

1 09 NCAC 03A .0103 is repealed through readoption as published in 30:14 NCR 1490 as follows:

2

3 **09 NCAC 03A .0103 BUDGET MANUAL**

4

5 *History Note: Authority G.S. 143-2;*

6 *Eff. February 1, 1976;*

7 *Readopted Eff. February 27, 1979;*

8 *Amended Eff. April 1, 1989.*

9

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Generally, this set of Rules seems to use the terms "State financial assistance," "financial assistance," "grant," "funding," and "award" to express a single entity or concept. Please select a single term that accurately describes the entity or concept and use that term consistently and exclusively, as appropriate. It appears that the term "financial assistance" may be preferred by the OSBM. If so, please consider using this term consistently throughout these Rules. I have attempted to identify each place where such terms appear, but you should carefully review your rules and make your use of all terms consistent.*

*Lists for Items or Subparagraphs are not punctuated consistently – some end in periods (.0102, .0202, .0205, .0401, .0601) and some in semicolons(.0205(g), .0703, .0801, .0802). Please choose one approach and apply it consistently.*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

1 09 NCAC 03M .0101 is readopted as published in 30:14 NCR 1491 as follows:

2

3 **SUBCHAPTER 03M – UNIFORM ADMINISTRATION OF STATE ~~GRANTS~~AWARDS OF FINANCIAL**  
4 **ASSISTANCE**

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6 **SECTION .0100 - ORGANIZATION AND FUNCTION**

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8 **09 NCAC 03M .0101 PURPOSE**

9 Pursuant to G.S. 143C-6-23, the rules in this Subchapter establish reporting requirements for non-State entities that  
10 receive, hold, use, or expend State funds and ensure the uniform administration of State ~~grants~~financial assistance by  
11 all ~~grantor~~-State agencies, ~~grantee~~, recipients, and ~~subgrantees~~subrecipients.

12

13 *History Note: Authority G.S. 143C-6-22; 143C-6-23;*

14 *Eff. July 1, 2005;*

15 *Amended Eff. October 1, 2007.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0102

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Page 1, line 5 – replace “shall mean and include” with “means”*

*Page 1, line 6 – insert a comma after “authority”*

*Page 1, line 7 – insert a comma after “district”*

*Page 1, line 8 – insert “state or local” before “government”*

*Page 1, line 15 – replace “within” with “of”*

*Page 1, line 18 – replace “reflect” with “document”*

*Page 1, line 19 – delete the comma after “recipient”*

*Page 1, line 24 – delete “Administrative Code”*

*Page 1, line 31 – perhaps “data” is closer to the intended meaning than “statistics”*

*Page 2, lines 4-7 – normally, it would be preferable to employ the statutory terms “grantee” and “subgrantee” in lieu of “recipient” and “subrecipient” and to simply rely on the statutory definitions set forth in G.S. 143C-6-23(a)(2) and (a)(4). However, it appears that OSBM seeks to align its terminology with that employed in related federal regulations (2 CFR 200.86 and 200.93). This raises two issues related to the RRC’s review of the Rule:*

- (1) At present, G.S. 143C-6-23(a)(2) and (a)(4) exclude “any non-State entity subject to the audit and other reporting requirements of the Local Government Commission” but the proposed definition of “recipient” does not. This would appear to be outside of OSBM’s current statutory authority.*

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

*(2) The proposed definition of “recipient” tracks 2 CFR 200.86 well, but the Rule’s treatment of “subrecipient” inadvertently incorporates inapplicable federal references into the State Rule, creating ambiguity.*

*To address these concerns, please consider revising as follows:*

- (10) “Recipient” means a non-State entity that receives State financial assistance directly from a State agency to carry out part of a State program, but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Subchapter, “recipient” also includes a non-State entity that receives a subaward from a pass-through entity to carry out part of a State program; but does not include an individual that is a beneficiary of such program and does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

1 09 NCAC 03M .0102 is readopted as published in 30:14 NCR 1490 as follows:

2  
3 **09 NCAC 03M .0102 DEFINITIONS**

4 As used in this Subchapter:

- 5 (1) "Agency" shall mean and include every public office, public officer or official (State or local, elected  
6 or appointed), institution, board, commission, bureau, council, department, authority or other unit  
7 of government of the State or of any county, unit, special district or other political subdivision of  
8 government.
- 9 (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- 10 ~~(3) "Certification of Compliance" means a report provided by the grantor agency to the Office of the~~  
11 ~~State Auditor that states that the grantee has met the reporting requirements established by this~~  
12 ~~Subchapter and included a statement of certification by the grantor agency and copies of the~~  
13 ~~submitted grantee reporting package.~~
- 14 ~~(4)~~(3) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained  
15 by the State and Local Government Finance Division within the North Carolina Department of State  
16 Treasurer that has been developed in cooperation with agencies to assist the local auditor in  
17 identifying program compliance requirements and audit procedures for testing those requirements.
- 18 ~~(5)~~(4) "Contract" means a legal instrument that is used to reflect a relationship between the agency,  
19 grantee, and subgrantee and a recipient, or between a recipient and subrecipient.
- 20 (5) "Contractor" means an entity subject to the contractor requirements, as well as any entity that would  
21 be subject to the contractor requirements but for a specific statute or rule exempting that entity from  
22 the contractor requirements.
- 23 (6) "Contractor requirements" means Article 3, 3C, 3D, 3E, 3G, or 8 of Chapter 143 of the General  
24 Statutes and related Administrative Code Rules.
- 25 ~~(6)~~(7) "Fiscal Year" means the annual operating year of the non-State entity.
- 26 (7) ~~"Financial Assistance" means assistance that non-State entities receive or administer in the form of~~  
27 ~~grants, loans, loan guarantees, property (including donated surplus property), cooperative~~  
28 ~~agreements, interest subsidies, insurance, food commodities, direct appropriations, and other~~  
29 ~~assistance. Financial assistance does not include amounts received as reimbursement for services~~  
30 ~~rendered to individuals for Medicare and Medicaid patient services.~~
- 31 (8) "Financial Statement" means a report providing financial statistics relative to a given part of an  
32 organization's operations or status.
- 33 ~~(9) "Grant" means financial assistance provided by an agency, grantee, or subgrantee to carry out~~  
34 ~~activities whereby the grantor anticipates no programmatic involvement with the grantee or~~  
35 ~~subgrantee during the performance of the grant.~~
- 36 ~~(10) "Grantee" has the meaning in G.S. 143C-6-23(a)(2).~~

1 ~~(11)~~ "Grantor" means an entity that provides resources, generally financial, to another entity in order to  
2 achieve a specified goal or objective.

3 ~~(12)~~(9) "Non-State Entity" has the meaning in G.S. 143C-1-1(d)(18).

4 (10) "Recipient" means a non-State entity that receives State financial assistance directly from a State  
5 agency to carry out part of a State program. For purposes of this subchapter, "recipient" also includes  
6 a non-State entity that would be considered a "subrecipient" under the Code of Federal Regulations,  
7 2 CFR, Part 200, for Federal funds subawarded by a recipient State agency.

8 ~~(13)~~ "Public Authority" has the meaning in G.S. 159-7(10).

9 ~~(14)~~(11) "Single Audit" means an audit that includes an examination of an organization's financial  
10 statements, internal controls, and compliance with the requirements of Federal or State awards.

11 ~~(15)~~ "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount  
12 of public funds for a specific purpose

13 (12) "State financial assistance" means State funds disbursed as a grant, cooperative agreement, non-  
14 cash contribution, food commodities, or direct appropriation to a recipient or subrecipient as defined  
15 in subdivision (10) and (14).

16 ~~(16)~~(13) "State Funds" means any funds appropriated by the North Carolina General Assembly or collected  
17 by the State of North Carolina. State funds include federal financial assistance received by the State  
18 and transferred or disbursed to non-State entities. Both Federal and State funds maintain their  
19 identity as they are ~~subgranted-disbursed as financial assistance~~ to other organizations.

20 ~~(17)~~(14) "Subgrantee" has the meaning in G.S. 143C-6-23(a)(3). "Subrecipient" means a non-State entity that  
21 receives State financial assistance from a recipient to carry out part of a State program; but does not  
22 include an individual that is a beneficiary of such program.

23 (18) "Unit of Local Government" has the meaning in G.S. 159-7(15).

24  
25 *History Note:* Authority G.S. 143C-6-22; 143C-6-23;  
26 Eff. July 1, 2005;  
27 Amended Eff. October 1, 2007.

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0201

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Line 10 – replace “by” with “in”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016



1 09 NCAC 03M .0201 is readopted as published in 30:14 NCR 1492 as follows:

2

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**SECTION .0200 - RESPONSIBILITIES OF ~~GRANTEES~~ RECIPIENTS AND SUBGRANTEES  
SUBRECIPIENTS**

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**09 NCAC 03M .0201 ALLOWABLE USES OF STATE FUNDS**

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Expenditures of State funds by any ~~grantee-recipient or subrecipient~~ shall be in accordance with the Cost Principles outlined in the ~~Office of Management and Budget (OMB) Circular A-87~~ Code of Federal Regulations, 2 CFR, Part 200. If the grant funding includes federal sources, the ~~grantee-recipient or subrecipient~~ shall ensure adherence to the cost principles established by the ~~Federal Office of Management and Budget~~ Code of Federal Regulations, 2 CFR, Part 200.

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

1 09 NCAC 03M .0202 is readopted as published in 30:14 NCR 1492 as follows:

2

3 **09 NCAC 03M .0202 ~~GRANTEE/SUBGRANTEE~~RECIPIENT/SUBRECIPIENT**  
4 **RESPONSIBILITIES**

5 A ~~grantee or subgrantee~~recipient or subrecipient that receives State funds ~~financial assistance~~ shall ensure  
6 that those funds are utilized for ~~the~~their intended purpose of the grant and shall expend those funds in  
7 compliance with ~~reporting~~requirements established by this Subchapter and their contract.  
8 ~~Grantees-Recipients~~ and ~~subgrantees~~subrecipients shall:

- 9 (1) Provide the information required by the ~~grantor~~disbursing agency in order to comply with  
10 the procedures for disbursement of ~~grant~~funds.
- 11 (2) Maintain reports and accounting records that support the allowable expenditure of State  
12 funds. ~~All-Recipients and subrecipients shall make available all reports and records shall~~  
13 ~~be made available~~ for inspection by ~~both~~ the awarding ~~agency~~agency, the Office of State  
14 Budget and Management, and the Office of the State Auditor for oversight, monitoring,  
15 and evaluation purposes.
- 16 (3) Ensure that ~~subgrantees~~subrecipients comply with all reporting requirements ~~of the~~  
17 ~~grantee~~established by this Subchapter and their contract and report to the appropriate  
18 disbursing entity.

19

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

1 09 NCAC 03M .0203 is repealed through readoption as published in 30:14 NCR 1492 as follows:

2

3 **09 NCAC 03M .0203**     ***SUBGRANTEE RESPONSIBILITIES***

4

5 *History Note:*     *Authority G.S. 143C-6-22; 143C-6-23;*

6                     *Eff. July 1, 2005.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0205

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Page 1, line 6 – replace “thresholds” with “levels”*

*Page 1, lines 9, 19, and 32 – replace “recipient/subrecipient” with “recipient” or “recipient or subrecipient” – note that the defined term “recipient” includes “subrecipient”*

*Page 1, lines 10, 20, and 33 – please see the general comment regarding the consistent use of a single term for a single concept. Here, delete “funds” if the term “financial assistance” is sufficient.*

*Page 2, line 11 – delete “minimum”*

*Page 2, lines 13, 15, 17, and 20 – is “recipient or subrecipient” necessary? It seems redundant because the defined term “recipient” includes “subrecipient”*

*Page 2, line 14 – delete the comma*

*Page 2, lines 23 and 27 – replace “reporting” with “reports”*

*Page 2, lines 25-27 – under what circumstances would more detailed or frequent reporting be “appropriate,” other than what is required by rule or statute? If these circumstances cannot be defined or described in the Rule, this sentence should be deleted. Does “these minimum requirements” refer to the requirements set out in Paragraph (b)? Consider revising as follows:*

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

*Page 2, line 29 – replace “Agency established” with “Agency-established”*

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

*Page 2, line 29 – replace “these minimum standards” with “the standards set forth in Paragraph (b) of this Rule”*

*Page 2, line 31 – capitalize “Rule”*

*Page 2, lines 31-32 – does this first sentence state a fact or establish a regulatory requirement? If it establishes a regulatory requirement, replace “are” with “shall be.” However, the first two sentences appear to state facts that help explain the requirement set forth in the third sentence.*

*Page 2, line 35 – delete “is unallowable and”*

*Page 3, line 4 – delete “the”*

*Page 3, line 8 – replace “do” with “shall”*

*Page 3, line 14 – capitalize “Subchapter”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

09 NCAC 03M .0205 is readopted as published in 30:14 NCR 1492 as follows:

**09 NCAC 03M .0205     MINIMUM REPORTING THRESHOLDS AND FORMATS**  
**REQUIREMENTS FOR GRANTEE RECIPIENTS AND SUBGRANTEES**  
**SUBRECIPIENTS**

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

(1) ~~Less than \$25,000~~ Level I - A grantee-recipient/subrecipient that receives, holds, uses, or expends State financial assistance funds in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal ~~year~~ must comply with the reporting requirements established by this Subchapter including: -year.

(A) ~~— A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;~~  
and

(B) ~~— An accounting of the State funds received, used, or expended.~~

~~All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.~~

(2) ~~\$25,000 up to \$500,000~~ Level II - A grantee-recipient/subrecipient that receives, holds, uses, or expends State financial assistance funds in an amount of at least twenty-five thousand (\$25,000) ~~and up to or greater, but less than~~ five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including: -year.

(A) ~~— A certification completed by the grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;~~

(B) ~~— An accounting of the State funds received, used, or expended; and~~

(C) ~~— A description of activities and accomplishments undertaken by the grantee with the State funds.~~

~~All reporting requirements shall be filed with the funding agency within six months after the end of the grantee's fiscal year in which the State funds were received.~~

(3) ~~Greater than \$500,000~~ Level III - A grantee-recipient/subrecipients that receives, holds, uses, or expends State financial assistance funds ~~and in the an~~ amount equal to or greater than five hundred thousand dollars (\$500,000) within its fiscal ~~year~~ must comply with the reporting requirements established by this Subchapter including: -year.

1 (A) ~~— A certification completed by the grantee Board and management stating that the~~  
2 ~~State funds were received, used, or expended for the purposes for which they were~~  
3 ~~granted;~~

4 (B) ~~— An audit prepared and completed by a licensed Certified Public Accountant for~~  
5 ~~the grantee consistent with the reporting requirement of this Subchapter; and~~

6 (C) ~~— A description of activities and accomplishments undertaken by the grantee with~~  
7 ~~the State funds.~~

8 ~~All reporting requirements shall be filed with both the funding agency and the Office of~~  
9 ~~the State Auditor within nine months after the end of the grantee's fiscal year in which the~~  
10 ~~State funds were received.~~

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

13 (1) All recipients and subrecipients shall provide a certification that State funds received or  
14 held, were used for the purposes for which they were awarded.

15 (2) All recipients and subrecipients shall provide an accounting of all State funds received,  
16 held, used, or expended.

17 (3) Level II and III recipients and subrecipients shall report on activities and accomplishments  
18 undertaken by the recipient, including reporting on any performance measures established  
19 in the contract.

20 (4) Level III recipients and subrecipients shall have a single or program-specific audit prepared  
21 and completed in accordance with Generally Accepted Government Auditing Standards,  
22 also known as the Yellow Book.

23 (c) All reporting shall be filed with the disbursing agency in the format and method specified by the agency  
24 no later than three months after the end of the recipient's fiscal year. Audits must be provided to the funding  
25 agency no later than nine months after the end of the recipient's fiscal year. Agencies may exceed these  
26 minimum requirements through more frequent or more detailed reporting as deemed appropriate by the  
27 agency or as required by other statute or regulation. Agencies do not need to require separate, annual reporting  
28 if the same information is already required through more frequent reporting.

29 (d) Agency established reporting requirements to meet these minimum standards shall be specified in each  
30 recipient's contract.

31 ~~(b)~~(e) Unless prohibited by law, the costs of audits made in accordance with the provisions of this rule are  
32 allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated  
33 indirect cost, as determined in accordance with cost principles outlined in the Office of Budget and  
34 Management (OMB) Circular A-87, Code of Federal Regulations, 2 CFR Part 200. The cost of any audit not  
35 conducted in accordance with this Subchapter is unallowable and shall not be charged to State grants.  
36 financial assistance.

1 ~~(e) The audit requirements in this Subchapter do not replace a request for submission of audit reports by~~  
2 ~~grantor agencies in connection with requests for direct appropriation of state aid by the General Assembly.~~

3 ~~(d)(f)~~ Notwithstanding the provisions of this Subchapter, a grantee-recipient may satisfy the reporting  
4 requirements of Part ~~(a)(3)(B)-(b)(4)~~ of this Rule by submitting a copy of the report required under the federal  
5 law with respect to the same funds.

6 ~~(e) All grantees and subgrantees shall use the forms of the Office of State Budget and Management and of~~  
7 ~~the Office of the State Auditor in making reports to the awarding agencies and the Office of the State Auditor.~~

8 (g) The reporting and audit requirements of this subchapter do not apply to:

9 (1) Financial assistance to non-State entities subject to the audit and other reporting  
10 requirements of the Local Government Commission;

11 (2) Tuition assistance to students;

12 (3) Public assistance payments from Federal entitlement programs to or on behalf of enrolled  
13 individuals, or

14 (4) State funds disbursed to a contractor as defined in this subchapter.

15  
16 *History Note: Authority G.S. 143C-6-22; 143C-6-23;*

17 *Eff. July 1, 2005.*



## REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0401

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Page 1, lines 6, 7, 10, 20-21 and Page 2, lines 2, 6 – please see the general comment regarding the consistent use of a single term for a single concept. Consider replacing “State funds,” “State financial assistance,” “State financial assistance funds,” and “funds” with a single term, perhaps “financial assistance.”*

*Page 1, line 24 – replace “with” with “in”*

*Page 2, line 30 – end this line with “and”*

*Page 2, lines 34-36 – This Paragraph (b) is ambiguous because you have defined “recipients” as including “subrecipients.”*

*Page 2, line 36 – what does “audit exception” mean – is the term clearly understood by your regulated parties?*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

1 09 NCAC 03M .0401 is readopted as published in 30:14 NCR 1493 as follows:

2  
3 **SECTION .0400 - RESPONSIBILITIES OF AGENCIES**

4  
5 **09 NCAC 03M .0401 AGENCY RESPONSIBILITIES**

6 (a) An agency that receives State funds and disburses those funds to a ~~grantee-recipient~~ shall:

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

10 (2) Prior to disbursing any grant-State financial assistance funds:

11 (A) ~~register-Register~~ each State assistance program with the Office of State Budget  
12 and ~~Management's Community Resources Information System (CRIS); and~~  
13 Management in the format and method specified by the Office of State Budget  
14 and Management;

15 (B) Execute a contract with the recipient that complies with the requirements of this  
16 Subchapter;

17 (C) Report each individual award to the Office of State Budget and Management in  
18 the format and method specified by the Office of State Budget and Management;  
19 and

20 ~~(B)(D) follow~~ Follow the procedures for disbursement of grant-State financial assistance  
21 funds.

22 (3) Develop compliance supplement reports that describe standards of compliance and audit  
23 procedures to give direction to independent auditors. This report shall be provided to the  
24 State and Local Government Finance Division with the North Carolina Department of State  
25 Treasurer for inclusion in the North Carolina State Compliance Supplement.

26 ~~(4) Provide the Office of the State Auditor with a listing of each grantee to which the agency~~  
27 ~~disbursed State funds during the prior fiscal year by October 31<sup>st</sup> of each year including~~  
28 ~~detailed information regarding the purpose and amount of the grant awarded.~~

29 ~~(5) Provide the Office of State Budget and Management with a listing of every grantee to~~  
30 ~~which the agency disbursed State funds during the prior fiscal year by January 31<sup>st</sup> of each~~  
31 ~~year. This report shall be consistent with the disbursement report previously provided to~~  
32 ~~the Office of the State Auditor including whether the grantee has complied with the~~  
33 ~~reporting requirements established in this Subchapter.~~

34 (4) Develop a monitoring plan for each State assistance program the agency oversees and  
35 submit the plan to the Office of State Budget and Management for approval.

- 1            (5) Perform monitoring and oversight functions as specified in agency monitoring plans to  
2            ensure that State financial assistance is used for authorized purposes in compliance with  
3            laws, regulations, and the provisions of contracts, and that performance goals are achieved.  
4            ~~(6) Hold grantees accountable for the expenditure of State funds by performing monitoring~~  
5            ~~and oversight functions as required in this Subchapter.~~  
6            ~~(7)(6) Ensure that funds are spent consistent with the purposes for which they were granted.~~  
7            ~~awarded.~~  
8            ~~(8) Not disburse funds to grantees that are not in compliance with the reporting requirements~~  
9            ~~for funds received during the prior fiscal year. Agencies shall consult with the Office of~~  
10           ~~State Budget and Management in making this determination.~~  
11           ~~(9)(7) Determine that the applicable reporting requirement requirements have been met by the~~  
12           ~~grantee recipient and that all reports have been completed and submitted. For grantees~~  
13           ~~receiving less than five hundred thousand dollars (\$500,000), the grantor agency shall~~  
14           ~~complete a Certification of Compliance to the Office of the State Auditor, submitted in~~  
15           ~~accordance with the recipient's contract.~~  
16           ~~(10) Conduct periodic monitoring reviews to ensure that State awards are used for authorized~~  
17           ~~purposes in compliance with laws, regulations, and the provisions of grant agreements and~~  
18           ~~that performance goals are achieved.~~  
19           ~~(11)(8) Monitor compliance by grantees recipients with all terms of a contract. Upon determination~~  
20           ~~of noncompliance the agency shall give the grantee 60 days written notice to come into~~  
21           ~~compliance. After the 60 day period, the grantor agency shall: the agency shall take~~  
22           ~~appropriate action as specified in Section .0800 of this Subchapter.~~  
23           ~~(A) terminate the contract and take action to retrieve unexpended funds or~~  
24           ~~unauthorized expenditures;~~  
25           ~~(B) suspend payments pending negotiation of a plan of corrective action; or~~  
26           ~~(C) offset future payments with the amount improperly spent.(9) Require agency~~  
27           ~~internal auditors to conduct periodic audits of agency compliance with~~  
28           ~~requirements of this Subchapter.~~  
29           (9) Require agency internal auditors to conduct periodic audits of agency compliance with  
30           requirements of this Subchapter.  
31           (10) Provide all requested documentation when subject to an audit of compliance with the  
32           requirements of this Subchapter. Audits may be conducted by the Office of State Budget  
33           and Management, the Office of the State Auditor, or the agency's internal auditor.  
34           (b) Each ~~non-State entity recipient~~ shall ensure that ~~subgrantees subrecipients~~ have complied with the  
35           applicable provisions of this Subchapter. Failure to comply with such provisions shall be the basis for an  
36           audit exception.  
37

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

1 09 NCAC 03M .0501 is repealed through readoption as published in 30:14 NCR 1495 as follows:

2

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

4

5 **09 NCAC 03M .0501 OFFICE OF THE STATE AUDITOR RESPONSIBILITIES**

6

7 *History Note: Authority G.S. 143C-6-22; 143C-6-23;*

8 *Eff. July 1, 2005.*

9 *Eff. July 1, 2005.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0601

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Page 1, line 11 – replace “minimum” with “the”*

*Page 1, lines 19, 32 – please see the general comment regarding the consistent use of a single term for a single concept. Consider replacing “State financial assistance funding” and “State financial assistance” with a single term, perhaps “financial assistance.”*

*Page 1, line 23 – replace “outlined” with “set forth”*

*Page 1, line 24 – replace “Section .0401” with “Rule .0401” or “Section .0400”*

*Page 1, line 26 – insert “with the requirements set forth in Section .0400 of this Subchapter” after “noncompliant”*

*Page 1, line 27 – replace “issues of” with “such” and “have been addressed” with “has been corrected”*

*Page 1, lines 29-20 – replace “for corrective action and reinstatement” with “to be removed”*

*Page 1, line 35 – replace “which includes ensuring criminal” with “including ensuring allegations of criminal”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

1 09 NCAC 03M .0601 is readopted as published in 30:14 NCR 1495 as follows:

2  
3 **SECTION .0600 - RESPONSIBILITIES OF THE OFFICE OF STATE BUDGET AND**  
4 **MANAGEMENT**

5  
6 **09 NCAC 03M .0601 OFFICE OF STATE BUDGET AND MANAGEMENT**  
7 **RESPONSIBILITIES**

8 The Office of State Budget and Management shall:

- 9 (1) Provide ~~consultation to agencies as to whether grantees have complied with the required~~  
10 ~~reporting requirements.~~ guidelines to agencies for developing monitoring plans and  
11 establishing reporting processes that meet minimum requirements established in this  
12 Subchapter.
- 13 ~~(2) Consult with agencies to ensure that all grantees found in noncompliance have their~~  
14 ~~funding ceased immediately upon that determination and ensure that no further funding~~  
15 ~~will be provided until the grantee is in compliance.~~
- 16 ~~(3)~~(2) Maintain a Suspension of Funding list readily accessible to any interested party that  
17 identifies any grantee-recipient found in noncompliance. ~~noncompliance with the~~  
18 requirements of this Subchapter or the terms of their contract. This list shall serve as notice  
19 to other agencies that no further State ~~grant~~ financial assistance funding ~~may~~ shall be  
20 provided to that ~~grantee-recipient~~ until they are removed from the list.
- 21 ~~(4) Maintain a Community Resources Information System database to record grant~~  
22 ~~documentation required by this Subchapter.~~
- 23 (3) Periodically audit State agencies to ensure compliance with requirements outlined in  
24 Section .0401 of this Subchapter.
- 25 ~~(5)~~(4) In conjunction with the grantor agency, ensure reporting requirements have been met. Upon  
26 notification from a disbursing agency that a recipient is no longer noncompliant, validate  
27 that all issues of noncompliance have been addressed prior to the removal of any grantee  
28 that recipient from the Suspension of Funding listing. A grantee found in noncompliance  
29 recipient may appeal to the Office of State Budget and Management for corrective action  
30 and reinstatement from the Suspension of Funding list. ~~list if they believe they have been~~  
31 suspended in error. Once removed from the Suspension of Funding list, the ~~grantee~~  
32 recipient is eligible for current and future grants of State funds. State financial assistance.
- 33 ~~(6)~~(5) Take appropriate administrative action. ~~action~~ when the Director of the Budget finds that  
34 the ~~grantee-recipient~~ has spent or encumbered State funds for an unauthorized purpose,  
35 which includes ~~reporting~~ ensuring criminal violations are reported to the Attorney General  
36 and the State Bureau of ~~Investigation.~~ Investigation by the disbursing agency.

1            ~~(7)(6)~~ If the ~~grant~~ funds are a pass-through of funds ~~granted-awarded~~ by an agency of the United  
2            States, consult with the ~~granting-awarding~~ agency of the United States and the State agency  
3            that is the recipient of the pass-through funds prior to taking actions authorized by this  
4            Subchapter.

5

6            *History Note:*     *Authority G.S. 143C-6-22; 143C-6-23;*

7            *Eff. July 1, 2005.*



1 09 NCAC 03M .0701 is repealed through readoption as published in 30:14 NCR 1495 as follows:

2

3

**SECTION .0700 - CONTRACTING, MONITORING, AND OVERSIGHT**

4

5 **09 NCAC 03M .0701 GRANT DOCUMENTATION**

6

7 *History Note: Authority G.S. 143C-6-22; 143C-6-23;*

8

*Eff. July 1, 2005.*

1 09 NCAC 03M .0702 is readopted as published in 30:14 NCR 1495 as follows:

2

3 **09 NCAC 03M .0702 SUBORDINATION OF OTHER CONTRACTS AGREEMENTS**

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

5

6 *History Note: Authority G.S. 143C-6-22; 143C-6-23;*

7 *Eff. July 1, 2005.*

## REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0703

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Page 1, lines 4, 8, 10, 12, 26, 28 – please see the general comment regarding the consistent use of a single term for a single concept. Consider replacing “State financial assistance,” “award,” funds,” and “disbursement” with a single term, perhaps “financial assistance.”*

*Page 1, line 10 – do not capitalize “source”*

*Page 1, lines 10-11 – consider revising as follows:*

- (2) The source of funds (such as federal or state) must be identified, including the CFDA number and percentages of each source where applicable;

*Page 1. Line 16 – insert a period after “contract and capitalize “For”*

*Page 1, line 17 – replace “including” with “each contract shall contain”*

*Page 1, line 18 – replace “recipient/subrecipient” with “recipient’s” or “recipient’s or subrecipient’s” – note that the defined term “recipient” includes “subrecipient”*

*Page 1, line 30 – replace “outlined” with “set forth”*

*Page 1, line 31 – insert a comma after “Subchapter”*

*Page 1, lines 31-32 – delete “the provision of”*

*Page 1, line 35 – insert a comma after “subcontracting”*

*Page 2, line 2 – delete the comma and “all”*

*Page 2, line 2 – replace “to allow” with “in its possession that is needed by”*

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

1 09 NCAC 03M .0703 is readopted as published in 30:14 NCR 1496 as follows:

2  
3 **09 NCAC 03M .0703 REQUIRED CONTRACT PROVISIONS**

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

- 8 (1) A specification of the purpose of the ~~grant-award~~, services to be provided, objectives to be  
9 achieved, and expected results;
- 10 (2) The Source of funds (federal, state, etc.) must be identified (CFDA number if applicable)  
11 and percentages included where applicable;
- 12 (3) Account coding information sufficient to provide for tracking of the disbursement through  
13 the ~~grantor-disbursing agency's~~ accounting system;
- 14 (4) Agreement to maintain all ~~grant-pertinent~~ records for a period of five years or until all audit  
15 exceptions have been resolved, whichever is longer;
- 16 (5) Names of all parties to the terms of the contract; for the ~~grantee-recipient~~ or ~~subgrantee~~  
17 ~~subrecipient~~, including the employer/tax identification number, address, contact  
18 information, and the ~~grantee/subgrantee-recipient/subrecipient~~ fiscal year end date;
- 19 (6) Signatures ~~indicating authorization by~~ binding all parties to the terms of the contract;
- 20 (7) Duration of the contract, including the effective and termination dates;
- 21 (8) Amount of the contract and schedule of payment(s);
- 22 (9) Particular duties of the ~~grantee; recipient~~;
- 23 (10) Required reports and reporting deadlines;
- 24 (11) Provisions for termination by mutual consent with 60 days written notice to the other party,  
25 or as otherwise provided by law;
- 26 (12) A provision that the awarding of the ~~grants-funds~~ is subject to allocation and appropriation  
27 of funds to the agency for the purposes set forth in the contract;
- 28 (13) Provision that requires reversion of unexpended funds to the agency upon termination of  
29 the contract;
- 30 (14) A provision that requires compliance with the ~~rules and reporting~~ requirements outlined in  
31 this Subchapter including audit oversight by the Office of the State Auditor, the provision  
32 of access to the accounting records by both the funding entity and the Office of the State  
33 Auditor, and availability of audit work papers in the possession of any auditor of any  
34 recipient of State funding;
- 35 (15) A clause addressing assignability and subcontracting including the following:
  - 36 (a) ~~the grantee~~-The recipient or ~~subgrantee-subrecipient~~ is not relieved of any of the  
37 duties and responsibilities of the original contract; and

1 (b) ~~the subgrantee~~ The subrecipient agrees to abide by the standards contained in this  
2 Subchapter, and to provide all information to allow the ~~grantee~~ recipient to  
3 comply with these standards.  
4

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

1 09 NCAC 03M .0704 is repealed through readoption as published in 30:14 NCR 1496 as follows:

2

3 **09 NCAC 03M .0704 GRANT MONITORING AND EVALUATION**

4

5 *History Note: Authority G.S. 143C-6-22; 143C-23;*

6 *Eff. July 1, 2005.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0801

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Page 1, line 10 – insert a comma after “met”*

*Page 1, line 29 – delete or define “immediately”*

*Page 1, line 30 – unless the following list of action is both mandatory and exclusive, replace “action as follows” with “action or actions, such as”*

*Page 1, line 34 – replace “and/or” with either “and” or “or”*

*Page 1, line 36 – insert a comma after “Investigation”*

*Page 2, line 15 – delete “administrative”*

*Page 2, line 15 – insert “, as set forth in this Rule” after “action”*

*Page 2, lines 16 and 17 – replace “will” with “shall”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016



1 09 NCAC 03M .0801 is readopted as published in 30:14 NCR 1497 as follows:

2  
3  
4 **SECTION .0800 - SANCTIONS**

5  
6 **09 NCAC 03M .0801 NONCOMPLIANCE WITH RULES**

7 (a) An agency shall not disburse any State financial assistance to an entity that is on the Suspension of  
8 Funding list.

9 ~~(a)~~(b) When a non-State entity does not comply with the requirements of this Subchapter, the agency shall  
10 take measures to ensure that the requirements are met including:

- 11 (1) ~~communicating~~ Communicating the requirements to the non-State entity;  
12 (2) ~~requiring~~ Requiring a response from the non-State entity upon a determination of  
13 noncompliance; and  
14 (3) ~~suspend~~ Suspending payments to the non-State entity until the non-State entity is in  
15 compliance.

16 ~~(b) Prior to disbursing any State funds, the grantor agency shall verify that the grantee has complied with~~  
17 ~~the reporting requirements for the most recent applicable reporting period. The agency shall consult with the~~  
18 ~~Office of State Budget and Management during this verification process. A grantor agency shall not disburse~~  
19 ~~funds to any grantee that has been determined by the grantor agency to be noncompliant with the reporting~~  
20 ~~requirements established by this Subchapter.~~

21 ~~(c) If the grantor agency finds that a non State entity has used State funds for an unauthorized purpose, the~~  
22 ~~grantor agency shall report such findings to the Attorney General, the Office of the State Budget and~~  
23 ~~Management, the Office of the State Auditor, and the Office of the State Controller.~~

24 ~~(d) If a grantee has not met the reporting requirements established by this Subchapter and fails to submit~~  
25 ~~revised reports in accordance with a grantor agency determination letter, the grantor agency shall suspend~~  
26 ~~further payments to the grantee and report the grantee to the Office of the State Auditor and the Office of the~~  
27 ~~State Controller.~~

28 (c) When an agency discovers evidence of management deficiencies or criminal activity leading to the misuse  
29 of funds, the agency shall notify the Office of State Budget and Management immediately and take the  
30 appropriate action as follows:

- 31 (1) Suspend payments until the matter has been fully investigated and corrective action has  
32 been taken;  
33 (2) Terminate the contract and take action to retrieve unexpended funds or unauthorized  
34 expenditures; and/or  
35 (3) Report possible violations of criminal statutes involving misuse of State property to the  
36 State Bureau of Investigation in accordance with G.S. 143B-920.

1 (d) Upon determination of noncompliance with requirements of the contract that are not indicative of  
2 management deficiencies or criminal activity, the agency shall give the recipient or subrecipient 60 days  
3 written notice to take corrective action. If the recipient or subrecipient has not taken the appropriate corrective  
4 action after the 60-day period, the disbursing agency shall notify the Office of State Budget and Management  
5 and take the appropriate action as follows:

6 (1) Suspend payments pending negotiation of a plan of corrective action;

7 (2) Terminate the contract and take action to retrieve unexpended funds or unauthorized  
8 expenditures; or

9 (3) Offset future payments with any amounts improperly spent.

10 (e) Each ~~grantor-disbursing~~ agency shall ensure that ~~grantees-recipients~~ and ~~subgrantees-subrecipients~~ have  
11 complied with the applicable provisions of this Subchapter.

12 (f) Agencies are subject to audit for compliance with the requirements of this Subchapter by the Office of  
13 State Budget and Management, the Office of the State Auditor, and agency internal auditors. Any finding of  
14 noncompliance by an agency shall be reported to the Office of State Budget and Management to take  
15 appropriate administrative action.

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

22  
23 *History Note: Authority G.S. 143C-6-22; 143C-6-23;*

24 *Eff. July 1, 2005.*

REQUEST FOR TECHNICAL CHANGE

AGENCY: Office of State Budget and Management

RULE CITATION: 09 NCAC 03M .0802

**DEADLINE FOR RECEIPT: June 8, 2016**

The Rules Review Commission staff has completed its review of this rule prior to the Commission's next meeting. The Commission has not yet reviewed this rule and therefore there has not been a determination as to whether the rule will be approved. You may call this office to inquire concerning the staff recommendation.

In reviewing these rules, the staff determined that the following technical changes need to be made. Approval of any rule is contingent upon making technical changes as set forth in G.S. 150B-21.10.

*Lines 5, 8, 10, 11, and 14 – please see the general comment regarding the consistent use of a single term for a single concept. Consider replacing “State funds” and “award” with a single term, perhaps “financial assistance.”*

*Line 11 – replace “be assisted by” with “seek the assistance of”*

*Line 15 – insert “the” before “State”*

Please retype the rule accordingly and resubmit it to our office at 1711 New Hope Church Road, Raleigh, North Carolina 27609.

Jason S. Thomas  
Commission Counsel  
Date submitted to agency: May 25, 2016

1 09 NCAC 03M .0802 is readopted as published in 30:14 NCR 1497 as follows:

2

3 **09 NCAC 03M .0802 RECOVERY OF STATE FUNDS**

4 (a) ~~The Office of State Budget and Management shall be assisted by the Attorney General in the grant~~  
5 ~~recovery and return of~~ disbursing agency shall take appropriate administrative action to recover State funds  
6 in the event a ~~grantee-recipient or subgrantee~~: subrecipient:

7 (1) ~~is~~ Is unable to fulfill the obligations of the contractual agreement;

8 (2) ~~is~~ Is unable to accomplish the purposes of the ~~grant~~; award;

9 (3) ~~is~~ Is noncompliant with the reporting requirements; or

10 (4) ~~has~~ Has inappropriately used the State funds.

11 (b) The disbursing agency shall be assisted by the Attorney General in the recovery and return of State funds  
12 if legal action is required.

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

16

17 *History Note: Authority G.S. 143C-6-22; 143C-6-23;*

18 *Eff. July 1, 2005.*