

## **POLICY REGARDING THE APPROPRIATE DISPOSAL OF FUNDS THAT LOCALITIES FAIL TO UTILIZE FOLLOWING A FIVE-YEAR PERIOD**

The Board of Directors (“Board”) of the Opioid Abatement Authority (“OAA”) is statutorily required to allocate a specific portion of the Opioid Abatement Fund (“Fund”) to each participating city and county (see Virginia Code § 2.2-2374(D)(2)). More specifically, the OAA is obligated “[f]or every deposit to the [Opioid Abatement] Fund, the [OAA] shall allocate” 15% of said Fund to the participating cities and counties. The OAA has calculated the anticipated deposits from the finalized settlements in the coming years and in turn then calculated each of the 133 cities’ and counties’ individual share using the Christopher Ruhm’s Recovery Virginia Allocation Model. The results of the calculation can be found in the spreadsheet on the OAA website entitled, “City and County Estimated Settlement Payments Look-up Tool FY2022 through FY2039.” For purposes of this policy, this allocation to the cities and counties will be referred to as the “OAA Distribution.”

Additionally, the OAA has the statutory duty to “[e]stablish specific criteria and procedures” before each participating city and county receives its OAA Distribution (see Virginia Code § 2.2-2368(1)).

Following the inaugural application period of January 19, 2023, to May 5, 2023, (applying for their FY22, FY23, and FY24 OAA Distribution shares) only a handful of the 133 cities and counties either applied for their OAA Distribution share for themselves or allocated their OOA Distribution share to support a cooperative partnership. Following the second application period of October 1, 2023, to April 1, 2024, (applying for their FY25 OAA Distribution shares (and for earlier shares if this was their first application)) slightly more cities and counties applied for their OAA Distribution share. The Board’s goal is 100% participation by all 133 cities and counties. In furtherance of that goal, efforts have long been underway to alert cities and counties to their OAA Distribution share through various forms of outreach: emails, telephone calls, listening sessions, virtual sessions, and e-newsletters. Additionally, the Board implemented a “Gold Standard” Incentive program to increase a complying city’s or county’s OAA Distribution share.

Since the Board was established for the purpose of abating and remediating the opioid epidemic in the Commonwealth through financial support from the Fund (see Virginia Code § 2.2-2366), the Board cannot hold a city’s or county’s OAA Distribution share in perpetuity waiting on a decision as to what the city or county wishes to do with its share. The Board must consider a reasonable time period to hold onto a city’s or county’s OAA Distribution share. After consideration, the Board deems that five years is a reasonable time period for holding onto a city’s or county’s OAA Distribution share. Therefore, the Board hereby establishes this policy to prompt cities and counties to act in a reasonable amount of time to obtain their OAA Distribution shares or risk the reversion of those shares back into the Fund to be used for the express purpose listed below.

In conformity with this policy, a city or county that fails to apply for their OAA Distribution share after five years will no longer have access to those allocated funds. Therefore, should a city or county

fail to submit applications for their OAA Distribution share for five consecutive application periods, then the city's or county's OAA Distribution share of the FY for the initial application period will revert back to the Fund.

Should a city or county be at risk of losing their OAA Distribution share for failing to apply during an application cycle, OAA staff will document outreach efforts and inform the Board that due notice was provided.

Any designated OAA Distribution shares reverted back to the Fund will be used to support the "Gold Standard" incentive (as described by the Board policy adopted October 24, 2022, and entitled "Policy to Incentivize Cities and Counties to Use and Report Direct Distributions from Opioid Settlements by Meeting the OAA "Gold Standard"").

Date of Board Approval: June 14, 2024