

Attachment B

Notice of Certain Reporting and Audit Requirements

Recipient shall comply with all the rules and reporting requirements established by statute or administrative rules.

N.C.G.S. 143C-6-23 requires that every non-State entity that receives State funds from a State agency, except any non-State entity subject to the audit and other reporting requirements of the Local Government Commission, file annual grant compliance reports. All annual grant compliance reports must be filed with the funding agency in a manner prescribed by the agency.

For convenience, the requirements of N.C.G.S. 143C-6-22, N.C.G.S. 143C-6-23, N.C.G.S. 143C-10-1, and 09 NCAC 03M.0205 are set forth in this Attachment.

§ 143C-6-22. Use of State funds by non-State entities.

- (a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly. State funds include federal funds that flow through the State Treasury.
- (b) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, or fails to submit or falsifies the information required by G.S. 143C-6-23 or any other provision of law, the Director shall take appropriate administrative action to ensure that no further irregularities or violations of law occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds. Appropriate administrative action may include suspending or withholding the disbursement of State funds and recovering State funds previously disbursed.
- (c) Civil Actions. – Civil actions to recover State funds or to obtain other mandatory orders in the name of the State on relation of the Attorney General, or in the name of the Office of State Budget and Management, shall be filed in the General Court of Justice in Wake County. (2006-203, s. 3.)

§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.

- (a) Definitions. – The following definitions apply in this section:
 - (1) "Grant" and "grant funds" – State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.
 - (2) "Grantee" – A non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
 - (3) "Encumbrance" – A financial obligation created by a purchase order, contract, salary commitment, unearned or prepaid collections for services provided, or other legally binding agreement. A financial obligation is not an encumbrance for purposes of this section unless it (i) is in writing and has been signed by a person or entity who has authority to legally bind the grantee or subgrantee to spend the funds or (ii) was created by the provision of goods or services to the grantee or subgrantee by a third party under circumstances that create a legally binding obligation to pay for the goods or services.
 - (4) "Subgrantee" – A non-State entity that receives State funds as a grant from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.
- (b) Conflict of Interest Policy. – Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.
- (c) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.

- (d) Office of State Budget Rules Must Require Uniform Administration of State Grants. – The Office of State Budget and Management shall adopt rules to ensure the uniform administration of State grants by all grantor State agencies and grantees or subgrantees. The Office of State Budget and Management shall consult with the Office of the State Auditor and the Attorney General in establishing the rules required by this subsection. The rules shall establish policies and procedures for disbursements of State grants and for State agency oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures shall:
- (1) Ensure that the purpose and reporting requirements of each grant are specified to the grantee.
 - (2) Ensure that grantees specify the purpose and reporting requirements for grants made to subgrantees. G.S. 143C-6-23 Page 2.
 - (3) Ensure that State funds are spent in accordance with the purposes for which they were granted.
 - (4) Hold the grantees and subgrantees accountable for the legal and appropriate expenditure of grant funds.
 - (5) Provide for adequate oversight and monitoring to prevent the misuse of grant funds. These policies shall require each grantee and subgrantee to ensure that, for accounting purposes, State funds and interest earned on those funds remain separate and apart from other funds in the possession or control of the grantee or subgrantee.
 - (6) Establish mandatory periodic reporting requirements for grantees and subgrantees, including methods of reporting, to provide financial and program performance information. The mandatory periodic reporting requirements shall require grantees and subgrantees to file with the State Auditor copies of reports and statements that are filed with State agencies pursuant to this subsection. Compliance with the mandatory periodic reporting requirements of this subdivision shall not require grantees and subgrantees to file with the State Auditor the information described in subsections (b) and (c) of this section.
 - (7) Require grantees and subgrantees to maintain reports, records, and other information to properly account for the expenditure of all grant funds and to make such reports, records, and other information available to the grantor State agency for oversight, monitoring, and evaluation purposes.
 - (8) Require grantees and subgrantees to ensure that work papers in the possession of their auditors are available to the State Auditor for the purposes set out in subsection (i) of this section.
 - (9) Require grantees to be responsible for managing and monitoring each project, program, or activity supported by grant funds and each subgrantee project, program, or activity supported by grant funds.
 - (10) Provide procedures for the suspension of further disbursements or use of grant funds for noncompliance with these rules or other inappropriate use of the funds.
 - (11) Provide procedures for use in appropriate circumstances for reinstatement of disbursements that have been suspended for noncompliance with these rules or other inappropriate use of grant funds.
 - (12) Provide procedures for the recovery and return to the grantor State agency of unexpended grant funds from a grantee or subgrantee (i) in accordance with subsection (f1) of this section or (ii) in the event that the grantee or subgrantee is unable to fulfill the purposes of the grant for a reason not set forth in that subsection.
- (d1) Required Grant Terms. – The terms of each grant shall include all of the following, which shall be deemed a part of the grant:
- (1) The limitation contained in G.S. 143C-6-8 concerning the availability of appropriated funds.
 - (2) The relevant provisions of any legislation authorizing or governing the administration of the grant.
 - (3) The terms of this section.
- (e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are subject to the provisions of Chapter 150B of the General Statutes.
- (f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The Office of State Budget and Management, after consultation with the administering State agency, shall have the power to suspend disbursement of grant funds to grantees or subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this section. If the grant funds are a pass-through of funds granted by an agency of the United States, then the Office of State Budget and Management must consult with the granting agency of the United States and the State agency that is the recipient of the pass-through funds prior to taking the actions authorized by this subsection.
- (f1) Return of Grant Funds. – Except as otherwise required by federal law, a grantee or subgrantee shall return to the State all affected grant funds and interest earned on those funds if any of the following occurs:
- (1) The funds are in the possession or control of a grantee and are not expended, made subject to an encumbrance, or disbursed to a subgrantee by August 31 immediately following the fiscal year in which the funds are appropriated by the General Assembly, or a different period set forth in the terms of the applicable appropriation or federal grant.
 - (2) The funds remain unexpended at the time that the grantee or subgrantee dissolves, ceases operations, or otherwise indicates that it does not intend to spend the funds.
 - (3) The Office of State Budget and Management seeks to recover the funds pursuant to subsection (f) of this section.

- (f2) Use of Returned Grant Funds. – Encumbered funds returned to the State pursuant to subsection (f1) of this section by a grantee or subgrantee shall upon appropriation by the General Assembly be spent in accordance with the terms of the encumbrance. All other funds returned to the State by a grantee or subgrantee pursuant to subsection (f1) of this section shall be credited to the fund from which they were appropriated and shall remain unexpended and unencumbered until appropriated by the General Assembly. Nothing in this section shall be construed to authorize an expenditure pursuant to an unlawful encumbrance or in a manner that would violate the terms of the appropriation of the grant funds at issue.
- (g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds.
- (h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007, and by May 1 of every succeeding year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on all grantees or subgrantees that failed to comply with this section with respect to grant funds received in the prior fiscal year.
- (i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each year, each State agency shall submit a list to the State Auditor, in the format prescribed by the State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal year. The list shall include the amount disbursed to each grantee and other information as required by the State Auditor to comply with the requirements of this section.
- (j) Use of Interest Earned on Grant Funds. – Except as otherwise required by federal law or the terms of a federal grant, interest earned on grant funds after receipt of the funds by a grantee or subgrantee shall be credited to the grantee or subgrantee and shall be used for the same purposes for which the grant or subgrant was made.
- (k) Reporting by Grantees and Subgrantees That Cease Operations. – A grantee or subgrantee that intends to dissolve or cease operations shall report that decision in writing to the Office of State Budget and Management and to the Fiscal Research Division at least 30 days prior to taking that action. (2006-203, s. 3; 2007-323, s. 28.22A(o); 2007-345, s. 12; 2014-100, s. 6.5(a); 2015-264, s. 21.)

§ 143C-10-1. Offenses for violation of Chapter.

- (a) Class 1 misdemeanor. – It is a Class 1 misdemeanor for a person to knowingly and willfully do any one or more of the following:
 - (1) Withdraw funds from the State treasury for any purpose not authorized by an act of appropriation.
 - (2) Approve any fraudulent, erroneous, or otherwise invalid claim or bill to be paid from an appropriation.
 - (3) Make a written statement, give a certificate, issue a report, or utter a document required by this Chapter, any portion of which is false.
 - (4) Fail or refuse to perform a duty imposed by this Chapter.
- (b) Class A1 misdemeanor. – It is a Class A1 misdemeanor for a person to make a false statement in violation of G.S. 143C-6-23(c).
- (c) Forfeiture of Office or Employment. – An appointed officer or employee of the State or an officer or employee of a political subdivision of the State, whether elected or appointed, forfeits his office or employment upon conviction of an offense under this section. An elected officer of the State is subject to impeachment for committing any of the offenses specified in this section. (2006-203, s. 3.)

09 NCAC 03M.0205 Reporting Thresholds:

There are three reporting thresholds established for recipients and subrecipients receiving State financial assistance.

The reporting thresholds are:

- (1) Less than \$25,000 – A recipient that receives, holds, uses, or expends State financial assistance in an amount less than twenty-five thousand dollars (\$25,000) within its fiscal year must comply with the reporting requirements established by 9 NCAC Subchapter 03M including:
 - (A) A certification completed by the recipient Board and management stating that State financial assistance received or held was used for the purposes for which it was awarded; and
 - (B) An accounting of all State financial assistance received, held, used, or expended.

All reporting requirements shall be filed with the funding agency within three months after the end of the recipient's fiscal year in which the State financial assistance was received.

- (2) \$25,000 up to \$500,000 - A recipient that receives, holds, uses, or expends State financial assistance in an amount of at least twenty-five thousand (\$25,000) or greater, but less than five hundred thousand dollars (\$500,000) within its fiscal year must comply with the reporting requirements established by this Subchapter including:
- (A) A certification completed by the recipient Board and management stating that State financial assistance received or held was used for the purposes for which it was awarded;
 - (B) An accounting of all State financial assistance received, held, used, or expended; and
 - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract.

All reporting requirements shall be filed with the funding agency within three months after the end of the recipient's fiscal year in which the State financial assistance was received.

- (3) Equal to or greater than \$500,000 – A recipient that receives, holds, uses, or expends State financial assistance in the 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:
- (A) A certification completed by the recipient Board and management stating that State financial assistance received or held was used for the purposes for which it was awarded;
 - (B) An accounting of all State financial assistance received, held, used, or expended;
 - (C) A description of activities and accomplishments undertaken by the recipient, including reporting on any performance measures established in the contract; and
 - (D) A single or program-specific audit prepared and completed in accordance with Generally Accepted Government Auditing Standards, also known as the Yellow Book.

All reporting requirements shall be filed with the funding agency within three months after the end of the recipient's fiscal year in which the State financial assistance was received. Audits must be provided to the funding agency within nine months after the end of the recipient's fiscal year in which the State financial assistance was received.

Other Provisions:

1. Unless prohibited by law, the costs of audits made in accordance with the provisions of 9 NCAC 03M.0205 are allowable charges to State and Federal awards. The charges may be considered a direct cost or an allocated indirect cost, as determined in accordance with cost principles outlined in the Code of Federal Regulations, 2 CFR Part 200. The cost of any audit not conducted in accordance with 9 NCAC 03M.0205 is unallowable and shall not be charged to State or Federal grants.
2. The audit requirements in 9 NCAC Subchapter 03M do not replace a request for submission of audit reports by grantor agencies in connection with requests for direct appropriation of state aid by the General Assembly.
3. Notwithstanding the provisions of 9 NCAC Subchapter 03M, a grantee may satisfy the reporting requirements of 09 NCAC 03M.0205(b)(4) by submitting a copy of the report required under the federal law with respect to the same funds.
4. All recipients and subrecipients shall use the prescribed forms of the awarding agency and of the Office of the State Auditor in making reports to the awarding agency and the Office of the State Auditor.