



Florida Department of TRANSPORTATION

Office of Inspector General
Kristofer B. Sullivan, Inspector General

Audit Report No. 20P-001
Local Agency Program

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Kristofer B. Sullivan
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What We Did

The Office of Inspector General conducted an audit of the Department of Transportation's (Department) Local Agency Program (LAP). The purpose of this engagement was to determine if the Department has sufficient controls to ensure federal funds are awarded to qualified subrecipients and to identify any inconsistency of guidance between Districts. We conducted this audit as part of the fiscal year 2019-20 work plan.

What We Found

We determined the Department has sufficient controls to ensure subrecipients were appropriately certified before being awarded federal funds via LAP. We compared a sample of 14 local agencies to criteria outlined in chapter 2 of the LAP manual and found all 14 local agencies met certification and/or re-certification requirements.

We also observed all seven Districts follow the Department's LAP manual to administer the program, and that Districts 4, 5, and 6 follow additional practices specific to their District.

What We Recommend

We do not have any recommendations at this time and want to recognize the Local Agency Program's commitment in its continuous efforts to improve the program.

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BACKGROUND AND INTRODUCTION

Local Agency Program (LAP) projects serve and strengthen the Florida Department of Transportation's (Department) mission through the delivery of transportation improvements in partnerships with local public agencies across the state. They represent a vast array of transportation modes and innovation in design and delivery including: bridges over our Florida waterways; ferry docks; trail connections through parks; downtowns, and across regions; bike lanes; wayfinding for all modes or travel; building wildlife crossings; and even the simplest of improvements such as paved shoulders and guardrail to keep travelers in our local communities safe.

The Department's LAP reimburses local agencies for the planning, design, and construction of transportation facilities with Federal-Aid Highway Program Funds (FAHP). FAHPs are only available to local agencies that perform the required certification process, which evaluates whether the Local Agency has the sufficient qualifications and ability to undertake and satisfactorily complete the work. The certification provides proof that the Local Agency is able to comply with federal requirements in a project and offers perspective to the level of oversight required by District offices over local agencies throughout the life of a project.

There are two certification options that a Local Agency may receive: full certification which lasts for three years; and project-specific certification which must be renewed at the beginning of a new project. Both certification levels require completion of the LAP Certification Qualification Tool. Eligibility to participate in LAP is evaluated via a certification process to determine staff resources and capabilities in transportation projects as well as assess familiarity with federally funded programs. A variety of state and federal resources are available to an agency seeking certification or one that is already active in the program.

In the State of Florida, LAP is administered in each transportation District (one through seven) by a District Local Programs Administrator who provides project level support and oversight for the participating agencies. The Central Office Statewide Local Program Administrator, in turn, provides statewide program oversight, policy implementation, and guidance through adaptation of program standards based on federal and state requirements, rules, laws, and statutes.

Prior Audit

In March 2018, the Auditor General released a report with two findings concerning the Department's LAP program, as listed below.

- The Department did not always notify subrecipients of required award information.
- The Department did not evaluate subrecipient risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward or develop an appropriate monitoring plan based on the risk of noncompliance assessed. Additionally, the Department did not adequately monitor some of its subrecipients.

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As of June 30, 2020, the Department has implemented the recommended actions regarding the two findings. The Department has updated several procedures and forms to ensure that all subrecipients are provided with the required award information in each subaward that is provided to subrecipients.

The Department has also published training materials to enhance awareness among all Department employees responsible for grant management and taken steps to reduce the amount of subrecipient audit risk exposure by requiring applicants of discretionary awards to be direct recipients of the grants for which they applied whenever feasible.

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RESULTS OF REVIEW

We conducted an audit of the Department's Local Agency Program, within the Office of Program Management, to determine if the Department has sufficient controls to ensure federal funds are awarded to qualified subrecipients and to identify any inconsistency of guidance between Districts.

Finding – LAP Certification (Compliant)

We determined the Department has sufficient controls to ensure subrecipients were appropriately certified before being awarded federal funds via LAP.

The Department has created a LAP manual to establish consistent and uniform practices to award Federal-Aid funds to Local Agencies, assure Local Agencies meet all applicable Federal and State standards and requirements, and identify the responsibilities of the Central Office and Districts over the LAP program.

Chapter 2 of the LAP manual specifically addresses certification requirements of Local Agencies. We used the following eight criteria elements found in this chapter to determine if the Department has sufficient controls to ensure grant funds are awarded to qualified LAP programs:

1. The Local Agency is eligible for LAP certification.
2. The Local Agency is certified.
3. The Department conducted a risk assessment of the Local Agency before issuing certification or recertification.
4. The minimum requirements were met for the three areas of certification, i.e., planning, design, construction and construction administration.
5. The Local Agency delegated someone as the "responsible charge."
6. The "responsible charge" is a full-time employee of the Local Agency.
7. The Local Agency has uploaded the LAP Certification Tool to the Local Agency Program Information Tool.
8. The Local Agency and its employees identified on the certification tool completed all mandatory training.

We selected a judgmental sample of 14 local agencies (two from each of the seven Districts with the highest award amount, as reflected in the active LAP agreements between July 1, 2018, through December 31, 2020) and compared them to the criteria outlined in chapter 2 of the LAP manual. We found all 14 local agencies in our sample met certification and/or re-certification requirements listed in chapter 2 of the LAP manual. See Attachment 1 – Sample Testing for Subrecipient Qualifications and Attachment 2 – Certification Requirements.

We have no recommendations at this time, as we found the area under review to be in compliance.

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Observation – District Practices

We observed all seven Districts follow the Department’s LAP manual to administer the program, and that Districts 4, 5, and 6 follow additional practices specific to their District.

Our objective was to determine if the Districts were using different LAP policies from the Department’s LAP manual and to identify the differences between those policies.

We reached out to each District LAP Administrator to determine if they followed any policies or procedures in addition to the LAP manual. We further clarified that even though it might not be a formal written policy, we were also interested in what additional practices the Districts follow, as those might differ from District to District.

At the time of our audit, no District had a formal policy or procedure in place specific to their District. However, Districts 5 and 6 acknowledged they were in the process of developing a formal policy and desk procedure, respectively.

Four Districts (1, 2, 3, and 7) stated they do not follow any policies or additional practices aside from the Department’s LAP manual. However, Districts 4, 5, and 6 stated they implemented additional practices unique to their District. These additional practices are summarized below.

District 4:

- only accepts LAP projects over \$250,000;
- certifies Local Agencies in functional areas of Design, Construction, and Construction Administration, but in only one procurement method – Construction Procurement;
- does not reimburse for Professional Services in an effort to put as much product into the communities as possible;
- reserves full certification for County government only; all other local agencies receive project specific certification; and
- does not do Right-of-Way (ROW) acquisitions (all work for the project must be completed within and from the existing ROW) or Project Development and Environment.

District 5:

- has a District LAP design team, administration team, and construction team;
- has staff/consultants from the Office of Environmental Management perform some of the environmental services such as Cultural Resource Assessments, on behalf of Local Agencies; though they are looking to push this back on the individual Local Agencies;
- has a continuing services design and continuing services construction engineering and inspection (CEI) contract for use by local agencies receiving federal funding for these services;

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- requires agencies procuring professional services contracts to do so prior to the LAP agreement being executed to minimize inactivity once federal funds are authorized;
- holds submission for federal authorization of funds until initial negotiation documentation has been submitted for District review;
- requires agencies that need to procure professional services contracts to advertise and have a minimum of three proposals by May 31st;
- requires LAP certifications to be completed by May 31st;
- for projects not utilizing Metropolitan Planning Organization (MPO)/Transportation Planning Organization (TPO) funding, the District leaves excess funding, up to the 10 percent allowable costs, on the agreement;
- for projects with MPO/TPO funding, the District provides the option to each MPO/TPO on how to adjust the budget, specifically, whether the agency would like to budget up to 10 percent in excess of the actual dollar amount of the project to anticipate any contract changes;
- to reduce the number of supplemental agreements needed as a result of funding differences, the District requires local agencies utilizing an existing federal continuing services contract for design and/or CEI to have the fee for the project negotiated prior to the LAP agreement being drafted; and
- has only one individual who reviews all LAP construction bid packages to promote consistency in review.

The District 5 LAP Guidelines were published on March 1, 2020, to outline its specific criteria for the program, which are accessible on the Department's external LAP website.

District 6:

- awards no more than \$1 million of Transportation Alternative (TA) funds to any single project in any single application cycle, and no more than \$1 million of TA funds per phase to any single project;
- does not allow more than 3 applications per each agency's departments;
- requires agencies to prepare a template for professional services and construction procurement during certification; and
- has a certification task team which is comprised of individuals from numerous offices in the District that are part of the review of an agency's Certification Tool and participate in the Certification Interview.

Though we did not analyze each District's LAP program in depth, we recognized that additional practices that work for one District may not be applicable to another. Districts should continue to find practices that help meet the needs of the program and coordinate with the State LAP Program Administrator to ensure compliance with statutes, rules, and policies.

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APPENDIX A – Purpose, Scope, and Methodology

The **purpose** of this engagement was to determine if the Department has sufficient controls to ensure qualified subrecipients receive federal award funds, and what inconsistencies may exist between Districts.

The **scope** of this audit included records, reports, and documentation related to the Department's Local Agency Program for the time period between July 1, 2018, through December 31, 2020.

The **methodology** included:

- reviewing applicable federal and state laws, Department manuals, policies, and procedures;
- interviewing appropriate Department employees; and
- reviewing various Department LAP records and documentation.

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APPENDIX B – Management Response

On December 3, 2020, Lorraine Moyle, State Local Program Administrator, responded by email that she appreciates the opportunity to respond, but does not have any comments at this time.

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PROJECT TEAM

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STATEMENT OF ACCORDANCE

The Department's mission is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity, and preserves the quality of our environment and communities.

The Office of Inspector General's mission is to provide independent and objective investigative and audit services that promote accountability, integrity, and efficiency within the Florida Department of Transportation and its partners.

This work product was prepared pursuant to section 20.055, Florida Statutes, in accordance with the Association of Inspectors General *Principles and Standards for Offices of Inspector General*, and conforms with The Institute of Internal Auditors' *International Standards for the Professional Practice of Internal Auditing*.

Please address inquiries regarding this report to the Department's Office of Inspector General at (850) 410-5800.

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ATTACHMENT 1 – Sample Testing for Subrecipient Qualifications

| Local Agency Program (LAP) Process | | Office of Inspector General Test Sample | | | | | | | | | | | | | |
|---|---|--|-------------|----------------|----------------------|---------------------|-----------------|----------------------|--------------------------|---------------|----------------|------------------|-------------------|-----------------|---------------------|
| Criteria to be met before awarding of federal funds | | D1 | | D2 | | D3 | | D4 | | D5 | | D6 | | D7 | |
| LAP Manual Chapter | Testing Description | City of Punta Gorda | Polk County | Alachua County | City of Jacksonville | City of Tallahassee | Okaloosa County | City of Delray Beach | City of Lake Worth Beach | Orange County | Osceola County | City of Marathon | Miami Dade County | Pinellas County | Hillsborough County |
| | | <i>Is the Agency in Compliance?</i> | | | | | | | | | | | | | |
| 2.1 | Is the Local Agency eligible for LAP certification? (Specific to a county, city, Expressway or transportation authority, special road or bridge district, or regional governmental unit). | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2.1 | Is the Local Agency certified? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2.2.2 | Did the Department conduct a risk assessment of the Local Agency before issuing certification or recertification? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2.3 | For the 3 areas of certification: planning, design, construction and construction administration, were the minimum requirements met? ¹ | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2.4 | Has the Local Agency delegated someone as the "responsible charge"? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2.4 | Is the "responsible charge" a full-time employee of the Local Agency? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2.5 | Has the Local Agency uploaded the LAP Certification Tool to the Local Agency Program Information Tool? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2.5.4 | Has the Local Agency and its employees identified on the certification tool completed all mandatory training? | Instead of determining if our sample of Local Agencies specifically met this requirement, we reviewed if the Department has procedures in place to ensure this requirement is met. | | | | | | | | | | | | | |

¹ See also: Attachment 2 – Certification Requirements

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ATTACHMENT 2 – Certification Requirements

| LAP Manual Chapter 2.3 | | LAP Certification Tool | | D1 | | D2 | | D3 | | D4 | | D5 | | D6 | | D7 | |
|--|---|--|---|---------------------|-------------|----------------|----------------------|---------------------|-----------------|--------------|------------------|---------------|----------------|------------------|-------------------|-----------------|---------------------|
| Certification Area | Certification Requirements (Minimum Qualifications) | Certification Tool Section | Certification Tool Question | City of Punta Gorda | Polk County | Alachua County | City of Jacksonville | City of Tallahassee | Okaloosa County | Delray Beach | Lake Worth Beach | Orange County | Osceola County | City of Marathon | Miami Dade County | Pinellas County | Hillsborough County |
| Planning | Responsible staff with knowledge of the federal and state requirements for transportation planning processes, including transportation planning organizations. | M. Planning | (1) Does your agency have a planning department with at least one planner on staff full or part-time? (2) Does your agency planning department have a designated transportation planner on staff? | Yes | Yes | Yes | Yes | N/A | Yes | N/A | N/A | Yes | Yes | Yes | Yes | Yes | Yes |
| | Transportation projects of a nature similar to those the agency intends to develop. | | (3) Does your agency expect to perform transportation planning studies with in-house staff or consultant staff or both? (4) Has your agency planning staff performed and completed transportation planning studies? (5) How many transportation planning studies have been performed by consultants on behalf of your agency over the last 5 years? | Yes | Yes | Yes | Yes | N/A | Yes | N/A | N/A | Yes | Yes | Yes | Yes | Yes | Yes |
| Design | A Local Agency who intends to design a project with its own forces must have a Florida Licensed Professional on staff. Training and knowledge of the Americans with Disabilities Act (ADA) requirements. | N. Plans, Specifications, and Estimates | (1-3) The Florida Professional Engineer on staff with your agency is... (is the person identified?) | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| | | | (8) Has project design staff completed the ADA Training Course or similar training course? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Construction and Construction Administration | Responsible staff with experience in providing construction oversight of transportation projects (preferably federally funded), including but not limited to managing contract time, change orders/contract changes, and construction invoicing. | O. Construction | (1) Does your agency seek to self-perform construction activities? Force account construction requires a Department approved public interest finding. Acceptable justifications for force account construction cannot be based on cost alone. If yes, identify agency experience with public works construction projects (i.e., resurfacing, sidewalks, trails, traffic signals, lighting). | N/A | N/A | N/A | Yes | N/A | N/A | N/A | N/A | N/A | N/A | N/A | N/A | Yes | N/A |
| | The Local Agency must have an established materials quality assurance process. | Q. ² Construction Administration – Project Inspection | (1) Does your agency seek to self-perform construction inspection activities? If yes, describe agency's process for inspecting projects. (2) If no, describe your agency's process for providing oversight and maintaining control of a project when a consultant CEI is performing inspection duties. | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| | The Local Agency must have an established process for contract compliance, including but not limited to: Equal Opportunity, Disadvantage Business Enterprise tracking, and compliance with minimum wage rate decisions and payroll verification. Refer to Chapter 14-75 of the Florida Administrative Code for minimum professional services qualifications required for LAP Classification A, B, and C projects. | R. Construction Administration – Contract Compliance | (3) Does your agency monitor Disadvantaged Business Enterprise payment reporting by contractors and consultants on federal contracts? | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes | Yes |

² Section P of the LAP Certification Tool was not included in our review, as it is not applicable to our objective (pre-award requirements).