

CONNECT NC BOND “TAX EXEMPT” PROGRAM

State Authorization: S.L. 2015-280 (the “Act”) \$309,500,000 allocated to the Water Infrastructure established under NC GS 159G.

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.

I. PROGRAM OBJECTIVES

The primary objective of the Connect NC Bond “tax exempt” Program is to provide loans and or grants to local government units for municipal water facilities and or wastewater capital facilities in order to encourage and assist local government units to meet their responsibilities to their citizens to maintain a clean and healthful environment and to further provide an adequate base for economic growth.

II. PROGRAM PROCEDURES

The N.C. Department of Environmental Quality (DEQ) approves disbursements to the approved applicant based on the submittal of the required supporting documentation, including a project questionnaire to insure compliance with federal tax law (the “Project Questionnaire”). The level of State loan participation is established when the official offer is extended to and accepted by the applicant. The level of participation may be amended based on the summary of the project’s final cost.

Local Governments may request loan and or grant funds from DEQ. A number of steps are followed in determining which governments receive funding.

- Meetings are held with local government representatives, to explain the funding process and program benefits.
- Applications to the State are reviewed and prioritized every six months (dependent on fund availability).
- Local government units that wish to seek funding must complete an application package. Applications are evaluated and ranked. Projects are awarded funding based on availability starting with the highest ranked eligible projects. Funding is subject to a schedule of deadlines and the Local Government Commission (LGC) approving the ability of the applicant to take on the project debt. DEQ reviews and prepares the loan offer with a tentative line-item budget that includes a 10% contingency. Loans may be increased by 10% without additional LGC approval.
- The local units of governments submit bid packages to DEQ. DEQ authorizes awards by approving a standard set of documents. DEQ approves authorizes awards by approving a standard set of documents.
- A memo is sent by DEQ to the LGC requesting a promissory note, which is sent to both DEQ and the recipient.
- During construction, requests for payment are made to DEQ 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.
- In January of each year, DEQ will send recipients a form requiring them to certify that the responses provided in the Project Questionnaire have not changed. The form is due by March 31st. If the annual certification is made prior to the completion of the Project, the annual certification should be in the form of Exhibit B. If the annual certification is made after the completion of the Project, the annual certification should be in the form of Exhibit C.
- At 95% complete, DEQ reviews the total project and can hold payments until requested items such as sale tax certifications, engineer’s certification on the project and certification of completion by the recipient have been received. DEQ issues final payment.
- Loan repayments and interest accrual are based on the “scheduled” completion date. Final promissory note, amortization schedule, and repayment invoices are generated by the LGC.
- DEQ, upon the receipt of the final amortization, enters the information into its system and collects the repayments.

III. COMPLIANCE REQUIREMENTS

Noted below in the following matrix are the types of compliance requirements that are applicable to the State program. These Types are determined by the State agency noted by "Y."

If the Matrix indicates "Y," the auditor must determine if a particular type of compliance requirement has a direct and material effect on the State program for the auditee.

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 12 | 13 | 14 |
|---------------------------------|---------------------------------|-----------------|----------------------|-------------|-------------------------------------|---------------------------------------|-----------------------|------------------------------------|----------------|-----------|-------------------------|------------------------------|
| Activities Allowed or Unallowed | Allowable Costs/Cost Principles | Cash Management | Conflict of Interest | 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 | Y | N | N | N | N | Y | Y | Y | N | Y |

1. Activities Allowed or Unallowed

Compliance Requirements

Connect NC Bond funds can only be expended for authorized projects as prescribed in the contract package.

Audit Objectives

Determine whether Connect NC Bond funds were expended only for authorized activities.

Suggested Audit Procedures

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

The auditor should ascertain that either Exhibit B (Annual Project Certification Form) or Exhibit C (Annual Private Business Use Certification Form) as noted above were completed and submitted to DEQ.

2. 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. Costs not allowed are expenditures for the operation and maintenance of any municipal water facilities and or wastewater treatment works, or anything not associated with the approved project or restoring disturbed areas to their original condition.

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.

3. Cash Management

All funds loaned pursuant to North Carolina General Statute 159G shall be solely for carrying out the approved project and an audit shall be performed in accordance with G.S. 159-34, as mandated. All funds loaned pursuant to North Carolina General Statute 159G shall be expended solely for carrying out the approved project and an audit shall be performed in accordance with G.S. 159-34, as amended. Please note that the State is not a party to the construction contract(s) and the loan recipient is expected to uphold its contract obligations regarding timely payment.

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.)

The reimbursement payment method may be the preferred payment method of a State Agency.

Projects funded with Connect NC Bond Program are required to have Grant Project Ordinance in accordance with NC G.S. §159-13.2.

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.

4. Conflict of Interest

Compliance Requirement

G.S. §14-234 includes a general prohibition against any public official having a personal interest in any contract to which he/she is a party in his/her official capacity. Any other statute or agency policy that applies should be tested as part of this compliance requirement.

Non-State entities, other than non-State entities subject to the reporting requirements of the Local Government Commission (G.S. §159-34), shall file with the State agency disbursing funds to the non-State entity a copy of that non-State entity'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.

Audit Objective

Determine whether there is a conflicts of interest involved in the administration of the program.

Suggested Audit Procedure – Compliance

Auditors should review contracts to ensure 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 (recipient) has received written waiver of the conflicts of interest provision from the contractor.

Auditors should review policy addressing conflicts of interest to ensure that the policy is being followed, that any violations are addressed, and that appropriate action is taken. Confirm that a conflicts of interest statement was signed by all employees, officers, and key contractors.

5. Eligibility

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.

6. Equipment and Real Property Management

Testing is not required at the local level.

7. Matching, Level of Effort, Earmarking

Testing is not required at the local level.

8. Period of Performance

Testing is not required at the local level.

9. Procurement and Suspension and Debarment

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 – not applicable

10. Program Income

Compliance Requirements

Income can be obtained from Sales Tax refunds 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 the 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’s Request for Reimbursement form to request disbursement of funds.

Project costs incurred should be billed costs or disbursements and are in accordance with terms of the project. The reimbursements request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.

Audit Objectives

Determine whether the Division’s Request for Reimbursement form has been properly 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.

Compare a sample of previous reimbursement requested that have been approved by DEQ and determine if any subsequent reimbursements request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.

12. Reporting

Compliance Requirements

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

Project costs incurred should be billed costs or disbursements and are in accordance with terms of the project. The reimbursements request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.

Audit Objectives

Determine whether the Division’s Request for Reimbursement form has been properly 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.

Compare a sample of previous reimbursement requested that have been approved by DEQ and determine if any subsequent reimbursements request represents the monies due which have not been previously received and that an inspection has been performed and all work is in accordance with the terms and conditions of the award.

13. Subrecipient Monitoring

The local governments do not subaward any monies to any subrecipients and thus the State is monitoring the local governments as subrecipients.

No testing is needed by the local CPA.

14. Special Tests and Provisions

Compliance Requirements

All projects to which a loan or 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 should agree to the accounting records. Please see Attachment A for a suggested format.

Compliance Requirements

Pursuant to G. S. 159-25 (b) (6), a capital project fund is required to account for all debt instrument proceeds/grant proceeds used to finance capital projects. To facilitate budgetary and accounting control, it is required that a capital project ordinance, pursuant to G. S. 159- 13.2, be adopted by the governing board authorizing all appropriations necessary for the completion of the project.

Audit Objectives

Determine as to whether a capital project fund and a capital project ordinance have been adopted by the governing board.

Suggested Audit Procedures

Verify that a capital project ordinance was adopted, and a capital project fund was set up. Verify that expenditures and revenues are within the amounts budgeted in the ordinance. Verify that all monies are received through capital projects.

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. | _____ |
| | \$ _____ |