

NORTH CAROLINA

REGISTER



Volume 20, Issue 02
Pages 39 - 108

July 15, 2005

This issue contains documents officially
filed through June 23, 2005.

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NORTH CAROLINA ADMINISTRATIVE CODE CLASSIFICATION SYSTEM

The North Carolina Administrative Code (NCAC) has four major classifications of rules. Three of these, titles, chapters, and sections are mandatory. The major classification of the NCAC is the title. Each major department in the North Carolina executive branch of government has been assigned a title number. Titles are further broken down into chapters which shall be numerical in order. Subchapters are optional classifications to be used by agencies when appropriate.

NCAC TITLES	TITLE 21 LICENSING BOARDS	TITLE 24 INDEPENDENT AGENCIES
1 ADMINISTRATION	1 Acupuncture	1 Housing Finance
2 AGRICULTURE & CONSUMER SERVICES	2 Architecture	2 Agricultural Finance Authority
3 AUDITOR	3 Athletic Trainer Examiners	3 Safety & Health Review Board
4 COMMERCE	4 Auctioneers	4 Reserved
5 CORRECTION	6 Barber Examiners	5 State Health Plan Purchasing Alliance Board
6 COUNCIL OF STATE	8 Certified Public Accountant Examiners	
7 CULTURAL RESOURCES	10 Chiropractic Examiners	
8 ELECTIONS	11 Employee Assistance Professionals	
9 GOVERNOR	12 General Contractors	
10A HEALTH AND HUMAN SERVICES	14 Cosmetic Art Examiners	
11 INSURANCE	16 Dental Examiners	
12 JUSTICE	17 Dietetics/Nutrition	
13 LABOR	18 Electrical Contractors	
14A CRIME CONTROL & PUBLIC SAFETY	19 Electrolysis	
15A ENVIRONMENT & NATURAL RESOURCES	20 Foresters	
16 PUBLIC EDUCATION	21 Geologists	
17 REVENUE	22 Hearing Aid Dealers and Fitters	
18 SECRETARY OF STATE	25 Interpreter/Transliterator	
19A TRANSPORTATION	26 Landscape Architects	
20 TREASURER	28 Landscape Contractors	
21* OCCUPATIONAL LICENSING BOARDS	29 Locksmith Licensing	
22 ADMINISTRATIVE PROCEDURES (REPEALED)	30 Massage & Bodywork Therapy	
23 COMMUNITY COLLEGES	31 Marital and Family Therapy	
24* INDEPENDENT AGENCIES	32 Medical Examiners	
25 STATE PERSONNEL	33 Midwifery Joint Committee	
26 ADMINISTRATIVE HEARINGS	34 Funeral Service	
27 NC STATE BAR	36 Nursing	
28 JUVENILE JUSTICE AND DELINQUENCY PREVENTION	37 Nursing Home Administrators	
	38 Occupational Therapists	
	40 Opticians	
	42 Optometry	
	44 Osteopathic Examination (Repealed)	
	45 Pastoral Counselors, Fee-Based Practicing	
	46 Pharmacy	
	48 Physical Therapy Examiners	
	50 Plumbing, Heating & Fire Sprinkler Contractors	
	52 Podiatry Examiners	
	53 Professional Counselors	
	54 Psychology	
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Note: Title 21 contains the chapters of the various occupational licensing boards and Title 24 contains the chapters of independent agencies.

**CHAPTER 09 - OFFICE OF THE GOVERNOR
AND LT. GOVERNOR**

09 NCAC 03M .0102 DEFINITIONS

As used in this Subchapter:

- (1) "Agency" shall mean and include every public office, public officer or official (State or local, elected or appointed), 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 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) "Compliance Supplement" refers to the North Carolina State Compliance Supplement, maintained by the State and Local Government Finance Division within 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 that is used to reflect a relationship between the agency, grantee, and subgrantee.
- (6) "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 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. 143-6.2(b).
- (11) "Grantor" means an entity that provides resources, generally financial, to another entity in order to achieve a specified goal or objective.
- (12) "Non-State Entity" has the meaning in G.S. 143-6.2(a).
- (13) "Public Authority" has the meaning in G.S. 159-7(10).
- (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.
- (15) "Special Appropriation" means a legislative act authorizing the expenditure of a designated amount of public funds for a specific purpose.
- (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 subgranted to other organizations.
- (17) "Subgrantee" has the meaning in G.S. 143-6.2(b).
- (18) "Unit of Local Government" has the meaning in G.S. 159-7(15).

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0201 ALLOWABLE USES OF STATE FUNDS

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

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0202 GRANTEE RESPONSIBILITIES

A grantee that receives State funds shall ensure that those funds are utilized for the purpose of the grant and shall expend those funds in compliance with reporting requirements established by this Subchapter. Grantees shall:

- (1) Provide the information required by the grantor 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 reports and records shall be made available for inspection by both the awarding agency and the Office of the State Auditor for oversight, monitoring, and evaluation purposes.
- (3) Ensure that subgrantees comply with all reporting requirements of the grantee.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0203 SUBGRANTEE RESPONSIBILITIES

A subgrantee that receives State funds must ensure that those funds are spent for the purpose of the grant and shall expend those funds in compliance with reporting requirements established by this Subchapter. Subgrantees shall:

- (1) Provide the information required by the grantor 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 reports and records shall be available for inspection by both the awarding agency and the Office of the State Auditor for oversight, monitoring, and evaluation purposes.
- (3) Ensure that any subgrantees comply with all reporting requirement of the grantee.

*History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.*

09 NCAC 03M .0205 REPORTING THRESHOLDS AND FORMATS FOR GRANTEEES AND SUBGRANTEEES

(a) For the purposes of this Subchapter, there are three reporting thresholds established for grantees and subgrantees receiving State funds. The reporting thresholds are:

- (1) Less than \$25,000 – A grantee that receives, uses, or expends State 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:
 - (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 - A grantee that receives, uses, or expends State funds in an amount of at least twenty-five thousand (\$25,000) and up to 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 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 – A grantee that receives, uses, or expends State funds and in the amount 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 grantee Board and management stating that the State funds were received, used, or expended for the purposes for which they were granted;
 - (B) An audit prepared and completed by a licensed Certified Public Accountant for the grantee consistent with the reporting requirement of this Subchapter; and
 - (C) A description of activities and accomplishments undertaken by the grantee with the State funds.All reporting requirements shall be filed with both the funding agency and the Office of the State Auditor within nine months after the end of the grantee's fiscal year in which the State funds were received.

(b) Unless prohibited by law, the costs of audits made in accordance with the provisions of this rule 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 Office of Budget and Management (OMB) Circular A-87. The cost of any audit not conducted in accordance with this Subchapter is unallowable and shall not be charged to State or Federal grants.

(c) The audit requirements in this Subchapter 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.

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

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

*History Note: Authority G.S. 143-6.2;
Eff. August 1, 2005.*

09 NCAC 03M .0301 OFFICE OF THE STATE CONTROLLER RESPONSIBILITIES

All grantees receiving State funds shall enter into a disbursing agreement with the Office of the State Controller in accordance with G.S. 143-3 and G.S. 143-3.2.

*History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.*

09 NCAC 03M .0401 AGENCY RESPONSIBILITIES

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

- (1) Notify each grantee, at the time the grant is made, of the purpose of the grant and the reporting requirements established in this Subchapter.
- (2) Prior to disbursing any grant funds:
 - (A) register with the Office of State Budget and Management's Community Resources Information System (CRIS); and
 - (B) follow the procedures for disbursement of grant funds.
- (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 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.
- (6) Hold grantees accountable for the expenditure of State funds by performing monitoring and oversight functions as required in this Subchapter.
- (7) Ensure that funds are spent consistent with the purposes for which they were granted.
- (8) Not disburse funds to grantees that are not in compliance with the reporting requirements for funds received during the prior fiscal year. Agencies shall consult with the Office of State Budget and Management in making this determination.
- (9) Determine that the applicable reporting requirement has been met by the grantee and that all reports have been completed and submitted. For grantees receiving less than five hundred thousand dollars (\$500,000), the grantor agency shall complete a Certification of Compliance to the Office of the State Auditor.
- (10) Conduct periodic monitoring reviews to ensure that State awards are used for authorized purposes in compliance with laws, regulations, and the provisions of grant agreements and that performance goals are achieved.
- (11) Monitor compliance by grantees with all terms of a contract. Upon determination of noncompliance, the agency shall give the grantee 60 days written notice to come into compliance. After the 60-day period, the grantor agency shall:
 - (A) terminate the contract and take action to retrieve unexpended funds or unauthorized expenditures;
 - (B) suspend payments pending negotiation of a plan of corrective action; or
 - (C) offset future payments with the amount improperly spent.

(b) Each non-State entity shall ensure that subgrantees 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. 143-6.2;
Eff. July 1, 2005.

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

Pursuant to the provisions of this Subchapter, the Office of the State Auditor shall:

- (1) Review submitted audit reports for those grantees receiving more than five hundred thousand dollars (\$500,000) in State funds to determine compliance with applicable reporting standards.
- (2) Maintain grantor agency submitted compliance data for grantees that receive State funds at levels below five hundred thousand dollars (\$500,000) demonstrating that the grantees have met the reporting requirements established by this Subchapter.
- (3) Notify disbursing agencies, by January 31st of each year, of all grantees for which no compliance data has been received.
- (4) Notify disbursing agencies of any material findings in the audits of grantees throughout the State fiscal year as reports are received.
- (5) Submit a list to the Office of State Budget and Management by January 31st of each year; of each grantee that received State funds in the prior fiscal year including the status of grantee compliance with the reporting requirements.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

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.
- (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) Maintain a Suspension of Funding list readily accessible to any interested party that identifies any grantee found in noncompliance. This list shall serve as notice to other agencies that no further State grant funding may be provided to that grantee.
- (4) Maintain a Community Resources Information System database to record grant documentation required by this Subchapter.
- (5) In conjunction with the grantor agency, ensure reporting requirements have been met prior to the removal of any grantee from the Suspension of Funding listing. A grantee found in noncompliance may appeal to the Office of State

- Budget and Management for corrective action and reinstatement from the Suspension of Funding list. Once removed from the Suspension of Funding list, the grantee is eligible for current and future grants of State funds.
- (6) Take administrative action, when the Director of Budget finds that the grantee has spent or encumbered State funds for an unauthorized purpose, which includes reporting criminal violations to the Attorney General and the State Bureau of Investigation.
 - (7) If the grant funds are a pass-through of funds granted by an agency of the United States, 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 actions authorized by this Subchapter.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0703 REQUIRED CONTRACT PROVISIONS

Each contract agreement shall contain:

- (1) A specification of the purpose of the grant, services to be provided, objectives to be achieved, and expected results;
- (2) The Source of funds (federal, state, etc.) must be identified (CFDA number if applicable) and percentages included where applicable;
- (3) Account coding information sufficient to provide for tracking of the disbursement through the grantor accounting system;
- (4) Agreement to maintain all grant 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 grantee or subgrantee, including the employer/tax identification number, address, contact information, and the grantee/subgrantee fiscal year end date;
- (6) Signatures indicating authorization by 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 grantee;
- (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 the grants subject to allocation and appropriation of funds to the agency for the purposes set forth in the contract;
- (13) Provision that requires reversion of unexpended funds to the agency upon termination of the contract;
- (14) A provision that requires compliance with the rules and reporting requirements outlined in this 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;
- (15) A clause addressing assignability and subcontracting including the following:
 - (a) the grantee or subgrantee is not relieved of any of the duties and responsibilities of the original contract; and
 - (b) the subgrantee agrees to abide by the standards contained in this Subchapter, and to provide all information to allow the grantee to comply with these standards.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0704 GRANT MONITORING AND EVALUATION

(a) Agencies shall ensure that oversight and monitoring of grantee and subgrantees occurs to prevent the misuse of State funds. Grantees and subgrantees shall manage the day-to-day operations of grant-supported activities. Grantors shall monitor grant-supported activities to assure compliance with applicable compliance requirements and that performance goals are being achieved. Grantee monitoring shall cover each program, function or activity. An evaluation must be performed with a comparison of actual accomplishments to the measurable objectives or outcomes established for the grant.

(b) Agencies shall:

- (1) Grant Identification - At the time the grant is made, the agency must provide information to the grantee including the required contract provisions as well as the applicable compliance requirements.
- (2) During the grant period, the agency shall monitor the grantee's use of State awards through reporting, site visits, regular contact, or other means to provide assurance that the grantee administers State funds in compliance with laws, rules, and the provisions of grant agreements and that performance goals are achieved.
- (3) Ensure that subgrantees expending five hundred thousand dollars (\$500,000) or more in State awards during the subgrantee's fiscal year have met the audit requirements of this Subchapter and that the required audits are completed within nine months of the end of the subgrantee's audit period; issue a management decision on audit findings within six months after receipt of the subgrantee's audit report; and ensure that the subgrantee takes timely corrective action on all audit findings.
- (4) Take action using sanctions when a subgrantee has demonstrated a continued inability or unwillingness to provide required audits.
- (5) Evaluate the impact of subgrantee activities on the agency's ability to comply with applicable State rules.
- (6) Evaluate the results and outcomes of the activities and accomplishments of the grantee or subgrantee to determine if results were achieved, the success of the activity, and whether the project activities should continue.

History Note: Authority G.S. 143-6.2;
Eff. July 1, 2005.

09 NCAC 03M .0801 NONCOMPLIANCE WITH RULES

- (a) 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 including:
- (1) communicating the requirements to the non-State entity;
 - (2) requiring a response from the non-State entity upon a determination of noncompliance; and
 - (3) suspend 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.
- (e) Each grantor agency shall ensure that grantees and subgrantees have complied with the applicable provisions of this Subchapter.

History Note: *Authority G.S. 143-6.2;*
Eff. July 1, 2005.

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 recovery and return of State funds in the event a grantee or subgrantee:
- (1) is unable to fulfill the obligations of the contractual agreement;
 - (2) is unable to accomplish the purposes of the grant;
 - (3) is noncompliant with the reporting requirements; or
 - (4) has inappropriately used the State funds.
- (b) Any apparent violations of a criminal law or malfeasance, misfeasance, or nonfeasance in connection with the use of State funds shall be reported by the Office of State Budget and Management to the Attorney General and State Bureau of Investigation.

History Note: *Authority G.S. 143-6.2;*
Eff. July 1, 2005.