
NC VIABLE UTILITY RESERVE PROGRAM (VUR)

State Authorization:

G. S. 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.

- 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.
 - 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 systems
- Development and administration of a program to satisfy the statutory requirements of distressed units, which include:
 - Conducting an asset assessment and rate study
 - Participating in a training and educational program
 - Developing an action plan

Distressed unit – A public water system or wastewater system operated by a local government unit exhibiting signs of failure to identify or address those financial or operating needs necessary to enable that system to become or to remain a local government unit 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.

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.

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- 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

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).

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 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 Clean Water State Revolving Funds 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 conflict 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.

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 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.

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.	_____
	\$ _____