

NHTSA

Regional Operations and Program Delivery

Grant Management and Oversight

Guidance	Paying for Law Enforcement and Prosecutors' Activities
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Signature _____
Associate Administrator, Regional Operations and Program Delivery

Date _____

Citation:

Federal grant funds may not be used for activities considered “general costs of government” (2 CFR § 200.444) according to long-standing Federal law, codified in the government-wide rule for Federal grants (the Supercircular), unless specifically allowed under the Federal statute or regulation. The rationale is that Federal funds should not support costs incurred by a State or locality in the ordinary course of conducting its own affairs. General costs of government include salaries and other expenses associated with government operation. The Supercircular specifically identifies “**police**” (i.e., law enforcement) and “**prosecutors**,” who carry out government services normally provided to the general public. (2 CFR § 200.444(a)(4-5)).

Scope:

NHTSA grants frequently reimburse efforts by law enforcement and prosecutors who are subject to the Supercircular’s general costs of government limitation. This document clarifies 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. Law enforcement liaisons and law enforcement officers performing the role of DRE/SFST/ARIDE coordinators are not performing “government services normally provided to the general public,” and are therefore not covered by this document.

Clarification Items:

1. Compensation and Benefits

Reimburse time spent performing activities, not positions. NHTSA highway safety grants used for enforcement and prosecutorial projects are for performing highway traffic safety activities, not for hiring State or local law enforcement and prosecutors. Therefore, project agreements involving law enforcement or prosecutors must specify hours of eligible activity required to perform the project. Project agreements may not be expressed in terms of full or part time employee positions.

- Reimbursement for hours of eligible activity includes **compensation** for time spent on the activity and a corresponding **proportional share of fringe benefits** (i.e., those fringe benefits earned during the hours performing activity under a NHTSA-funded grant).

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- Be sure that compensation (including whether straight time and/or overtime is allowed) is consistent with the grant recipient's established written policies. (2 C.F.R. § 200.430(a)).
- Be sure to document hours of work performed in accordance with the Supercircular. (2 C.F.R. § 200.430(i)).
- Enforcement or prosecution projects must be identified in terms of required activities, not identified individuals. Therefore, a project specifying hours of enforcement activity is satisfied by delivering those hours, regardless of the individual engaged in enforcement.
- Charge the *proportional* share of fringe benefits in accordance with the Supercircular (2 C.F.R. § 200.431). Fringe benefits may be reimbursed through a fringe benefit rate, as direct benefit costs, or as a combination of the two. As a reminder, if all or part of allowable fringe benefits are already included in the negotiated indirect cost rate, do not also include those same benefits as direct charges.

Example: NHTSA grant funds may reimburse hours of eligible activity performed by members of an impaired driving enforcement task force/DUI unit, but may not reimburse the members' full-time salary and benefits absent documentation that all hours charged to the grant were attributable to activities under an executed project agreement.

- There are exceptions in NHTSA's statutes that allow reimbursement of full (or part) time salaries for specific positions that might be filled by law enforcement officers or prosecutors. For example, 23 U.S.C. § 405(d) specifically provides for hiring an impaired driving coordinator, traffic safety resource prosecutors, and judicial outreach liaisons. Under exceptions such as these, it is permissible to create a project agreement and reimburse for a full-time salaried position, including fringe benefits, provided documentation confirms the position is dedicated full-time to the grant.
 - If the person is not dedicated full-time to the grant as specified in the project agreement, reimburse only those hours spent on grant activities and the pro rata share of fringe benefits, applying the general approach above to the grant.

2. Training

If a law enforcement officer's or prosecutor's 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

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is allowable. Note that, as with all costs under NHTSA grants, training costs must be reasonable, supported by problem ID, and within the scope of the grant.

- Reimbursable training costs may include compensation costs (wages and pro rata share of benefits) for the time a law enforcement officer or prosecutor attends eligible training under an executed project agreement.
- Training for a non-grant-related purpose, such as to satisfy employer or professional requirements, and compensation costs for the time spent at that training are not allowable costs.
- Training must be specifically identified as an activity in an executed project agreement to be reimbursed using NHTSA grant funds. For example, if a law enforcement officer's enforcement hours are reimbursed under a project agreement for hours of impaired driving enforcement, the law enforcement agency may not also receive reimbursement for the officer's time at eligible training unless that training is explicitly included in the project agreement.
- The cost of replacing the law enforcement officer who is away from duties while at training is not an eligible *training* cost. However, NHTSA grant funds may reimburse the costs of another officer performing eligible enforcement activities under a project agreement that includes enforcement (including as a separate activity under the same agreement) while the officer who would otherwise have been scheduled to perform those activities attends training.

Example:

A law enforcement agency has a project agreement(s) for impaired driving enforcement and DUI training. Officer A attends the DUI training when he/she would otherwise be assigned to perform impaired driving enforcement activities. Since the eligible hours of enforcement activity may be performed by any combination of qualified individuals, the law enforcement agency assigns Officer B to perform those impaired driving enforcement activities while Officer A is at the training. The law enforcement agency may claim reimbursement for the activities performed by each officer under the respective project agreement(s) (or under a single project agreement covering both activities). The key in this situation is that both officers are performing eligible activities under NHTSA-funded project agreements and are being reimbursed for those eligible activities.