

**FREIGHT RAIL & RAIL CROSSING SAFETY IMPROVEMENT PROGRAM:
INDUSTRIAL ACCESS, SHORT LINE INFRASTRUCTURE, FREIGHT DIVERSION**

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.

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

The Single Audit Compliance Unit of the Office of Inspector General (OIG) reviews all single audits, financial audits, and management letters of all North Carolina Department of Transportation (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”), WBS number on the Schedule of Financial Assistance, Grantor, and any pass-through grantor, if applicable. This information is available in the grant agreement with NCDOT. Reports must not combine “like” projects into one-dollar amount and must include the award amount for each respective grant, specifying the State and non-state share(s). 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 FRDP programs, except where otherwise noted in this Compliance Supplement.

I. PROGRAM OBJECTIVES

Established in 2013 under G.S. §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. The three grant-based 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 pursuant to G.S. § 136-44.39 and share and administer funds from the greater FRRCSI program budget, as allocated annually through legislative appropriation.

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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 \$500,000 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 three-year period. The industries also perform the project to the standards and specifications 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 within that five-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, a railroad commits to perform the project to the standards and specifications 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 within that five-year period.

FRDP

The FRDP provides up to 50 percent in matching funds to grant applicants where the rail projects primarily divert transport services from heavy truck to rail. Grant recipients commit to annual carload shipments over a three-year period, perform the project to the standards and specifications 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 within that five-year period.

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 NCDOT Rail Division evaluates applications through a quantitative process and makes funding recommendations to the North Carolina Board of Transportation.

A grant agreement between the NCDOT and the 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 in accordance with the terms of the grant agreement. Upon review and approval by the Rail Division and DOT Fiscal Office, a one-time and final payment will be made.

SIAP

Short line railroads are eligible to apply for SIAP grant funds. The Rail Division solicits a "call for projects," typically 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.

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A grant agreement between the NCDOT and the 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 SIAP recipient must submit progressive payment invoices in accordance with the terms of the grant agreement, generally as project milestones are completed. 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), and other applicants are eligible for FRDP grant funds. Potential grant recipients may apply for project funding at any time during the SFY, so long as program funds are available. The NCDOT Rail Division evaluates applications through a quantitative process and

A grant agreement between the NCDOT and the 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 FRDP recipient must submit progressive payment invoices in accordance with the terms of the grant agreement, generally as project milestones are completed. 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 FRRCSI Program Manual, available at: Rail Division Resources - FRRCSI Page.

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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
N	Y	Y	N	Y	Y	N	Y	Y	Y	N	Y	N	N

1. ACTIVITIES ALLOWED OR UNALLOWED

Compliance Requirement - Activities are defined in the grant agreement between NCDOT and the grantee. Funds must be expended in a manner consistent with the executed grant 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; 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 grant 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 include reasonable 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 grant 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 NCDOT 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 – G.S. 143C-6-23 requires every grantee to file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy must address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The

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policy shall be filed before the NCDOT Rail Division may disburse the grant funds.

In lieu of providing a grantee company policy, the NCDOT Rail Division offers a standard [FRRCSI Grant Programs Conflict of Interest Policy](#) form, whereby signing the form, the grantee acknowledges that it becomes a policy of the grantee, serving as a supplement to any other existing grantee policy. For a FRRCSI grant award to be initiated as a part of a FRRCSI grant agreement, this form must be executed by the grantee and submitted to the NCDOT Rail Division.

Audit Objective - Determine if the policy has been provided to the NCDOT Rail Division and whether it meets the following statutory requirements:

1. Addresses situations in which any grantee management employee or member of its board of directors or other governing body may directly or indirectly benefit from the grantee's disbursing of State funds, except as the grantee's employees or members of its board or other governing body.
2. Includes actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety.
3. Filed with the NCDOT Rail Division before the disbursement of grant funds.

Suggested Audit Procedure

1. Obtain a copy of the policy and transmittal document evidencing when the policy was received by the NCDOT Rail Division.
2. Verify the existence and enforcement of the grantee'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 RIAP Funding (19A NCAC 06B .0403). Candidate eligibility is determined by the NCDOT Rail Division during application review. No testing is required at the grantee level.

SIAP

Short line railroad companies and the NCSPA are eligible to apply for SIAP Funding. Candidate eligibility is determined by the NCDOT Rail Division during application review. No testing is required at the grantee level.

FRDP

Class I railroads, industries, short line railroad companies, the 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 grantee level.

6. EQUIPMENT & REAL PROPERTY MANAGEMENT

Acquisitions of real property are not eligible for reimbursement under the RIAP, SIAP, and FRDP. Acquisitions of equipment are not eligible for reimbursement under the RIAP and SIAP, but they may be eligible for the FRDP if the equipment is fixed, permanent, and necessary for the project. 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

Matching – The NCDOT Rail Division may fund up to a maximum of 50% of the total project cost, or as specified in the grant agreement. The grantee must pay any costs in excess of the NCDOT funding amount referenced in the grant agreement. The auditor should report for each respective grant:

1. The total amount awarded.
2. The total amount of reimbursements from the state during the reporting period.
3. The total amount of expenditures during the reporting period. This includes costs reimbursed by the state and costs that have not yet been reimbursed, though committed.
4. In-kind matches that have been contributed by the grant recipient, and the item(s) and value assigned.

Compliance Requirement – RIAP, SIAP, and FRDP grant funds are subject to matching percentages between the State and grant recipient, as specified within each grant 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.

Level of Effort – Not applicable.

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 grant agreement. The recipient typically begins project work within one year and completes it within 1.5 years after the date of the NCDOT authorization, unless otherwise noted in the grant agreement. Upon request and as part of the project application, exceptions may be granted for a longer schedule to accommodate large or complex projects. All such extended schedules will be approved at the discretion of the NCDOT Rail Division and documented within the project agreement.

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, unless documented exceptions are approved by the NCDOT Rail Division.

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.

Audit Objective – Determine if procurements were conducted in accordance with 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 grantee 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 grantee 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 whether the grantee and any contractor or vendor 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 grantee 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.

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4. Review the signed agreement between the grantee and the subrecipient or contractor and verify that the contract provisions include 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

09 N.C. Admin. Code 03M.0204 establishes reporting levels and requirements for the grantee. RIAP, SIAP, and FRDP grants are subject to project reporting. Reporting will be collected from the grantee by the Department through one of the following methods:

1. Requests for Reimbursement. Information required and collected as part of the request for reimbursement process, including required supporting documentation.
2. Annual Progress Reports. If no reimbursement is requested within a twelve (12) month period following execution of the grant agreement, the Grantee shall file with the Department an Annual Progress Report. Prior to project completion, the report shall provide a percentage-complete status for physical work and financial expenditures.
3. Written requests from the Department.
4. State Single or Program-Specific Audits.
 - a. The Grantee shall have a single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as “Yellow Book” standards if it receives, holds, uses, or expends grants from the State of North Carolina in an amount equal to or greater than the dollar amount requiring an audit as listed in 2 C.F.R. § 200.501(a) within its fiscal year.
 - b. The Grantee shall file audit reports with the Department in the format and method specified by the Department no later than nine (9) months after the end of its fiscal year.

Compliance Requirement – Grantees and projects are subject to G.S. 143C-6-23 and 09 NCAC 03M. Grant reporting requirements are described in the FRRCSI Program Manual for each program and are included in grant agreements. The [FRRCSI Program Manual](#) and reporting forms are available at: [Rail Division Resources - FRRCSI Page](#).

Audit Objective – Pursuant to G.S. 143C-6-23, 09 NCAC 03M, the [FRRCSI Program Manual](#) and the grant agreement, determine whether required reports include all activity of the reporting period, are supported by applicable accounting or performance records, and are presented in accordance with program requirements.

Suggested Audit Procedure

5. Determine the grantee’s reporting level and applicable reports that should be submitted to NCDOT to comply with G.S. 143C-6-23, 09 NCAC 03M, [FRRCSI Program Manual](#), and the grant agreement.

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6. Determine whether reports were accurately prepared and filed timely.
7. Determine that required supporting documentation were included in all requests for reimbursement as specified in the [FRRCSI Program Manual](#) and the grant agreement.

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.