

66.458

ENVIRONMENTAL PROTECTION AGENCY OFFICE OF WATER

State Project/Program: CAPITALIZATION GRANTS FOR CLEAN WATER STATE REVOLVING FUNDS

Federal Authorization: U.S. Environmental Protection Agency
CFR 40-35; Federal Clean Water Act

NC Department of Environmental Quality
Division of Water Infrastructure

Agency Contact Person – Program

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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 2021 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 North Carolina Clean Water State Revolving Fund (CWSRF) Program is to provide low cost loans to local units of government for clean water capital facilities as allowed by Title VI of the Clean Water Act and G.S. 159G in order to encourage and assist them to meet their responsibilities to their citizens to maintain a clean and healthful environment and to provide an adequate base for economic growth.

II. PROGRAM PROCEDURES

The Environmental Protection Agency (EPA) makes capitalization grants available to the State, which supplies a 20% match with State funds. The state CWSRF program obtains the capitalization grant by submitting an application for the noncompetitive grant to EPA including the Intended Use Plan (IUP). The IUP is a document that explains how the program will be administered for the upcoming year and goes through a public review period. Local

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governments may request CWSRF loan funds from the Division of Water Infrastructure (Division) in the North Carolina Department of Environmental Quality (DEQ). A number of steps are followed in determining which local governments receive funding.

- Local government units that wish to seek funding must complete an application package. Applications to the Division are reviewed and prioritized (i.e., ranked) based on information contained in the application, then presented to the State Water Infrastructure Authority (Authority) for approval.
- The Authority reviews the applications and staff ranking and then approves which projects are eligible for funding.
- 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. The Division prepares the loan offer. Loans may be increased by 10% without additional LGC approval.
- Formal funding Award Offers are generated after the applicant meets such milestones as completing environmental review and obtaining approval of the engineering report. The Award Offer establishes the binding commitment date for funding, which is a reportable EPA project milestone. The project owner accepts several EPA conditions along with the loan terms by executing the Award Offer.
- The local units of governments submit bid packages to the Division, which then authorizes awards by approving a standard set of documents.
- The recipient executes a Notice to Proceed as part of the contract documents. The Notice To Proceed establishes the construction start date, which is also a reportable EPA milestone, and establishes accrual date for interest. Loan repayments and interest accrual are based on the “scheduled” completion date. Promissory notes and repayment invoices are generated by the LGC.
- During construction, requests for payment are made to the Division 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 for ineligible costs. Any approved change orders are adjusted from the contingency budget. At 95% complete, the Division 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. The Certification of Completion states a date that construction was complete and accepted by the owner. This date is a reportable EPA project milestone. At project completion and final disbursing of funds, final loan repayment is set in coordination with the LGC.

III. COMPLIANCE REQUIREMENTS

Noted below in the following matrix are the types of compliance requirements that are applicable to the federal program. These Types are determined by the federal agency, noted as “Y,” on the “Matrix of Compliance Requirements” located in Part 2 of the OMB 2020 Compliance Supplement; however, the State Agency may have added the Type and this is noted by “Y.” If the State determines that the federal requirement does not apply at the local level or if the State modifies the federal requirements, this is noted in the supplement under the type of compliance requirement. If the federal and/or State agencies have determined that the type is not applicable, it is noted by “N.”

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If the Matrix indicates “Y,” the auditor must determine if a particular type of compliance requirement has a direct and material effect on the federal program for the auditee. For each such compliance requirement subject to the audit, the auditor must use the OMB 2020 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.

If there is no program listed on the “Matrix” in Part 2 or Part 4, the State has determined the Type that is applicable. If a Type is determined direct and material, the auditor should refer to the requirements found in Part 3 and listed in this supplement.

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

Federal and State funds can only be expended for authorized projects as provided for in 33 U.S.C. 1383 and further restricted by N.C.G.S. 159G.

Audit Objectives

Determine whether awarded funds were expended only for authorized projects.

Suggested Audit Procedures

The auditor should ascertain that activities have been limited to the construction of facilities as allowed by Title VI of the Clean Water Act and N.C.G.S. 159G.

B. Allowable Costs/Costs Principles

Compliance Requirements

Costs must be consistent with policies and procedures that apply to Federal/ State match 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 wastewater treatment works or

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anything not associated with the approved project or restoring disturbed areas to their original condition.

Audit Objectives

Ascertain whether charges made to the awarded proceeds were for allowable costs.

Suggested Audit Procedures

Test a sample of transactions for conformance with the allow ability of cost provisions of or limitations in the offer and the project review and cost summary document. Verify that costs are allowable.

C. Cash Management

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. The applicant will expend all of the requisitioned funds for the purpose of paying the costs of the project within three (3) banking days following the receipt of the funds from the State. 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.

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.)

D. Reserved

For testing Davis Bacon Act, refer to Special Tests & Provisions

G. Matching – Not applicable at local level.

Level of Effort – Not applicable at local level.

Earmarking – Not applicable at local level.

H. Period of Performance of Federal Funds – Funds are available on a reimbursement basis, so this is not applicable at the local level.

I. Procurement and Suspension and Debarment

Procurement:

Compliance Requirements

Follow federal procurement laws as applicable to 66.458 (CFR §200.317 to §200.326).

Audit Objectives

Determine whether procurements were made in compliance with State law.

Suggested Audit Procedures

Test sample of procurements to ascertain if the applicable laws were followed.

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Suspension and Debarment – Reference OMB Compliance Supplement Part 3 Compliance Requirements I. Procurement and Suspension and Disbarment.

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 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.

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. Sub-recipient Monitoring

Compliance Requirements

Implementing regulations for the CWSRF program are in 40 CFR part 35, subpart K. Subgrants are not available from the CWSRF program. Accordingly, the requirements at 40 CFR Part 31 do not pertain. Local governments do not sub-award any monies to any sub-recipients and thus the State is monitoring the local governments as financial assistance recipients. No testing is needed by the local CPA.

N. Special Tests & Provisions

Compliance Requirements

All projects to which a loan or grant has been committed should be audited in accordance with G.S. 159-34 and G.S. 159-26(b)(6). A copy of the audit must be filed with the Department of Environmental Quality, Financial Services Division, unless a copy was submitted to the NC Department of State Treasurer, State and Local Government Finance Division. The Division will obtain a copy from DST.

Audit Objectives

Determine that the audit report agrees with the financial records of the recipient.

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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.

IV: OTHER INFORMATION

Please refer to the OMB Compliance Supplement, Part 4, No. 66, 66.458, Section IV. Other Information: CWSRF amounts are awarded by EPA to States as grants. The States then makes subawards in the form of loans to its subrecipients. Therefore, in determining the amount of Federal funds expended to be reported on the Schedule of Expenditures of Federal Awards (SEFA), subrecipients receiving CWSRF loans should include project expenditures incurred under these loans during the audit period as provided in 2 CFR section 200.502(a). These are subawards—not direct Federal loans—and, therefore, neither 2 CFR sections 200.502(b) or (d) apply when calculating the amount of Federal funds expended.

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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	_____
	\$ <u>_____</u>

Statement of Expenditures

Construction Cost	\$ _____
Contract I	
Contract II	
Engineering Fee	_____
Administrative Expense	
Identify	_____
Legal Fees	
Identify	_____
Other	
Land	
Interest, etc.	_____
	\$ <u>_____</u>