

# Montana

## Contract Management Manual

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# Chapter 1- Introduction

## 1.1 Mission

The mission of the Montana Department of Transportation Highway Traffic Safety Section (MDT/SHTSS) is to reduce the number and severity of traffic crashes, injuries and fatalities on Montana highways under the direction of the Governor's Representative for Highway Safety.

## 1.2 Background and Purpose

The MDT State Highway Traffic Safety Section, under the supervision of the Governor's Representative for Highway Safety, manages and implements the Procedures Manual, and ensures that the state procedures meet the requirements of the applicable federal regulations and state laws.

The purpose of this manual is to establish consistent program and project management procedures for staff and subrecipients to guide the administration of the State's traffic safety program in compliance with U.S. DOT, National Highway Transportation Safety Administration (NHTSA) regulations. This manual is intended for use by SHTSS personnel, Department employees, State and local government officials, and anyone interested in the procedures which are followed by the SHTSS.

### **State and Federal Authority**

61-2-101 through 105 of the Montana Code Annotated – [Highway Safety](#)

Title 23 part 1300 – [Uniform Procedures for State Highway Safety Grant Programs \(anticipated updates 2022\) IJJA-Enrolled-Version-2021-11-07.pdf \(transportation.org\)](#)

## 1.3 Manual Updates & Disclaimer

This manual has been prepared by MDT SHTSS. It will be updated annually or when significant changes warrant updates and made available on the Department's website. The manual is based upon GHSA and NHTSA guidance and is intended as a reference guide only. For the full guidance see [GHSA Policies and Procedures Manual](#).

## 1.4 General Highway Safety Office Responsibilities

The highway safety program is a grant program with the National Highway Traffic Safety Administration (NHTSA) to be administered by the Montana State Highway Traffic Safety Section. These funds are utilized to reduce Montana's fatal and serious injury crash rates and support projects and activities that will assist in attaining that goal.

The funds available are described in further detail in the Assistance Listings, number 20.600, 20.608, and 20.616 View these on-line [at NHTSA Highway Safety Grants Program](#).

MDT SHTSS is responsible for the distribution, monitoring and administration of these funds. Funding is provided to assist with the implementation and/or continuation of projects addressing specific traffic-related problems. To administer this funding, the State Highway Traffic Safety Section will:

- Prepare the annual Highway Safety Plan (HSP) as required by 23 CFR 1300
- Coordinate the HSP with the other federally and non-federally supported programs relating to or affecting Highway safety.

- As part of the Comprehensive Highway Safety Plan (CHSP), establish priorities for highway safety programs funded under 23 U.S.C. 402, and other programs offered by the National Highway Traffic Safety Administration within the state of Montana.
- Provide information and assistance to prospective aid recipients on program benefits, procedures for participation and development of plans.
- Assist local units of government in improving their highway safety planning and administrative efforts through the CHSP process.
- Review the implementation of the CHSP programs regardless of funding source and evaluate the implementation of those plans and programs funded under 23 U.S.C. 402.
- Monitor the progress of activities and the expenditures contained in the state's approved HSP.
- Assure independent audits are performed over subgrantees as required by federal regulations.
- Assure program performance through analysis of data relevant to highway safety planning.

## **1.5 Organizational Structure**

The State Highway Traffic Safety Section (SHTSS) is housed in the Grants Bureau in the Rail, Transit and Planning Division of the Montana Department of Transportation. The illustrated structure provides for the efficient use of staff while providing a career ladder and cross training. The Director of the Department of Transportation has been designated as the Governor's Representative for Highway Safety. The function of these positions within or associated with the SHTSS are:

### ***Governor's Representative (GR) for Highway Safety***

- Reports to the Governor
- Monitors national legislative direction
- Set the overall direction of MDT Highway Traffic Safety
- Supports traffic safety legislation during state legislative sessions
- Approves major grants and certifications

### ***Rail, Transit and Planning Division Administrator***

- Administrator of the programs and personnel of the Division, including oversight of the Grants Bureau and the SHTSS Section

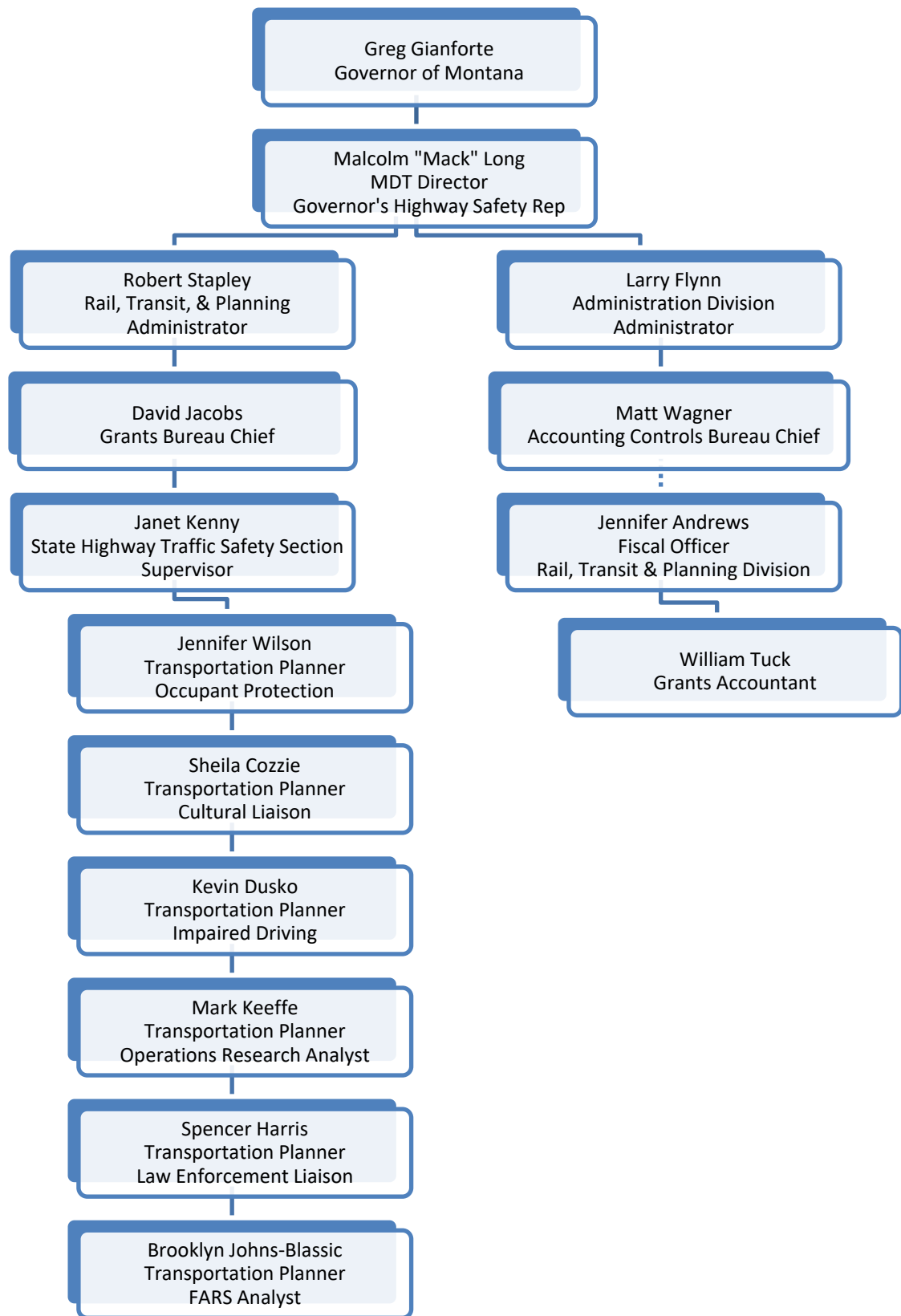
### ***Grants Bureau Chief***

- Oversees the State Highway Traffic Safety Section
- Supervises SHTSS Supervisor
- Sets Goals and Objectives based upon GR's direction
- Liaison with NHTSA
- Oversees the development and implementation of NHTSA grant programs and processes

### ***SHTSS Supervisor***

- Oversees the SHTSS Program
- Supervises staff and directs work of section
- Oversees the development and implementation of NHTSA grant programs
- Implements program goals and objectives based on the GR's, Division Administrator, and Bureau Chief's direction
- Liaison with NHTSA
- Development and compilation of the annual Highway Safety Plan (due July 1)
- Development and compilation of the Annual Report (due December 31)
- Participates in the development and implementation of the Comprehensive Highway Safety Plan

# Organizational Chart – State Highway Traffic Safety Section



Positions continued:

**Law Enforcement Planner**

- Oversees law enforcement related programs and contracts including STEP, SETT, Law Enforcement Liaison Program and provides technical assistance to local law enforcement, contributes to the HSP and 405 grant applications

**Impaired Driving Planner**

- Oversees impaired driving related programs and contracts, acts as the state impaired driving coordinator, contributes to the HSP and 405 (d) discretionary grant application, statewide DUI Task Force plans coordinator

**Occupant Protection Planner**

- Oversees occupant protection related programs and contracts, Child Passenger Safety statewide program coordinator, contributes to HSP and 405 (b) discretionary grant application

**Safe On All Roads- SOAR/Cultural Liaison Planner**

- Oversees occupant protection, child passenger safety and impaired driving related Native American traffic safety projects including the SOAR program and tribal STEP, Teen and Motorcycle programs, contributes to the HSP and 405 grant applications.

**Operations Research Analyst**

- Develops the Problem Identification for highway traffic safety, oversees data and statistical analysis, the Traffic Records Coordinating Committee coordinator, contributes to the HSP and 405(c) discretionary grant application

**FARS Analyst**

- Oversees the Fatality Analysis Reporting System -FARS program, obtains, reports, analyzes, and inputs crash data

**Grants Accountant**

- Oversees accounting functions for the SHTSS, responsible for input in NHTSA's Grant Tracking System, assists in the development of the program budget, provides fiscal monitoring of program contracts, prepares the financial components of the annual HSP and Annual Report, advises section on application of state and federal grant regulations

## 1.6 Federal Law and Regulations

This section provides a brief overview of Federal laws and regulations that pertain to the administration of U.S. DOT, NHTSA highway safety funding.

The U. S. Congress authorizes traffic safety funds to be appropriated to the U.S. DOT, NHTSA. NHTSA apportions and distributes these funds to the States. NHTSA apportions and provides a limitation on obligations that indicates the amount of funds available for each State. The States liquidate these funds through the annual State Highway Safety Plan (HSP) which is subject to NHTSA review and approval.

Federal regulations govern the daily administration of traffic safety grants at the State level. Administrators of traffic safety grants shall be familiar with and follow each cited title and rule to effectively design and manage programs. Thorough knowledge of these regulations will reduce a majority of grant questions before they become problems.

### *i. Highway Safety Act of 1966*

The State traffic safety program operates under the provisions of the [Federal Highway Safety Act of 1966](#).



The corresponding regulation contained in the Code of Federal Regulations (CFR), *23 CFR Part 1300.10 - 15* requires the State's Highway Safety Plan (HSP) to have certain features before it is approved. The Federal Highway Safety Act of 1966 makes the State's Governor responsible for preparing and administering a statewide traffic safety program designed to reduce traffic crashes and the resulting injuries, fatalities and property damage. The Governor has named the Director of the Montana Department of Transportation (MDT) to act as his or her representative for the State's traffic safety program. The SHTSS is located within the Grants Bureau of the MDT Rail, Transit and Planning Division.

By regulation NHTSA prescribes the general, administrative and programmatic requirements for the grant program. On January 25, 2018, NHTSA issued a Final Rule (FR) at 23 CFR Part 1300 Uniform Procedures for State Highway Safety Grant Programs which became effective on February 26, 2018. An update to these final rules for the new IIJA bill is expected in the fall of 2022.

The reauthorization of funding to support highway safety programs is a separate act. Most recently Congress enacted in 2015 the Fixing America's Surface Transportation (FAST) Act which will be effective for most behavioral safety programs with the FY2017 grant year. The Act contains funding authorization for five years beginning with 2016.

### *ii. OMB Uniform Guidance Grants*

Effective with FY2016 grants, the U.S. Department of Transportation adopted the Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200), referred to as the Uniform Guidance. This part supersedes and repeals the requirements of the DOT Common Rules (49 CFR Part 18—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments and 49 CFR Part 19—Uniform Administrative Requirements—Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), except that grants and cooperative agreements executed prior to December 26, 2014, shall continue to be subject to 49 CFR Parts 18 and 19 as in effect on the date of such grants or agreements.

### *iii. Lobbying Restrictions*

Lobbying restrictions are contained in two Federal laws. The Anti-Lobbying Act, 18 U.S.C., Part 1913, prohibits the use of Federal funds for "grassroots" lobbying campaigns that encourage third parties, members of special interest groups or the general public to contact members of Congress; of a State or local legislature; or an official of any government in support of or in opposition to a legislative, policy or appropriations matter. It applies to activities both before and after the introduction of legislation. These prohibitions apply to all DOT funds, including NHTSA funds awarded to States under grants, cooperative agreements and contracts. These prohibitions apply to State officials whose salaries are supported, in whole or in part, by NHTSA funds and to recipients of NHTSA funds awarded under contracts, grants cooperative agreements and sub awards.

Fixing America's Service Transportation Act (FAST Act) prohibits the use of NHTSA funds for "any activity specifically designed to urge a State or local legislator to favor or oppose the adoption of any specific legislative proposal pending before any State or local legislative body". These restrictions do not apply to State officials engaged in State-sanctioned communications with their legislatures, even if their salaries are supported, in whole or in part, with NHTSA funds. Any direct communications between State executive officials and State or local legislators properly are governed by the laws, regulations and customary practices in the State.

State and local officials and legislative bodies are authorized to invite Federal officials to testify before legislative bodies on pending legislation. Such invitations should be documented in writing.



These restrictions apply to subrecipients as well. Subrecipient certifications must include a prohibition from using federal grant funds in violation of the lobbying restrictions. If any funds other than federal funds have been paid for by lobbying, the provisions of the federal Lobbying Disclosure Act of 1995, as amended (2 U.S.C. Part 1601) must be followed. For additional federal guidance, see NHTSA Guidance on Lobbying Restrictions. State officials and subrecipients may engage in advocacy activities as distinguished from lobbying. Such advocacy may include but not limited to: holding periodic briefings for elected officials, developing general materials about legislation such as fact sheets, sharing research reports with legislative staff, giving testimony upon request (unless prohibited by State restrictions) and involving elected officials in programs, meetings and press events.

#### *iv. Internal Management Controls*

The SHTSS shall have policies and procedures to reasonably ensure that: (a) programs achieve their intended results; (b) resources are consistent with agency mission; (c) programs and resources are protected from waste, fraud and mismanagement; (d) Federal laws and regulations are followed; (e) reliable and timely information is obtained, maintained, reported and used for decision making; and (f) reasonable measures are taken to safeguard protected personally identifiable information and other information designated as sensitive, see 2 *CFR Part 200.303*.

#### *v. Other Applicable Office of Management and Budget Circulars*

Beginning with the FY2016 highway safety grants, the Federal regulations at 2 CFR Parts 200 and 1201 supersede requirements from OMB Circulars A-21, A-50, A-87, A-89, A-102, A-110, A-122 and A-133. NHTSA grantees are responsible for following all standards in 2 CFR Part 200 as modified by 2 CFR Part 1202. (See at [Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#) and [Non Procurement Suspension and Debarment](#)).

#### *vi. Documents Available on the Internet*

Most of the referenced Federal regulations and other cited procedural documents are available in the [NHTSA Highway Safety Grants Management Resources](#).

### **1.7 State Laws and Regulations**

The laws and regulations of the State and Department policy also govern the SHTSS traffic safety program. On the State level, the Governor of the State of Montana authorizes the program. The Governor may appointment a Governor's Representative (GR) for highway traffic safety, in this case the Director of the Department of Transportation (MDT). The MDT State Highway Traffic Safety Section enters into grants and contracts to carry out a duty or activity that is part of the program. The SHTSS program is administered under Montana Code specified in [Highway Safety](#).

# *Chapter 2 -Establishment of Statewide Highway Safety Goals*

## **2.1 Data Analysis**

Data collection is the first step in developing a highway safety program. This requires extensive review and analysis of crashes, the causes, and the results. This information is used to establish a historical trend covering at least the previous five years of crash data. Data sources include the Fatality Analysis Reporting System - FARS and the Montana Department of Transportation Safety Information Management System – SIMS statewide crash database.

## **2.2 Problem Identification**

Using the information from the data analysis process, trends are identified, and problem areas are evaluated. The data is further scrutinized to determine specific influencing factors including but not limited to, lack of seat belt use, driving while impaired, urban versus rural areas and age of the drivers. A collaboration of highway safety stakeholders assists in reviewing this information to determine the “emphasis areas” to address in the Highway Safety Plan.

## **2.3 Comprehensive Highway Safety Plan**

The CHSP was developed by the Montana Department of Transportation in a cooperative process with local, state, federal, tribal, and other safety stakeholders. It continues to be a data-driven, multi-year comprehensive plan that establishes statewide safety targets, objectives, and key emphasis areas and includes the four E's of highway safety – engineering, education, enforcement, and emergency medical services (EMS). The CHSP enables coordination of safety programs and partners to work together to cooperatively address safety issues, align goals, and leverage resources to reduce fatal and serious injuries on Montana’s roadways.

The CHSP:

- Is data-driven; and
- Establishes statewide goals and objectives.
- Defines key emphasis areas to focus resources.

Data analysis is used to identify which safety issues the CHSP plan would focus on. Crash factors include those related to infrastructure (i.e., intersections, roadway departure), populations (i.e., older or younger drivers) behaviors (i.e., restraint use, impaired driving, distracted driving), or modes/vehicles (i.e., motorcycles, pedestrians, bicyclists, trucks). Based on analysis of this data, it was determined that the CHSP should focus on the following four Emphasis Areas:

- Roadway Departure and Intersection Crashes
- Impaired Driving Crashes
- Unrestrained Vehicle Occupants
- Emergency Response – After Crash Care

In addition to these identified Emphasis Areas, MDT is committed to pursuing two additional key overarching strategy areas that will benefit all safety activities. These areas are:

- Improve the accuracy, completeness, integration, timeliness, uniformity, collection, and accessibility of data used in traffic safety analysis; and

- Collaborate across agencies, organizations and with the public to improve traffic safety, driver behavior and promote the Vision Zero.

## 2.4 CHSP Targets

Disclaimer: This document contains *preliminary* data for fatalities, serious injuries and VMT for 2021 only. All other data is taken from the Fatality Analysis Reporting System and uses certified NHTSA data through 2020. Other 2021 data was not available at the time of this application.

The FFY23 shared targets used in the HSP and the HSIP are as follows:

- No more than 223.2 annual fatalities during 2023;
- Fatality rate of no more than 1.693 fatalities per 100 million vehicle miles traveled (VMT) during 2023;
- No more than 715.6 serious injuries during 2023;
- Serious injury rate of 5.593 serious injuries per 100 million VMT during 2023;
- No more than 61.88 non-motorized fatalities and serious injuries during 2023.

To review the entire CHSP link to [Comprehensive Highway Safety Plan](#)

For crash data link to: [MDT Crash Data](#)

## 2.5 Coordination with the State Comprehensive Highway Safety Plan

The SHTSS coordinates with MDT staff responsible for development of the CHSP to maximize integration and utilization of data analysis resources, fully represent driver behavior issues and strategies, and utilize any statewide safety committees to obtain input from State and local traffic safety partners for the SHTSS HSP. The targets and objectives contained in the CHSP are considered in the annual development of the HSP and incorporated to the fullest extent possible. The SHTSS shall review the CHSP and HSP to identify any gaps in addressing driver behavior issues and eliminate any redundancy to ensure the maximum use of resources.

## 2.6 Highway Safety Plan

Each Federal Fiscal year (October 1 – September 30) the SHTSS shall develop a Highway Safety Plan or HSP to qualify for Federal highway safety funding. The HSP is prepared and submitted by SHTSS staff to the Grants Bureau Chief and Rail Transit and Planning Administrator for review and comment. Upon approval, the HSP is presented to the Governor's Representative for Highway Traffic Safety. After all Department approvals have been obtained, the SHTSS will submit the HSP to the National Highway Traffic Safety Administration for approval. The HSP is due on July 1 annually and is submitted to NHTSA, who provides submittal instructions.

The federal regulations outline the required contents of the HSP: planning process, performance plan, strategies and projects, performance report, program cost summary, certifications and assurances, Teen Traffic Safety Program and Section 405 grant application. For specific details on what the 402 and Section 405 grant program requirements are see [Part 1300 - Uniform Procedures for State Highway Safety Grant Programs](#).

The HSP describes the processes used to identify the State's traffic safety problems, establish performance measures and proposes the projects and activities the State plans to implement to reach its performance targets. Performance measures for each target track progress from a baseline toward meeting the target by the specified date.

### *i. NHTSA Review, Approval and Appeal Procedures*

The HSP plan is due to the NHTSA regional office no later than July 1 of each year. NHTSA must approve or disapprove the HSP within 45 days after receipt. NHTSA may need to request additional information from the SHTSS regarding the content of the HSP to determine whether statutory requirements have been met. The SHTSS will respond promptly to any request from NHTSA. Failure to respond promptly may delay approval and funding of the State's Section 402 grant, see [23 CFR 1300.12](#)

Within 45 days, NHTSA will issue a letter of approval/disapproval to the State's GR and may specify conditions. After NHTSA review and approval, the plan is implemented on October 1 and is in effect through September 30 of the following year. If the HSP is disapproved, the reasons will be specified. The SHTSS is then required to resubmit the HSP with the necessary modifications. NHTSA will notify the SHTSS within 30 days of receipt of the revised HSP, via a letter, whether the HSP is approved or disapproved. The decision of the Regional Administrator (RA) may be appealed by submitting a letter. The letter will be forwarded by the RA for consideration by the Associate Administrator, Regional Operations and Program Delivery, at NHTSA Headquarters. If the State's plan is not approved, NHTSA shall reduce the Section 402 funds by 20% of the amount that would otherwise be apportioned. The funds can either later be apportioned to the State when the plan is approved, or, if not approved, the funds will be apportioned to the other States.

The most current Highway Safety Plan can be reviewed on the website. [Highway Safety Plan](#)

### *ii. Amendments to the Highway Safety Plan*

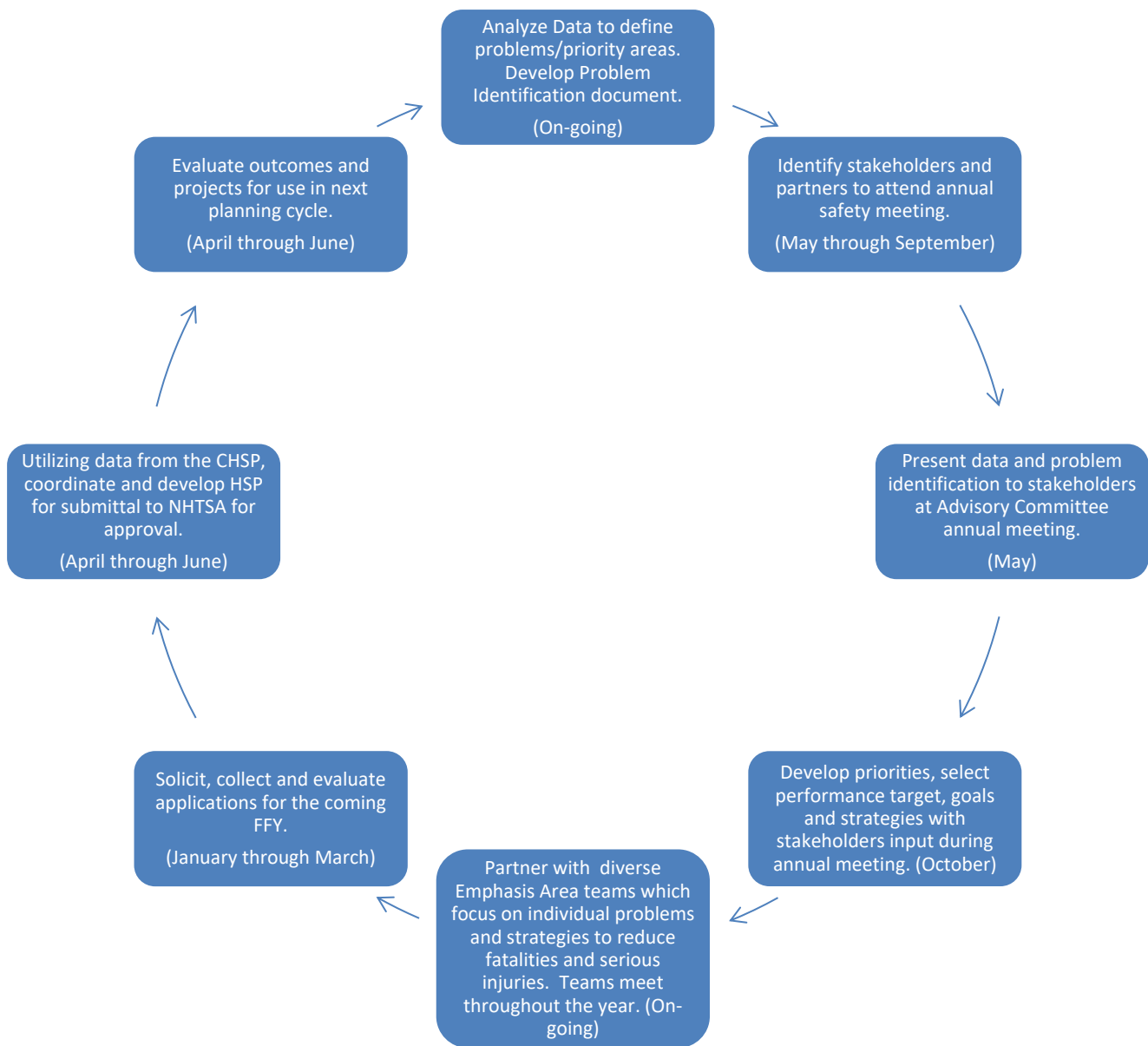
SHTSS may find it necessary to submit changes to the Highway Safety Plan after NHTSA approval of the HSP. The SHTSS will ensure the changes meet the original intent of the HSP. The SHTSS will determine the proposed change and initiate contact with NHTSA. Approval from the NHTSA Regional Administrator of amendments (per 23 CFR 1300.32) is required for changes to approved planned activities, adding project agreements, changes to approved project agreements. Some reasons to change/amend the HSP may include: revision resulting in the need for additional federal funding beyond that which is already obligated or approved for reprogramming under the current HSP, an extension of the time period in which costs may be incurred under the HSP, purchase of additional equipment in excess of \$5,000 or more per unit, which has not previously been approved by NHTSA.

SHTSS will update the existing HSP when amendments are required and report changes in the Annual Report for that fiscal year.

## **2.7 HSP Development Process & Annual Planning Meeting**

MDT's highway safety planning process is illustrated below. As described above, the SHTSS coordinates with the Comprehensive Highway Safety Plan process and the annual Comprehensive Highway Safety Planning (CHSP) meeting is held each October with traffic safety stakeholders and partners. The timing of the annual meeting allows the SHTSS staff with the time necessary to complete the 402 and 405 applications by July 1.

The following flow chart represents the current process used by SHTSS.



In addition to the planning process described above, the SHTSS provides a grant timeline for stakeholders and subrecipients as shown below:

Milestone	Timeline
Application submission deadline for FFY 2023 funding.	March 1, 2022
Application review and assessment. Funding and project recommendations made to the Governor’s Representative (GR) for Highway Traffic Safety.	March 1 – April 30, 2022
Preliminary contract negotiations.	April 30 - May 29, 2022
Draft Annual Highway Safety Plan (HSP) prepared by MDT staff and submitted to the GR for approval.	May 1 – June 30, 2022

Milestone	Timeline
Deadline for Annual Highway Safety Plan submission to NHTSA.	July 1, 2022
Deadline for NHTSA to notify state whether or not FFY 2023 Highway Safety Plan is approved.	45 Days to Notify States
Notification to applicants regarding funding approval or denial.	August 2022
<b>All contracts must be executed between Grantees and MDT</b>	<b>October 1, 2022</b>
<i>Start of Federal Fiscal Year 2023</i> Contracts are finalized and routed for signatures. Effective date of contract varies; please check with your assigned program manager for details.	October 1, 2022 – September 30, 2023
Annual Highway Safety Planning Meeting.	October 11-12, 2022

## 2.8 Performance Targets & Measures

Performance targets are set analyzing a number of contributing factors. The first factor considered is the data for which the target is being set. Historical data and trends are reviewed to determine what target will likely be attainable.

During the annual CHSP meeting, an overview of all data is provided to stakeholders in attendance. This overview shows safety data and changes in all target areas. This presentation provides a snapshot of traffic safety issues and trends as a whole, statewide, for the previous year.

Also at the CHSP meeting, Emphasis Area Team members provide all stakeholders an overview of the activities that are being completed to achieve specific targets. In addition, new strategies for the coming year are discussed and reviewed. The annual targets are then set at a level which is needed in order to achieve the five-year goal.

Throughout the year, MDT staff and CHSP champions continue working together to refine performance measures and annual targets. This information is shared with other stakeholders at the annual CHSP meeting and helps guide them in the development of their traffic safety related applications for submission to MDT for review. Once these applications are approved, the information from these documents is integrated in the following year's Highway Safety Plan (HSP) as countermeasures. Projects that are included in the HSP employ evidenced-based countermeasure strategies to address identified problems and to help achieve performance targets. These countermeasures are also cross referenced in the CHSP under the appropriate traffic safety emphasis areas. The current resource is available at [Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Safety Offices](#).

### i. Core Performance Measures

Beginning with MAP-21, 11 Core performance measures developed by NHTSA in collaboration with GHSA and others, described in *Traffic Safety Performance Measures for States and Federal Agencies* (DOT HS 811 025) are required to be used as a minimum in developing the State's performance measures and targets. Therefore, it is essential to examine each of these measures as part of the initial problem identification process. There are also three activity measures which must be reported annually. The measures are:

## OUTCOME AND BEHAVIOR MEASURES

1. Fatalities (actual-FARS)
2. Number of serious injuries (State crash file)
3. Fatality rate per 100M VMT (FARS, FHWA)
4. Number of unrestrained passenger vehicle occupant fatalities, all seating positions (FARS)
5. Number of fatalities involving driver or motorcycle operator with .08 BAC or above (FARS)
6. Number of speeding-related fatalities (FARS)
7. Number of motorcyclist fatalities (FARS)
8. Number of unhelmeted motorcyclist fatalities (FARS)
9. Number of drivers age 20 or younger involved in fatal crashes (FARS)
10. Number of pedestrian fatalities (FARS)
11. Number of bicyclist fatalities (FARS)
12. Percent observed belt use for passenger vehicles – front seat outboard occupants (State survey)

### *ii. Activity Measures*

13. Number of seat belt citations issued during grant-funded enforcement activities (grant activity reports)
14. Number of impaired driving citations issued, and arrests made during grant-funded enforcement activities (grant activity reports)
15. Number of speeding citations issued, and arrests made during grant-funded enforcement activities (grant activity reports)

Program areas outside of the GHSA-NHTSA Core performance measures may be included if sufficient justification for addressing those issues has been established in the problem identification process and appropriate performance measures have been developed by the State, such as, distracted driving and bicycle safety.

Performance measures (and corresponding performance targets) are required to be developed for each program area that receives funding by the SHTSS. If the SHTSS intends to fund programs outside the Core measures, for each of these other programs, performance measures are required as well as: (i) documentation of current safety levels; (ii) quantifiable annual performance targets, and; (iii) justification for each performance target that explains why the target is appropriate and data driven.

A performance measure is an indicator to express the activity that will be used to establish a performance target and must be directly aligned to the target(s) of a project. Performance measures when combined with the performance target provide the basis for determining the degree of achievement of established targets. Acceptable activity levels or outputs shall be established as part of each grant agreement.



There are two common types of performance measures: direct and proxy. Direct measures are preferred. Examples of direct measures include: number of crashes, citations, people trained, units purchased, etc. Sometimes it is impossible to obtain direct measures. If such is the case, a proxy measure might be used. Proxy measures are indicators that provide an indirect assessment of desired activity. An example is a self-reporting survey conducted among a statistically valid sample of the population to determine behavioral change (recognition of public service announcements on television or radio, seat belt usage, impaired driving issues, etc.).

The characteristics of a good performance measure are that it is:

- Quantifiable
- Directly linked to objectives
- Accurate and clearly defined
- Understandable
- Objective
- Practical

## **2.9 Section 405 Application Information**

Beginning with FY2014, there is a single application deadline for all highway safety grants which includes the traditional Section 402 program and the incentive grant program. The National Priority Safety programs, or incentive grant programs, are codified in a single section, 23 CFR 405 and referred to as Section 405. These programs include: Occupant Protection, State Traffic Safety Information Systems (Traffic Records), Impaired Driving Countermeasures, Motorcyclist Safety, Distracted Driving, State Graduated Driver Licensing and as of FY17 a new program, Nonmotorized Safety

The specific qualification requirements are detailed in 23 CFR Part 1300.20 -.28 for States applying for any of the Section 405 or Section 1906 grant programs. Information is available from NHTSA for the requirements of Appendix B. As part of the Section 405 application, the State is required to provide specific information which varies depending on the National Priority Safety Program incentive grant(s) for which the State wishes to receive funding consideration. The form should be consulted for the required information which may be supplied as a reference to an HSP page

The Section 402 application is reviewed by the NHTSA Regional Office. The program portion of the Section 405 application is reviewed by a NHTSA Team and the legal requirements are reviewed by the NHTSA legal counsel.

No P&A Costs are allowed from Section 405 grant funds. The eligible use of grant funds awarded under Section 405 is dependent upon the specific program and fiscal year for which funds are awarded and shall be limited to what is detailed in 23 CFR Part 1300.21- 26.

### ***1. NHTSA Section 405 Award Determinations and Appeals***

After reviewing applications and making award determinations, NHTSA shall, in writing, distribute funds available for obligation to qualifying States and specify any conditions or limitations imposed by law on the use of the funds. Beginning with FY17, NHTSA is required, within 60 days after the date of the Section 405 awards, to make publicly available on the U.S. DOT website an identification of the States awarded grants, the States that applied and were not awarded grants, the States that did not apply for a grant and a list of the deficiencies that made a State ineligible for a grant.

Grant awards are subject to the availability of funds. If there are insufficient funds to award full grant amounts to qualifying States, NHTSA may release interim amounts and release the remainder, up to the State's proportionate share of available funds, when it becomes available in the fiscal year. See 23 CFR §1300.20. The Section 405 application review is a final decision of the NHTSA Administrator and is not subject to appeal.

### ***2.11 Performance Report***

For FY19 and beyond, within the HSP the SHTSS is required to provide a program-area level report on the State's success in meeting its performance targets for each performance measure identified in the previous fiscal year's HSP, see 23 CFR 1300.11 (b). The State should use the most recent data available including State-level fatal data as well as additional non-fatality data.

NOTE: This is NOT the same level of information which is required of the States to provide in the comprehensive Annual Report (AR) under 23 CFR 1300.35. This is a much briefer status report focusing mainly on the prior year's results for the State's Core performance measures. It is an in-process assessment at the program level on the State's progress and thus differs from the Annual Report.

# Chapter 3- Project Development - Grant Application Process

## 3.1 Highway Traffic Safety Funding Opportunity

The Highway Traffic Safety Funding Opportunity (FO) is the main mechanism in which most projects are funded. Applications are submitted to SHTSS through a prescribed competitive process with deadlines that take place several months prior to project start date. The SHTSS typically receives requests for funding that exceed available funds. The SHTSS reviews each application to verify that it addresses identified state highway traffic safety problems, budget expenditures are allowable and meets the application requirements.

The upcoming federal fiscal year budget is developed by SHTSS and the Grants Accountant, and available funding levels are determined for 402 and 405 programs for which the state qualifies. Projects that support the targets and strategies established for specific emphasis program areas in the CHSP are included to implement the HSP, if projected funding is available. The draft HSP is presented to the Grants Bureau Chief, the Rail, Transit and Planning Division Administrator and finally the Governor’s Representative for Highway Traffic Safety for approval prior to submittal to NHTSA.

Grants are awarded in accordance with the Federal Fiscal Year, which begins October 1 and runs through September 30 the following year. The Highway Traffic Safety FO is released on January 1<sup>st</sup> of every year with the deadline being March 1<sup>st</sup>. There may be extensions of the FO deadline if special circumstances arise. SHTSS releases the grant funding opportunity, instructions and deadlines to potential applicants through several venues including publication in the MDT Newline, posting on the MDT website grant page, and through grant workshops and webinars. Below is the timeline for the annual grant application and HSP development:

Milestone	Timeline
Application submission deadline for FFY 2023 funding.	March 1, 2022
Application review and assessment. Funding and project recommendations made to the Governor’s Representative (GR) for Highway Traffic Safety.	March 1 – April 30, 2022
Preliminary contract negotiations.	April 30 - May 29, 2022
Draft Annual Highway Safety Plan (HSP) prepared by MDT staff and submitted to the GR for approval.	May 1 – June 30, 2022
Deadline for Annual Highway Safety Plan submission to NHTSA.	July 1, 2022
Deadline for NHTSA to notify state whether or not FFY 2023 Highway Safety Plan is approved.	45 Days to Notify States
Notification to applicants regarding funding approval or denial.	August 2022
All contracts must be executed between Grantees and MDT	October 1, 2022
Start of Federal Fiscal Year 2023 Contracts are finalized and routed for signatures. Effective date of contract varies; please check with your assigned program manager for details.	October 1, 2022 – September 30, 2023
Annual Highway Safety Planning Meeting.	October 11-12, 2022

## 3.2 Project Types and Eligibility

In alignment with the problem identification, performance targets and key strategies identified in the annual Highway Safety Plan, the SHTSS solicits proposals and awards grants to fund projects with activities designed to reduce the number of deaths and serious injuries resulting from traffic crashes.

There are a number of different types of projects funded by SHTSS. These may include, but are not limited to:

- Occupant protection and child passenger safety programs
- Impaired driving and other alcohol programs
- Highway traffic safety enforcement
- Programs for motorcyclists
- Native American programs
- Traffic records projects
- Other educational programs targeted at high-risk populations or behaviors (e.g. younger drivers, speeding)

SHTSS will consider all projects that are intended to meet the goals of reducing crashes, fatalities and serious injuries in Montana. All projects must support the goals and strategies of the Comprehensive Highway Safety Plan. Demonstration projects utilizing an innovative approach may be considered if a clear data-driven safety need has been identified and the project is supported with a strong evaluation component.

The following agencies/organizations are eligible to submit applications for highway traffic safety grants:

- State agencies
- Cities, counties and their sub agencies
- Tribal Governments
- Non-profit organizations with existing IRS 501 (c)(3) status
- For other eligibility – contact SHTSS

### **3.3 Grant Submission Process – Montana Webgrants & Other**

The SHTSS annually develops Funding Opportunities (FO) for project proposals submitted by interested applicants. The mechanism of soliciting proposals for the majority of projects is by releasing FO's through Montana Webgrants. SHTSS releases five FO's, which are:

- 1) State Highway Traffic Safety – annual application due March 1
- 2) Single Event High Visibility Enforcement Mini Grants
- 3) Impaired Driving: Non-enforcement Mini Grants
- 4) Occupant Protection Mini Grants
- 5) Traffic Records (see Traffic Records Coordinating Committee (TRCC) process for applications)

Details of each FO are described in subsequent sections. Applicants must register for access to the Webgrant system. When the applicant has completed the application submittal process, the submittal will be acknowledged by an e-mail generated by the webgrant system. Refer to the [online training and instructions for submitting the grant application](#).

Some HSP activities may not be processed through the five FO's outlined above. Those may include, but are not limited to:

- 1) Media Contract, processed through MDT's procurement processes;
- (2) Training, which is on an as needed basis; and
- (3) Car Seat Purchases, which follow MDT's purchasing guidelines, and other special projects as allowed by 23 CFR Part 1300.

Other services, contracts and goods may be procured through MDT's processes such as request for proposal, limited solicitation, and sole source.

### **3.4 Highway Traffic Safety Funding Opportunity Application Sections**

Proposed grant projects must support the target, planned activities, and strategies established for the program areas in the HSP. The grant application includes several sections that allow for a better understanding of the project and the impact on highway safety. The sections include:

#### *Section 1. Applicant Identification*

Applying Agency information - When completing the grant application, the agency must assign appropriate staff to ensure the implementation and success of the project. This will include an Authorized Representative of the entity (typically Commission Chair or Chief Executive), Program Director who will oversee the project, Project Manager who is responsible for the day-to-day activities and budget representative who is responsible for fiscal tracking. SHTSS staff will work with these individuals to ensure the success of the program.

#### *Section 2. Project Narrative:*

Describes the project, why it needs funding and how it will be implemented. The following sections must be completed:

- A. Executive Summary
- B. Problem/Needs Statement
- C. Goal/s
- D. Evaluation
- E. Future Funding Plan/Sustainability

#### *Section 3. Project Objectives*

Description of the specific project activities and how they will be implemented in detail. Objectives are project accomplishments that will lead to achieving the project goal. Objectives must be attainable, measurable and related to the project goal.

#### *Section 4. Project Budget*

There are two requirements for budget information, the Project Budget and the Budget Narrative. The Project Budget has line items including personnel, contracted services, operating expenses and indirect costs. The Budget Narrative details how amounts in the Project Budget were calculated and a general description of the budget line item, those should be entered in this section. (For more information on allowable costs please see Chapter 5)

#### *Section 5. Local Benefit Request*

NHTSA requires the SHTSS to obtain written request from local subdivisions when they want to participate in state administered programs such as paid media. This ensures that the local community has a “voice” in the expenditure of federal funding by applicants requesting that MDT include their community in statewide media messages that support highway safety efforts.

#### *Section 5. Attachments*

Examples of attachments to the application may include indirect cost rate agreement, proof of non-profit status, letters of support, memorandums of agreement, etc.

### **3.5 Grant Application Tracking and Review Process: State Highway Traffic Safety Funding Opportunity**

The Montana Webgrants system allows the SHTSS to track the submission of applications and the review process. Staff review teams are assigned to review applications that have been grouped with similar applications. The planner responsible for each area, i.e. occupant protection, law enforcement, impaired driving, tribal programs, motorcycles, teens etc. serves as topic expert and schedules a review for the team. Team

members individually evaluate the applications using set criteria to score each application in the web-grants system. The team meets to discuss their reviews and scores for each application. The teams make recommendations for funding programs that meet the goals and objectives of the HSP/CHSP. If SHTSS requires additional information from the applicant to complete the review, SHTSS may negotiate the application back to the applicant for appropriate adjustments, including revisions to the budget.

NOTE: Selective Traffic Enforcement Program (STEP) applications are evaluated through an independent process. Mobilization participation and contact data are used to determine the funding level.

Priority will be given to projects that meet the required highway safety activities for Montana to qualify for NHTSA funds, such as high visibility enforcement, and that align with the HSP/CHSP. Based upon priority and available funding, approved applications will be included in the HSP for GR approval. GR approved HSP and 405 applications will be submitted to NHTSA by July 1<sup>st</sup>.

### **3.6 Mini-Grant and Other Funding Opportunities**

SHTSS provides mini-grant FO's for smaller, short term projects that are \$5,000 or less. SHTSS will consider projects that are intended to meet the goals of the HSP/CHSP. These mini-grants are separated into three (3) Funding Opportunities.

Applications for these FO's are accepted throughout the fiscal year in the web grants system. The SHTSS determines the level of funding for each FO when developing the annual budget and includes that amount in the HSP for the mini-grant FO. Funding is provided on a first come, first serve basis based on eligibility and funding availability. Applications are reviewed by the assigned program manager, who completes an internal review form on web grants, verifies the applicant's disbarment status, completes a risk assessment and receives supervisor approval to proceed with a contract.

If more information is needed to properly review the proposal, MDT will negotiate the application back to the applicant for adjustments. Similarly, if budget revisions are required to meet requirements, budgets will be negotiated and adjusted as appropriate.

For specific requirements for each FO, see the [Funding for Traffic Safety Projects](#).

#### **High Visibility Enforcement Mini-Grant FO**

The focus of this FO is to provide Non-STEP participating agencies funding for local high visibility enforcement at specific events or time frames known to be high-risk. Agencies can apply for overtime and priority will be given to those with an evidenced based need. Annual law enforcement participants are included in the HSP submittal.

#### **Impaired Driving: Non-enforcement Mini-Grant FO**

The focus of this FO is to provide agencies funding for projects with a limited time frame. A variety of projects may be considered that have a nexus to drug/alcohol and align with state highway traffic safety efforts. Projects must fall within the broad impaired driving strategies outlined in the CHSP.

#### **Occupant Protection Mini-Grant FO**

The focus of this FO is to assist Montana communities with the need for increased local public information and education (PI&E) programs, and child passenger safety programs and training, that reach various demographics to encourage increased use of safety belts and correct child passenger safety seats usage.

Other Funding Opportunities:

### **Traffic Records FO**

SHTSS provides funding for projects that specifically aim to improve the timeliness, accuracy, completeness, uniformity, integration, and accessibility of State traffic safety data. Applications are accepted throughout the year by the Traffic Records Coordinating Committee (TRCC). Potential projects are first vetted through the TRCC and voted on for funding. The HSP is amended to include TRCC projects that are not already identified.

### **Teen Peer-to-Peer Grants**

SHTSS partners with the Montana Family, Career and Community Leaders of America (FCCLA) to coordinate a teen peer-to-peer traffic safety program. Through this program, FCCLA chapters can apply for funding to create and implement traffic safety campaigns in their schools and communities. These grants can be used for any traffic safety issue the chapter members determine to be a driving risk for their peers.

## ***3.7 Pre-Award Risk Assessment***

The SHTSS conducts a risk assessment for each subrecipient who will receive NHTSA funds. The SHTSS, as a pass-through entity, is required to evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations and the terms and conditions of the sub award for purposes of determining the appropriate subrecipient monitoring. See Chapter 9 for detailed information about the Pre-Award Risk Assessment.

The SHTSS shall ensure that each grant proposal subrecipient has been checked on the Federal Debarment and Suspension List by State prior to the award to ensure they are not suspended or debarred.

## ***3.8 Grant Period***

The grant period is the time during which the subrecipient may incur reimbursable costs to carry out the project activities. For the Highway Traffic Safety FO, the typical grant period is October 1 through September 30. Based on specific circumstances, the SHTSS may also approve other grant time periods within a fiscal year or extend the grant period. Agencies interested in continuing project activities into the next fiscal year must reapply during the annual application process.

Grant periods stemming from the Mini-Grants and TRCC FO's vary depending on the project.

The SHTSS may contract for services to support highway traffic safety efforts through other processes. Project periods in these contracts vary based on need.

## ***3.9 Contract Management Manual***

The purpose of the Contract Management Manual is to establish program and grant management procedures and provide guidance to subrecipients for the development and administration of their grant agreements. Revisions will be made to accommodate any changes to State or Federal laws or regulations. Periodic training may be provided by SHTSS staff when revisions are made to the manual. The manual is available online at:

[Contract Management Manual](#)



# Chapter 4- The Standard Agreement

## 4.1 Grant Award Announcement and Standard Agreement

Based on available funding and NHTSA's review and approval of the HSP for the next Federal Fiscal Year's projects, selected applicants will be notified of the grant award in mid-August. Unsuccessful applicants will also be notified on this schedule. The SHTSS will conduct debriefing conference with unsuccessful applicants upon request in person or via telephone. Discussions will be limited to a critique of the proposed grant application. Comparisons between other applications or evaluations of other applications are not permitted.

Once a decision has been made to fund a project, MDT will begin the process of formalizing the contract with the "standard agreement." Note the term "contract" and "agreement" are interchangeable throughout this document.

1. Negotiations - SHTSS staff will work with the subrecipient to negotiate the final agreement. The agreement will outline the specific components of a project, the final authorized budget, the objectives and specific performance measures. Once the agreement has been consented to, SHTSS will prepare a DocuSign package that will require MDT and the appropriate subrecipients electronic signatures to execute the contract. If the subrecipient is unable to sign electronically, they may contact SHTSS for the manual signature process.
2. Subrecipient signatures - The final agreement submitted to SHTSS must be signed by the authorizing official (person with contracting authority) for the applicant agency or organization. The authorizing official and the project director must also certify and ensure that all of the conditions contained in the Subrecipient Certifications and Assurances, Reporting Requirements and Invoicing requirements will be met including any special conditions. A grant agreement must be approved and executed in accordance with the subrecipient procedures as well. This may involve placement on the agenda for a city council meeting, county commissioners meeting, or a state agency's director, board or commission. Scheduling requirements must be considered in the approval process to ensure that grants can be activated on time.

The subrecipient is responsible upon receipt of the agreement to review it carefully. If changes to the initial application were necessary, they are mostly likely in the Scope of Work, which contains the background, purpose, goals, deliverables, evaluation, performance measures and budget for the agreement.

MDT/SHTSS adopted executing agreements/contracts through the electronic signature process using DocuSign starting with FFY2021 agreements. The SHTSS revised the signature flow chart below to reflect the current process:

### Agreement Development

1. The NHTSA agreement template is reviewed and approved by MDT Legal, Civil Rights, ASO – Templates are prepared and approved prior to the FFY start. Revisions to the template may be developed during the year to include updated information. (Civil Rights Attachment – January).
2. Program Planners will complete the Risk Assessment and Debarment check for each subrecipient prior to award letter and contract development. Documentation uploaded to Webgrants.
3. A Master Contract list (MCL) will be maintained for all grant awards and will contain:
  - a. Entity Unique Identifier (EUI)
  - b. CTS #
  - c. Funding source budgeted to that project: for example, 405d and 402

- d. Federal Award Identification Number (FAIN), NOTE: a contract may have multiple FAINS to be included
  - e. Assistance Listing (AL) (formally CFDA), NOTE: a contract may have multiple AL to be included
  - f. Funding award amount
  - g. Start and ending date: 10/01/xx to 09/30/xx
  - h. Other attachments, i.e. SOW, Budget, Reporting Schedule, etc.
4. Agreements for all grants awarded in a fiscal year will be merged through the MCL to ensure correct funding and other information is populated.
  5. Project Planners will always use the approved template – do NOT use a saved agreement.

#### **Agreement Review and Signature Process**

1. Agreement and amendments to agreements will be reviewed by SHTSS Supervisor prior to submittal to Legal and Civil Rights for signatures through DocuSign.
2. MDT Signatures
  - a. Supervisor reviews, and approves agreement for DocuSign routing (no signature – email confirmation)
  - b. Agreement is entered into DocuSign with the following sequence for review and signature:
  - c. MDT Legal
  - d. MDT Civil Rights
  - e. Subrecipient - DocuSign will automatically route to the subrecipients as set up by the Program Manager in step 5 (a).
  - f. Rail, Planning, and Transit Administrator for final signature.
  - g. Project Planner will upload all final documents to the WebGrants systems where MDT staff and subrecipients will have access to view the document.

#### **Other Agreement Requirements**

The SHTSS grant agreement/contract must contain required Terms and Conditions as well as requiring compliance with the federal Certifications and Assurances which pertain to subrecipients. The agreement will contain sections that provide the terms and conditions governing the grant or agreement and certifies that a subrecipient will comply with the applicable regulations, policies, guidelines, and requirements as they relate to the application, acceptance, and use of Federal or State funds for the project. The Federal Certifications and assurances that are required to be imposed on subrecipients consist of:

- Nondiscrimination
- Buy America Act
- Political Activity (Hatch Act)
- Certification Regarding Federal Lobbying
- Restriction on State Lobbying
- Certification Regarding Debarment and Suspension

Subrecipients are required to become familiar with the contents of the final grant agreement form and be on notice that failure to do so will not excuse nonperformance or noncompliance.

#### **4.2 Components of the Standard Agreement**

The standard agreement template is updated annually to ensure that state and federal requirements are current prior to execution with subrecipients. SHTSS will submit the standard agreement template to MDT Legal, Civil Rights, and Fiscal Operations for review and updates prior to the beginning of the Federal Fiscal Year. The general agreement provision sections of the agreement summarize the terms of the contract between the Subrecipient and MDT. These include:

***PREAMBLE OF THE AGREEMENT*** (must include all elements below)

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

(1) Federal Award Identification.

(i) Subrecipient name (which must match the name associated with its unique entity identifier);

(ii) Subrecipient's unique entity identifier(UEI);

(iii) Federal Award Identification Number (FAIN);

(iv) Federal Award Date (see §200.39 Federal award date) of award to the recipient by the Federal agency;

(v) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;

(vii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;

(viii) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement.

(xii) Identification of whether the award is R&D; and

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per §200.414 Indirect (F&A) costs).

***ARTICLE 1. PROJECT***

*Section 1.1 Purpose of Contract.* This section explains the purpose of the agreement. This is a general statement about the highway traffic safety program.

*Section 1.2 Scope of the Project.* This section will outline the objective and activities of your project. Information provided in the original application will be used to outline the scope.

*Section 1.3 Project Description.* The original description provided in the application will be used to describe the project.

*Section 1.4 Period of Performance.* This Indicates the beginning and ending dates. The project activities must start within 10 days of the agreement being executed (signed by all parties) and generally must be completed no later than September 30<sup>th</sup>, unless otherwise noted.

*Section 1.5 Costs of Project.* Project costs shall be identified by the budget and budget narrative provided in the application for funding.

*Section 1.6 Indirect Costs.* If indirect costs will be charged to the project, they must be in accordance with 2 CFR Part 200.414 and Sub-Part F-Appendices III-VIII and approved by the cognizant agency. A copy of the approval letter must be provided to MDT prior to the charges being incurred. The percentage rate for indirect costs shall be maintained for the life of the project.

*Section 1.7 Definitions.* These apply only to projects and agreements for equipment purchases.

*Section 1.8 Equipment.* This outlines the requirements of equipment purchases.

*Section 1.9 Insurance.* All contractors, other than state and local government contractors, must file certificates of insurance with MDT's purchasing services bureau within 10 working days of notice of award and it must be valid throughout the entire contract period. Contracts will not be issued to contractors (excluding Tribal Governments) without proof of workers' compensation insurance valid with the state of Montana or proof of exemption thereof. For further information contact MDT's purchasing bureau at 406) 444-6365 or 444-6033 or fax to 444-7613.

*Section 1.10 Reporting/Close-out/Reimbursement Requests.* This outlines the requirements for reporting and reimbursement requests. For more information see *Chapter 7 – Reporting Requirements and Chapter 8 – Reimbursement Process.*

*Section 1.11 Mandatory Disclosures.* The Subrecipient must disclose, in a timely manner, in writing to the Department all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338, including suspension or debarment, in accordance with 2 CFR §200.113.

*Section 1.12 Internal Controls.* The Subrecipient must establish and maintain effective internal controls over the award and provide reasonable assurance to the Department that the Grantee is managing the award in accordance with Federal statutes, regulations, and terms and conditions of the Federal award, in accordance with 2 CFR §200.303.

*Section 1.13 Single Audit.* The Subrecipient may be subject to the audit requirements of 2 CFR 200 Subpart F if the audit threshold in 2 CFR 200.501 of \$750,000 is met. An audit must be conducted in compliance with 2 CFR 200 Subpart F if required. If a subrecipient fails to submit a single audit within the required timelines, MDT will not reimburse the subrecipient for grant expenditures. Subrecipient should cease project activity

unless subrecipient can incur the expense without reimbursement. In addition, MDT will be unable to enter into future agreements with subrecipient until compliance with this section is completed including any corrective action required is taken.

*Section 1.14 Sub-Recipient Monitoring.* The Sub-recipient agrees MDT may subject the Sub-recipient to additional sub-recipient monitoring by the MDT State Highway Traffic Safety Program, at MDT's discretion, if the Sub-recipient acts or fails to act in any way that increases the risk of sub-recipient's inability to comply with the Agreement and/or federal and state grant requirements.

## **ARTICLE 2. TERMS AND CONDITIONS**

*Section 2.1 Default.* Nonperformance by the subrecipient of any obligation imposed by this Contract, including noncompliance with the federal assurances, or reduction of local project cost funding, will constitute default.

*Section 2.2 Termination.* This agreement may be terminated at any time based upon mutual written consent of the parties. If it is considered to be in the best interests of the Department, the Department may terminate this Agreement upon giving ten (10) working days written notice to the grantee. If the agreement is so terminated prior to fulfillment of the terms stated herein, the Subrecipient shall be reimbursed only for actual expenses, both direct and indirect, incurred to the date of termination.

*Section 2.3 Litigation.* Should an issue arise with this agreement, the venue is the First Judicial District Court of the State of Montana, Lewis and Clark County.

*Section 2.4 Agreement Modification.* This agreement cannot be changed unless it is agreed upon by all parties.

*Section 2.5 Subcontracting.* If a determination is made to subcontract any part of the agreement MDT must be notified prior to a formal subcontract being executed.

*Section 2.6 Indemnification.* This clause holds MDT harmless in the event of any issues arising from the performance of this agreement.

*Section 2.7 Compliance with Laws.* Subrecipient must adhere to all state and federal laws.

*Section 2.8 Access and Retention of Records.* MDT retains the right to access any records relating to this agreement. Subrecipient will create and retain supporting records for a period of three (3) years.

*Section 2.9 Severability and Integration.* If any parts of this agreement are determined void, all other parts will still remain valid.

*Section 2.10 Waivers.* If the Subrecipient does not perform a provision of the contract as agreed upon, it does not waive them from completing the remaining provisions.

*Section 2.11 Seat Belt Policy.* Subrecipient is encouraged to adopt a seat belt use policy that applies to all employees during work hours, in compliance with state law.

## **ARTICLE 3 FEDERAL REQUIREMENTS**

*Section 3.1 Nondiscrimination.* This outlines the Federal requirements for nondiscrimination. In addition, Attachment A outlines all MDT nondiscrimination requirements.

*Section 3.2 Political Activity (Hatch Act).* Subrecipient must comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508), which limits political activities utilizing grant funds.

*Section 3.3 Certification Regarding Federal Lobbying.* As signatory to the agreement, the Subrecipient assures no funding has been provided to lobbying efforts at the Federal level.

*Section 3.4 Restriction on State Lobbying.* Subrecipient agrees that no funds will be used to influence a state or local legislator.

*Section 3.5 Certification Regarding Debarment and Suspension.* The primary participant is providing the certification set out in the clauses and agrees to comply with the requirements of 2 CFR Parts 180 and 1300. This section also contains instructions for Lower Tier Certification.

*Section 3.6 Buy America Act.* The state and each subrecipient must comply with the provisions of the Buy America Act (23 U.S.C. 313) when purchasing items using Federal funds. If subrecipient has any question on implementation of this section, contact the transportation planner assigned to the project.

*Section 3.7 Certification of Conflict of Interest.* This section requires that “No employee, officer or agent of a State or its subrecipient who is authorized in an official capacity to negotiate, make, accept or approve, or to take part in negotiating, making, accepting or approving any subaward, including contracts or subcontracts, in connection with this grant shall have, directly or indirectly, any financial or personal interest in any such subaward.” Subrecipient must disclose and conflict of interest identified as soon as reasonable possible.

*Section 3.8 Prohibition of Using Grant Funds to Check for Helmet Usage.* The State and the subrecipient will not use 23 U.S.C. Chapter 4 grant funds for programs to check helmet usage to create checkpoints that specifically target motorcyclists.

### **4.3 Special Conditions**

In addition to the general required terms and conditions which apply to every traffic safety grant agreement, the SHTSS may determine that special conditions should be imposed upon a specific subrecipient. Some reasons for the special condition may be the results of the pre-award risk assessment, nature of the specific strategy being addressed, past experience with the subrecipient or a special requirement that is not otherwise addressed in the general terms and conditions. If a special condition is imposed upon a subrecipient, the special condition shall be documented in the SHTSS agreement.

### **4.4 Grant Revisions**

Proposed grant applications and final grant agreements may be adjusted or amended prior to or after signing by mutual agreement of the parties. The alterations or amendments are not binding unless they are in writing and signed by persons authorized to bind each of the parties.

See Chapter 6 – 6.4 for contract amendment information.

# Chapter 5 - Eligible Costs

## 5.1 General

The chapter sets forth basic principles for determining eligible and ineligible costs. Allowable costs must be necessary, reasonable and allocable, and funds must be used in accordance with the agreement, appropriate statutes and grant regulations.

Additional information regarding highway safety grant funding policies for NHTSA field administered grants is available at the following web sites:

- [NHTSA Resources Guide](#)
- [Electronic Code of Federal Regulations](#)
- [2 CFR Part 215 Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations \(formerly OMB Circular A-110\)](#)
- [2 CFR Part 225 Cost Principles for Educational Institutions \(Formerly OMB Circular A-110\)](#)
- [Cost Principles for State, Local and Indian Tribal Governments \(Formerly OMB Circular A-87\)](#)
- [Cost Principles for Non-Profit Organizations \(formerly OMB Circular A-122\)](#)
- [OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations](#)
- [Use of Grant Agreements \(including fixed amount awards\), cooperative agreements, and contracts](#)

For costs to be eligible for reimbursement, they must be:

- Necessary and reasonable for the performance of the Federal award and be applicable thereto under these principles
- Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.
- Consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.
- Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.
- Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this part.
- Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or prior period.
- Be adequately documented.

Claims for reimbursement may be made only for costs incurred on or after the effective date of the agreement. No claims incurred after the completion date of the contract will be reimbursable.

## 5.2 Buy America

Subrecipients are strongly encouraged to discuss purchase of materials or equipment with SHTSS Program Planner in advance to determine eligibility of the purchase.



The Buy America Act prohibits States from using Federal highway safety grant funds to purchase products unless they are produced in the United States. The prohibition applies to steel, iron, or manufactured products unless a waiver has been requested from the Secretary of Transportation. The State of Montana and its sub-subrecipients must comply with the Buy America Act. Non-compliance will result in denial of reimbursement. (See Note below)

By entering into a contractual agreement with the Montana Department of Transportation for Federal grant funding, you are agreeing to all the requirements of the Buy America Act.

Compliance with the Buy America Act requires that sub-subrecipients retain material proof, such as receipts and/or invoices, for purchases made with Federal grant funds. Documentation for verifying origin of manufacture or assembly must be retained by the sub subrecipient for verification at the request of Montana Department of Transportation's State Highway Traffic Safety Section (SHTSS) program planners.

**Note:** NHTSA has concluded that it is in the public interest to waive the Buy America requirements for a manufactured product whose purchase price is \$5,000 or less (excluding motor vehicles). The \$5,000 threshold is in step with government-wide requirements and procedures applicable to the subrecipient purchases of equipment where the Federal review starts at the \$5,000 level. The \$5,000 includes aggregates of components to make up a complete item. (Federal Register Vol. 80, No. 125, June 30, 2015, 37359)

For more information on the Buy America Act see: [Buy America Act - U.S. Code](#)

[Buy America Act Q&A](#)

### 5.3 Personal Services

Salaries of personnel paid for in a grant contract must be new (additional) positions. The grant contract cannot be used to replace salaries of existing personnel. Exceptions may be considered for grant contracts relating to specific overtime activity. Only direct compensation for salaries for employees hired expressly for the project and for time spent on project-related activities is allowed. Timesheets must be maintained for all grant-funded personnel reflecting the dates and hours of work charged to the project.

Fringe benefits include compensation for authorized absences such as annual leave and sick leave, as well as employer's contributions to health insurance, social security, workers' compensation, unemployment insurance, etc. These must be included and approved in the project plan. Costs for authorized absences are only reimbursable up to the amount earned during the term of the project.

It is the State's responsibility to assure no double-billing of federal grant fund occurs, for example, a subrecipient charging NHTSA funds for personnel costs and then charging another agency/grantor for the same time/cost.

NHTSA no longer uses the term supplanting, however the [Uniform Administrative Requirements](#) identifies a similar principle by identifying an unallowable cost as the general cost of government.

Accurate time and attendance records are therefore required to be maintained on all personnel whose full or partial salary is charged to a grant project. If your grant contains funding for personnel and/or overtime, backup documentation in the form of time cards, computerized payroll records, or other generally accepted accounting documents proving an employee has been paid is required to substantiate personnel expenses incurred for the grant project. However, the goal is to work with the payroll system printouts subrecipients have readily available rather than require special reports.

### **NEW Paying for Law Enforcement and Prosecutors' Activities**

NHTSA Grants frequently reimburse efforts by law enforcement and prosecutors who are subject to the Supercircular's general costs of government limitation. NHTSA provided clarification on the treatment of **salary** and **training** costs specifically for both full and part time law enforcement performing enforcement activities and for prosecutors under NHTSA grant programs. This guidance does not cover law enforcement liaisons and law enforcement officers performing the role of DRE/SFST/ARIDE coordinators that are not performing "government" services normally provided to the general public.

The guidance specifically outlines the following interpretation:

1. Compensation and Benefits – Reimburse time spent performing activities, not positions.
2. Training – if a law enforcement officer or prosecutor training is an eligible cost, so is his/her compensation during that eligible training. For training costs to be reimbursable, the training must (1) be an eligible expense under the particular NHTSA grant program, AND (2) be specifically included as an activity in an executed project agreement. Therefore, not all training is allowable.

For details on compliance with this guidance consult the publication released by NHTSA on 8/13/19:

[Paying for Law Enforcement and Prosecutors' Activities](#)

### ***5.4 Travel/Training Expenses***

Federal traffic safety grant regulations only allow the reimbursement of meeting and conference costs when the training supports objectives of the State's highway safety program. Allowable costs include transportation, meals, lodging, rental of meeting facilities, etc., incurred in accordance with the subrecipient's travel policies. If documented policies do not exist, state travel policies will apply. [Review state travel policies.](#)

Subrecipient out-of-state travel requires individual written approval from MDT prior to incurring costs. These costs should be submitted in the budget section of the original application. In the event out-of-state travel was omitted from the original proposal, the subrecipient must submit a written request to SHTSS for approval.

Travel required to perform the duties and outreach of the position is reimbursable, however, must be outlined in the budget submitted with the contract.

### ***5.5 Procurement of Goods and Services***

To meet the project objectives, subrecipients may need to procure goods or services. The subrecipient must use its own documented procurement procedures which reflect applicable state, local, and tribal laws and regulations. The subrecipient must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

As part of on-going monitoring, SHTSS will periodically review subrecipient contract and professional service agreements.

### ***5.6 Equipment***

Costs for equipment purchases are allowable only when the use is necessary for the administration of project activities. All equipment purchases must be specifically outlined in the project proposal. If not included in the original proposal, written approval from SHTSS is required prior to purchase. Equipment purchased with federal funds may not be disposed of in any manner by the subrecipient without written approval from SHTSS. Equipment is defined as "Major item of apparatus or equipment" which means an item with a useful life of more than one year and costing \$5,000.00 or more per unit. These items require NHTSA approval as per 23 CFR

§1300.31. The price of equipment includes modifications, attachments, accessories, or auxiliary apparatus. If a subrecipient is applying to purchase equipment with purchase price greater than \$5,000, contact SHTSS for direction.

If SHTSS receives a request to purchase equipment over \$5,000, the SHTSS will submit the request to the Regional Administrator at NHTSA requesting approval. Equipment request will be included in the 402 Highway Safety Plan. No equipment over \$5,000 will be purchased without prior approval from NHTSA. For equipment reporting requirements see Chapter 7 – Reporting Requirements, 7.3 Equipment Reporting.

All equipment, including tools, for which purchase reimbursement is sought, will be used exclusively for traffic safety purposes. The equipment purchases are subject to the following provisions as provided by MDT's legal staff:

- (a) Any major item of apparatus and equipment for which reimbursement is sought and which is not identified specifically in the Proposal and approved as part of this Agreement shall be submitted in writing for approval by the Department prior to the purchase.
- (b) A major item of apparatus or equipment must be obtained by proper competitive practices in accordance with State of Montana purchasing laws and regulations.
- (c) The Subrecipient must certify that the equipment costs shown in the Proposal as direct costs are excluded from the items in the indirect cost calculation, if applicable.
- (d) The Subrecipient agrees to properly title any vehicle or other equipment which requires a title by State statute, in Subrecipient's name.
- (e) The Subrecipient agrees to activate the warranty on any equipment for which a warranty is available.
- (f) The Subrecipient agrees to maintain records of any equipment and make such records and equipment available for inspection by the Department or its authorized representatives.
- (g) The Subrecipient agrees to maintain the equipment for its stated program purposes for the useful life of the equipment.
- (h) The Subrecipient agrees to retain ownership and/or title to the equipment for the equipment's useful life, and shall not sell, convey or otherwise transfer title or ownership of the equipment to any other governmental or private party, except as stated in this Agreement.
- (i) The Subrecipient agrees to notify the Department if the equipment is not suited for its stated program purpose, or is not in actual use by Subrecipient as stated in the Agreement at any time during the useful life of the equipment. Subrecipient agrees it shall not discontinue use, abandon, store, or otherwise cease use of the equipment for any reason whatsoever, unless notification is provided to the Department.
- (j) The Subrecipient agrees that any equipment not in actual use by Subrecipient during the equipment's useful life may be recovered by the Department, and possession (or title where applicable) transferred or conveyed permanently to the Department for redistribution to other program recipients.
- (k) The Subrecipient agrees that any equipment which reaches the conclusion of its useful life may be disposed of by Subrecipient, with prompt notification to the Department.
- (l) The Subrecipient agrees that it shall maintain records of the disposition of the equipment after its useful life, for a period of three years beyond the disposition date.

NHTSA Guidance states that costs for construction, rehabilitation or remodeling of any buildings or structures or for the purchase of office furnishings and fixtures are unallowable. Some examples include: chair, table, shelving, coat rack, bookcase, filing cabinet, floor covering, office planter, portable partition, pictures or wall clock, draperies and hardware, fixed lighting/lamp. The guidance should be consulted for other unallowable costs and equipment costs.

## 5.7 Sponsoring Meetings/Conferences

The cost of organizing meetings and conferences is an allowable cost. The primary purpose of the conference must be for the dissemination of technical and educational information that supports objectives of the State's Highway safety program. Eligible costs include lodging, meals, transportation, rental of meeting facilities and other incidental costs. Adequate records must be maintained to document what information was provided, stakeholders that attended and the appropriate costs. An individual's salary while pursuing training (unless already paid for by the grant safety project) and overtime for police officers attending drug recognition expert (DRE) training, are unallowable costs.

Cost for the development of new materials is allowable provided it does not duplicate materials already developed for similar purposes.

## 5.8 Public Information and Education (PI&E)

Guidance has been provided by NHTSA on allowable items/costs for PI&E, Equipment, Recognition Awards, Advertising Media, and Safety Items for Public Distribution. A memorandum was issued by NHTSA on May 18, 2016. SHTSS will follow this memorandum. Below is selected clarification from the memorandum on educational and promotional items.

*On May 18, 2016, NHTSA issued a revised guidance memorandum entitled, "[Use of NHTSA Highway Safety Grant Funds for Certain Purchases](#)" which supersedes two prior documents issued in 2016. Following is a summary of the major provisions. All costs charged to NHTSA highway safety grants must support data-driven State traffic safety goals, be reasonable, within the scope of the grant, address a highway safety problem and help to meet performance measures.*

**Public Information and Educational Material** – is material that educates and informs an audience. Allowable expenses include paper, pamphlets, flash drives, CD-ROMS, and similar media that contain educational materials as their purpose is to contain and convey educational information to a broad public audience. In order to be considered educational, distributed material must provide substantial information and educational content to the public – not merely a slogan - and have the sole purpose of conveying that information. This does not include items that incentivize behavior.

*Examples of allowable educational materials:*

- Traffic-safety themed coloring book given to children at a school event, state fair, etc.
- A pamphlet including statistical information such as "X number of people lose their lives every year when not wearing a seat belt" and safety tips distributed at an event.
- A flash drive containing information about the dangers of texting and driving (e.g., statistics, ideas to prevent texting while driving).
- A folder containing information about child passenger safety (e.g., statistics about car seat or booster seat laws, proper car seat installation and use, danger of leaving children unattended in vehicles, etc.) and relevant safety tips provided to parents at a car seat inspection station.
- A CD-ROM or flash drive containing conference or training materials given to attendees at a highway safety conference hosted by the recipient or subrecipient.

**Note:** The content of all educational information and materials to be purchased with Federal funds must be submitted to SHTSS for review and written approval prior to final production. *Note that OMB Super Circular has additional provisions that apply to certain items. For example, certain educational materials costs may be subject to the Super Circular Provision on Conference Costs (2 C.F.R. §200.432).* States should consult Subpart E

of the Super Circular (Cost Principles) to determine if there are additional provisions that pertain to a particular item or use of that item.)

Reproduction of NHTSA or other Federal government endorsed material already approved is permissible without SHTSS approval. The cost of the items must still, however, be included in the grant agreement budget. When educational items are included in a grant's activities, the target audience, purpose and expected outcome for the items should be described in the application objectives and included in the proposed budget. In addition, the subrecipient should report the outcome when submitting their quarterly report.

**Recognition Awards** - NHTSA highway safety grant funds may be used to purchase awards, where appropriate, under a formalized program that recognizes superior performance or exceptional contributions to the purposes served by the NHTSA grant. An appropriate award may be a certificate, plaque, coin, or medal, if it is given under a limited, formalized recognition program.

*Examples of allowable recognition awards:*

- A plaque given by the SHTSS to a police department at the annual highway safety conference for specific outstanding enforcement efforts.
- A certificate given by the SHTSS to an employee for exceptional work in a specific enforcement effort.
- A medal given by the SHTSS at a state Lifesavers conference to an individual for career of exceptional service to public safety.
- A letter signed by the head of SHTSS recognizing the outstanding achievements of a subrecipient.
- A medal or coin given by a subrecipient to a police officer as a formal award for a specific superior highway safety enforcement performance (not a challenge coin for general distribution).
- A certificate given by a subrecipient to a community partner for exceptional work on a collaborative highway safety project.

**Safety Supplies and Equipment** – An item that serves a safety function required to protect personnel during performance of a project is an allowable expense. The key is that these items must be needed by those carrying out the work under the grant and are kept by the state or the subrecipient for use by the program, not distributed for retention by individuals.

*Examples of allowable safety supplies and equipment:*

- Reflective safety vest for use by employee conducting a roadside survey at night and retained by the program.
- Bike helmet for use by participants in a bike rodeo event and returned to the program after the event.
- Safety gear – including helmets, safety vests, reflective material – for use by trainees during motorcycle training events and returned to the program after training.

**Advertising Media** – Advertising media intended to reach a large audience – such as television or radio ads, ads on social media, banners and posters – are allowable costs under NHTSA's Highway safety grants. The Uniform Guidance for the Section 402 program provides that "the State should enlist the support of a variety of media, including mass media, to improve public awareness and knowledge and to support enforcement efforts about seat belts, air bags and child safety seats." The content of advertising media to be purchased with Federal funds must be submitted to SHTSS for review and written approval prior to final production.

*Examples of allowable advertising media:*

- Banners or posters featuring the Click it or Ticket campaign for use at events
- A "U text. U Drive. U Pay." Banner displayed in a school.
- A television ad about the dangers of impaired driving.
- Posters displayed in bars that say "report every drunk driver immediately and #".
- A yard sign telling drivers to watch for motorcycles.

### **Promotional Items are NOT allowable costs under NHTSA Grants**

The OMB Super Circular (see 2 C.F.R. Section 200.421) makes it clear that no promotional items or memorabilia are allowable costs under Federal Grants. Use of NHTSA grant funds to purchase promotional items or memorabilia is prohibited and could result in the requirement to repay the misused funds. An item that is purchased for distribution as an incentive or to increase goodwill (e.g., to police officers to maintain partnerships) is an unallowable promotional item. Any item that is distributed as a giveaway, except as described in educational materials, is not allowable. These prohibitions only apply to NHTSA funds, states and subrecipients may use State funds or privately collected funds or donations to purchase promotional items subject to applicable State laws and policies.

*Examples of non- allowable promotional items or memorabilia:*

- Bumper stickers,
- Key chains and/or pens given to groups at trainings,
- Shirts for volunteers at an event or car seat installation center (either as an incentive or to identify staffers as a team)
- Shirts for law enforcement, shirts or hats worn by participants at a press event,
- Helmets given to participants in a bike rodeo to take home,
- Challenge coins, when ordered in bulk and kept on hand to give to many people outside of a limited, formalized recognition ceremony,
- Items such as flashlights, general law enforcement equipment, duty bags, jackets or even plaques given to members of law enforcement to encourage or incentivize participation,
- A folder or binder given to attendees at a conference or training that is more expensive than necessary to hold the provided materials.

## **5.9 Indirect Costs/Administrative Fees**

Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefited cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) or IDC rate is usually necessary for each department or agency of the governmental unit claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled "A Guide for State and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government." A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

Effective with FY 2016, Uniform Guidance issued by the Office of Management and Budget (OMB) became effective for NHTSA funded highway safety grants. Several prior OMB circulars were consolidated into the Uniform Guidance. The following information on IDC rates applies to grants finalized after FY2016. For information regarding the requirements for grants prior to FY2016, reference should be made to [State and Local Indirect Cost Rate Proposals](#); [Cost Principles for Non-Profit Organizations](#); and [Cost Principles for Educational Institutions](#).

NHTSA has issued written answers to questions regarding implementation of the Uniform Guidance 2 CFR Part 200.331(a)(4) including IDC rates on March 5, 2015, June 2015 and August 20, 2015. The guidance provides specific interpretations of the rules as they pertain to IDC rates and should be frequently referenced.

Effective with FY2016 grants, a subrecipient that does not have a previously established IDCRC may either negotiate a rate with the SHTSS or elect to charge a de minimus rate of 10 percent of modified total direct costs as defined in the Uniform Guidance. The SHTSS may not force or entice the subrecipient without a federally recognized IDCRC to accept a rate lower than the de minimus rate. If a subrecipient has a federally negotiated IDCRC and requests that rate, the SHTSS must pay that rate and may not request or require the subrecipient to offer a lower or zero IDCRC. Refer to link below.

Subrecipient guidance:

Indirect cost (IDC) must be in accordance with [2 CFR 200.414 - Indirect Costs](#) and approved by your federal cognizant agency. A copy of the IDC approval letter must be submitted to the Department before it can be accepted. If the Montana Department of Transportation is your organization's primary source of federal funds, then a copy of your indirect cost plan must be submitted to MDT for review and approval. The percentage rate for indirect costs shall be maintained for the life of the project.

## 5.10 Program Income

Traffic safety grants are intended to provide financial start-up for projects to become self-sustaining. Some projects conduct activities that generate income to cover present and future costs. When subrecipients earn money for their services or products, this is defined as "program income". Federal regulations allow program income for MDT grants. This income may be added to the Federal award.

Income earned by the subrecipient with respect to the grant (i.e., registration fees charged, services charges, etc.) must be accounted for fully and applied to project purposes under the conditions of the Federal Award.

Program income means gross income earned by the subrecipient directly generated by a program supported activity or earned only as a result of the grant agreement during the period of time between the effective date and the expiration date of the grant award. Such earnings may include but are not limited to:

- Income from fees for services performed
- Sales of commodities or items fabricated under the grant
- Usage or rental fees from real or personal property (equipment) acquired with grant funds
- Payment of principal and interest on loans made with grant funds

SHTSS must approve a request to earn program income. There must be a clause or an amendment in the grant agreement which states the grant will earn program income and the subrecipient will expend the monies to fulfill the objectives of the program under which it was generated. Recommended language for grants generating program income could include:

- All program income earned during the grant period shall be retained by the subrecipient and, in accordance with the grant or other agreement, shall be added to Federal funds committed to the project and be used to further eligible program objectives.
- Program income that remains unexpended after the grant ends shall continue to be committed to the original grant objectives.

Subrecipients must record and report on all program income, to include the disbursement of revenues as a part of the grant reporting requirements. The following information must be included in the report:

- The amount of the program income earned the current period;
- The previously accumulated program income by cost category where it was expended;
- The amount of program income previously expended by cost category;



- The amount of program expended in the current period by cost category;
- The remaining program income balance by cost category, if any.

Donations (monetary or in-kind) are considered program income if the subrecipient or subrecipient receives funds directly generated by a grant supported activity or earned as a result of the grant agreement during the relevant time period.

See [2 CFR Part 200.307](#) for more information on program income.

### **5.11 In-Kind Contributions/Matching Funds**

In-kind contribution or matching funds are not required to be eligible for traffic safety grants at this time. However, it is strongly recommended that subrecipient’s partner with other groups and individuals that have an investment in highway traffic safety and the specific project. In-kind or matching funds should be reflected in the application for funding.

### **5.12 Ineligible Costs**

Below is a list of non-allowable items that pertain to the state’s traffic safety grants. The list does not contain all non-allowable items, so all purchases must be outlined in the grant application’s budget for review and approval.

- Costs for construction, rehabilitation, or remodeling for any buildings or structures or for purchase of office furnishings and fixtures. The following are some examples of those items: desk, credenza, storage cabinet, lamps, chair, bookcase, table, fixed lighting, filing cabinet, shelving, floor covering, wall clock, draperies, coat rack, office planter, picture, portable partition.
- Supplanting, including: (a) replacing routine and/or existing state or local expenditures with the use of federal grant funds and/or (b) using federal grants funds for costs of activities that constitute general expenses required to carry out the overall responsibilities of State or local governments.
- Alcoholic beverages for any consumption purposes, including controlled settings for the training of law enforcement officers in techniques for determining driver impairment.
- Entertainment, amusement and social activities and any costs directly associated with such costs (such as food, event/show tickets, lodging, rentals, transportation, and gratuities.)
- Public information and education material that does not have a traffic safety message.
- Replacement of lost, damaged or stolen equipment.
- Pre-agreement costs (costs incurred before the project begin date).
- Other costs including contributions/donations, fines/penalties, interest and other financial costs, legislative expenses (lobbying is prohibited), and maintenance and repairs to existing/non-project funded equipment.

# Chapter 6- Grant Administration

## 6.1 General

This chapter contains information regarding the overall administration and management of project grants.

## 6.2 Subrecipient Responsibilities

The subrecipient is responsible to comply with all aspects of the agreement. Additionally, to facilitate the management of the project the subrecipient is expected to:

- Promptly notify the MDT program planner by phone, e-mail, or letter of any agreement changes, personnel change including sub-sub recipient contracted services, or problems that arise during the project period;
- Ensure budgeted costs are in accordance with the contractor’s standard policies and procedures;
- Ensure accounting records are maintained that separate and accurately record project costs;
- Ensure claims for reimbursement are limited to those specifically authorized in the project agreement and are allowable, documented and verifiable;
- Participate in periodic assessments, audits, management reviews, etc. as identified by MDT;
- Provide access to requested documents and personnel to SHTSS during on-site reviews;
- Establish operating procedures and controls that will ensure adequate administration of the project in accordance with the terms of the agreement.
- If the subrecipient experiences any difficulties implementing and/or maintaining the agreement, contact MDT for assistance.

## 6.3 MDT Responsibilities

The SHTSS employees responsible for the day-to-day oversight of grants are called Transportation Planners. Each planner is responsible for tasks associated within their programs area(s) of responsibility, or as assigned. Tasks include final grant agreement preparation, execution, and administration of the grants. Planners will monitor and evaluate the subrecipient’s performance and will expedite reimbursement claims processing without unnecessary delays.

MDT-SHTSS is responsible for oversight of all agreements. This includes:

- The review and evaluation of each project;
- Ensuring agreements contain all pertinent information and forms;
- Assisting the subrecipient in understanding and complying with the agreement requirements;
- Monitoring the project. See Chapter 9;
- Reimbursing contractor for allowable expenses.

## 6.4 Agreement Adjustments and Amendments

Once the project agreement is finalized, it may become necessary due to changes to adjust or amend an agreement. SHTSS will determine if the action to be taken is an agreement “adjustment” or “amendment.”

**Agreement Adjustments** are considered minor adjustments to either an activity of the project or budget item and do not affect the overall scope of the project. Requests for project adjustments should be communicated by the Subrecipient in advance of the proposed activity and prior to the project end date to the project planner for approval. All grant adjustments must be documented in webgrants.

The following are examples of instances which would be considered an agreement adjustment:

- Budget transfers between category items up to 10% of the total agreement budget.
- Changes to the project activities/objectives that do not affect the scope of the agreement.
- Mini grants are typically limited to \$5,000 or less, and in most instances any changes to the grant agreement would be an adjustment.

When determining approval of agreement adjustment, MDT consideration may include, but are not limited to:

- Current and past performance;
- Time period of grant adjustment request;
- Timeliness and quality of claims and quarterly reports;
- Circumstances and justification for the request.

**Agreement Amendments** are considered major changes to the agreement that are not in line with the project scope, major budgetary adjustments, increased agreement amount or extending the agreement end date. Amendments are approved on a case-by-case basis and must be signed off on by authorizing officials. Amendments are not binding unless they are in writing and signed by persons authorized to bind each of the parties.

Project amendments must be communicated by Subrecipient in advance to the project planner and requires approval from MDT. Unless there are special circumstances approved by MDT, agreement amendments must be executed prior to the effective date of the change event. Grant amendments requests must be received no later than 30 days prior to the agreement expiration date. Request received after 30 days may not be approved. All agreement amendments must be documented in webgrants.

The following are examples of instances which requires an agreement amendment;

- Extension to the project dates;
- Significant changes to the project activities/objectives that are not in line with the original project scope;
- New major purchase or purchases of activities not within the original scope; i.e. equipment over \$5,000
- Request for additional funding over the total agreement amount.
- For agreements over \$50,000, transfer of category items in excess of 10% of the total budget.

When determining approval of an agreement amendment, MDT consideration may include, but are not limited to:

- Current and past performance;
- Time period of grant amendment request;
- Availability of funds;
- Timeliness and quality of claims and quarterly reports;
- Circumstances and justification for the request.

## 6.5 Consequences of Non-Compliance

Program planners will assess the subrecipient's implementation of the project through communication with the subrecipient, subrecipient's completion of required quarterly/period reports and fiscal claims and assessing the subrecipients progress toward meeting the objectives of the agreement throughout the fiscal year. If the project is not being implemented according to the terms of the agreement, or if the contractor violates state or federal laws, MDT's program planner has the responsibility to consult with MDT Legal staff.

SHTSS will follow Chapter 11 of MDT's Accounting Manual, Subrecipient Monitoring.  
<https://mdtinfo.mdt.mt.gov/other/webdata/internal/administration/manuals/acct/ch11.pdf>

This policy states that program personnel will "consider taking enforcement action against noncompliant subrecipients as described in CFR 200.338 [Remedies for Noncompliance](#) of this part and in program regulations." The standard agreement/contract language under Section 2.2 Termination will apply if an agreement is to be terminated.

Should MDT deem it necessary to reduce or terminate grant funds, the project director will first receive a letter citing unacceptable project discrepancies, required corrective action, and a description of the penalty for not rectifying said discrepancies by a specified deadline.

If corrective action is not taken by the subrecipient by the deadline date set by MDT, the stated penalty will be imposed. Payment for allowable costs up to the date of termination or reduction of grant funds will be subject to negotiation and availability of federal funds.

## 6.6 Subrecipient Request for Termination/ MDT Termination

Agreements may be rescinded upon written request by the contractor when the project cannot be implemented. Upon review and approval by MDT, an agreement may be terminated without prejudice when the contractor determines they are unable to continue with the work for justified reasons beyond its control. In such circumstances, the contractor must notify MDT immediately and the reimbursement of claimed costs to the date of termination is limited to the actual expenditures incurred. The standard agreement/contract language under Section 2.2 Termination will apply.

If it is considered to be in the best interests of the Department (MDT), the Department may terminate this Agreement upon giving ten (10) working days written notice to the Subrecipient. The standard agreement/contract language under Section 2.2 Termination will apply.

## *Chapter 7- Reporting Requirements*

### *7.1 General*

SHTSS requires contract and grant recipients to periodically report their progress and to complete a final report showing the accomplishments, difficulties or challenges of their program. Final reports are used to measure the performance of a program and justify continued funding from NHTSA.

### *7.2 Reporting Requirements*

Subrecipient shall advise the State in writing of project progress at such times and in such manner as the State may require per the contract reporting schedule. Reports are due 30 days following the end of the reporting period, which may be monthly, quarterly, or by period. The final report shall serve as close-out for contracts. Reimbursement requests will not be considered unless accompanied by or referring to a submitted progress report.

### *7.3 Equipment Reporting*

For all equipment purchases, the subrecipient must complete the equipment reporting form provided by SHTSS, which outlines the item description, make, model, serial number, cost, date of purchase, date received and the location of the equipment. No reimbursement for equipment will be made until the form is complete.

All equipment purchases in a fiscal year require a reporting summary in the annual final project report to monitor progress and usefulness of the equipment purchased.

All equipment with a value of \$5,000.00 or more and a useful life of more than one year will be inventoried through a certification process every two years. SHTSS staff will contact equipment subrecipients to conduct this inventory. The process for this inventory is as follows:

- a. SHTSS will send the certification form to contractors with equipment.
- b. The responses will be compiled from the returned certification forms in a spreadsheet. The spreadsheet will indicate the current status of the equipment: in service or not in service. If not in service, the spreadsheet will indicate whether or not the equipment was transferred and to whom, disposed of, destroyed, returned to MDT, etc.
- c. Any issues noted during this process will be resolved by the assigned program planner. The program planner will consult with the Bureau Chief if major issues arise concerning the status of equipment.

Equipment purchases will be inventoried by SHTSS according to the year of purchase. This will be available for NHTSA review as necessary. For more information regarding equipment purchases, please see 5.6 Equipment.

### *7.4 Progress Reports*

Reports and reimbursement requests are due 30 days following the end of the reporting period outlined in the agreement/contract. The fourth quarter or final period shall serve as the final report and close-out for contracts. Unless otherwise directed by MDT, all status reports and reimbursement requests shall be submitted through Webgrants and follow the schedule outlined in the agreement/contract for reporting periods.

A progress report is required with each submission of a claim invoice for reimbursement. Subrecipients are encouraged to include any original or innovative ideas or methods employed in the project report.

These reports may include the following to convey the goals and scope of work outlined in the grant agreement are being met.

- Description of activities conducted to achieve goals and objectives of the agreement;
- Relationship of these activities to the projects phase or time schedule;
- Current and project-to-date report on progress for each goal and objective;
- Comprehensive explanation of any challenges, difficulties, or delays;
- Anticipated effect of delays on total project cost and time schedule; and
- Detailed plan of action to correct any deficiencies in meeting goals and objectives, if necessary.

A report must be filed every quarter or period regardless of whether or not activity has taken place or grant related expenditures have occurred. The report should be submitted indicating no progress has been made on the project. Note: STEP reporting is submitted on a different schedule based on activity. Consult with SHTSS for appropriate schedule.

### **7.5 Final Reports on Project Outcome**

At the end of the federal fiscal year the final report provides a summary of all activity, especially in terms of meeting the objectives stated in the agreement. This report is used to:

- Determine project impact in reducing or solving identified traffic safety problem(s);
- Determine project contribution to applicant's/Montana Highway Traffic Safety program;
- Evaluate benefits derived in relation to costs incurred; and
- Identify solutions that can be used to assist other agencies with similar program deficiencies.

The reports should include:

- Accomplishments compared to the original grant objectives;
- Were all activities of the grant completed as scheduled? Data and milestones when studies were completed should be included;
- Equipment purchased should be identified;
- Any unanticipated issues that affected the grant;
- Funding and costs for completion of the grant relationship to the original estimates;
- Third party performance if applicable. A copy of any consultant reports should be included with the final reports; and
- A budget clearly identifying expenditures and remaining budgetary balances

### **7.6 Special Progress Reports**

Special reporting may be required due to monitoring outcomes, risk assessment status, etc. If so, frequency and requirements will be detailed by SHTSS in the grant agreement or an amendment to the agreement.

# Chapter 8-Reimbursement Process

## 8.1 General

SHTSS programs operate on a reimbursement basis. SHTSS is required to reimburse contractors within 30 days of receipt of a properly completed invoice in accordance with state law.

Unless otherwise directed by MDT, subrecipients should use the Montana Department of Transportation Highway Traffic Safety Project Reimbursement Claim Form generated from the Webgrants system. Claims should be prepared using the subrecipient's accounting records and based only on recorded costs for the period covered. Claims will not be processed without accompanying project status reporting, see Chapter 7.2 Reporting Requirements for more information.

## 8.2 Subrecipient Responsibilities

Each subrecipient will submit a reimbursement claim form and documentation through the webgrants system in accordance with the agreement. Those authorized to submit claims are listed as the Project Director, Fiscal Contact and/or Point of Contact, or an authorized delegate. Reimbursement claims certified electronically in WebGrants are considered to have the authorized signature.

### Webgrants Claim Certification statement:

*By checking this box, I hereby certify that in accordance with the laws of the State of Montana and under the terms of the approved program and signed contract, all claim information is correct. Supporting documentations including: time slips, invoices, disbursement vouchers, etc. are attached. Originals are maintained by Grantee and available for audit.*

To ensure claims are not returned and reimbursements are timely, abide by the following criteria:

- Costs must correspond with the line items authorized in the budget for each category;
- Costs must be actual, allowable and supported by adequate documentation
  - Attachments include:
    - Timesheets completed and approved by a responsible official
    - Accounting statements
    - Legible invoices
- Costs must be necessary and reasonable for the performance of the Federal Award
- Both federal and non-federal costs must be accorded consistent treatments by subrecipient
  - Costs must be consistent with policies and procedures that apply uniformly to both federally-finance and other financial activities of the non-federal entity
- Salaries, Wages, & Benefits must be based on actual payroll expenditures
- If approved Equipment exceeding \$5,000 has been purchased
  - Attach a signed and completed MDT Equipment Reporting Form for all equipment purchased (which must reconcile to invoices submitted)
- Be sure claims are correctly computed and reconciled;
- Do not exceed the amount budgeted in any line item. If budget amendments are necessary, consult with SHTSS prior to further expenditures in the line item;
- Do not include any costs outside the scope of the project agreement.

All subrecipients have the responsibility of maintaining an accurate, current accounting system supported by proper documentation. Source documents must be on file to support all expenditures charged to or incurred by the project.

All expenditures must adhere to the requirements of Appendix B to Part 225 of CFR Title 2 [Cost Principles for State, Local, and Indian Tribal Governments](#) and other requirements summarized in the contract Scope of Work

- Factors affecting allowability of costs:
  - Be necessary and reasonable for proper & efficient performance and administration of Federal awards
  - Be allocable to Federal awards
  - Be consistent with policies, regulations, & procedures that apply uniformly to both Federal awards & other activities of the governmental units
- Reasonable costs:
  - A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost
  - Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the Federal award
  - Market prices are comparable for goods or service
- Direct costs are:
  - Those that can be identified specifically with a particular final cost objective
  - Compensation of employees for the time devoted and identified specifically to the performance of those awards
  - Cost of materials acquired, consumed, or expended specifically for the purpose of those awards
  - Equipment and other approved capital expenditures (exceeding \$5,000)
  - Travel expenses incurred specifically to carry out the award
- Compensation for personal services includes:
  - All remuneration paid currently or accrued, for services rendered during the period of performance under Federal awards, including but not necessarily limited to:
    - wages, salaries, and fringe benefits
  - The costs of such compensation are allowable under 2 CFR Part 225
  - That the total compensation for individual employees:
    - Is reasonable for the services rendered
    - conforms to the established policy of the governmental unit
    - consistently applied to both Federal and non-Federal activities
  - Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the governmental unit
- Fringe Benefits are allowable to the extent that the benefits are reasonable and are required by law, governmental unit-employee agreement, or an established policy of the governmental unit
- Fringe benefits include, but are not limited to:
  - the costs of leave



- employee insurance
- pensions, and
- unemployment benefit plans
- workers' compensation

The subrecipient must retain all project source documents (e.g. cancelled checks/vouchers, paid bills and invoices, payrolls, timesheets and all other records of acquisition). These documents must be available for audits and monitoring visits and kept for a period of 3 years following the contract fiscal year of funding. In accordance with the contract, Section 2.8, Access and Retention of Records, the subrecipient agrees to provide the Department, USDOT, the legislative auditor or their authorized agent access to any records concerning this agreement. This language is communicated with subrecipients when necessary to ensure contract compliance.

### **8.3 SHTSS Responsibilities**

The SHTSS is required to reimburse subrecipients within 30 days of receipt of a properly completed invoice in accordance with state law. Invoices must also be processed in an effective, efficient manner that meets all compliance requirements of the State of Montana, MDT accounting policies, and USDOT.

SHTSS staff are responsible for ensuring that each item claimed meets the following criteria:

- Is within the approved budget
- Costs are in the proper category
- The project person, designee, or authorized person from the contract signature page has certified the reimbursement expense voucher
- Equipment purchases of \$5,000 or more were approved in advance by SHTSS and NHTSA and include a copy of the invoice and completed equipment inventory form.
- The costs are allowable, applicable and appropriate in accordance with the Code of Federal Regulations [2 CFR Part 200 Subpart E Cost Principles](#) and [NHTSA Grant Funding Policies](#).

The Transportation Planner will verify that all supporting documentation is correct and complete to support the claim and that expenditures are within the contracted budget. Once the claim has been reviewed and confirmed, it is transferred to the Grants Accountant for MDT coding. After the coding is complete, and verified by the transportation planner, the SHTSS Supervisor does a final review and approval of the claim.

For final closeout payments, SHTSS will not approve a claim for payment until the final report has been submitted and contract compliance has been verified. Final reports are due October 30 and the final reimbursement request forms are due to MDT by November 15.

### **8.4 Entry of State/Local Matching Share**

In addition to actual costs to be reimbursed to the State, federally required match funds must be calculated annually by the Grants Accountant. The state match is entered into the Grant Tracking System (GTS) when reimbursement vouchers are submitted by the ASO accountant. This calculation determines the total funds, Federal and State match, which have been spent for all the National Highway Traffic Safety Administration (NHTSA) funding sources. Note: GTS is transitioning to the new GMSS system. SHTSS will comply with new procedures as they are developed by NHTSA.

The Grants Accountant shall establish a reliable process which ensures that Federal program match information entered into GTS for all traffic safety grants is based on the actual program match amounts calculated by the SHTSS which reflect submitted expenditures on subrecipient reimbursement claims submitted to the SHTSS for reimbursement. The SHTSS shall ensure the actual program match amounts reported by subrecipients and maintained on the federal tracking system, GTS, are fully documented, retained, and available for review by NHTSA representatives. If in fact such program match amounts are insufficient to meet overall program match requirements, then the SHTSS shall arrange for additional sources of legitimate program match to eliminate the shortfall. The entry of required State/local match information into GTS should be completed at the beginning of the Federal fiscal year and then rechecked when reimbursement vouchers are submitted and at fiscal year-end closeout. NHTSA issued guidance on determining the [Non-Federal Share](#) (i.e., Match) August 13, 2019 for further clarification.

### ***8.5 Reporting of Benefit to Locals – Requirement 40%***

Local benefit expenditures should be reported in GTS when reimbursement vouchers are submitted (no later than March 31 of the current federal fiscal year AND shall be reconciled at closeout to ensure full compliance when preparing the final voucher. [23 CFR Part 1200.33(b)(3)] The 40% requirement need not be met when monthly vouchers are submitted, but whatever local benefit that has been expended by close of the federal fiscal year end should be reported. If the percentage appears to be significantly low the SHTSS should do further research to determine the cause. Current local benefit source documentation must be readily available on site including evidence of an active local voice in the initiation, development and implementation of the programs when sub grants are directed to State agencies and local benefit is claimed. See 23 CFR Part 1300 Appendix C- Participation by Political Subdivisions.

### ***8.6 Submission of Federal Reimbursement Voucher***

MDT Accounting Systems Operations, in cooperation with the Grants Accountant shall submit a Federal reimbursement voucher to NHTSA at least quarterly and no later than the 15 working days after the end of each quarter. Where a State receives funds by electronic transfer at an annualized rate of one million dollars or more, vouchers shall be submitted on a monthly basis no later than 15 working days after the end of each month. A final voucher shall be submitted no later than 90 days after the end of the fiscal year and all unexpended balances shall be carried forward to the current fiscal year.

There is no requirement that the monthly voucher requirement pertain to only “new” funding; only that vouchering must be conducted monthly.

At a minimum, each voucher shall provide the following information for expenses claimed in each program area:

- a) Program Area for which expenses were incurred and an itemization of project numbers and amount of Federal funds expended for each project for which reimbursement is being sought
- b) Federal funds obligated
- c) Amount of Federal funds allocated to local benefit (provided no less than midyear (by March 31) and with the final voucher)
- d) Cumulative Total Cost to Date
- e) Cumulative Federal Funds Expended
- f) Previous Amount Claimed
- g) Amount Claimed This Period

h) Matching rate (or special matching write off used, i.e. sliding scale rate authorized under 23 USC 120).

Copies of each project agreement for which expenses are being claimed under the voucher (and supporting documentation for the vouchers) shall be made promptly available for review by the NHTSA Regional Office upon request. Each project agreement shall bear the project number to allow the NHTSA Regional Office to match the voucher to the corresponding activity.

The SHTSS shall work with the various Department divisions responsible for the State and Federal accounting and reimbursement process to ensure that Federal reimbursement vouchers are complete, accurate and in full compliance with the requirements contained in 23 CFR §1300.33 (a) - (e).

### ***8.7 Federal Reimbursement Rejection***

Failure to provide the required information shall result in rejection of the voucher. Failure to meet the stated deadlines may result in delayed reimbursement. Vouchers that request reimbursement for projects whose project numbers or amounts claimed do not match the list of projects (submitted by the SHTSS) or exceed the estimated amount of Federal funds provided under 23 CFR §1300.15.

# Chapter 9 - Project Monitoring

## 9.1 General

SHTSS is responsible for monitoring the activities of the subrecipient as necessary to ensure that the agreement is utilized for authorized purposes. This includes; ensuring subrecipients are compliant with State/Federal regulations following the terms and conditions of the agreement; activities are allowable, and that subrecipient performance objectives are being met.

## 9.2 Pre-Award Risk Assessment

SHTSS must conduct a risk assessment for each subrecipient (not contractors) receiving NHTSA funds prior to making the grant award. SHTSS is required to evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations and the terms and conditions of the agreement for purposes of determining the appropriate subrecipient monitoring. SHTSS will develop, implement and document the outcome of the risk assessment process utilizing the following four factors:

- The subrecipient's prior experience with the same or similar agreements; and has at least three years' experience with federal grants;
- The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with 2 CFR Part 200 Subpart F, and the extent to which the same or similar sub award has been audited as a major program;
- Whether the subrecipient has new personnel, or substantial changes to organizational systems; and
- The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).
- Past compliance with submission of required reports.

**Note:** If a subrecipient fails to submit a single audit within the required timelines, MDT will be unable to enter into future agreements with subrecipient until compliance with this section is completed including any corrective action required is taken. See Attachment A, Pre-Award Risk Assessment Form.

SHTSS may impose specific agreement conditions upon a subrecipient as needed as described in 2 CFR Part 200.207 Specific conditions. These additional Federal award conditions may include items such as the following:

- Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
- Requiring additional, more detailed financial reports;
- Requiring additional project monitoring;
- Requiring the non-Federal entity to obtain technical or management assistance; or
- Establishing additional prior approvals.

If SHTSS determines that any conditions must be placed on the agreement, SHTSS will notify the subrecipient as to:

- The nature of the additional requirements;
- The reason why the additional requirements are being imposed;
- The nature of action needed to remove any additional requirements, if applicable;
- The time allowed for completing the actions if applicable, and
- The method for requesting consideration of the additional requirements imposed.

The process SHTSS will follow is:

1) Planners will complete Pre-Award Risk Assessment Form for each subrecipient prior to award.  
2) Each subrecipient will be assigned a level of risk dependent upon results of the pre-award risk assessment (i.e. low risk, medium risk, high risk). The monitoring level required for each subrecipient will be determined based on the following risk level:

Low Risk

1. Provide standard monitoring.

Medium Risk

1. Schedule a financial review with the subrecipient.
2. Withhold payments pending single audit results.
3. Provide training and technical assistance on program related matter.

High Risk

1. Request a review by MDT External Audit.
2. Require 100% documentation for reimbursement.
3. Withhold full or partial payments pending single audit results, if applicable.
4. Review the corrective actions and determine if they followed up on the corrective actions.
5. Provide training and technical assistance on program related matter.
6. Consider whether the results of the audits necessitate adjustments to the pass-through entities own records.
7. Consider taking enforcement action against the non-compliant subrecipient.

3) If medium or high-risk level is determined, SHTSS will communicate with subrecipient prior to contract execution and subrecipient will complete the Risk Assessment Subrecipient Follow-Up form. SHTSS will develop the Post-Award Risk Assessment Plan Corrective action and monitoring requirements will be outlined in the plan and agreed upon by both SHTSS and the subrecipient prior to contract execution.

**NOTE:** If an issue should arise that would raise the “risk” level of any contract post-award, SHTSS will re-evaluate the risk and implement the above process.

### ***9.3 Desk Reviews/On-going Monitoring***

The desk review is a tool used by SHTSS program planners to compile a succinct assessment of the subrecipient’s compliance with the agreement. Ongoing monitoring occurs throughout the contract period and may be accomplished through the following: Email; phone; face-to-face; or other common communication methods.

At a minimum, desk reviews will be conducted quarterly/period following the subrecipient’s submission of the required status report within webgrants. Status reports and deadlines are discussed in Chapter 7. The planner conducts a review of the status report which is comprised of validating whether or not activities are in line with the objectives and determining if technical assistance is needed. If problems are identified during these reviews, SHTSS will contact the subrecipients and develop a mutually agreeable resolution.

The purpose of on-going monitoring is to maintain a positive working relationship with the subrecipients and to mitigate any issues that may arise before corrective action is needed. On-going monitoring can be done depending on any concerns that are identified.

### ***9.4 On-Site Reviews***

On-site reviews can be performed on any agreement administered by SHTSS. When conducting an on-site review, SHTSS staff will conduct a programmatic and fiscal review of the contract. The grants accountant may

accompany the program manager to review the financial portion of the subrecipient's program.

Agreements at any funding level with a risk assessment result of "Medium" or "High" will follow the process outlined in 9.2 Pre-Award Risk Assessment.

Contracts at or over \$35,000 and with a risk assessment level of "Low" require an on-site review annually for subrecipients who have been under contract with MDT for less than three years.

Contracts at or over \$35,000 and with a risk assessment level of "Low" require an on-site review be conducted a minimum of once every two years for subrecipients who have been under contract with MDT for three or more years.

Once a subrecipient has been identified for an on-site review, SHTSS will notify the subrecipient and schedule a convenient time for the on-site.

During the review, SHTSS staff will use the standard monitoring form. Elements of a review include:

- Application and agreement on file;
- Past status and fiscal reports submitted by subrecipient;
- Identification if subrecipient is using properly trained personnel;
- Determine and review past on-site monitoring visit completed;
- Progress toward achievement of project objectives;
- Programs and resources are protected from waste, fraud and mismanagement;
- Laws and regulations are followed;
- Reliable and timely information is obtained, maintained, reported and used for decision making;
- Accounting records;
- Personnel records and time sheets;
- Any necessary pre-approvals (such as, equipment or out of state travel);
- Supporting documentation (such as verification of costs, invoices, subcontracts, etc.)
- Equipment purchased or leased as part of the project i.e., inventory and inspect to ensure that it is being used for the purpose for which it was bought or leased under the grant agreement

On-site reviews are an opportunity to showcase successes or discuss any difficulties encountered with the project. SHTSS will provide a copy of the completed On-Site Monitoring Form to the subrecipient. The monitoring form will be captured in webgrants.

**Note: Addendum to 9.4 On-Site Reviews :** The SHTSS adjusted to virtual "on-site" reviews in 2020 as of Governor's Executive Order 2-2020 in March of 2020, when a state of emergency was declared due to the COVID-19 pandemic outbreak. Throughout 2020 and 2021, MDT has continued to promote teleworking for staff and conducting business through virtual meetings wherever possible. SHTSS staff will continue to conduct monitoring activities for those requiring an on-site visit through virtual meetings with the subrecipient and through email documentation. On-site visits may resume however, the virtual monitoring continues to be an acceptable format for conducting business with subrecipients.

## **9.5 Resolution of Monitoring Findings**

SHTSS shall notify the subrecipient's project director of any issues identified following the monitoring meeting. Further action on subrecipient's part may be required to correct deficiencies.

If there are **minor findings**, i.e., delays in activities that do not impact the completion of the grant or minor budgetary issues, a written notification will be provided that includes:

- A detailed description of the finding;
- A description of any actions the subrecipient may make in response to the finding; and
- A date by which the subrecipient should implement the recommended action or advise SHTSS of a proposed alternative or both (usually not later than 30 days after notification).

**Repeated or more serious findings** may include:

- Repeated untimely submission or omission of required reports or invoices;
- Unallowable/unapproved item;
- Activities that do not align with the project objectives and overall goal;
- Significant delay in achievement of objectives and performance goals;
- Continuous failure to expend grant funds to a significant degree.

In addition to the information required for a minor finding, the notification letter for a repeated or more serious finding will include any potential ramifications or imposed requirements. These remedies might include temporary delays in reimbursement, modification of the agreement including the reduction of funding, return of federal funds, or cancellation of the project agreement.

## **9.6 Fraud Prevention**

This section describes the actions which will be taken by the SHTSS to prevent fraud and the misuse of federal funds by subrecipients receiving federal highway safety grant funds.

In the event that fraud is detected at the local level, notification should be made to the MDT State Highway Traffic Safety Section. MDT SHTSS staff will need the following details in the complaint: identity of the person, company, or organization alleged to have engaged in wrongdoing, a description of the impropriety, the program affected by the alleged misconduct, and any supporting documentation to support the complaint. MDT SHTSS staff will consult with MDT Internal Audit and determine a course of action.

In the event that fraud is detected at the state level, notification should be made to the MDT Internal Audit Section with the same complaint details as stated above. MDT Internal Audit will review the complaint and take the appropriate course of action.

**Attachment A – Pre-Award Risk Assessment Form**



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**Montana Department of Transportation  
Transportation Planning - Grants Bureau  
Pre-Award Risk Assessment Form**

Planning Division  
PO Box 201001  
Helena MT 59620  
(406) 444-3423

Subrecipient	Subrecipient UEI#
<input type="text"/>	<input type="text"/>

Sub-Award Description

Sub-Award Period	Review Date
<input type="text"/>	<input type="text"/>

Monitor Period	Risk Rating Scale: 0 = None    1 = Low    2 = Medium    3 = High
<input type="text"/>	

**1. Determine if the subrecipient had prior experience with same or similar sub-awards.**

	Risk Description	Rating	Comments if necessary
<input type="radio"/> Yes <input checked="" type="radio"/> No	Has the subrecipient had a federal or state grant similar to this award?		
<input type="radio"/> Yes <input checked="" type="radio"/> No	Has the subrecipient had at least three year's experience with federal grants?		

**2. Determine if the subrecipient has new personnel or new or substantially changed systems?**

	Risk Description	Rating	Comments if necessary
<input type="radio"/> Yes <input checked="" type="radio"/> No	Has the subrecipient's staff remained unchanged during the previous year and appropriately qualified?		
<input type="radio"/> Yes <input checked="" type="radio"/> No	Has the subrecipient's organization remained unchanged during the previous year?		
<input checked="" type="radio"/> Yes <input type="radio"/> No	Has the subrecipient's accounting system remained the same as the previous year?		

**3. Determine the extent and results of Federal awarding agency monitoring. (e.g. if the subrecipient also receives federal awards directly from a federal awarding agency.)**

	Risk Description	Rating	Comments if necessary
<input checked="" type="radio"/> Yes <input type="radio"/> No	Does the subrecipient receive monitoring from a Federal awarding agency?		
<input type="radio"/> Yes <input checked="" type="radio"/> No	If yes, did the Federal Agency Determine that there were no financial or compliance issues in the last three years?		

*If there were financial or compliance issues in the last three years, determine level of risk.*

**4. Determine if the entity has been consistently on time and/or accurate in the submission of the following:**

	Risk Description	Rating	Comments if necessary
<input type="radio"/> Yes <input checked="" type="radio"/> No	Applications		
<input type="radio"/> Yes <input checked="" type="radio"/> No	Claims Submittal/Fiscal Reporting		



**Attachment A – Pre-Award Risk Assessment Form (cont'd)**



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**Montana Department of Transportation  
Transportation Planning - Grants Bureau  
Pre-Award Risk Assessment Form**

Planning Division  
PO Box 201001  
Helena MT 59620  
(406) 444-3423

	Risk Description	Rating	Comments if necessary
<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	Amendments		
<input type="radio"/> Yes <input type="radio"/> No <input type="radio"/> N/A	Budgets/Revisions		

**5. Determine the results of previous audits.**

	Risk Description	Rating	Comments if necessary
<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	If the subrecipient received an Internal MDT Audit in the last two years was the report clear of deficiencies?		
<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	Were the deficiencies resolved?		
<i>If no determine the level of risk.</i>			
<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	Has the subrecipient received an on-site review in the last two years and was the review clear of deficiencies?		
<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	Were the deficiencies resolved?		
<i>If no determine the level of risk.</i>			
<input type="radio"/> Yes <input checked="" type="radio"/> No <input type="radio"/> N/A	Did the subrecipient submit a single audit in accordance with 2 CFR part 200 Subpart F?		
<b>Award must be held pending subrecipient's compliance with 2 CFR part 200 Subpart F. Follow up with MDT Accounting to determine next steps.</b>			

**Determine Rating Scale for Monitoring Purposes**

- 0 - 8 Points - Subrecipient is considered **LOW** risk for monitoring
- 8 - 20 Points - Subrecipient is considered **MEDIUM** risk for monitoring.
- 21+ Points - Subrecipient is considered **HIGH** risk for monitoring.