

# STATE OF NORTH CAROLINA

OFFICE OF THE STATE AUDITOR

BETH A. WOOD, CPA



## TOWN OF MANTEO

MANTEO, NORTH CAROLINA

INVESTIGATIVE REPORT  
DECEMBER 2019



**NC OSA**  
The Taxpayers' Watchdog

# EXECUTIVE SUMMARY

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## **PURPOSE**

The Office of the State Auditor received multiple, varied allegations through its Hotline concerning the Doughs Creek Canal dredging project. During the investigation of the initial allegations, concerns were also identified regarding a Town of Manteo (Town) Commissioner using state funds for his personal benefit.

## **BACKGROUND**

The Town of Manteo is located on Roanoke Island in Dare County, North Carolina. It is the county seat of Dare County. The Town is a municipal corporation that is governed by an elected mayor and six commissioners. The Town provides general government services including police, public works, planning and zoning, and water and sewer services.

The Town began the Doughs Creek Canal dredging project in November 2017 and concluded it in August 2018. The project, which cost approximately \$743,000, involved:

- Dredging the Doughs Creek Canal.
- Barging the dredged material (sediment, debris, etc.) from the canal to a transfer site.
- Trucking the dredged material from the transfer site to the Town's public works site.

To obtain the transfer site, the Town leased two adjacent parcels of privately-owned land for \$50,000. Separate limited liability companies owned these parcels of land.

## **FINDINGS**

- Town Commissioner derived direct benefit of \$12,500 from a contract related to the Doughs Creek Canal dredging project.
- Town Finance Officer did not ensure that expenditures were reasonable and necessary.

## **RECOMMENDATIONS**

- The Town's Board of Commissioners should seek repayment from the Commissioner for the proceeds received that were associated with the Doughs Creek Canal dredging project.
- The Town Manager should take appropriate disciplinary action against the Finance Officer.
- The Town Manager should provide additional training to ensure all Town employees understand and comply with the established policies and procedures.
- The Town's Board of Commissioners should consider seeking repayment of \$12,500 paid to the former Mayor's corporation given the lack of documentation that services invoiced as "Third Party Observer" were reasonable, necessary, or actually performed.

STATE OF NORTH CAROLINA  
**Office of the State Auditor**



**Beth A. Wood, CPA**  
State Auditor

2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0600  
Telephone: (919) 807-7500  
Fax: (919) 807-7647  
<https://www.auditor.nc.gov>

## AUDITOR'S TRANSMITTAL

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The Honorable Roy Cooper, Governor  
Members of the North Carolina General Assembly  
Bobby Owens, Mayor, Town of Manteo

Ladies and Gentlemen:

Pursuant to *North Carolina General Statutes §147-64.6(c)(16)* and *§147-64.6B*, we have completed an investigation of allegations concerning the Town of Manteo. The results of our investigation, along with recommendations for corrective action, are contained in this report.

Copies of this report have been provided to the Governor, the Attorney General, and other appropriate officials in accordance with *G.S. §147-64.6(c)(12)*. We appreciate the cooperation received from the management and employees of the Town of Manteo during our investigation.

Respectfully submitted,

A handwritten signature in black ink that reads "Beth A. Wood".

Beth A. Wood, CPA  
State Auditor

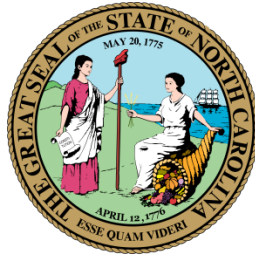


Beth A. Wood, CPA  
State Auditor

# TABLE OF CONTENTS

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	PAGE
BACKGROUND .....	1
FINDING AND RECOMMENDATIONS	
1. TOWN COMMISSIONER DERIVED DIRECT BENEFIT OF \$12,500 FROM A CONTRACT RELATED TO THE DOUGHS CREEK CANAL DREDGING PROJECT .....	2
2. TOWN FINANCE OFFICER DID NOT ENSURE EXPENDITURES WERE REASONABLE AND NECESSARY .....	3
APPENDIX .....	6
RESPONSE FROM THE TOWN OF MANTEO .....	9
ORDERING INFORMATION .....	12



# BACKGROUND

The Office of the State Auditor received multiple, varied allegations through its Hotline concerning the Doughs Creek Canal dredging project. During the investigation of the initial allegations, concerns were also identified regarding a Town of Manteo (Town) Commissioner using state funds for his personal benefit.

Our investigation of this allegation included the following procedures:

- Review of applicable North Carolina General Statutes and Town policies and procedures.
- Examination and analysis of available documents and records related to the allegations.
- Interviews with the current Town mayor, a former Town mayor, commissioners, employees, vendors, and North Carolina Department of Environmental Quality officials.

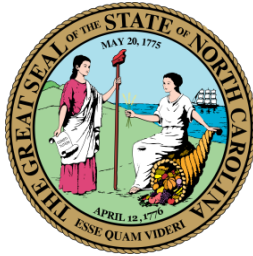
This report presents the results of the investigation. The investigation was conducted pursuant to *North Carolina General Statutes §147-64.6 (c)(16) and §147-64.6B*.

The Town of Manteo is located on Roanoke Island in Dare County, North Carolina. It is the county seat of Dare County. The Town is a municipal corporation that is governed by an elected mayor and six commissioners. The Town provides general government services including police, public works, planning and zoning, and water and sewer services.

The Town began the Doughs Creek Canal dredging project in November 2017 and concluded it in August 2018. The project, which cost approximately \$743,000, involved:

- Dredging the Doughs Creek Canal.
- Barging the dredged material (sediment, debris, etc.) from the canal to a transfer site.
- Trucking the dredged material from the transfer site to the Town's public works site.

To obtain the transfer site, the Town leased two adjacent parcels of privately-owned land for \$50,000. Separate limited liability companies owned these parcels of land.



# **FINDINGS AND RECOMMENDATIONS**

## **1. TOWN COMMISSIONER DERIVED DIRECT BENEFIT OF \$12,500 FROM A CONTRACT RELATED TO THE DOUGHS CREEK CANAL DREDGING PROJECT**

A Town of Manteo (Town) Commissioner derived a direct financial benefit from a contract he was involved in making or administering. As a result, the Town may have overpaid for the contract and the Town Commissioner may have violated state statutes. The Town Commissioner was able to derive a direct benefit because he failed to disclose his conflict of interest. State law and a Town ordinance prohibit Town officials from benefiting from contracts.

### **Town Commissioner Derived Direct Benefit from Contract**

A Town Commissioner (Commissioner) was able to derive a direct financial benefit from a contract he was involved in making or administering for the Doughs Creek Canal dredging<sup>1</sup> project. To obtain the transfer site for the dredging project, the Town leased<sup>2</sup> two adjacent parcels of land owned by separate limited liability companies for \$50,000.

The Commissioner was involved in making the lease agreement and ultimately received \$12,500 from the project. The Commissioner:

- Voted on and motioned to approve the \$50,000 budget amendment<sup>3</sup> for the lease of the parcels of land.
- Signed as the agent for the limited liability companies on the Town of Manteo vendor applications. These applications were required before payment could be issued.
- Received a payment of \$12,500 (25% of the \$50,000 budgeted to lease the parcels of land).

The Commissioner and a former mayor of the Town of Manteo (former Mayor) described the \$12,500 payment as a “gift.” On December 22, 2017, the former Mayor wrote a \$12,500 check from his corporation’s bank account to the Commissioner. This payment occurred the day after the former Mayor’s corporation received \$25,000 from the Town for the Doughs Creek Canal dredging project.<sup>4</sup>

### **May Have Resulted in Overpayment and Violation of State Statutes**

The Town may have overpaid for the use of the parcels of land because \$12,500 of the \$50,000 payment went to the Commissioner. Any overpayment reduced the Town’s ability to fund other projects.

Additionally, the Commissioner may have violated state statutes.

<sup>1</sup> “Dredging is the removal of sediments and debris from the bottom of lakes, rivers, harbors, and other water bodies. It is a routine necessity in waterways around the world because sedimentation—the natural process of sand and silt washing downstream—gradually fills channels and harbors.” Source: National Ocean Service

<sup>2</sup> Town officials were unable to provide a written contract to investigators.

<sup>3</sup> Budget Amendment #3 included a \$50,000 line item described as “Third Party Observer/Lease of Klimkiewicz Property.” The amendment was passed at the Town of Manteo Board of Commissioners meeting on October 18, 2017.

<sup>4</sup> On December 21, 2017, the former Mayor’s corporation received \$25,000 from the Town for his involvement as the “Third Party Observer” in the lease of the parcels of land.



### **Caused by Failure to Disclose Conflict of Interest**

The Commissioner derived a direct benefit from the lease agreement by failing to disclose his conflict of interest. No Town employees or officials knew that the Commissioner would receive a payment related to the dredging project.

The former Mayor told investigators that the \$12,500 payment from his corporation to the Commissioner was a “gift.” He said, “Let me be clear, that money was all given to me, and I am allowed to spend my money in any way I see fit and for whatever reason I see fit.” He added that the \$12,500 payment to the Commissioner “is not public knowledge.... because people would start connecting it to [the Commissioner] got paid for some of this dredging project.”

### **State Law and Town Ordinance Prohibited Benefiting from Contract**

*North Carolina General Statute* §14-234 specifies conflict of interest provisions for public officers benefiting from public contracts. Specifically, this law makes it a Class 1 misdemeanor for a government official or employee who is involved in making or administering a contract to derive a direct benefit from that contract.

Additionally, *Town of Manteo Code of Ordinances*, Section 2-39, provides that “No town officer shall have any personal interest in any town contract relating to the providing of materials or services to the town....”

### **RECOMMENDATION**

The Town’s Board of Commissioners should seek repayment from the Commissioner for the proceeds received that were associated with the Doughs Creek Canal dredging project.

**Note: This finding referred to the District Attorney for the First Prosecutorial District to determine if there is sufficient evidence to pursue criminal charges related to the direct benefits derived.**

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## **2. TOWN FINANCE OFFICER DID NOT ENSURE EXPENDITURES WERE REASONABLE AND NECESSARY**

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The Town of Manteo’s (Town) Finance Officer did not ensure that documentation existed to support the reasonableness and necessity of three expenditures totaling \$50,000. As a result, the Town may have overpaid for the lease of the parcels of land for the Doughs Creek Canal dredging<sup>5</sup> project. The Finance Officer failed to follow policies before approving the invoices submitted by a former mayor of the Town of Manteo (former Mayor). Town policies required the Finance Officer to ensure that all expenditures are adequately documented, reasonable, and necessary.

### **No Documentation to Ensure Expenditures Were Reasonable and Necessary**

The Finance Officer issued three payments totaling \$50,000 without adequate supporting documentation. The Finance Officer made these payments in the absence of a written contract

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<sup>5</sup> “Dredging is the removal of sediments and debris from the bottom of lakes, rivers, harbors, and other water bodies. It is a routine necessity in waterways around the world because sedimentation—the natural process of sand and silt washing downstream—gradually fills channels and harbors.” Source: National Ocean Service

specifying terms and conditions, services to be provided, and amounts to be paid. In addition, the invoices lacked sufficient detail to determine the services provided.

To obtain the transfer site for the dredging project, the Town leased two adjacent parcels of land owned by separate limited liability companies for \$50,000. However, Town officials were unable to provide a written contract to investigators because only a verbal agreement existed with the limited liability companies.

The Finance Officer did not question the lack of a written contract when adding the \$50,000 to a budget amendment the Board of Commissioners approved on October 18, 2017. The budget amendment contained the description, “Third Party Observer/ Lease of Klimkiewicz property.” No information identified the “Third Party Observer” or explained the reasonableness and necessity of the services that the “Third Party Observer” should provide the Town.

On December 19, 2017, the “Third Party Observer,” who is a former Mayor, presented three invoices totaling \$50,000 to the Finance Officer. All three invoices<sup>6</sup> were identified as “Invoice #1” and were identical except for the payee and the amount:

- One invoice for \$25,000 from the former Mayor’s corporation.
- One invoice for \$12,500 from the limited liability company owning the first parcel of land.
- One invoice for \$12,500 from the limited liability company owning the second parcel of land.

The Finance Officer then issued checks to the designated payees without any documentation to substantiate the reasonableness and necessity of the expenditures. Specifically, the Finance Officer:

- Issued three checks totaling \$50,000 for the use of the parcels of land without adequate documentation to support the time and effort by the “Third Party Observer” or any justification for splitting the \$50,000 between three different payees. The Finance Officer asked the Town’s environmental consulting firm about paying the invoices. The environmental consulting firm recommended paying the invoices simply because the three invoices totaled \$50,000 which agreed to the budgeted amount.
- Issued one of the three checks (\$25,000) to a corporation owned by the former Mayor. The former Mayor acted as the “Third Party Observer” without documentation to show that the services were reasonable, necessary, or actually performed.

### **Resulted in Overpayment**

The Town may have overpaid for the lease of the parcels of land used during the Doughs Creek dredging project. The Town paid \$50,000 for the use of the land; however, only \$25,000 of that amount was paid to the landowners. The remaining \$25,000 was split between the former Mayor and a Town Commissioner (Commissioner).

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<sup>6</sup> See Appendix A for redacted copies of all three invoices submitted by the former Mayor.

### **Caused by Finance Officer's Failure to Follow Policy**

The Finance Officer disregarded the Town's policies and procedures that were intended to safeguard public funds. The Finance Officer told investigators she processed payments without adequate documentation because:

- She had worked with the former Mayor.
- The \$50,000 expenditure matched the approved budget amendment.
- The environmental consulting firm approved the \$50,000 expenditure "based on the understanding that the \$50,000.00 cost ... was accounted for in the Doughs Creek Canal Dredge Project Budget as approved by the state."

In addition, the Finance Officer approved the vendor applications<sup>7</sup> for each of the limited liability companies on December 19, 2017 without questioning that the Commissioner signed as "agent" on both applications.

### **Town Policy Provides Guidance for Processing Invoices**

The *Town of Manteo Finance Policies & Procedures* manual provides guidance for approving, processing, and paying invoices. The policies stipulate that:

- "All expenditures from Town Funds must be reasonable and necessary for carrying out the programs and activities of the Town, and are to be documented in a way that clearly substantiates such reasonableness and necessity."
- "For all potential expenditures from all sources of funds, the 'appearance test' should be used, i.e., how would this purchase look to external constituents if placed on the front page of a newspaper."
- "It is the policy of the Town of Manteo...to conduct business in such a manner as to foster public confidence in the integrity of the Town of Manteo."

Expenditures require certain documentation including the original invoice from the vendor, evidence of receipt of services and dates provided, and other pertinent information required to document the expenditure.

## **RECOMMENDATIONS**

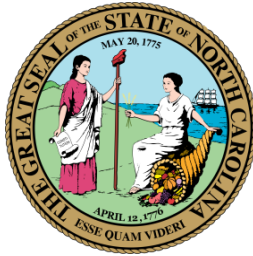
The Town Manager should take appropriate disciplinary action against the Finance Officer.

The Town Manager should provide additional training to ensure all Town employees understand and comply with the established policies and procedures.

The Town's Board of Commissioners should consider seeking repayment of \$12,500 paid to the former Mayor's corporation given the lack of documentation that services invoiced as "Third Party Observer" were reasonable, necessary, or actually performed.

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<sup>7</sup> The *Town of Manteo Finance Policies & Procedures* manual requires vendor applications for all new vendors before the Town can issue payment.



# APPENDIX

**Invoice #1 (1 of 3):** Invoice for \$25,000 from the former Mayor's corporation

INVOICE	
<p>[REDACTED]</p> <p>[REDACTED]</p> <p>Manteo NC 27954</p> <p>[REDACTED]</p> <p><b>Bill To:</b></p> <p>[REDACTED]</p> <p>Town of Manteo 407 Budleigh St. Manteo NC 27954 252.473.2133</p>	<p><b>DATE:</b> December 19, 2017</p> <p><b>INVOICE #</b> 1</p> <p><b>FOR:</b> Klimkiewicz Property</p>
DESCRIPTION	AMOUNT
Third Party Lease / Observation Klimkiewicz Property	
Roanoke Island Festival Park Dredging Project	\$ 25,000.00
<b>TOTAL</b>	<b>\$25,000.00</b>
<p>Make all checks payable to [REDACTED]</p>	

**Invoice #1 (2 of 3):** Invoice for \$12,500 from the limited liability company owning the first parcel of land

Virginia Beach VA. 23454

# INVOICE

DATE: December 19, 2017  
 INVOICE # 1  
 FOR: *Klimkiewicz Property*

**Bill To:**

Town of Manteo  
 407 Budleigh St.  
 Manteo NC 27954  
 252.473.2133

DESCRIPTION	AMOUNT
Third Party Lease / Observation Klimkiewicz Property	
Roanoke Island Festival Park Dredging Project	\$ 12,500.00
<b>TOTAL</b>	<b>\$12,500.00</b>

Make all checks payable to

**Invoice #1 (3 of 3):** Invoice for \$12,500 from the limited liability company owning the second parcel of land.

Virginia Beach VA. 23454

**Bill To:**

Town of Manteo  
407 Budleigh St.  
Manteo NC 27954  
252.473.2133

# INVOICE

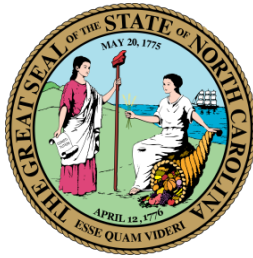
**DATE:** December 19, 2017

**INVOICE #** 1

**FOR:** *Klimkiewicz Property*

DESCRIPTION	AMOUNT
Third Party Lease / Observation Klimkiewicz Property	
Roanoke Island Festival Park Dredging Project	\$ 12,500.00
<b>TOTAL</b>	<b>\$12,500.00</b>

Make all checks payable to



# **RESPONSE FROM THE TOWN OF MANTEO**





December 11, 2019

VIA OVERNIGHT MAIL AND EMAIL ([Jennifer.Myers@ncauditor.net](mailto:Jennifer.Myers@ncauditor.net);  
[Barry.Long@ncauditor.net](mailto:Barry.Long@ncauditor.net); [Kevin.Thomas@ncauditor.net](mailto:Kevin.Thomas@ncauditor.net);  
[Donna.Allen@ncauditor.net](mailto:Donna.Allen@ncauditor.net))

The Honorable Beth A. Wood, State Auditor  
Office of the State Auditor  
2 S. Salisbury Street  
20601 Mail Service Center  
Raleigh, NC 27699-0601

Dear State Auditor Wood:

Please accept this letter as the Town of Manteo's response to your letter of December 5, 2019. The Board of Commissioners for the Town of Manteo ("**Board**") has reviewed the draft Investigative Report ("**Report**") that you provided and met on December 10, 2019 to determine the Town's plan of action going forward, as follows:

#### PREAMBLE

The Board takes the allegations of the Office of the State Auditor very seriously and is committed to appropriate corrective action within the Town's power and allowable by law. The Town intends to continue its full cooperation with the State Auditor and any law enforcement agency to ensure that public resources have been properly utilized. The Board appreciates the opportunity to respond to the Report. Except as otherwise defined, capitalized terms used in this letter have the same meaning as those appearing in the Report.

#### I. Lease Transaction Was Negotiated and Approved

The lease agreement for the dredge spoils transfer site ("**Lease**") for the Dough's Creek Canal dredging project ("**Project**") was negotiated by the Town Manager, the third-party project engineer, and the party identified in the Report as "former Mayor," who was serving as local agent ("**Agent**") of the land owner. Agent was not an appointed or elected official at the time of the transaction.

*Town of Manteo, P. O. Box 246, Manteo, NC 27954*  
*Phone: 252-473-2133 Fax: 252-473-2135*  
[www.townofmanteo.com](http://www.townofmanteo.com)

The negotiated term of the Lease was 120 days with a payment amount of \$50,000, and the Town agreed to restore the site following completion of the Project. The budget appropriation for the Lease was approved by the Board of Commissioners in open session on October 18, 2017, and the restoration requirement of the Lease was included in the Project documents.

## II. Board Will Request Return of Disbursed Funds

Irrespective of the factual predicate for the Lease, the Board intends to honor the recommendation of the State Auditor and request repayment from Agent and Commissioner of the \$25,000 received by Agent. Any funds received by the Town will be returned to the funding sources from which they were derived. The time frame for transmittal of the repayment request letter shall be within ten (10) business days of publication of the final State Auditor's Report, and the responsible parties for issuing the request shall be the Town Manager and Town Attorney.

## III. Agent and Commissioner Are No Longer Appointed or Elected

Neither Agent nor Commissioner are currently appointed or elected officials of the Town.

## IV. Conflict of Interest Training for Elected and Appointed Officials

The Board will implement a conflict of interest and ethics training program for its appointed and elected officials. The time frame for completion of the program will be on or before August 31, 2020 and the responsible parties for organization and scheduling of the program will be the Town Manager and Town Attorney.

## V. Finance Officer Disciplinary Process

The Town's investigation into the actions of the Finance Officer, as detailed in the Report, is an open, ongoing matter and is in its preliminary phases. This investigation will include, among other things, the Finance Officer's compliance with the Town's internal Finance Policies and Procedures and the Town's Personnel Policy. Discipline of any Town employee, including the Finance Officer, is strictly governed by the following Articles of the Personnel Policy: Article VIII. ("Separation and Reinstatement"), Article IX. ("Unsatisfactory Job Performance and Detrimental Personal Conduct") and Article X. ("Grievance Procedure and Adverse Action Appeal"). As a municipal employee, the Finance Officer is afforded limited procedural rights under the Personnel Policy and may also be afforded rights under the North Carolina State Constitution's Bill of Rights, which safeguards the fruits of a public employee's labor, as mandated by the North Carolina Supreme Court. A deviation from the Town's policies and procedures governing these processes could potentially expose the Town to various employment-based legal claims, including claims under the North Carolina State Constitution. The completion of the Town's investigative and disciplinary processes will be governed by the Personnel Policy and a completion date cannot currently be definitively stated, but the process will begin within ten (10) business days of publication of the final State Auditor's Report, under the supervision of the Town Manager.

***Town of Manteo, P. O. Box 246, Manteo, NC 27954***

***Phone: 252-473-2133 Fax: 252-473-2135***

***[www.townofmanteo.com](http://www.townofmanteo.com)***

VI. Town Policies and Procedures

The Report recommends that the "Town Manager should provide additional training to ensure all Town employees understand and comply with the established policies and procedures." This action is already underway and is ongoing. Starting in February 2019 (shortly after the new Town Manager's start date of February 11, 2019), the Town Manager embarked on a multi-part approach to compliance with Federal law, State statutes, and local ordinances and policies. First, the Town Manager has provided direction and coaching to staff on compliance and procedural activities including, but not limited to, finance topics ranging from procurement to payroll. Second, the Town Manager has involved department heads and other staff in identifying and proposing solutions to policy conflicts, procedural issues, and compliance needs for all Town policies, including six separate policy review sessions with senior staff. Third, the Town Manager has sought technical assistance from professionals including, but not limited to, the North Carolina League of Municipalities ("NCLM") and the School of Government at UNC-Chapel Hill for the review and updating of policies and procedures, some of which date back 15-20 years, and has already met with NCLM to start the process for policy assistance. Fourth, although the review and update process for the various Town policies is expected to continue into 2020, the Town Manager has already initiated individual training activities for specified staff, plus planning is underway for group training activities applicable to all employees. As noted previously, the training & development program is ongoing, and training on new and updated policies and procedures will be rolled out upon implementation of those policies. In the meantime, the Town Manager will be responsible for development of compliance training under the currently established policies and procedures, and the target date for completion of the training plan will be March 31, 2020 with completion of the first round of training activities for all employees by September 30, 2020.

The Town appreciates your Office's comprehensive review of this important matter. Please do not hesitate to contact me if you have any questions or require additional information.

Sincerely,



James Ayers  
Town Manager

cc: Mayor Bobby Owens  
Board of Commissioners

***Town of Manteo, P. O. Box 246, Manteo, NC 27954***  
***Phone: 252-473-2133 Fax: 252-473-2135***  
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# ORDERING INFORMATION

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## COPIES OF THIS REPORT MAY BE OBTAINED BY CONTACTING:

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20601 Mail Service Center  
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<https://itunes.apple.com/us/app/nc-state-auditor-hotline/id567315745>

For additional information, contact the  
North Carolina Office of the State Auditor at 919-807-7666



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This investigation required 938 hours at an approximate cost of \$96,614.