

21.027

CORONAVIRUS STATE LOCAL FISCAL RECOVERY FUNDS

State Project/Program: STATE FISCAL RECOVERY FUNDS – AMERICAN RECOVERY PLAN ACT (ARPA) PROGRAM

U.S. Department of Treasury

Federal Authorization: Social Security Act §602 and 603, as added by section 9901 of the American Rescue Plan Act (ARPA) of 2021, Pub. L. No. 117-2 (Mar. 11, 2021), codified as 42 U.S.C. § 802 and 42 U.S.C. § 803 respectively; and as implemented by Treasury’s Interim Final Rule and Final Rule at 31 C.F.R. Part 35.

State Authorization: G. S. 159G
General Assembly of North Carolina Session 2021 – Session Law 2021-180 (Senate Bill 105) as amended by Session 2022-74 (House Bill 103).

**NC Department of Environmental Quality
Division of Water Infrastructure**

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The auditor should not consider the Supplement to be “safe harbor” for identifying audit procedures to apply in a particular engagement, but the auditor should be prepared to justify departures from the suggested procedures. The auditor can consider the supplement a “safe harbor” for identification of compliance requirements to be tested if the auditor performs reasonable procedures to ensure that the requirements in the Supplement are current.

The grantor agency may elect to review audit working papers to determine that audit tests are adequate.

Auditors may request documentation of monitoring visits by the State Agencies.

This compliance supplement must be used in conjunction with the OMB 2023 Compliance Supplement which will be issued in the summer. This includes “Part 3 - Compliance Requirements,” for the types that apply, “Part 6 - Internal Control,” and “Part 4 - Agency Program” requirements if the Agency issued guidance for a specific program. The OMB Compliance Supplement is Section A of the State Compliance Supplement.

I. PROGRAM OBJECTIVES

Note: This program is considered a “higher risk” program for 2024, pursuant to 2 CFR section 200.519(c)(2). Refer to the “Programs with Higher Risk Designation” section of Part 8, Appendix IV, Internal Reference Tables, for a discussion of the impact of the “higher risk” designation on the major program determination process.

Note: Per Part IV, “Other Information,” certain Coronavirus State and Local Fiscal Recovery Funds (SLFRF) recipients are provided with an option to have an alternative compliance

examination engagement in lieu of a Single Audit or a Program-Specific Audit under 2 CFR Part 200, Subpart F.

Of all state programs, the Department of Environmental Quality's SFRF program is limited solely to making necessary investments in water and sewer infrastructure. Accordingly, the funds have been distributed to subrecipients for the limited purpose of planning for, improving, expanding or renovating drinking water, wastewater or stormwater assets as allocated NC GS 159 G.

II. PROGRAM PROCEDURES

The State of North Carolina (the State) and its Administering Agencies are the direct recipients of CSFRF funding, which totaled \$5.4 billion. Through the state's budget process, these funds were appropriated to state agencies, local organizations, and recognized tribes across more than 180 unique allocations.

As an administering agency of SFRF funds, the Department of Environmental Quality, through the Division of Water Infrastructure and Office of Continuous Improvement, has allocated grants to local governments either in response to an earmark in an appropriations bill passed by the General Assembly or in response to the approval of an application by the State Water Infrastructure Authority.

The Department conducts an extensive review process, including review and approval of the following items:

- Written proposed scopes of work for each project
- Plans and specifications to ensure that they conform with the Safe Drinking Water Act and the Clean Water Act
- Procurements of consulting engineers and construction firms
- Requests for advance cash payments or reimbursement of costs incurred in relationship to projects

This compliance supplement is intended to guide audits for CSFRF recipients for whom NCDEQ is the administering agency.

III. COMPLIANCE REQUIREMENTS

Below on the matrix are the types of compliance requirements are applicable to the federal program, noted as “Y,” as determined by the federal granting agency if the federal program is listed in Part 2 of the OMB 2023 Compliance Supplement. A State agency may have added a Type. If the program is not listed in Part 2, the State Agency has determined the applicable Types. If a Type, applicable by OMB, does not apply at the local level or if the State has modified the federal requirements at the local level, this should be explained in the supplement under the Type. A Type that is not applicable at the local level is noted by “N.”

If a particular Type is noted as “Y,” the auditor must determine if the Type has a direct and material effect on the federal program for the auditee. For each Type of compliance requirement, the auditor must use the OMB 2023 Compliance Supplement, Part 3 (which includes generic details about each compliance requirement other than Special Tests and Provisions) and Part 4 (which includes any program-specific requirements) to perform the audit.

A	B	C	E	F	G	H	I	J	L	M	N
Activities Allowed or Unallowed	Allowable Costs/Cost Principles	Cash Management	Eligibility	Equipment/ Real Property Management	Matching, Level of Effort, Earmarking	Period Of Performance	Procurement Suspension & Debarment	Program Income	Reporting	Subrecipient Monitoring	Special Tests and Provisions
Y	Y	N	N	N	Y	Y	Y	N	Y	Y	Y

A. Activities Allowed or Unallowed

Compliance Requirements

Expenditures can only be expended for projects and contracts that have been previously approved by the Department in writing. Allowable project costs are limited to: (1) the actual cost of the contracts submitted to the Department for approval and that have received an Authority to Award and (2) contingency costs not to exceed 5% of the estimated eligible construction costs as bid. Costs which are not allowed are expenditures for repairs or for the operation and maintenance of any other component of wastewater and or water supply system.

Audit Objectives

Determine whether funds were expended only for allowable activities for authorized projects.

Suggested Audit Procedures

The auditor should test expenditures to ascertain that activities have been limited those previously approved by the Department through the Scope of Work and Authority to Award process.

B. Allowable Costs/Cost Principles**Compliance Requirements**

Costs must be consistent with policies and procedures that apply to State program and other activities of the recipient organization. This includes guidelines and special conditions established by the agreement with the recipient. Allowable project costs are limited to the actual cost of the works described in the project application and indicated in the plans and specifications.

Audit Objectives

Ascertain whether charges made to State awards were for allowable costs.

Suggested Audit Procedures

Test a sample of transactions to assess the following:

- assess whether the costs align with a scope of work or contract that was approved by the Department of Environmental Quality.
- whether or not the costs recorded on the accounting ledger for the subrecipient entity are materially the same as those submitted in expense packages to the Department.

C. Cash Management

N/A

E. Eligibility**Compliance Requirements**

Water Infrastructure projects often incur costs across multiple years and involve complex procurements. Local project or grant ordinances and resolutions are necessary for the local government to legally proceed with contracting and expending funds for these projects. Project eligibility requires that the local government take appropriate and necessary steps to formalize the project through its budget.

Audit Objectives

Ascertain whether the local government took all necessary steps to create a valid project for submittal to the Department.

Suggested Audit Procedures

Review capital project ordinances and resolutions and related minutes of the governing board to ensure that board actions were taken when required by state laws (Local Government Budget and Fiscal Control Act or 143-129 Letting of Public Contracts.)

F. Equipment & Real Property Management

N/A

G. Matching, Level of Effort or Earmarking

N/A

H. Period of Performance**Compliance Requirements**

Federal direct recipients of State Fiscal Recovery Funds may only use funds to cover costs incurred during the period beginning on March 3, 2021, and ending on December 31, 2024, pursuant to the Final Rule at 31 CFR section 35.5(a). Recipients must liquidate

all obligations incurred by December 31, 2024, under the award no later than December 31, 2026, which is the end of the period of performance.

Department of Environmental Quality Subrecipients are given a period of performance that is unique to each project. Pursuant to NCGS 159G-41, the department's offer of funding is not revocable for a period of up to two years after it is made.

Audit Objectives

Determine whether expenditures fell within the expected period of performance of the subaward from the Department to the local government unit, and that expenditures that occurred significantly before the Department's review and approval of the project have been included.

Suggested Audit Procedures

Select a sample of expenditures and review whether goods or services were purchased or delivered within a reasonable period outlined on the dated Request for Funding or fully Executed Funding Offer form.

I. Procurement Suspension and Debarment:

Compliance Requirements

Prior to entering subawards and contracts with award funds, recipients must verify that such contractors and subrecipients are not suspended, debarred, or otherwise excluded.

Audit Objectives

Determine whether the recipient verified that an entity with which it plans to enter a transaction is not suspended, debarred, or otherwise excluded prior to entering subawards and contracts with award funds. This includes, if the local government is subawarding SFRF to another entity, verifying the entity is not on the Suspension of Funding list maintained by OSBM.

Suggested Audit Procedures

Examine contract files and verify that they document the history of procurement, including the rationale for the method of procurement, selection of contract type, basis for contractor selection and the basis for contract price (2 CFR section 200.318(i) and 48 CFR Part 44 and section 52.244-2). For qualification-based selections (RFQ), review whether the local government made the selection consistent with its written procedures for technical evaluations.

J. Program Income

After discussion with the North Carolina Pandemic Recovery Office and the U.S. Treasury, it was determined that program income requirements for the State and Local Fiscal Recovery Fund program do not apply to the water and sewer projects undertaken by local governments consistent with the funding programs administered by the Department.

L. Reporting

Compliance Requirements

Local government units may request reimbursements from the Department by submitting supporting documentation such as invoices or pay applications to the Department for

review. The Department's compliance with pass-through requirements and period of performance relies on timely and accurate submittals from subrecipients.

Audit Objectives

Review the frequency of submittals to the Department.

Suggested Audit Procedures

Test a selection of reimbursement packages and review the dates between the local government unit incurring the expenditure and requesting payment from the Department.

M. Subrecipient Monitoring

In limited circumstances, one local government may subaward SFRF to another local government for the purpose of carrying out an infrastructure project.

Audit Objectives

Determine whether the local government has executed an interlocal agreement to subaward SFRF funds to another local government and whether it has been reported to the Department prior to execution.

Suggested Audit Procedures

Review the local government unit's records to see if any interlocal agreements have been executed for the project, and if so, if the interlocal agreement was reported to the Department.

N. Special Tests and Provisions**a. SALES TAX REIMBURSEMENTS****Compliance Requirements**

Subrecipient local governments may elect to either a) be reimbursed for sales taxes paid on a construction project or b) to deduct expenditures reported to the Department. Sales taxes paid by subrecipients represent a potential deduction from allowable costs.

Audit Objectives

Determine whether the local government accurately represented its eligible costs on the department's reimbursement form.

Suggested Audit Procedures

Select a random sample of sales tax certifications provided to the Department and determine if only North Carolina sales and use taxes were included in the certification or if other state taxes, which are non-reimbursable were included in the supporting documentation.