

SUBCHAPTER 03M – UNIFORM ADMINISTRATION OF STATE AWARDS OF FINANCIAL ASSISTANCE

SECTION .0100 - ORGANIZATION AND FUNCTION

09 NCAC 03M .0101 PURPOSE

Pursuant to G.S. 143C-6-23, the rules in this Subchapter establish reporting requirements for non-State entities that receive, hold, use, or expend State financial assistance and ensure the uniform administration of State financial assistance by all State agencies, recipients, and subrecipients. The requirements of this subchapter shall not apply to:

- (1) State financial assistance to non-State entities subject to the audit and other reporting requirements of the Local Government Commission.
- (2) Tuition assistance to students.
- (3) Public assistance payments from Federal entitlement programs to or on behalf of enrolled individuals.
- (4) State funds disbursed to a contractor as defined in this Subchapter.

*History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
Amended Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015;
Amended Eff. July 1, 2016.*

09 NCAC 03M .0102 DEFINITIONS

As used in this Subchapter:

- (1) "Agency" means every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any county, unit, special district, or other political subdivision of state or local government.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- (3) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Division of the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- (4) "Contract" means a legal instrument that is used to document a relationship between the agency, and a recipient or between a recipient and subrecipient.
- (5) "Contractor" means an entity subject to the contractor requirements, as well as any entity that would be subject to the contractor requirements but for a specific statute or rule exempting that entity from the contractor requirements.
- (6) "Contractor requirements" means Article 3, 3C, 3D, 3E, 3G, or 8 of Chapter 143 of the General Statutes and related rules.
- (7) "Fiscal Year" means the annual operating year of the non-State entity.
- (8) "Financial Statement" means a report providing financial data relative to a given part of an organization's operations or status.
- (9) "Non-State Entity" has the meaning in G.S. 143C-1-1(d)(18).
- (10) "Recipient" means a non-State entity that receives State financial assistance directly from a State agency to carry out part of a State program, but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Subchapter, "recipient" also includes a non-State entity that would be considered a "subrecipient" pursuant to 2 CFR 200.93 for Federal funds subawarded by a recipient State agency, but does not include a subrecipient as defined in Item (14) of this Rule.
- (11) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.
- (12) "State financial assistance" means State funds disbursed as a grant, cooperative agreement, non-cash contribution, food commodities, or direct appropriation to a recipient or subrecipient as defined in Item (10) and (14) of this Rule.

- (13) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected by the State of North Carolina. State funds include federal financial assistance received by the State and transferred or disbursed to non-State entities. Both Federal and State funds maintain their identity as they are disbursed as financial assistance to other organizations.
- (14) "Subrecipient" means a non-State entity that receives State financial assistance from a recipient to carry out part of a State program; but does not include an individual that is a beneficiary of such program. This definition of "subrecipient" applies throughout these Rules, except as used in Item (10) of this Rule.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
Amended Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015;
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SECTION .0200 - RESPONSIBILITIES OF RECIPIENTS AND SUBRECIPIENTS

09 NCAC 03M .0201 ALLOWABLE USES OF STATE FINANCIAL ASSISTANCE

Expenditures of State financial assistance by any recipient or subrecipient shall be in accordance with the cost principles outlined in the Code of Federal Regulations, 2 CFR, Part 200. If the State financial assistance includes federal sources, the recipient or subrecipient shall ensure adherence to the cost principles established in the Code of Federal Regulations, 2 CFR, Part 200.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
Readopted Eff. July 1, 2016.

09 NCAC 03M .0202 RECIPIENT AND SUBRECIPIENT RESPONSIBILITIES

A recipient or subrecipient that receives State financial assistance shall ensure that those funds are utilized for their intended purpose and shall expend those funds in compliance with requirements established by this Subchapter and their contract. Recipients and subrecipients shall:

- (1) Provide the information required by the disbursing agency in order to comply with the procedures for disbursement of funds.
- (2) Maintain reports and accounting records that support the allowable expenditure of State funds. Recipients and subrecipients shall make available all reports and records for inspection by the awarding agency, the Office of State Budget and Management, and the Office of the State Auditor for oversight, monitoring, and evaluation purposes.
- (3) Ensure that subrecipients comply with all reporting requirements established by this Subchapter and their contract and report to the appropriate disbursing entity.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
Readopted Eff. July 1, 2016.

09 NCAC 03M .0203 SUBGRANTEE RESPONSIBILITIES

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
Repealed Eff. July 1, 2016.

09 NCAC 03M .0204 RESERVED FOR FUTURE CODIFICATION

09 NCAC 03M .0205 MINIMUM REPORTING REQUIREMENTS FOR RECIPIENTS AND SUBRECIPIENTS

(a) For the purposes of this Subchapter, there are three reporting levels established for recipients and subrecipients receiving State financial assistance. Reporting levels are based on the level of State financial assistance from all funding sources. The reporting levels are:

- (1) Level I – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year.
- (2) Level II - A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in an amount of at least twenty-five thousand (\$25,000) or greater, but less than five hundred thousand dollars (\$500,000) within its fiscal year.
- (3) Level III – A recipient or subrecipient that receives, holds, uses, or expends State financial assistance in an amount equal to or greater than five hundred thousand dollars (\$500,000) within its fiscal year.

(b) Agencies shall establish reporting requirements for recipients that meet the following reporting standards on an annual basis:

- (1) All recipients and subrecipients shall provide a certification that State financial assistance received or held was used for the purposes for which it was awarded.
- (2) All recipients and subrecipients shall provide an accounting of all State financial assistance received, held, used, or expended.
- (3) Level II and III recipients and subrecipients shall report on activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.
- (4) Level III recipients and subrecipients shall have a single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

(c) All reports shall be filed with the disbursing agency in the format and method specified by the agency no later than three months after the end of the recipient's fiscal year, unless the same information is already required through more frequent reporting. Audits must be provided to the funding agency no later than nine months after the end of the recipient's fiscal year.

(d) Agency-established reporting requirements to meet the standards set forth in Paragraph (b) of this Rule shall be specified in each recipient's contract.

(e) Unless prohibited by law, the costs of audits made in accordance with the provisions of this Rule shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2 CFR Part 200. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.

(f) Notwithstanding the provisions of this Subchapter, a recipient may satisfy the reporting requirements of Subparagraph (b)(4) of this Rule by submitting a copy of the report required under federal law with respect to the same funds.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
Readopted Eff. July 1, 2016.

SECTION .0300 - RESPONSIBILITIES OF THE OFFICE OF THE STATE CONTROLLER

09 NCAC 03M .0301 OFFICE OF THE STATE CONTROLLER RESPONSIBILITIES

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Eff. July 1, 2005;
Amended Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule Expired May 1, 2015.

SECTION .0400 - RESPONSIBILITIES OF AGENCIES

09 NCAC 03M .0401 AGENCY RESPONSIBILITIES

(a) An agency that receives State funds and disburses those funds as State financial assistance to a recipient shall:

- (1) Notify each recipient, at the time the State financial assistance award is made, of the purpose of the award and the reporting requirements established in this Subchapter.

- (2) Prior to disbursing any State financial assistance:
 - (A) Register each State assistance program with the Office of State Budget and Management in the format and method specified by the Office of State Budget and Management.
 - (B) Execute a contract with the recipient that complies with the requirements of this Subchapter.
 - (C) Report each individual award to the Office of State Budget and Management in the format and method specified by the Office of State Budget and Management.
 - (D) Follow the procedures for disbursement of State financial assistance.
 - (3) Develop compliance supplement reports that describe standards of compliance and audit procedures to give direction to independent auditors. This report shall be provided to the State and Local Government Finance Division in the North Carolina Department of State Treasurer for inclusion in the North Carolina State Compliance Supplement.
 - (4) Develop a monitoring plan for each State assistance program the agency oversees and submit the plan to the Office of State Budget and Management for approval.
 - (5) Perform monitoring and oversight functions as specified in agency monitoring plans to ensure that State financial assistance is used for authorized purposes in compliance with laws, regulations, and the provisions of contracts, and that performance goals are achieved.
 - (6) Ensure that State financial assistance is spent consistent with the purposes for which it was awarded.
 - (7) Determine that reporting requirements have been met by the recipient and that all reports have been completed and submitted in accordance with the recipient's contract.
 - (8) Monitor compliance by recipients with all terms of a contract. Upon determination of noncompliance the agency shall take appropriate action as specified in Section .0800 of this Subchapter.
 - (9) Require agency internal auditors to conduct periodic audits of agency compliance with requirements of this Subchapter.
 - (10) Provide all requested documentation when subject to an audit of compliance with the requirements of this Subchapter. Audits may be conducted by the Office of State Budget and Management, the Office of the State Auditor, or the agency's internal auditor.
- (b) Each recipient shall ensure that subrecipients have complied with the applicable provisions of this Subchapter. Failure to comply with such provisions shall be the basis for an audit exception.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
 Eff. July 1, 2005;
 Readopted Eff. July 1, 2016.

SECTION .0500 - RESPONSIBILITIES OF THE OFFICE OF THE STATE AUDITOR

09 NCAC 03M .0501 OFFICE OF THE STATE AUDITOR RESPONSIBILITIES

History Note: Authority G.S. 143C-6-22; 143C-6-23;
 Eff. July 1, 2005;
 Repealed Eff. July 1, 2016.

SECTION .0600 - RESPONSIBILITIES OF THE OFFICE OF STATE BUDGET AND MANAGEMENT

09 NCAC 03M .0601 OFFICE OF STATE BUDGET AND MANAGEMENT RESPONSIBILITIES

The Office of State Budget and Management shall:

- (1) Provide guidelines to agencies for developing monitoring plans and establishing reporting processes that meet the requirements established in this Subchapter.
- (2) Maintain a Suspension of Funding list readily accessible to any interested party that identifies any recipient found in noncompliance with the requirements of this Subchapter or the terms of their contract. This list shall serve as notice to other agencies that no further State financial assistance shall be provided to that recipient until they are removed from the list.
- (3) Periodically audit State agencies to ensure compliance with requirements set forth in Section .0400 of this Subchapter.

- (4) Upon notification from a disbursing agency that a recipient is no longer noncompliant with the requirements set forth in Section .0200 of this Subchapter, validate that all such noncompliance has been corrected prior to the removal of that recipient from the Suspension of Funding listing. A recipient may appeal to the Office of State Budget and Management to be removed from the Suspension of Funding list if they believe they have been suspended in error. Once removed from the Suspension of Funding list, the recipient is eligible for current and future State financial assistance.
- (5) Take appropriate administrative action when the Director of the Budget finds that the recipient has spent or encumbered State funds for an unauthorized purpose, including ensuring allegations of criminal violations are reported to the Attorney General and the State Bureau of Investigation by the disbursing agency.
- (6) If the funds are a pass-through of funds awarded by an agency of the United States, consult with the awarding agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking actions authorized by this Subchapter.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
 Eff. July 1, 2005;
 Readopted Eff. July 1, 2016.

SECTION .0700 - CONTRACTING, MONITORING, AND OVERSIGHT

09 NCAC 03M .0701 GRANT DOCUMENTATION

History Note: Authority G.S. 143C-6-22; 143C-6-23;
 Eff. July 1, 2005;
 Repealed Eff. July 1, 2016.

09 NCAC 03M .0702 SUBORDINATION OF OTHER CONTRACTS AGREEMENTS

No contract agreements shall act to eliminate or diminish the requirements contained in this Subchapter.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
 Eff. July 1, 2005;
 Readopted Eff. July 1, 2016.

09 NCAC 03M .0703 REQUIRED CONTRACT PROVISIONS

Prior to receiving State financial assistance, the recipient shall sign a contract with the agency that shall contain the obligations of both parties. Prior to disbursing any State financial assistance, each agency shall sign a contract with the recipient requiring compliance with the rules in this Subchapter. The requirements of this Rule shall also be applicable to all subrecipient relationships. Each contract agreement shall contain:

- (1) A specification of the purpose of the award, services to be provided, objectives to be achieved, and expected results;
- (2) The source of funds (such as federal or state) must be identified, including the CFDA number and percentages of each source where applicable.
- (3) Account coding information sufficient to provide for tracking of the disbursement through the disbursing agency's accounting system.
- (4) Agreement to maintain all pertinent records for a period of five years or until all audit exceptions have been resolved, whichever is longer.
- (5) Names of all parties to the terms of the contract. For the recipient or subrecipient, each contract shall contain the employer/tax identification number, address, contact information, and the recipient's or subrecipient's fiscal year end date.
- (6) Signatures binding all parties to the terms of the contract.
- (7) Duration of the contract, including the effective and termination dates.
- (8) Amount of the contract and schedule of payment(s).
- (9) Particular duties of the recipient.
- (10) Required reports and reporting deadlines.

- (11) Provisions for termination by mutual consent with 60 days written notice to the other party, or as otherwise provided by law.
- (12) A provision that the awarding of State financial assistance is subject to allocation and appropriation of funds to the agency for the purposes set forth in the contract.
- (13) Provision that requires reversion of unexpended State financial assistance to the agency upon termination of the contract.
- (14) A provision that requires compliance with the requirements set forth in this Subchapter, including audit oversight by the Office of the State Auditor, access to the accounting records by both the funding entity and the Office of the State Auditor, and availability of audit work papers in the possession of any auditor of any recipient of State funding.
- (15) A clause addressing assignability and subcontracting, including the following:
 - (a) The recipient or subrecipient is not relieved of any of the duties and responsibilities of the original contract.
 - (b) The subrecipient agrees to abide by the standards contained in this Subchapter and to provide information in its possession that is needed by the recipient to comply with these standards.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
 Eff. July 1, 2005;
 Readopted Eff. July 1, 2016.

09 NCAC 03M .0704 GRANT MONITORING AND EVALUATION

History Note: Authority G.S. 143C-6-22; 143C-23;
 Eff. July 1, 2005;
 Repealed Eff. July 1, 2016.

SECTION .0800 - SANCTIONS

09 NCAC 03M .0801 NONCOMPLIANCE WITH RULES

- (a) An agency shall not disburse any State financial assistance to an entity that is on the Suspension of Funding list.
- (b) When a non-State entity does not comply with the requirements of this Subchapter, the agency shall take measures to ensure that the requirements are met, including:
 - (1) Communicating the requirements to the non-State entity.
 - (2) Requiring a response from the non-State entity upon a determination of noncompliance.
 - (3) Suspending payments to the non-State entity until the non-State entity is in compliance.
- (c) When an agency discovers evidence of management deficiencies or criminal activity leading to the misuse of funds, the agency shall notify the Office of State Budget and Management and take the appropriate action or actions, such as:
 - (1) Suspend payments until the matter has been fully investigated and corrective action has been taken.
 - (2) Terminate the contract and take action to retrieve unexpended funds or unauthorized expenditures.
 - (3) Report possible violations of criminal statutes involving misuse of State property to the State Bureau of Investigation, in accordance with G.S. 143B-920.
- (d) Upon determination of noncompliance with requirements of the contract that are not indicative of management deficiencies or criminal activity, the agency shall give the recipient or subrecipient 60 days written notice to take corrective action. If the recipient or subrecipient has not taken the appropriate corrective action after the 60-day period, the disbursing agency shall notify the Office of State Budget and Management and take the appropriate action or actions, such as:
 - (1) Suspend payments pending negotiation of a plan of corrective action.
 - (2) Terminate the contract and take action to retrieve unexpended funds or unauthorized expenditures.
 - (3) Offset future payments with any amounts improperly spent.
- (e) Each disbursing agency shall ensure that recipients and subrecipients have complied with the applicable provisions of this Subchapter.
- (f) Agencies are subject to audit for compliance with the requirements of this Subchapter by the Office of State Budget and Management, the Office of the State Auditor, and agency internal auditors. Any finding of

noncompliance by an agency shall be reported to the Office of State Budget and Management to take appropriate action, as set forth in this Rule.

(g) The Office of State Budget and Management shall notify the agency of the finding and provide 60 days to take corrective action. After the 60-day period, the Office of State Budget and Management shall conduct a follow-up audit to determine if appropriate corrective action has been taken. If an awarding agency fails to take appropriate corrective action or is repeatedly found to be out of compliance with the requirements of this Subchapter, the Office of State Budget and Management shall notify the head of the agency and the State Auditor of the finding.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
Readopted Eff. July 1, 2016.

09 NCAC 03M .0802 RECOVERY OF STATE FUNDS

(a) The disbursing agency shall take appropriate administrative action to recover State financial assistance in the event a recipient or subrecipient:

- (1) Is unable to fulfill the obligations of the contractual agreement.
- (2) Is unable to accomplish the purposes of the award.
- (3) Is noncompliant with the reporting requirements.
- (4) Has inappropriately used State financial assistance.

(b) The disbursing agency shall seek the assistance of the Attorney General in the recovery and return of State financial assistance if legal action is required.

(c) Any apparent violations of a criminal law or malfeasance, misfeasance, or nonfeasance in connection with the use of State financial assistance shall be reported by the agency to the Office of State Budget and Management, the Attorney General, and the State Bureau of Investigation.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
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