

20.205

HIGHWAY PLANNING AND CONSTRUCTION

State Project/Program

**Metropolitan Planning Program:
PL 104 and STBG-DA Planning Flex Funds**

U. S. Department of Transportation

Federal Authorization: 23 U.S.C. 104, 401 et seq., as amended, 23 U.S.C. 133 (b)(10), as amended, 23 CFR and 49 CFR

State Authorization:

**N. C. Department of Transportation
Transportation Planning 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.

This compliance supplement must be used in conjunction with the OMB 2024 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 of the Office of Inspector General 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.

Funding must be properly identified by program name Metropolitan Planning PL 104 funds and/or the Surface Transportation Block Grant-Direct Allocation (STBG-DA) that have been flexed to planning (applies only to those STBG-DA funds used to supplement planning activities) and WBS Number on the Schedule of Expenditures of Federal and State Awards. For projects using State Planning and Research (SPR) funds, please see the SPR compliance supplement audit procedure. Grantor and/or pass-through grantor, program title and CFDA number (20.205-5) 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 and local share. On NCDOT's confirmation from the Grant Master List (GML), these moneys are shown as CFDA Number 20.205-5.

I. PROGRAM OBJECTIVES

The objectives of the PL 104 allocation that funds the Metropolitan Planning Program are to: (1) develop long range transportation plans; (2) provide for a continuing, cooperative and comprehensive transportation planning process; (3) develop and approve the Transportation Improvement Program (TIP); and, (4) ensure that the Metropolitan Transportation Plan (MTP) conforms to state and federal regulations including the Clean Air Act.

The objective of those Surface Transportation Block Grant – Direct Allocation (STBG-DA) funds that are used to supplement transportation planning activities (funds flexed to planning) is to provide additional funds to support the Metropolitan Planning Program, specifically those Metropolitan Planning Organizations (MPOs) that are designated as a Transportation Management Areas (TMA).

The Lead Planning Agency (LPA) will carry out the transportation planning requirements in cooperation with NCDOT and in accordance with 23 U.S.C., Section 134, any subsequent amendments to that statute, and any implementing regulations; and Chapter 136, Article 3A, Section 136-66.2(a) of the General Statutes of North Carolina.

II. PROGRAM PROCEDURES

Federal funding for the MPO program is administered by the North Carolina Department of Transportation (NCDOT). Funds are provided to Metropolitan Planning Organizations (MPO) through a Lead Planning Agency (LPA), which may be a city, county, or Council of Government. LPAs pay a minimum of 20% of the total costs of approved planning activities. Eligible reimbursable costs are governed by agreements entered into between NCDOT and the LPA. The legal agreement specifies the terms and conditions of the projects.

Eligible recipients of PL 104 funds are MPOs as federally defined by 23 U.S.C. 134, Public Law 104.59 and 23 CFR 450.310 and recognized by the State of North Carolina in NCGS 136-200.1. Prior to each fiscal year, the Transportation Planning Division sends an Allocation Letter to the MPOs to inform them of their amount of available PL funds for the fiscal year. Each MPO develops and submits an annual Unified Planning Work Program (UPWP) that reflects the funding allocation and identifies the 80% federal reimbursable amount in addition to the minimum 20% local match. The UPWP is reviewed and approved by NCDOT.

Transportation Management Areas (TMA) are defined by the Federal agency as an MPO that has an urbanized area population of 200,000 or more.

Each MPO designated as a TMA in the federal register is eligible to use Surface Transportation Block Grant – Direct Allocation (STBG-DA) funds to support their

Metropolitan Transportation Planning Program. While STBG-DA funds are mostly used for construction, STBG-DA funds can be flexed to conduct approved planning activities. STBG-DA funding that have been flexed to planning should be treated the same as PL 104 funds. The STBG-DA funds used for construction are beyond the scope of TPD administered planning funds and subject to other compliance requirements.

There are eleven areas in North Carolina which exceed 200,000 and are designated as TMAs and receiving STBG-DA funds: Capital Area MPO (CAMPO), Fayetteville Area MPO (FAMPO), Charlotte Regional Transportation Planning Organization (CRTPO), French Broad River MPO (FBRMPO), Greensboro Urban Area MPO (GUAMPO), Winston-Salem Urban Area MPO (WSUAMPO), Wilmington Urban Area MPO (WUAMPO), Cabarrus-Rowan MPO (CRMPO), Grand Strand Area Transportation Study MPO (GSATS), Greater Hickory MPO, and Durham-Chapel Hill-Carrboro MPO (DCHC).

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 2024 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 2024 Compliance Supplement, Part 3 (which includes generic details about each compliance 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	N	Y	N	N	Y	Y

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 Uniform Guidance Compliance Supplement (2 CFR 200, Appendix XI), to identify which of the 14 types of compliance requirements described in Part 3 are applicable and then look to Parts 3 and 4 for the details of the requirements.

A. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirement – Each MPO operates under an agreement between the MPO and the NC Department of Transportation (NCDOT).

MPOs submit their annual UPWP to NCDOT for approval. NCDOT then forwards it to the Federal Highway Administration (FHWA) and to the Federal Transit Administration (FTA), if applicable, for approval. Allowable works task, which must be included in the annual Unified Planning Work Program (UPWP), includes the following activities:

1. Surveillance and data collection activities that support the development and re-evaluation of Metropolitan Transportation Plan (MTP).
2. Maintenance of roadway and traffic system inventories.
3. Planning activities that support the development of the MTP.
4. Activities which assist in the compliance with applicable state and federal laws including Title VI and Civil Rights Act of 1964.
5. Metropolitan Transportation Improvement Program (TIP) development.
6. Customer service activities pertaining to the development and implementation of the MTP and the TIP.

NCDOT staff checks to ensure that the tasks reflected on the invoice are in the approved UPWP.

Audit Objective – Ensure that expenditures reflect work conducted for an approved UPWP task.

Suggested Audit Procedure – Ensure invoice documentation matches tasks identified within the approved UPWP for a given fiscal year.

B. ALLOWABLE COSTS/COST PRINCIPLES

Compliance Requirement - Any charges for materials provided by the LPA or a contractor must be net of sales taxes. Local units of government including cities, counties, and Council of Governments and others chartered by the General Assembly are eligible. These local units of government are eligible for sales tax refunds under North Carolina General Statute 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 NC Department of Revenue as a refund, is an ineligible charge.

If claiming indirect costs or using the De Minimis rate, the amount indicated within the approved indirect cost allocation plan shall be reflected in the UPWP.

Audit Objective – Determine that the entity is properly using and applying indirect costs and that the entity has not invoiced NCDOT any NC sales tax and that NCDOT did not reimburse any NC sales taxes eligible for refund and ensure indirect charges are consistent with the approved indirect cost allocation plan or De Minimis rate.

Suggested Audit Procedure - Review financial records to ascertain that no sales taxes were invoiced to NCDOT. Review the indirect charges and the indirect allocation plan.

Compliance Requirement – The Lead Planning Agency is required to itemize support for all partial and final invoices including details of labor, labor additives, equipment, materials, contract labor and other qualifying costs.

Audit Objective – Determine that invoices submitted were correct.

Suggested Audit Procedures - Verify that invoices submitted were for valid expenses and were accurate. Confirm that documentation exists and supports invoices submitted. Verify that invoices contain all required elements, including invoices from consultants and proof of payment, to satisfy traceability of federal funds requirements.

C. CASH MANAGEMENT

No testing required

D. RESERVED

E. ELIGIBILITY

Eligible recipients of PL 104 funds are MPOs as federally defined by 23 U.S.C. 134, Public Law 104.59 and 23 CFR 450.310 and recognized by the State of North Carolina in NCGS 136-200.1.

No testing required.

F. EQUIPMENT AND REAL PROPERTY MANAGEMENT

Equipment

Compliance Requirement – With NCDOT approval, funds may be used to purchase equipment that supports the transportation planning process as defined in the MPO's annual UPWP. NCDOT has adopted the policies and procedures for equipment contained in the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR Part 200.310-316). Refer to Part 3 of the Uniform Guidance Compliance Supplement (2 CFR Part 200, Appendix XI) for Suggested Audit Procedures. Real property purchase is not an eligible use of PL funds.

Audit Objective – Ensure that equipment procurement comply with federal regulations and are consistent with UPWP.

Suggested Audit Procedure – Review equipment procurement expenditures and check against federal regulations and approved UPWP.

G. MATCHING, LEVEL OF EFFORT, EARMARKING

1. Matching

Compliance Requirement - PL 104(d) funds and STBG-DA 133(b)(10) funds require the LPA to pay a minimum of 20% local match from resources other than Federal or State funds.

Audit Objective – Ensure at least 20% of planning funds expended were local funds.

Suggested Audit Procedure – Review documentation to ensure a minimum of 20% of the UPWP costs were funded with local funds. Each quarterly invoice separates the PL 104/STBG-DA funds and the local match.

2. Level of Effort

Not Applicable

3. Earmarking

Not Applicable

H. PERIOD OF PERFORMANCE

No Testing Required

I. PROCUREMENT AND SUSPENSION AND DEBARMENT

Procurement

Compliance Requirement – MPOs that intend to enter into consultant contracts must obtain prior approval from NCDOT. Requirements for procuring services from private engineering firms (PEF) can be found in the NCDOT procurement procedure for MPOs obtain PEF consulting services - [Procurement of Consultant Services by MPO](#) .

PEF procurement of services are also governed by N.C. General Statutes 136-28.1(f), 143-64.31, 143-64.32, 143-64.33 (www.ncga.state.nc.us/gascripts/Statutes/Statutes.asp).

Audit Objective – Determine that the entity complied with PEF procurement procedures and received written approval by NCDOT before execution of a consultant contract, and has received notice from NCDOT's OIG office (or similar notice from TPD) that ensures the PEF's cost proposal has been reviewed. Ensure PEF is not suspended or disbarred. Ensure that PEF is prequalified to do work in the corresponding task code.

Suggested Audit Procedure - Ascertain whether or not the entity received written approval by NCDOT before execution of a consultant contract. Ensure PEF is not suspended or disbarred. Ensure review letter has been issued and kept in project paperwork. Review PEF pre-qualifications to ensure firm was pre-qualified for the advertised task codes.

Compliance Requirement – MPOs that intend to procure goods and services (other than PEF consulting services) must follow the NCDOT procurement procedures and federal procurement regulations.

Audit Objective – Determine that the entity complied with procurement procedures and federal procurement regulations.

Suggested Audit Procedure – Review procurement documentation to ensure eligibility and that the procurement followed NCDOT procurement procedures and federal procurement regulations.

J. PROGRAM INCOME

No testing required.

K. RESERVED

L. REPORTING

No testing Required

M. SUBRECIPIENT MONITORING

PL 104 Funds: The NC Department of Transportation passes this requirement down to the Local Level for all MPOs who pass funds through to sub-recipients. The list of MPOs that pass funds through to sub-recipients can change each year, but sub-recipients are limited to the individual members of the respective MPOs. Testing is required for any LPA that passes funds through to sub-recipients. Refer to Part 3 of the Uniform Guidance Compliance Supplement (2 CFR Part 200, Appendix XI) for Subrecipient Monitoring suggested audit procedures.

STBG-DA 133(b)(10) Funds: The NC Department of Transportation passes this requirement down to the Local Level for all MPOs who pass funds through to sub-recipients. The list of MPOs can change each year, and sub-recipients are limited to the individual members of the respective MPO. Testing is required for any LPA that passes funds through to sub-recipients. Refer to Part 3 of the Uniform Guidance Compliance Supplement (2 CFR Part 200, Appendix XI) for Subrecipient Monitoring suggested audit procedures.

N. SPECIAL TESTS AND PROVISIONS

Administration of Engineering and Design-Related Service Contracts

Compliance Requirements - In general, state DOTs and LPAs must use qualifications-based selection procedures (Brooks Act) when acting as contracting agencies to procure engineering and design-related services from consultants and sub-consultants for projects using federal highway funds (23 USC 112(b)(2); 23 CFR Part

172). Requirements applicable to engineering and design-related services contracts include:

- 1) Contracting agencies (state DOTs and LPAs) must have written policies and procedures for each method of procurement used to procure engineering and design services. State DOT policies and procedures, or recipient LPA policies and procedures, must be approved by FHWA. LPAs that are subrecipients may adopt written policies and procedures prescribed by the awarding State DOT or prepare and maintain their own written policies and procedures approved by the State DOT (23 CFR section 172.5(b)).
- 2) Contracting agencies (state DOTs and LPAs) are required to accept the indirect cost rates for consultants and sub-consultants that have been established by a cognizant agency in accordance with the Federal Acquisition Regulation (48 CFR Part 31) for one-year applicable accounting periods if such rates are not currently under dispute. Consultants and sub-consultants providing engineering and design-related services contracts must certify to contracting agencies that costs used to establish indirect cost rates are in compliance with the applicable cost principles contained in the Federal Acquisition Regulation (48 CFR Part 31) by submitting a "Certificate of Final Indirect Costs" (23 USC 112(b)(2)(C); 23 CFR section 172.11(c)(3)).
- 3) Contracts for a consultant to act in a management support role on behalf of a contracting agency or subrecipient for engineering or design related services must be approved by FHWA before the consultant is hired unless an alternative approval procedure has been approved by FHWA (23 CFR section 172.7(b)(5)).

Audit Objectives - Determine if consultants performing engineering and design-related services for projects using federal highway funding were procured using FHWA-approved qualifications-based selection procedures.

Suggested Audit Procedures

- 1) Verify that the State DOT, or recipient LPA, has written policies and procedures (usually in the form of a Consultant Manual) for procurement of engineering and design services and that those procedures have been approved by FHWA. For subrecipient LPAs, verify that they are using written policies and procedures prescribed by the awarding State DOT or that the subrecipients' written policies and procedures have been approved by the State DOT.
- 2) Verify that contracting agencies are accepting the appropriate indirect cost rates.
- 3) Verify that consultants and sub-consultants have submitted to the contracting agency a "Certificate of Final Indirect Costs."
- 4) Verify that contracts for consultants acting in a management support role have been approved by FHWA or are covered by an FHWA-approved alternate procedure.