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**STATE AND LOCAL GOVERNMENT FINANCE DIVISION  
AND THE LOCAL GOVERNMENT COMMISSION**

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DEPUTY TREASURER

**Memorandum #2023-03**

**TO: State Agencies, Independent Auditors, North Carolina Local Governments and Public Authorities, Interested Parties**

**FROM: Susan McCullen, Director, Fiscal Management Section**

**SUBJECT: Opioid Settlement Funds: Auditing and Compliance Reporting**

**DATE: August 2, 2022**

With the “National Opioid Settlement Agreement”, counties and municipalities are now receiving an allocation of funds to be used specifically for expenditures related to opioid remediation activities. These funds are from pharmaceutical and drug distribution companies that were involved in lawsuits filed by State, local, and tribal governments due to the opioid epidemic. All counties as well as a growing number of municipalities that have qualified for the funding are to receive an allocation. The projected amount for these governments could exceed \$750 million over an 18-year period. The NC Department of Justice (DOJ), with assistance from the NC Association of County Commissioners, has prepared a Memorandum of Agreement (MOA) and Frequently Asked Questions document to provide guidance on administering these funds. This guidance can be found on NCACC website (<https://www.ncacc.org>, select Opioid Litigation Settlement).

Included in the MOA, Section F, are the “Accounting, Compliance, Reporting, and Accountability” requirements. These are settlement funds from private organizations, so DOJ does not consider these funds to be either federal or State financial assistance. However, as noted in the MOA, these funds are subject to G.S. Chapter 159, Article 3, The Local Government Budget and Fiscal Control Act (LGBFCA). They are subject to the audit requirements found in G.S. §159-34. Though the funds do not come from DOJ, but through other means authorized by the National Settlement Agreement, DOJ will be considered the oversight agency for these funds. Guidance will be from a Coordination Group (refer to MOA, section E.7.) currently being formed.

Expenditures incurred from Opioid Settlement Funds are to be reported on the municipality’s or county’s Schedule of Expenditures of Federal and State Awards (SEFSA) under the State Awards section. A footnote to SEFSA should be included stating that these funds are not considered State Financial Assistance but are to be included under State Expenditures only for reporting and audit purposes. If a preparer of a SEFSA prefers, the funding may be included on the SEFSA in a separate section below the State award section, as “Other Financial Assistance.” A suggested presentation will be provided in our illustrative County SEFSA on our website.

As mentioned in Section F of the MOA, the expenditures incurred from Opioid Settlement Funds are subject to State Single Audit requirements. Therefore, these funds will be considered State Awards in determining a major program and included in the calculation of the percentage of total State Award expended. DOJ considers Opioid Settlement Funds a program of higher risk. Local auditors should consider the inherent risk of a new program.

To provide guidance in auditing these funds, the Coordination Group will prepare a compliance supplement to be used by the local auditors. This compliance supplement will be available for fiscal years ending June 30, 2023, and after. Local auditors should carefully read the MOA and FAQ in preparing to audit these funds, especially for allowable costs and activities. Other than parts of the Uniform Guidance adopted by the State Single Audit Act, the Uniform Guidance does not apply.

Questions concerning the auditing of Opioid Settlement Funds can be directed to Coordination Group member, Becky Garland, 828-479-7970, [becky.garland@grahamcounty.org](mailto:becky.garland@grahamcounty.org). Questions concerning budgeting, reporting, and audit requirements related to G.S. §159-34, can be directed to our staff at 919-814-4300, [SLGFD@nctreasurer.com](mailto:SLGFD@nctreasurer.com).