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Uniform Procedures for State Highway Safety Grant Programs BIL Implementation Webinar Questions and Answers

March 20, 2023

In February 2023, NHTSA hosted a series of webinars on the Uniform Procedures for State Highway Safety Grant Programs. This document presents the questions from those webinars and provides NHTSA's responses. Some questions have been edited for readability or to provide context.

For specific responses to any questions related to specific project expenses and allowability, States are encouraged to compile relevant project details for NHTSA to review. The thoroughness and specificity of the information provided will dictate NHTSA's ability to provide constructive feedback.

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Application Process

Question 1: Is triennial HSP approval due 60 days from July 1 or 60 days from when each State submits? (Some States submit early).

Response: NHTSA has 60 calendar days to review the triennial HSP from the submission date, consistent with the statute. 23 CFR §1300.11(c). The review window will commence upon receipt of the triennial Highway Safety Plan. For example, NHTSA's review of a triennial HSP submitted on June 30, 2023, must be completed on or before August 29, 2023.

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Question 2: Does the 60 days review apply to the submission of the triennial HSP or the annual grant application?

Response: Both the triennial HSP and the annual grant application are subject to a 60-day review period. 23 CFR § 1300.11(c) and §1300.12(c). However, NHTSA may extend the review period for the triennial HSP no more than 90 days to facilitate a request for additional information from a State, as necessary. 23 CFR 1300.11(c)(2).

Question 3: Will the deadline for promised projects be adjusted since NHTSA has 60 days to review the annual grant application?

Response: No, the deadline for promised projects remains the same. See 23 CFR § 1300.41(b).

Question 4: Will NHTSA create an updated guide for the triennial HSP and annual grant application?

Response: NHTSA will not create a guide for the triennial HSP and annual grant application. The final regulation presents all required information in an easy-to-follow manner.

Question 5: Does the triennial Highway Safety Plan (HSP) need to be signed by a designated person in the SHSO?

Response: 23 CFR Part 1300 does not require a formal signature for the triennial HSP. However, States are reminded that the triennial HSP, in conjunction with the annual grant application, is a legal grant application document and may require a signature under State laws and regulations in order to be a valid submission. In addition, the triennial HSP is intrinsically connected to the annual grant application, which requires the Governor's Representative (GR) signature via the certifications and assurances. The annual grant application must align with the State's triennial HSP. In signing the certifications and assurances for the annual grant application, the GR is also certifying that the contents of the triennial HSP, as updated in the annual grant application, are true and accurate. Further, States are reminded that the Governor's Representative (GR) for Highway Safety is accountable for all aspects of the highway safety program. The absence of a signature on the triennial HSP does not excuse the lack of proper internal controls to ensure GR review and approval before submission.

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Performance Measures

Question 6: Will guidance be provided to States on how to set performance targets? For example, what is the best practice for modeling for three years out for the triennial HSP when States currently have 2020 FARS data? Is there a chart or resource that States can use to update their models when setting performance measures? What equations or models are considered best practices under BIL?

Response: States can use any evidence-based method to establish safety performance targets demonstrating constant or improved performance, which the State deems appropriate. States should review State-specific data sets and trends and consider internal and external factors such as miles traveled, laws, and investments that may affect its performance targets. NHTSA will provide a sample chart that States may use as an optional model for their triennial HSP Performance Plan. NHTSA will offer additional training on setting performance targets for the triennial HSP.

Question 7: Does the US DOT have performance measures?

Response: NHTSA and the US DOT are committed to performance management. The Federal Department of Transportation has performance measures for itself. For additional information: [FY 2022-26 US DOT Strategic Plan | US Department of Transportation](#).

[Note: NHTSA received several additional questions relating to performance measures, but will be addressing those questions in an upcoming training webinar.]

Public Participation and Engagement

Question 8: How will NHTSA determine if public engagement was meaningful? Can NHTSA provide any concrete examples of meaningful public engagement or participation?

Response: NHTSA's determination of whether of a State's public participation and engagement activities is meaningful will be based on whether the information that a State submits consistent with 23 CFR 1300.12(b)(2) shows that 1) the State implemented a public engagement program that provided full and good faith efforts by the State to ensure that affected communities are identified and have sufficient and tangible opportunities to influence the development and implementation of the State's highway safety program and that 2) the State gave meaningful consideration to the feedback received. During the Public Participation and Engagement Part 2 training NHTSA provided strategies and scenarios of meaningful engagement. Also referenced in this training was the US DOT Promising Practices for Meaningful Public Involvement in Transportation Decision-Making. Highway Safety Offices are encouraged to refer to these resources for additional information. Examples of what is meaningful public

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engagement may vary by State. Please confer with your Regional Office on specific engagement opportunities you are considering. NHTSA will then advise if planned efforts align with the statutory and regulatory intent of meaningful engagement that informs a State's highway safety programming.

Question 9: What is the minimum requirement to meet the public engagement requirement, especially in year one? What is the expectation for describing public participation outcomes in the first year of a triennial HSP when sub-recipient applications were submitted before the final rule was issued?

Response: All requirements under the BIL take full effect for FY24 grants; this includes the public participation and engagement requirements.

In a situation where a State has already closed applications for subawards, States must still demonstrate that the program is informed by public participation. This may require that States have the ability to seek additional applications for subawards if necessary, after conducting their engagement activities.

Question 10: Can subaward proposals be submitted in languages other than English? If yes, how should those proposals be managed by HSOs to ensure compliance with Title VI?

Response: Yes, potential subrecipients may submit proposals in languages other than English. Federal financial assistance (FFA) recipients, like SHSOs and their subrecipients, are subject to Federal nondiscrimination requirements, including those applicable to the provision of federally assisted services to persons who possess Limited English Proficiency (LEP).

Recipients are required to take reasonable steps to ensure meaningful access to their programs and activities by persons who are LEP. While designed to be a flexible and fact-dependent standard, the starting point is an individualized assessment that balances the following four factors: (1) the number or proportion of persons who are eligible to be served or likely to be encountered by a program, activity, or service of the recipient or grantee; (2) the frequency with which persons who are LEP come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the recipient to people's lives; and (4) the resources available to the recipient and costs. If, after applying the 4-factor analysis, the State determines that translation is the appropriate language assistance measure, then the State must assess the translated application in the same manner as all other applications, regardless of language. The flexibility that States have in addressing the needs of the LEP populations they serve does not diminish, and should not be used to minimize, the obligation that those needs be addressed.

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Please refer to DOT's [Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient \(LEP\) Persons, 70 FR 74087](#), which clarifies existing legal requirements. Additional resources are available at www.LEP.gov.

Question 11: Could you clarify what accessibility means in the context of PP&E? What types of accessibility measures are recommended or required?

Response: The Executive Order on Diversity, Equity, Inclusion, and Accessibility in the Federal Workforce (EO 14035), defines "accessibility" as the design, construction, development, and maintenance of facilities, information and communication technology, programs, and services so that all people, including people with disabilities, can fully and independently use them. Accessibility includes the provision of accommodations and modifications to ensure equal access to employment and participation in activities for people with disabilities, the reduction or elimination of physical and attitudinal barriers to equitable opportunities, a commitment to ensuring that people with disabilities can independently access every outward-facing and internal activity or electronic space, and the pursuit of best practices such as universal design." For examples of potential accessibility measures in the public participation and engagement context, please refer to the public participation and engagement webinars parts I and II. Additional resources to support accessibility measures are included on the 'Resources to Support Meaningful Public Engagement' info sheet. These resources may all be found on NHTSA's website at: [INSERT LINK TO HOST PAGE]. NHTSA will provide further guidance on this topic in the future.

Question 12: Will NHTSA reject an engagement outcome if a planned program conflicts with public input? For example, what if the public input is inconsistent with what best practices dictate or what problem ID identifies as the most critical problem?

Response: NHTSA does not expect States to accept or implement every recommendation exactly as received in engagement opportunities. Instead, States must demonstrate that they provided sufficient public engagement opportunities structured to solicit feedback and that they have considered that feedback while planning and implementing their programs. Feedback can and should be viewed in the context of data, applicable laws and other rules, available resources, and the State's expertise.

If a State finds that its public engagement opportunities are not leading to actionable public input because only a very vocal minority of stakeholders are participating, the State should use that experience to inform its plans for future engagement to broaden its reach to obtain full representation from communities.

For feedback beyond the scope of HSO activities (e.g., infrastructure projects), States are encouraged to consider the input creatively and share feedback with appropriate partners whenever possible.

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Question 13: Will online sessions (webinars) and/or online surveys be accepted as a means of public engagement?

Response: The format in which engagement is conducted should be determined based on the problem ID and the needs of the communities identified. Online surveys and sessions are a useful engagement option to use alongside in-person engagement opportunities. The purpose of engagement is to solicit feedback from community members that will inform your program. Technology, including online sessions and/or surveys, can be a valuable tool to reach a community. States should consider technology and access limitations when using online sessions and surveys to ensure equitable engagement with all community members, including individuals with limited access to the internet, WiFi, cellphone data plans, computers, or smart phones; individuals with disabilities; and individuals who are LEP. As a result, an engagement program that consists only of online engagement will not be considered sufficient. Additionally, online webinars and surveys should provide ample opportunity for individuals to provide feedback that the SHSO can use to shape their program.

Individual efforts that States may consider are fact-specific, and States should compile relevant details and reach out to NHTSA for assistance if needed. The thoroughness and specificity of the information provided will impact NHTSA's ability to provide constructive feedback.

Question 14: What recommendations does NHTSA have for small SHSOs and their ability to facilitate meaningful public engagement?

Response: Small SHSOs are encouraged to utilize their existing networks, including partners working across elements of the Safe System Approach, to assist with or to collaborate on public engagement initiatives. Additionally, it is recommended that SHSOs also build capacity where possible. This could look like onboarding staff or engaging contractors dedicated to meaningful public engagement. To work through your specific SHSO's situation, please reach out to your regional office and/or contact nhtsaropdprogramquestions@dot.gov.

Question 15: Can you speak to the ability to compensate community engagement participants for their time and efforts?

Response: Whether a specific cost is an allowable use of funds is highly fact-specific and subject to many different Federal laws and regulations. Differences in State laws and regulations may also affect whether a State may compensate participants in public engagement efforts; if State rules prohibit compensation of participants, NHTSA grant funds cannot be used for that purpose. If State rules allow such compensation, then these costs are potentially allowable uses of grant funds. NHTSA will work with States to determine whether specific participation costs are allowable. Any State that wishes to compensate community engagement participants is encouraged to reach out to its regional office and/or to contact nhtsaropdprogramquestions@dot.gov with more

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details. Useful information to provide may include: type of engagement, who are the participants who will be compensated, whether those participants are subrecipients, why compensation is necessary to ensure desired engagement, amount of compensation, and how that amount was determined.

Question 16: Can States use grant funds to purchase food and/or drinks at public participation and engagement meetings?

Response: Food and/or drinks may be an allowable cost if the State determines that they are necessary to increase participation in or the effectiveness of the engagement opportunity and if those costs would be allowable under State rules. Any such expenditures must be supported by an analysis of the *necessity* for food and/or drinks and the costs for the food and/or drink must be *reasonable*. Alcoholic beverages are never allowable (2 CFR 200.423). SHSOs are encouraged to consult with their Regional Offices before purchasing food and/or drink using NHTSA grant funds.

Question 17: Do all the costs from focus groups or asking a grantee to conduct a survey come out of Planning & Administration (P&A) funds? Or can we use other funding areas?

Response: Public participation and engagement costs are planning and administration costs and therefore can only be funded with Section 402 P&A funds. NHTSA increased the State's allowance for P & A costs to 18% in order to ensure that States have sufficient resources to fully implement the planning and public engagement requirements of the BIL.

While States may not use program funds to pay for public participation and engagement opportunities, NHTSA does encourage States to integrate feedback opportunities into program activities and to consider that feedback during program planning.

Question 18 Can States purchase items for games and contests or do we have to seek out donations or alternate sources to fund them?

Response: As a general rule, no, States may not use grant funds to purchase prizes for games or contests. See NHTSA guidance on the [Use of NHTSA Highway Safety Grant Funds for Certain Purchases](#). The allowability of such costs is highly fact specific; States are encouraged to reach out to their Regional Office with more details about specific costs.

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Question 19: Expand on the concept of identifying underserved and overrepresented communities. Is NHTSA suggesting that States should/must systematically identify all such groups in a State based on what can be gleaned from potentially multiple data sets? How should States efficiently approach that project and structure such a report in the triennial HSP?

Response: NHTSA expects States to identify affected and potentially affected communities, with a particular emphasis on communities underserved or overrepresented, as indicated by the data, as it relates to the upcoming triennial HSP. States should consider utilizing various data sources to determine the issues they seek to address in the forthcoming triennial HSP. States should also seek to understand where traffic safety issues are occurring and who may be directly or indirectly impacted. This analysis will assist States with identifying specific community groups that the State can work with through targeted and meaningful public engagement and program delivery. The depth and breadth of this effort will vary based on the data and each State's identified needs and capabilities. Please refer to the 'Resources to Support Meaningful Public Engagement' info sheet and the Public Participation and Engagement Part 2 webinar for potential data sources to utilize.

Annual Grant Application

Question 20: What does it mean to link a project to a countermeasure strategy in the annual grant application?

Response: The annual grant application must demonstrate alignment with the State's triennial HSP by providing project and subrecipient information that is sufficient to carry out the countermeasure strategies laid out in triennial HSP to help States meet their performance targets. To help States demonstrate this alignment, 23 CFR 1300.12(b)(2)(ix) provides that States must identify the countermeasure strategy or strategies that the project will support.

Question 21: Many States don't have their subrecipient lists ready on August 1. Will that now be a requirement? When do project agreements have to be signed?

Response: The project and subrecipient information component is a significant part of your annual grant application that is due on August 1. States are required to submit subrecipient information with the annual grant application; however, they may amend this information later in the year when project agreements are finalized. See 23 CFR 1300.32. States do not need to have signed project agreements at the time of application; project agreement numbers may be added via an amendment to the annual grant application prior to beginning project performance. See 23 CFR 1300.12(b)(2) and 23 CFR 1300.32. NHTSA cannot approve an annual grant application unless the project and subrecipient information aligns with your approved triennial HSP and is sufficient to carry out the countermeasures in the triennial HSP to meet your targets.

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Question 22: Can NHTSA provide a definition of "Eligible Use of Funds" as it applies to identifying project and subrecipient information in 23 CFR 1300.22 (b)(2)(vi)?

Response: Eligible use of funds refers to specific activities that can be reimbursed with NHTSA grant funds. Eligible use of funds varies by funding source. For example, there are six specific eligible uses of Section 405(b) Occupant Protection Grants. See 23 CFR 1300.21(g)(1). For projects on occupant protection training, States should notate this specific eligible use as Occupant Protection Training. This same eligible use notation would apply to projects using Section 402 grant funds for occupant protection training. As another example, there are two eligible uses of Section 402 grant funds for automated traffic enforcement (school zone or work zone). See 23 CFR 1300.13(g). Projects using Section 402 grant funds for automated traffic enforcement in a school zone should notate the eligible use as Automated Traffic Enforcement—school zone and ensure that the project description includes the appropriate information per 1300.12(b)(2)(i). If a State is uncertain about a specific use of funds, we encourage the State to reach out to the Region for assistance.

Question 23: How do we document the eligible use of funds on vouchers? Does it have to be documented monthly? What info is needed? Please provide examples.

Response: As States set up their projects in GTS for FY2024 they should be mindful of how they plan to meet this requirement. Eligible uses are required for each voucher that is submitted. States that have used GTS on a program area level basis are familiar with the process of uploading documentation to show which projects are included in a voucher. This documentation, usually in the form of a project level spreadsheet, can be modified to include the costs for each eligible use by project. States should use the GTS codes to identify the eligible uses. GTS codes correspond to the eligible uses identified in BIL. States that organize GTS on a project-by-project basis may not be familiar with the upload function within GTS. It is located under the Transaction header in the main menu. States submitting on a project-by-project basis will need to upload a spreadsheet outlining the eligible use costs if there is more than one eligible use for their projects. If a State organizes GTS on a project-by-project level basis and none of their projects have more than one eligible use, then there is no need to upload a spreadsheet, as long as the proper GTS codes are used to set up each project. States can find all the codes for eligible uses in the "program area" report (Q) in GTS. More information will be available soon – including updated codes for expanded BIL eligible uses. Note, the eligible use of funds provided in a voucher must match an eligible use of funds provided for the project in the annual grant application project information.

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Local Expenditures

Question 24: Can you clarify ways that political subdivisions can identify a need and request benefit from the State to implement a media buy on their behalf in order to leverage economies of scale?

Response: There are two ways that a State can document a political subdivision's identification of need and request expenditure on its behalf by the State consistent with 23 CFR 1300.13(b)(3). In one scenario, a local political subdivision could submit a written request, demonstrating a traffic safety need within its jurisdiction and requesting that the State provide an awareness campaign targeted to that safety issue within its borders during relevant times (i.e., if there is a significant increase in speed-related crashes surrounding a specific sporting event, the political subdivision could request a media campaign related to speed during those times). The State would have to obtain written acceptance by the political subdivision of the planned activity prior to implementation of the project. If the activity is part of a larger agreement, the State must be able to separate out proportional costs attributable to the requested activity to count those funds as local expenditure. The key in all situations the connection between the need and activity requested by the political subdivision and the project that the State, or another entity, carries out on the political subdivision's behalf. Regional Offices can work with States on specific examples to assist with determining qualification.

Question 25: Is an acknowledgment (letter) from League of Cities, Chiefs of Police and Sheriff's Associations acceptable documentation to satisfy the local expenditure requirement?

Response: Political subdivision includes associations comprised of representatives from political subdivisions acting in their official capacities. As a result, a group of localities represented by a League of Cities, Chiefs of Police and Sheriff's associations qualify as a political subdivision. Direct expenditures or expenditures by the State on behalf of such groups may therefore count towards the State's local expenditure requirement, provided they meet the requirements set out in 23 CFR 1300.13(b). An acknowledgement letter, on its own, is insufficient to document State expenditures on behalf of a political subdivision. See the response to Question 24, above, for an example of how a State can document expenditures on behalf of a political subdivision. Regional Offices can work with States on specific examples to assist with determining qualification.

Question 26: Does funding to non-profits no longer count as local expenditure if the non-profit is not a subrecipient of a political subdivision?

Response: States may use an agreement with a non-profit entity to carry out expenditures on behalf of political subdivisions provided sufficient documentation, consistent with 23 CFR 1300.13(b)(3) to demonstrate that the political subdivision(s) was involved in identifying its traffic safety needs and provided input into the

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implementation of the activity. The key to determining whether an expenditure may count towards the State's 40% local expenditure requirement is the documentation of the required input from the political subdivision.

Section 405 National Priority Incentive Grants

Question 27: Are there resources for child passenger safety (CPS) technicians in the field in languages other than English and Spanish?

Response: NHTSA is exploring ways to provide additional CPS resources in languages. Colorado offers resources for CPS technicians to use for people with limited English proficiency. Please see [How to Install a Car Seat Right — in 18 Languages — Colorado Department of Transportation \(codot.gov\)](#).

Question 28: What is the review period for any Impaired Driving Strategic Plan submitted on August 1 of the next Fiscal Year (delayed submission under S405(d))?

Response: NHTSA will review and approve/disapprove impaired driving plans submitted after August 1, 2023, and before August 1, 2024, within 60 days of receipt.

Question 29: For the distracted driving awareness grant, what if a State only has one sample distracted driving question on its exam? Must the question(s) on license exam be specific to call/text/phone distraction or can they ask about other types of distractions (ex: eating and drinking)?

Response: NHTSA requires States to submit at least one sample distracted driving question from its driver's license examination. Distracted driving is any activity that diverts attention from driving, including talking or texting on your phone, eating and drinking, talking to people in your vehicle, fiddling with the stereo, entertainment, or navigation. Eligible questions can cover any form of distraction.

Use of Funds

Question 30: May Highway Safety Offices award NHTSA-funded subawards to Federal entities?

Response: Yes. Highway Safety Offices may enter into subawards with Federal entities (for example, the National Park Service and Department of Defense). [2 CFR 200.1](#) defines a subrecipient as an "entity, usually but not limited to non-Federal entities that receives a subaward from a pass-through entity to carry out part of a Federal award." This allows States (using Federal grant funds) to partner with other Federal entities. States must apply the same rules to Federal agency subrecipients as any other non-Federal sub-recipient.

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Question 31: Purchase and deployment of digital alert technology is an allowable cost under the new Preventing Roadside Deaths incentive grant. Can Section 402 funds (or incentive grant funds that may be used for Section 402 purposes) be used for such purposes as well?

Response: Purchase and deployment of digital alert technology is eligible for NHTSA reimbursement under the new Preventing Roadside Deaths incentive grant *and* Section 402, provided that the State offers a problem identification and is part of a broader strategy to address roadside fatalities and injuries as identified in the State's problem identification. Costs must be reasonable, follow all rules related to equipment, and generally proportionate to the problem ID.

Question 32: What is NHTSA's official position on the LEL program? Is there any movement by NHTSA in not allowing it to be funded in the future?

Response: NHTSA fully supports State law enforcement liaison (LEL) programs. States may continue to use Section 402 funding to pay for activities supporting the LEL program.

Question 33: Are law enforcement checkpoints allowed with grant funding?

Response: Yes. Law enforcement checkpoints are an eligible use of funds for select grant programs. For example, impaired driving countermeasure (Section 405(d)) grant funds may be used for sobriety checkpoints and/or saturation patrols conducted in a highly visible manner and supported by publicity through paid or earned media (i.e., high visibility enforcement efforts). However, States may not use NHTSA grant funds for programs to create checkpoints to check motorcycle helmet usage or that specifically target motorcyclists.

Question 34: What is the dollar threshold for required media surveys?

Response: There are no media surveys that are required as part of the NHTSA highway safety grant program.

Question 35: Can Section 402 grant funds be used to fund activities (e.g., education campaigns) for All-Terrain Vehicle (ATV Safety)?

Response: All uses of Section 402 funds must be based on problem identification of traffic safety problems on public roadways and are subject to any restrictions in NHTSA's grant regulation or the Supercircular's Cost Principles (Subpart E of 2 CFR Part 200). If the data shows that ATV crashes on the roadway are an issue in your State, then using Section 402 funds for that purpose is allowable. Similarly, starting in FY24, States may use non-motorized safety grant funds for this purpose. Please be sure to include such programs in your triennial HSP as either its own program area or combined with your non-motorized program.

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Other

Question 36: The Safe System Approach is not specifically mentioned in the Final Rule, only in the preamble. To what extent is SSA going to be required?

Response: The Safe System Approach (SSA) is an effective way to address and mitigate the risks inherent in our complex transportation system. SSA works by building and reinforcing multiple layers of protection to both prevent crashes from happening in the first place and minimize the harm caused to those involved when crashes do occur. SSA is not specifically required by regulation, but holistic and comprehensive SSA is strongly encouraged. States are highly encouraged to coordinate behavioral safety countermeasures and activities with other disciplines. For example, are Emergency Medical Services personal represented in your highway safety planning processes?

Question 37: How can a State demonstrate compliance with the data-based traffic safety enforcement program as provided in the certifications and assurances under Section 402? Similarly, how can a State demonstrate that it supported a data-based traffic safety enforcement program?

Response: There are two ways that States can demonstrate compliance in program documents. First, countermeasure strategies in the triennial HSP and projects in the annual grant application should demonstrate that the State is running an evidence-based traffic safety enforcement program as one part of its highway safety program. Second, the State must provide the required information in the annual report (23 CFR 1300.35(b)(3)) to describe the State's evidence-based enforcement program activities.

Question 38: Will the Regions be encouraged to have follow-up meetings after this webinar series is completed to give technical advice and guidance to assist SHSO's?

Response: Regional offices remain committed to providing technical assistance to States as needed. SHSOs are encouraged to consult with the Regions in advance of submission deadlines to minimize the potential for deficiencies and/or review delays.

In addition, NHTSA will provide additional training and guidance to support BIL implementation. In spring 2023, NHTSA will offer a series of trainings on select grant administration and public participation and engagement matters based on request from the States.

Question 39: Are the Uniform Guidelines being updated?

Response: Yes. NHTSA is actively updating the Uniform Highway Safety Guidelines. When complete, the Uniform Guidelines will be published in the Federal Register and NHTSA will seek public comment before finalization.