

Local Government Funding Protocol Delaware Opioid Settlement Commission

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Introduction and Purpose

This document details the Local Government Grant Funding Protocol for the Delaware Prescription Opioid Settlement Distribution Commission (POSDC). It specifically outlines the method for distributing opioid settlement dollars to the ten eligible subdivisions, or local governments, in Delaware. This protocol establishes the second dedicated avenue of grant distribution, complementing the established annual Opioid Abatement Grant Program, which is a competitive fund open to a broad range of grantees, including state agencies, local governments, nonprofit organizations, businesses, and others.

For clarity, subdivisions remain welcome to apply to the competitive Opioid Abatement Grant Program. While the competitive fund is primarily focused on serving the broad range of grantees, local governments are encouraged to utilize it to initiate new projects or to expand projects already supported by settlement funds.

The following sections of this protocol detail the allocation and execution of funding. This protocol first establishes the 15% funding baseline and the data-driven formula used to ensure equitable distribution. It then outlines the mandatory submission requirements and funding process, including grant management options and compliance details, and the prohibition against supplanting. The document concludes with the official process for amendments to this protocol.

Eligible Subdivisions

The ten eligible subdivisions are outlined in the [Delaware “ROADS MAP” Agreement](#). Formalized with the State of Delaware, this agreement mandates the commitment of all eligible subdivisions to a unified approach in settling the national opioid litigation. By adopting this agreement, the ten subdivisions secured a role in the distribution process and their representation on the Local Governments Committee (LGC), which provides direct funding recommendations to the POSDC.

Eligible Subdivisions in Delaware:

1. New Castle County
2. Kent County
3. Sussex County
4. City of Wilmington
5. City of Newark

6. Town of Middletown
7. Town of Smyrna
8. City of Dover
9. City of Milford
10. City of Seaford

Background and Delaware's Approach

Local Governments and the National Settlements:

This protocol acknowledges the immense financial burden local governments have incurred during the opioid crisis, particularly for emergency services, healthcare, and the criminal justice system. Following the crisis, the legal push by both states and localities resulted in thousands of lawsuits nationwide. To achieve global resolution, the national settlements required local jurisdictions to drop their individual litigation against the defendants. In exchange for conceding these independent lawsuits, localities were guaranteed a role in the distribution of the settlement funds, leading states to establish their own distribution frameworks.

Delaware's Approach:

Rather than guaranteeing a fixed financial percentage through statute, Delaware prioritized securing local authority over spending by establishing the Local Governments Committee (LGC) under the Delaware POSDC. This Committee, which includes representatives from all ten eligible subdivisions, has the authority to make direct distribution recommendations to the POSDC. The creation and powers of this committee are rooted in [Senate Bill 166 \(2021\)](#) and the subsequent [Resolution 2022-1](#), and are further defined by the ROADS MAP Agreement.

By formalizing this protocol, the POSDC is now setting an annual percentage distribution to the subdivisions. This critical mechanism ensures essential resources flow directly to the localities, recognizing their financial sacrifice and their ongoing role in abatement efforts.

Funding Allocation Determination: The 15% Baseline

To determine the percentage of settlement funds distributed to local governments in Delaware, the POSDC consulted the [National Settlement Agreement](#) and state practices across the country.

The National Default Allocation:

The National Settlement Agreement establishes a clear default allocation for participating states:

- **15%** allocated to the State Fund
- **70%** allocated to the Abatement Accounts Fund (for statewide spending)
- **15%** allocated to the Subdivision Fund (reserved for local governments/subdivisions)

While individual states have the authority to modify this default split through state agreement or statute, many states ultimately elected to maintain the 15% default allocation for their local governments.

Delaware's Alignment:

Delaware has adopted a unique approach by allocating 100% of all state and local opioid settlement funds into the centralized Prescription Opioid Settlement Fund. Instead of a guaranteed percentage to Local Governments, all funds are managed by the Prescription Opioid Settlement Distribution Commission (POSDC).

By establishing a 15% annual distribution rate for the ten eligible subdivisions, Delaware not only formalizes a dedicated funding stream for its subdivisions but also aligns its proportional commitment with the intent of the original settlement and models used by other states, including: Florida, New Jersey, Michigan, New York, Texas, and others.¹

Formula-Based Funding Allocation

Under this protocol, 15% of the total annual grant distribution is dedicated to the ten eligible subdivisions. This funding is allocated using a multi-step, data-driven formula developed by the Planning Analytics Unit of the Delaware Division of Substance Abuse and Mental Health. This mechanism ensures an equitable distribution that accurately reflects the severity and nature of the opioid crisis within each jurisdiction.

Critical Goals of the Data-Driven Formula:

The allocation formula was created to meet three critical, interconnected goals:

1. **Ensure Fair and Equitable Funds Allocation:** To distribute funds based on the measured levels of harm and impact experienced by local governments. This involves calculating factors such as overdose death rates, treatment admissions, social vulnerability, and population size.
2. **Promote Transparency and Accountability:** To establish a clear, data-driven method for allocation, ensuring that both local governments and the public understand exactly how distribution decisions are made.
3. **Maximize Public Health Impact:** To direct resources efficiently towards areas where they can have the greatest effect in addressing the opioid crisis. The funds are channeled to support tailored prevention, treatment, recovery, and harm reduction efforts based on local needs.

Formula Calculation:

The following steps are executed annually to translate the raw indicator data into a final funding percentage for each jurisdiction:

1. **Standardize the Indicators:** All different data types are adjusted to a common scale to enable fair weighting and combination. For each indicator, the component is adjusted to a share of the statewide total.
2. **Establish Criteria Weights:** Defined weights are applied to reflect the relative importance and distribution priorities of each indicator:
 - a. Drug overdose death rates: 45%
 - b. SUD treatment admissions rates: 25%
 - c. Social vulnerability: 15%
 - d. Population size: 15%
3. **Compute Composite Score:** The standardized and weighted indicators are combined into a composite score for each jurisdiction. This single, data-driven measure determines each local government's portion of the settlement funds.
4. **Allocate Distribution Funds:** The final distribution funds are allocated to each jurisdiction based on its composite score relative to the total amount available for local governments that year.

Allocation Indicators:

Indicators	Objective	Measure	Data Source
Drug overdose deaths	To measure acute harm	No. of suspected overdose deaths per 100,000 residents (3 year-average)	Delaware Division of Forensic Science (DFS)
SUD treatment admissions	To measure service demand	No. of SUD treatment admissions per 100,000 residents (3 year-average)	DSAMH Consumer Reporting Form (CRF)
Social vulnerability	To measure structural vulnerability	Social vulnerability index (Scale 0 to 1)	Delaware My Healthy Community
Population size	To measure baseline capacity	Total number of residents	United States Census Bureau

The Role of Social Vulnerability Index (SVI):

The SVI indicator, weighted at 15% in the funding formula, ensures equity in distribution by recognizing systemic risk alongside direct opioid impact data.

The SVI measures underlying community characteristics—such as poverty, unemployment, and housing instability—that increase the prevalence of SUD and create barriers to recovery. Its inclusion guarantees that jurisdictions with the most socially disadvantaged residents receive a larger share of funds.

This allows for holistic intervention, acknowledging that effective abatement requires funding for social services (like housing and job training) in addition to clinical treatment. Essentially, the SVI channels funds toward vulnerable communities where social and economic conditions make the population most susceptible to crises, ensuring resources support comprehensive relief.

The SVI index in Delaware is calculated and presented to the public via [My Health Community, Delaware Environmental Public Health Tracking Network](#).

Submission Requirements and Funding Process

This section outlines the mandatory steps for accessing allocated abatement funds, from proposal submission through final project execution.

Proposal Submission:

All eligible local government subdivisions must submit a detailed project proposal(s) outlining the use of their allocated opioid abatement funds.

- **Format & Mandates:** Submissions must use the official application form provided by the POSDC. Projects must adhere to the allowable uses defined in [Exhibit E](#) of the National Settlement Agreement and the official Delaware Opioid Abatement and Remediation Strategies.

Review and Commission Vote:

This process ensures alignment with state and national strategies before funds are released.

- **Alignment Review:** The POSDC review team conducts an initial internal review. This step is for guidance and adherence verification, not for competitive scoring. Feedback is provided to ensure all projects align with defined abatement strategies.
- **Internal Approval:** Projects must pass this review. The POSDC holds the authority to approve or deny proposals based on two criteria: adherence to National Settlement guidelines and demonstrated potential for effective impact on the opioid crisis.

- **Full Commission Vote:** All internally approved funding recommendations are presented to the Full Commission for a final vote. This step ensures transparency and is consistent with the process used for the competitive grant program.

Formal Distribution and Project Timeline:

Upon Full Commission approval, the POSDC will initiate the formal distribution process, structured to promote collaborative planning and completion within the year.

- **Project Planning:** Subdivisions must initiate the and project planning phase within 90 days of the budget approval (typically at the fourth quarter POSDC meeting). This phase requires close collaboration with the POSDC to refine the project scope, budget, and intended outcomes. This process will be conducted for each individual project the subdivision proposes to support.
- **Contract Finalization:** Following project planning, the contracting should be fully executed within six months (and no later than 12 months).
- **Funding and Execution:** The first disbursement will be issued promptly, generally within 30 days of full contract execution. All project activities outlined in the contract must be completed within one year, unless a formal extension (up to a two-year maximum) is stipulated in the contract.
- **Remittance of Unspent Funds:** To ensure resources are deployed quickly, local governments are required to allocate or spend their portion of the settlement monies within one year following the POSDC's annual budget approval/allocation. Any funds that remain unallocated or unspent after this one-year period will be remitted back to the competitive Opioid Abatement Grant Program.

Grant Management Options

Local Governments have three primary options for managing and executing their funded opioid abatement projects, providing flexibility based on local capacity and project size:

1. **Direct Internal Management:** The subdivision receives and retains full fiscal and programmatic control over the funds. This option is intended for internal projects managed using the subdivision's own staff and resources. While the subdivision may hire new staff or utilize contractors to implement their approved internal program, they are not permitted to redistribute the allocated funds via sub-awards, mini-grants, or similar external funding mechanisms.
2. **POSDC-Managed Grant (Third-Party Contract):** The subdivision identifies and selects a qualified external organization(s) to execute a specific project within its jurisdiction. The POSDC then acts as the fiscal agent, managing the funds directly by entering into a formal grant contract with that third-party entity on the subdivision's behalf.

3. **Pooled Funding:** Multiple subdivisions voluntarily combine their allocated funds to support a larger, more impactful regional project (e.g., three subdivisions pooling resources for a joint initiative). The POSDC will provide necessary technical support to ensure administrative capacity and compliance for these pooled projects.

Monitoring, Reporting, and Auditing

To ensure full accountability and compliance with the restricted funds, all recipient subdivisions and their subrecipients must actively participate in ongoing monitoring and reporting activities as prescribed by the POSDC. All data and outcomes related to local government funding will be consolidated and made publicly available in the POSDC Annual Report.

Mandatory Reporting and Oversight:

Compliance with the Local Government Funding Protocol necessitates the submission of monthly programmatic and financial reports, as well as participation in site visits, progress meetings, and technical assistance sessions.

Primary reporting responsibility is determined by the management option chosen:

- **Direct Internal Management:** The subdivision is fully responsible for completing all required compliance and reporting activities.
- **POSDC-Managed Grant:** The external contracted organization assumes the primary responsibility for required reporting. The subdivision's role shifts to participating in monitoring meetings to actively track project implementation and outcomes.

Long-Term Accountability and Audit Rights:

The subdivision must retain all financial and programmatic records for a minimum of six years after the final payment. The State explicitly reserves the right to conduct comprehensive audits and inspections of all relevant records (including books, documents, and tax filings) even after the grant period has concluded. This oversight confirms that funds are used strictly for authorized opioid abatement purposes and remain compliant with all state and federal laws.

Prohibition Against Supplanting

What is Supplanting?

Supplanting occurs when a local government or subdivision uses new settlement funds to replace existing State or local general fund dollars that were previously allocated or appropriated for the same purpose. The core principle of non-supplanting is that the opioid settlement dollars must be used to supplement and enhance existing efforts, not merely to relieve the local budget of an expense it was already obligated to cover.

Impact on Local Government Funding:

For Delaware's eligible subdivisions, the non-supplanting rule is a mandatory compliance requirement rooted in [Delaware Code Title 16, § 4808B](#).

- **Legal Mandate:** Delaware law explicitly states that money from the Prescription Opioid Settlement Fund (from which local distributions are drawn) "may not be used to supplant existing state or local government funding."
- **Purpose of Funds:** Settlement funds are intended to finance new, expanded, or improved opioid abatement and remediation efforts. They must represent an addition to the total resources the local government is already committing to combat the crisis.
- **Compliance Risk:** Subdivisions must ensure that the proposed use of their allocated funds supports activities that would not otherwise be funded by existing local or State revenues. If an audit determines that a subdivision reduced its own budget allocation for a project because opioid settlement funds became available to cover that project, the subdivision would be found in violation and required to repay the misused funds.

To demonstrate compliance, local governments must maintain clear records showing that settlement funds are supporting new positions, new programs, or the expansion of existing services beyond their current capacity.

Amendments to this Protocol

This Protocol represents the current operational standard and may be modified or amended only by a majority vote of the Governance Committee and the Full Commission. Any revisions must be formally memorialized and adopted during public meetings.

This Local Government Funding Protocol was developed by the POSDC and received approvals from the Local Government Committee (LGC), the Governance Committee, and the Budget & Reporting Committee before final adoption by the Full Commission.

It is important to remember that the annual fund disbursement budget—of which local governments will receive their allocation (currently 15%) based on the formula—is initially identified and recommended by the Budget & Reporting Committee and requires final approval by the Full Commission.