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**20.205-4 HIGHWAY PLANNING AND CONSTRUCTION**

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**State Project/Program:** **BICYCLE AND PEDESTRIAN TRANSPORTATION ENHANCEMENT PROGRAMS: SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU), MAP-21**

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**U. S. Department of Transportation**

**Federal Authorization:** 23 U.S.C. 401 et seq., 25 amended, 23 CFR and 49 CFR

**State Authorization:**

**North Carolina Department of Transportation  
Division of Bicycle and Pedestrian Transportation**

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**The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor can consider the supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current. The grantor agency may elect to review audit working papers to determine that audit tests are adequate.**

The Single Audit Compliance Unit of the External Audit Branch reviews all single audits, financial audits, and management letters of all “grantees”. We are looking at both the presentation (information as to program, pass-through and state funding, NCDOT identification numbers) and the dollar amounts presented versus our records. Any reports not received will be requested.

Grants must be properly identified by program name (Bicycle and Pedestrian Transportation Enhancement Program) and WBS number on the Schedule of Expenditures of Federal and State Awards. This information is available from the agreement with NCDOT; program name is in the second/third paragraph while the WBS number is on the upper right hand corner of the first page. Grantor and/or pass-through grantor, program title and CFDA number (if appropriate) should also be included. Please do not combine like projects into one dollar amount since we would need to call you for the breakdown; please report award amount, Federal Pass-through, State share and local share.

On NCDOT’s confirmation from the Grant Master List (GML), these moneys are shown as CFDA number 20.205-4.

## I. PROGRAM OBJECTIVES

The objective of the Division of Bicycle and Pedestrian Transportation is to decrease bicyclist and pedestrian injuries and fatalities on North Carolina's streets and highways and other public right-of-ways by improving these corridors and the travel environment for safe bicycle and pedestrian use, thus promoting increased bicycling and walking.

## II. PROGRAM PROCEDURES

The Division of Bicycle and Pedestrian Transportation uses former Enhancement and now Transportation Alternatives funds provided through federal transportation authorization legislation to integrate transportation options into our communities and the natural environment. Examples include: (1) pedestrian and bicycle facilities, (including safety and educational activities for pedestrians and bicycles) (2) and preserving abandoned railway corridors (including the conversion and use as pedestrian or bicycle trails).

Walking and cycling are the oldest forms of transportation modes in North Carolina. In response to the growing need to accommodate the bicycle, the Board of Transportation has adopted a comprehensive set of bicycle and pedestrian policies which clarifies the Department's responsibilities regarding the provision of bicycle facilities along or upon the state maintained highway system or along other federal-aid eligible facilities. The Division of Bicycle and Pedestrian Transportation also assists localities with the planning and design of their bicycle facilities and those projects requiring state involvement must go through the transportation improvement program process.

Recipients request funding through the prioritization process leading to the STIP (State Transportation Improvement Program) development process. Transportation Alternative projects may be funded up to 80% with federal transportation alternatives dollars. The remaining share must come from other public sources. In some cases, state funds are to provide part of the "match." A legal agreement between the NCDOT and the sponsor specifying the terms of the project will be necessary. Progress is monitored through on-site inspection, progress reports and financial reports.

The primary sources of program requirements are 23 USC (Highways). Implementing regulations are found in 23 CFR (Highways) and 49 CFR (Transportation). The FHWA maintains a website that provides program laws, regulations, and other general information online at <http://www.fhwa.dot.gov/>.

## III. COMPLIANCE REQUIREMENTS

**The federal granting agency has issued a compliance supplement that should be used in conjunction to this compliance supplement issued by the State Agency. Please refer to [2 CFR Part 200](#) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards: Final Rule.**

In developing the audit procedures to test compliance with the requirements for a Federal program, the auditor should first look to [Subpart F](#) of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

A. ACTIVITIES ALLOWED OR UNALLOWED

- 1. Compliance Requirements** - Federal funds can be used only to reimburse costs that are (a) incurred subsequent to the date of authorization to proceed, (b) (b) in accordance with the conditions contained in the project agreement and the plans, specifications, and estimates (PS&E); (c) allocable to a specific project; and (d) claimed for reimbursement subsequent to the date of the project agreement (23 CFR sections 1.9, 630.106, 630.205, and 635.112).

**Audit Objective** – Determine that expenditures were made as specified in the reimbursement agreement and scope of project.

**Suggested Audit Procedure** - Ascertain whether or not expenditures were for items specified in the reimbursement agreement and letter giving notice to proceed with project.

- 2. Compliance Requirement** - All Transportation Enhancement projects must meet the requirements of the National Environmental Protection Act (NEPA) and receive the required permits before construction can begin.

**Audit Objective** - Determine that a permit was received.

**Suggested Audit Procedure** - Ascertain that a permit was received prior to construction.

B. ALLOWABLE COSTS / COST PRINCIPLES

- 1. Compliance Requirement** - In-house equipment used by municipalities can be billed at rates only on documented historical cost records. If the municipality does not have historical cost records to support rates, rates must be approved by the Department of Transportation. (NCDOT approves rates using General Managers' Association of Chicago, U.S. Corps of Engineers or Blue Book rental.)

**Audit Objective** – Determine that in-house equipment rates were billed correctly.

**Suggested Audit Procedure**

1. Ascertain that municipality has used equipment rental rates (for in-house equipment) based upon historical cost records or state approved rates.
  2. Verify invoiced equipment rates do not exceed in-house or other approve rates.
- 2. Compliance Requirement** - Local units of government including cities, counties, and airport authorities chartered by the General Assembly are eligible for grants. These local units of government should be eligible for sales tax refunds under G.S. 105-164.14 (b) or (c); if they cannot qualify, then these local units of government should take the steps necessary to become eligible. Sales tax paid which may be requested from the N. C. Department of Revenue as a refund is an ineligible charge.

**Audit Objective** - Determine that the authority is eligible for the refund and that NCDOT did not reimburse any sales taxes eligible for refund.

**Suggested Audit Procedure** - Review financial records including contractors' sales tax affidavits and ascertain that no sales taxes were billed to the project.

C. CASH MANAGEMENT

The grant is funded on a reimbursement basis; therefore, no testing is required at the local level.

D. RESERVED

F. EQUIPMENT AND REAL PROPERTY MANAGEMENT

**Compliance Requirement** – NCDOT has adopted the policies and procedures for equipment and real property contained in the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200.310-316).

**Audit Objective** – Determine if grant funds were used to purchase equipment or real property.

**Suggested Audit Procedures**

1. Review invoices to determine if equipment or property was purchased.
2. Review fixed asset records to determine if properly recorded.
2. Determine if items are physically present.
3. Determine if disposals were handled in accordance with the appropriate regulation.

G. MATCHING, LEVEL OF EFFORT, EARMARKING

1. Matching

**Compliance Requirement** - The State (including federal and state funds) participation cannot exceed the amount stated in the grant agreement, grant award letter and approved project budget. The remaining share must come from sources other than Federal or State sources.

**Audit Objective** - Determine that state participation does not exceed maximum allowed. Auditor should report amounts received from NCDOT as well as expenditures.

**Suggested Audit Procedures**

1. Examine the approved project budget and any subsequent budget revisions and amendments.

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2. Ascertain the total project costs. Compare the total project cost with financial records and the grant contract to determine allowability or unacceptability of the expenses.
  3. Review financial records and determine the amount that can be claimed as the State share (including federal and state funds).
  4. Review financial records and determine the amount that can be claimed as the Local share (if any), and whether the match was met with allowable funding sources.
2. Level of Effort - No testing required at the local level.
  3. Earmarking - No testing required at the local level.

#### H. PERIOD OF PERFORMANCE

Each grant discloses a period of performance in accordance with the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200.309). Refer to the Uniform Guidance Compliance Supplement (2 CFR Part 200, Appendix XI) for Suggested Audit Procedures.

#### I. PROCUREMENT, SUSPENSION & DEBARMENT

##### 1. Solicitation of Bids

**Compliance Requirement** – LPAs must award construction contracts on the basis of the lowest responsive bid submitted by a bidder meeting the contracting agency’s criteria for responsibility. Competitive bidding is required unless the contracting agency is able to demonstrate to FHWA that some other method is more cost effective. (23 USC 112 (b)(1); 23 CFR sections 635.104 and 635.114). Contracting agencies also may procure construction services through competitive proposals by using design-build contracts (23 USC 112(b)(3); 23 CFR part 636) or construction manager/general contractor contracts (23 USC 112(b)(4)).

N.C.G.S. 143-129 requires the solicitation of bids on construction or repair work requiring expenditure of public money in an amount equal to or more than five hundred thousand dollars (\$500,000) or purchases in an amount equal to or more than ninety thousand dollars (\$90,000). N.C.G.S. 143-131 states that all contracts for construction or repair work or for the purchase of apparatus, supplies, materials, or equipment, involving the expenditure of public money in the amount of thirty thousand dollars (\$30,000) or more, but less than the limits prescribed in G.S. 143-129, shall be made after informal bids have been secured. Bid tabulation and governing agency resolution recommending award is required for contract award to the lowest responsible bidder.

**Audit Objective** – Determine if bids, formal or informal, were required and if required, were received.

**Suggested Audit Procedure** - Verify that municipality has properly solicited bids and that the contract was awarded to the lowest qualified.

2. Debarment

**Compliance Requirement** – It is the policy of NCDOT not to enter into any agreements with parties that have been debarred by any government agency. The entity’s agents or contractors shall not be presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in transactions by any Federal or State Department or Agency.

**Audit Objective** – Determine that the entity has not entered into any agreements with parties that have been debarred by any government agency.

**Suggested Audit Procedure** - Ascertain whether or not the entity has not entered into any agreements with parties that have been debarred by any government agency.

J. PROGRAM INCOME

NCDOT does not pass this requirement to the LPA. No testing is required at the local level.

K. RESERVED

L. REPORTING

**Compliance Requirement.** NCDOT requires progress be monitored through on-site inspection, progress reports and financial reports. Written reports must be submitted prior to reimbursement.

**Audit Objective** – Determine that reports were received by NCDOT before reimbursement.

**Suggested Audit Procedure** - Ascertain whether or not the entity submitted written reports to NCDOT before reimbursement was issued.

M. SUBRECIPIENT MONITORING

**Compliance Requirement - American Recovery and Reinvestment Act:** A pass through entity is responsible for identifying to the first-tier subrecipients the requirement to register in the System of Award Management (SAM), including obtaining a Dun and Bradstreet Data Universal Numbering System (DUNS) number, and maintain the currency of that information (Section 1512(h), ARRA, and 2 CFR 176.50(c)).

**Audit Objective** – Determine whether the pass-through entity determined that subrecipients have current SAM registrations prior to making subawards and performed periodic checks to ensure that subrecipients are updating information as necessary.

**Suggested Audit Procedure** – Test the pass-through entity’s subaward review and approval documents to determine whether, before award, the pass-through entity

checked SAM to determine whether subrecipients were registered. Auditor should report amount received from NCDOT as well as expenditures.

#### N. SPECIAL TESTS AND PROVISIONS

**1. Compliance Requirement** - The applicability of Davis-Bacon to a transportation enhancement project is dependent on the relationship or linkage of the project to a Federal-aid highway. If the project is not “linked” to a particular Federal-aid highway and is eligible based solely on function (i.e., a transportation facility, such as an independent bike path, etc.), then the Davis-Bacon requirements do not apply. However, the Davis-Bacon requirements apply to projects greater than \$2,000 that are physically located within the existing right-of-way of a Federal-aid highway, regardless of the transportation enhancement characteristics (exception: FHWA has authorized NCDOT to administer Federally funded Division/Purchase Order Contracts under \$50,000, in accordance with the policies for state funded projects).

**Audit Objective** - Determine that the recipient has complied with Davis-Bacon, if it applies.

##### **Suggested Audit Procedures**

1. Determine the linkage of the project to a Federal-aid highway and ascertain the above policy is incorporated.
2. Review contracts for compliance with stated policy.

**2. Compliance Requirement** – Local units of government that intend to enter into consultant contracts must obtain prior approval from NCDOT. Consultant contracts are governed by 23 CFR Part 172, NC General Statutes 136-28.1(f), 143-64.31, 143-64.32, 143-64.33 ([www.ncga.state.nc.us](http://www.ncga.state.nc.us)).

**Audit Objective** – Determine that the entity received written approval by NCDOT before execution of a consultant contract, if applicable.

**Suggested Audit Procedure** - Ascertain whether or not the entity received written approval by NCDOT before execution of a consultant contract, if applicable.