

STATEWIDE CONTINGENCY

State Authorization: N.C.G.S. Chapter 136

**N.C. DEPARTMENT OF TRANSPORTATION
CHIEF ENGINEER'S OFFICE**

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.

The Single Audit Compliance Unit within the NCDOT Office of Inspector General reviews 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.

Project Agreements must be properly identified by program name “Statewide Contingency” and WBS number on the Schedule of Expenditures of Federal and State Awards. This information is available from the agreement with NCDOT on the first page. Grantor and/or pass-through grantor should also be included. On NCDOT’s confirmation from the Grant Master List (GML), these funds are shown as DOT-18.

I. PROGRAM OBJECTIVES

Statewide Contingency funds are used for statewide rural or small urban highway improvements and related transportation enhancements to public roads/facilities, industrial access roads, and SPOT Safety projects.

II. PROGRAM PROCEDURES

Funding requests may be submitted by municipalities, counties, businesses, schools, citizens, legislative members, and NCDOT staff. Funding requests are sponsored by the President Pro Tempore of the Senate, the Speaker of the House and/or the Secretary of Transportation. Funding requests should include:

- Request Form- Request for Statewide Project Funds
- Vicinity Map of Proposed Project Area
- Project Sketch
- Project Scope of Work and Justification
- Engineer's Estimate (itemized)
- Resolution of Support from County or Municipality for projects exceeding \$250,000
- Letter(s) of support from President Pro Tempore of the Senate or the Speaker of the House
- Verification of support from the Secretary of Transportation, as applicable
- Documentation of additional funding sources

Unless waived, there is a \$250,000 maximum funding per project, per chamber and/or Secretary per year. If NCDOT is not performing the project work with force account labor, eligible recipients of Statewide Contingency funds include municipalities and counties. An updated request form is required for funding increases to existing projects when additional amount exceeds \$10,000. Funding increases less than 5% and under \$10,000 require approval by the Chief Operating Officer.

The Technical Review and Approval by NCDOT is as follows:

1. Project requests are forwarded to the Deputy Secretary for Legislative Affairs for review. Requests are sent to the Chief Engineer for investigation and forwarded to the appropriate Division Engineer for field investigation.
2. The Division Engineer will provide a cost estimate, written comments, and a recommendation about the project's feasibility to the Chief Engineer.
3. The Chief Engineer presents requests to the Contingency and Small Urban Funds Committee. The Committee will review and make recommendations to the Secretary for consideration. If approved by the Secretary, the Chief Engineer will place on the Board of Transportation's agenda for final action.
4. The Secretary will give a written response to the applicant on the Board's decision.

Once the project is approved by the Board of Transportation, the Chief Engineer's Office will review and verify the project files are complete and accurate.

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.

CC	1	2	3	4	5	6	7	8	9	10	12	13	14
Cross-cutting requirements	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	Y	Y	Y	N	Y	Y	Y	Y	N	Y	N	Y

1. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirement – Statewide Contingency Fund Projects includes the following:

1. Assist municipalities and counties in constructing and rehabilitating the State Highway System and Non-State Highway System roads or related transportation enhancements.
2. Expenditures for (routine) highway maintenance are not eligible.
3. Expenditures for right-of-way and utility are not eligible

Audit Objective – Determine if the activities involved conform to the provisions of the Project Agreement.

Suggested Audit Procedure - Review project records to determine that activities involved conform to the description contained in the Project Agreement.

2. ALLOWABLE COSTS/COST PRINCIPLES

A. Compliance Requirement – Funds can only be used to reimburse costs that are:

1. Incurred subsequent to the date of authorization to proceed
2. In accordance with the conditions contained in the Project Agreement and the (approved) plans, specifications and (contractor's) estimates
3. Allocable to a specific project

4. Claimed for reimbursement subsequent to the date of the project agreement.
5. Preliminary engineering and construction costs must be incurred after authorization by NCDOT in order to receive reimbursement.
6. Administrative and overhead costs that are considered necessary for management, supervision, and administrative control are unallowable.

Audit Objective - Determine that all costs billed to the grant are allowable.

Suggested Audit Procedure - Verify through a sample of invoices that costs submitted for reimbursement are allowable.

- B. Compliance Requirement** - The municipality is required to itemize support on all partial and final invoices submitted to NCDOT for payment. This includes the details of labor, labor additives, equipment, materials, contract labor and other qualifying costs.

Audit Objective – Determine whether requests for reimbursement are itemized and support the total sum of the requested reimbursement.

Suggested Audit Procedure – Select a sample of reimbursement requests and trace to supporting documentation showing the itemized support for all invoices submitted. The auditor should report the total amounts received from NCDOT as well as total expenditures.

- C. Compliance Requirement** – Changes that increase the State's cost or alter the physical limits, character, or scope of the work must be authorized by NCDOT. Major changes must be approved in advance. Minor changes may be approved retroactively.

Audit Objective – Determine that any changes to project scope, State's cost, physical limits, or character have been authorized by NCDOT.

Suggested Audit Procedure – Review project records to determine if project changes were approved.

- D. Compliance Requirement** – Local units of government including cities, counties, and others chartered by the General Assembly are eligible for Statewide Contingency funding. These local units of government should be eligible for sales tax refunds under GS 105-164.14 (b) or (c). If they have not qualified, 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.

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.

- E. Compliance Requirement** – Reimbursement for rates of equipment owned by the municipality cannot exceed the Department's rates in effect for the time period in which the work is performed.

Audit Objective - Determine whether the rental rate of equipment did not exceed the Department's rates.

Audit Procedure – Select a sample of reimbursement requests and trace to supporting documentation showing that the costs for equipment rental rates did not exceed the Department's rates in effect for the time period in which the work was performed.

Note: The NCDOT Equipment Rental Rate Schedule is updated periodically. Please contact the local NCDOT Division Engineer's office for the rates in effect for the time period in which the work was performed.

3. CASH MANAGEMENT

Compliance Requirement - NC Department of Transportation pays on a reimbursement basis.

Audit Objective - Determine whether supporting documentation was provided that showed costs were paid prior to the request submitted to the NCDOT.

Audit Procedure – Select a sample of reimbursement requests and trace to supporting documentation showing that the costs for which reimbursement was requested were paid prior to the receipt of the NCDOT reimbursement. The risk lies with advance payments to the recipients. Auditors should report amounts received from NCDOT as well as expenditures.

4. CONFLICT OF INTEREST

G.S. 14-234 includes a general prohibition against any public official having a personal interest in any contract to which he/she is a party in his/her official capacity. Any other statute or agency policy that applies should be tested as part of this compliance requirement.

Please refer to the DOT Cross-cutting supplement for the audit objective and procedures for testing compliance with this requirement.

5. ELIGIBILITY

No grants are awarded to subrecipients from the local level. Therefore, this requirement is not applicable at the local level.

6. EQUIPMENT AND REAL PROPERTY MANAGEMENT

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).

Contingency funding is not used for the purchase of equipment and any utility and/or ROW should be at no cost to the Department. Please refer to the Activities Allowed or Unallowed for the audit objective and procedures for testing compliance with this requirement.

7. MATCHING, LEVEL OF EFFORT, EARMARKING

Compliance Requirement – For the Statewide Contingency Program, the only funds that are administered by the Department of Transportation are State funds. State Funding amounts are specified in each Project Agreement. Costs which exceed this amount shall be borne by the grantee.

Audit Objective – Determine whether the final invoiced amount exceeds the approved State Funding amounts.

Audit Procedure – Review final invoice to determine if the sum of expenditures exceeds the approved State Funding amounts. Auditors should report amounts received from NCDOT as well as expenditures.

8. PERIOD OF PERFORMANCE

Compliance Requirement – Project Agreements specify a period during which the grantee may use the funds. The grantee may charge to the award only costs resulting from obligations incurred during the funding period.

Audit Objective – Determine that State funds were obligated within the period of performance as specified in the Project Agreement.

Suggested Audit Procedure

1. Review the Project Agreement to determine any requirements related to the period of performance of the funds
2. Test a sample of transactions charged to the project to ensure that the underlying obligation occurred within the period of performance as stated in the agreement.

Please refer to the DOT Cross-cutting supplement for additional testing procedures for section.

9. PROCUREMENT AND SUSPENSION AND DEBARMENT

1. Procurement

Compliance Requirement – Construction projects cannot be advertised nor force account work commenced until NCDOT (1) approves the plans, specifications, and estimates, (2) receives right-of-way (ROW) certification, if applicable, and (3) authorizes the municipality to advertise for bids or approves the force account work. The construction contract cannot be awarded until after NCDOT reviews and recommends contract award subject to Board of Transportation approval.

Audit Objective – Determine whether project advertisement or force account work commenced after NCDOT completed the procurement requirements.

Suggested Audit Procedure - Verify by reviewing the project advertisement to ensure the start date occurred after the procurement requirements were satisfied.

2. *Solicitation of Bids*

Compliance Requirement - 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 bids were properly solicited and that the contract was awarded to the lowest qualified bidder.

Please refer to the DOT Cross-cutting supplement for additional testing procedures for section.

3. *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 whether the entity has not entered into any agreements with parties that have been debarred by any government agency.

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

Please refer to the DOT Cross-cutting supplement for additional testing procedures for section.

10. PROGRAM INCOME

Statewide Contingency funds from NCDOT to counties and municipalities are not funds that generate income during the grant period. Therefore, no testing is required at the local level.

11. RESERVED

12. REPORTING

Compliance Requirement – Pursuant to North Carolina Session Law 2017-57 Section 34.2.(c), the NCDOT shall report to the members of the General Assembly on projects funded with Contingency Funds in each member's district prior to construction. NCDOT shall also make a quarterly comprehensive report on the use of these funds to the Joint Legislative Transportation Oversight Committee and the Fiscal Research Division.

Audit Objective – Determine when a project was constructed and if the Department prepared the appropriate report.

Suggested Audit Procedure - Review project records to determine whether reports were accurately prepared and filed timely.

13. SUBRECIPIENT MONITORING

No grants are awarded to subrecipients from the local level. Therefore, no audit procedures are needed at the local level.

14. SPECIAL TESTS AND PROVISIONS

Compliance Requirement – For most State highway projects, the municipality must comply with Title VI - Civil Rights Act of 1964, and MBE/DBE Policies and Guidelines.

Audit Objective – Obtain an understanding of the recipient's program and ascertain if the program incorporates the above policies.

Suggested Audit Procedure – Review contracts for compliance with stated policies.