09 NCAC 03M .0101 is readopted as published in 41:04 NCR 334-340 as follows:

SUBCHAPTER 03M – UNIFORM ADMINISTRATION OF STATE AWARDS OF GRANTS

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 grants and ensure the uniform administration of grant funds by all State agencies, recipients, and subrecipients. The requirements of this subchapter shall not apply to:

(1) Grants to non-State entities subject to the audit and other reporting requirements of the Local Government Commission.

(2) Tuition assistance to students.

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

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

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
Eff. July 1, 2005;
Amended Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015;
Amended Eff. July 1, 2024; July 1, ~~2016.~~ 2016;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0102 is readopted with changes as published in 41:04 NCR 334-340 as follows:

09 NCAC 03M .0102 DEFINITIONS

In addition to the definitions set forth in G.S. 143C-6-23 and G.S. 143C-1-1, the following definitions shall apply to this Subchapter:

(1) "Agency" means every State or local public office, public ~~officer~~ officer, or public official, ~~official (State or local, elected or appointed),~~ whether elected or appointed, or any institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any county, unit, special district, or other political subdivision of state or local government.

(2) "Audit" means an examination of records or financial accounts to verify their accuracy.

(3) "Beneficiary" means an individual receiving the funds or assistance as the end user.

(4) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Division of the North Carolina Department of State Treasurer that has been developed in cooperation with agencies to assist the local auditor in identifying program compliance requirements and audit procedures for testing those requirements.

(5) "Contract" means a legal instrument including any amendments used to document a relationship between the agency and a recipient or between a recipient and subrecipient.

(6) "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.

(7) "Contractor requirements" means Article 3, 3C, 3D, 3E, 3G, or 8 of Chapter 143 of the General Statutes and related rules.

~~(10)~~(8) ~~"Grants" or "Grant funds"~~ "Financial assistance" means State funds disbursed as a grant, cooperative agreement, non-cash contribution, food commodities, or direct appropriation, to a recipient or subrecipient as defined in this Rule.

(9) "Financial Statement" means a report providing financial data relative to a given part of an organization's operations or status.

~~(11)~~(10) "Monitoring plan" means a documented system of educating, reviewing, tracking, and reporting on the use of grant funds. Designed to assure that public funds are spent in compliance with applicable rules and statutes, and that performance expectations are being achieved.

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

~~(13)~~(11) "Program-specific audit" means an audit that includes an examination of financial statements, internal controls, and compliance with the requirements and contract clauses for an individual State award.

~~(14)~~(12) "Recipient" means a non-State entity that receives grants directly from a State agency to carry out part of a State program, but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. For purposes of this Subchapter,

"recipient" also includes a non-State entity that would be considered a "subrecipient" pursuant to ~~2 CFR 200.93~~ 2 CFR 200.1 for Federal funds subawarded by a recipient State agency, but does not include a subrecipient as defined in Item (17) of this Rule. ~~2 CFR 200.93~~ The definition of the term "subrecipient" in 2 CFR 200.1 is herein incorporated by reference, including subsequent amendments and editions, and is available in electronic form free of charge at ~~https://www.ecfr.gov.~~ https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-A/subject-group-ECFR2a6a0087862fd2c/section-200.1.

~~(8)~~(13) ~~"Fiscal Year"~~ "Recipient's fiscal year" means the annual operating year of the non-State entity.

~~(15)~~(14) "Single Audit" means an audit that includes an examination of an organization's financial statements, internal controls, and compliance with the requirements of Federal or State awards.

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

~~(17)~~(15) "Subrecipient" means a non-State entity that receives grants from a recipient to carry out part of a State program; but does not include a beneficiary of such program. This definition of "subrecipient" applies throughout these Rules, except as used in Item ~~(14)~~(12) of this Rule.

(16) "Subrecipient's fiscal year" means the annual operating year of the non-State entity.

~~(18)~~(17) "Suspension of Funding list" means a database maintained and distributed by Office of State Budget and Management in consultation with State agencies designating grantees or subgrantees in a state of non-compliance with grant agreement requirements in accordance with 09 NCAC 03M .0801.

History Note: *Authority G.S. 143C-1-1; G.S. 143C-6-22; 143C-6-23;*
Eff. July 1, 2005;
Amended Eff. October 1, 2007;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. April 25, 2015;
Amended Eff. July 1, 2024; July 1, ~~2016.~~ 2016;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0201 is readopted with changes as published in 41:04 NCR 334-340 as follows:

SECTION .0200 - RESPONSIBILITIES OF RECIPIENTS AND SUBRECIPIENTS

09 NCAC 03M .0201 ALLOWABLE USES OF GRANTS

(a) Expenditures of ~~grants~~ grant funds from federal sources by any recipient or subrecipient shall be in accordance with the cost principles ~~outlined~~ established in the Code of Federal Regulations, 2 CFR, ~~Part 200.~~ Part 200, Subpart E. ~~If the grants include federal sources, the recipient or subrecipient shall ensure adherence to the cost principles established in the Code of Federal Regulations, 2 CFR, Part 200. 2 CFR, Part 200~~ which is herein incorporated by reference, including subsequent amendments and editions, and is available in electronic form free of charge at ~~https://www.ecfr.gov.~~ https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E.

(b) Expenditures of grant funds from non-federal sources by any recipient or subrecipient shall be in accordance with the cost principles established in 2 CFR Part 200, Subpart E (as published in the January 1, 2025 edition of the Code of Federal Regulations), which is herein incorporated by reference, not including subsequent amendments and editions, and is available in electronic form free of charge at https://www.osbm.nc.gov/federal-cfr-2025-title2/open.

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
Eff. July 1, 2005;
Readopted Eff. July 1, 2016;
Amended Eff. July 1, ~~2024.~~ 2024;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0202 is readopted as published in 41:04 NCR 334-340 as follows:

09 NCAC 03M .0202 RECIPIENT AND SUBRECIPIENT RESPONSIBILITIES

A recipient or subrecipient that receives grants shall ensure that those funds are utilized for their intended purpose, as outlined in the contract, and shall expend those funds in compliance with requirements established by this Subchapter and their contract. Recipients and subrecipients shall:

(1) Maintain reports and accounting records that support the allowable expenditure of State funds. Recipients and subrecipients shall maintain such reports and records for five years from the end of the grant agreement and shall make available all reports and records for inspection by the awarding agency, the Office of State Budget and Management, and the Office of the State Auditor for oversight, monitoring, and evaluation purposes.

(2) Ensure that subrecipients comply with all reporting requirements established by this Subchapter and their contract and report to the appropriate disbursing entity.

(3) Have the option to request in writing to the Office of State Budget and Management to be removed from the Suspension of Funding List if they believe they have been suspended in error. Once removed from the Suspension of Funding List, the recipient is eligible for current and future grants.

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
Eff. July 1, 2005;
Readopted Eff. July 1, 2016;
Amended Eff. July 1, ~~2024.~~ 2024;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0205 is readopted with changes as published in 41:04 NCR 334-340 as follows:

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

(a) For the purposes of this Subchapter, there are two reporting levels established for recipients and subrecipients receiving grants. Reporting levels are based on the allocated funds from all grants and financial assistance disbursed through the State of North Carolina. The reporting levels are:

(1) Level I – A recipient or subrecipient that receives, holds, uses, or expends grants in an amount less than the dollar amount requiring audit as listed in the Code of Federal Regulations 2 CFR 200.501(a) within its fiscal year. The dollar amount requiring audit listed in 2 CFR 200.501(a) is herein incorporated by reference, including subsequent amendments and editions, and can be accessed free of charge at ~~https://www.ecfr.gov/.~~ https://www.ecfr.gov/current/title-2/part-200/section-200.501#p-200.501(a).

(2) Level II - A recipient or subrecipient that receives, holds, uses, or expends grants in an amount equal to or greater than the dollar amount requiring audit as listed in 2 CFR 200.501(a) within its fiscal year. ~~The dollar amount requiring audit listed in 2 CFR 200.501(a) is herein incorporated by reference, including subsequent amendments and editions, and can be accessed free of charge at https://www.ecfr.gov/.~~

(b) Agencies shall require recipients to meet the following reporting standards on an annual basis:

(1) All recipients and subrecipients shall provide to the distributing agency a certification that grants received or held were used for the purposes for which the grants were awarded.

(2) All recipients and subrecipients shall provide an accounting to the distributing agency of all grants received, held, used, or expended.

(3) All recipients and subrecipients shall report on activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.

(4) Level II recipients and subrecipients shall have a single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book, which is herein incorporated by reference, including subsequent amendments and editions, and can be accessed free of charge at https://www.gao.gov/yellowbook.

(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 shall be provided to the funding agency no later than nine months after the end of the recipient's fiscal year.

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

(e) Unless prohibited by law, the costs of audits made in accordance with the provisions of this Rule shall be allowable charges to State and Federal awards. For Federal awards, the ~~The~~ charges may be considered a direct cost or an

allocated indirect cost, as determined in accordance with cost principles ~~outlined~~ established in the Code of Federal Regulations, 2 CFR Part 200, Subpart E, which is herein incorporated by reference, including subsequent amendments and editions, and can be accessed free of charge at ~~https://www.ecfr.gov.~~ https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-E. For State awards, the charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles established in 2 CFR Part 200, Subpart E (as published in the January 1, 2025 edition of the Code of Federal Regulations), which is herein incorporated by reference, not including subsequent amendments and editions, and is available in electronic form free of charge at https://www.osbm.nc.gov/federal-cfr-2025-title2/open. The cost of any audit not conducted in accordance with this Subchapter shall not be charged to State awards.

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

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
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Readopted Eff. July 1, 2016;
Amended Eff. July 1, ~~2024.~~ 2024;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0401 is readopted with changes as published in 41:04 NCR 334-340 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 grant funds to a recipient shall:

~~(1)~~ ~~Notify each~~ [~~recipient~~] ~~recipient, at the time the grant award is made, of the purpose of the award and the reporting requirements established in this Subchapter.~~ [~~Unless a session law or statute specifies a different date:~~]

[~~(A) For a session law or statute that establishes a new grant and names the recipient(s), the agency shall notify each recipient no later than 70 calendar days after the session law or statute becomes law.~~]

[~~(B) For all other grants, the agency shall notify the recipient no later than 30 calendar days after the recipient is selected.~~]

~~(2)~~(1) Prior to disbursing any grant funds:

(A) Notify each recipient of the purpose of the award and the reporting requirements established in this Subchapter.

~~(A)~~(B) Register each State ~~assistance~~ program that provides grants of State funds to non-State recipients with the Office of State Budget and Management using the NC Grants Management System which can be accessed at ~~https://www.osbm.nc.gov.~~ https://www.osbm.nc.gov/stewardship-services/grants-management. Information required to register includes program ID and description, program name, and funding year.

~~(B)~~(C) Execute a contract with the recipient that complies with the requirements of this Subchapter.

~~(C)~~(D) Report each individual grant award of State funds to non-State recipients to the Office of State Budget and Management using the NC Grants Management System which can be accessed at ~~https://www.osbm.nc.gov.~~ https://www.osbm.nc.gov/stewardship-services/state-grants-management/suspension-funding-list. Information required to report includes ~~CRIS program ID,~~ award date, completion date, award amount, and program name.

~~(D)~~ ~~Follow the procedures for disbursement of grant funds.~~

~~(3)~~(2) Develop compliance supplement reports that describe standards of compliance and audit procedures to give direction to independent auditors. For any grants to units of local government or to public authorities, this ~~This~~ report shall be provided to the State and Local Government Finance Division in the North Carolina Department of State Treasurer for inclusion in the North Carolina State Compliance Supplement.

~~(4)~~(3) Develop a monitoring plan for each program the agency oversees that provides grants of State funds to non-State recipients ~~State assistance program the agency oversees~~ and gain approval of the plan by the Office of State Budget and Management. Monitoring plans will be evaluated based on plan elements including programs covered, education and technical assistance, risk assessment framework, monitoring procedures, non-compliance procedures, and closeout of award procedures.

~~(5)~~(4) Develop agency monitoring plans, and at minimum, perform the ~~Perform~~ monitoring and oversight functions ~~as~~ specified in ~~agency monitoring plans~~ those plans, to ensure that grant funds are used for authorized purposes in compliance with laws, regulations, and contract provisions, ~~the provisions of contracts,~~ and that performance goals are achieved.

~~(6)~~(5) Ensure that grant funds are spent consistent with the purposes for which it was awarded.

~~(7)~~(6) Determine that reporting requirements have been met by the recipient and that all reports have been completed and submitted in accordance with the recipient's contract.

~~(8)~~(7) Monitor compliance by recipients with all terms of ~~a~~ the recipient's contract. Upon determination of noncompliance, the agency shall take action as specified in Section .0800 of this Subchapter.

~~(9)~~(8) Require agency internal auditors to conduct periodic audits of agency grant procedures to ensure compliance with requirements of this Subchapter.

~~(10)~~(9) Provide all requested documentation when subject to an audit of agency grant procedures regarding compliance with the requirements of this Subchapter. Audits may be conducted by the Office of State Budget and Management, the Office of the State Auditor, or the agency's internal auditor.

~~(11)~~(10) ~~Notify the Office of State Budget and Management when~~ When a recipient is not compliant with the requirements set forth in this Subchapter or the terms of their ~~contract such that~~ [~~contract.~~] contract, respond in accordance with 09 NCAC 03M .0801, including notifying the Office of State Budget and Management when indicated in 09 NCAC 03M .0801 (b) through (f). Upon any notification pursuant to this Subparagraph, the recipient ~~should~~ shall be added by the Office of State Budget and Management to the Suspension of Funding ~~List~~ List, and ~~have~~ the disbursing agency shall suspend the disbursement of funds to the recipient suspended in accordance with G.S. 143C-6-23(f). Agencies shall not disburse grant funds to a recipient on the Suspension of Funding List until that recipient comes back into compliance and is removed from the Suspension of Funding ~~List.~~ List in accordance with 09 NCAC 03M .0801(h).

~~(12)~~(11) ~~Notify~~ In accordance with 09 NCAC 03M .0801(h), contact the Office of State Budget and Management ~~when~~ to request the removal of ~~remove~~ entities from the Suspension of Funding List.

(b) Each recipient shall ensure that subrecipients have complied with the applicable provisions of this Subchapter. Failure to comply with such provisions shall be the basis for an audit exception.

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
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09 NCAC 03M .0702 is readopted as published in 41:04 NCR 334-340 as follows:

SECTION .0700 - CONTRACTING, MONITORING, AND OVERSIGHT

09 NCAC 03M .0702 SUBORDINATION OF OTHER CONTRACTS AGREEMENTS

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

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
Eff. July 1, 2005;
Readopted Eff. July 1, ~~2016.~~ 2016;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0703 is readopted with changes as published in 41:04 NCR 334-340 as follows:

09 NCAC 03M .0703 REQUIRED CONTRACT PROVISIONS

Prior to receiving grant funds, the recipient shall sign a contract with the agency that shall contain the obligations of both parties. Prior to disbursing any grant funds, 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 recipient-subrecipient relationships. Each contract agreement shall contain:

(1) A specification of the purpose of the award, services to be provided, objectives to be achieved, and expected results;

(2) The source of ~~funds (such~~ funds, such as federal or ~~state)~~ state, must be identified, including the ~~CFDA number~~ federal assistance program number, such as an Assistance Listing Number (ALN), and percentages of each source where applicable.

(3) ~~Account~~ Either account coding information sufficient to provide for tracking of the disbursement through the disbursing agency's accounting ~~system.~~ system or a provision requiring the agency to internally maintain that account coding information as part of the agency's grant file described in Item (4) of this Rule.

(4) Agreement to maintain all pertinent records for a period of five years or until all audit exceptions have been resolved, whichever is longer.

(5) Names of all parties to the terms of the contract. For the recipient or subrecipient, each contract shall contain the employer/tax identification number, address, contact information, and the recipient's or subrecipient's fiscal year end date.

(6) Signatures binding all parties to the terms of the contract.

(7) Duration of the contract, including the effective and termination dates.

(8) Amount of the contract and schedule of payment(s).

(9) Particular duties of the recipient.

(10) Required reports and reporting deadlines.

(11) Provisions for termination by mutual consent with 60 days written notice to the other party, or as otherwise provided by law.

(12) A provision that the awarding of grant funds is subject to allocation and appropriation of funds to the agency for the purposes set forth in the contract.

(13) A provision that requires reversion of unexpended grant funds to the agency upon termination of the contract.

(14) A provision that requires compliance with the requirements set forth in this Subchapter, including audit oversight by the Office of the State Auditor, access to the accounting records by both the funding entity and the Office of the State Auditor, and availability of audit work papers in the possession of any auditor of any recipient of State funding.

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

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

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

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
Eff. July 1, 2005;
Readopted Eff. July 1, 2016;
Amended Eff. July 1, ~~2024.~~ 2024;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0801 is readopted with changes as published in 41:04 NCR 334-340 as follows:

SECTION .0800 - SANCTIONS

09 NCAC 03M .0801 NONCOMPLIANCE WITH RULES

(a) An agency shall not disburse any grant funds to an entity that is on the Suspension of Funding ~~list.~~ list which can be accessed at [~~https://www.osbm.nc.gov.~~] https://www.osbm.nc.gov/stewardship-services/state-grants-management/suspension-funding-list.

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

(1) Communicating the requirements in writing ~~to the non-State entity within 30 business days.~~ to the recipient within 30 business days of when the agency became aware of the noncompliance, and offering the [~~non-State entity~~] recipient the opportunity to come into compliance by a date set by the agency.

(2) ~~Directing the non-State entity to respond in writing upon a determination of noncompliance.~~ If the recipient does not cure the noncompliance by the date set by the agency under Subparagraph (b)(1) of this Rule, issuing a determination of noncompliance and directing the [~~non-State entity~~] recipient to respond in writing within 10 business days.

(3) ~~Suspending payments to the non-State entity until the non-State entity is in compliance.~~ If the recipient does not cure the noncompliance by the deadline established in Subparagraph (b)(2) of this Rule, suspending payments to the recipient until the recipient is in compliance, and notifying the Office of State Budget and Management to have the recipient placed on the Suspension of Funding list pursuant to 09 NCAC 03M [~~.0401(a)(11).~~] .0401(a)(10).

(c) When a recipient does not comply with the requirements of this Subchapter or with requirements of the contract, and the recipient does not cure the noncompliance by the deadline established in Subparagraph (b)(2) of this Rule, the agency may also take the following measures to ensure that the requirements are met:

(1) Issue an order to the recipient to stop work.

[~~(1)~~](2) Terminate the contract and take action to retrieve unexpended funds or unauthorized expenditures.

(3) Exercise any other remedy listed in the contract.

(4) Stop future payments to the recipient.

[~~(2)~~](5) Offset future payments to the recipient with any amounts spent for purposes other than those described in the signed grant contract.

~~(c)~~(d) When an agency discovers evidence of ~~management deficiencies or~~ apparent criminal activity leading to the misuse of funds, the agency ~~shall~~ shall, [~~in addition to the procedures listed in Paragraph (b) of this Rule, also~~] within five business days of discovery, initiate actions under Paragraph (b) of this Rule and, notwithstanding the timelines

set forth in Subparagraphs (b)(1) through (b)(3), shall ~~notify the Office of State Budget and Management~~ [~~within 5 business days~~] ~~and~~ take each of the following actions: ~~the action or actions, such as:~~

[~~(1)~~] [~~Take the actions listed in Paragraph (b) of this Rule on an accelerated time frame.~~]

(1)[~~(2)~~] Within five business days of discovery, suspend payments to the recipient and notify the Office of State Budget and Management to request that the recipient be placed on the Suspension of Funding list pursuant to 09 NCAC 03M .0401(a)(10) ~~Suspend payments~~ [~~within 5 business days~~] until the matter has been fully investigated and corrective action has been taken.

(2)[~~(3)~~] ~~Terminate~~ Unless the grant recipient provides information that shows there was not criminal activity leading to the misuse of funds, terminate the contract and retrieve unexpended funds or unauthorized expenditures.

~~(3) Report suspected violations of criminal statutes involving misuse of State property to the State Bureau of Investigation, in accordance with G.S. 143B-920.~~

(e) In addition to all other steps required by this Subchapter, the agency must report any information or evidence of an attempted arson, or arson, damage of, theft from, or theft of, or embezzlement from, or embezzlement of, or misuse of, any state-owned personal property, buildings, or other real property to the State Bureau of Investigation, in accordance with G.S. 143B-1208.6.

(f) For any grant that solely passed through funds granted by an agency of the United States, meaning that the state agency had no discretion in selecting the recipient or determining the amount of the award, the Office of State Budget and Management shall initiate consultation with the agency that is the recipient of the pass-through funds and the granting agency of the United States prior to taking the actions specified in Subparagraph (b)(3), Paragraph (c), or Subparagraphs (d)(1) and (d)(2) of this Rule.

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

~~(1) Suspend payments pending negotiation of a plan of corrective action.~~

~~(2) Terminate the contract and take action to retrieve unexpended funds or unauthorized expenditures.~~

~~(3) Offset future payments with any amounts spent for purposes other than those described in the signed grant contract.~~

(g) When the Office of State Budget and Management places a recipient on the Suspension of Funding List, the Office of State Budget and Management shall notify the agency in writing within 15 business days that the recipient has been placed on the Suspension of Funding List, and the agency shall notify the recipient in writing within 10 business days of their placement on the Suspension of Funding List.

(h) When the agency determines that a recipient has cured all noncompliance with the requirements of this Subchapter, has cured all noncompliance with requirements of the contract, and has resolved any concerns raised by the agency about apparent criminal activity leading to the misuse of funds, the agency shall contact the Office of State

Management and Budget within 10 business days to request the removal of the recipient from the Suspension of Funding List.

~~(e)~~[~~(f)~~](i) Each disbursing agency shall ensure that recipients and subrecipients have complied with the applicable provisions of this Subchapter.

~~(f)~~[~~(g)~~](j) Agencies are subject to audit for compliance with the requirements of this Subchapter by the Office of State Budget and Management, the Office of the State Auditor, and agency internal auditors. Any finding of noncompliance by an agency shall be reported to the Office of State Budget and Management to take appropriate action, as set forth in this Rule.

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

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
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Amended Eff. July 1, ~~2024.~~ 2024;
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09 NCAC 03M .0802 is readopted as published in 41:04 NCR 334-340 as follows:

09 NCAC 03M .0802 RECOVERY OF STATE FUNDS

(a) The disbursing agency shall take administrative ~~action~~ action, using the procedures in 09 NCAC 03M .0801, to recover grant funds in the event a recipient or subrecipient:

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

(2) Is unable to accomplish the purposes of the award as stated in the signed grant contract;

(3) Is noncompliant with the reporting requirements as stated in the signed grant contract; or

(4) Has used grant funds for purposes other than those described in the signed grant contract.

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

(c) Any apparent violations of a criminal law or malfeasance, misfeasance, or nonfeasance in connection with the use of grant ~~funds~~ funds, as well as any required notification under G.S. 143B-1208.6, shall be reported by the agency to the Office of State Budget and Management, the Attorney General, and the State Bureau of Investigation. The violations may be also reported to the Office of State Auditor and any agency with enforcement authority for the apparent violation (such as the Office of Secretary of State for an apparent violation of the lobbying laws).

History Note: *Authority G.S. 143C-6-22; 143C-6-23;*
Eff. July 1, 2005;
Readopted Eff. July 1, 2016;
Amended Eff. July 1, ~~2024.~~ 2024;
Readopted Eff. December 1, 2026.

09 NCAC 03M .0901 is adopted with changes as published in 41:04 NCR 334-340 as follows:

SECTION .0900 – PETITIONS AND DECLARATORY RULINGS

09 NCAC 03M .0901 PETITIONS FOR RULEMAKING

(a) Any person wishing to request the adoption, amendment, or repeal of a rule of the Office of State Budget and Management shall submit a petition in writing to Office of State Budget and Management, Mail Service Center 20320, Raleigh, North Carolina 27699-0320.

(b) The petition shall include the following information:

(1) the text of the proposed ~~rule(s)~~ rules for adoption or amendment;

(2) a statement of the reasons for adoption or amendment of the proposed ~~rule(s),~~ rules, or the repeal of ~~an~~ existing ~~rule(s);~~ rules;

(3) identification of the parties most likely to be affected by the proposed rule or rule amendment;

(4) a statement explaining the expected types of costs and ~~benefits (including cost savings)~~ benefits, including cost savings, to result from the proposed ~~rule(s),~~ rules, and a quantification of these costs and benefits, if known;

(5) any data or arguments in support of the petition; and

(6) the ~~name(s)~~ names and ~~address(es)~~ addresses of the ~~petitioner(s).~~ petitioners.

(c) Petitions that do not contain the information required by Paragraph (b) of this Rule shall be returned to the petitioner.

(d) In its review of the petition, the Office of State Budget and Management shall consider whether it has authority to adopt the rule; the effect of the proposed rule on existing rules, programs, and practices; probable costs and cost factors of the proposed rule; and the impact of the rule on the public and regulated entities. If the request is denied, the petitioning party may appeal that decision as stated in G.S. 150B-20(d).

History Note: *Authority G.S. 143C-6-22; 143C-6-23; 150B-20;*
Eff. December 1, 2026.

09 NCAC 03M .0902 is adopted as published in 41:04 NCR 334-340 as follows:

09 NCAC 03M .0902 DECLARATORY RULINGS

(a) Requests for declaratory rulings shall be submitted in writing to the Office of State Budget and Management, Mail Service Center 20320, Raleigh, North Carolina 27699-0320 and shall include the following information:

(1) name and address of the requestor;

(2) the rule or statute upon which a ruling is desired;

(3) a statement as to whether the request is for a ruling on the validity of the rule or statute, or its potential application to the requestor, or both;

(4) arguments or data that demonstrate that the requestor is a person aggrieved by the rule or statute;

(5) a statement of the consequences of a failure to issue a declaratory ruling in favor of the requestor;

(6) a statement of the facts proposed for adoption by the Office of State Budget and Management; and

(7) a draft of the proposed ruling.

(b) Before deciding the merits of the request, the Office of State Budget and Management may:

(1) request additional written submissions from the requestor;

(2) request written comments from other interested persons; or

(3) hear oral arguments from the requestor or their legal counsel.

(c) Whenever the Office of State Budget and Management believes for good cause that the issuance of a declaratory ruling is undesirable, the Office of State Budget and Management may refuse to issue such ruling. "Good cause" as the term is used in this Rule shall include:

(1) finding that there has been a similar determination in a previous declaratory ruling;

(2) finding that the matter is the subject of a pending contested case hearing or litigation in any North Carolina or federal court;

(3) finding that no genuine controversy exists as to the application of a rule or statute to the specific factual situation presented;

(4) finding that the factual context put forward as the subject of the declaratory ruling was considered upon the adoption of the rule being questioned, as evidenced by the rulemaking record; or

(5) finding that the requestor is not a person aggrieved, as defined in G.S. 150B-2.

History Note: *Authority G.S. 143C-6-22; 143C-6-23; 150B-4;*
Eff. December 1, 2026.