

AUDITOR OF PUBLIC ACCOUNTS

LOCALITY REPORTING GUIDANCE ON OPIOID SETTLEMENT FUNDS

The Auditor of Public Accounts (Office) has created this guidance related to opioid settlement funds to provide information for how Virginia localities should report and classify these funds for our Office's annual Comparative Report, and to provide reporting considerations for locality financial statements and assist localities with evaluating the impact on their annual financial reporting. This guidance addresses the cities and counties allocated share from the national opioid settlement payments that the locality is receiving directly from the outside settlement administrator (referred to as *Direct Distributions*) for the Distributors settlement, the Janssen/J&J settlement, Mallinckrodt settlement, and any other national settlements. This guidance also addresses any funding disbursed by Virginia's Opioid Abatement Authority to the cities and counties (referred to as *OAA Distributions*) from the Virginia Opioid Abatement fund through their application and grant awards process.

Note that this updated document replaces the original guidance documents that our Office provided during the FY 2022 reporting period (in August and December 2022) and incorporates applicable reporting guidance that should be considered for current and future reporting periods. Our Office will continue to update this guidance document each fiscal year as necessary.

Background

During July 2021, the Commonwealth and its cities and counties entered into and signed legal settlement agreements along with 45 other states as part of national opioid litigation against the three largest pharmaceutical distributors: McKesson, Cardinal Health, and AmerisourceBergen (Distributors) and the manufacturer Janssen Pharmaceuticals, Inc. and its parent company Johnson & Johnson (Janssen/J&J). During 2022 and 2023, the Commonwealth and localities entered into other national settlement agreements (i.e.: Mallinckrodt) and will likely continue to become involved in other settlement agreements in future years. These various national settlement agreements will provide substantial funds over the next several years to participating states and local governments to assist efforts to abate and remediate the opioid epidemic across the nation.

As a result of Virginia's participation in the national opioid settlements, the Commonwealth and all 133 cities and counties signed the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (statewide MOU) on August 20, 2021. The Virginia statewide MOU established an allocation plan and formula for distributing the opioid settlement funds across the Commonwealth based on a measure of harm per capita to communities across Virginia. In addition, during 2021, the Virginia General Assembly established the Opioid Abatement Authority (OAA) as an independent entity to address opioid abatement and remediation efforts across the Commonwealth through financial support from the Virginia Opioid Abatement Fund in the form of grants, donations, or other assistance. During 2022 and 2023, the Commonwealth and its localities have been receiving payments for their Direct Distributions of opioid settlement funds from the various settlement agreements. Additionally, the OAA has been actively working with cities and counties to approve and provide additional grant funding to the localities from the Commonwealth's Opioid Abatement fund.

Direct Distributions from Settlement Funds

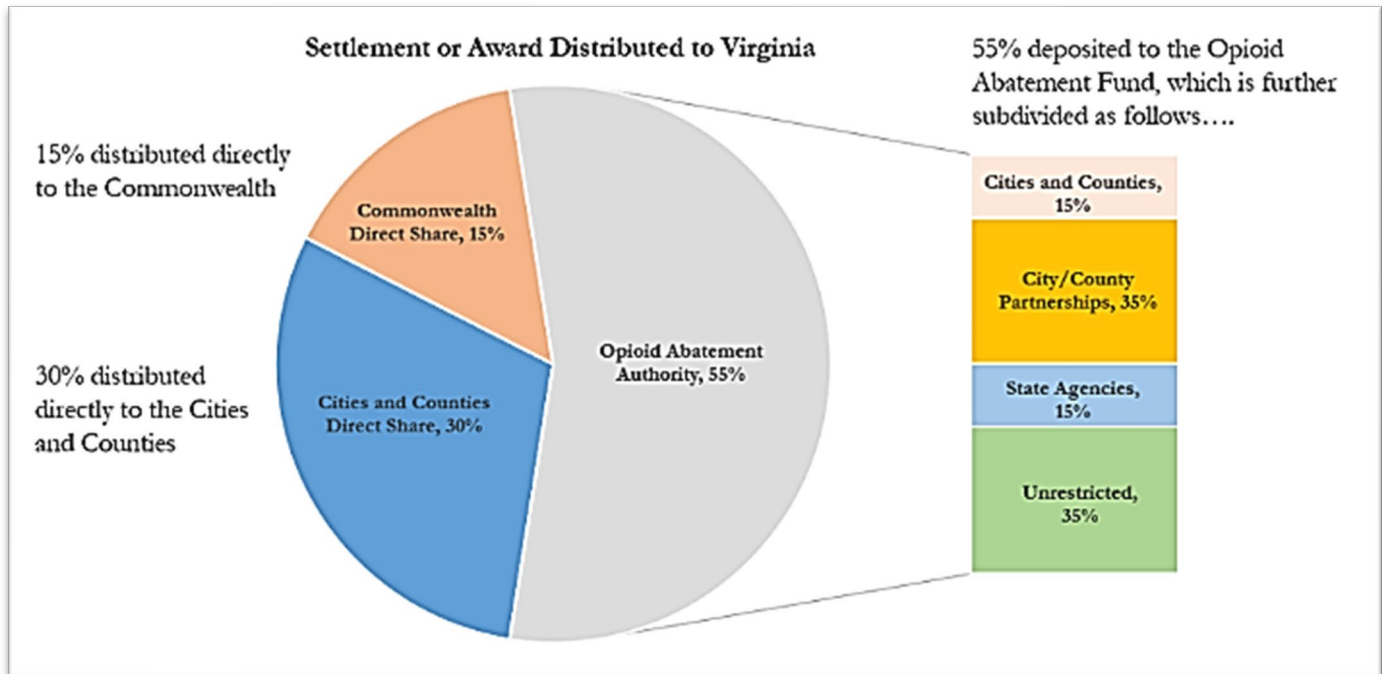
During November 2022, our Office reviewed the original schedule of locality estimated settlement distributions and the underlying data provided by the OAA and the Virginia Office of the Attorney General (AG's office) at that time. Our Office verified the accuracy of Virginia's total opioid settlement payments from the Distributors and Janssen/J&J settlements, and we reviewed the accuracy of each locality's allocation percentage and respective allocated share of total payment amounts included in the schedule of estimated distributions. We compared this information to the original source documents, the settlement agreements and Virginia statewide MOU; we found no calculation errors or inconsistencies in this schedule and data provided by the OAA and AG's office. In 2023 and 2024, the schedule of locality estimated settlement distributions was further updated to reflect additional settlement payments from other settlements and the remaining balances of the Deficiency fund as created under the statewide MOU. Our Office applied a materiality determination that the total dollar amount that changed in the schedule of all localities estimated settlement distributions was immaterial; therefore, our Office did not perform any further review over changes to the individual city and county settlement amounts for the FY 2023, FY 2024, and future years. We determined that the updated schedule continues to provide a reasonable estimate of locality settlement distributions.

The OAA has published the updated schedule of estimated settlement distributions, which provides each city and county's confirmed FY 2022, FY 2023, and FY 2024 Direct Distributions and an estimate of each city and county's future annual Direct Distributions settlement payments, along with potential OAA Distributions that a city or county may receive (refer to more detail at the [Distributions from the Opioid Abatement Authority](#) section below). Based on guidance from the OAA, future annual settlement amounts are considered estimates as the amounts are likely to vary based on external variables and adjustments that occur at the national level prior to distribution at the statewide level. **To review a locality's estimated Direct Distributions, each city and county should refer to the OAA's updated resource, [City and County Estimated Settlement Payments Look-up Tool](#) (amounts for Direct Distributions are shown under the "No Application to OAA" column). This file is the official, current source of data for estimated settlement distributions for each Virginia city and county.** The OAA will continue to update this file as additional settlement information is received.

Please note that the APA Excel Locality Payments Look-Up tool that was published during December 2022 is no longer available and has been superseded by the OAA's [City and County Estimated Settlement Payments Look-up Tool](#). Because new settlement agreements are likely to occur in future, along with other external factors that could potentially continue to impact future estimated payments, the OAA will oversee publishing this Look-up Tool for current and future reporting periods; this tool will not be published by the APA. This is to avoid any discrepancies or potential misunderstanding that might occur with our Office publishing a resource of locality estimated payments that may differ from any ongoing updates the OAA will publish to its schedule of estimated settlement payments.

Distributions from the Opioid Abatement Authority

In accordance with the statewide MOU and Virginia statutory requirements, the OAA will distribute funds to cities, counties, and state agencies, as these are the parties involved in the litigation. The OAA has published the following chart as an overview of how the 55% portion from the Virginia Opioid Abatement Fund will be distributed in accordance with state requirements.



Source: Virginia Opioid Abatement Authority website, <https://www.oaa.virginia.gov/about/>

- Cities and counties in Virginia are eligible to receive a specific amount of OAA funding in accordance with the statewide MOU (i.e.: the 15% Cities and Counties allocation). To obtain these funds, the city or county is required to agree to certain terms and conditions established by the OAA and must complete an application process for the OAA Board of Directors approval of the use of these funds. The OAA refers to this funding as *Individual distributions*, and this funding is awarded directly to an individual city or county.
- The OAA will also award funds through an application process for projects involving two or more cities and/or counties working together on an opioid abatement or remediation project (i.e.: the 35% Partnerships allocation). The OAA refers to this grant funding as *Cooperative Partnership grants*.
- Lastly, the OAA will use a portion of the 35% Unrestricted allocation to support opioid abatement and remediation projects in other ways, such as the following:
 - The OAA will offer voluntary financial incentive funds through an application process to cities and counties through their “Gold Standard” Incentive program. Each year that a city or county applies for any OAA Distribution, the locality may voluntarily elect to agree to an additional set of terms and conditions as a requirement to receive this additional *Gold Standard Incentive* funding. For each fiscal year that a participating city or county agrees

to use and report their Direct Distribution funds according to the same Gold Standard they are required to use and report their OAA Distribution funds, the OAA will agree to increase that city or county's OAA Distribution by 25% above the base amount for that same fiscal year.

- The OAA will offer competitive grants through an application process to cities and counties to provide assistance in expanding or developing new abatement efforts. The OAA refers to this grant funding as individual *Planning grants*.

Cities and counties are required to complete two separate applications to be eligible to receive both the *Individual Distributions* and *Gold Standard Incentive* funding. A locality may also choose to submit only the application for the *Individual Distributions* and decline requesting and applying for the *Gold Standard Incentive*. These applications are separate from the application process for any regional project a locality may join as part of a *Cooperative Partnership grant*. The annual application process for a locality's allocated *Individual Distributions* and *Gold Standard Incentive* is on a two-year rolling basis. The OAA requires a locality to submit a renewal application annually to continue to receive their allocated *Individual Distributions* and *Gold Standard Incentive* funding for future years.

The OAA has provided detailed information and various resources related to the opioid abatement funds, as further described in the [Opioid Abatement Authority Guidance and Resources](#) section of this document.

Use of Opioid Settlement Funds

In accordance with the various settlement agreements, the Direct Distributions are required overall to be spent for "opioid abatement" purposes as defined in the agreements. In some **limited** cases, depending on the specific settlement agreement, a small percentage of Direct Distributions could be used for non-abatement purposes. **However, the Commonwealth strongly discourages spending any settlement funds for non-abatement purposes, and the settlement agreements specifically state that any spending for non-abatement purposes is "disfavored."** The settlement agreements further require the locality to report any non-abatement spending to the settlement administrator, the settling companies, and the general public. Our Office does not have the authority to provide a legal interpretation or legal guidance as to a locality's decision to spend any potentially available portion of the Direct Distributions on non-abatement purposes; the locality should consult with its own legal counsel in this regard. The Commonwealth AG's office has provided additional guidance to localities on the use of settlement funds from the Direct Distributions in this [published document](#).

As noted above, the OAA has established the "Gold Standard" set of obligations that govern all OAA Distributions from the Commonwealth's Opioid Abatement Fund and require that these funds must be used for opioid abatement or remediation purposes as outlined in the Code of Virginia § 2.2-2370. The OAA provides specific guidance for the Gold Standard requirements; in general, most efforts that prevent, treat, and support recovery from opioid use disorder (and co-occurring addictions and mental illness) are covered. While each settlement agreement has specific criteria for opioid abatement purposes, the OAA's Gold Standard will always meet or exceed any settlement agreement requirements.

If a locality applies for and receives any OAA Distribution funds, the locality must follow the OAA's Gold Standard and any other OAA regulations for use of these funds. Cities and counties can expand existing programs or implement new programs, but no supplanting of existing expenditures is allowed, and no indirect costs are allowed. Further, if a city or county uses any of its Direct Distribution payments for non-abatement purposes, this will disqualify the locality from being eligible to apply for and receive the OAA's *Gold Standard Incentive* in that same fiscal year.

[GASB Financial Reporting Considerations](#)

Accrual Guidance for Direct Distributions

During 2022, the Auditor of Public Accounts participated in various meetings with staff of the Governmental Accounting Standards Board (GASB) and several other states to discuss financial reporting implications of the national opioid settlement payments. GASB staff provided guidance that the recognition of opioid settlement payments is comparable to prior GASB authoritative guidance related to the tobacco settlements recognition, specifically guidance about recognizing an asset and related revenue for future payments (refer to [GASB Technical Bulletin 2004-1](#), paragraphs 12-15, Question 3). This guidance states that claimant settlement agreements are an *exchange transaction*, based on the notion that the payments are made to the settling states in exchange for their agreement to release the distributors and manufacturers from present and future litigation. Accordingly, GASB financial reporting guidelines direct the reporting entity to accrue a receivable for future revenue payments if the amounts are estimable, and an event has occurred that results in the recognition of the asset and future revenue.

Based on this GASB guidance, our Office determined that the Commonwealth and its localities should consider accruing the Direct Distribution settlement amounts based on the following facts and circumstances.

- Virginia and its cities and counties joined and signed the final Distributors Settlement agreement and the Janssen Settlement agreement as of July 21, 2021. Additionally, Virginia and the cities and counties entered into and signed the Virginia statewide MOU on August 20, 2021. These actions resulted in an exchange transaction that occurred during the FY 2022 reporting period, thus creating an event that results in a revenue accrual. ***Since these estimated distributions will continue into future years, a revenue accrual would also be applicable in subsequent reporting periods.***
- The Commonwealth and its localities can reasonably estimate future payments (amounts are measurable) based on the schedule of estimated settlement distributions provided by the AG's office and the OAA. These estimated settlement distributions are based on legal authority and the established terms of the various settlement agreements.
- The OAA's published schedule of estimated settlement distributions provides a reasonable basis to record a revenue accrual given that GASB standards require amounts to be measurable or *reasonably estimable*. Localities should keep in mind that this information is intended to provide a reasonable estimate at this point in time for financial reporting purposes. While future payment amounts may vary, this would be based on subsequent events occurring in the future.

As required for any other accrual estimate, locality management should continue to evaluate this information each year to determine the impact to their financial statements, as new information becomes available and fluctuations to the estimated payments and assumptions may change.

Using the OAA's [City and County Estimated Settlement Payments Look-up Tool](#), each city and county can review its estimated Direct Distribution amounts from the settlements and use this information to evaluate whether an accrual is necessary for the applicable fiscal year reporting period. Refer to further information at the [Journal Entry Guidance](#) section below.

Accrual Guidance for OAA Distributions (NEW Beginning with FY2023)

Since June 2023, the OAA's Board of Directors has approved and awarded two cycles of grant funding to Virginia cities and counties for opioid abatement and remediation efforts. The OAA has published information on the amounts for each approved grant award to applicable cities and counties in its [June 26, 2023, press release](#), and its [May 28, 2024, press release](#). The approved awards include funding to cities and counties for Individual Distributions, Gold Standard Incentive payments, Planning grants, and Cooperative Partnership grants, as defined at the [Distributions from the Opioid Abatement Authority](#) section of this guidance. **The OAA began distributing funding to applicable localities or the initial grant award cycle during FY 2024 (starting in September 2023); the OAA will distribute funding for the second cycle of grant awards during FY 2025.**

In accordance with GASB reporting requirements (see GASB Codification *N50 Nonexchange Transactions*), our Office has determined this funding represents a voluntary nonexchange transaction, with an eligibility requirement (i.e.: *required characteristics of recipients*) and purpose restrictions. **The applicable localities that received OAA Distributions from the initial June 2023 grant awards process have met eligibility requirements as of June 26, 2023, and localities that were approved for 2024 grant awards have met eligibility requirements as of May 23, 2024. Accordingly, our Office has determined this may result in a revenue accrual for the applicable city or county's FY 2023 and FY 2024 reporting periods. This accrual is applicable to those cities and counties that are directly receiving OAA Distributions for their locality's use as approved under the OAA's 2023 and 2024 grant application periods for the *Individual Distributions* and *Gold Standard Incentive*; refer to the OAA's grant awards listing in their published June 2023 and May 2024 press releases as noted above.** Please note that our Office has not performed any detailed review nor audit procedures over the total distributions for the OAA's initial grant funding nor the individual grant funds approved for each city and county.

A city or county should only accrue its estimated allocation of *Individual Distributions* and the *Gold Standard Incentive*—amounts shown as *Must Apply to OAA* in the [City and County Estimated Settlement Payments Look-up Tool](#)—if the locality has completed the OAA grant application process for this funding and the OAA has approved the grant award during the applicable reporting period. The OAA's approval of a locality's submitted application for its allocated *Must Apply to OAA* Distribution amounts indicates the event that results in a revenue accrual in the applicable reporting period.

Further, in a given reporting period, a locality would only accrue the applicable two-year allocation of the ***Must Apply to OAA*** Distribution amounts the locality is eligible to receive under the current two-year rolling application cycle. The locality would **not** accrue the total sum of its estimated *Must Apply to OAA* Distribution amounts for all future years. As noted above with the OAA's grant application process (refer to the [Distributions from the Opioid Abatement Authority](#) section of this guidance), the locality must continue to submit or renew an application annually with the OAA to be eligible to continue to receive its estimated *Must Apply to OAA* Distribution amounts over the future years. **Note that this accrual methodology for a locality's eligible *Must Apply to OAA* Distribution amounts differs from the [Accrual Guidance for Direct Distributions](#).** A locality would accrue its total sum of estimated future payments for their Direct Distributions for all future years through 2039 because the accrual event has already occurred, and it is reasonably certain that each city and county will receive their total sum of estimated future Direct Distributions since this is stipulated as such under the settlement agreements and the Virginia statewide MOU.

Locality Management's Responsibility and Professional Judgment

This financial reporting guidance is intended to help promote consistency in financial reporting across Virginia cities and counties. **Please note that our Office is not definitively stating that each city and county must make a revenue accrual entry for its financial statements. Management at each city and county has ultimate responsibility for the accuracy of its financial statements, and responsibility for making the decision on whether it is necessary to accrue their locality's Direct Distribution settlement funds or to accrue any applicable OAA Distributions.** We also encourage the localities to consult with their external audit firms about any financial reporting impact.

Our Office acknowledges that when evaluating the applicability and scope of this information, locality management will likely consider the aspect of materiality, particularly since each city and county will receive different allocated distribution amounts based on the established allocation percentages in the statewide MOU. The GASB states that while all standards apply to all state and local governments, they may not need to be applied or implemented for every transaction if the effect of doing so would be immaterial. In other words, while all GASB standards apply, they may not be relevant for every transaction based on significance and materiality. A level of materiality is not specifically defined in GASB standards nor by our Office, as this should be based on management applying professional judgment when quantitatively and qualitatively evaluating the locality's own facts and circumstances. Each locality will need to evaluate its total allocation of the estimated settlement distributions and the impact on its own financial statements.

Restricted Classification

Since the overarching guidance (refer to the [Use of Opioid Settlement Funds](#) section above) strongly recommends that all city and county Direct Distributions be used only for abatement and remediation purposes, and any OAA Distributions received by a locality must follow the OAA Gold Standard requirements, this would indicate the opioid-related funds have purpose restrictions under GASB financial reporting standards. Accordingly, it is our Office's recommendation that all opioid-related funds, including the Direct Distributions and any OAA Distributions, be classified as Restricted Fund Balance/Net Position for financial reporting purposes.

Journal Entry Guidance

Our Office has provided the following basic, illustrative journal entries for both the fund statements and government-wide statements. The amounts provided in these illustrative journal entries are for example purposes only and do not represent amounts for an actual city or county. **As a reminder, management at each city and county has responsibility for deciding whether an accrual is necessary and ensuring the overall accuracy of such journal entries.** Refer to additional information at the “Accrual Guidance” sections above.

Governmental Fund Statements (Modified accrual basis):

1. To record a receivable for FY 202X payments received by August 31 within the 60-day accrual period

Note: This entry may be applicable depending on the timing of when a locality receives any of its payments for Direct Distributions attributed to FY 202X from the settlement administrator.

ACCOUNT	DEBIT	CREDIT
Accounts Receivable	15,000	
	Revenue	15,000

2. To record a receivable and defer the revenue for settlement distribution payments expected to be received after August 31, after the 60-day accrual period. (GASB Statement 65, para. 30)

Note: This entry would relate to the locality’s estimated future Direct Distributions from the settlement agreements (refer to the [Accrual Guidance for Direct Distributions](#) section) and OAA Distributions, if applicable (refer to [Accrual Guidance for OAA Distributions](#) section).

ACCOUNT	DEBIT	CREDIT
Accounts Receivable	1,500,000	
	Deferred Inflow of Resources	1,500,000

Government-wide Statements:

3. To record a receivable for future settlement distribution payments on full-accrual basis (i.e.: to reclassify the deferral recorded in the Fund statements)

ACCOUNT	DEBIT	CREDIT
Deferred Inflow of Resources	1,500,000	
	Revenue	1,500,000

Locality Financial Reporting of Direct Distributions and OAA Distributions

Direct Distributions Revenue Reporting

- Since the locality’s Direct Distributions of settlement funds are coming directly from the trust administered by the outside settlement administrator, the locality should account for this inflow of settlement funds as local revenue in the same manner as receiving any other legal settlement.

Based on consistency with the Commonwealth of Virginia’s financial statement classifications, our Office recommends classifying the Direct Distributions as *Other Revenue* in the Fund statements and *Program Revenues-Charges for Services* in the Government-wide statements, since this is revenue resulting from an exchange transaction. The Direct Distributions of settlement funds are not pass-through funds and are not considered Revenue from the Commonwealth.

- For the APA’s Comparative Report Transmittal reporting, the locality’s Direct Distributions from settlement funds should be accounted for as Miscellaneous Revenue, Transmittal Form 200, Line 7.30, *Miscellaneous*.

OAA Distributions Revenue Reporting (NEW Beginning with FY2023)

- Any OAA Distributions directly disbursed by the Opioid Abatement Authority to a locality is considered state funding designated for a specific use and should be accounted for as *Categorical Aid, Revenue from the Commonwealth*.
- For the APA’s Comparative Report Transmittal reporting, a locality should report OAA Distributions on the Transmittal Form 100 as State Categorical Aid (Column K) sources of revenue according to the applicable expense function(s) depending on how the locality spent the funds. See Expenditure reporting below.

Expenditure Reporting for All Settlement Funds

For the APA’s Comparative Report Transmittal reporting, expenditures should be reported on the Transmittal Form 100 according to the applicable function(s) for how the locality has spent the opioid-related funds (refer to guidance at the [Use of Opioid Settlement Funds](#) section). For example, if the locality spent any opioid-related funds (Direct Distributions and/or OAA Distributions) on approved social services or behavioral health related programs that meet the requirements of abatement and remediation efforts, the expenditures would be reported at the applicable Health and Human Services function (applicable line items under line 5.00) on Form 100. As another example, if the locality spends any opioid-related funds on approved criminal justice programs or for law enforcement purposes that meet the requirements of abatement and remediation efforts, the expenditures would be reported at the applicable Public Safety function (applicable line items under line 3.00) on Form 100.

[Opioid Abatement Authority Guidance and Resources](#)

In developing and updating this guidance, our Office has continued to communicate and collaborate with staff from the Opioid Abatement Authority (OAA) to understand details of Virginia’s participation in the national opioid settlements and the OAA’s mission to partner with local governments to address opioid abatement and remediation. Our Office has previously shared this guidance with the OAA to ensure the accuracy of the information we are providing, and we have referenced various documentation and resources available from the OAA on their website, <https://www.oaa.virginia.gov/>. The OAA has continued to actively work with cities and counties and other key stakeholders and provide outreach efforts to assist and educate stakeholders about Virginia’s opioid settlement funds through presentations, public listening sessions, public board and committee meetings, and bi-weekly webinars. The OAA’s Executive Director and staff are a vital and central resource for localities to contact with questions

regarding the opioid settlement funds, along with learning important information about the efforts to help abate and remediate the opioid crisis in the Commonwealth.

The following links to key resources and guidance on the OAA's website may be helpful to reference when reviewing this APA guidance document.

Website pages:

- OAA Grants Portal, <https://www.oaa.virginia.gov/portal-grants/>
- OAA News and Updates, <https://www.oaa.virginia.gov/news-and-updates/>
- OAA Abatement Academy webinars, <https://www.oaa.virginia.gov/abatement-academy/>
- OAA Presentations, <https://www.oaa.virginia.gov/media/presentations/>
- OAA Committee Meetings, <https://www.oaa.virginia.gov/public-meeting-notices-/>
- Applications, Supporting Documentation, and OAA Summary Recommendations for Cities and Counties from Initial Grant Cycle:
 - [Applications from City/County Individual Distributions](#)
 - [Applications for Individual Planning Grants](#)
 - [Applications from Cooperative Partnerships](#)
- [Summaries and Recommendations from Cities and Counties for Consideration May 23, 2024](#)

Key documents and resources:

- Updated Frequently Asked Questions document – *In process (Refer to OAA's [Grants Portal > Resources and General Information](#), to check status of when updated document is published.)*
- [City and County Estimated Settlement Payments Look-up Tool](#) (updated May 2024)
- [Summary of Key Provisions of Opioid Settlements from the Attorney General](#) (updated April 2023)
- [Policy for "Gold Standard" Incentive to Cities and Counties](#)
- [Individual City/County Applications & Guidance - Amend/Renew Current Award and "Gold Standard" Incentive](#)
- [Individual City/County Applications & Guidance - New Applications and "Gold Standard" Incentive](#)
- [Cooperative Partnerships - New Applications](#)
- [Cooperative Partnerships - Amend/Renew Current Awards](#)
- May 29, 2024, [Opioid Abatement Authority Announces \\$22.7M in Annual Grant Awards to Virginia Cities and Counties](#)
- May 3, 2024, [OAA Updates City/County Estimated Payments Look-up Tool to reflect recent payments](#)
- June 26, 2023, [Opioid Abatement Authority Finalizes Awards totaling \\$23 million in Grants to 76 Cities and Counties](#)
- [Frequently Asked Questions \(Prior version as of February 28, 2023\)](#)