

CHAPTER 50. OPIOID SETTLEMENT PAYMENTS AND ABATEMENT GRANTS

SUBCHAPTER 1. GENERAL PROVISIONS

75:50-1-3. Use of Opioid Funds Inconsistent with Act

The following uses of opioid funds are inconsistent with the Act, do not constitute opioid abatement under the Act, and will denied funding by the Board:

(1) Drug interdiction, which shall include the interception or prevention of movement of any licit or illicit controlled substances as defined under article 2 of the Uniform Controlled Dangerous Substances Act, the Controlled Substances Act, 21 U.S.C. § 812, administrative rule promulgated by the Bureau of Narcotics and Dangerous Drugs Control, or federal regulation;

(2) Purchase, lease, or acquisition of a motor vehicle or emergency vehicle as defined under title 47 of the Oklahoma Statutes;

(3) Capital expenses such as loan payments, lease or rent payments, furniture purchases, real property purchases, and upgrades or improvements to real property; and

(4) Any expenditure using grant award proceeds that falls outside the grant application or agreement.

SUBCHAPTER 3. OPIOID ABATEMENT GRANTS

75:50-3-2. Opioid grant award restrictions and requirements

(a) Upon submitting an application, an applicant must also submit a memorialized plan for the utilization or expenditure of opioid funds. Such plan may be in the form in a resolution or equivalent government action adopted by the political subdivision and submitted to the Board with the application. Documentation evincing such government action may include, but is not limited to, the following:

(1) A resolution, as allowed by law, adopted through a publicly cast and recorded vote;

(2) An ordinance, or its equivalent, that has been approved through a publicly cast and recorded vote; or

(3) An abatement plan or budget that has been approved through a publicly cast and recorded vote.

(b) When submitting an application under section 1 of this subchapter, an applicant may not rely on a resolution or other general delegation of authority to a chief executive officer or equivalent position for seeking grants.

(c) All approved purposes listed in an Applicant's Application and Form shall relate to strategies, programming and services occurred on or after January 1, 2015, to be eligible for opioid grant award funding.

(d) For an Applicant to receive a grant award, the Board may, subject to terms under any settlement agreement related to the opioid pharmaceutical supply chain, require an applicant to execute a release of claims on a form created and approved by the Attorney General. The release form may be included in the Application. The release shall only apply to and release claims against any opioid supply chain participants or consultants for which the State of Oklahoma has joined a multi-party settlement or reached a settlement agreement with, including Purdue Pharmaceuticals, Teva Pharmaceutical Industries Ltd., Endo Pharmaceuticals, AmerisourceBergen, Cardinal Health, McKesson Corp., McKinsey & Company, CVS, Allergan, Walmart, and Walgreens.

(e) To the extent that any recipient remains in litigation, it may elect to delay receipt of any disbursements of its opioid grant award on a form developed by the Office of the Attorney General staff.

(f) A recipient may contract or partner with a nonprofit organization or other applicant for the purpose of using its grant award for approved purposes; however, the grantee shall remain responsible for complying with all grant requirements. Any contract entered into by a grantee shall be done in compliance with applicable purchasing laws and guidelines.

(g) A recipient is not permitted to subgrant its grant award to a subgrantee. For the purposes of this chapter, "subgrant" means the provision of a grant award and whereby all the regulations and requirements that apply to the grantee are passed on to the subgrantee, making the grantee a pass-through entity. "Subgrantee" means any entity receiving the grant award through a subgrant from a grantee.

(h) Grantees are required to maintain and submit supporting documentation for all purchases, expenditures, and activities, regardless whether those were conducted by the Grantee or by a third party acting in a contractual or delegate role.

(i) While Grantees may receive forward funding for projects, all payments to third parties must be made as reimbursements pursuant to state purchasing guidelines for all goods and/or services.

(j) Grantees may expend up to five percent (5%) of their total grant award on indirect costs. In no way should this be construed as funding the indirect costs of any third party partner or contractor.

~~(h)(k)~~ In the event a recipient merges, dissolves or ceases to exist as described under 74 O.S. § 30.8(C), the recipient must give prompt notice to the Board and the Office of the Attorney General, including the following information:

- (1) The amount of any remaining allocations of an awarded opioid grant award in excess of Five Hundred Dollars (\$500.00);
- (2) The name of the proposed successor recipient, if any;
- (3) Point of contact information for the proposed successor recipient, if any; and
- (4) Utilize the Political Subdivision Opioid Abatement Grant Award Quarterly Reporting Form to submit a final report of expenditures prior to the merger, dissolution, or permanent closure.

~~(i)(l)~~ In its discretion, the Board shall determine whether any of the Recipient's remaining allocations shall be made to the proposed successor recipient; or returned to the Board. Any successor recipient shall meet the requirements to be a recipient prior to receiving the balance of the grant award disbursement. In addition, prior to receiving grant funds, the successor recipient must submit documentation requested by the Board and execute any and all documents required by the Board.

~~(j)(m)~~ All grant funding is contingent upon the availability of funds and upon approval of a grant application by the Board. Neither this subsection nor a grant agreement creates any entitlement or right to grant funds by a grant applicant.

75:50-3-4. Application review and disbursement process; allowable costs

(a) Grant applications may be reviewed according to the following process: (1) initial screening, (2) peer review, and (3) Board review and approval. Applications submitted to the Board shall be scored using the scoring system determined by the Board for each round of grant funding.

(b) The Board shall conduct disbursement of opioid grant awards from the Revolving Fund.

(c) In awarding opioid abatement grants, the Board shall determine grant awards based the criteria set forth in subchapter 2, section 1, subsection c of this chapter and any other criteria it deems necessary and appropriate for the proper and wise use of opioid funds. This criteria may be included in the scoring system or in the Board-approved application.

(d) Following approval of grant amounts, all recipients shall receive a copy of the Contract, which they must complete and return to the Office of the Attorney General prior to receiving a disbursement of funds. The Contract can be returned by mail or electronic means as determined by the Office.

(e) Recipients shall receive their grant award in the form of equal quarterly distributions.

(f) Applicants may request the first two payments be combined in their application submission to provide start-up funding for their project or abatement plan. The remaining balance of the grant award will be disbursed in the same manner set forth in subsection e of this section.

(g) The Board shall set the grant term in a public cast and recorded vote at a properly noticed meeting.

(h) For good cause shown, Recipients in good fiscal and programmatic standing may request the Board to authorize a one-time carryover of up to forty percent (40%) of their grant award distributions following the expiration of the initial grant term. To be considered for a carryover authorization, the Recipient must submit a written request no later than 120 calendar days prior to expiration of the initial grant term, which must include:

- (1) a timeline of events beginning on the date of grant award;
- (2) a detailed explanation why the grant project is not expected to be completed within the grant term; and
- (3) if applicable, supporting documentation demonstrating good cause.

(i) Grant funds may not be used for costs that will be reimbursed by another funding source. The Board may require a grant recipient to demonstrate through accounting records that funds received from another funding source are not used for costs that will be reimbursed by the Board.

75:50-3-5. Grant award appeals

(a) If an applicant wishes to appeal a grant award decision of the Board, the applicant may submit ~~an~~ written appeal to the Board within twenty (20) days of notification of a grant award decision. Appeals are limited to the application as submitted and may only address the reasons for denial stated in the rejection letter. Appeals may not propose changes to grant activities or expenditures in the application.

(b) Appeals are limited to the following Board decisions:

- (1) Denial of funding for projects,
- (2) Denial of specific fund use requests, and
- (3) Denials of an application.

(c) ~~Partial~~ Partially funded of projects are not ~~to be~~ deemed as denials and thus are non-appealable.

(d) An appealing applicant will be granted ~~a hearing in front of the opportunity to appear before~~ the Board. The Board will consider the written submission and may ask questions of or for additional information from the applicant or OAG staff. The Board may limit the amount of time for argument from both the appealing applicant and the Board staff discussion of each appeal. The hearing shall be recorded ~~and any oral or written testimony must be given under oath.~~ After the hearing, the Board may amend or affirm their original decision ~~in writing.~~

(e) The decision of the Board following the hearing will be final and non-reviewable.

75:50-3-7. Grant award quarterly reporting, oversight, and compliance

(a) The grant recipient is responsible for managing the day-to-day operations and activities supported by the grant agreement and is accountable to the Board for the performance of the grant agreement, including the appropriate expenditure of grant award funds and all other obligations of the grant recipient. The grant recipient must maintain a sound financial management system that provides appropriate fiscal controls and accounting procedures to ensure accurate preparation of reports required by the grant agreement and adequate identification of the source and application of grant funds awarded to the grant recipient. Grant recipients must comply with:

- (1) the terms and conditions of the grant agreement;
- (2) all applicable state or federal statutes, rules, regulations, or guidance applicable to the grant award. A grant recipient is the entity legally and financially responsible for compliance with the grant agreement, and state and federal laws, rules, regulations, and guidance applicable to the grant award.

(b) The Attorney General will, on behalf of the Board, maintain oversight and monitor compliance of expenditures by Recipients to ensure that any use complies with approved purposes as defined under the Act. As a part of the oversight and monitoring, the Attorney General and Board may conduct desktop or on-site reviews. During an on-site review, a grant recipient must provide the Board or Attorney General with access to all records, information, and assets that the Board or Attorney General determines are reasonably relevant to the scope of the on-site review.

(c) At a minimum, Recipients will be monitored through a quarterly reporting process.

(d) The Board shall utilize the Political Subdivision Opioid Abatement Grant Award Quarterly Reporting Form ("Form") to maintain oversight and confirm compliance with the Act. All Recipients must submit quarterly reports using the Form in order to continue receiving or using opioid grant award proceeds. Completed quarterly reports shall be returned to the Office of the Attorney General via mail or by electronic means as determined by the Office of the Attorney General. Quarterly reports shall be due on the last day of the month immediately following the conclusion of a quarter. If an opioid grant award is received during a quarter, a recipient is not required to submit a report for the remainder of the initial quarter until the conclusion of the next quarter for which reports for the initial quarter and the first full quarter shall be due.

(e) For the purposes of this chapter, quarters shall run by calendar year. January, February, and March shall be Quarter 1; April, May, and June shall be Quarter 2; July, August, and September shall be Quarter 3; and October, November, and December shall be Quarter 4.

(f) At the Board's discretion and at any time, the Board, may request any additional data and reporting information that the Board deems necessary to substantiate that grant funds are being used for the intended purpose and that the grant recipient has complied with the terms, conditions, and requirements of the grant agreement. Further, at the Board's discretion and at any time, the Board may request any records from or audit the books and records of a grant recipient or conduct an on-site review at a grant recipient's location to verify

that the grant recipient has complied with the terms, conditions, and requirements of the grant agreement, and any applicable laws, rules, regulations, or guidance relating to the grant award. If it is determined that a Recipient is using opioid grant award proceeds out of compliance with Board procedures or has utilized such proceeds for non-approved purposes, the Board authorizes the Attorney General to immediately suspend the Recipient's use of the grant award proceeds and notify the Recipient.

(g) The Board may resume disbursements to the non-compliant recipient once it has determined the recipient has adequately remedied the cause of such suspension.

(h) For the purposes of the Act, an adequate remedy may include, but not be limited to the following:

(1) refunding an amount equal to the amount spent on nonapproved purposes or a reduction to future disbursements in the amount equal to the amount spent on nonapproved purposes.

(2) reducing or terminating a grant when the Recipient is found to be noncompliant, the Recipient and Board agree to the reduction or termination of a grant award, when grant funds are no longer available to the Board, or if conditions exist that make it unlikely that objectives of the grant award will be accomplished; or

(3) other remedies available under applicable laws, rules or regulations.

(i) The Board authorizes the Attorney General to ~~negotiate~~propose adequate remedies ~~with~~for non-compliant recipients for presentation and approval by the Board.

(j) The Attorney General may develop grounds and procedures to terminate grant agreements subject to the Board's approval.