

AUDITOR OF PUBLIC ACCOUNTS

LOCALITY FINANCIAL REPORTING GUIDANCE ON OPIOID SETTLEMENT FUNDS

The Auditor of Public Accounts (Office) is providing the following guidance related to the national opioid settlement payments to assist Virginia cities and counties with evaluating the impact on their fiscal year (FY) 2022 financial reporting. This guidance only addresses the direct allocated shares that each city and county are receiving directly from the outside Settlement Administrator (Brown Greer) for the Distributors Settlement and the Janssen/J&J Settlement. This guidance does not cover any future funding that Virginia's Opioid Abatement Authority (Authority) will directly pass down to the cities and counties starting in calendar year 2023.

Financial Reporting Considerations

GASB Guidance

Our Office recently participated in a meeting with staff of the Governmental Accounting Standards Board (GASB) and several other states to discuss financial reporting implications of the national opioid settlement payments. Per GASB staff, the guidance for recognition of opioid settlement payments is comparable to prior GASB authoritative guidance related to the tobacco settlements recognition, specifically guidance about whether a settling government should recognize an asset and related revenue for future payments (refer to [GASB Technical Bulletin 2004-1](#), paragraphs 12-15, Question 3). The 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 guidance directs 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 has determined that the Commonwealth and the localities (cities and counties) should consider accruing these amounts based on the following facts and circumstances:

- Effective during FY2022, Virginia and its localities joined and signed the final Distributors Settlement agreement and the Janssen Settlement agreement (Settlement Agreements) as of July 21, 2021. Additionally, Virginia and the localities entered into and signed the Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding (Virginia MOU) on August 20, 2021. These actions therefore result in an exchange transaction for the FY2022 reporting period, thus creating an event that results in a revenue accrual.
- The Commonwealth and its localities can reasonably estimate future payments (amounts are measurable) based on the schedule of projected payments developed by the Virginia Office of the Attorney General (AG) and the Authority. These projected payments schedules are based on legal authority and the established terms of the Settlement Agreements.

Restricted Classification

In accordance with the Settlement Agreements, these funds are required to be spent for "opioid abatement" purposes as defined in the agreements; in some limited cases the funds may be spent on non-abatement purposes. However, **the Settlement Agreements specifically state that any spending for non-abatement purposes is "disfavored," and the locality must report any non-abatement spending to the Settlement Administrator, to the settling companies, and to the general public.** The AG's office and the Authority have set a "Gold Standard" that the Commonwealth should only spend the settlement payments for opioid abatement purposes as specified in the Settlement Agreements. Accordingly, since the opioid payments have purpose restrictions, it is our Office's expectation that all settlement payments should be classified as Restricted Fund Balance/Net Position for financial reporting purposes.

Locality Management's Responsibility and Judgment

This 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 FY2022 financial statements. Management at each city and county have the responsibility for making the decision on whether it is necessary to accrue their locality's allocation of the total opioid settlement payment amounts.** We also encourage the localities to consult with their external auditors/CPA 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 amounts based on the established allocation percentages in the Virginia 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 projected settlement payments and the impact on its own financial statements.

Locality Share of Opioid Settlement Payments

Estimate of Settlement Payments

The Opioid Abatement Authority provided our Office a schedule of the projected Distributors and Janssen opioid settlement payments for each locality. The Authority has also previously distributed this same schedule to all city and county executive officers in their letter dated October 22, 2022. As the Authority communicated in its October 2022 letter, the schedule of payments provides an **estimate** of the annual payments that may be provided to each locality, based on the best information currently available. Based on guidance from the Authority, actual payment amounts are likely to vary depending on a number of possible external variables that could impact the actual annual payments at both the national and statewide levels. Even though the projected settlement payments are only an estimation, our Office believes that the projected payment data does provide a reasonable basis to book 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 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 estimates and assumptions may change.

Locality Schedule of Projected Settlement Payments

Our Office has reviewed the schedule of projected settlement payments and the underlying data provided by the Authority and the AG's Office. Our Office verified the accuracy of Virginia's total opioid settlement payments, and we reviewed the accuracy of each locality's allocation percentage and respective allocated share of total payment amounts included in the schedule of projected payments. We compared this information to the original source documents, the Settlement Agreements and Virginia MOU; we found no calculation errors or inconsistencies in the schedule and data provided by the Authority and AG's office. Accordingly, our Office has concluded that the cities and counties can rely upon this schedule of projected settlement payments as a **reasonable estimate** for revenue accrual purposes for their FY2022 financial reporting.

Based on our Office's review over the opioid settlement payments that each locality has received during August, October, and November 2022 (during FY2023) and estimated future payments the locality is expected to receive over the next several years, we have developed an expectation for what a locality should consider accruing for their FY2022 financial statements. Our Office has included with this guidance document a separate Excel file, [Virginia Opioid Settlement Locality Payments Look-Up Tool.xlsx](#), which includes a schedule of settlement payment amounts for each locality. Using this Excel Look-Up Tool, the locality can review its specific payment data for the Distributors and Janssen Settlements and use this information to evaluate whether an accrual is necessary. Within this Excel Look-Up Tool, our Office has also provided basic, illustrative journal entries for both the fund statements and government-wide statements. As a reminder, management at each locality has responsibility for deciding whether an accrual is necessary and ensuring the overall accuracy of such journal entries.

[The Virginia Opioid Abatement Authority](#)

In developing this guidance, our Office recently met with [staff](#) from the newly created Authority to discuss details of Virginia's participation in the National Opioid Settlement and learn about the Authority's mission to partnership with local governments and state agencies to address opioid abatement and remediation. Our Office has previously shared this guidance with the Authority to ensure the accuracy of the information we provide pertaining to the Settlement Agreements and the locality schedule of projected settlement payments. The Authority has provided a variety of helpful resources and information on their [website](#), and they have been actively performing outreach with the cities and counties about Virginia's Settlement. The Authority's Executive Director and staff are a central resource for localities to contact with questions regarding settlement funds, along with learning important information about the efforts to abate and remediate the opioid epidemic in the Commonwealth.