

## SUBCHAPTER 97C - COMMUNITY SERVICES BLOCK GRANT PROGRAM

### SECTION .0100 - GENERAL PROVISIONS

#### 10A NCAC 97C .0101 PURPOSE OF PROGRAM

The purpose of the Community Services Block Grant Program is to provide a range of services and activities having a measurable and potentially major impact on the causes of poverty in the community or those areas of the community where poverty is a particularly acute problem.

*History Note:* Authority 143B-10; 42 U.S.C. 9901-12;  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### 10A NCAC 97C .0102 AUTHORITY

The State of North Carolina is authorized to undertake the North Carolina Community Services Block Grant Program under the Omnibus Budget Reconciliation Act of 1981, as amended, and under state laws establishing state departments, institutions, and commissions and the Executive Organization Act of 1973 [G.S. 143B-10(b); 143B-276; 143B-277; and 143-323(d)].

*History Note:* Authority 42 U.S.C. 9901-12; 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### 10A NCAC 97C .0103 DESIGNATION

The Office has been designated by the Secretary of the Department to administer the Community Services Block Grant Program in North Carolina.

*History Note:* Authority G.S. 143B-10(b); 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### 10A NCAC 97C .0104 DEFINITIONS

For the purpose of this Subchapter, the following definitions apply:

- (1) "Act" means the Omnibus Budget Reconciliation Act of 1981, which is incorporated by reference, including subsequent amendments and editions, and available for free at <https://www.congress.gov/bill/97th-congress/house-bill/3982>, under which the Community Services Block Grant Program was established.
- (2) "Community Action Agency (CAA)" means an agency designated and funded by the Community Services Administration in Federal Fiscal Year 1981 for the purpose of operating an anti-poverty project and that was funded by the North Carolina Office of Economic Opportunity in fiscal year 1985 to administer a Community Services Block Grant ("CSBG") anti-poverty project or any agency designated by the Governor or his or her designee and determined to be eligible by the Division of Social Services.
- (3) "Local Administering Agency" means entities carrying out activities that are referenced in 42 U.S.C. 9907(b)(1) which is incorporated by reference, including subsequent amendments and editions and are available for free at <https://www.gpo.gov/fdsys/pkg/PLAW-105publ285/pdf/PLAW-105publ285.pdf>. Local Administering Agencies may include CAAs.
- (4) "The Office of Community Services (OCS)" means the agency established in the U.S. Department of Health and Human Services and is charged with the responsibility of administering CSBG.
- (5) "Persons in poverty" means:
  - (a) For the purpose of the allocation of CSBG fund, persons in poverty is defined as the number of persons whose income is below the poverty threshold established by the U.S. Census Bureau. The number of persons in poverty will be based on the most recent Small Area Income Poverty Estimates produced for school districts, counties, and states and released electronically by the U.S. Census Bureau, and available at the time of allocation

determination. The Small Area Income Poverty Estimates is incorporated by reference, including subsequent amendments and editions and available for free at [www.census.gov](http://www.census.gov).

- (b) For the purpose of program eligibility, persons in poverty is defined as the persons who fall below the poverty guidelines updated periodically by the U.S. Department of Health and Human Services, which are incorporated by reference, including subsequent amendments and editions and available for free at [www.hhs.gov](http://www.hhs.gov) and released by the Division for use.
- (6) "Quarter" means each three months during the life of a grant agreement with a grant recipient.
- (7) "State Plan" means the plan that sets forth how the State of North Carolina will use the funds allocated under CSBG.

*History Note:* Authority G.S. 143B-153(6);  
Eff. December 1, 1983;  
Temporary Amendment Eff. November 20, 1985, for a Period of 73 Days to Expire on February 1, 1986;  
Amended Eff. March 1, 1989; February 1, 1986; June 1, 1985; October 1, 1984;  
Readopted Eff. November 1, 2017.

#### **10A NCAC 97C .0105 ELIGIBLE ACTIVITIES**

Activities funded under this Subchapter may include only those projects which:

- (1) provide a range of services and activities having a measurable and potentially major impact on the causes of poverty in the state's communities, or those areas of the state's communities, where poverty is a particularly acute problem;
- (2) provide activities designed to assist low-income participants, including the elderly poor:
  - (a) to secure and retain meaningful employment;
  - (b) to attain an adequate education;
  - (c) to obtain and maintain adequate housing and a suitable living environment;
  - (d) to make better use of available income;
  - (e) to obtain emergency assistance through loans or grants to meet immediate and urgent individual and family needs, including the need for health services, nutritious food, housing, and employment-related assistance;
  - (f) to remove obstacles and solve problems which block the achievement of self-sufficiency;
  - (g) to achieve greater participation in the affairs of the community; and
  - (h) to make more effective use of other programs related to the purposes of the CSBG;
- (3) provide, on an emergency basis for the provision of such supplies and services, nutritious foodstuffs, and related services, as may be necessary to counteract conditions of starvation and malnutrition among the poor;
- (4) to coordinate and establish linkages between governmental and other social services programs to assure the effective delivery of such services to low-income individuals; and
- (5) to encourage the use of entities in the private sector of the community if efforts to eliminate poverty.
- (6) to assist unemployed and disadvantaged individuals through Community Food and Nutrition initiatives:
  - (a) to coordinate existing private and public food assistance resources, whenever such coordination is determined to be inadequate, to better serve low-income populations;
  - (b) to assist low-income communities to identify potential sponsors of child nutrition programs and to initiate new programs in underserved or unserved areas; and
  - (c) to develop innovative approaches at the state and local level to meet the nutrition needs of low-income people.

*History Note:* Authority 143-323(d); 143B-10; 143B-276; 143B-277; 42 U.S.C. 9901-12;  
Eff. December 1, 1983;  
Temporary Amendment Eff. May 5, 1987 for a Period of 120 Days to Expire on September 1, 1987;  
Temporary Amendment Eff. August 24, 1987 for a Period of 68 Days to Expire on November 1, 1987;  
Amended Eff. November 1, 1987;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0106 ELIGIBLE GRANT RECIPIENTS**

Eligible grant recipients for CSBG funds include:

- (1) Community action agencies as defined in Rule .0104(2) of this Section. In any geographic area of the State not served by a CAA, the Governor may decide to serve the new area by:
  - (a) Requesting an existing CAA that is located and provides services in an area bordering the new area to serve the new area.
  - (b) If no existing CAA is located and provides services in an area bordering the new area, requesting the CAA located closest to the area to be served or an existing CAA serving an area within proximity of the new area that does not prevent the CAA from providing services in the new area.
  - (c) Designating any existing CAA or any private non-profit organization that has a board meeting the requirements of 42 U.S.C. 9910 to serve the new area. The Governor's designation of an organization that has a board meeting the requirements of 42 U.S.C. 9910 or a political subdivision or public organization of the State to serve the new area shall qualify the organization as a CAA.
  - (d) If no private nonprofit organization is identified or determined to be qualified to serve the unserved geographic area as an CAA, a political subdivision or public organization of the State may be designated to serve as an CAA for the area. In order to serve as the CAA for that area, the political subdivision or public organization shall have a board or other mechanism as required under U.S.C. 42 9910.
- (2) Local Administering Agencies as defined in Rule .0104 of this Section

*History Note: Authority G.S. 143B-153(6);  
Eff. December 1, 1983;  
Amended Eff. March 1, 1989; October 1, 1984;  
Readopted Eff. November 1, 2017.*

#### **10A NCAC 97C .0107 ELIGIBLE PROGRAM PARTICIPANTS**

- (a) The official poverty guidelines established by the Director of the Office of Management and Budget shall be used as a criteria of eligibility for all services provided to program participants by grant recipients. "Services" is defined as an act of assistance and/or direct benefit to a family unit. The poverty guidelines are revised annually.
- (b) For the purpose of determining eligibility, the following definitions shall apply:
  - (1) Unrelated Individual. An unrelated individual is a family unit of one if that individual is 15 years old or over and not an inmate of an institution. An unrelated individual may be the sole occupant of a housing unit, or may be residing in a housing unit (or group quarters such as a rooming house) in which one or more persons also reside who are not related to the individual in question by birth, marriage, and/or adoption. (Examples of unrelated individuals residing with others include a lodger, a foster child, a ward, or an employee.)
  - (2) Family. A family unit of two or more persons related by birth, marriage, and/or adoption who reside together. All such related persons are considered as members of one family. (If a household includes more than one unrelated individual, the poverty guidelines are applied separately to each family and/or unrelated individual, and not to the household as a whole. If an unrelated individual lives with a family, the poverty guidelines are applied separately to each family unit.)
  - (3) Income. Refers to total cash receipts before taxes from all sources. These include money wages and salaries before any deductions, but do not include food or rent in lieu of wages. These receipts include net receipts from nonfarm or farm self-employment (e.g. receipts from own business or farm after deductions for business or farm expenses). They include regular payments from public assistance (including Supplemental Security Income), social security or railroad retirement, unemployment and workers' compensation, strike benefits from union funds, veterans' benefits, training stipends, allotments or other regular support from an absent family member or someone not living in the household; private pensions, government employee pensions, and regular insurance or annuity payments; and income from dividends, interest, rents, royalties, or periodic receipts from estates or trusts. For eligibility purposes, income does not refer to the following money receipts: capital gains; any assets drawn down as withdrawals from a bank, sale of property, house, or car; tax refunds, gifts, lump-sum inheritances, one-time insurance payments, or compensation for injury. Also excluded are non-cash benefits, such as employer-paid health insurance and other employee fringe benefits, food or

rent received in lieu of wages, the value of food and fuel produced and consumed on farms, and the imputed value of rent from owner occupied nonfarm or farm housing.

(c) The period for determining the annual income must not be more than 12 months nor less than the 90-day period preceding the request for assistance by the individual applicant.

(d) The income of all members of each family unit must be included in determining the income eligibility.

(e) Proof of income eligibility is required of all applicants which apply for assistance.

- (1) When the applicant applies for any service provided by the grant recipient, the applicant must sign a self-declaration statement indicating his/her annual income and the income of any other members of the family unit.
- (2) The grant recipient must make a reasonable number of spot checks of family units to verify income given in the self-declaration statements. In making the spot checks, the grant recipient should contact appropriate sources, such as employer, local Department of Social Services, Social Security Administration, or other appropriate sources to obtain written documentation. This documentation should be attached to self-declaration statement.
- (3) The self-declaration statement should contain a "Certification and Waiver of Privacy Rights" statement. The applicant should be informed that the grant recipient will check some of the applicants to verify the information on the self-declaration statement. By signing the "Certification and Waiver of Privacy Rights" statement the applicant is authorizing the release of confidential information in order to verify income.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d); Eff. December 1, 1983; Amended Eff. July 1, 1988; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0108 ALLOCATION OF CSBG FUNDS**

(a) Funds allocated to North Carolina under the CSBG Program shall be used as follows:

- (1) No less than 90 percent of the funds allocated for contracting with CAAs as defined in Rule .0104(2) of this Section that are re-certified as eligible agencies each fiscal year by the Division of Social Services. The amount of the funds allocated to each eligible grant recipient shall be based on the following method of distribution:
  - (A) Funds shall be allocated based on the ratio (percentage) of persons in poverty in the county (counties) served by the CAA compared to the number of persons in poverty in the total area (counties) served by all CAAs.
  - (B) No CAA shall receive less than whichever is higher:
    - (i) An allocation of one hundred twenty thousand dollars (\$120,000); or
    - (ii) An allocation totaling 80 percent of the CAAs Federal Fiscal Year 1982 allocation, if the CAA has maintained designation for all counties it was designated in Federal Fiscal Year 1982.
- (2) Five percent or fifty five thousand dollars (\$55,000), whichever is greater, of the funds shall be used by the Division of Social Services for administration of the CSBG program.
- (3) The remaining five percent of the funds shall be allocated in accordance with the current State CSBG Plan strategy, which will be made publicly available for free at [www.ncdhhs/DSS](http://www.ncdhhs/DSS). The Division of Social Services shall award no more than 40 percent of the total CSBG funds available under this allotment to a single Local Administering Agency as defined in Rule .0104 of this Section for activities that are referenced in 42 USC 9907 (b)(1). Funds not awarded to Local Administering Agencies for these activities shall be distributed in accordance with Subparagraph (a)(1) of this Rule.

(b) All unobligated funds must be returned to the Division of Social Services within 60 days after the closing out or termination of the grant agreement.

(c) Paragraphs (a) and (b) of this Rule do not apply to the allocation of supplemental CSBG grants to North Carolina. Such allocations to eligible applicants for eligible activities shall be made by the Division of Social Services in a manner that is compliant with federal laws and regulations on supplemental appropriations.

(d) Subject to requirements of 42 U.S.C. 9907, any funds distributed to a CAA through grants made in accordance with Subparagraph (a)(1) of this Rule that remain unexpended for a fiscal year shall be available to that CAA for obligation during that fiscal year and the succeeding fiscal year.

(e) Any unexpended funds aligned with Subparagraphs (a)(2) and (a)(3) of this Rule shall be distributed in accordance with Subparagraph (a)(1) of this Rule for during that fiscal year or the succeeding fiscal year.

*History Note:* Authority G.S. 143B-153(6);  
Eff. December 1, 1983;  
Amended Eff. June 1, 1985; February 1, 1985;  
Temporary Amendment Eff. May 5, 1987 for a Period of 120 Days to Expire on September 1, 1987;  
Temporary Amendment Eff. August 24, 1987 for a Period of 68 Days to Expire on November 1, 1987;  
Amended Eff. November 1, 1987;  
Temporary Amendment Eff. August 1, 1991 for a Period of 180 Days to Expire on January 28, 1992;  
Amended Eff. March 1, 1989;  
Readopted Eff. November 1, 2017.

#### **10A NCAC 97C .0109 REQUIREMENTS/GOVERNING BODIES OF GRANT RECIPIENTS**

(a) Each private non-profit grant recipient funded under Rule .0108(a)(1) of this Section shall have a board of directors consisting of at least 15 members and not more than 51 members.

(b) The board of directors of private non-profit grant recipients funded under Rule .0108(a)(1) of this Section shall be constituted so as to assure compliance with 42 USC 9910(a)(2)(A) through (C), which is incorporated by reference, including subsequent amendments and editions and available for free at <https://www.gpo.gov/fdsys/pkg/PLAW-105publ285/pdf/PLAW-105publ285.pdf>.

(c) Each public grant recipient funded under Rule .0108(a)(1) of this Section shall administer the community services block grant in compliance with 42 USC 9910(b)(1) and (2), which is incorporated by reference, including subsequent amendments and editions and available for free at <https://www.gpo.gov/fdsys/pkg/PLAW-105publ285/pdf/PLAW-105publ285.pdf>.

(d) All committees of the board of directors of grant recipients funded under Rule .0108(a)(1) of this Section shall reflect the tripartite and geographical composition of the board.

(e) In addition to the general powers granted under its Articles of Incorporation, the board of directors of the private grant recipients shall possess the following specific powers:

- (1) to appoint the executive director of the agency;
- (2) to determine personnel, organization, fiscal, and program policies;
- (3) to determine overall program plans and priorities for the agency, including provisions for evaluating progress;
- (4) to make final approval of all program proposals and budgets;
- (5) to enforce compliance with all conditions of the Division of Social Services grants; and
- (6) to oversee the participation of the poor in the program of the agency.

*History Note:* Authority G.S. 143B-153(6);  
Eff. December 1, 1983;  
Amended Eff. February 1, 1985; October 1, 1984;  
Readopted Eff. November 1, 2017.

#### **10A NCAC 97C .0110 AUTHORITY OF PRIVATE GRANT RECIPIENTS**

The grant recipient's charter or articles of incorporation and its by-laws shall provide sufficient legal authority to:

- (1) receive and disburse funds;
- (2) sue and be sued, complain and defend, in its corporate name;
- (3) elect or appoint officers and agents of the corporation, and define their duties and fix their compensation;
- (4) purchase, receive, lease, take by gift, or otherwise deal in and with, real or personal property or any interest therein, wherever situated;
- (5) make contracts and incur liabilities, borrow money, and secure any of its obligations by mortgage or pledge of all or any of its property and income; and
- (6) administer one or more programs that directly address the objectives of the Act.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

### **10A NCAC 97C .0111 CITIZEN PARTICIPATION**

(a) Each grant recipient funded under Rule .0108(a)(1) of this Section is required to establish citizen participation policy and procedures. Grant recipients shall hold public hearings to meet the requirements of Rule .0401(5) of Subchapter 97B only during the initial planning when a new multi-year plan is to be developed.

(b) CAAs funded under Rule .0108(a)(1) of this Section shall hold one public hearing for review and comment in each county it serves prior to submission of the Community Anti-Poverty Plan to the Division of Social Services.

(c) Each grant recipient shall be responsible for establishing procedures to ensure that the poor are able to participate in the decisions and activities of the grant recipient. These procedures shall include provisions for:

- (1) Notification for any board or committee meetings to include the agenda items. These shall be provided individually to all members of the board and committees in writing at least five days before the meeting. In addition, notices shall be given to the local public media and posted in all the grant recipient's neighborhood and community centers.
- (2) Information about standards of program effectiveness. This information shall be given to persons in poverty to permit them to plan for and evaluate agency programs and to set priorities for the use of funds and other resources. Evaluations of programs and their operation shall consider the views of the poor on the board, as well as the views of program participants and area residents.
- (3) Information and training for board members about their by-laws, functions, duties, and responsibilities and the issues that will come before them.
- (4) Developing involvement of the poor in programs administered by the grant recipient. This involvement may be in the form of a program advisory committee or neighborhood council made up of persons residing in the county or counties where the grant recipient administers programs. The committee and council may advise the grant recipient on program priorities, participate in the development of the grant application, review and comment on programs and policies, and participate in the evaluation of programs.
- (5) The grant recipient in the planning process of its Community Anti-Poverty Plan shall annually hold meetings to ascertain suggestions, recommendations, and priorities for eliminating poverty from the poor. The grant recipient shall provide information and training to the residents that are poor to ensure their involvement in this planning process. The recommendations, suggestions, and priorities of the residents that are poor shall be reviewed by the board of directors in its determination of programs to be implemented by the grant recipient, and will be maintained by the grant recipient for public inspection.

*History Note:* Authority G.S. 143B-153(6);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Readopted Eff. November 1, 2017.

### **10A NCAC 97C .0112 APPLICABLE LAWS AND REGULATIONS**

Grant recipients receiving funds under the CSBG program are subject to the authorizing federal legislation, applicable federal and state laws and regulations, including the requirements set forth in the State of North Carolina's Administrative Procedures Manual for Federal Block Grant Funds (NCAC Title I, Chapter 33, October 1, 1982).

*History Note:* Authority G.S. 143-323(d); 143B-10; 143B-276; 143B-277; 42 U.S.C. 9901-12;  
Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

### **10A NCAC 97C .0113 ADMINISTRATION COSTS**

(a) Eligible grant recipients may expend CSBG funds for the administration of agency programs. Such programs must have purposes consistent with those of the Community Services Block Grant.

(b) The maximum amount of CSBG funds that may be used for agency programs shall be limited to ten percent of the total annual budget of the eligible grant recipient, as certified in the prior year's audit.

(c) Administration costs shall include direct and indirect costs associated with general management and support functions of a specific program, project or agency. Such costs must:

- (1) be necessary and reasonable for the proper and efficient administration of the program, project or agency;

- (2) conform to any limitations or exclusions set forth in this Subchapter;
- (3) be accorded consistent treatment through application of generally accepted accounting principles appropriate to the circumstances; and
- (4) not be included as a cost to any other program financed with federal, state, or local funds in either the current or a prior period.

(d) Eligible grant recipients shall provide the Office the following information, initially and on a quarterly basis when funds are being utilized for agency administration costs:

- (1) the total agency budget by program funding source;
- (2) the amount of administration funds provided by each program;
- (3) the criteria for determining the amount of funds used for administrative expenses; and
- (4) the number of persons served by each program.

*History Note: Authority G.S. 143-323(d); 143B-10; 143B-276; 143B-277;  
Temporary Rule Eff. September 14, 1988, for a Period of 180 Days to Expire on March 13, 1989;  
Eff. January 1, 1989;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

## **SECTION .0200 - PLANNING AND BUDGETING**

### **10A NCAC 97C .0201 GENERAL PROVISIONS FOR THE GRANT WORK PLAN**

- (a) The Grant Work Plan, hereinafter referred to as the Community Anti-Poverty Plan, shall consist of five distinct parts:
- (1) The Planning Process Narratives;
  - (2) The Agency Strategy for Eliminating Poverty;
  - (3) One-Year Work Plan;
  - (4) Budget; and
  - (5) Plan of Monitoring, Assessment and Evaluation.
- (b) Prior to submitting a Community Anti-Poverty Plan, an agency must be certified as an eligible agency by the Office by meeting the requirements of Rule .0302 of this Subchapter.
- (c) The Community Anti-Poverty Plan will be submitted each program year.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rules is necessary without substantive public interest Eff. April 25, 2015.*

### **10A NCAC 97C .0202 DEFINITIONS**

For the purpose of this Subchapter, the following definitions apply:

- (1) **Activity.** Within the One-Year Work Program, an activity is the action that will be taken to cause a project objective to be reached as scheduled. An activity can be performed only once, several times, or it can be ongoing. An activity should be specific to the level of detail necessary for the grant recipient and the Office to understand how the project will accomplish its objectives.
- (2) **Evaluation.** A study undertaken to determine the extent to which a completed project met its goals and objectives.
- (3) **Goal.** A statement of desired results to be achieved by the end of a multi-year period in terms of a resolution or reduction of the poverty-related problem. A goal should be limited to what the grant recipient can reasonably expect to accomplish within two or more years and should be specific enough that the grant recipient can determine whether it has been met.
- (4) **Impact Measure.** An impact measure indicates the extent to which achieving the goal produced the desired results.
- (5) **Objective.** A specific, measurable result to be accomplished during the One-Year Work Program period by implementing a project.
- (6) **Measure of Efficiency.** A standard used to determine the cost (in terms of dollars) of meeting each project's objective(s) and/or goal(s).
- (7) **Performance Assessment.** An examination to determine whether progress is being made toward meeting a project's objectives, and if not why not. An assessment first attempts to uncover differences

- from expected or planned results and then analyzes these differences to determine their causes, their consequences, what conclusions can be drawn, and what recommendations can be made.
- (8) Performance Measure. An indicator of accomplishment used in assessment. A performance measure indicates the extent to which the planned activities of a project are on-target in meeting the stated objectives.
  - (9) Poverty-Related Problem. An obstacle created by a cause(s) or reflecting a condition which prevents families who are poor from having an income above the poverty guidelines.
  - (10) Program. A combination of projects undertaken to accomplish the purpose of the CSBG Program.
  - (11) Project. A strategy selected for implementation. The project is the level where objectives are set, resources are applied, and work performed.
  - (12) Strategy. A method or way to achieve one or more of goals established in the Agency Strategy for Eliminating Poverty. A strategy selected from among other alternatives will, in most cases, be a project proposed to be undertaken by the agency.
  - (13) Poverty Cause. A circumstance that prevents a family having an income above the poverty guideline.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Amended Eff. October 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0203 PLANNING PROCESS NARRATIVE**

The agency shall develop a narrative description of the process which it will use to develop the Agency Strategy for Eliminating Poverty. At a minimum, this document shall contain a description of:

- (1) The methods and criteria to be used to determine the poverty causes and their priority ranking.
- (2) The methods and criteria used to determine those services and activities that will have a measurable and potentially major impact on the poverty causes in the community or those areas of the community where poverty is a particularly acute problem.
- (3) How the agency will involve the poor in the development of the agency's strategy.
- (4) How the agency will provide ample opportunity and sufficient time for public review of the action.
- (5) How the agency will coordinate and establish linkages with other governmental and social service programs to assure the effective delivery of services to low-income individuals.
- (6) How the agency will, where appropriate, coordinate with emergency energy crisis intervention program.
- (7) How the agency will encourage the private sector to participate in efforts to eliminate the causes of poverty.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0204 AGENCY STRATEGY FOR ELIMINATING POVERTY**

The Agency Strategy for Eliminating Poverty is the agency's statement of the poverty-related problems within the community and its overall plan of action to eliminate or have a measurable and potentially major impact on one or more of the poverty causes. It sets forth the goals and strategy. The Agency Strategy for Eliminating Poverty shall:

- (1) describe the poverty cause in the community with appropriate statistical data (and sources);
- (2) rank the poverty causes;
- (3) analyze the resources used in current and past efforts to solve each problem; and the resources that are needed and can be utilized effectively to eliminate or have a major impact on the poverty cause;
- (4) formulate the goals with at least one for each poverty cause; and
- (5) describe for each goal alternative strategies and the strategy which was selected.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0205 ONE-YEAR WORK PLAN**



Using the Agency Strategy for Eliminating Poverty, the agency shall develop its One-Year Work Plan which shall meet the following requirements:

- (1) each project which the agency proposes to undertake shall be aimed at solving a cause of poverty identified in the agency strategy;
- (2) the agency shall establish at least one objective for each project which it proposes to undertake. The agency shall relate each objective, project, and strategy to its goal for the poverty cause such that the agency will achieve the goal set forth in the agency strategy; and
- (3) the agency shall list the activities which it proposes to undertake in order to reach its objective(s) for each project.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0206 BUDGET**

- (a) Each agency shall submit a financial plan for carrying out the One-Year Work Program.
- (b) When the One-Year Work Program encompasses two or more projects, the budget shall be subdivided to show the planned cost of each project and the composite budget.
- (c) The cost principles in Section .0600 in this Subchapter will govern those items of cost requiring prior approval.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0207 PLAN OF MONITORING: ASSESSMENT AND EVALUATION**

The plan for monitoring, assessment and evaluation shall meet the following requirements:

- (1) Describe the specific structures and methods that will be used including the role and responsibilities of the board of directors, committees, the poor, program participants, agency staff, and others in the community as may be appropriate.
- (2) Describe how the agency will monitor project administrative policies, procedures and practices.
- (3) Describe how the agency will assess whether progress is being made toward meeting its objectives. At least one performance measure must be developed for each objective.
- (4) Describe how the agency will determine the extent to which its programs, projects, and activities are meeting the agency's goals. The evaluation methodology must include impact measures and measures of efficiency.
- (5) Explain the use of the products, including how the board will review and act upon the monitoring, assessment, and evaluation reports and how the information will be used to develop the next Agency Strategy for Eliminating Poverty.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0208 BUDGET REVISIONS TO THE GRANT AGREEMENT**

(a) A grant recipient having an approved budget shall obtain prior approval for all budget amendments. A budget amendment is defined as any change in the budget which:

- (1) involves the transfer of amounts budgeted for direct cost to absorb increases in indirect costs;
- (2) involves transfer of amounts for items requiring prior approval;
- (3) involves the transfer of amounts because of changes in the work program;
- (4) involves the transfer of funds from the inception to the termination of the grant agreement between projects in excess of an aggregate of five percent of the total amount of the grant agreement; or
- (5) results in award of additional funds or decrease in total funds.

(b) Budget amendments requests should be submitted to the Office on the prescribed program and financial forms.

(c) Within 40 calendar days after receipt of the request for a budget amendment, the Office shall notify the grant recipient in writing as to whether or not budget amendment request has been approved or disapproved. During review of the request, additional information may be required from the project grant recipient.

- (d) The following policies and procedures shall govern the approval or disapproval of budget amendment:
- (1) if a budget amendment request is approved by the Department a grant amendment will be issued. The grant recipient must sign and return the new grant amendment before the request is officially approved, and related cost can be incurred; and
  - (2) if the request is not approved by the Department, the grant recipient will be notified in writing by the Office.
- (e) A grant recipient having an approved budget shall submit for informational purposes all budget revisions to the Office. A budget revision is defined as all changes in an approved budget except those set forth in Paragraph (a) of this Rule.
- (f) Budget amendment requests will be received by the Office until ninety days prior to the termination date of the grant agreement. Budget revision requests will be received by the Office at any time during the grant agreement.
- (g) At the completion of a grant agreement, the grant recipient will submit within 90 days, if applicable, a revised budget that agrees with actual expenditures, and reflects all allowable adjustments. Final adjustments shall be based upon the audit.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. February 1, 1985; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0209 PROGRAM AMENDMENTS TO THE GRANT AGREEMENT**

- (a) Whenever a substantive change in the grant recipient's approved Community Anti-Poverty Plan is proposed, the grant agreement must be amended, according to provisions of this Subsection.
- (b) A substantive change is one in which:
- (1) a new or amended state or federal statute or regulation requires a new provision, or conflicts with any existing plan provision;
  - (2) a court decision changes the interpretation of a statute or regulation;
  - (3) the grant recipient proposed to add, substantially modify, or delete any project(s); or
  - (4) the Office requires further amendments.
- (c) A grant recipient proposing to make a program amendment must follow the procedures outlined in Rule .0208 of this Section.
- (d) Changes may require public hearings as set forth in Rule .0403 of Subchapter 51B.

*History Note: Authority 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0210 THE STATE PLAN FOR THE CSBG PROGRAM**

- (a) The State Plan for the CSBG Program, hereinafter referred to as the State Plan, is North Carolina's plan for carrying out this block grant program in the state. The State Plan contains provisions required by the Act, implementing regulations and commitments that the Office will administer activities funded under this Act in accordance with all federal requirements.
- (b) The State Plan includes the following topics:
- (1) poverty needs;
  - (2) goals and objectives;
  - (3) functions and responsibilities of the Office;
  - (4) designation of eligible agencies;
  - (5) allocation of funds;
  - (6) fiscal controls and procedures; and
  - (7) how the state will carry out all the assurances set forth of the Act.
- (c) A new State Plan shall be submitted annually to the Secretary of Health and Human Services for each federal fiscal year.
- (d) The State Plan may be amended during the year if:
- (1) a new or amended federal statute or regulation requires a new plan provision or conflicts with any existing plan provision;

- (2) a U.S. Supreme Court decision changes the interpretation of a statute or regulation;
- (3) the state changes the designation of the state agency or adds, substantially modifies, or deletes any statewide program goal; or
- (4) other circumstances warrant a change.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d); 45 C.F.R., Parts 16, 74, and 96; Eff. December 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

**10A NCAC 97C .0211 PUBLIC REVIEW OF THE STATE PLAN**

- (a) Public hearings on the proposed State Plan are conducted by the General Assembly in accordance with the Act.
- (b) The Office submits annually a copy of the State Plan to the State Clearinghouse and each board of county commissioners in the state and grant recipients.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d); 45 C.F.R., Parts 16, 74, and 96; Eff. December 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

**SECTION .0300 - APPLICATION**

**10A NCAC 97C .0301 GENERAL PROVISIONS**

Only agencies certified as eligible by the Division may receive funds from the Office. To obtain this status, an agency must submit to the Office an Application for Certification of Eligibility, which must be approved by the Office. The Certification of Eligibility must be obtained prior to submitting a Community Anti-Poverty Plan.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d); Eff. December 1, 1983; Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

**10A NCAC 97C .0302 REQUIREMENTS FOR CERTIFICATION OF ELIGIBILITY**

Eligible agencies as defined in Rule .0106 of this Subchapter, shall submit an Application for Certification of Eligibility which shall contain three copies of the following documents:

- (1) Letter of Application. The letter of application must be signed by the chairman of the board of directors of the agency and include a statement that the enclosed documents reflect the current status, policies, and procedures of the agency.
- (2) Certification of Board.
  - (a) Composition and Powers. The agency must certify that the composition of the board of directors meets the requirements set forth in Rule .0109 of this Subchapter.
  - (b) The agency must also certify that agency's charter or articles of incorporation and by-laws meet the requirements set forth in Rule .0110 of this Subchapter. Copies of the articles of incorporation and by-laws must be submitted for review by the Office.
- (3) Fidelity Bond Coverage. The agency shall provide a copy of the fidelity bond(s) which shall meet the requirements of Rule .0403 of this Subchapter.
- (4) Affirmative Action Policy and Programs. The agency's affirmative action policy and programs shall meet the requirements set forth in Rule .0603 of Subchapter 97B.
- (5) Civil Rights. The agency must complete the Assurance of Compliance with Civil Rights Laws and Regulations form and meet other requirements set forth in Section .0600 of Subchapter 97B.
- (6) Personnel Policy and Procedures.
  - (a) The agency's personnel policy and procedures must meet requirements set forth in Rule .0702 of Subchapter 97B.
  - (b) The names and job descriptions of the executive director and fiscal officer must be submitted with the certification documents. No one person shall serve as both executive director and fiscal officer. Additionally, grant recipient shall notify the Office within 15 days when changes occur in personnel assigned these duties.

- (7) Certification of Accounting System. The agency must submit a statement from a Certified Public Accountant which indicates that the organization's Financial Management System meets the requirements of Section .0400 of this Subchapter.
- (8) Acceptance of New County(ies). A community action agency which incorporates a county(ies) in its Community Anti-Poverty Plan that was not served previously by the agency's CSBG program must submit:
  - (a) A resolution from the Board of County Commissioners of each new county to be served stating that the Board of County Commissioners wishes to become affiliated with the agency (named); and
  - (b) A resolution from the Board of Directors of the community action agency stating that they wish to serve the new county(ies) and that the board will meet all the necessary legal requirements, including the citizen participation requirements as set forth in Rule .0111 of this Subchapter.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Amended Eff. October 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

**10A NCAC 97C .0303 REQUIREMENTS FOR RE-CERTIFICATION OF ELIGIBILITY**  
**10A NCAC 97C .0304 FORMS AND INSTRUCTIONS**  
**10A NCAC 97C .0305 GENERAL PROVISIONS FOR THE COMMUNITY ANTI-POVERTY PLAN**  
**10A NCAC 97C .0306 FORMS/INSTRUCTIONS FOR COMMUNITY ANTI-POVERTY PLAN**

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Amended Eff. October 1, 1984;  
 Pursuant to G.S. 150B-21.3A, rules Expired May 1, 2015.

**10A NCAC 97C .0307 SUBMISSION; REVIEW; APPROVAL COMMUNITY ANTI-POVERTY PLAN**

- (a) Three copies of the Community Anti-Poverty Plan shall be submitted to the Office 60 days prior to the planned starting date set forth in the One-Year Work Program. The application must be received by the Department's administrative offices in Raleigh before 5:00 p.m. on the submission date. The Department shall notify the grant recipient in writing as to whether or not the Community Anti-Poverty Plan has been approved or disapproved within 45 calendar days after receipt.
- (b) The Community Anti-Poverty Plan will be reviewed by the Office to determine if the Community Anti-Poverty Plan meets the following requirements:
  - (1) The Planning Process Narrative meets all the requirements set forth in Rule .0203 of this Subchapter.
  - (2) The Agency Strategy for Eliminating Poverty meets all of the requirements set forth in Rule .0204 of this Subchapter.
  - (3) The One-Year Work Plan meets all the requirements set forth in Rule .0205 of this Subchapter.
  - (4) The budget meets all the requirements set forth in Rule .0206 of this Subchapter.
  - (5) The Plan of Monitoring, Assessment and Evaluation meets all the requirements set forth in Rule .0207 of this Subchapter.
  - (6) The proposed projects are eligible activities as set forth in Rule .0105 of this Subchapter.
  - (7) The cost of the proposed project appears to be an efficient use of resources.
  - (8) The proposed project appears to be effective in having an impact on a poverty-related problem.
  - (9) The Community Anti-Poverty Plan must include:
    - (A) a statement indicating each board of county commissioners was sent a copy of the plan;
    - (B) a copy of comments received from each board of county commissioners; and
    - (C) a copy of the minutes of each public hearing.
- (c) The Office will notify in writing the agency if corrections need to be made to the Community Anti-Poverty Plan. Upon receipt of the written communication, the agency will be given 15 additional days to make the specified corrections.
- (d) Each grant recipient shall sign a grant agreement with the Department. The effective date of the grant agreement shall not be prior to the final approval of the Community Anti-Poverty Plan by the Office if the grant recipient fails to

meet the requirements of (a) of this Rule. The agency must operate the project in accordance with the approved application for funds and the grant agreement.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. July 1, 1988; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0308 REVISIONS/AMENDMENTS TO COMMUNITY ANTI-POVERTY PLAN**

- (a) Budget amendments and revisions to the Community Anti-Poverty Plan can be made only in accordance with Rule .0208 of this Subchapter.
- (b) Program amendments will be made in accordance with Rule .0209 of this Subchapter.
- (c) All amendments to the approved Community Anti-Poverty Plan which require prior approval pursuant to Paragraphs (a) and (b) of this Rule, may also require public hearings as set forth in Rule .0403 of Subchapter 97B.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

### **SECTION .0400 - ACCOUNTING STANDARDS**

#### **10A NCAC 97C .0401 GENERAL REQUIREMENTS**

Grant recipients must establish and maintain an accounting system for properly handling funds received from the Office and for recording all pertinent transactions. The system must meet generally accepted accounting standards as determined by a Certified Public Accountant and the requirements set forth in these Rules.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0402 FINANCE OFFICER**

Each grant recipient shall appoint a finance officer who must be someone other than the Executive Director and who is responsible for the organization's financial affairs. The duties of the finance officer shall include:

- (1) Maintaining the accounts in accordance with generally accepted principles applicable for the type of grant recipient.
- (2) Disbursing all funds in compliance with the budget or financial plan.
- (3) Receiving and depositing all moneys received by the organization or supervise the receipt and deposit of money by other duly authorized employees.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0403 FIDELITY BOND REQUIREMENTS**

- (a) Grant recipients shall carry fidelity bond coverage pursuant to the "Administrative Procedures Manual for Federal Block Grant Funds", published by the Department of Administration in October of 1982.
- (b) For the purposes of this Section, a fidelity bond is defined as a bond indemnifying the grant recipient against losses resulting from fraud or lack of integrity, honesty, or fidelity of one or more employees, officers or other persons.
- (c) A grant recipient is required:
  - (1) to bond its finance officer for an amount to be fixed by the governing board, not less than ten thousand dollars (\$10,000) nor more than two hundred fifty thousand dollars (\$250,000); and
  - (2) to bond each officer, employee, or agent that handles, has custody of or access to assets valued at one hundred dollars (\$100.00) or more.

(d) A grant recipient may adopt a system of blanket faithful performance bonding as an alternative to individual bonds. If such a system is adopted, statutory requirements of individual bonds for the finance officer still apply. However, although an individual bond is required for a finance officer, such an officer may also be included within the coverage of a blanket bond if the blanket bond protects against risks not protected against by the individual bond.

(e) Any bonds required under the provisions of this Rule shall be obtained from companies holding certificates of authority as acceptable sureties. A list of these companies is published annually by the Department of Treasury.

*History Note:* Authority G.S. 143-16; 143-16.1; 143B-10; 143B-276; 143B-277; 143-323(d); 143-341(7),(10); 159-29;  
Eff. December 1, 1983;  
Amended Eff. July 1, 1988; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0404 MINORITY-OWNED BANKS**

Consistent with the national and state goal of expanding opportunities for minority business enterprises, grant recipients are encouraged to use minority-owned banks within the service area. Upon request, the Office will furnish a list of minority-owned banks.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

### **SECTION .0500 - AUDIT STANDARDS**

#### **10A NCAC 97C .0501 AUDIT PROCEDURE**

(a) The audit of the CSBG program shall be performed in conjunction with the regular annual independent audit of the grant recipient and shall contain an examination of all financial aspects of the CSBG program as well as a review of the procedures and documentation supporting the recipient's compliance with applicable statutes and regulations.

(b) CSBG program funds may only be used to pay for the CSBG portion of the audit costs.

(c) The annual audit shall be completed and submitted to the Office within six months after the end of the grant recipient's fiscal year.

(d) The Office may require separate closeout audits to be prepared by the recipient in accordance with Rule .1302 of this Subchapter.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. June 1, 1985; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0502 AUDIT REQUIREMENTS**

Audits of grant recipients shall comply with the requirements set forth as follows:

- (1) Audits will include, at a minimum, an examination of the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of grant funds, financial transactions and accounts, and financial statements and reports of recipient organizations;
- (2) Financial statements shall include footnotes, comments which identify the statements examined, the period covered, identification of the various projects under which the recipient received CSBG funds, and the amount of the awards received;
- (3) The audit shall include the auditor's opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles;
- (4) The auditors' comments on compliance and internal control should:
  - (a) include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses;
  - (b) identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of state or federal laws and regulations that could have a material effect on the financial statements and reports;

- (c) contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items;
- (d) comment on the accuracy and completeness of financial reports and claims for advances or reimbursement to the Office and other agencies; and
- (e) comment on corrective action taken or planned by the grant recipient;
- (5) Work papers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by the Office of the need to extend the retention period. The audit work papers shall be made available upon request to the Office and the General Accounting Office or its designees; and
- (6) If during the course of the audit, the auditor becomes aware of irregularities in the recipient organization, the auditor shall promptly notify the Office and recipient management officials about the level of involvement. Irregularities include such matters as conflicts of interests, falsification of records or reports, and misappropriation of funds or other assets.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0503 GRANT RECIPIENT'S RESPONSE TO ANNUAL AUDIT FINDINGS**

- (a) Grant recipients shall respond in writing to observations and recommendations in annual audit reports when requested to do so by the Office. Unless an extension of time is expressly granted, the response shall be submitted to the Office within 30 calendar days from the date the Office notifies the grant recipient of findings and recommendations.
- (b) In the response, the grant recipient may take exception to particular findings and recommendations. The basis for such exceptions should be clearly set out in the response. The response should point out corrections already made and state what action is proposed and the estimated completion date of such action. All documentation supporting corrections must be available for review during later audits by the Division.
- (c) The Office will consider the grant recipient's response and any additional requested information in determining whether specific expenditures of program funds would be disallowed. If any are disallowed, the Office will send the grant recipient written notice of the determination to disallow expenditures. Unless the grant recipient appeals the determination within 30 calendar days after the date of the notice, the determination will become final.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0504 APPEALS OF AUDIT DISALLOWANCES**

- (a) If the grant recipient wishes to appeal disallowed expenditures of CSBG funds, the appeal shall be made in writing within 30 days of notification of disallowed expenditures and shall contain a clear statement of the issue or issues which the grant recipient wishes to have considered in the appeal. The grant recipient may include with the appeal statements any supporting facts or arguments which the grant recipient feels should be considered. Appeals should be addressed to the Office.
- (b) The Director of the Office shall designate an official to review the appeal, together with any comments submitted by the Office (a copy of which shall be simultaneously sent to the grant recipient). In his/her discretion, the reviewing official may offer the grant recipient an informal hearing at which Office officials may also be heard. The decision shall be made within 30 days of the hearing, or within 30 days of receipt of the appeal by the reviewing official if there is no hearing, and shall be final unless the grant recipient wishes to appeal the decision.
- (c) If the grant recipient wishes to appeal the ruling, the grant recipient may appeal in writing to the Secretary of the Department. The appeal must be made within 30 days after the decision of the hearing described in this Rule in Paragraph (b). The hearing on the appeal will be conducted in accordance with the provisions set forth in 15 NCAC 01B Section .0200.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0505 SATISFACTION OF FINAL AUDIT DISALLOWANCE**

(a) Unless the grant recipient receives written notice from the Office granting an extension, all final disallowances shall be satisfied within 60 days of the date on which the disallowance becomes final. Grant recipients shall satisfy final disallowance through cash payments to the Office unless they have received written notice allowing an alternative means of satisfaction.

(b) Failure by the grant recipient to satisfy a final disallowance or take corrective action to remedy deficiencies in its accounting system and internal controls determined by the Office after audit may result in suspension, termination, or other remedial action. The Office may take appropriate action to recover the amounts in question.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0506 USE OF SMALL AND MINORITY-OWNED AUDIT FIRMS**

Small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts awarded with CSBG funds. Recipients shall take the following affirmative action to further this goal.

- (1) Assure that small audit firms and audit firms owned and controlled by socially and economically disadvantaged individuals as defined in P.L. 95-507 are used to the fullest extent practicable;
- (2) Make information on forthcoming opportunities available, and arrange timing for the audit so as to encourage and facilitate participation by small or disadvantaged firms;
- (3) Consider in the contract process whether firms competing for larger audits intend to subcontract with small or disadvantaged firms;
- (4) Encourage contracting with small or disadvantaged audit firms which have traditionally audited government programs, and in such cases where this is not possible, assure that these firms are given consideration for audit subcontracting opportunities;
- (5) Encourage contracting with consortiums of small or disadvantaged audit firms when a contract is too large for an individual small or disadvantaged audit firm; and
- (6) Use the services and assistance, as appropriate, of the Small Business Administration, and the Minority Business Development Agency of the U.S. Department of Commerce in the solicitation and utilization of small or disadvantaged audit firms.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

#### **10A NCAC 97C .0507 AUDITS BY THE DEPARTMENT**

The provisions of this Section do not limit the authority of the Department to make audits of grant recipients.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

### **SECTION .0600 - REIMBURSEMENT STANDARDS**

#### **10A NCAC 97C .0601 OBLIGATION OF FUNDS**

(a) The approval and acceptance of a grant agreement officially obligates funds for a given period. Obligations establish a ceiling for awarded funds as distinguished from actual expenditures or payments of such funds. In order to secure all obligated funds, the grant recipient must expend and earn the awarded funds in accordance with the approved grant agreement. The ceiling in the grant agreement applies to the total of new and carry-over funds.

(b) The Department and its grant recipients may not officially obligate a fiscal year's funds prior to the beginning of that fiscal year. Grant agreements may be executed prior to the beginning date of the budget period only if they do not become effective until the beginning date and contain a statement to that effect.

(c) No funds available to a grant recipient may be transferred to another grant recipient. However, within the same fiscal year in which the funds are awarded, a grant recipient's funds can be reduced or terminated and then awarded to another grant recipient by the Department.



*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0602 REQUEST FOR FUNDS**

- (a) Request for funds will be made on an advance basis. To request funds a grant recipient must complete a financial form prescribed by the Office.
- (b) In completing the prescribed form, the grant recipient should carefully evaluate its cash needs. Both its cash requirements and cash balance on hand should be considered in analyzing the amount of funds actually necessary, as opposed to requesting equal payments during the year. If a request appears inconsistent with the need for funds, the Office may require an adjustment in the amount of the request.
- (c) Payments, anticipating cash requirements, will be made during the budget year.
- (d) Requests for payment must be completed and sent to the Office by the tenth working day of each month. If a request is late in arriving at the Office, payment may be delayed until the following month.
- (e) The Office will examine each grant recipient's performance and fiscal reports prior to payment of funds. If differences from the approved plan are noted, payment may be delayed until the differences are resolved.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0603 PROGRAM INCOME**

- (a) For the purpose of this Subchapter, program income shall be defined in accordance with the following provisions:
  - (1) Program income means gross income earned by a grant recipient from activities in which part or all of the cost is either borne as a direct cost by contract from the Office or counted as a direct cost towards meeting a cost sharing requirement of such contract;
  - (2) Program Income includes, but is not limited to:
    - (A) income from services fees;
    - (B) proceeds from the sale of property or other assets with an acquisition cost of less than one thousand dollars (\$1,000);
    - (C) usage or rental fees;
    - (D) royalties on patents and copyrights;
    - (E) interest income on grant derived funds; and
  - (3) The following specific revenues shall not be included as program income but as applicable credits to be treated as specified in Rule .0604 of this Section:
    - (A) rebates, discounts, and recoveries on leases;
    - (B) income earned by individuals or a group of project participants when such income accrues directly to the participants; and
    - (C) proceeds from the sale of property or other assets with an acquisition cost of more than one thousand dollars (\$1,000).
- (b) Program income may be used as follows:
  - (1) For any service which the grant recipient may provide with CSBG funds.
  - (2) All program income must be used during the program year in which it is earned. It must be used to enhance the project. On a regular basis, this program income shall be deducted as a cash resource from total allowable project costs for the purposes of determining net cost.
  - (3) Program income must be deposited into an appropriate bank account on a regular basis.
- (c) In accounting for program income, the grant recipient shall meet the following requirements:
  - (1) Grant recipients must utilize generally accepted accounting standards for collecting and recording participant contributions or other program income.
  - (2) The grant recipient must account for program income on an ongoing basis, and must report such income to the Office through the established financial reporting system.

- (3) Accounting records and reports submitted by a grant recipient to the Office should provide an auditable trail on all program income and its uses. Accounting records and reports should accurately reflect the receipt of such funds separate from the receipt of federal funds and grant recipient funds.
- (4) Grant recipients should maintain adequate accounting records on any interest income earned on grant derived funds. Interest income must be used for an activity which will further the purposes of the project and the Act.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0604 APPLICABLE CREDITS**

(a) Applicable credits refer to those receipts or reduction of expenditure-type transactions which offset or reduce expense items allocable to contracts as a direct or indirect cost. Examples of such transactions are:

- (1) purchase discounts;
- (2) rebates or allowances and recoveries; or
- (3) indemnities on losses.

(b) Applicable credits may also arise when federal funds are received or are available from sources other than the CSBG program involved to finance operation or capital items of grant recipient.

(c) These credits should be used to reduce expenditures from the grant to accomplish the work plan.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0605 ALLOWABLE AND DISALLOWABLE COST**

Grant recipients shall comply with Rule .1003 of Subchapter 97B in establishing the allowability of cost, except as listed in this Rule:

- (1) Labor Relations Costs. Costs incurred in maintaining satisfactory relations between a non-profit grant recipient and its employees, including costs of labor management committees, employee publications, and other related activities, are not allowable unless otherwise provided for the grant agreement.
- (2) Motion Picture Films. Grant recipient may not use CSBG funds to produce motion picture films for viewing by the general public (such as for broadcast on public or educational television, showing to civic associations, or showing in public places) without prior clearance with the Office. However, films intended for viewing only by restricted audiences in connection with a funded program may be produced.
- (3) Leave Costs. Leave as authorized absences from the job, such as vacation leave, sick leave, military leave and the like, may not be charged to an escrow or other holding account as a cash credit, but may be expensed as regular compensation to employees as it is used.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .0606 DIRECT AND INDIRECT COSTS**

(a) The total program cost under the CSBG program is comprised of the allowable direct cost incident to the conduct of project activities by the grant recipient, plus its allocable portion of allowable indirect costs, less applicable credits.

(b) Each grant recipient must submit a Cost Allocation Plan and/or an Indirect Cost Rate Proposal where applicable in accordance with the requirements established by OMB Circular A-122 or A-87.

(c) The grant recipient may charge indirect overhead expenses either by applying the provisional rate as approved by the grant recipient's cognizant agency for indirect cost determination, or by determining the rate actually earned each month using the in-direct cost plan approved by the grant recipient's cognizant agency for indirect cost. The cost collected by either method is subject to adjustment based upon final rate determination by the cognizant agency for the indirect cost fiscal period.

(d) The grant recipient should submit to the Office within 30 calendar days after approval by the cognizant agency the final indirect cost rate agreement.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. June 1, 1985; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

## **SECTION .0700 - PROCUREMENT STANDARDS AND PROCEDURES**

### **10A NCAC 97C .0701 GENERAL POLICIES AND PROCEDURES**

(a) Grant recipients shall follow the procurement standards and procedures established in OMB Circular A-110 or A-102, Attachment 0.

(b) All agreements must be evidenced in writing, including the terms and conditions appropriate to the type of agreement used.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

### **10A NCAC 97C .0702 PROPERTY POLICIES AND PROCEDURES**

Grant recipients shall follow the property policies and procedures established in OMB Circular A-110 and A-102, Attachment 0.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

## **SECTION .0800 – GRANT AGREEMENT STANDARDS**

### **10A NCAC 97C .0801 GRANT AGREEMENT COMPLIANCE**

(a) The grant agreement will require that grant recipients certify that they will comply with all applicable federal and state laws, regulations, rules, and Executive Orders.

(b) In addition, the applicant must certify that it will carry out its CSBG program in compliance with all the rules of this Subchapter.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. February 1, 1985; October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

## **SECTION .0900 – REPORTS: MONITORING: EVALUATION: REMEDIAL ACTION**

### **10A NCAC 97C .0901 PROGRAM AND FISCAL REPORTS FOR THE CSBG PROGRAM**

Grant recipients must submit the following reports to the Office:

- (1) Request for Funds. Request for funds should be submitted according to the provisions established in Rule .0603 of this Subchapter. This document shall report the status of funds and monitor the cash balances of the grant recipients.
- (2) Program Progress Report. This report shall assess the progress of the grant recipient towards achieving goals and objectives and completing activities established for each project. The reports should be documented with quantitative data when possible. If goals are not met, or costs are exceeding budget, these conditions must be reported.
- (3) Annual Program Performance Report. Grant recipients shall submit an Annual Program Performance Report at the end of each program year. The Annual Program Performance Report shall contain completed copies of all forms and narratives requested by the Office. A performance report may also be required of the grant recipient prior to a closeout pursuant to Rule .1202 of this Subchapter.

- (4) Interim Reports. Between the required performance reporting dates, events may occur which have significant impact upon the project or program. The grant recipient shall inform the Office as soon as the following types of conditions become known:
  - (a) Problems, delays, or adverse conditions which will materially affect the ability to attain project objectives, prevent the meeting of time schedules and goals, or preclude the attainment of project work units by established time periods. This disclosure shall be accompanied by a statement of the action taken, or contemplated, and any Office assistance needed to resolve the situation.
  - (b) Favorable developments or events which enable meeting time schedules and goals sooner than anticipated or producing more work units than originally projected.
- (5) Other Reports. Grant recipients shall submit other reports as may be further required by the Office.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

## **SECTION .1000 – PERSONNEL STANDARDS**

### **10A NCAC 97C .1001 EXECUTIVE OFFICER AND FINANCE OFFICER**

The Office requires that each grant recipient maintain a chief executive officer to supervise the overall administration of the CSBG program, and a finance officer to administer the financial affairs of the grant recipient.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

### **10A NCAC 97C .1002 NON-DISCRIMINATION IN EMPLOYMENT**

- (a) Eligible agencies must submit the Assurance of Compliance with Civil Rights Laws and Regulations (DEO Form 11) as required in Rule .0302(6) of this Subchapter. Submission of this assurance to the Office establishes the policy that the grant recipient shall be an equal opportunity employer.
- (b) Each grant recipient shall institute due process procedures for resolving complaints of discrimination by employees and applicants for employment. The grant recipient must also notify all employees and, upon request, applicants for employment of their right to file complaints of employment discrimination directly with the Equal Employment Opportunity Commission or the courts at their own expense. Protection of employee rights is a matter of internal operations of the grant recipient, and the Office will review complaints of employment discrimination after finding of probable cause evidenced by the EEOC or an equivalent finding by a relevant agency.

*History Note:* Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
 Eff. December 1, 1983;  
 Amended Eff. July 1, 1988;  
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.

### **10A NCAC 97C .1003 EMPLOYMENT OF THE POOR AND EXOFFENDERS**

- (a) Every consideration should be given to providing employment opportunities to poor persons who have been denied the benefit of formal education and who are willing to learn to perform new functions. Each grant recipient shall make certain that its recruiting procedures afford adequate opportunity for the hiring and advancement of people eligible to be served by the CSBG program. The attainment of a high level of education may be important to performance in certain positions. However, formal educational qualifications, unless required by state, federal, or local law, shall not be made a requirement for employment or advancement in either professional or non-professional capacities if a candidate has the ability to perform the duties of the position.
- (b) Each grant recipient is expected to employ only persons who can perform their duties with competence and integrity. In the case of professional, fiscal, and managerial personnel, recent conviction of a serious crime shall be considered strong evidence of lack of fitness for the job. Before a grant recipient employs in any such capacity, a person who has been convicted of a serious crime, its governing body shall consider the matter in accordance with fair standards and procedures.

(c) In the case of other positions including clerical and non-professional jobs, criminal records by themselves shall not constitute a basis for disqualification for employment, but grant recipient shall require full disclosure of any such record by an applicant, and shall exercise prudent judgement in relation to the positions to be filled. The grant recipient must be prepared, where appropriate, to offer (or to ensure that other qualified agencies offer) supporting services to help in the rehabilitation of an employee having a prior conviction record.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .1004 COMPENSATION POLICY**

(a) All positions supported by CSBG funds with an entry level wage in the amount of fifteen thousand dollars (\$15,000) or more shall be based on a wage comparability study, the results of which shall be submitted to the Office.

(b) Employee benefits shall include policies which provide that:

- (1) Employees shall be allowed to transfer annual and sick leave earned as a result of employment with the grant recipient into and out of the CSBG program, provided the transfer of annual and sick is allowable in the other program(s) of the grant recipient.
- (2) Leave taken by employees of the grant recipient can be expended only during the period covered by the grant agreement with the Office.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .1005 ORGANIZATION CHART**

The grant recipient shall maintain an organizational chart showing all paid positions and lines of responsibility and authority.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

### **SECTION .1100 – CIVIL RIGHTS OF INDIVIDUAL APPLICANTS**

#### **10A NCAC 97C .1101 PROCEDURES FOR FILING DISCRIMINATION COMPLAINTS**

Grant recipients shall establish a written policy for resolving complaints of denial of assistance to an applicant or program participant involving discrimination.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

### **SECTION .1200 - RETENTION OF RECORDS AND CLOSING**

#### **10A NCAC 97C .1201 RETENTION OF RECORDS**

(a) Except as provided in Paragraph (b) of this Rule, records of the grant recipient and their subcontractors related to CSBG must be retained for five years from the starting date, specified in Paragraph (c) of this Rule.

(b) Records with special requirements are:

- (1) If any litigation, claim, or audit is started before the expiration of the five-year period, the records shall be retained until all litigations, claims, or audit findings involving the records have been resolved;
- (2) Records for nonexpendable property acquired with federal funds shall be retained for five years after its final disposition; and
- (3) When records are transferred to or maintained by the federal sponsoring agency the five-year retention requirement is not applicable to the recipient.

(c) The retention period starts from the date of the submission of the final financial report by the grant recipient.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

#### **10A NCAC 97C .1202 CLOSING OUT A GRANT AGREEMENT**

- (a) "Grant Agreement Closeout" is defined as the process to be followed when the Department determines that a grant agreement has ended.
- (b) Grant agreement may be closed out for any of the following reasons:
- (1) the grant recipient is able to generate necessary funding from other sources;
  - (2) the grant recipient's project closes due to accomplishment of its objectives or changing needs in the local community;
  - (3) the grant agreement may be terminated by the Department pursuant to Rule .1302 of this Subchapter; or
  - (4) by mutual agreement.
- (c) In closing out a grant agreement, the following general requirements shall be observed:
- (1) upon request, the Office shall promptly pay the grant recipient for any allowable reimbursable costs not covered by previous payments;
  - (2) the grant recipient shall immediately refund or otherwise dispose of in accordance with instructions from the Office, any unobligated balance of cash advanced to the grant recipient; and
  - (3) the Office will make a settlement for any upward or downward adjustment of the federal or state share of costs, to the extent called for by the terms of the grant agreement.
- (d) If a grant recipient's grant agreement expires or is terminated without an audit as required in Rule .0501 of this Subchapter, the Office retains the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which shall be conducted later. Upon notification from the Office to initiate close-out procedures, the grant recipient shall arrange for a final audit to be made of its grant accounts and records in accordance with Rule .0501 and .0502 of this Subchapter and any other audit requirements of the Office hereafter in effect. The Office may determine that due to the nature of the grant recipient's program or the relatively small amount of funds which have not been audited, a final audit is not required. In such instances, the Office will notify the grant recipient that the Department will perform necessary review of documentation and activities to determine that claimed costs are valid program expenses and that the grant recipient has met its other responsibilities under the grant agreement.
- (e) The close-out of a grant agreement does not affect the grant recipient's responsibilities with respect to property or with respect to any program income for which the grant recipient is still accountable under the provisions of the applicable rules of this Subchapter.
- (f) The grant recipient shall submit, within 90 days of the date of expiration or termination, all financial, performance, and other reports required by the terms of the contract. The Office may grant an extension upon request by the grant recipient.
- (g) Grant recipients must clear all obligations incurred during a budget year within 90 days after the end of that budget year (or the termination date of the project) and before the final Financial Project Report is completed.
- (h) A Final Financial Project Report must be submitted to the Office within 90 days after the ending date of the grant agreement (or termination date). The final report should be completed using the Financial Report Form and should include all related financial data from the beginning date through the ending date of the grant agreement period year (or 20 days after the ending date if all obligations are not paid by the end of the contract).
- (i) For each grant agreement, the following sums shall constitute a debt or debts owed by the grant recipient to the Division, and shall, if not paid upon demand, be recovered from the grant recipient or its successor or assignees by appropriate action as provided by Rules .0504 and .0505 of this Subchapter and other applicable laws, rules, and regulations:
- (1) any funds paid to the grant recipient by the Office in excess of the amount to which the grant recipient is finally determined to be entitled under the terms of the contract;
  - (2) any interest or other investment income earned on advances of funds which is due the Division;
  - (3) any royalties or other special classes of program income which, under the terms of the contract, are required to be remitted to the Office;
  - (4) any amounts due the Office under the property provisions of this Subchapter; and
  - (5) any other amounts finally determined to be due the Office under their terms of the contract.

- (j) When a grant recipient closes its books or ceases to receive Office funds, it nevertheless shall retain certain records for five years. The specific policies which must be followed are described in Rule .1201 of this Section.
- (k) If a grant agreement is terminated or closed prior to the end of the grant agreement, no further obligations will be allowed beyond the termination or closing date. The grant recipient will be notified regarding the procedures for returning any unearned funds.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);  
Eff. December 1, 1983;  
Amended Eff. October 1, 1984;  
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

## **SECTION .1300 – GRANT RECIPIENT COMPLIANCE LIABILITY: SUSPENSION: TERMINATION**

### **10A NCAC 97C .1301 SUSPENSION OF GRANT AGREEMENT**

- (a) "Suspension of a Grant Agreement" means the temporary withdrawal of the grant recipient's authority to obligate funds pending corrective action by the grant recipient, or pending a decision by the Department to terminate a grant agreement.
- (b) The basis for suspension shall be:
- (1) When a grant recipient has materially failed to comply with the terms of grant agreement applicable laws or regulations, the Department may, upon reasonable notice to the grant recipient, suspend the grant agreement in whole or in part.
  - (2) A grant agreement may be suspended for failure of the grant recipient to submit a report including one from a prior reporting period.
- (c) The Department shall notify the grant recipient in writing of its intent to suspend a grant agreement. The written notification of suspension will state the reasons for the suspension, any corrective action required of the grant recipient and the effective date of suspension.
- (d) The conditions of a suspension of a grant agreement shall be:
- (1) A suspension may be made effective at once if a delayed effective date would be unreasonable considering the Department's responsibilities to protect federal and state interests.
  - (2) A suspension shall remain in effect until the grant recipient has taken corrective action satisfactory to the Department, or given evidence satisfactory to the Office that such corrective action will be taken, or until the Office terminates the contract.
  - (3) A suspension may apply to either all or only a part of a grant recipient's agreement.
  - (4) If a grant agreement, or a portion of the grant agreement, remains suspended for more than three consecutive months, the grant agreement, or the portion suspended, shall be terminated in accordance with the procedures set forth in Rule .1303 of this Section.
- (e) New obligations incurred by the grant recipient during the suspension period will not be allowed unless the Department expressly authorizes them in the notice of suspension or an amendment to it. Necessary and otherwise allowable costs which the grant recipient could not reasonably avoid during the suspension period may be allowed, at the Department's discretion, if they result from obligations properly incurred by the grant recipient before the effective date of the suspension and not in anticipation of suspension or termination.
- (f) When a grant agreement, or part of a grant agreement, is suspended, the Department will determine whether all or a portion of the balance of funds on hand must be returned to the Department. The determination will be based on:
- (1) the amount of unearned funds on hand;
  - (2) the anticipated length of the suspension;
  - (3) the extent of the grant recipient's operation, as suspended; and
  - (4) the fund balance on hand.
- (g) Appropriate adjustments to payments under the suspended grant agreement will be made either by withholding subsequent payments or by not allowing the grant recipient credit for disbursements made in payment of unauthorized obligations incurred during the suspension period.
- (h) The Department may reinstate a suspended grant agreement if it determines that conditions warrant such action. Such reinstatement shall be made by the issuance of an amended agreement.
- (i) Use of funds in a reinstated project may resume immediately upon reinstatement. The funds unearned at the time of suspension remain available to the grant recipient if approved by the Department.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);*

*Eff. December 1, 1983;*  
*Amended Eff. October 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*

**10A NCAC 97C .1302 TERMINATION OF GRANT AGREEMENT**

- (a) "Termination of Grant Agreement" means the permanent withdrawal of the grant recipient's authority to obligate previously awarded funds before that authority would otherwise expire under the grant agreement. It may also mean the voluntary relinquishment of that authority by the grant recipient contractor.
- (b) Termination of a grant agreement may be accomplished in one of two ways:
- (1) "Termination for Cause". When the Department determines that the grant recipient has failed to comply with the conditions of the grant agreement or applicable laws and regulations.
  - (2) "Termination for Convenience". When the Department and the grant recipient determine mutually that the continuation of the grant agreement would not produce beneficial results commensurate with the further expenditure of funds. Termination may be initiated:
    - (A) by the Department with the written consent of the grant recipient, in which case the two parties shall agree upon the termination, the portion to be terminated; or
    - (B) by the grant recipient upon written notification to the Office setting forth the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated.
- (c) When the Department terminates support for a grant agreement, it will notify the grant recipient in writing of the action to be taken, the reasons for such action, and the right of the grant recipient to appeal the termination.
- (d) The conditions of termination shall be:
- (1) When a grant agreement is terminated for cause, the grant recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department will allow full credit to the grant recipient for the share of the non-cancellable obligations properly incurred by the grant recipient prior to termination.
  - (2) When a grant agreement is terminated for convenience, the Office will provide the grant recipient with guidance regarding further eligibility of obligations.
- (e) When a grant agreement is terminated, the grant recipient must submit final program and financial reports to the Office. A final audit shall also be conducted. Equipment and supplies purchased with funds (in whole or in part) must be disposed of in accordance with the procedures prescribed by this Subchapter. All conditions required in Rule .1202 of this Subchapter must be followed.

*History Note: Authority G.S. 143B-10; 143B-276; 143B-277; 143-323(d);*  
*Eff. December 1, 1983;*  
*Amended Eff. October 1, 1984;*  
*Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015.*