

Readopt with amendment Saf-C 4000, effective 12-1-23 (Document #13815, Interim), to read as follows:

CHAPTER Saf-C 4000 NORTHERN BORDER ALLIANCE PROGRAM

Statutory Authority: RSA 21-P:70

PART Saf-C 4001 PURPOSE AND SCOPE

Saf-C 4001.01 Purpose. Pursuant to RSA 21-P:69 and RSA 21-P:70, this chapter establishes the process for grants issued by the department of safety from the northern border alliance fund to other New Hampshire state, county, and local law enforcement agencies to reduce the instance of crimes and illicit activity in close proximity to the Canadian border.

Saf-C 4001.02 Scope. These rules shall apply to other New Hampshire state, county, and local law enforcement agencies seeking grants from the northern border alliance fund, for the following purposes:

- (a) Overtime costs for officers performing law enforcement activities under this program; and
- (b) Training costs, including overtime backfill, for all officers participating in this program to attend the mandatory training provided by the New Hampshire state police, as described in Saf-C 4004.01(b).

PART Saf-C 4002 DEFINITIONS

Saf-C 4002.01 “Applicant” means another state, county, or local New Hampshire law enforcement agency that has chosen to apply for grant funding under this chapter.

Saf-C 4002.02 “Authorizing official” means a law enforcement agency head or official exercising authority promulgated under RSA 31:95-b, RSA 37:6, or RSA 23:1, who is authorized to legally bind the applicant.

Saf-C 4002.03 “Commissioner” means commissioner of the New Hampshire department of safety or the commissioner’s designee.

Saf-C 4002.04 “Department” means the New Hampshire department of safety.

Saf-C 4002.05 “Northern border alliance patrol area” means the area within New Hampshire that is within a radius of 25 air miles of the southernmost border between New Hampshire and Canada, located in the area of Hall Stream at the tri-point intersection of Pittsburg, New Hampshire, Beecher Falls, Vermont, and East Hereford, Quebec.

Saf-C 4002.06 “Overtime” means a base hourly pay rate of 1.5 times the regular rate of pay for the specific officer, unless the officer is overtime-exempt per the Fair Labor Standards Act, plus validated benefits associated with New Hampshire retirement system, workers compensation, and unemployment insurance.

Saf-C 4002.07 “State” means the state of New Hampshire.

Saf-C 4002.08 “Supplant” means to use northern border alliance program grant funds to replace locally budgeted and approved funds for routine law enforcement.

PART Saf-C 4003 APPLICANT ELIGIBILITY

Saf-C 4003.01 Eligible Applicants. Eligible applicants shall be other New Hampshire state, county, and local law enforcement agencies having law enforcement jurisdiction within the northern border alliance patrol area pursuant to RSA 104:6, RSA 105:3, RSA 21-M:3-b, or other statutory law.

PART Saf-C 4004 CONDITIONS OF GRANT FUNDING

Saf-C 4004.01 Grant Conditions.

(a) Grant funds awarded pursuant to the northern border alliance fund shall support activities that focus on reducing the instance of crimes and illicit activity occurring within the northern border alliance patrol area by reimbursing:

(1) Overtime costs for officers performing law enforcement activities under this program, provided that:

a. No “flat rate,” “detail rate,” or otherwise approved waiver rate under the Fair Labor Standards Act shall be used as the base hourly pay rate unless mandated by a collective bargaining agreement applicable to the officer at the time of the application;

b. Part-time officers, including retired part-time officers, shall be paid straight time only; and

c. The overtime for specific patrol work in a government owned vehicle shall also be reimbursed for the same hours as the patrol shift upon certification of mileage being provided to the grants management unit at the department of safety as outlined in on form DSAD 102, “Northern Border Alliance Approved Overtime/ Backfill Worksheet,” (rev. 11/2023); and

(2) Training costs for all participating officers to receive the state police training curriculum outlined in these rules prior to their participation, including overtime or backfill for one officer in the previously scheduled time slot.

(b) Eligible applicants shall ensure that, prior to participating in any northern border alliance patrol, all participating officers complete an in-person training session presented by New Hampshire state police, covering at least the following subjects:

- (1) Fair and impartial policing;
- (2) Illicit trafficking of currency, drugs, weapons, or persons;
- (3) Constitutional rights, including search and seizure laws;
- (4) Community caretaking;
- (5) Northern border alliance patrol area familiarization;
- (6) Interaction with federal law enforcement agencies;
- (7) Administrative procedure and reporting requirements;
- (8) Scheduling;
- (9) Documentation of patrol activities;
- (10) Federal limitation on time worked;

- (11) Prosecutorial procedures;
- (12) Criminal intelligence training;
- (13) Jurisdictional issues; and
- (14) Other pertinent training to ensure a safe and fair program as deemed by the state police, other agencies participating in the northern border alliance program, or both.

(c) The state police Troop F commander or designee shall be responsible for scheduling the required training session for all participants.

(d) Per RSA 21-P:69, the state police shall serve as the coordinating agency for scheduling, tracking, and documenting outcomes for all patrol activities associated with the northern border alliance program.

(e) State police and other participating agencies shall ensure that officers assigned to patrols are relieved of taking calls for service absent an emergency per RSA 21-P:69, II(b).

Saf-C 4004.02 Allowable Costs. Grant funds shall be awarded to reimburse applicants for up to 100% of the following costs and expenses:

(a) For activity occurring within the northern border alliance patrol area, as detailed on form DSAD 102, "Northern Border Alliance Approved Overtime/ Backfill Worksheet," (rev. 11/2023), consisting of:

- (1) Documented, validated overtime reimbursement back to the agency for costs for officers performing law enforcement activities under this program; and
- (2) Documented mileage costs for northern border alliance patrol performed only in government owned vehicles; and

(b) Training costs, consisting of overtime or overtime as backfill for one officer in the previously scheduled time slot, for all participating officers to take the mandatory training related to this program as described in Saf-C 4004.01(b) prior to participating in this program.

Saf-C 4004.03 Unallowable Costs. The following shall be prohibitions on allowable uses of funds:

(a) Supplanting previously budgeted, approved, or expended funds for items covered or requested under this grant;

(b) Any expenses incurred prior to or after the grant period as specified by the grant agreements approved by the New Hampshire governor and executive council and the New Hampshire department of justice described in Saf-C 4006.02(b)(2) and as identified in award documents;

(c) Any expenses incurred under a contract that was in place prior to the grant award or after the grant period;

(d) Any expenses for equipment purchases;

(e) Any overtime costs that exceed the amount approved in the grant agreement;

(f) Backfill costs for northern border alliance patrols;

(g) Any overtime costs that are in the officer's same scheduled time to patrol pursuant to any federal grant program, including the Operation Stonegarden program;

(h) Any overtime costs that an officer is claiming while on annual leave from their regular employing agency;

(i) Any overtime costs not substantiated by official payroll documentation from the municipal or state agency that is employing the personnel;

(j) Any reimbursement for expenses related to the execution of activities pursuant to any federal grant program, including the Operation Stonegarden program;

(k) Reimbursement requests received after July 30 for the previous fiscal year;

(l) Funds requested for the "purchase of evidence" or "for confidential funds," per RSA 21-P:69, III(a);

(m) Any overtime costs for officers who have not completed the training described in Saf-C 4004.01(b); and

(n) Any administrative costs of applicants related to patrols or training performed pursuant to this program.

Saf-C 4004.04 Length of Funding.

(a) Applicants may apply for funding to coincide with the inception of the program in the state fiscal year with termination of grant eligible activities to allow for reimbursement of eligible costs incurred on or prior to the end of the fiscal year on June 30, 2024, and 2025.

(b) Participating agencies shall submit their final reimbursement request no later than 30 days after June of the fiscal year completed to complete the reimbursement process for the previous fiscal year.

PART Saf-C 4005 APPLICATION PROCESS

Saf-C 4005.01 Application Process.

(a) Law enforcement agencies that meet the eligibility criteria in Saf-C 4003 shall complete and submit the DSAD 100 "Northern Border Alliance Application," (rev. 11/2023) for consideration of a grant award.

(b) The application is available at: <https://onlineforms.nh.gov/forms>.

(c) The authorized official submitting the application shall sign the application and thereby certify that they are authorized under the statutes of the state of New Hampshire to apply for, authorize, and accept the requested grant funds.

(d) The authorizing official, via their signature, shall certify that they understand that:

(1) Any funds awarded shall be used to supplement existing funds and be specific for program activities and shall not supplant other funding sources for items and activities already approved and budgeted;

(2) Patrols on overtime cannot run simultaneously with work for any federal grant program, including Operation Stonegarden, that is assigned to the same individual, and time frame

segregation statements will be required to be submitted with overtime reimbursement requests under this grant;

(3) The program is a reimbursement-based program;

(4) Municipal invoices and proof of payroll expenses and mileage verifications shall be submitted to receive grant fund reimbursement;

(5) All officers performing patrols under this program must complete and submit form DSAD 101 "Northern Border Alliance (NBA) Activity Form," (rev. ~~11/2023~~XX/2024) to the New Hampshire information and analysis center within 48 hours after completing any program shift;

(6) Documentation of board of selectmen approval of overtime shall be required for any municipal employee whose regular position is not eligible for overtime, including the chief of police; and

(e) The authorized official, as well as the project manager and financial officer of the applicant, shall sign the application and thereby certify to the accuracy of the information supplied on the form.

(f) Applications shall only be submitted online as indicated on the electronic application form. Hard copies or facsimiles shall not be accepted.

PART Saf-C 4006 GRANT REVIEW PROCESS

Saf-C 4006.01 Commissioner's Determination. The commissioner shall make awards of grant funding, including amounts lower than applied for, based upon compliance with these rules or lack thereof, the amount of funds requested by the applicant, the total amount of grant funding requested by other applicants, the availability of funds, the allowability of costs under the program, and the overall anticipated impact on the goals and objectives outlined in RSA 21-P:69. The commissioner shall make these determinations with the goal of making grant funding available to as many eligible applicants as possible while maximizing the effective impact of reimbursable operations on the goals and objectives of the program.

Saf-C 4006.02 Grant Determination.

(a) Applicants who have been denied funding shall be notified in writing within 30 days of the commissioner's determination.

(b) Grant award recipients, known as grantees, shall be notified in writing within 30 days of the commissioner's determination to award grant funding with the following information:

(1) Amount of award;

(2) Deadlines and actions required to accept the award, to include completion of the grant agreement for the approval by New Hampshire department of justice and the governor and executive council;

(3) Notice that recipient shall be subject to the administrative rules set forth herein; and

(4) Notice that funding shall be contingent upon approval by the governor and executive council and local acceptance of award and conditions as required by law.

Saf-C 4006.03 Subsequent Awards. After all initial applications have been processed and any awards have been made, additional grants shall be issued to either applicants who were not awarded the full amount initially requested or to subsequent applicants, based on the amount of unawarded requests and the award criteria provided in Saf-C 4006.01.

PART Saf-C 4007 ADMINISTRATIVE REQUIREMENTS

Saf-C 4007.01 Reimbursement.

(a) Grantees shall be reimbursed for eligible expenses as defined in Saf- C 4004.02, no less frequently than quarterly.

(b) Reimbursement requests shall be made on agency letterhead, signed by the authorized official, and shall specify the name and address to whom payment will be sent.

(c) The grantee shall attach to the reimbursement request the following:

(1) A form DSAD 102 “Northern Border Alliance Approved Overtime/ Backfill Worksheet,” (rev. 11/2023), detailing the activities during the time period specified on the form, for which reimbursement is being sought; and

(2) Overtime validation from the municipal, county, or state payroll system that ties to the grant requested amount per person.

(d) The grantee, or designee who has been authorized by the grantee to sign on his or her behalf, shall sign the completed form DSAD 102 “Northern Border Alliance Approved Overtime/ Backfill Worksheet,” (rev. 11/2023), certifying that:

(1) All reimbursement requests are accurate and represent activities outlined in Saf-C 4004.02 and costs allowed by the grant award;

(2) All form DSAD 101 “Northern Border Alliance (NBA) Activity Form” (rev. ~~11/2023~~XX/2024) documents have been submitted to NHIAC within 48 hours of completion of an authorized patrol;

(3) The grantee or designee acknowledges and agrees that failure to timely submit required activity logs and comply with reimbursement criteria outlined in these rules shall result in withholding requested reimbursement funds;

(4) Overtime for patrols or training, including overtime backfill, did not supplant previously budgeted and approved funds for those costs and did not coincide with the same time frame worked for any federal grant program, including Operation Stonegarden; and

(5) All participating officers had completed the training described in Saf-C 4004.01(b) before engaging in the activities for which reimbursement is being sought.

Saf-C 4007.02 Suspension or Termination of Funds. The commissioner shall suspend or terminate funding to any awardee if it is discovered that the awardee filed a false certification in any application, report, or document used in part of this program.

PART Saf-C 4008 RECORDKEEPING AND REPORTING

Saf-C 4008.01 Recordkeeping.

(a) All grantees shall maintain detailed time and incident records and payroll support documentation for activities for which reimbursement was awarded to the grantee funded by the northern border alliance fund, to include all form DSAD 101 “Northern Border Alliance (NBA) Activity Form,” (rev. ~~11/2023~~XX/2024) documents submitted pursuant to these rules, for a period of at least 3 years.

(b) All grantees shall make grant and supporting documentation available for inspection and audit by a representative of the department upon request during the grantee’s business hours, no later than the next business day.

Saf-C 4008.02 Reporting. Per RSA 21:P:69 the commissioner shall compile and present a semi-annual report, to the governor, senate president, and speaker of the house of representatives, which shall include measurable program results and a detailed accounting of program funding and uses.

PART Saf-C 4009 RELEASE OF RECORDS UNDER RSA 91-A

Saf-C 4009.01 Exempt Material Identified by Agency. Applicant agencies believing that any material(s) required for submission under this chapter are exempt from disclosure under RSA 91-A shall clearly identify such material and provide an explanation that describes how the material meets one or more of the exemptions outlined in that statute, other statutes, or applicable case law.

Saf-C 4009.02 Departmental Review. When the department receives a request for disclosure of material submitted under this chapter, the department shall undertake a review of the material requested, including any materials identified pursuant to Saf-C 4009.01, and the submitting applicant’s explanation for the applicability of RSA 91-A to the requested material.

Saf-C 4009.03 Departmental Decision; Notification to Applicant. If the department’s determination of the applicability of RSA 91-A to material subject to a specific request differs from the applicant’s determination, the department shall notify the applicant of its determination 10 days prior to the release of information, by email or letter.

APPENDIX A

Rule	Specific State Statute the Rule Implements
Saf-C 4001	RSA 21-P:69; RSA 21-P:70
Saf-C 4002.01	RSA 21-P:69; RSA 21-P:70; RSA 541-A:7
Saf-C 4002.02	RSA 23:1; RSA 21-P:69; RSA 21-P:70; RSA 31:95-b; RSA 37:6; RSA 541-A:7
Saf-C 4002.03 – Saf-C 4002.08	RSA 21-P:69; RSA 21-P:70; RSA 541-A:7
Saf-C 4003	RSA 21-M:3-b; RSA 21-P:69; RSA 21-P:70; RSA 104:6; RSA 105:3
Saf-C 4004	RSA 21-P:69; RSA 21-P:70
Saf-C 4005	RSA 21-P:69; RSA 21-P:70
Saf-C 4006	RSA 21-P:69; RSA 21-P:70
Saf-C 4007	RSA 21-P:69; RSA 21-P:70
Saf-C 4008	RSA 21-P:69; RSA 21-P:70
Saf-C 4009	RSA 21-P:69; RSA 21-P:70