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**ATTORNEY GENERAL  
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET  
CONCORD, NEW HAMPSHIRE 03301-6397

MICHAEL A. DELANEY  
ATTORNEY GENERAL



ANN M. RICE  
DEPUTY ATTORNEY GENERAL

April 18, 2013

Her Excellency, Governor Margaret Wood Hassan  
And the Honorable Executive Council  
State House  
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Justice to accept and expend grant funds from the NH Highway Safety Agency, in the amount of \$19,923.01, for the purpose of funding the Traffic Safety Resource Prosecutor program effective the date of Governor and Council approval through June 30, 2013.

These funds are to be budgeted in 02-20-20-201510-5065, Department of Justice, Grants Administration, entitled "Traffic Safety Resource Prosecutor" as follows:

Traffic Resource Prosecutor  
02-20-20-201510-5065

<u>Class</u>	<u>Description</u>	<u>Current Budget</u>	<u>Request</u>	<u>New Budget</u>
013-500132	Personal Services Unclassified	\$63,391.00	\$0.00	\$63,391.00
020-500200	Current Expense	\$5,000.00	\$5,669.00	\$10,669.00
027-500290	Transfer to DOIT	\$4,596.00	\$0.00	\$4,596.00
040-500800	Indirect Costs	\$0.00	\$7,978.01	\$7,978.01
042-500620	Post Retirement	\$0.00	\$5,550.00	\$5,550.00
060-500620	Benefits	\$29,886.00	\$726.00	\$30,612.00
070-500704	In State Travel	\$5,000.00	\$0.00	\$5,000.00
080-500714	Out of State Travel	<u>\$5,000.00</u>	<u>\$0.00</u>	<u>\$5,000.00</u>
	Total	\$112,873.00	\$19,923.01	\$132,796.01

Revenue

000-404804	Federal Funds	\$90,487.00	\$0	\$90,487.00
009-402869	Agency Income	<u>\$22,386.00</u>	<u>\$19,923.01</u>	<u>\$42,309.01</u>
	Total	\$112,873.00	\$19,923.01	\$132,796.01

EXPLANATION

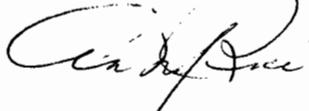
The Traffic Resource Prosecutor (TSRP) program is funded by a grant from the NH Highway Safety Agency in the amount of \$132,796.01 and is budgeted in the Department's FY 2013 budget at \$112,873. We are requesting to budget the additional funds.

Approval of this request will allow for the payment of required expenses to the Department of Administrative Services, class 040 – Indirect Costs and class 042 – Post retirement; and will also allow the DOJ additional funds in class 020 - Current Expense for the publication of a manual on investigation and prosecution of DWI cases and 060- benefits to avoid anticipated shortfalls in this account.

Please let me know if you have any questions concerning this request.

Your consideration is greatly appreciated.

Respectfully Submitted,



*for* Michael A. Delaney  
Attorney General

MAD/jeb  
#886768

**CONTRACTUAL AGREEMENT  
FOR HIGHWAY SAFETY PROJECT GRANT**

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

**For HSA Use Only**

Date Received August 7, 2012	Project Number 308-13S-001
Date Approved August 8, 2012	PSP and Task # 13-12, 07

**Part I**

1. Project Title Traffic Safety Resource Prosecutor	2. Type of Application (Check One) <input type="checkbox"/> Initial <input checked="" type="checkbox"/> Revision <input type="checkbox"/> Continuation
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3. Applicant A. Name of Agency      DUNS Number 808591127 NH Department of Justice	B. Address of Agency 33 Capitol Street Concord NH 03301-6310
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 A. Contract Period Start Date:              October 1, 2012 Termination Date:      September 30, 2013	Functional Area    K8 - 410 Alcohol SAFETEA-LU CFDA#              20.601 Program Title      Alcohol Traffic Safety & Drunk Driving Preven Funding Source    National Highway Traffic Safety Administratio
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**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 Revised Budget	Original Budget	Additional Budget	State Budget	Other Funds
a. Personnel Services	\$102,380.68	\$102,380.68			
b. Current Expense	\$9,596.00	\$9,596.00			
c. Equipment					
d. Indirect Costs Audit	\$10,819.33	\$10,819.33			
e. Contractual Services					
f. Travel	\$10,000.00	\$10,000.00			
<b>Total Estimated Costs Including Non-Federal Share</b>	<b>\$132,796.01</b>	<b>\$132,796.01</b>			

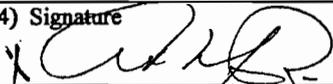
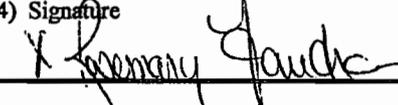
7. Local Benefit:  It is anticipated that the federal share for local benefit will be: <u>50%</u> (\$66,398.01)
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Part II

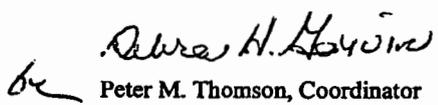
BUDGET AND PERSONNEL DATA		
<b>a. Personnel Services - Traffic Safety Resource Prosecutor (1)</b>		
Salary: \$2,511.30/pay period x 26 pay periods	\$65,293.80	
Benefits @ 48.3 percent	31,536.91	
Post Retirement @ 8.5 percent	5,549.97	\$102,380.68
<b>b. Current Expenses</b>		
Training/educational materials	1,800.00	
Printing/binding costs	2,500.00	
Telephone (including cell)	700.00	
Transfers to OIT	4,596.00	\$9,596.00
<b>c. Equipment</b>		
<b>d. Indirect Costs and Audit Expense</b>		
Indirect costs @ 8.87 percent x \$121,976.68	\$10,819.33	\$10,819.33
<b>e. Contractual Services</b>		
<b>f. Travel Expenses</b>		
In-State: Mileage, lodging, meals, etc.	\$5,000.00	
Out-of-State Conferences: Registration, airfare, meals, lodging, etc.	5,000.00	\$10,000.00
<b>Total</b>		<b>\$132,796.01</b>

Part III

Acceptance of Conditions. It is understood and agreed by the undersigned that a grant received as a result of this contract is subject to the regulations governing grant which have been furnished (or will be furnished upon request) to the applicant.

<b>A. Project Director</b>		
1) Name Ann M. Rice	2) Title Deputy Attorney General Criminal Justice Bureau	3) Address 33 Capitol Street Concord, NH 03301-6397
4) Signature 		5) Telephone Number 271-1202
<b>B. Authorized Official</b>		
1) Name Rosemary Faretra	2) Title Director of Administration NH Department of Justice	3) Address 33 Capitol Street Concord, NH 03301-6397
4) Signature 		5) Telephone Number 271-1234

Part IV (For HSA Use Only)

1. Approval Date August 8, 2012	2. Signature & Title   Peter M. Thomson, Coordinator NH Highway Safety Agency
3. Federal Funds Obligated by this Agreement: \$132,796.01	

**SCHEDULE A  
GENERAL PROJECT INFORMATION**

Description of Project

**STATEMENT OF PROBLEM/NEED:** Individuals operating motor vehicles under the influence of alcohol and drugs endanger other drivers, cyclists and pedestrians. While nothing is guaranteed to prevent drivers from operating while impaired, the criminal justice system is designed to deter them from doing so by imposing severe penalties for the crime. When investigators and prosecutors do not have the training, knowledge and other resources required to win a DWI prosecution, safety on New Hampshire roads continues to be at risk. Additionally, the offender is not held accountable.

In New Hampshire, due to the rural nature of the state, traffic safety violations are generally investigated and prosecuted by local law enforcement agencies. The prosecutors, who are often relatively inexperienced lawyers or police officers with minimal legal training, typically are housed in police departments, which have few legal resources. The prosecutors are often pitted against highly experienced defense attorneys who specialize in DWI defense, and who are fully conversant in the law and evidentiary rules. Because of their isolation, the prosecutors do not have the benefit of obtaining regular legal guidance on how to deal with issues raised by these opponents, nor do they have the resources to keep abreast of new developments in the law and legal trends. As a result, cases are often lost, and the drunk driver suffers no consequences.

Starting in the early 1990's there was one attorney in the Attorney General's Office responsible for providing training and technical assistance to law enforcement officers and prosecutors on DWI cases. The prosecutor conducted regional trainings throughout the state on legal and investigatory issues relating to impaired driving cases, and was available on-call to prosecutors and police officers to answer technical questions relating to DWI and negligent homicide cases. The office was last able to fund an attorney dedicated to this work in 1995.

The current Traffic Safety Resource Prosecutor (TSRP), hired in May 2007 with the support of NAPC and NH Highway Safety Agency grant award funds, has been able to once again provide the resources and training required for law enforcement to efficiently and successfully investigate and prosecute impaired driving cases, keeping New Hampshire roadways safer for all citizens. The current TSRP has built a proven track record in assisting with prosecutions and providing much-needed training throughout the state. The need for this training and assistance is on-going, however, as new laws and legal trends continue to develop and new law enforcement personnel join local agencies.

**PROPOSED SOLUTION:** The New Hampshire Attorney General's Office has a long history of supporting law enforcement and prosecutorial efforts in the area of impaired driving and advocating for stronger laws against alcohol-related motor vehicle crimes. By supporting a TSRP position, the Attorney General's Office will enhance the ability of prosecutors statewide to more effectively prosecute crimes involving impaired driving and other traffic safety offenses. The TSRP focuses efforts in three areas: providing formal training to law enforcement officers to improve their ability to conduct comprehensive investigations of impaired driving or other traffic cases; providing formal training to prosecutors on evolving traffic safety laws, prosecutorial techniques, new trends; and providing case-specific technical assistance to prosecutors and law enforcement agencies. During federal FY 2012 the TSRP developed a DWI manual that will provide a valuable resource for all prosecuting agencies to have available on-site going forward.

In addition to these broad areas of responsibility, the TSRP will serve as a member of an Impaired Driving Task Force or other similar task force or commission, if created, and maintain a working relationship with the National Highway Traffic Safety Administration, National Association of Prosecutor Coordinators, and the National Traffic Law Center.

**ANTICIPATED RESULTS:** I. Law Enforcement Training: The TSRP will continue to conduct regional trainings throughout the state on such topics as updates in traffic safety laws, gathering evidence in DWI and other traffic safety cases, and administrative license suspension procedures. Training is provided at times and locations that will maximize the ability of officers from small police departments to participate in trainings.

II. Prosecutorial Training: The TSRP will continue to conduct regular training programs for prosecutors to cover such topics as updates in traffic safety laws; emerging trends in DWI prosecution; standardized field sobriety tests; implied consent; horizontal gaze nystagmus; breath/blood training alcohol training; charging decisions; anticipating and responding to defense counsel's trial objections; court rules and procedures; and general trial advocacy. Training is provided at times and locations that will maximize the ability of prosecutors to participate without interfering with their prosecutorial duties.

III. Technical Assistance: The TSRP maintains and updates a bank of legal memoranda and legal pleadings addressing commonly raised issues in traffic safety prosecutions; responds to verbal and written inquiries from law enforcement officers and prosecutors on

matters relating to the investigation and prosecution of traffic safety violations; and serves as second chair on complex impaired driving cases, including Daubert hearings, suppression hearings, and cases involving expert witnesses.

**ADDITIONAL PROJECT CONDITIONS:** It is understood that the attached Time and Attendance Record (HS-18) form will be completed and submitted to the Coordinator of the NH Highway Safety Agency by the tenth of each month for the preceding month's activities and expenses. Reimbursement under this grant will cover only expenses directly related to the Highway Safety project.

The recipient of these funds is encouraged to provide programs to encourage the use of safety belts by all drivers and passengers in motor vehicles (23 U.S.C. 1200.11 (a)(d)) and to adopt and enforce seat belt use policies for employees operating company-owned, rented, or personally-owned vehicles when performing official business.

See attached Addenda and Regulations for Travel and Reimbursement for additional information that is hereby made a part of this contractual agreement.