

# Virginia Opioid Abatement Authority

## State Agency MOU Terms and Conditions

Virginia Opioid Abatement Authority  
701 East Franklin Street, Suite 803  
Richmond, Virginia 23219

### 1. Acceptance of Award

Acceptance of this award by the agency of the Commonwealth constitutes its agreement that it assumes full responsibility for the management of all aspects of the award and the activities funded by the award, including assuring proper fiscal management of and accounting for funds; assuring that personnel paid with awarded 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 awarded proposal, negotiated with the Opioid Abatement Authority (OAA), and those issued with this award—are complied with.

### 2. Agreements

By signing the memorandum of understanding (MOU), the agency agrees to:

- a. Use the awarded funds to carry out the activities described in the awarded proposal, negotiated with the OAA, and/or as modified by the terms and conditions attached to this award or by subsequent amendments approved by the OAA;
- b. Adhere to the approved budget contained in this award and amendments made to it in accordance with these terms and conditions; and,
- c. Comply with all terms, conditions and assurances either attached to this award, negotiated with the OAA, or submitted with the awarded proposal.

### 3. Definitions

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

### 4. Use of Funds

- a. The agency understands and agrees that the funds disbursed under 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 agency'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. The agency 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 such 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)*, the agency may NOT use funds provided under this award to cover indirect costs
  1. An example of indirect costs would be allocating a percentage of time of a 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.
- iv. Administrative costs that are new to the agency 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.
  1. 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.
  2. Utilizing abatement funds for a current employee's costs is considered supplanting and not allowed per *Code of Virginia §2.2-2370*.

**5. Period of Performance**

There will be an annual performance period (PP) that governs the award from the OAA to agencies of the Commonwealth. The performance period will run from October to September of each year.

- a. Between April 21, and June 21, 2023, the OAA will accept proposals from agencies of the Commonwealth for funding requests for PP23-24.
- b. Subsequently, between April 1 and June 1 of each year, the OAA will accept proposals from agencies of the Commonwealth for new projects or to amend currently approved projects. Amendments must be approved by the OAA's Grants Committee.
- c. Reporting will be on a yearly basis
- d. Carryover of unexpended fund from one performance period to the next will be reviewed during the proposal window (April 1 - June 1), Carryover must be approved by the OAA's Grants Committee. Reasons carryover would be approved include:
  - i. The carry-over was planned and submitted as part of the approved project budget; or

- ii. : The agency is making reasonable and measurable progress to implement its project(s) as described in the approved proposal;
  - 1. The “project timeline” workbook will be used to document reasonable and measurable progress;
- iii. And the agency remains in compliance with the terms and conditions of the OAA.

If carryover is not approved, the unexpended funds shall be repaid to the OAA.

## 6. Reporting

The agency agrees to comply with any reporting obligations established by the OAA as they relate to this award.

- a. Reporting will include financial expenditures as well as programmatic performance measures on a yearly basis.
- b. The method for reporting to the OAA may change during a performance period and include usage of an online software platform.

## 7. Maintenance of and Access to Records; Audits

- a. The agency 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 agency 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 agency hereby agrees to comply with all reporting and auditing requirements related to these funds as set forth by the Auditor of Public Accounts.

## 8. Cost Sharing

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

## 9. Conflicts of Interest

The agency 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. The agency and its subrecipients must disclose in writing to the OAA, any potential conflict of interest affecting the awarded funds.

## 10. Compliance with Applicable Law and Regulations

### a. Anti-Discrimination

By submitting their proposals, agencies 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 agency'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 agency agrees as follows:

1. The agency 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 agency., The agency agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
2. The agency, in all solicitations or advertisements for employees placed by or on behalf of the agency, will state that such agency 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 agency 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 agency, 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 agency 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 agency 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 of 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, agencies 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 agency, 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, agencies 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.

**e. Debarment Status**

By submitting their proposals, agencies 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.

**11. Remedial Actions**

In the event of an agency’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.

**12. False Statements**

The agency 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.

### 13. Debts Owed the Opioid Abatement Fund

- a. Any funds paid to the agency (1) in excess of the amount to which the agency 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 the agency 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 agency. 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.

### 14. Disclaimer

- a. The Opioid Abatement Authority expressly disclaims any and all responsibility or liability to the agency or third persons for the actions of the agency 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 agency does not in any way establish an agency relationship between the Opioid Abatement Authority and the agency.

### 15. Protections for Whistleblowers

- a. Agencies 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 whistleblower 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.
- c. No employer may discharge, threaten, or otherwise discriminate or retaliate against a whistleblower 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 whistleblower, in whole or in part, because the whistleblower 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.

### 16. Requirement to report potentially duplicative funding.

If the agency currently has other active awards, or if the agency receives any other award during the period of performance for this award, the agency 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 agency 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.

## 17. Additional monitoring requirements

The agency 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).

## 18. Travel policy

Agencies 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 agency 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.irs.gov/tax-professionals/standard-mileage-rates>. Transportation costs for air and rail must be at coach rates.

## 19. Award Amendments

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

- a. At all times regardless of any amendment the agency must remain in compliance with the OAA's terms and conditions.
- b. An agency may appropriate additional revenue that it receives for any approved project. In this event the OAA shall be notified of the change using forms approved by the OAA.
- c. An agency may reduce its appropriated amount for a project without increasing the appropriation to another approved project. In this event the OAA shall be notified of the change using forms approved by the OAA.
- d. An agency may initiate line-item budget transfers within a project without seeking approval from the OAA.
- e. An agency may transfer funds between approved projects as long as the total amount appropriated for all of its OAA-approved projects does not change.
- f. If an agency would like to propose a new project, it has two options:
  - i. Submit the new proposed project as part of the proposal cycle; or
  - ii. Request special consideration outside the normal cycle on forms approved by the OAA.

## 20. Delegation of responsibility

Any delegation of responsibility for carrying out awarded 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 award terms, conditions, and assurances. Any such delegation notwithstanding, the agency acknowledges by its acceptance of the award its ultimate responsibility for compliance with all terms, conditions, and assurances of the award.



**21. Performance and obligation periods**

OAA awards to state agencies shall have a performance period of October to September each year. Agencies must submit yearly requests to renew the project, amend the project, or carryover funds to the next performance period. Reporting will be on a yearly basis for this first award cycle, due November 15, 2024 on forms prescribed by the OAA. Awarded funds, including contingent matching funds, may be expended and/or obligated during the performance period. Agencies may only charge to the award allowable costs incurred during this performance period.

**22. Limitation on the use of funds to approved activities**

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

**23. Procurement**

Agencies 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 agency.



# Reporting Requirements and Projected Due Dates for State Agency Award

Virginia Opioid Abatement Authority  
701 East Franklin Street, Suite 803  
Richmond, Virginia 23219

## Reporting Requirements

By accepting the accompanying award, the agency is agreeing to submit a yearly financial and performance report for this award throughout the performance period, as well as final reports to close the award. No eligible agency will be considered for renewal of funding if the agency is not in compliance with the OAA's requirements at the time of renewal. For good cause, submitted in writing by the agency, OAA may waive this provision.

To submit reports and reporting requests, email to [info@voaa.us](mailto:info@voaa.us).

- **FINANCIAL REPORTS**– Financial reports are due by November 15th of each year for the preceding performance period. Forms are due even if no expenditures occurred during the period. If the due date falls on a weekend or non-business day, the report is due on the next business day. For financial reporting questions, email [info@voaa.us](mailto:info@voaa.us).
- **PERFORMANCE REPORTS** – Performance reports that include the performance measures agreed upon in the award are due by November 15th of each year for the preceding performance period. This report will also include a narrative of the progress the program has made during the period.
- **BUDGET AMENDMENTS** - Each year during the proposal cycle, the agency will have the opportunity to amend the project and its funding pending approval by the OAA's Grants Committee. If an agency needs to request an off-cycle amendment, those requests will be handled on a case-by-case basis.
- **AWARD CLOSEOUT**: The agency has up to 90 days from the end of the final performance period to liquidate any unpaid obligations and submit a final report. The end of the final performance period would be when funding is no longer available or the agency elects to sunset the project. The liquidation period exists to allow projects time to receive final invoices and make final payments — no new obligations may be incurred during this period. Closeout questions should be directed to [info@voaa.us](mailto:info@voaa.us).

Reporting may be shifted to an online software platform during a funding cycle.