**Section 3040.70 Program Compliance Requirements**

a) Any property acquired or developed through assistance from the Illinois Bicycle Path Grant Program must be open to the general public for bicycle use. Property acquired or developed with program assistance may not be converted to a use which would deny bicycle use as provided by terms of the Project Agreement without prior Department approval. Approval for property conversion will be granted only if the project sponsor substitutes replacement property equal in fair market value and comparable in bicycling usefulness, quality and location.

b) Land acquired with funding assistance from the Illinois Bicycle Path Grant Program shall be operated and maintained in perpetuity for public bicycle path and recreation use.

c) For projects receiving development grant assistance only, terms of this Part shall no longer apply after the time period specified below relating to the total amount of grant funds expended on the project:

|  |  |  |
| --- | --- | --- |
| Total Grant Award |  | Time Period After Final Project Billing |
| $0-$50,000 |  | 5 years |
| for every $10,000 increment over $50,000 |  | add 1 year |

d) For projects receiving acquisition assistance, an appraisal must be provided by the sponsoring agency and submitted to the Department for review and certification. The appraisal must be completed to Departmental specifications. Title to any property for which grant reimbursement is sought cannot be taken by the sponsoring agency before Department approval of Certified Fair Market Value for the property is received.

e) For projects receiving development assistance, the sponsoring agency must possess either fee simple title or a permanent easement to the property being improved or an approved lease arrangement of at least 25 years, unless otherwise approved by the Department. The Department will consider, on a case-by-case basis, lease arrangements for shorter periods when State statute prohibits a unit of local government from entering into such a long-term agreement, or other circumstances beyond the control of the local unit of government prohibit such arrangements (see Section 3040.50(a)(1)). The sponsor must also adhere to applicable state and local procurement requirements and make available to the Department all working plans, specifications, contract documents and cost estimates for review prior to commencing work. The format for any advertisement or prospectus soliciting and inviting bids, indicating dates of same, must also be presented, upon request, to the Department for review prior to publication. The Department will notify the project sponsor if the proposed project requires approval from a registered structural engineer.

f) The local sponsoring agency is required to enter into an agreement with the Department for an amount agreed upon as necessary to complete the approved project, specifying the related grant reimbursement amount and program compliance regulations.

g) Upon project completion, the project sponsor must submit a certified project billing request (expenditure statement) listing/verifying all funds expended on the project for which grant reimbursement is sought, as well as required billing documentation, as follows:

1) ACQUISITION PROJECT: Proof of fair market value offer to seller for the property, copy of deed (Judgement Order in case of condemnation) showing ownership transferred to the local project sponsor, and copies of cancelled check(s) showing proof of payment to seller.

2) DEVELOPMENT PROJECTS: Copy of Construction As-Built drawings (no larger than 11" x 17"), copy of receipts/invoices for project costs, and copy of cancelled checks showing proof of payment.

h) Financial records on approved projects must be maintained and retained by the project sponsor for possible State audit for a period of 5 years after final reimbursement payment is made by the Department.

i) The sponsoring agency must permanently post a Bicycle Path Grant Program acknowledgement sign at the project site where grant assistance is involved. The necessary sign will be provided by the Department -or specifications for its construction will be furnished to the local project sponsor, if requested.

j) Projects assisted with Illinois Bicycle Path Grant funds shall be implemented in accordance with all applicable federal, State and local laws, ordinances and regulations relating to public agency expenditure of funds for public works projects.

k) It shall be understood by the project sponsor that a Department representative may make periodic inspections of the project as construction progresses and that a final inspection and acceptance of the completed project must be made by a representative or agent of the Department prior to final payment of grant reimbursement to the local sponsoring agency.

l) The sponsoring agency shall indemnify, protect, defend and hold harmless the Department from any and all liability, costs, damages, expenses, or claims thereof arising under, through or by virtue of the construction, operation and maintenance of Program-assisted bicycle path facilities.

m) In connection with and prior to the construction, and thereafter the subsequent operation and maintenance of Program-assisted bicycle facilities, it shall be understood that the project sponsor is responsible for obtaining any and all necessary construction permits, licenses or forms of consent as may be required by law. Failure to obtain any required permit(s) may jeopardize approved grant funding.

n) The sponsoring agency must comply with and abide by the following operation and maintenance provisions:

1) All bicycle facilities financed with funds from this grant program shall be continuously operated and maintained by the sponsoring agency at no cost to the Department and shall be operated and utilized in such a manner as to maximize the intended benefits to and for the general public.

2) The sponsoring agency shall satisfactorily maintain Program-assisted bicycle path facilities so as to promote the safe and enjoyable usage of the facility by the public.

3) All bicycle path facilities financed with funds from this grant program shall be open to the public for use and enjoyment without regard to race, color, disability, creed or national origin. No lessee or licensee of an area under a lease or license providing for a public or quasi-public use and no concessionaire of a lessee or licensee providing a service to the public, including facilities and accommodations, shall unlawfully discriminate against any person or persons because of race, color, disability, creed, or national origin in the conduct of its operation under the lease, license or concession agreement.

4) The charging of fees for general public use of bicycle path facilities financed with funds from this grant program is strongly discouraged. However, if it is deemed necessary by the sponsoring agency that fees must be levied for use of these facilities, the sponsoring agency shall:

A) receive prior approval from the Department for scheduled fees to be charged;

B) clearly document that existing agency operation and maintenance budget is not sufficient to cover the added cost of properly operating and maintaining the project facility; and

C) deposit all fees in a separate account to be used for maintenance of and improvement to the Program-assisted facility only.

5) The Department shall have access to Program-assisted facilities at all times for inspection purposes to ensure project sponsor's continued compliance with this Part.

6) The sponsoring agency may enter into a contract or agreement with responsible concessionaires to operate and/or construct bicycle rental facilities, for dispersing food to the public and/or any other services as may be desired by the public and the sponsoring agency. Any and all concession revenue in excess of the costs of operation and maintenance of Program-assisted bicycle facilities shall be used for the improvement of said facilities or similar public bicycling facilities in nearby areas.

7) All sub-leases or licenses entered into by the sponsoring agency with third persons relating to accommodations or concessions to be provided for or at the bicycle path facility for the benefit of the general public shall be submitted to the Department, upon request, for its approval prior to said sub-lease or license being entered into or granted by the sponsoring agency.

o) Conflict of Interests

1) No official or employee of the local political subdivision who is authorized in his official capacity to negotiate, make, accept, or approve or to take part in such decisions regarding a contract or subcontract in connection with an approved bicycle path grant project shall have any financial or other personal interest in any such contract or subcontract.

2) No person performing services for the local political subdivision in connection with an approved bicycle path grant project shall have a financial or other personal interest other than his employment or retention by that local political subdivision in any contract or subcontract in connection with an approved bicycle path grant project. No officer or employee of such person retained by the local political subdivision shall have any financial or other personal interest in any real property acquired under an approved bicycle path grant project unless such interest is openly disclosed upon the public records of the local political subdivision and such officer, employee or person has not participated in the acquisition for or on behalf of the local political subdivision.

p) The Project Sponsor certifies that it provides a drug free workplace and related employee assistance as defined and required by the Drug Free Workplace Act [30 ILCS 105/16].

q) Pursuant to 775 ILCS 5/2-105(A)(4), the Project Sponsor certifies that it has a written sexual harassment policy that includes, at a minimum, the following information:

1) the illegality of sexual harassment;

2) the definition of sexual harassment under State law;

3) a description of sexual harassment utilizing examples;

4) the Contractor's internal complaint process including penalties;

5) the legal recourse, investigation and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and

6) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act. A copy of the policy shall be provided to the Department of Human Rights upon request.

r) Program Violations and Project Termination

1) The State will unilaterally rescind project agreements at any time prior to the commencement of the project in the event that State funds are not appropriated for the grant program. After project commencement, agreements may be rescinded, modified or amended only by mutual agreement with the local political subdivision. A project shall be deemed to be commenced when the local political subdivision makes any expenditure or incurs any obligation with respect to the project.

2) Failure by the local sponsoring agency to comply with any of the above cited Program terms shall be cause for the suspension of all grant assistance obligations thereunder, unless, in the judgement of the Department, such failure was due to no fault of the local sponsoring agency (e.g., statutory changes, acts of God).

(Source: Amended at 22 Ill. Reg. 4902, effective March 2, 1998)