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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

The primary objective of the American Recovery Plan Act Program (ARPA) is to provide grants to qualified local government unit (LGU) applicants for municipal water facilities (drinking water, wastewater, and stormwater) and for capital facilities as allowed by G.S. 159G to encourage and assist these entities to meet their responsibilities to their citizens to maintain a clean and healthful environment, an abundant supply of pure water, and further provide an adequate base for economic growth.

II. PROGRAM PROCEDURES

The N. C. Department of Environmental Quality (DEQ), Division of Water Infrastructure (DWI) approves disbursements to recipients based on the submittal of expenditures and supporting documentation as required in the contract. The level of State participation is established when the official offer is extended and accepted by the applicant. The level of participation may be amended based on a summary of the project's final cost.

The NC General Assembly (NCGA) earmarked funds to specific LGUs through legislation (SL 2021-180 and SL 2022-74). LGUs may also request ARPA grant funds from DWI in addition to receiving earmark appropriations from the NCGA. For those LGUs that did not receive an earmark appropriation from the NCGA, several steps are followed in determining which local governments receive funding.

- Meetings are held with local government representatives.
- Applications to the State are reviewed and prioritized every six months.
- State emergency loans are reviewed anytime.
- LGUs that wish to seek funding must complete an application package. This includes those LGUs that received earmark appropriations from the NCGA. Applications are evaluated and ranked for those LGUs that did not receive an earmark appropriation from the NCGA. Projects are awarded funding based on availability starting with the highest ranked eligible projects. Funding is subject to a schedule of deadlines.
- DWI approves the bid package, checking for minority business, the debarred list, etc. DWI authorizes awards by approving a standard set of documents including the authorization to award contracts to the lowest responsible bidder. If bids are more than 10% over the loan offer, a revised application must be approved by the LGC and DWI.
- Interest accrues from the “scheduled” completion date. The actual completion date establishes the first repayment date on either May 1 or November 1, whichever is at least six months after the actual project completion in the contract.
- A match is required for Asset and Inventory Assessment Grants (AIA). The amount of match required is based on hominy of the Local Government Unit (LGU) indicators exceed the state benchmarks for the Affordability Criteria.
 - 5 of 5 LGU indicators are worse than the state benchmarks = 5% match
 - 4 of 5 LGU indicators are worse than the state benchmarks = 10% match
 - 3 of 5 LGU indicators are worse than the state benchmarks = 15% match
 - < 3 of 5 LGU indicators are worse than the state benchmarks = 20%

The match requirement (or a portion of it) can be achieved with in-kind services of the utility. Realistic and adequate documentation of the utility's internal asset management team members' time would count as in-kind services.

- A memo is sent by DWI to the LGC requesting a preliminary promissory note that is sent to both DWI and the loan recipient.
- During construction, requests for payment are made to DWI with accompanying invoices, which are reviewed and approved, by the program's financial and technical staff. Modifications in the payment request are made for items over budget or contract or ineligible costs. Any approved change orders are adjusted from the contingency budget. At 95% complete, DWI reviews the total project and can hold payments until requested final closeout documents such as sale tax certifications, engineer's certification on the project and certification of completion by the recipient have been received.

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Final payment is issued and the LGC prepares a final repayment schedule and notifies the recipients of repayments of principal and /or interest twice a year. DWI, upon the receipt of the final amortization, enters the information into its system and collects the repayments

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	Y	N	N	N	Y	Y	Y	Y	N	Y

A. Activities Allowed or Unallowed

Compliance Requirements

State funds can only be expended for authorized projects. Allowable project costs are limited to: (1) the actual cost of the works described in the project application 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 a wastewater and or water supply system.

Audit Objectives

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

Suggested Audit Procedures

The auditor should ascertain that activities have been limited to the construction of facilities as allowed by G.S. 159G.

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 for conformance with the allowability of cost provisions of or limitations in the offer and Bidding information along with summary of project costs).

C. Cash Management

Per 159G-37(b) - The Division of Water Infrastructure shall require all local governments applying for loans or grants for water or wastewater purposes to certify that no funds received from water or wastewater utility operations have been transferred to the local government's general fund for the purpose of supplementing the resources of the general fund. The prohibition in this section shall not be interpreted to include payments made to the local government to reimburse the general fund for expenses paid from that fund that are reasonably allocable to the regular and ongoing operations of the utility, including, but not limited to, rent and shared facility costs, engineering and design work, plan review, and shared personnel costs. (2005-454, s. 3; 2011-145, s. 13.3(kkk); 2013-360, s. 14.21(i); 2013-413, s. 57(u); 2014-100, s. 14.17; 2014-115, s. 17.)

Compliance Requirements

There should be an expeditious expenditure of funds. Funds derived from bond proceeds must be expended within three days of receipt.

Audit Objectives

Assure that the recipient has followed procedures to minimize the time elapsing between the receipt and the disbursement of loan or grant reimbursement funds.

Suggested Audit Procedures

Select a sample of reimbursements and compare them to the dates the funds were disbursed and/or checks were presented to banks for payment. Using these data verify that the timing of payments to contractors was in compliance with any requirements of the awarding agency or any applicable laws, regulations, or statutes.

E. Eligibility

Compliance Requirements

Eligibility is determined from the project description in the application and ultimately with the approval of project plans and specifications. Compliance is thoroughly checked by the State during the disbursement process and through on-site construction inspections. There is no need for the CPA to do further testing.

I. Procurement and Suspension and Debarment Procurement:

Compliance Requirements

Follow State procurement laws as found in G. S. 143-129, 143-131 and 143, Article 3.

Audit Objectives

Determine whether procurements were made in compliance with provisions of the program requirements and any applicable laws, and that the awarding agency's procedures were followed.

Suggested Audit Procedures

Test a sample of procurements to ascertain if the applicable laws and the awarding agency's procedures were followed.

Suspension and Debarment

Compliance Requirements

Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred.

Audit Objectives

Determine whether the non-Federal entity obtained the required certifications for covered contracts and subawards.

Suggested Audit Procedures

1. Test a sample of contracts and ascertain if the required suspension and debarment certifications were received for subawards and covered contracts.
2. Test a sample of contracts to *the List of Parties Excluded From Federal Procurement or Nonprocurement Programs*, issued by the General Services Administration and ascertain if contracts were awarded to suspended or debarred parties.

J. Program Income

Compliance Requirements

Program income from Sales Taxes paid on purchases related to the construction phase of the project. The sales tax maybe elected to be reimbursed through the loan program or reimbursed from the state filing process for "Sales and Use Taxes".

Audit Objectives

Determine whether program income is correctly recorded and used in accordance with program requirements.

Suggested Audit Procedures

Review the laws, regulations, and the provisions of the loan applicable to the program, and ascertain if the program income was anticipated and, if so, the requirements for recording and using program income.

L. Reporting

Compliance Requirements

Recipient should use the Division of Water Infrastructure's Request for Reimbursement form to request disbursement of funds.

Audit Objectives

Determine whether the Division's Request for Reimbursement form has been used, with supporting documentation, such as invoices, to report eligible expenditures.

Suggested Audit Procedures

Perform appropriate analytical procedures to compare documented costs to accounting records and supporting documentation.

M. Subrecipient Monitoring

Compliance Requirements

The local governments do not subaward any monies to any subrecipients and thus the State is monitoring the local governments as subrecipients. No additional testing is needed by the local CPA.

N. Special Tests and Provisions

Compliance Requirements

All projects to which a loan or a grant has been committed should be audited in accordance with G. S. 159-34. A copy of the audit must be filed with the Department of Environmental Quality, Financial Services Division.

Audit Objectives

Determine that all agreements are being adhered to, and that the loan requirements (such as repayments) are reported and that loan information (such as interest rates and pay back periods) are correctly reported.

Suggested Audit Procedures

The statement of revenues and expenditures in the audit should agree to the accounting records. Please see Attachment A for a suggested format.

Conflict of Interest

Compliance Requirements

All local governments are required to comply with G.S. 14-234.

Audit Objectives

Determine whether recipient complied with G.S. 14-234.

Suggested Audit Procedures

Verify compliance with G.S. 14-234.

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AUDIT REPORT

Project Description (Ex: Wastewater Facility)

Project Number

Municipality

For the Period _____ to _____

Statement of Revenues

Sources of Funds: \$ _____

Local (Cash)

Bond Sale Proceeds

State Funds

Federal Funds

Identify Federal Program
(grant or loan?)

Other Sources

Identify

\$ _____

Statement of Expenditures

Construction Cost

\$ _____

Contract I

Contract II

Engineering Fee

Administrative Expense

Identify

Legal Fees

Identify

Other

Land

Interest, etc.

\$ _____