

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

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

SECTION .0100 - ORGANIZATION AND FUNCTION

09 NCAC 03M .0101 PURPOSE

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

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

History Note: Authority G.S. 143C-6-22; 143C-6-23;
Eff. July 1, 2005;
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09 NCAC 03M .0102 is readopted with changes as published in 30:14 NCR 1490 as follows:

09 NCAC 03M .0102 DEFINITIONS

As used in this Subchapter:

- (1) "Agency" ~~shall mean and include~~ means every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, ~~authority~~ authority, or other unit of government of the State or of any county, unit, special ~~district~~ district, or other political subdivision of state or local government.
- (2) "Audit" means an examination of records or financial accounts to verify their accuracy.
- ~~(3) "Certification of Compliance" means a report provided by the grantor agency to the Office of the State Auditor that states that the grantee has met the reporting requirements established by this Subchapter and included a statement of certification by the grantor agency and copies of the submitted grantee reporting package.~~
- ~~(4)~~(3) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Division within of the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.
- ~~(5)~~(4) "Contract" means a legal instrument that is used to reflect document a relationship between the agency, ~~grantee, and subgrantee. and a~~ recipient, recipient or between a recipient and subrecipient.
- ~~(5) "Contractor" means an entity subject to the contractor requirements, as well as any entity that would be subject to the contractor requirements but for a specific statute or rule exempting that entity from the contractor requirements.~~
- ~~(6) "Contractor requirements" means Article 3, 3C, 3D, 3E, 3G, or 8 of Chapter 143 of the General Statutes and related~~ [Administrative Code] Rules.
- ~~(6)~~(7) "Fiscal Year" means the annual operating year of the non-State entity.
- ~~(7) "Financial Assistance" means assistance that non-State entities receive or administer in the form of grants, loans, loan guarantees, property (including donated surplus property), cooperative agreements, interest subsidies, insurance, food commodities, direct appropriations, and other assistance. Financial assistance does not include amounts received as reimbursement for services rendered to individuals for Medicare and Medicaid patient services.~~
- (8) "Financial Statement" means a report providing financial ~~statistics~~ data relative to a given part of an organization's operations or status.
- ~~(9) "Grant" means financial assistance provided by an agency, grantee, or subgrantee to carry out activities whereby the grantor anticipates no programmatic involvement with the grantee or subgrantee during the performance of the grant.~~
- ~~(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.]~~ program, but does not include any non-State entity
6 subject to the audit and other reporting requirements of the Local Government Commission. For
7 purposes of this subchapter, "recipient" also includes a non-State entity that would be considered a
8 "subrecipient" ~~[under the Code of Federal Regulations, 2 CFR, Part 200,]~~ pursuant to 2 CFR 200.93
9 for Federal funds subawarded by a recipient State ~~[agency.]~~ agency, but does not include a
10 subrecipient as defined in subdivision (14).

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

12 ~~(14)~~(11) "Single Audit" means an audit that includes an examination of an organization's financial
13 statements, internal controls, and compliance with the requirements of Federal or State awards.

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

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

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

23 ~~(17)~~(14) "Subgrantee" has the meaning in G.S. 143C-6-23(a)(3). "Subrecipient" means a non-State entity that
24 receives State financial assistance from a recipient to carry out part of a State program; but does not
25 include an individual that is a beneficiary of such program. This definition of "subrecipient" applies
26 throughout these Rules, except as used in subdivision (10) of this Rule.

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

28
29 *History Note:* Authority G.S. 143C-6-22; 143C-6-23;

30 *Eff. July 1, 2005;*

31 *Amended Eff. October 1, 2007.*

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

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

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

Expenditures of State ~~funds~~ financial assistance by any ~~grantee-recipient~~ or subrecipient shall be in accordance with the ~~Cost Principles~~ 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~~ State financial assistance includes federal sources, the ~~grantee-recipient~~ or subrecipient shall ensure adherence to the cost principles established ~~by~~ in 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.

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

**09 NCAC 03M .0202 ~~GRANTEE~~ [RECIPIENT/SUBRECIPIENT] RECIPIENT AND
SUBRECIPIENT RESPONSIBILITIES**

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

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

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

Eff. July 1, 2005.

[Note: The word "subgrantee" stricken out in lines 5 and 8 is not part of the current rule as it appears in the NC Administrative Code.]

09 NCAC 03M .0205 is readopted with changes 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~~ levels 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] recipient or 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] recipient or 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/subrecipient] recipient or subrecipient 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]
12 reporting standards on an annual basis:

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

16 (2) All recipients and subrecipients shall provide an accounting of all State [funds] financial
17 assistance received, held, used, or expended.

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

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

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

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

33 ~~(b)(e)~~ (e) Unless prohibited by law, the costs of audits made in accordance with the provisions of this ~~rule~~ Rule
34 ~~are~~ shall be allowable charges to State and Federal awards. The charges may be considered a direct cost or
35 an allocated indirect cost, as determined in accordance with cost principles outlined in the ~~Office of Budget~~
36 ~~and Management (OMB) Circular A-87. Code of Federal Regulations, 2 CFR Part 200.~~ The cost of any audit

1 not conducted in accordance with this Subchapter ~~is unallowable and~~ shall not be charged to State ~~grants.~~
2 ~~financial assistance.~~ awards.

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

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

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

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

11 ~~(1) Financial assistance to non State entities subject to the audit and other reporting~~
12 ~~requirements of the Local Government Commission;~~

13 ~~(2) Tuition assistance to students;~~

14 ~~(3) Public assistance payments from Federal entitlement programs to or on behalf of enrolled~~
15 ~~individuals, or~~

16 ~~(4) State funds disbursed to a contractor as defined in this subchapter.]~~

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

19 *Eff. July 1, 2005.*

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

SECTION .0400 - RESPONSIBILITIES OF AGENCIES

09 NCAC 03M .0401 AGENCY RESPONSIBILITIES

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

- (1) Notify each ~~grantee, recipient,~~ at the time the ~~grant~~ State financial assistance ~~award~~ award ~~[of State financial assistance]~~ is made, of the purpose of the ~~grant award~~ and the reporting requirements established in this Subchapter.
- (2) Prior to disbursing any ~~grant~~ State financial assistance ~~funds~~:
 - (A) ~~register~~ Register each State assistance program with the Office of State Budget and Management's ~~Community Resources Information System (CRIS); and~~ Management in the format and method specified by the Office of State Budget and Management; Management.
 - (B) Execute a contract with the recipient that complies with the requirements of this Subchapter; Subchapter.
 - (C) Report each individual award to the Office of State Budget and Management in the format and method specified by the Office of State Budget and Management; and Management.
 - (B)(D) ~~follow~~ Follow the procedures for disbursement of ~~grant~~ State financial assistance ~~funds~~ State financial assistance.
- (3) Develop compliance supplement reports that describe standards of compliance and audit procedures to give direction to independent auditors. This report shall be provided to the State and Local Government Finance Division ~~with~~ in the North Carolina Department of State Treasurer for inclusion in the North Carolina State Compliance Supplement.
- ~~(4) Provide the Office of the State Auditor with a listing of each grantee to which the agency disbursed State funds during the prior fiscal year by October 31st of each year including detailed information regarding the purpose and amount of the grant awarded.~~
- ~~(5) Provide the Office of State Budget and Management with a listing of every grantee to which the agency disbursed State funds during the prior fiscal year by January 31st of each year. This report shall be consistent with the disbursement report previously provided to the Office of the State Auditor including whether the grantee has complied with the reporting requirements established in this Subchapter.~~
- (4) Develop a monitoring plan for each State assistance program the agency oversees and submit the plan to the Office of State Budget and Management for approval.

- 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~~ State financial assistance is spent consistent with the purposes for
7 which ~~they were granted.~~ it was 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.~~
- 27 ~~(9) — Require agency 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.*
3 *[Note: The strikethrough language in lines 27-28 on page 2 was published in error. The*
4 *paragraph is an addition and should have only been published with the text underlined.*

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

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

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

The Office of State Budget and Management shall:

- (1) Provide ~~consultation to agencies as to whether grantees have complied with the required reporting requirements.~~ guidelines to agencies for developing monitoring plans and establishing reporting processes that meet [minimum] the requirements established in this Subchapter.
- ~~(2) Consult with agencies to ensure that all grantees found in noncompliance have their funding ceased immediately upon that determination and ensure that no further funding will be provided until the grantee is in compliance.~~
- ~~(3)~~(2) Maintain a Suspension of Funding list readily accessible to any interested party that identifies any ~~grantee-recipient found in noncompliance.~~ noncompliance with the requirements of this Subchapter or the terms of their contract. This list shall serve as notice to other agencies that no further State ~~grant financial assistance funding may shall be~~ provided to that grantee-recipient until they are removed from the list.
- ~~(4) Maintain a Community Resources Information System database to record grant documentation required by this Subchapter.~~
- (3) Periodically audit State agencies to ensure compliance with requirements ~~[outlined]~~ set forth in [Section .0401] Section .0400 of this Subchapter.
- ~~(5)~~(4) ~~In conjunction with the grantor agency, ensure reporting requirements have been met.~~ Upon notification from a disbursing agency that a recipient is no longer ~~[noncompliant]~~ noncompliant with the requirements set forth in Section .0200 of this Subchapter, validate that all ~~[issues of] such noncompliance [have been addressed]~~ has been corrected prior to the removal of ~~any grantee that recipient~~ any grantee-recipient from the Suspension of Funding listing. A ~~grantee found in noncompliance-recipient~~ grantee-recipient may appeal to the Office of State Budget and Management ~~for corrective action and reinstatement~~ to be removed from the Suspension of Funding list ~~list if they believe they have been suspended in error.~~ Once removed from the Suspension of Funding list, the ~~grantee-recipient~~ grantee-recipient is eligible for current and future ~~grants of State funds.~~ State financial assistance.
- ~~(6)~~(5) Take appropriate administrative action, ~~action~~ when the Director of the Budget finds that the ~~grantee-recipient~~ grantee-recipient has spent or encumbered State funds for an unauthorized purpose, ~~which includes reporting~~ including ensuring allegations of criminal violations are reported

1 to the Attorney General and the State Bureau of ~~Investigation.~~ Investigation by the
2 disbursing agency.

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

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

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

09 NCAC 03M .0703 REQUIRED CONTRACT PROVISIONS

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

- (1) A specification of the purpose of the ~~grant-award~~, services to be provided, objectives to be achieved, and expected results;
- (2) The ~~Source~~ source of funds (~~federal, state, etc.~~) (such as federal or state) must be ~~identified~~ identified, including the CFDA number (~~CFDA number if applicable~~) and percentages of ~~each source included~~ where ~~applicable; applicable~~.
- (3) Account coding information sufficient to provide for tracking of the disbursement through the ~~grantor-disbursing agency's accounting system; system~~.
- (4) Agreement to maintain all ~~grant-pertinent~~ records for a period of five years or until all audit exceptions have been resolved, whichever is ~~longer; longer~~.
- (5) Names of all parties to the terms of the ~~contract; contract, for~~ For the grantee-recipient or subgrantee-subrecipient, including each contract shall contain the employer/tax identification number, address, contact information, and the ~~grantee/subgrantee [recipient/subrecipient] recipient's or subrecipient's~~ fiscal year end ~~date; date~~.
- (6) Signatures ~~indicating authorization by~~ binding all parties to the terms of the ~~contract; contract~~.
- (7) Duration of the contract, including the effective and termination ~~dates; dates~~.
- (8) Amount of the contract and schedule of ~~payment(s); payment(s)~~.
- (9) Particular duties of the ~~grantee; [recipient;]~~ recipient.
- (10) Required reports and reporting ~~deadlines; deadlines~~.
- (11) Provisions for termination by mutual consent with 60 days written notice to the other party, or as otherwise provided by ~~law; law~~.
- (12) A provision that the awarding of ~~the grants [funds]~~ State financial assistance is subject to allocation and appropriation of funds to the agency for the purposes set forth in the ~~contract; contract~~.
- (13) Provision that requires reversion of unexpended ~~funds~~ State financial assistance to the agency upon termination of the ~~contract; contract~~.
- (14) A provision that requires compliance with the ~~rules and reporting requirements outlined set forth~~ in this ~~Subchapter~~ Subchapter, including audit oversight by the Office of the State Auditor, ~~the provision of~~ access to the accounting records by both the funding entity and

the Office of the State Auditor, and availability of audit work papers in the possession of any auditor of any recipient of State ~~funding;~~ funding.

(15) A clause addressing assignability and ~~subcontracting~~ subcontracting, including the following:

(a) ~~the grantee~~ The recipient or ~~subgrantee~~ subrecipient is not relieved of any of the duties and responsibilities of the original ~~contract; and~~ contract.

(b) ~~the subgrantee~~ The subrecipient agrees to abide by the standards contained in this ~~Subchapter,~~ Subchapter and to provide all information ~~to allow~~ in its possession that is needed by the ~~grantee~~ recipient to comply with these standards.

History Note: Authority G.S. 143C-6-22; 143C-6-23;
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09 NCAC 03M .0801 is readopted with changes as published in 30:14 NCR 1497 as follows:

SECTION .0800 - SANCTIONS

09 NCAC 03M .0801 NONCOMPLIANCE WITH RULES

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

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

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

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

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

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

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

- (1) Suspend payments until the matter has been fully investigated and corrective action has been ~~[taken:]~~ taken.
- (2) Terminate the contract and take action to retrieve unexpended funds or unauthorized ~~[expenditures; and/or]~~ expenditures.
- (3) Report possible violations of criminal statutes involving misuse of State property to the State Bureau of ~~[Investigation]~~ 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:]~~ or actions, such as:

6 (1) Suspend payments pending negotiation of a plan of corrective ~~[action:]~~ action.

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

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.]~~ action, as set forth in this Rule.

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

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

24 *Eff. July 1, 2005.*

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

09 NCAC 03M .0802 RECOVERY OF STATE FUNDS

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

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

(2) ~~is~~ Is unable to accomplish the purposes of the ~~grant; [award;] award.~~

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

(4) ~~has~~ Has inappropriately used ~~the State funds; financial assistance.~~

(b) The disbursing agency shall ~~[be assisted by]~~ seek the assistance of the Attorney General in the recovery and return of State ~~[funds] financial assistance~~ if legal action is required.

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

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

Eff. July 1, 2005.