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## NC VIABLE UTILITY RESERVE PROGRAM (VUR)

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**State Authorization: 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 Viable Utility Reserve Program is to improve the viability of the public water and wastewater systems in North Carolina. This objective is met through statutorily required program elements and under the joint authority of two State entities: the State Water Infrastructure Authority (SWIA) and Local Government Commission (LGC). Required program elements include:

- Development and administration of a process to identify distressed public water and wastewater systems
- Administration of VUR grant funding for the following types of projects:
  - o Provide physical interconnection and extension of public water or wastewater infrastructure to provide regional service.
  - o Rehabilitate existing public water or wastewater infrastructure.
  - o Decentralize an existing public water system or wastewater system into smaller viable parts.
  - o Fund a study of any one or more of the following:
    - Rates.
    - Asset inventory and assessment.
    - Merger and regionalization options.
  - o Fund other options deemed feasible which result in local government units generating sufficient revenues to adequately fund management and operations, personnel, appropriate levels of maintenance, and reinvestment that facilitate the provision of reliable water or wastewater services.
  - o Emergency grants for operating deficits (for units under the financial control of the LGC)
- Development and administration of an education and training program for distressed system

### 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 scope and cost. Eligible local government units (LGUs) may request VUR grant funds from DWI. Currently, the LGC and SWIA permit "distressed" LGUs to receive VUR funds. Non-distressed partnering LGUs working with a designated distressed LGU may receive funding for studies and projects that support the viability of the distressed LGU. Several steps are followed in determining which "Distressed" local governments receive funding.

- Meetings and training sessions are held with local government representatives to explain the funding process and program benefits.
- Applications to the State are reviewed and prioritized (dependent on fund availability) two times per year or as needed for emergency operating grants made to LGUs under the financial control of the LGC.
- The Local Government Commission (LGC) may submit an application on behalf of a "Distressed" unit for an emergency grant to cover operating deficits of that local government unit's public water system or wastewater system, and any such application shall be deemed approved by the Local Government Commission upon submission, while other local government units that wish to seek VUR funding must complete an application package. Applications are evaluated and awarded as provided in G.S. 159G-39 on criteria jointly developed between the Local Government Commission and the Authority.
- All funding awards from the VUR must be approved in advance by both SWIA and the LGC.
- 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, but not limited to, sale tax certifications, engineer's certification on the project and certification of completion by the recipient have been received.
- Final payment is issued.

### 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**

State VUR grant funds can only be expended for authorized, eligible "projects".

##### **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 projects listed as eligible in G.S. 159G-32 (also listed under I. PROGRAM OBJECTIVES, above).

#### 2. Allowable Costs/Cost Principles

##### **Compliance Requirements (G.S. 159G-36)**

The amount of a grant from the VUR shall not exceed the construction costs of a project. A grant from this Reserve is available only to the extent that other funding sources are not reasonably available to the applicant.

VUR Grants for the purposes set forth in subdivisions (1) through (5) of G.S. 159-32(d) shall not exceed fifteen million dollars (\$15,000,000) to any single local government unit. Where two or more local government units are merging into a single utility, the total grant awarded shall not exceed thirty million dollars (\$30,000,000).

Grants for the purpose set forth in G.S. 159-32(d)(6) to any single local government unit

shall not

(i) exceed seven hundred fifty thousand dollars (\$750,000) in any fiscal year and (ii) be awarded for more than three consecutive fiscal years. (Emergency Operating Grants made to LGUs whose finances are under the control of the LGC).

Costs must be consistent with policies and procedures that apply to the VUR 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 disbursements made against 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/or Bidding information along with summary of project costs.

### 3. Cash Management

Per 159G-37(b) - The Division of Water Infrastructure shall require all local governments and or the LGU applying for grants for public water or wastewater purposes to certify that no funds received from public 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 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 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.

5. Eligibility

**Compliance Requirements**

The Local Government Commission and the Authority shall jointly develop evaluation criteria for grants from the VUR. These evaluation criteria shall be used to review applications and award grants as provided in G.S. 159G-39.

Compliance is thoroughly checked by the State during the disbursement process and or through on- site construction inspections. There is no need for the CPA to do further testing.

9. 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.

10. Program Income

**Compliance Requirements**

Program income from Sales Taxes paid on purchases related to the construction phase of the project. The sales tax may be 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.

12. Reporting

**Compliance Requirements**

Recipient and or local government commission 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.

13. 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.

14. Special Tests and Provisions

**Compliance Requirements**

All projects to which 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 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.

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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.	
	\$ _____