

SPECIAL APPROPRIATIONS

**State Authorization: House Bill 2436, Section 13.1 – 13.2B.(b); 13.7.(a) – 13.9.(e)
Current Operations and Capital Improvements Appropriations
Act of 2008**

An act to modify the Current Operations and Capital Appropriations Act of 2007, to authorize indebtedness for capital projects, and to make various tax law and fee changes.

North Carolina Department of Commerce Fiscal Management Division

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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.

I. PROGRAM OBJECTIVES

Special appropriations are funds appropriated from the General Fund by the General Assembly to the Department of Commerce as authorized in a legislative act to supplement the budgets of local government and non-profit entities for regional and statewide programs in the areas of community development and economic development. Funds are either appropriated from the state’s General Fund directly to the non-state agency or to a state agency for the purpose of allocations to the non-State agency. If the appropriation is a direct appropriation, the funds are budgeted (certified) in the Special Appropriations Reserve in the Office of State Budget and Management. If the appropriation is made to a State agency, funds are budgeted (certified) in that agency’s operating budget code.

II. PROGRAM PROCEDURES

After the appropriation is made a letter should be sent by the Department of Commerce, in which funds are budgeted, to the recipient organization stating that the General Assembly has appropriated funds to the organization and the purpose for which the funds are to be expended. Special appropriations can only be expended for authorized projects and purposes specified in the appropriating legislation.

Included with the letter to the recipient organization should be two original contracts, a "Request for Payment of Appropriation Form", and a copy of the most current North Carolina Administrative Code (NCAC) Subchapter 03M. The recipient organization must return one signed and notarized original contract to the Department of Commerce and the second contract should be kept for their records. In addition, the recipient organization must return the "Request for Payment of Appropriation Form" completely filled out and notarized with the contract prior to funds being released. The form should specify the recipient, amount, purpose of the appropriation, federal tax ID number, recipient's fiscal year end, and any matching requirements.

Additional information is required from all non-governmental recipients, such as articles of incorporation and by-laws, trust indenture, partnership agreement, etc., list of board of directors/trustees, conflict of interest policy, and a sworn statement of no overdue tax debts should be attached to the complete and notarized "Request for Payment of Appropriation Form." Non-profit entities are required to submit a copy of their IRS tax exempt letter in addition to the information previously listed. Upon return of the requested information and successful review by the Department of Commerce, disbursements can be made. Before disbursement is made, the Office of State Budget and Management may require recipients of special appropriations to supply information demonstrating that the recipient is capable of managing funds in accordance with law and has established adequate financial procedures and controls. The Department should immediately contact their budget analyst in the Office of State Budget and Management for assistance associated with the Special Appropriation, if the Department needs assistance in obtaining additional information from a recipient during the Department's review of that recipient.

III. COMPLIANCE REQUIREMENTS

1. Activities Allowed or Unallowed

Compliance Requirement

According to G.S. 143C-6-22, 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, including federal funds that flow through the State Treasury. Special Appropriation funds appropriated from the General Fund by the General Assembly are to be expended only for the purpose of community development and economic development as set forth in the effective appropriations bill.

Suggested Auditing Procedures

1. According to the North Carolina Administrative Code (NCAC) Subchapter 03M, the auditor should 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.
2. The auditor should inquire with management, audit grantee contract and sub-grantee contracts, lease agreements and review board of director minutes for disclosures on restriction of cash to determine that restricted funds are properly classified and disclosed.

2. Allowable Costs/Cost Principles

Compliance Requirement

1. According to the North Carolina Administrative Code (NCAC) Subchapter 03M, 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.

Suggested Auditing Procedures

1. The auditor should reference the Cost Principles outlined in the Office of Management and Budget (OMB) Circular A-87 for governmental units and the Cost Principles outlined in the Office of Management and Budget (OMB) Circular A-122 for non-profit organizations during the monitoring and oversight process.

3. Cash Management

Compliance Requirement

Pursuant to G.S. 143C-6-21 and the State's Cash Management Plan, special appropriations of more than one hundred thousand dollars (\$100,000) to or for the use of a non-profit corporation shall be made in quarterly or monthly payments unless specified differently in the Appropriations Act. The Director of the Budget can make exceptions to this procedure.

Suggested Auditing Procedures

1. Review deposits to insure that funds were received quarterly from Department of Commerce.
2. If an exception was made, obtain documentation approving the exception.
3. Review changes in bank balances for reasonableness and compare ending balances with cash budget balances; explanations should be obtained for significant or unusual variations.

4. Conflict of Interest

Compliance Requirement

According to 143C-6-23, 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 before funds may be disbursed by the State agency. 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.

Suggested Auditing Procedures

1. Review contracts to insure that the beneficiary or contractor is not an employee or agent of the non-state agency (recipient) who exercises any function or responsibility with regard to the non-state agency nor an immediate family member. If a conflict exists, determine whether the non-state agency (recipient) has received written waiver of the conflict of interest provision for the contractor.

7. Matching, Level of Effort, Earmarking

Compliance Requirement

Special appropriations subject to a matching requirement should be disbursed and expended in accordance with G.S. 143C-4-5, non-state match restrictions.

§ 143C-4-5. Non-State Match Restrictions

Whenever money is required to match an appropriation made for a specific purpose by the State of North Carolina, the recipient of the appropriation shall actually receive as a gift, grant, earnings in actual money, or a pledge that can be used as collateral in any prudent loan transaction, the matching amount required. The recipient shall retain the matching amount received in its possession until spent for that purpose and shall spend an equal percentage of the appropriation and of the matching amount each time an expenditure is made, unless the individual appropriation requires otherwise.

Suggested Auditing Procedures

1. Test expenditure and related records to determine the percentage of funds spent for each transaction and determine whether match requirements have been met.

12. Reporting

Compliance Requirement

As a condition on the receipt of State funds, non-profit entities shall comply with the following:

By January 15, 2008, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- State fiscal year 2006-2007 program activities, objectives, and accomplishments;
- State fiscal year 2006-2007 itemized expenditures and fund sources;
- State fiscal year 2007-2008 planned activities, objectives, and accomplishments, including actual results through December 31, 2007; and
- State fiscal year 2007-2008 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2007.

By January 15, 2009, and more frequently as requested, report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division the following information:

- State fiscal year 2007-2008 program activities, objectives, and accomplishments;

- State fiscal year 2007-2008 itemized expenditures and fund sources;
- State fiscal year 2008-2009 planned activities, objectives, and accomplishments, including actual results through December 31, 2008; and
- State fiscal year 2008-2009 estimated itemized expenditures and fund sources, including actual expenditures and fund sources, through December 31, 2008.

Provide to the Fiscal Research Division a copy of the organization's annual audited financial statement within 30 days of issuance of the statement.

Section 13.11.(b) of House Bill 1473 reads:

No funds appropriated under this act shall be released to a nonprofit organization listed in subsection (a) of this section until the organization has satisfied the reporting requirement for January 15, 2007. Fourth quarter allotments shall not be released to any nonprofit organization that does not satisfy the reporting requirements by January 15, 2008, or January 15, 2009.

These reporting requirements are pursuant to House Bill 1473 – Part XIII – Department of Commerce.

State Agency Reports. – 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. (2006-203, s. 3.)

Suggested Auditing Procedures

1. Verify that reports were filed with the Department of Commerce, State Auditor, JLC on Governmental Operations and Fiscal Research as requested and show that the funds were spent on approved activities as shown in the approved grant application and budget. Sample expenditures reported for the funds appropriated and verify the reported expenditures to a copy of the application and budget.