Colorado Opioid Abatement Council (COAC) Local Government Opioid Funds Allocation Reporting and Timeline Policy

I. Purpose

This Policy provides guidance to the Colorado Opioid Abatement Council (COAC), Participating Local Governments (PLGs), and Regions regarding the steps that PLGs can take to manage their allocations of Opioid Funds from the Local Government Share (or LG Share) so as to be exempted from expenditure reporting requirements. The Policy will address how PLGs can direct their allocated Opioid Funds to their Region(s), modify the default allocation within a County Area, and transfer of Opioid Funds between PLGs in accordance with the Colorado Opioid Settlement Memorandum of understanding dated August 26, 2021 (the "MOU").

Article 1 Summary and Definitions

II. Summary

The MOU addresses intrastate allocation of Opioid funds. The MOU allocates 20% of Opioid Funds directly to PLGs that signed onto the MOU. This portion of Opioid Funds is called the "Local Government Share".

The MOU provides that PLGs may share, pool, or collaborate their respective allocation of the Local Government Share within the State of Colorado so long as funds are used for Approved Purposes and the PLGs otherwise comply with the terms of the MOU and the national opioid settlements. PLGs receiving Opioid Funds are required to submit an annual expenditure report.

The MOU permits PLGs to choose to direct their allocation of Opioid Funds to their Region(s). A PLG's decision to retain or direct Opioid Funds will carry over to subsequent years by default. PLG's that redirect their allocation of Opioid Funds to their Region are excused from the annual reporting requirements set out in the MOU.

The MOU permits PLGs to modify their allocation of Opioid Funds within a County Area by entering into a written agreement. PLGs that modify their allocation to 0.00% of a County Area's allocation, and do not have or have not expended other Opioid Funds during that reporting period, may be exempted from annual expenditure reporting requirements.

To summarize, PLGs may be exempted from expenditure reporting requirements if they are no longer receiving Opioid Funds because they have either transferred all of their allocated Opioid Funds to their Region or to another PLG in their County Area, or because they reported a zero balance of Opioid Funds in their most recently submitted expenditure report.

This document was developed by the Opioid Response Unit on behalf of the Colorado Opioid Abatement Council as the designated administrative support. Please email Opioids@coag.gov if you have any questions.

III. Definitions

Unless otherwise defined here, all Definitions in the MOU are hereby incorporated by reference into this Policy.

- 1. "County Area" has the same meaning as set forth in Section A(2) of the MOU.
- 2. The "Colorado Opioid Abatement Council" or "COAC" is the "General Abatement Fund Council," or any committee or subcommittee thereof, as described in Section C of the MOU.
- 3. "MOU" means the Colorado Opioids Settlement Memorandum of Understanding executed by Attorney General Philip J. Weiser on behalf of the State of Colorado on August 26, 2021, subsequently executed by PLGs.
- 4. "Opioid Funds" has the same meaning as set forth in Section A(7) of the MOU.
- 5. "Participating Local Government(s)" or "PLG(s)" has the same meaning as set forth in Section A(9) of the MOU.
- 6. "Region" has the same meaning as described in Section F of the MOU.

Article 2 Requirements and Guidance

IV. Written Notice of Allocations

On an annual basis, PLGs may notify the COAC in writing of a change in their decision to either retain their allocation of Opioid Funds, or to redirect their allocation of Opioid Funds to their Region(s).

All PLG decisions to retain or to redirect to their Region their allocation of Opioid Funds must be received by the COAC Administrator in writing in a format determined by the COAC.

V. Timeline for Allocations

All PLG decisions to retain their allocation of Opioid Funds or to redirect to Regions their allocation of Opioid Funds must be received by COAC on or before the deadline set by the COAC on an annual basis.

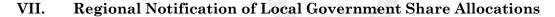
PLG decisions received after the deadline may not be applied until the subsequent year of distribution of Opioid Funds.

VI. Forward-looking Allocations

A PLG's decision to retain their allocated Opioid Funds, or to direct their allocated Opioid Funds to their Region(s) shall carry over to the subsequent year by default unless PLGs provide notice to COAC on or before the deadline.

Any change to a PLG's decision to retain or direct their Opioid Funds from the Local Government Share to their Region(s) shall be forward looking and not apply retroactively to Opioid Funds redirected by PLGs in a previous year.

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The COAC will notify the administrators of the Regions of any Participating Local Government's notice to change their decision to retain or redirect their Opioid Funds within 90 days following the annual deadline set by the COAC.

IX. Modification of Default Intra-County Allocation

A PLG may enter into a written agreement with one or more PLGs within a County Area to modify the a PLG's allocation of Opioid Funds. PLGs must submit the executed written agreement to modify their allocation within a County Area to the COAC Administrator for the modification to be effectuated. These modifications shall not change a County Area's total allocation of Opioid Funds under Section (E)(2) of the MOU.

Executed agreements to modify a PLG's allocation of Opioid Funds received in advance of the annual allocation decision deadline will be applied by the Administrator to the subsequent distribution cycle. Executed agreements to modify received after the annual allocation decision deadline may not be applied until the following annual distribution cycle.

X. Reporting Exemption due to Transfer of Opioid Funds and/or Spenddown

PLGs no longer receiving Opioid Funds because they have directed their allocation of Opioid Funds to their Region may be exempted from future expenditure reporting.

PLGs no longer receiving Opioid Funds because they have executed an intra-County agreement modifying their allocation to 0.00%, and do not have a balance of unexpended Opioid Funds or any unreported expenditures of Opioid Funds, may be exempted from future expenditure reporting.

The PLG receiving Opioid Funds from another PLG under a written modification agreement must confirm in writing to the COAC Administrator the amount of Opioid Funds received and must confirm its acceptance of the reporting obligation in order for the PLG transferring Opioid Funds to be exempt from future expenditure reporting. PLGs that receive a transfer of Opioid Funds from another PLG must include expenditures of transferred Opioid Funds in their annual expenditure report(s).

Opioid Funds transferred to a PLG acting as a fiscal agent for a Regional Opioid Abatement Council must be used for Approved Purposes and must be reflected in the Region(s)' next 2-year plan or 2-year plan amendment.

Article 3 Governing Language

Governing Language from the Colorado Opioid Settlement Memorandum of Understanding

Section B(5)

Participating Local Governments may elect to share, pool, or collaborate with their respective allocation of the LG or Regional Shares in any manner they choose, so long as such sharing, pooling, or collaboration is used for Approved Purposes and complies with the terms of this MOU and any Settlement.

Section E(1)

In accordance with Sections (B)(1) and (B)(2)(b), and the terms of any Settlement, the LG Share shall be paid directly to Participating Local Governments in accordance with the terms of this Section (E).

Section E(2)

Allocations to Participating Local Governments from the LG Share shall first be determined using the percentages shown in Exhibit D.

Section E(3)

The LG Share for each County Area shall then be allocated among the county and the other Participating Local Governments within it. Exhibit E reflects the default allocation that will apply unless the Participating Local Governments within a County Area enter into a written agreement providing for a different allocation. The Participating Local Governments may elect to modify the allocation for a County Area in Exhibit E, but such modification to the allocation in Exhibit E shall not change a County Area's total allocation under Section (E)(2).

Section E(6)

A Participating Local Government may forego its allocation of the LG Share and direct its allocation to the Regional Share for the Region where the Participating Local Government is located, in accordance with Section (F) below, by affirmatively notifying the Abatement Council on an annual basis of its decision to forego its allocation of the LG Share. A Participating Local Government's election to forego its allocation of the LG Share shall carry over to the following year unless the Participating Local Government notifies the Abatement Council otherwise. If a Participating Local Government elects to forego its allocation of the LG Share, the Participating Local Government shall be excused from the reporting requirements required by Section (E)(8).

Section E(7)

Participating Local Governments maintain full discretion over the distribution of their allocation of the LG Share anywhere within the State of Colorado, however, all Participating Local Governments shall use their allocation from the LG Share for Approved Purposes only. Reasonable administrative costs for a Participating Local Government to administer its allocation of the LG Share shall not exceed actual costs or 10% of the Participating Local Government's allocation of the LG Share, whichever is less.

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