

#### **04 NCAC 19L .1104      REMEDIES**

(a) When the Secretary determines on the basis of a review of a recipient's performance that the objectives of the program, as well as the objectives as described in its application, have not been met, the Secretary may take one or more of the actions authorized in Paragraph (b) of this Rule. In each instance, the action taken will be designed to first, prevent a continuance of the deficiency (lack of progress, nonconformance, noncompliance, lack of continuing capacity); second, mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiencies.

(b) The action that the Department or Division may take in response to a negative review of a recipient's performance include:

- (1) Require the recipient to submit additional information:
  - (A) concerning the administrative, planning, budgeting, management and evaluation functions to determine any reasons for lack of progress;
  - (B) explaining any actions being taken to correct or remove the causes for delay;
  - (C) documenting that activities undertaken were not in conformance with the approved program or were in noncompliance with applicable laws or regulations; and
  - (D) demonstrating that the recipient has a continuing capacity to carry out the approved program in a timely manner.
- (2) Require the recipient to submit progress schedules for completing approved activities;
- (3) Issue a letter of warning that advises the recipient of the deficiency and puts the recipient on notice that more serious sanctions will be taken if the deficiency is not corrected or is repeated;
- (4) Instruct the recipient that a certification will no longer be acceptable and that additional information or assurances will be required;
- (5) Instruct the recipient to suspend, discontinue or not incur costs for the affected activity;
- (6) Instruct the recipient to reprogram funds from affected activities to other eligible activities; provided, that such action shall not be taken in connection with any substantial violation of Rule .1004 Environmental Requirements;
- (7) Instruct the recipient to reimburse the recipient's program account or the Department in any amounts improperly expended;
- (8) Change the method of payment from advance payment to a reimbursement basis;
- (9) Condition the approval of a succeeding year's application if there is substantial evidence of a lack of progress, nonconformance, noncompliance, or a lack of continuing capacity. In such cases, the reasons for the conditional approval and the actions necessary to remove the condition shall be as specified by the Division; and
- (10) Reduce the recipient's annual grant by up to the amount conditionally approved where such condition or conditions have not been satisfied.

(c) When the Secretary determines, on the basis of a review of a recipient's performance that objectives of the program as described in its application have not been met, the Secretary may reduce, withhold funds or withdraw the grant, except for funds already expended on otherwise eligible activities which may not be recaptured or deducted from future grants.

*History Note: Authority G.S. 143B-10; 143B-431; 24 C.F.R. 570.492;  
Eff. July 1, 1982;  
Amended Eff. June 1, 1993; September 1, 1990; April 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. March 6, 2018.*