



VIRGINIA OPIOID ABATEMENT AUTHORITY GRANT AWARD TERMS AND CONDITIONS FOR INDIVIDUAL DISTRIBUTIONS TO CITIES AND COUNTIES

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Acceptance of this grant award by the recipient constitutes its agreement that it assumes full responsibility for the management of all aspects of the grant and the activities funded by the grant, including assuring proper fiscal management of and accounting for grant funds; assuring that personnel paid with grant funds are hired, supervised, and evaluated in accordance with established employment and personnel policies; and assuring that all terms, conditions and assurances—those submitted with the grant application, and those issued with this award—are complied with.

By signing the Statement of Grant Award/Acceptance, the recipient agrees to:

- Use the grant funds to carry out the activities described in the grant application, as modified by the terms and conditions attached to this award or by subsequent amendments approved by the Opioid Abatement Authority (OAA);
- Adhere to the approved budget contained in this award and amendments made to it in accord with these terms and conditions; and,
- Comply with all terms, conditions, and assurances either attached to this award or submitted with the grant application.

1. Definitions

- a. Definitions are contained in the [OAA's Glossary of Terms](#) available on the OAA website.

2. Use of Funds

- a. Recipient understands and agrees that the funds associated with this award may only be used in compliance with *Code of Virginia §2.2-2370*, any OAA regulations, and guidance issued by the OAA regarding the foregoing.
 - i. The recipient's primary mission, the primary mission of sub-recipients, and/or the primary mission of other agencies funding a portion of the proposed program will not conflict with the OAA's mission as it is defined in *Code of Virginia §2.2-2366*.
- b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project.
- c. Direct Costs
 - i. A direct cost is any cost that can be specifically identified with the proposed project that can be directly attributed to the project and/or the project's measurable activities.
 - ii. Direct costs include but are not limited to salaries, travel, equipment, and supplies directly connected to the project.
 1. An example of direct costs would be paying an employee to manage an Opioid Use Disorder Treatment Program.
 - iii. In accordance with *Code of Virginia §2.2-2370 (A) (4)*, recipient may NOT use funds provided under this award to cover indirect costs



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1. An example of indirect costs would be allocating a percentage of time of an existing (fully funded) procurement officer to issue a request for proposals (RFP) for this project.
 2. Including costs for something that is funded and already exists is considered indirect costs and supplanting, both of which are not allowed.
- d. Administrative costs that are new to the recipient for the purposes of government oversight and management of an abatement program to include managing and monitoring of expenses, collecting data, and making reports are considered allowable direct costs.
- i. New costs are defined as hiring an employee or contractor or increasing the hours of an employee or contractor to meet the oversight and management needs.
 - ii. Utilizing abatement funds for a current employee's costs is considered supplanting and not allowed per *Code of Virginia* [§2.2-2370](#).
- e. Utilizing abatement funds for a current employee's costs is considered supplanting and not allowed per *Code of Virginia* [§2.2-2370](#).
- f. Cities and counties have the option of creating a reserve fund that includes some portion of their Direct Distribution to help fund projects in future years when settlement payments are lower. If the city or county elects to implement this option, they will:
- i. Ensure those future projects meet the terms of the settlement(s)
 - ii. Separately account for the Direct Distribution, the Individual Distribution, the "Gold Standard" incentive (if applicable) and the reserved amount
 - iii. Publicly publish the projected financial strategy for this reserve fund
 - iv. If the city/county is participating in the OAA's "Gold Standard" Incentive program, the reserved funds may only be used in accordance with the "Gold Standard" as described in the [Incentive Policy](#).

3. Period of Performance

There will be an annual grant process that governs the award of the Individual Distribution to cities and counties on a rolling two-year basis (current and upcoming fiscal year).

- a. Between January 19, 2023, and May 5, 2023, the OAA will accept grant applications from cities and counties for distribution requests for FY2023 and FY2024.
- b. Subsequently, between approximately October 1 and April 1 of each year, the OAA will accept grant applications from cities and counties for Individual Distributions that amend the current fiscal year and request the next fiscal year's distribution.
- c. Reporting will be on a yearly basis.
- d. Beginning in FY2025, the OAA will require cities and counties to repay any unencumbered balances to the OAA by September 1 of the following fiscal year, unless a carryforward request is submitted meeting the following conditions:
 - i. The carryforward was planned and submitted as part of the approved project budget, or
 - ii. The city or county is making reasonable and measurable progress to implement its project(s) as described in the approved proposal
 1. The dates on the "Objectives" tab of the application in the OAA" Grants Portal will be used to document reasonable and measurable progress.
 - iii. The city or county remains in compliance with the terms and conditions of the OAA.



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- e. In accordance with the OAA Board of Directors' *Policy regarding the appropriate disposal of funds that localities fail to utilize following a five-year period*, a city or county that fails to apply for their OAA Individual Distribution share after five years will no longer have access to those allocated funds. After five consecutive application periods the city or county's OAA Individual Distribution share for the initial application period (FY2023) will revert to the Opioid Abatement Fund. For example, a city or county has until April 1, 2028, to submit a proposal for the use of the funding allocated to that city or county for FY2023 and until April 1, 2029, to submit a proposal for the use of the funding allocated to that city or county for FY2024, and so on.
- f. If a city or county grantee is experiencing delays with receiving OAA awarded funds and the approved project is incurring expenses, it is permissible for the city or county to pay those expenses from another funding source and then execute a journal entry in the general ledger to transfer the expenses to the OAA funds when received.
 - i. In these cases, cities and counties must keep detailed and accurate records reconciling the amounts and be able to produce them when requested.

4. Reporting

The recipient agrees to comply with any reporting obligations established by the OAA for this award. By accepting the award, the recipient agrees to submit a yearly financial and performance report throughout the grant period, as well as final reports to close the grant. No current awards will be considered for renewal if the recipient is not in compliance with the OAA's requirements at the time of renewal. For good cause, submitted in writing by the recipient, OAA may waive this provision. For all reporting questions and to submit reports, email to info@voaa.us.

- a. Reporting will include financial expenditures as well as programmatic performance measures on a yearly basis. Reporting frequency may increase in future awards.
 - i. Financial reports are due by September 1st of each year for the preceding fiscal year. Reports are due even if no expenditures occurred during the year. If the due date falls on a weekend or non-business day, the report is due on the next business day.
 - 1. Financial reporting is on a cash basis.
 - ii. Performance reports that include the performance measures agreed upon in the award are due by September 1st of each year for the preceding fiscal year. This report will also include a narrative of the progress the program has made during the period.
- b. Each year during the application period, the recipient will have the opportunity to amend the current fiscal year's funding and request the next fiscal year's funding. If a city or county needs to request an off-cycle amendment, those requests will be handled on a case-by-case basis.
- c. The recipient will also include reporting on expenditures and programmatic performance measures for spending related to the recipient's Direct Distribution of the settlement in accordance with *Code of Virginia §2.2-2370 (A) (5)*
- d. The recipient has up to 90 days from the end of the award period to liquidate any unpaid obligations and submit a final report. The end of the award period occurs when funding is no longer available or the recipient elects to sunset the project. The liquidation period allows projects time to receive final invoices and make final payments. No new obligations may be incurred during this period.
- e. The method for reporting may change during a grant cycle and include an online software platform.



5. Maintenance of and Access to Records; Audits

- a. The recipient hereby agrees to retain all books, records, and other documents relative to this award for five (5) years after final payment, or until final payment period is audited by the Commonwealth of Virginia, whichever is sooner.
- b. The recipient hereby agrees to also retain all books, records, and other documents relative to this award in accordance with the Virginia Public Records Act *Code of Virginia* §42.1-76 et seq.
- c. The OAA, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said materials during said period.
- d. The recipient hereby agrees to comply with all reporting and auditing requirements related to these funds as set forth by the Auditor of Public Accounts.
- e. The recipient agrees to forward a copy to the OAA of the recipient's audited financial statements for the fiscal year that covers the grant award period.

6. Cost Sharing

Cost sharing or matching funds are not required to be provided by the recipient unless they are specified by the recipient as part of the application.

7. Conflicts of Interest

Recipient understands and agrees it must maintain a conflict of interest policy consistent with *Code of Virginia* §2.2-3100 et seq. and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to the OAA, any potential conflict of interest affecting the awarded funds.

8. Compliance with Applicable Law and Regulations

a. Anti-Discrimination

By submitting their proposals, recipients certify to OAA that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans with Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, §2.2-4343.1 (E)).

In every contract over \$10,000 the provisions in i. and ii. below apply:

- i. During the performance of this award, the recipient agrees as follows:
 1. The recipient will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, or disability or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the recipient. The recipient agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.



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2. The recipient, in all solicitations or advertisements for employees placed by or on behalf of the recipient, will state that such recipient is an equal opportunity employer.
 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.
 4. The requirements of these provisions i. and ii. are a material part of the award. If the recipient violates one of these provisions, the OAA may terminate the affected part of this award for breach, or at its option, the whole award.
 5. In accordance with Executive Order 61 (2017), a prohibition on discrimination by the recipient, in its employment practices, subcontracting practices, and delivery of goods or services, on the basis of race, sex, color, national origin, religion, sexual orientation, gender identity, age, political affiliation, disability, or veteran status, is hereby incorporated in this award.
 6. The recipient will include the provisions of i. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- ii. The recipient will include the provisions of i. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

b. Contractor/Subcontractor Participation in E-Verify

In compliance with *Code of Virginia §2.2-4308.2*, registration and use of federal employment eligibility verification program is required as set forth below:

- i. For purposes of this section, "E-Verify program" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208), Division C, Title IV, § 403(a), as amended, operated by the U.S. Department of Homeland Security, or a successor work authorization program designated by the U.S. Department of Homeland Security or other federal agency authorized to verify the work authorization status of newly hired employees under the Immigration Reform and Control Act of 1986 (P.L. 99-603).
- ii. Any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract.
- iii. Any such employer who fails to comply with the provisions of subsection B shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program.

c. Ethics in Public Contracting

By submitting their proposals, recipients certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other recipient, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this proposal any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

d. Immigration Reform and Control Act of 1986

By submitting their proposals, recipients certify that they do not and will not during their performance of this award employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.



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e. Debarment Status

By submitting their proposals, recipients certify that they will not contract with organizations currently debarred by the Commonwealth of Virginia from submitting proposals on contracts for the type of goods and/or services covered by this award, nor are they an agent of any person or entity that is currently so debarred.

9. Remedial Actions

In the event of recipient's noncompliance with these terms and conditions, other applicable laws, regulations, and/or settlements, OAA may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies.

10. False Statements

Recipient understands that making false statements or claims in connection with this award is a violation of *Code of Virginia* §18.2-498.4 and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in state awards or contracts, and/or any other remedy available by law.

11. Debts Owed the Opioid Abatement Fund

- a. Any funds paid to recipient (1) in excess of the amount to which recipient is finally determined to be authorized to retain under the terms of this award; or (2) that are determined by the OAA to have been misused; and have not been repaid by recipient shall constitute a debt to the Opioid Abatement Fund.
- b. Any debts determined to be owed the Opioid Abatement Fund must be paid promptly by the recipient. A debt is delinquent if it has not been paid by the date specified in OAA's initial written determination for payment, unless other satisfactory arrangements have been made. The OAA will take any actions available to it to collect such a debt.

12. Disclaimer

- a. The Commonwealth of Virginia expressly disclaims any and all responsibility or liability to recipient or third persons for the actions of recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by the recipient does not in any way establish an agency relationship between the Commonwealth and the recipient.
- c. In no way does entering this MOU waive any defenses the agency may have as provided by law or otherwise against third-party claims.

13. Protections for Whistleblowers

- a. Recipients shall comply with [Chapter 30.1](#) The Fraud and Abuse Whistleblower Protection Act (*Code of Virginia* §2.2-3009 et seq.)
- b. No governmental agency may threaten or otherwise discriminate or retaliate against a citizen whistleblower because the whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action



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- c. No employer may discharge, threaten, or otherwise discriminate or retaliate against a whistle blower whether acting on his own or through a person acting on his behalf or under his direction.
- d. No employer may discharge, threaten, or otherwise discriminate or retaliate against a whistle blower, in whole or in part, because the whistle blower is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing, or inquiry by an appropriate authority or in a court action
- e. An employer shall post notices and use other appropriate means to notify employees and keep them informed of the protection and obligations set forth in the provisions of Chapter 30.1.

14. Requirement to Report Potentially Duplicative Funding.

If the recipient currently has other active awards, or if the recipient receives any other award of during the period of performance for this award, the recipient promptly must determine whether funds from any of those other awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify OAA in writing of the potential duplication, and, if so requested by OAA, must seek a budget-modification or change-of-project-scope to eliminate any inappropriate duplication of funding.

15. Additional Monitoring Requirements

The recipient understands that it may be subject to additional financial and programmatic on-site monitoring, which may be on short notice, and agrees that it will cooperate with any such monitoring in accordance with *Code of Virginia §2.2-2370 (A) (5)*.

16. Travel Policy

Recipients may follow their own established travel rates if they have an established travel policy. The OAA reserves the right to determine the reasonableness of an organization's travel policy. If the recipient does not have an established policy, then they must adhere to state travel policy. Refer to the following IRS website for the most current mileage rate: <https://www.gsa.gov/travel#tab--pov-mileage>. Transportation costs for air and rail must be at coach rates.

17. Award Amendments

Once a proposal has been approved by the OAA, amendments will be handled as follows:

- a. At all times regardless of any amendment the city or county must remain in compliance with the OAA's terms and conditions.
- b. A city or county must obtain approval from the OAA for any budget changes.
 - i. If the budget change is within the current fiscal year, within the approved scope, and amongst the approved expenditure categories (personnel, operating, capital), OAA staff may provide approval of the change.
 - ii. If the budget change is outside the current fiscal year, not within the approved scope, and/or not within the approved expenditure categories (personnel, operating, capital), then an amendment needs to be completed and reviewed and approved by the Grants Committee.
- c. If a city or county would like to propose a new project, it has two options:
 - i. Submit the new proposed project as part of the annual grant cycle; or
 - ii. Request special consideration outside the normal grant cycle on forms approved by the OAA.



18. Delegation of Responsibility

Any delegation of responsibility for carrying out grant-funded activities to any entity must be pursuant to a written memorandum of understanding or contract by which the implementing organization agrees to comply with all applicable grant terms, conditions, and assurances. Any such delegation notwithstanding, the applicant acknowledges by its acceptance of the award its ultimate responsibility for compliance with all terms, conditions, and assurances of the grant award.

19. Performance and Obligation Periods

OAA awards to cities and counties shall have a performance period of two years (the current and following fiscal years). Recipients must submit yearly requests that amend the current year (if necessary) and apply for the next fiscal year's funding. Carryforward of funds from FY2023 to FY2024 and FY2024 to FY2025 will be automatic. In subsequent years, carryforward requests will need approval from the OAA, or remaining balances will be repaid to the OAA. Reporting will be on a yearly basis, due September 1, of each year on forms prescribed by the OAA. Grant funds, including state and city or county match, may be expended and/or obligated during the grant award period of performance. Recipients may only charge to the award allowable costs incurred during this grant award period.

- a. Any approved expenditure items that require a pre-payment that crosses fiscal years should be pre-paid no more than 90 days in advance and/or the item received by September 30th of the subsequent fiscal year. OAA staff may grant an extension of this time period (within the subsequent fiscal year) if extenuating circumstances are demonstrated by the city or county. Any other extensions must be approved by the Grants Committee.
- b. If a final carryforward amount for a city or county project is a de minimis (in context of the total project cost) difference from the amount approved by the Grants Committee and the usage in the subsequent fiscal year is within the approved scope and budget line items, then these carryforward amounts may be approved by staff. All other cases of carryforward requests will require approval from the Grants Committee.

20. Limitation on the Use of Funds to Approved Activities

The recipient agrees that grant funds will be used only for the purposes described in the recipient's application, unless OAA determines that any of these activities are out of scope or unallowable. The recipient must not undertake any work or activities that are not described in the recipient's application, award documents, or approved budget, and must not use staff, equipment, or other goods or services paid for with grant funds for such work or activities, without prior written approval, from OAA.

21. Procurement

Recipients are responsible for ensuring that any procurement using OAA funds, or payments under procurement contracts using such funds are consistent with the procurement standards set forth in the Virginia Public Procurement Act *Code of Virginia* [§2.2-4300](#) et seq. as well as any procurement policies and procedures established by the recipient.