

**RAIL INDUSTRIAL ACCESS AND SHORTLINE INFRASTRUCTURE ASSISTANCE**

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**State Authorization: N. C. G. S. Article 2D of Chapter 136**

**N. C. Department of Transportation  
Rail Division**

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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 NCDOT “grantees”. OIG examines the presentation of program information including the grantor, program title, NCDOT identification numbers (WBS number), and reported Federal pass-through and/or State expenditures.

Grants must be properly identified by program name (“Rail Industrial Access Program” for RIAP, “Short line Infrastructure Assistance Program” for SIAP, and “Freight Rail Diversion Program” for FRDP), DOT number (“DOT-23”), and WBS number on the Schedule of Financial Assistance. 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 left-hand corner of the first page. Grantor and/or pass-through grantor and program title 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, State share and local share. On NCDOT’s confirmation from the Grant Master List (GML), these moneys are shown as DOT number “DOT-23.” Grant auditing procedures are similar for both RIAP, SIAP, and FRPD programs, except where otherwise noted in this Compliance Supplement.

### I. PROGRAM OBJECTIVES

Established in 2013 under NCGS §124-5.1, the Freight Rail & Rail Crossing Safety Improvement (FRRCSI) program provides matching funds for the enhancement of freight rail service, short line railroad assistance, diversion of freight from highway to rail, and railroad-roadway crossing safety. The FRRCSI program serves as a “parent” program, comprised of various subprograms that facilitate these enhancements. Three of the predominant subprograms are the Rail Industrial Access Program (RIAP), the Short line Infrastructure Assistance Program (SIAP), and the Freight Rail Diversion Program (FRDP). These programs were created by NCGS §136-44.39 and share and administer funds from the greater FRRCSI program budget, as allocated annually through legislative appropriation.

#### RIAP

The RIAP is the direct economic development component of the FRRCSI program, providing up to 50 percent of the project cost, not to exceed \$400,000 to new or existing North Carolina industries seeking to transport their products via railroad. RIAP funds may be used to build or upgrade industrial sidings, switches, or other on-site rail infrastructure. In exchange, industries commit to a total capital investment at the site, and a specified number of jobs created and annual rail car shipments over a two-year period.

#### SIAP

The SIAP provides up to 50 percent in matching funds to short line railroads for the enhancement of rail service, and access to ports and military installations. The SIAP encourages freight diversion from highway to rail by aiding in the maintenance and enhancement of a safe and efficient statewide short line rail network. In exchange, railroads commit to perform the project to the standards and specification of the NCDOT, ensure the project tracks and project improvements remain in service for a five-year period, and ensure that the project tracks or other project improvements only be relocated or sold with the written approval of the NCDOT.

#### FRDP

The FRDP provides matching funds to grant applicants where the rail projects primarily divert transport services from heavy truck to rail. Grant recipients commit to serving a carload service goal, perform the project to the standards and specification of the NCDOT, ensure the project tracks and project improvements remain in service for a five-year period, and ensure that the project tracks or other project improvements only be relocated or sold with the written approval of the NCDOT.

### II. PROGRAM PROCEDURES

#### RIAP

Local governments, community development organizations, railroad companies and industries may apply for RIAP grant funds. Potential grant recipients may apply for project funding at any time during the State Fiscal Year (SFY), so long as program funds are available. The Rail Division of NCDOT evaluates applications through a quantitative process and makes funding recommendations to the North Carolina

Board of Transportation.

A grant agreement between the department and recipient is prepared and executed. Project purchases are to be competitively bid and selected and contracts must be awarded to the low bidder (minimum 3 bids). All procurements are to be conducted in accordance with N.C. General Statute 143, Article 8. To receive reimbursement, the RIAP recipient must submit a payment invoice after the project is completed and after the track is in revenue service. Requests for reimbursement must include procurement invoices, proof of payments, and confirmation of domestic steel sources for relevant materials. Upon review and approval by the Rail Division and DOT Fiscal Office, payment will be made.

### SIAP

Short line railroads are eligible to apply for SIAP grant funds. The Rail Division solicits a “call for projects” at the beginning of each SFY. All candidate projects are evaluated and ranked through a quantitative process; projects are selected for recommendation by rank and available program funding. The NCDOT Rail Division makes funding recommendations to the North Carolina Board of Transportation.

A grant agreement between the department and recipient is prepared and executed. Project purchases are to be competitively bid and selected and contracts must be awarded to the low bidder (minimum 3 bids). All procurements are to be conducted in accordance with N.C. General Statute 143, Article 8. SIAP recipients may submit progressive payment invoices, as project milestones are completed. Requests for reimbursement must include procurement invoices, proof of payments, and confirmation of domestic steel sources for relevant materials. Upon review and approval by the Rail Division and DOT Fiscal Office, payment will be made.

### FRDP

Class I railroads, industries, short line railroad companies, the North Carolina State Ports Authority (NCSPA), or other applicants are eligible for FRDP grant funds. Potential grant recipients may apply for project funding at any time during the State Fiscal Year (SFY), so long as program funds are available. The Rail Division of NCDOT evaluates applications through a quantitative process and makes funding recommendations to the North Carolina Board of Transportation.

A grant agreement between the department and recipient is prepared and executed. Project purchases are to be competitively bid and selected and contracts must be awarded to the low bidder (minimum 3 bids). All procurements are to be conducted in accordance with N.C. General Statute 143, Article 8. FRDP recipients may submit progressive payment invoices, as project milestones are completed. Requests for reimbursement must include procurement invoices, proof of payments, and confirmation of domestic steel sources for relevant materials. Upon review and approval by the Rail Division and DOT Fiscal Office, payment will be made.

### **Availability of Additional Program Guidance**

Additional program information is provided in the RIAP and SIAP Notebook, available at: [Rail Division Resources Page](#).

### 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 State agency noted by "Y."

If the Matrix indicates "Y," the auditor must determine if a particular type of compliance requirement has a direct and material effect on the State program for the auditee.

1	2	3	4	5	6	7	8	9	10	12	13	14
Activities Allowed or Unallowed	Allowable Costs/ Cost Principles	Cash Management	Conflict of Interest	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	Y	N	N	Y	Y	Y	N	Y	N	N

#### 1. ACTIVITIES ALLOWED OR UNALLOWED

**Compliance Requirement** - Activities are defined in the agreement between NCDOT and the grantee. Funds must be expended in a manner consistent with the executed agreement.

**Audit Objective** – Determine if funds were expended on allowable activities specified in the executed agreement.

#### **Suggested Audit Procedure**

1. Ascertain that expenditures conform to the executed agreement.
2. Test expenditures and related records for compliance with the executed agreement.

#### 2. ALLOWABLE COSTS/COST PRINCIPLES

##### RIAP

**Compliance Requirement** – Costs eligible for RIAP funding include reasonable engineering costs; site preparation, including necessary grading and drainage to construct track(s); track construction; switches, and grade crossings and signals (19A NCAC 06B.0404).

**Compliance Requirement** – Costs which are not eligible for the RIAP program

include relocation of utilities; acquisition of rights of way; and rail docking (19A NCAC 06B.0405).

**Audit Objective** – Determine whether reimbursed costs were allowable.

**Suggested Audit Procedure** – Select a sample of invoices and corresponding supporting documentation for invoices and verify whether costs charged to the program were allowable.

### SIAP

**Compliance Requirement** – Costs eligible for SIAP funding include reasonable engineering costs; site preparation, including necessary grading and drainage to construct track(s); track construction; switch construction; grade crossing improvements; bridge maintenance and upgrades; and grade crossings and signal improvements.

**Compliance Requirement** – Costs which are not eligible for the SIAP program include relocation of utilities and acquisition of rights of way. In cases where new utilities are required for direct functionality of rail infrastructure improvements, costs may be identified as eligible, where described in the project Rail Freight Agreement.

**Audit Objective** – Determine whether reimbursed costs were allowable.

**Suggested Audit Procedure** – Select a sample of invoices and corresponding supporting documentation for invoices and verify whether costs charged to the program were allowable.

### FRDP

**Compliance Requirement** – Costs eligible for FRDP funding Eligible expenses are engineering costs, site preparation, track construction, switch installation, grade crossing improvements (when required as part of comprehensive project improvements), bridge upgrades (when required as part of comprehensive project improvements), and site support infrastructure such as grading, drainage, driveway/site access, storage surfaces, security fencing and lighting, utilities directly support transload/rail operations, and fixed equipment that support transload operations.

**Compliance Requirement** – Costs which are not eligible for the FRDP program include studies, buildings, mobile equipment, other non-fixed (mobile) assets, and acquisition of rights of way. In cases where new utilities are required for direct functionality of rail infrastructure improvements, costs may be identified as eligible, where described in the project Rail Freight Agreement.

**Audit Objective** – Determine whether reimbursed costs were allowable.

**Suggested Audit Procedure** – Select a sample of invoices and corresponding supporting documentation for invoices and verify whether costs charged to the program were allowable.

### 3. CASH MANAGEMENT

The NC Department of Transportation pays on a reimbursement basis. Proof of payment is required and verified by the NCDOT Rail Division for all procured materials and labor. No testing is required.

### 4. CONFLICT OF INTEREST POLICY

**Compliance Requirement** – N.C.G.S. 143C-6-23 requires each non-state entity eligible to receive state funds to have a conflict-of-interest policy which addresses conflicts that may arise when members of its governing body or its managing employees are involved in the disbursement of state funds. The entity is required to have a copy of their entity's policy on file with the NCDOT Rail Division before any funds are disbursed; this policy shall be approved by the entity's governing board and a notarized statement of the board's action shall be attached. All members of the board and management shall be familiar with and follow the policy and the legislation. The entity should have written procedures of how the conflict-of-interest policy is enforced.

**Audit Objective** - Determine if the policy statement has been provided to the NCDOT Rail Division, to current members of the board and management and efforts are made to follow the policy.

#### **Suggested Audit Procedure**

1. Obtain a copy of the policy and transmittal letter to the NCDOT Rail Division that is provided by participating entities.
2. Verify the existence and enforcement of the entity's procedures.

### 5. ELIGIBILITY

#### RIAP

Municipal and county governments; non-profit or for-profit community development organizations; railroads; and industries are eligible to apply for Rail Industrial Access Funding (19A NCAC 06B .0403). Candidate eligibility is determined by the NCDOT Rail Division during application review. No testing is required at the entity level.

#### SIAP

Short line railroad companies and the North Carolina State Ports Authority (NCSPA) are eligible to apply for Short line Infrastructure Assistance Funding. Candidate eligibility is determined by the NCDOT Rail Division during application review. No testing is required at the entity level.

#### FRDP

Class I railroads, industries, short line railroad companies, the North Carolina State Ports Authority (NCSPA), or other applicants are eligible to apply for Freight Rail Diversion Funding. Candidate eligibility is determined by the NCDOT

Rail Division during application review. No testing is required at the entity level.

### 6. EQUIPMENT & REAL PROPERTY MANAGEMENT

Acquisitions of equipment and real property are not eligible for reimbursement under the RIAP, SIAP, and FRDP. Rail Division project managers are the first level of review and approval of request for reimbursement. No testing is required.

### 7. MATCHING, LEVEL OF EFFORT, EARMARKING

1. Matching – NCDOT may fund up to a maximum of 50% of total project cost. The grantee must pay any costs in excess of the NCDOT funding amount referenced in the agreement. The auditor should report amounts all expenditures to include both remitted and unremitted costs incurred during the reporting period. Where in-kind matches are provided by the grant recipient, the value of match should be demonstrated through project reporting.

**Compliance Requirement** – RIAP, SIAP, and FRDP grant funds are subject to matching percentages between the State and grant recipient, as specified within each project agreement, not to exceed a maximum of 50% of total project costs. Matching percentages are subject to review by the NCDOT Rail Division during project billing instances, prior to remittance.

**Audit Objective** – Determine if remitted project costs comply with State/grantee matching percentages as specified within the project agreement.

**Suggested Audit Procedure** – Verify that all remitted project costs comply with State/grantee matching percentages, as specified within the project agreement. Verify the cost and proof of payment for in-kind matches provided by the grant recipient meet the requirements, as described within the project agreement.

2. Level of Effort – Not applicable.
3. Earmarking – Not applicable.

### 8. PERIOD OF PERFORMANCE

**Compliance Requirement** - Eligible RIAP, SIAP, and FRDP project costs are to be completed within a time frame specified in the project agreement. The recipient typically begins project work within one year and completes it within 1.5 years after the date of the North Carolina Department of Transportation authorization. Recipients may request project schedule extensions, subject to the approval of the NCDOT Rail Division. Final remittance must be requested no later than 6 months following expiration of the agreement period or the approved schedule extension.

**Audit Objective** – Determine if costs were expended within the specified time frame according to the agreement, to include any approved schedule extensions.

**Suggested Audit Procedure** – Verify that project expenses occurred within the period of performance specified in the executed agreement, to include any

approved schedule extensions. The short line maintains and provides a signed project agreement and documentation related to any requests and approvals of schedule extensions.

### 9. PROCUREMENT AND SUSPENSION AND DEBARMENT

#### Procurement

**Compliance Requirement** – Obligations must be incurred in accordance with state purchasing requirements (G.S. 143-48 through 143-64.5). Please review the grant agreement and the NC General Assembly's website for additional information.

Procurements for contractual services shall be conducted in accordance with North Carolina General Statute 143, Article 8. North Carolina General Statute 143-129 contains the key competitive bidding requirements. Expenditures for service requiring the estimated expenditure equal to or more than five hundred thousand dollars (\$500,000); or a single class of supplies, materials, or equipment estimated in an amount equal to or more than ninety thousand dollars (\$90,000) must be contracted for only after a formal low bid process and approval by NCDOT. A bid tabulation and governing agency resolution recommending award is required for contract award to lowest responsible bidder (G.S. 143-129). Prior to entering into a contractual agreement for services, the grantee must obtain approval from NCDOT.

Please review the grant agreement and the NC General Assembly's website for additional information:

[http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter\\_143/Article\\_8.html](http://www.ncga.state.nc.us/EnactedLegislation/Statutes/HTML/ByArticle/Chapter_143/Article_8.html).

**Audit Objective** – Determine if procurements were conducted in accordance with N.C.G.S. 143-129 – key competitive bidding requirements.

**Suggested Audit Procedure** – Examine procurements for adherence to regulations and NCDOT guidance. Verify that subrecipient received NCDOT authorization of low/recommended bid. This approval is typically done by an email chain through the short line and the Rail Division at NCDOT.

#### Debarment

**Compliance Requirement** – Verify that project vendors and labor sources are not debarred or suspended from doing business with the State. A certified statement must be provided that indicates the entity has not entered into any agreements with parties that have been debarred by any government agency.

**Audit Objective** – Determine that grantees have not entered into contracts or grant agreements with entities that are debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in transactions by any Federal or State department agency.

#### **Suggested Audit Procedure**

1. Examine the grantee's procurements and subawards and ascertain those entities and/or contractors/vendors that received payments from the



grantee are not included on the NC Debarred Vendor List provided by the NC Department of Administration.

2. Performing a SAM registration search to verify that each entity has a valid DUNS and was not debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in Federal or State transactions.
  3. Verify that the required suspension and debarment certifications were received by the grantee for covered contracts.
  4. Review the signed agreement between the grantee and the subrecipient or contractor and verify that the contract provisions include a language that prohibits a subrecipient from procuring goods or services from a company, firm, or organization that has been suspended or debarred by the State of North Carolina or the Federal Government.
10. PROGRAM INCOME – not applicable.
11. RESERVED
12. REPORTING

Non-governmental – Reports made by non-State entities

### RIAP

**Compliance Requirement** – North Carolina General Statute 143C-6-22 “Use of State Funds by Non-State Entities” addresses disbursement and use of State funds and compliance by Non-State Entities. Additionally, North Carolina General Statute 143C-6-23 “State Grant Funds: administration; oversight and reporting requirements” and North Carolina Administrative Code Chapter 9, Subchapter 03M “Uniform Administration of State Grants” address reporting requirements for nongovernmental entities. Effective August 1, 2016, grantees will not submit their reports in the NC Grants System but directly to the Program in the manner prescribed by the Program.

RIAP projects are subject to reporting requirements as described in the RIAP Notebook. RIAP projects are non-recurring and remittance of expenditures is provided solely upon project completion, where proof of service or activity on the rail asset is provided. Therefore, a final report of expenditures and activities should be provided as part of each project closeout. The report should include a State Grant Certification and Sworn Statement, State Grants Compliance Report form, a description of Program Activities and Accomplishments, and a Schedule of Receipts and Expenditures. The RIAP Notebook and reporting forms are available at: [Rail Division Resources Page](#).

**Audit Objective** – Any Non-State Entity grant recipient under the SIAP and RIAP are subject to verifying the use or expenditure of State funds is compliant with G.S. 143C-6-22. Accordingly, per G.S. 143C-6-23, determine whether required reports include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with

program requirements.

### **Suggested Audit Procedure**

1. Determine the entity's reporting level and applicable reports that should be submitted to NCDOT to comply with 09 NCAC 03M.
2. Determine whether reports were accurately prepared and filed timely.

### SIAP

**Compliance Requirement** – North Carolina General Statute 143C-6-23 “Use of State Funds by Non-State Entities,” and North Carolina Administrative Code Chapter 9, Subchapter 03M “Uniform Administration of State Grants” address reporting requirements for nongovernmental entities. Effective August 1, 2016, grantees will not submit their reports in the NC Grants System but directly to the Program in the manner prescribed by the Program.

SIAP projects are subject to annual reporting requirements as described in the SIAP Notebook and the project agreement. Project expenditures and activities should be reported spanning each State Fiscal Year (SFY), July 1 to the following June 30. Annual reports are due within 3 months of the end of each SFY. Reports should describe expenditures of State moneys for each project, while also distinguishing between remitted and non-remitted status. Required annual reports include a State Grant Certification and Sworn Statement, State Grants Compliance Report form, a description of Program Activities and Accomplishments, and a Schedule of Receipts and Expenditures. The SIAP Notebook and reporting forms are available at: [Rail Division Resources Page](#).

**Audit Objective** – Determine if the organization is subject to G.S. 143C-6-23. Determine whether required reports include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with program requirements.

Verify the cost and proof of payment for in-kind matches provided by the grant recipient meet the requirements, as described within the project agreement.

### **Suggested Audit Procedure**

1. Determine the entity's reporting level and applicable reports that should be submitted to NCDOT to comply with 09 NCAC 03M.
2. Determine whether reports were accurately prepared and filed timely.

3.

### FRDP

**Compliance Requirement** – North Carolina General Statute 143C-6-23 “Use of State Funds by Non-State Entities,” and North Carolina Administrative Code Chapter 9, Subchapter 03M “Uniform Administration of State Grants” address reporting requirements for nongovernmental entities. Effective August 1, 2016, grantees will not submit their reports in the NC Grants System but directly to the Program in the manner prescribed by the Program.

FRDP projects are subject to annual reporting requirements. Project expenditures and activities should be reported spanning each State Fiscal Year (SFY), July 1 to the following June 30. Annual reports are due within 3 months of the end of each SFY. Reports should describe expenditures of State moneys for each project, while also distinguishing between remitted and non-remitted status. Required annual reports include a State Grant Certification and Sworn Statement, State Grants Compliance Report form, a description of Program Activities and Accomplishments, and a Schedule of Receipts and Expenditures. Reporting forms are available at: [Rail Division Resources Page](#).

**Audit Objective** – Determine if the organization is subject to G.S. 143C-6-23. Determine whether required reports include all activity of the reporting period, are supported by applicable accounting or performance records, and are fairly presented in accordance with program requirements.

Verify the cost and proof of payment for in-kind matches provided by the grant recipient meet the requirements, as described within the project agreement.

### **Suggested Audit Procedure**

1. Determine the entity's reporting level and applicable reports that should be submitted to NCDOT to comply with 09 NCAC 03M.
2. Determine whether reports were accurately prepared and filed timely.

### 13. SUBRECIPIENT MONITORING

The requirement is not applicable since the subrecipients do not pass down funds. No testing is required.

### 14. SPECIAL TESTS AND PROVISIONS

No additional special tests and provisions are passed down to the local level. No testing required.