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**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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CONCORD, NEW HAMPSHIRE 03301-6397

GORDON J. MACDONALD
ATTORNEY GENERAL



JANE E. YOUNG
DEPUTY ATTORNEY GENERAL

February 26, 2019

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

REQUESTED ACTION

Authorize the Department of Justice to enter into a subgrant with the New Hampshire Department of Safety, Concord NH (Vendor #177878-B001) in an amount not to exceed \$237,900 from the Bureau of Justice Statistics, Office of Justice Programs entitled National Criminal History Improvement Program (NCHIP) upon Governor and Executive Council approval through June 30, 2019. 100% Federal Funds.

Funding is available as follows:

02-20-20-201510-3426	<u>FY 2019</u>
NCHIP	
072-500576 Grants Federal	\$237,900

EXPLANATION

The Department of Justice (DOJ) is requesting authorization to subgrant funds from the Federal Fiscal Year 2018 National Criminal History Improvement Program (NCHIP) grant to the Department of Safety (DOS) to be used to purchase replacement fingerprinting machines. Many of the 43 fingerprinting devices currently in use throughout the State have exceeded the standard industry "shelf life" and replacement parts for the devices are no longer manufactured. This funding will be combined with the Federal Fiscal Year 2017 NCHIP subgrant, in the amount of \$281,121, to replace the most outdated fingerprinting machines throughout the state. DOS will also use the funds to purchase one portable digital fingerprinting machine.

In accordance with the Interstate Identification Index (III), the DOS, Division of State Police, Criminal Records Unit is the State's sole submitting agency of fingerprint images to the

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and the Honorable Council
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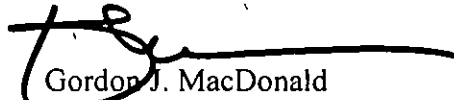
FBI. The fingerprinting devices enable New Hampshire law enforcement agencies to provide ten-print fingerprint data to State Police for submittal to the FBI.

Upon initial receipt of the Federal Fiscal Year 2017 NCHIP subgrant, DOS spent many months researching the most cost-effective method of replacing outdated fingerprinting machines. While this research was in progress, a Federal Fiscal Year 2018 opportunity for NCHIP funds became available. DOJ applied for and was awarded the funds to subgrant to DOS. DOS decided to wait for this subgrant and plans to combine the Federal Fiscal Year 2017 and 2018 NCHIP subgrants to replace more outdated fingerprinting machines.

In the event federal funds are no longer available, general funds will not be requested to support this program.

Please let me know if you have any questions. Your consideration of this request is greatly appreciated.

Respectfully submitted,



Gordon J. MacDonald
Attorney General

#2316422

State of New Hampshire

Interagency Memorandum of Understanding

Whereas, the New Hampshire Department of Justice (DOJ) is a duly constituted agency of the State of New Hampshire;

Whereas, the New Hampshire Department of Safety (DOS) is a duly constituted agency of the State of New Hampshire;

Whereas, DOJ is responsible for administering funding through the National Criminal History Improvement Program (NCHIP) Cooperative Agreement to fund projects to enhance the collection and reporting of criminal history data;

Whereas, DOJ desires to enter into a subgrant with DOS for a term from Governor and Council approval through June 30, 2019 in an amount to not exceed \$237,900;

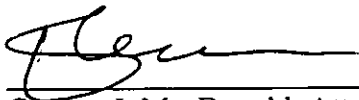
Whereas, DOS desires to purchase twelve (12) Livescan fingerprinting machines with printers to replace existing Livescan machines that are beyond approved shelf life throughout the state.

NOW THEREFORE, the parties enter into this Memorandum of Understanding to their mutual benefit, the benefit of the State and in furtherance of constitutional or statutory authority and objectives.

1. DOJ agrees to pay DOS the amount of \$237,900 for the services described in the attached MOU Exhibit A, which is hereby incorporated by reference. Payment shall be provided from 020-20-20-201510-3426072-500576
2. The method of payment and payment amount for the above-referenced services, if any is required, is described in the attached MOU Exhibit B, such exhibit being hereby incorporated by reference.
3. All obligations hereunder are contingent upon the availability and continued appropriation of funds. The agencies shall not be required to transfer funds from any other account in the event that funds are reduced or unavailable.
4. The Memorandum of Understanding is effective until June 30, 2019.
5. This memorandum of Understanding may be amended by an instrument in writing signed by both parties. Either party may terminate this agreement by providing written notice to the other party at least 30 days prior to termination.
6. The parties agree that the obligations, agreements and promises made under this Memorandum of Understanding are not intended to be legally binding on the parties and are not legally enforceable.

7. Disputes arising under this Memorandum of Understanding which cannot be resolved between the agencies shall be referred to the Department of Justice, Civil Bureau, for review and resolution.
8. This agreement shall be construed in accordance with the laws of the State of New Hampshire.
9. The parties hereto do not intend to benefit any third parties and this Memorandum of Understanding shall not be construed to confer any such benefit.
10. In the event any of the provisions of this Memorandum of Understanding are held to be contrary to any state or federal law, the remaining provisions of this Memorandum of Understanding will remain in full force and effect.
11. This Memorandum of Understanding, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Memorandum of Understanding and understandings between the parties, and supersedes all prior Memoranda of Understanding and understandings related hereto.
12. Nothing herein shall be construed as a waiver of sovereign immunity, such immunity being hereby specifically preserved.

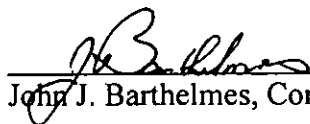
13. ***FOR DOJ Department of Justice:***



Gordon J. MacDonald, Attorney General

Date: 1/22/19

14. ***FOR DOS Department of Safety***



John J. Barthelmes, Commissioner

Date: 1/22/19

EXHIBIT B

-SCHEDULE/TERMS OF PAYMENT-

1. The Subrecipient shall receive reimbursement in exchange for approved expenditure reports as described in EXHIBIT A.
2. The Subrecipient shall be reimbursed within thirty (30) days following the DOJ's approval of expenditures. Said payment shall be made to the Subrecipient's account receivables address per the Financial System of the State of New Hampshire.
3. The State's obligation to compensate the Subrecipient under this Agreement shall not exceed the price limitation set forth in the Interagency Memorandum of Understanding.

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Statement of the Problem- Background and Identification of Needs

Fingerprinting of arrestees is a well-established method of positive identification, and has been used in the criminal justice system for upwards of 80 years. The Federal Bureau of Investigation has long used this method of identification and courts across the US accept it as a positive means of identification.

The State of New Hampshire, at present, utilizes an Automated Fingerprint Identification System (AFIS) that electronically receives arrest and applicant fingerprint impressions and demographic data from forty-three (43) Livescan stations located across the state.

In accordance to the 1983 Interstate Identification Index compliance granted by the Federal Bureau of Investigation, the New Hampshire State Police, specifically the Criminal Records Unit, is the sole submitting agency for all criminal ten-print impressions to the FBI. All ten-print impressions, submitted via inked or electronically, by the state, county, local law enforcement agencies, and every correctional facility, are forwarded to the state police Criminal Records Unit for processing and submission to the FBI. In addition, fingerprinting is also used as an identification technique for job applicants, particularly in those circumstances where identification is critical, and/or where a determination of criminal history (or more precisely, a lack of same) is needed.

The state of New Hampshire has benefitted from Livescan technology since 1997, with the then state-of-the-art Livescan capability put in use throughout the state in our correctional facilities and our larger municipal law enforcement agencies. In 2004, the original Livescan stations were incrementally replaced with newer version Livescans. Additional replacements occurred in 2005, 2007, 2009, and 2012. The twelve (12) Livescans that predated 2005 are in the process of being replaced, funded by a previously awarded NCHIP grant. The standard

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industry “shelf life” for a Livescan machine is seven (7) years. Replacement parts for our oldest Livescans are no longer manufactured, and any available parts are cannibalized from replaced Livescans.

Project Design and Implementation

The New Hampshire Department of Justice (NH DOJ) is the State Administering Agency (SAA) for U.S DOJ grant funding, and currently manages nearly \$40 million in federal awards and approximately 100 sub-recipients.

		2013	Applican	2014	Applican	2015	Applican	2016	Applican	2017	Applican	Avg/Y
		Crimina	t	Crimina	t	Crimina	t	Crimina	t	Crimina	t	r
Portsmouth	Livescan -LSS-R	608	58	668	20	543	30	634	45	682	22	662
Salem	Livescan -LSS-R	1988	248	1757	338	1667	292	1586	222	1238	321	1931
Concord (PD)	Livescan -LSS-R	1485	37	1686	40	1167	51	1386	51	1193	59	1431
Dover	Livescan -LSS-R	88	4	420	4	788	4	589	4	616	2	504
Manchester	Livescan -LSS-R	4364	66	4309	110	4283	87	4286	60	4627	119	4462
Nashua	Livescan -LSS-R	4134	101	4164	76	3773	113	3724	129	3373	181	3954
Lebanon	Livescan -LSS-R	599	120	793	114	743	127	701	196	557	223	835
Laconia	Livescan -LSS-R	684	124	683	122	821	107	903	107	837	101	898
Sullivan DOC	Livescan -LSS-R	189	1	131	4	70	3	158	3	56	1	123
Hooksett	Livescan -LSS-R	547	7	498	9	478	8	494	16	530	32	524
Cheshire DOC	Livescan -LSS-R	680	17	893	13	755	21	507	5	428	7	665
Keene	Livescan -LSS-R	657	219	662	244	618	396	548	266	470	212	858

The New Hampshire Department of Safety and NH DOJ have a long relationship collaborating on a multitude of grant funded projects. The New Hampshire Department of Safety, Division of State Police, Criminal Records Unit, is the state’s sole submitting agency of fingerprint images to the FBI, in accordance with, and compliance to, the Interstate Identification Index (III). Federal grant funding enables the state to provide our law enforcement agencies the

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tools and technology to better facilitate the exchange of tenprint data from those agencies to the FBI and respond back to the state police.

In FFY 2017 the State of New Hampshire received NCHIP funds to do a similar project. There has been some conversations back and forth between the Criminal Records Unit and the LiveScan vendor to see if a lease program would be better suited for replacing LiveScan machines across the state. Conversations lasted longer than anticipated and it has ultimately been determined that leasing is not the best option for New Hampshire at this point. As such, LiveScans from last year's application as of the writing of this application have not been purchased. However, the State anticipates that this will happen shortly and will be in a position to replace more LiveScans if selected for funding in FFY 2018.

The State of New Hampshire certifies that any person with a disposition of "Incompetent to stand trial" or "Not guilty by reason of insanity" is added to NICS. Further, the State manually adds any mental defective that meets 922(g) involuntary commitment if the State has information to support same.

Capabilities and Competencies

In 2017, 45,484 criminal and applicant Livescan fingerprint images were processed by the state police Criminal Records Unit. The FBI requires electronic fingerprint submission, and the use of Livescans is critical in complying with the FBI's directive. Below shows the location and usage for the twelve (12) targeted Livescan machines operated by the New Hampshire State Police for the last five years:

In 2017 the Criminal Records Unit processed 19,278 Livescanned applicant fingerprint images for licensing and employment purposes. Timeliness of these submissions is critical to employing individuals in environments sensitive to the safety, health, and well-being to the

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vulnerable population in our state, and livescan technology is valuable in providing a more convenient and timely fingerprinting process to our residents.

To replace an additional 12 Livescans, with an end-of-life date of 2014, the cost is \$237,900.00.

Plan for Collecting Performance Measurement Data

The New Hampshire Department of Safety has a tabulating process in place to measure the amount of 10-point records submitted to the FBI's NGI, along with other performance measurements as required.

The New Hampshire Department of Justice is well versed in completing required PMT reports and does so consistently with multiple other U.S DOJ awards received by this office.

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