

# MINNESOTA OPIOIDS STATE-SUBDIVISION MEMORANDUM OF AGREEMENT

## REPORTING AND COMPLIANCE ADDENDUM

Pursuant to Section V.A of the Minnesota Opioids State-Subdivision Memorandum of Agreement (MOA), the Attorney General's Office, the Governor's Office, the Association of Minnesota Counties (AMC), and the League of Minnesota Cities (LMC) have developed and agreed upon the following reporting and compliance standards:

### I. Reporting

- a. Annual reporting required. Participating Local Governments that directly receive Opioid Settlement Funds will report data annually on those expenditures. This data will be used to inform the public and policymakers on the use of Opioid Settlement Funds by Participating Local Governments. The Minnesota Department of Human Services (DHS) will collect, collate, and publicly report this data.
- b. Information required. The annual reporting provided by Participating Local Government must include information on the expenditures funded with Opioid Settlement Funds, including details on programs or services drawn from the categories of Approved Uses identified in **Exhibit A** of the MOA.
  - i. The reporting should be descriptive of the overall program or service provided. For example, a Participating Local Government may report that they funded three services that year: peer recovery; client transportation; and parent education and support.
- c. Reporting thresholds. Reporting by Participating Local Governments will be based on the level of funding for the activity. For activities or programs with less than \$25,000 in expenditures that calendar year, Participating Local Governments are only required to complete Part I (Contact Information) and Part II (Information on funded service/program) outlined in Appendix A. For expenditures of \$25,000 or more in that calendar year, Participating Local Governments must complete Parts I, II, and III (Outcomes) for that activity or service. These thresholds only apply to settlement funds expended, and does not include additional funding on an activity or program drawn from other funding sources.
  - i. For instance, if a Participating Local Government expends \$35,000 on peer recovery services and \$20,000 on parent education and support, Part III is only required for peer recovery services.
  - ii. Regions. Any Region created by two or more Participating Local Governments pursuant to Section IV.D of the MOA need only submit one set of reporting for projects and services. The \$25,000 threshold applies to the combined expenditure of the Region on activity or program. This does not include situations where Participating Local Governments partner on projects but are not Regions, as defined in Section IV.D of the MOA.
- d. Forms and timing. DHS will take steps to make this reporting as convenient and efficient as possible.

- i. Participating Local Governments will file actual expenditures for the previous calendar year annually by March 31. DHS, with agreement from signatories, may amend this date.
  - ii. The first filing is required by March 31, 2023. If Participating Local Governments did not expend funding in 2022 or any subsequent year, they must submit reporting, but may note in the service information section (Part II in Appendix A) that there was \$0 in Opioid Settlement Funds expenditures and no activities or programs funded.
- e. Public access to reporting. DHS will publish actual expenditures by settlement agreement recipients in a publicly accessible dashboard or machine-readable data format, such as an Excel spreadsheet.
  - i. To assist in transparency and collaboration across the state, DHS must publish substantive information collected in Parts I-III (Appendix A).
  - ii. DHS should publish past calendar year actual spending no later than August 1 annually. DHS, with agreement from signatories, may amend this date.
- f. Grant requirements. Any Participating Local Government that directly receives Opioid Settlement Funds and grants those funds to subrecipients or grantees, including other Local Governments, is responsible for monitoring and tracking the distribution and use of those funds to satisfy the entity's reporting obligations.
- g. Relinquished funds and regions. For cities or counties that relinquish funding to another Local Government, including cities that direct settlement fund shares to a county or counties pursuant to Section II.L of the MOA, the recipient Local Government is responsible for completing required reporting on the funds received.
- h. Compliance with National Settlement Agreements and Bankruptcy Resolutions. The Parties agree to take all actions necessary to ensure that reporting is conducted in compliance with the National Settlement Agreements and the Bankruptcy Resolutions, including appropriate publication of information and transmission of any required reports to national settlement administrators or trustees. If the National Settlement Agreements or any Bankruptcy Resolutions require that a Participating Local Government file, post, or provide a report or other document beyond those described in this MOA, or if any Local Government communicates in writing with any national administrator or other entity created or authorized by the National Settlement Agreement or any Bankruptcy Resolutions regarding the Local Government's compliance with the National Settlement Agreement or Bankruptcy Resolutions, the Participating Local Government shall email a copy of any such report, document, or communication to the Minnesota Attorney General's Office at [opioids@ag.state.mn.us](mailto:opioids@ag.state.mn.us).

## **II. Auditing and preservations of records.**

- a. Subject to audit. The books, records, documents, and accounting procedures and practices relevant to the Opioid Settlement Funds may be subject to examination as part of an audit of a Participating Local Government.

- b. Grantees subject to audit and Data Practices Act. All contracts and pass-through disbursements of Opioid Settlement Funds to subrecipients or grantees must comply with Minnesota Statutes section 16C.05, subdivision 5. Subrecipients or grantees must comply with the Minnesota Government Data Practices Act, as provided by Minnesota Statutes section 13.05, subdivision 11.
- c. Preservation of records. All Participating Local Governments must maintain, for a period of at least six years, records of Opioid Settlement Fund expenditures and documents underlying those expenditures, so that it can be verified that funds are being or have been utilized in a manner consistent with the National Settlement Agreements, any Bankruptcy Resolutions, and this MOA.

### **III. Performance measurement**

- a. Current performance measurement. Pursuant to Minnesota Statutes section 256.042, subdivision 1(d), the Opioid Epidemic Response Advisory Council (OERAC), in coordination with relevant state agencies, annually measures and reports on progress towards state-level goals to mitigate the harm of opioids. The council uses existing measures and data collection systems to determine baseline data against which progress shall be measured.
- b. Future performance measurement. The reporting and compliance working group recommends OERAC consult with AMC, LMC, relevant state agencies, and other stakeholders to review and provide recommendations for any necessary revision to the existing performance measurement dashboard to ensure it captures our shared understanding of the most important measures of progress in addressing the harms of the opioid epidemic.
  - i. As feasible with existing data systems and within existing appropriations, relevant state agencies will use the recommendations from OERAC and Participating Local Governments to update the measures tracked in the public performance measurement dashboard.
  - ii. The signatories are eager to share what they've learned in investing in programs and activities with settlement agreement funding. The reporting and compliance workgroup recommends the Opioid Epidemic Advisory Council (OERAC), the Association of Minnesota Counties (AMC), and the League of Minnesota Cities (LMC) coordinate with other relevant stakeholders to host annual sessions or add sessions in existing forums to discuss learnings from settlement agreement funding. This may be done in combination with III.b.ii of this addendum.

### **IV. Impact evaluation**

- a. Current impact evaluation. Minnesota Management & Budget (MMB) currently conducts impact evaluations of a subset of grants administered by OERAC.
- b. Future impact evaluation recommendation. Within available appropriations the reporting and compliance workgroup recommends allowing MMB to partner with local units of government to conduct impact evaluations of settlement agreement funding. This would require a change in state law. The reporting and compliance workgroup recommends the following statutory change:

- i. Amend section 256.042 (c) to read: The council, in consultation with the commissioner of management and budget, and within available appropriations, shall select from the awarded grant projects or may select county or city projects funded by opioid settlement monies that include promising practices or theory-based activities for which the commissioner of management and budget shall conduct evaluations using experimental or quasi-experimental design.
- c. Nothing in this section should be interpreted to mean that local units of government are required to provide settlement agreement programmatic data or other information for impact evaluations.

## V. Compliance

### a. Reporting Compliance.

- i. Participating Local Governments shall make a good faith effort to comply with all reporting obligations under this MOA, including the obligations described in Section I of this Reporting and Compliance Addendum.
- ii. If a Participating Local Government fails to meet its reporting obligations, DHS will give notice to the Participating Local Government to cure the reporting deficiencies within 60 days. In addition to notifying the Participating Local Government, DHS will notify AMC, for counties, and LMC, for cities, of any of any notice to cure issued.
- iii. If the Participating Local Government fails to cure its reporting issues within 60 days after the notice to cure in V.a.ii, of this addendum DHS may refer the issue to the State, which will review, and, as appropriate, bring an action for breach of contract against the Participating Local Government in Ramsey County District Court seeking appropriate equitable relief. Before filing, the State will meet and confer with the relevant Participating Local Government that is or will be the subject of the anticipated action.
- iv. So long as any such action is pending, distribution of any funds to the relevant Participating Local Government shall be suspended and held in trust by the National Settlement Administrator and shall only resume once the action is resolved.
- v. Notwithstanding anything to the contrary herein, a Participating Local Government that is in substantial compliance with the reporting obligations in this MOA shall not be considered in breach of this MOA or in breach of contract.

### b. Inconsistent Expenditures.

- i. If a Participating Local Government spends any Local Abatement Funds on an expenditure inconsistent with this MOA, the National Settlement Agreements, or the Bankruptcy Resolutions, DHS will give notice to the entity to cure the inconsistent expenditure within 90 days by payment of

such amount for appropriate opioid remediation activities through budget amendment or repayment. DHS will notify AMC, for counties, and LMC, for cities, of any notice to cure.

- ii. In connection with a notice regarding unauthorized spending, DHS may request from the Participating Local Government, and the Participating Local Government must provide, existing data or information about the use of Local Abatement Funds received by the local government, including the budget or resolution authorizing the expenditure. The information requested must be necessary to establish compliance with this MOA, the National Settlement Agreements, or the Bankruptcy Resolutions.
- iii. If a Participating Local Government does not cure the unauthorized spending within 90 days after the notice to cure in V.b.ii, of this addendum DHS may refer issue to the State, which will review, and, as appropriate, bring an action for breach of contract in Ramsey County District Court seeking appropriate equitable relief, including an injunction prohibiting the Participating Local Government from spending further funds on non-approved purposes and the repayment of monies spent on non-approved purposes. Before filing, the State will meet and confer with the relevant Participating Local Government that is or will be the subject of the anticipated action.
- iv. So long as any such action is pending, distribution of any funds to the relevant Participating Local Government shall be suspended and held in trust by the National Settlement Administrator and shall only resume once the action is resolved. Once the action is resolved by judicial action or agreement, suspended payments to the Participating Local Government will resume, less any amounts ordered returned that have not yet been restored as of the date of the resumption of suspended payments, which will instead be redistributed among the other Participating Local Governments pursuant to Section II.K of the MOA.
- v. Notwithstanding anything to the contrary herein, a Participating Local Government shall not be considered in breach of this MOA or in breach of contract if the Participating Local Government (1) reasonably relied on a subrecipient or grantee's representations that an expenditure would be consistent and appropriate, and (2) and has undertaken reasonable efforts to recover misspent funds from the subrecipient or grantee.

**[signatures on following page]**

**MINNESOTA GOVERNOR'S OFFICE**

Dated: 26 APR 22

  
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TIM WALZ  
Governor of the State of Minnesota

**MINNESOTA ATTORNEY GENERAL'S OFFICE**

Dated: \_\_\_\_\_

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KEITH ELLISON  
Minnesota Attorney General

**ASSOCIATION OF MINNESOTA COUNTIES**

Dated: \_\_\_\_\_

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JULIE RING  
Executive Director, Association of Minnesota Counties

**LEAGUE OF MINNESOTA CITIES**

Dated: \_\_\_\_\_

\_\_\_\_\_  
PATRICIA BEETY  
General Counsel, League of Minnesota Cities

**MINNESOTA OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL**

Dated: \_\_\_\_\_

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REP. DAVE BAKER  
Chair, Opioid Epidemic Response Advisory Council

Dated: \_\_\_\_\_

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REP. ERIN KOEGEL  
Member, Opioid Epidemic Response Advisory Council

Dated: \_\_\_\_\_

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SEN. MARK KORAN  
Member, Opioid Epidemic Response Advisory Council

Dated: \_\_\_\_\_

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SEN. MARY KUNESH  
Member, Opioid Epidemic Response Advisory Council

**MINNESOTA GOVERNOR'S OFFICE**

Dated: \_\_\_\_\_

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TIM WALZ  
Governor of the State of Minnesota

**MINNESOTA ATTORNEY GENERAL'S OFFICE**

Dated: April 25, 2022

Keith Ellison  
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KEITH ELLISON  
Minnesota Attorney General

**ASSOCIATION OF MINNESOTA COUNTIES**

Dated: \_\_\_\_\_

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JULIE RING  
Executive Director, Association of Minnesota Counties

**LEAGUE OF MINNESOTA CITIES**

Dated: \_\_\_\_\_

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PATRICIA BEETY  
General Counsel, League of Minnesota Cities

**MINNESOTA OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL**

Dated: 4-26-22

Dave Baker  
\_\_\_\_\_  
REP. DAVE BAKER  
Chair, Opioid Epidemic Response Advisory Council

Dated: 4-28-22

Erin Koegel  
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REP. ERIN KOEGEL  
Member, Opioid Epidemic Response Advisory Council

Dated: \_\_\_\_\_

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SEN. MARK KORAN  
Member, Opioid Epidemic Response Advisory Council

Dated: 4-26-2022

Mary Kunes  
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SEN. MARY KUNESH  
Member, Opioid Epidemic Response Advisory Council

**MINNESOTA GOVERNOR'S OFFICE**

Dated: \_\_\_\_\_

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TIM WALZ  
Governor of the State of Minnesota


**MINNESOTA ATTORNEY GENERAL'S OFFICE**

Dated: \_\_\_\_\_

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KEITH ELLISON  
Minnesota Attorney General

**ASSOCIATION OF MINNESOTA COUNTIES**

Dated: 4/18/2022

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JULIE RING  
Executive Director, Association of Minnesota Counties

**LEAGUE OF MINNESOTA CITIES**

Dated: \_\_\_\_\_

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General Counsel, League of Minnesota Cities

**MINNESOTA OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL**

Dated: \_\_\_\_\_

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REP. DAVE BAKER  
Chair, Opioid Epidemic Response Advisory Council

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SEN. MARK KORAN  
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SEN. MARY KUNESH  
Member, Opioid Epidemic Response Advisory Council



**MINNESOTA GOVERNOR'S OFFICE**

Dated: \_\_\_\_\_

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TIM WALZ  
Governor of the State of Minnesota

**MINNESOTA ATTORNEY GENERAL'S OFFICE**

Dated: \_\_\_\_\_

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KEITH ELLISON  
Minnesota Attorney General

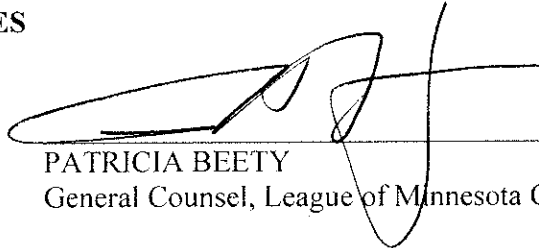
**ASSOCIATION OF MINNESOTA COUNTIES**

Dated: \_\_\_\_\_

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**LEAGUE OF MINNESOTA CITIES**

Dated: 5/2/22

  
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PATRICIA BEETY  
General Counsel, League of Minnesota Cities

**MINNESOTA OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL**

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REP. DAVE BAKER  
Chair, Opioid Epidemic Response Advisory Council

Dated: \_\_\_\_\_

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**MINNESOTA GOVERNOR’S OFFICE**

Dated: \_\_\_\_\_

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TIM WALZ  
Governor of the State of Minnesota

**MINNESOTA ATTORNEY GENERAL’S OFFICE**

Dated: \_\_\_\_\_

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**ASSOCIATION OF MINNESOTA COUNTIES**

Dated: \_\_\_\_\_

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JULIE RING  
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**LEAGUE OF MINNESOTA CITIES**

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PATRICIA BEETY  
General Counsel, League of Minnesota Cities

**MINNESOTA OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL**

Dated: \_\_\_\_\_

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REP. DAVE BAKER  
Chair, Opioid Epidemic Response Advisory Council

Dated: \_\_\_\_\_

\_\_\_\_\_  
REP. ERIN KOEGEL  
Member, Opioid Epidemic Response Advisory Council

Dated: April 26, 2022

  
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SEN. MARK KORAN  
Member, Opioid Epidemic Response Advisory Council

Dated: \_\_\_\_\_

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SEN. MARY KUNESH  
Member, Opioid Epidemic Response Advisory Council

## Appendix A

Note: DHS shall have flexibility to design and implement necessary reporting mechanisms. This implementation should err towards making responses easier for Participating Local Governments. Signatories must agree to substantive changes to the below outlined data collected.

### I. Contact information

- Unit of government name(s)
- Contact person name, title, address, phone, email address, are you reporting on behalf of a unit of government that relinquished funds (I.H in addendum) or as a Region (I.C.ii in addendum); if yes, identify relevant Participating Local Governments included in this report
- Basic assurances that the program funds were used appropriately, as outlined in the settlement agreement (check boxes)

### II. Information on funded service/program

- Service/program/activity (drop-down, multiple select box, if feasible)
- Budget for the program/service, actual expenditure on the program/service
- Brief description of the funded program and progress made during the year (recommended length: 125-250 words)
- Remediation category (drop-down, if feasible)
- Check box for target population, check all that apply (White, Black or African American, American Indian, Asian, Native Hawaiian or Other Pacific Islander, Hispanic, children and youth, individuals with disabilities, pregnant individuals, low-income individuals, homeless/unhoused, recent immigrants, justice-involved, LGBTQ, other-specify)
- Use of evidence-based practices and culturally-relevant services (drop-down/check-box, optional response)

### III. Outcomes for activities of \$25,000 or more in calendar year expenditures

- Brief qualitative successes or challenges/barriers from the field (125-250 words)
- Report on the results of the activity using 1 or more self-defined process measure
  - Addresses the question “How much did we do?”
  - Examples: number of persons enrolled, treated, or served; number of participants trained; units of naloxone or number of syringes distributed.
- Report on the results of the activity using 1 or more self-defined quality or outcome measure
  - Addresses the questions, “How well did we deliver it?” or “What difference did it make?”
  - Examples:
    - Quality measure: percentage of clients referred to care or engaged in care; percentage of staff with certification, qualification, or lived experience; level of client or participant satisfaction shown in survey data.
    - Outcome measure: number or percentage of clients with stable housing or employment; avoided fatal overdoses; recidivism; number or percentage of formerly incarcerated clients receiving community services or supports within X days of leaving jail or prison.