



County of Fairfax, Virginia

MEMORANDUM

DATE: January 13, 2023

TO: Board of Supervisors

FROM: Thomas Arnold
Deputy County Executive *TA*

Christopher A. Leonard
Deputy County Executive *CL*

SUBJECT: Opioid Settlements

As Board members are aware, states and localities across the country, including Fairfax County, have sued numerous organizations in the pharmaceutical supply chain, including manufacturers, distributors, and pharmacy benefit managers, for their role in the opioid epidemic. Many of these legal matters are pending. However, a few have been settled and payments to states and localities (including Fairfax County) have begun. Additional opioid settlements and payments are anticipated in the months and years ahead through at least 2038. Though some details about the full scope of settlements and funding requirements remain unclear, this memorandum provides an update on state and local preparations underway for use of opioid settlement funds.

Background

In Virginia, the framework for distribution of opioid settlement funds is formed by the settlement agreements, a memorandum of understanding (MOU) between the Commonwealth of Virginia and cities and counties, and Va. Code Title 2.2, Chapter 22, Article 12 which created the state Opioid Abatement Authority (OAA) in 2021.¹ These funds generally must be used for abatement purposes, defined as efforts to treat, prevent, or reduce opioid use disorder or the misuse of opioids, or to otherwise abate or remediate the opioid epidemic.² While some funds technically could be used for other purposes, it is strongly discouraged to use funds for non-abatement purposes. Fairfax County will receive funds directly and also will be eligible to receive funds from the OAA. A substantial amount of OAA funds will be available through a competitive award process for regional projects.

¹ On July 27, 2021, the Fairfax County Board of Supervisors adopted a resolution approving the MOU with the Commonwealth of Virginia.

² It is anticipated that all individual settlement agreements will define "abatement purposes" in a similar manner, though it is possible the provisions of specific settlements could vary slightly.

Opioid Abatement Authority (OAA) Activity

The recently created state OAA is governed by an 11-member board, which currently includes Daryl Washington, Executive Director of the Fairfax-Falls Church Community Services Board (CSB) as the representative of a CSB serving an urban/suburban area. The purpose of the OAA is “to abate and remediate the opioid epidemic in the Commonwealth...in the form of grants, donations, or other assistance, for efforts to treat, prevent, and reduce opioid use disorder and the misuse of opioids in the Commonwealth.” The OAA is developing the application process for awards and plans to open the initial application window at the same time it releases application guidance and instructions, during a workshop in Richmond on January 19 and 20, 2023. Shortly after that, OAA will begin approving applications through late Spring 2023. The OAA has announced that it is offering cities and counties a financial incentive to utilize opioid settlement funds received directly consistent with rules governing use of OAA funds; while this financial incentive is very attractive, more details are needed from the OAA on the associated requirements (i.e., reporting and other terms and conditions).

OAA Listening Sessions

The OAA and the Virginia Association of Community Services Boards (VACSB) are jointly hosting a series of town hall style listening sessions around the state to collect feedback that the OAA plans to use in determining funding priorities and decisions about grant applications. The sessions are open to the general public and scheduled for December 2022 - April 2023. The listening session for the Northern Virginia region was held at the Fairfax County Government Center on December 3. The OAA Executive Director gave a detailed presentation on the opioid settlements and OAA, followed by an opportunity for the public to ask questions and provide suggestions to the three OAA Board members in attendance and OAA staff. Audience members underscored the need for expanded youth substance use treatment options; the importance of partnership between various County agencies and community partners; and the unique contributions various stakeholders can make to opioid response efforts.

County Administration and Use of Funds

As Board members are aware, the County has a robust opioid response strategy which is carried out by the Opioid and Substance Use Task Force with strategic guidance provided by a Steering Committee comprised of key agency leaders. The County’s FY 23-25 opioid response strategy includes 40+ programs/activities managed by multiple County agencies and Fairfax County Public Schools (FCPS), all collaboratively working towards the goals of reducing opioid-related deaths, improving the quality of life of individuals impacted by opioid use disorder, and using data to inform and monitor effectiveness of interventions. While most of the opioid settlement dollars generally cannot be used to supplant existing local funding, the programs/activities included in the County’s opioid response plan could be expanded/enhanced with opioid settlement dollars and staff on the Task Force have been exploring potential uses of opioid settlement funds, including regional projects, in line with the County’s opioid response plan.

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One regional project currently being explored would expand capacity of substance use treatment services for adults and youth. The increase in youth fatal and nonfatal overdoses in the region has highlighted the need for more robust youth services, including detox and residential treatment. The CSB Executive Directors in Northern Virginia routinely collaborate on regional behavioral health services through the Northern Virginia Regional Projects Office and it is envisioned that such a project could be structured and managed similar to other regional behavioral health services (such as the regional crisis stabilization unit).

A Fairfax County process is being developed to ensure staff can utilize opioid settlement funds and pursue OAA funding in a timely manner while also ensuring Board members are updated as appropriate. The OAA grant application guidance that will be released on January 19, 2023 will inform how this process is structured. Potential projects to be funded with opioid settlement dollars will be vetted by an Executive Committee comprised of Deputy County Executives Chris Leonard and Tom Arnold; Chief Financial Officer Christina Jackson; FCPS Assistant Superintendent of Special Services Michelle Boyd; County Director of Diversion Initiatives Lisa Potter; and the Opioid and Substance Use Task Force Coordinator Ellen Volo.

Next Steps

OAA activity and forthcoming guidance on applications will be closely monitored by County staff. The Opioid and Substance Use Task Force will continue to assess community needs and explore potential collaborations with regional and community partners. The Board will be briefed in more detail on the opioid settlement funds available and County process for utilizing such funds during the February 28, 2023 Health and Human Services Committee meeting. If you have additional questions in the interim, please contact Ellen Volo, Opioid and Substance Use Task Force Coordinator, at 703-324-7073 or Ellen.Volo@fairfaxcounty.gov.

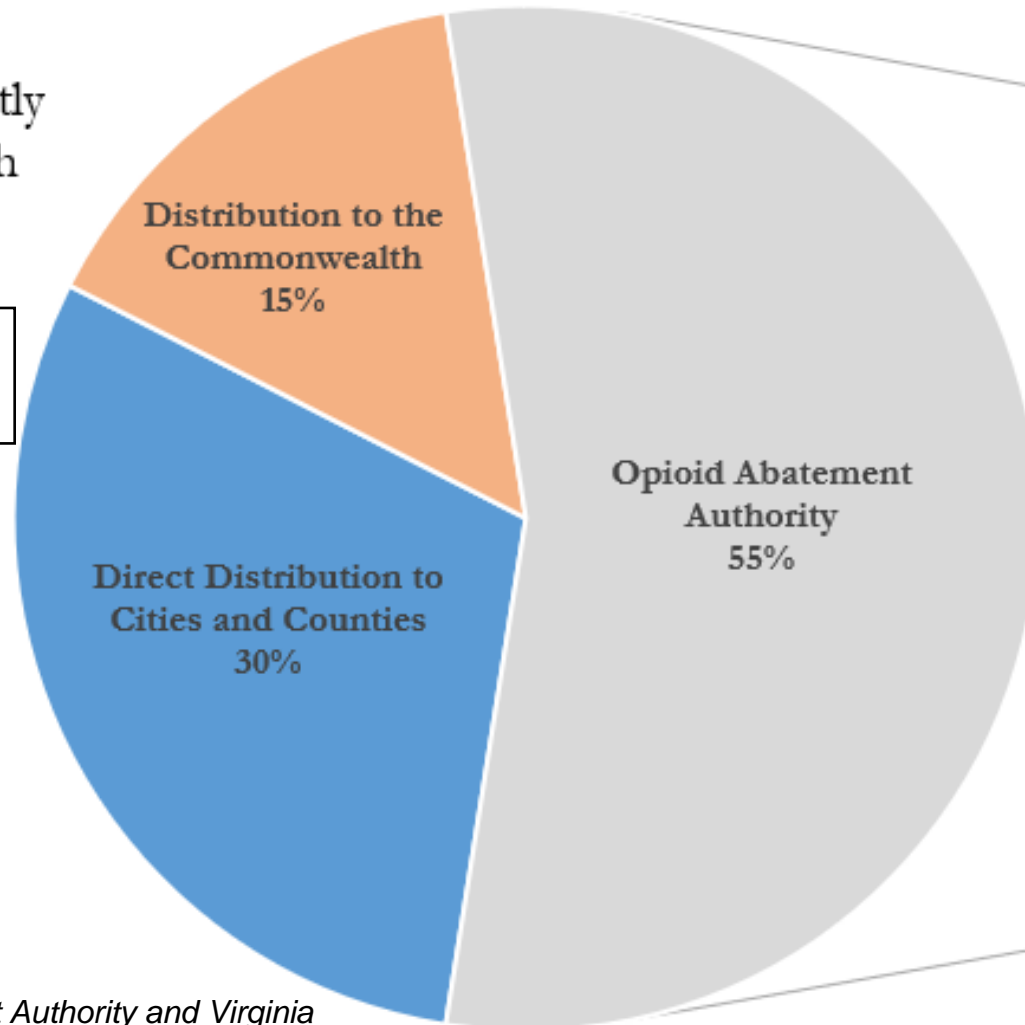
cc: Bryan J. Hill, County Executive
Michelle Reid, FCPS Superintendent
Christina Jackson, Chief Financial Officer
Rachel M. Flynn, Deputy County Executive
Ellicia Seard-McCormick, Deputy County Executive
Dr. Gloria Addo-Ayensu, Director, Health Department
Michael Becketts, Director, Department of Family Services
Michelle Boyd, Assistant Superintendent, FCPS
Karla Bruce, Chief Equity Officer
John S. Butler, Chief, Fire and Rescue Department
Tony Castrilli, Director, Office of Public Affairs
Kevin Davis, Chief, Police Department
Phil Hagen, Director, Department of Management and Budget
Stacey Kincaid, Sheriff, Sheriff's Office
Lisa Potter, Countywide Diversion Initiatives Director
Elizabeth Teare, County Attorney
Matt Thompson, Director of the Court Service Unit, JDRDC
Lloyd Tucker, Director, Neighborhood and Community Services
Daryl Washington, Executive Director, Fairfax-Falls Church CSB
Ellen Volo, Opioid and Substance Use Task Force Coordinator

Virginia's Settlement Distribution Agreement

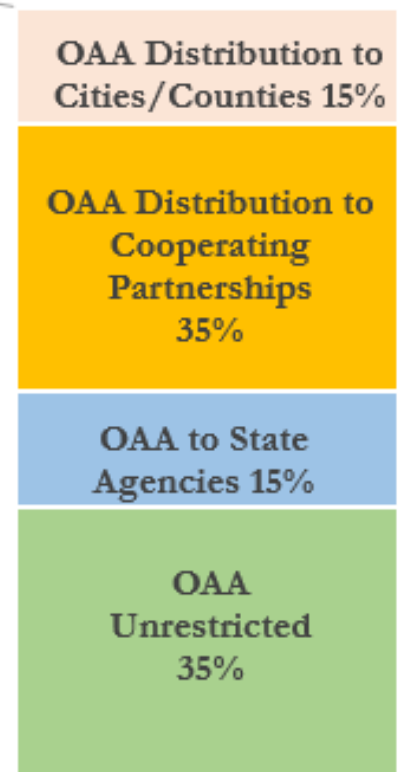
15% distributed directly to the Commonwealth

Fairfax County has received ~\$2.2 million in FY 22-23

30% distributed directly to the Cities and Counties



55% deposited to the Opioid Abatement Fund, which is further subdivided as follows....



Fairfax County eligible to receive ~\$1 million in FY 23

Fairfax County
 Estimated Opioid Settlement Fund Distributions
 FY 2022 - FY 2039
 as of January 2023

	Citites/Counties Direct Share			From Opioid Abatement Authority				Annual Total
	Non-Competitive/Direct Distribution			Non-Competitive/ Needs Approval		Competitive	Competitive	
	Distributors	Janssen	Mallinckrodt	Individual OAA Share	25% Incentive	Cooperative Partnerships	Planning Grants	
FY 2022	\$352,634	\$0	\$0	\$0	\$0			\$352,634
FY 2023	\$370,601	\$1,411,750	\$90,760	\$807,787	\$201,947			\$2,882,845
FY 2024	\$370,601	\$0		\$135,887	\$33,972			\$540,460
FY 2025	\$463,860	\$0		\$170,082	\$42,520			\$676,462
FY 2026	\$463,860	\$0		\$170,082	\$42,520			\$676,462
FY 2027	\$463,860	\$71,204		\$196,190	\$49,048			\$780,302
FY 2028	\$463,860	\$71,204		\$196,190	\$49,048			\$780,302
FY 2029	\$545,555	\$71,204		\$226,145	\$56,536	<i>TBD based on applications submitted and awards received</i>	<i>TBD based on applications submitted and awards received</i>	\$899,440
FY 2030	\$545,555	\$90,656		\$233,277	\$58,319			\$927,807
FY 2031	\$545,555	\$90,656	<i>Still being determined</i>	\$233,277	\$58,319			\$927,807
FY 2032	\$458,594	\$90,656		\$201,391	\$50,348			\$800,989
FY 2033	\$458,594	\$0		\$168,151	\$42,038			\$668,783
FY 2034	\$458,594	\$0		\$168,151	\$42,038			\$668,783
FY 2035	\$458,594	\$0		\$168,151	\$42,038			\$668,783
FY 2036	\$458,594	\$0		\$168,151	\$42,038			\$668,783
FY 2037	\$458,594	\$0		\$168,151	\$42,038			\$668,783
FY 2038	\$458,594	\$0		\$168,151	\$42,038			\$668,783
FY 2039	\$458,594	\$0		\$168,151	\$42,038			\$668,783
Total	\$8,254,693	\$1,897,330	TBD	\$3,747,365	\$936,843	TBD	TBD	\$14,836,231

FY 2022 and FY2023 amounts are confirmed, but each subsequent year amounts are estimates and likely to vary based on adjustments that occur at the national level prior to distribution to the various states.

Source: Virginia Office of the Attorney General and the Virginia Opioid Abatement Authority, updated January 2023