**Section 3045.80 Program Compliance Requirements**

a) Any property acquired or developed through assistance from the OHV program must be open to the general public for off-highway vehicle use. Property acquired or developed with program assistance may not be converted to a use that would deny public off-highway vehicle 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 off-highway vehicle usefulness, quality and location.

b) Grant projects approved through the OHV program shall be completed within 24 months from the date of approval unless otherwise approved by the Department. All approved projects must be in accordance with the agreed upon project specifications and a final billing request for reimbursement submitted to the Department.

c) All land and equipment/materials purchased through the OHV grant program, except those purchased by government agencies, shall be subject to repossession and disposition by the Department as deemed appropriate upon the dissolution of the project sponsor or as a result of unresolved project sponsor non-compliance with program regulations as stated herein. Land and equipment/materials purchased by government agencies where the project sponsor fails to comply with program regulations stated herein shall be responsible for repayment of funds to the Department equal to the original grant amount disbursed to the sponsor or the property's certified fair market value at the time of non-compliance, whichever is deemed most appropriate by the Department.

d) Land acquired with funding assistance from the OHV grant program shall be operated and maintained in perpetuity for public motorized recreation unless otherwise approved by the Department. Land acquired pursuant to a contract paid over time, with acquisition partially funded by the OHV grant program, shall include in the contract to purchase that the Department shall have a lien against the property in the amount funded from the program, and shall have a reasonable time from time of notice to the Department by the seller that the buyer is in default to:

1) pay the remainder of the purchase price and take title to the land;

2) substitute another party in place of the original buyer; or

3) release the lien upon receiving payment of all grant funds plus 8% interest.

e) Grant recipients receiving development assistance only shall be bound by the terms of this Part for the period of time specified below for the total amount of OHV funds expended on the project. The time period specified below shall commence after receipt of the final reimbursement payment. Recipients shall agree that the Department shall have a lien upon the property for the number of years the recipient is bound, and that the lien may be satisfied only by repayment of the entire grant amount or by operation, by the recipient or a Department designee, of a public motorized off-highway vehicle park for the number of years for which the recipient is bound.

$1-$50,000 – 5 years

for every $10,000 increment over $50,000 – add one year

f) With the exception of designated OHV routes on or along local roads and streets, all OHV facilities developed with assistance from the OHV grant program shall be posted with a liability disclaimer sign at ingress/egress points to the facility warning users that they use the facility at their own risk.

g) With the exception of designated OHV routes on or along local roads and streets, it shall be the sole responsibility of the project sponsor to adequately patrol the OHV-assisted facility to ensure proper usage of the facility and user compliance with all State and local OHV regulations. Failure of the project sponsor to take corrective measures that bring the facility into compliance with this Part or to help remedy complaints lodged by local citizens concerning misuse of OHV-assisted facilities shall be grounds for a finding of program non-compliance as specified in this Section and be subject to corrective measures by the Department as deemed appropriate.

h) During all times of operation of an OHV grant assisted facility, the project sponsor (excluding government entities) must possess insurance protection providing a minimum of $1,000,000 per occurrence liability coverage.

i) The project sponsor (applicant) shall indemnify, protect and hold harmless the Department from any and all liability, costs, damages, and claims arising as a direct or indirect result of the construction, operation or maintenance of facilities assisted with OHV grant funds.

j) The project sponsor must possess the resource capabilities to:

1) initially finance 100% of the total cost prior to grant reimbursement, unless otherwise approved for invoices of $5,000 or more for approved acquisitions by not-for-profit organizations such as ATV clubs; and

2) properly maintain and operate the OHV fund-assisted facility after project completion.

k) 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 good faith negotiations or fair market value offer to land seller, copy of property deed (showing ownership transferred to the project sponsor/applicant), and copies of canceled checks 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 canceled checks showing proof of payment.

l) All financial records on approved projects must be maintained and retained, in accordance with State laws, by the project sponsor for possible State audit after final reimbursement payment is made by the Department.

m) The project sponsor must permanently post an OHV grant program acknowledgment sign at the project site. The required sign will be furnished by the Department.

n) Upon request, all work specifications must be submitted by the project sponsor to the Department for review prior to commencing work. Project sponsor will be notified by the Department if the proposed project requires the approval of a registered professional engineer.

o) Department representatives shall have access to OHV-assisted project sites at any time during construction to assess project progress and during facility operation to ensure continuing compliance with program regulations. As time allows, Department representatives shall be available, upon request, for consultation/technical assistance concerning project development. It shall be further understood that a final inspection and acceptance of the completed project work must be made by a Department representative prior to approval of final reimbursement payment to the project sponsor.

p) In connection with, and prior to, the construction, and thereafter the subsequent operation and maintenance, of OHV grant assisted facilities, the project sponsor (applicant) agrees that it shall be responsible for and obtain all necessary permits, licenses or forms of consent, as the case may be, from, but not limited to, the following agencies:

1) Illinois Department of Natural Resources, Office of Water Resources;

2) Illinois Environmental Protection Agency;

3) U.S. Army Corps of Engineers;

4) Illinois Department of Public Health (Campground Licensing and Recreational Area Act);

5) Illinois Department of Transportation, Division of Highways; and

6) Local building, zoning or road commissions, etc.

q) Prior to any construction or trail development on sites that have received or have been approved for OHV grant assistance, the grantee must comply with the consultation requirements of the Endangered Species Act [520 ILCS 10/11(b)] and the Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420/4].

r) The project sponsor must comply with and abide by the following operation and maintenance provisions:

1) All off-highway vehicles operated on sites or trails that have received OHV grant assistance must display an Illinois OHV public use sticker on the front center of the OHV, or have a receipt for a one-day competitive event for that day on that site. The sticker is available from the Department and approved vendors. Off-highway vehicles that display a similar decal from states that have reciprocity agreements with Illinois do not need the Illinois sticker. Government-owned or -leased OHVs are exempt from this requirement.

2) The charging of user fees for general public use must be approved by the Department.

3) Except as noted below, all OHV grant-assisted facilities must be open and available for general public use and enjoyment without regard to sex, race, color, creed, national origin or residence.

A) Use of the project facility can be restricted to only those users that can show proof of adequate personal liability insurance coverage or are willing to sign liability waivers concerning use of the facility.

B) Use of the project facility may be restricted by type of OHV use if specified in the approved project agreement or if justified and approved by the Department.

4) All OHV grant assisted facilities shall be operated, maintained and utilized for general public use in a safe and attractive manner so as to maximize the facility's intended public benefit.

5) Department personnel shall have access to OHV grant assisted facilities at all times during hours of normal operation for inspection purposes to ensure continued compliance with program regulations.

6) The possession, sale or consumption of alcoholic beverages on OHV grant assisted sites is expressly prohibited.

s) All funds administered by the Department under the OHV grant program and expended by the project sponsor shall be in accordance with all applicable State statutes.

t) The Department may unilaterally rescind OHV grant funds and terminate project agreements any time the General Assembly fails to appropriate or release sufficient OHV grant funds to fulfill the obligation or the applicant demonstrates non-compliance with this Part. Otherwise, after project commencement, OHV grant funds and project agreements may be rescinded, modified, or amended only by mutual agreement with the project sponsor. A project shall be deemed commenced when the project sponsor has made an expenditure or has incurred an obligation with respect to the project.

u) Failure by the project sponsor to comply with this Part shall be cause for the suspension of all OHV grant fund obligations and/or repossession of project lands and equipment/materials purchased with grant funds, unless, in the judgment of the Department, such noncompliance was due to no fault of the project sponsor (applicant).

(Source: Amended at 39 Ill. Reg. 12324, effective August 21, 2015)