

APRIL 2022

20.205-4 HIGHWAY PLANNING AND CONSTRUCTION

State Project/Program:	BICYCLE AND PEDESTRIAN TRANSPORTATION ALTERNATIVES PROGRAM: SAFE, ACCOUNTABLE, FLEXIBLE, EFFICIENT TRANSPORTATION EQUITY ACT: A LEGACY FOR USERS (SAFETEA-LU), MAP-21, FAST ACT
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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: N/A

**North Carolina Department of Transportation
Integrated Mobility Division**

Agency Contact Person – Program

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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.

Auditors may request documentation of monitoring visits by the State Agencies.

This compliance supplement must be used in conjunction with the OMB 2022 Compliance Supplement which will be issued in the summer. This includes “Part 3 - Compliance Requirements,” for the types that apply, “Part 6 - Internal Control,” and “Part 4 - Agency Program” requirements if the Agency issued guidance for a specific program. The OMB Compliance Supplement is Section A of the State Compliance Supplement.

The Single Audit Compliance Unit within the NCDOT Office of Inspector General (OIG) 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, and 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 Alternatives 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.

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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

One objective of the Integrated Mobility Division is to decrease bicyclist and pedestrian injuries and fatalities on North Carolina's streets, highways and other public rights-of-way by improving these corridors and the travel environment for safe bicycle and pedestrian use, thus promoting increased bicycling and walking.

II. PROGRAM PROCEDURES

Transportation Alternatives Program funds are provided through federal transportation authorization 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).

Recipients request funding through the project prioritization process leading to the STIP (State Transportation Improvement Program). Selected Transportation Alternative projects may be funded up to 80% with federal transportation funds. The remaining share must come from other non-federal sources. The [State Transportation Investments law](#) mandates that no financial support shall be provided for independent bicycle and pedestrian improvement projects. A local agreement between the NCDOT and the sponsor specifying the terms of the project is required. 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

Noted below in the following matrix are the types of compliance requirements that are applicable to the federal program. These Types are determined by the federal agency, noted as "Y," on the "Matrix of Compliance Requirements" located in Part 2 of the OMB 2021 Compliance Supplement; however, the State Agency may have added the Type and this should be noted by "Y." If the State determines that the federal requirement does not apply at the local level or if the State modifies the federal requirements, this is noted in the supplement under the type of compliance requirement. If the federal and/or State agencies have determined that the type is not applicable, it is noted by "N."

If the Matrix indicates "Y," the auditor must determine if a particular type of compliance requirement has a direct and material effect on the federal program for the auditee. For each such compliance requirement subject to the audit, the auditor must use the OMB 2021 Compliance Supplement, Part 3 (which includes generic details about each compliance

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requirement other than Special Tests and Provisions) and Part 4 (which includes any program-specific requirements) to perform the audit.

If there is no program listed on the “Matrix” in Part 2 or Part 4, the State has determined the Type that is applicable. If a Type is determined direct and material, the auditor should refer to the requirements found in Part 3 and listed in this supplement.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/ Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	Y	Y	Y	Y	Y	Y	Y	Y

A. ACTIVITIES ALLOWED OR UNALLOWED

1. **Compliance Requirements** - Allowable activities include right-of-way, design, and construction of bicycle and pedestrian infrastructure as described in the local agreement. Federal funds can be used only to reimburse costs that are (a) incurred subsequent to the date of authorization to proceed, (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 required permits before construction can begin.

Audit Objective - Determine that NEPA requirements were met and a permit, if required, was received.

Suggested Audit Procedure - Ascertain NEPA documentation and required permits were received prior to construction.

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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 approved rates.
- 2. Compliance Requirement** - Local units of government including cities and counties are eligible for this award. 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 jurisdiction is eligible for the refund and that NCDOT did not reimburse any sales taxes eligible for refund.

Suggested Audit Procedure - Review financial records, including invoices, associated documentation, and the 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. Reimbursement requests are reviewed for appropriate documentation of payment prior to reimbursement.

No testing is required at the local level.

D. RESERVED

E. ELIGIBILITY – Not Applicable

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). Acquisition of real property is permitted if identified in the approved project scope and memorialized in the local agreement. Equipment purchase is not permissible under this program.

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

Suggested Audit Procedures

1. Review invoices to determine if property was purchased.
2. Determine if real property acquisition was handled in accordance with the appropriate regulation and scope of project.

G. MATCHING, LEVEL OF EFFORT, EARMARKING

1. Matching

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

Audit Objective - Determine that State participation does not exceed maximum amount awarded. Auditor should report total expenditures as well as the amounts received from NCDOT.

Suggested Audit Procedures

1. Examine the approved project budget and any subsequent budget revisions and amendments.
2. Ascertain 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 – Not applicable.

3. Earmarking – Not applicable.

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. The project period of performance is established in the local agreement.

Audit Objective - Determine expenditures did not occur outside the period of performance.

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Suggested Audit Procedures

1. Examine the approved local agreement and any amendments to determine the period of performance.

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.

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J. PROGRAM INCOME - Not applicable.

K. RESERVED

L. REPORTING

Compliance Requirement. NCDOT requires progress be monitored through on-site inspection, standard progress reports and financial reports. Written reports must be submitted prior to reimbursement with appropriate detail and documentation of activities and expenditures. Reports are submitted and reviewed by the local programs section of NCDOT prior to being approved for reimbursement. Reports are submitted as work progresses and as required under the local agreement.

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

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

M. SUBRECIPIENT MONITORING - Not applicable.

N. SPECIAL TESTS AND PROVISIONS

1. Compliance Requirement - The applicability of Davis-Bacon to a transportation alternatives 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. 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 alternative project characteristics.

Audit Objective - Determine that the recipient has complied with Davis-Bacon, if applicable.

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).

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.