV
Bureau of Transportation Systems,
Management and Operations
110 Smokey Bear Boulevard
Concord, NH 03301
Tel.: 603-271-6862

AUTHORIZED OFFICIALS

By signature below, the Commissioners certify that the individuals listed as the principal contacts in this document, or their duly appointed successors, are their representatives and are authorized to act in their respective areas for matters related to this agreement.

New Hampshire Department of Safety

By:  2/26/18
John J. Barthelmes, Commissioner Date

New Hampshire Department of Transportation

By:  3/7/18
Victoria F. Sheehan, Commissioner Date

Approved as to form, substance and execution by the Office of the Attorney General:

Date

Attorney General's Office

Date

Attorney General's Office