



HOW NORTH CAROLINA WOULD USE OPIOID SETTLEMENT FUNDS:
FREQUENTLY ASKED QUESTIONS ON THE MEMORANDUM OF AGREEMENT
BETWEEN STATE AND LOCAL GOVERNMENTS IN NORTH CAROLINA

[UPDATED MAY 20, 2021]

GENERAL QUESTIONS

1. What is the North Carolina Memorandum of Agreement (NC MOA)?

The NC MOA governs how North Carolina would use the proceeds of any future national settlement or bankruptcy resolution with five companies over their role in fueling the opioid epidemic. The five companies are the “big three” drug distributors (Cardinal, McKesson, and AmerisourceBergen), the opioid manufacturer Johnson & Johnson, and the opioid manufacturer Purdue Pharma (now in bankruptcy proceedings). Throughout this FAQ, the term “opioid settlement funds” refers to the proceeds of any future national settlement or bankruptcy resolution with any of these five companies.

2. Why is the NC MOA important?

The opioid epidemic has taken the lives of more than 16,000 North Carolinians, torn families apart, and ravaged communities from the mountains to the coast. Just as we began to make progress in combatting the epidemic, the COVID-19 pandemic caused a new wave of isolation, despair, drug misuse and overdose death. Individuals, families, and entire communities continue to suffer and struggle.

The opioid epidemic was fueled by irresponsible marketing and inadequate monitoring on the part of opioid makers and distributors. Settlements with the big three drug distributors and Johnson & Johnson, and a resolution of the Purdue Pharma bankruptcy proceedings, have the potential to bring as much as \$850 million to North Carolina over an 18-year period to support state and local efforts to address the epidemic.

The NC MOA is an important step forward in our collective effort to hold these companies accountable for their behavior and to direct much-needed resources to communities across the state as they work to address the epidemic and its aftermath.

3. What are the most important features of the NC MOA?

All funds to address the opioid epidemic. The NC MOA provides that all opioid settlement funds will be used to address the opioid epidemic, with an emphasis on high-impact strategies and collaborative strategic planning.

Maximum resources to North Carolina communities. For our state to receive the maximum payout under any national settlements with the big three drug distributors or Johnson & Johnson, all relevant parties – including the state itself, all 100 counties, and all large and medium-sized municipalities – would have to sign onto the NC MOA and those national settlement agreements.

To achieve that goal, and to maximize resources flowing to communities on the front lines of the epidemic, the NC MOA would direct settlement funds as follows:

- 15% to the state (which the General Assembly would have authority to appropriate on a wide range of strategies to address the epidemic)
- 80% to local governments, including all 100 counties plus 17 municipalities, allocated among those counties and municipalities through a formula developed by attorneys representing local governments in national litigation
- An additional 5% percent into an incentive fund for any county (and any municipality in that county already receiving settlement funds under the NC MOA) in which the county itself and every municipality with at least 30,000 residents (based on 2019 population totals) in the county signs the NC MOA

High level of transparency and accountability. The NC MOA offers a high level of transparency and accountability for the use of opioid settlement funds by local governments, including special revenue funds subject to audit, annual financial and impact reports, and a public dashboard showing how they are using settlement funds to address the epidemic.

4. How does the NC MOA ensure that opioid settlement funds would be spent on strategies to address the epidemic?

Any national settlement with the big three drug distributors or Johnson & Johnson, and any resolution of the Purdue Pharmacy bankruptcy matter, will direct state and local governments to use most opioid settlement funds to address the epidemic.

Consistent with this principle, the NC MOA offers local governments two options:

- Under Option A, a local government may fund one or more strategies from a shorter list of evidence-based, high-impact strategies to address the epidemic.
- Under Option B, a local government may fund one or more strategies from a longer list of strategies after engaging in a collaborative strategic planning process involving a diverse array of stakeholders at the local level.

5. What are the Option A strategies?

Under Option A, local governments may use opioid settlement funds to support programs or services listed below that serve persons with Opioid Use Disorder (OUD) or any co-occurring Substance Use Disorder (SUD) or mental health conditions. Specifically, under Option A, local governments may use opioid settlement proceeds to fund:

1. Collaborative strategic planning
2. Evidence-based addiction treatment
3. Recovery support services
4. Recovery housing support
5. Employment-related services
6. Early intervention programs
7. Naloxone distribution
8. Post-overdose response teams
9. Syringe service programs
10. Criminal justice diversion programs
11. Addiction treatment for incarcerated persons
12. Reentry programs for recently incarcerated persons

(See NC MOA Exhibit A for additional detail.)

6. What are the Option B strategies?

Option B includes a wider array of strategies that would be allowed under any national settlement with the big three drug distributors or Johnson & Johnson, or under a resolution of the Purdue Pharma bankruptcy proceedings. This includes an array of strategies that:

- A. Treat Opioid Use Disorder (OUD)
- B. Support people in treatment and recovery
- C. Provide connections to care
- D. Address the needs of criminal-justice-involved persons with OUD
- E. Address the needs of pregnant or parenting women and their families
- F. Prevent over-prescribing of opioids
- G. Prevent misuse of opioids
- H. Prevent overdose deaths and other harms (harm reduction)
- I. Support first responders
- J. Promote leadership, planning, and coordination
- K. Fund relevant training and research

(See NC MOA Exhibit B for a current version of the Option B national strategy list.)

7. What is the Option B collaborative strategic planning process?

Under Option B, a local government may fund one or more strategies from the longer list of national strategies after engaging in collaborative strategic planning at the local level. This involves:

- Engaging a wide array of local stakeholders
- Exploring the root causes of drug misuse, addiction, and overdose death in the area
- Identifying and evaluating potential strategies to address the epidemic
- Looking for opportunities to fill gaps in existing programs, align strategies, and combine opioid settlement funds with other sources of funding
- Offering comprehensive recommendations to the county board, city council, or other governing body

(See NC MOA Exhibit C for additional detail.)

8. Are regional solutions allowed?

Yes. Multiple counties and municipalities are allowed and encouraged to work together to address regional challenges and pursue regional solutions. Among other provisions, the NC MOA allows several local governments to engage in a single collaborative strategic planning process if they believe it will be efficient and advantageous for them to do so. (See NC MOA § E.5.b.v.)

9. How does the NC MOA ensure transparency and accountability by local governments receiving opioid settlement funds?

The NC MOA provides a high level of transparency and accountability, including the following measures:

Special Revenue Fund. In order to receive any funds under any opioid settlement or bankruptcy resolution, a local government must first establish a separate special revenue fund for the receipt and expenditure of opioid settlement funds. (See NC MOA §§ D & E.6.)

Financial and compliance audits. The use of special revenue funds is subject to a range of financial and compliance audits. The State Auditor and Department of Justice have access to persons and records concerning the expenditure of opioid settlement funds. (See NC MOA § F.)

Special budget item or resolution. In order to spend opioid settlement funds from the special revenue funds, a local government must pass a budget or separate resolution specifically authorizing the expenditure of the funds, including the amount to be spent, the strategy or strategies to be funded, and the relevant period of time. (See NC MOA § E.6.)

Option B report and recommendations. For local governments that elect Option B, the collaborative strategic planning process will result in a public report and recommendations. (See NC MOA § E.5 and Exhibit C, right-hand column.)

Annual financial reports. Any local government that spends opioid settlement funds will be required to file annual financial reports. (See NC MOA § F.6 and Exhibit E.)

Annual impact information. Any local government that spends opioid settlement funds will be required to file impact information on an annual basis. (See NC MOA § F.6 and Exhibit F.)

Statewide public dashboard. A statewide dashboard will enable members of the public to view the special budget items or resolutions, reports and recommendations, annual financial reports, and annual impact information described above for each local government receiving or spending opioid settlement funds. (See NC MOA § F.6.)

NATIONAL OPIOID LITIGATION, SETTLEMENT TALKS, AND BANKRUPTCY PROCEEDINGS

10. How many North Carolina local governments are engaged in national litigation against opioid manufacturers or distributors?

Seventy-six counties and eight municipalities have filed lawsuits in federal court to hold opioid manufacturers or distributors accountable for their role in fueling the opioid epidemic. Under the NC MOA, all 100 counties and every municipality with a population of 75,000 or more would receive settlement payments regardless of whether they engaged in litigation. Regardless of the municipality in which they live, all residents of a county stand to benefit from opioid settlement funds received and expended by that county.

11. What is the status of these cases?

The federal cases have been consolidated for pretrial proceedings into so-called Multi-District Litigation (MDL) in Cleveland, Ohio. The opioid MDL has consolidated roughly 3,000 lawsuits from nearly every state. The lawsuits allege that opioid manufacturers misrepresented the risks associated with prescription opioids; that opioid distributors did not properly monitor shipments of prescription opioids to pharmacies across the country; and that these actions contributed to the opioid epidemic that continues to ravage North Carolina and the nation.

12. How large is the potential settlement with the big three drug distributors plus the drug maker Johnson & Johnson?

The big three drug distributors and the drug maker Johnson & Johnson have announced their willingness to consider a global settlement of all the cases that have been or could be filed against them by state and local governments for a total of \$26 billion, with details of such a settlement still under discussion.

12A. If there is a \$26 billion global settlement with the big three drug distributors and Johnson & Johnson, how would those settlement proceeds be allocated?

While the details of such a settlement are still being worked out, it is anticipated the settlement proceeds would be divided in two parts:

- \$24 billion would be available to state and local governments for opioid remediation efforts (as detailed below under the heading, “Allocation of Opioid Settlement Proceeds”)
- \$2 billion would be available to compensate private attorneys involved in litigation against the big three drug distributors and Johnson & Johnson

12B. Regarding the \$2 billion that would be available to compensate private attorneys, how would that be divided up?

The \$2 billion attorney fee fund would be divided in two parts:

- \$1.65 billion would be available to compensate private attorneys involved in the litigation on behalf of local governments across the country, ***on the condition that the attorneys waive all contingent fee contracts with all local governments (including the North Carolina counties and municipalities they represent)***
- \$350 million would be available to compensate private attorneys involved in the litigation on behalf of state governments (although the state of North Carolina handled the litigation through staff of the Attorney General’s Office and did not retain private counsel)

13. Will the Purdue Pharma bankruptcy proceedings result in additional funds to address the opioid epidemic?

Yes. We anticipate that the Purdue Pharma bankruptcy proceedings may provide an additional \$4-5 billion to support state and local efforts to address the opioid epidemic across the country.

14. How does all this relate to the McKinsey settlement that was announced in February 2021?

The McKinsey settlement is separate and apart from the potential settlements with the big three drug distributors and Johnson & Johnson, and from the Purdue Pharma bankruptcy proceedings.

In February 2021, Attorney General Josh Stein and other attorneys general from across the nation reached a \$573 million settlement with one of the world’s largest consulting firms, McKinsey & Company, over the company’s role in advising opioid companies how to promote their drugs and profit from the opioid epidemic.

As part of the settlement with McKinsey, the state of North Carolina will receive nearly \$19 million over five years, with the vast majority coming in 2021. The McKinsey settlement requires that the state use these settlement proceeds to fund strategies to address the opioid epidemic. Within these parameters, it will be up to the North Carolina General Assembly to decide how to spend the McKinsey settlement proceeds.

15. Apart from the settlement talks with the big three drug distributors and Johnson & Johnson, the Purdue Pharma bankruptcy proceedings, and the recent McKinsey settlement, is there other opioid-related litigation brought by state and local governments?

Yes. There is litigation in federal and state courts against other opioid manufacturers, including Allergan, Endo, and Teva, and bankruptcy proceedings involving the opioid maker Mallinckrodt. And there is litigation in federal and state courts against CVS, Rite Aid, Walgreens, Walmart, and other pharmacy chains over their role in the opioid epidemic.

Even in the event of settlements with the big three drug distributors and Johnson & Johnson and a resolution of the Purdue Pharma bankruptcy proceedings, this other litigation will continue and may (or may not) result in additional settlements or resolutions to support state and local efforts to address the opioid epidemic.

ALLOCATION OF OPIOID SETTLEMENT PROCEEDS

16. How would funds be divided among the states in the event of settlements with the big three drug distributors and Johnson & Johnson or a resolution of bankruptcy proceedings involving Purdue Pharma?

If there are settlements with the big three drugs distributors or Johnson & Johnson, or a resolution of bankruptcy proceedings involving Purdue Pharma, or a combination of these, settlement funds would be allocated among states based on population and the impact of the opioid crisis on each state, taking into account several public health measures.

17. What is the maximum amount North Carolina could receive if there are settlements with the big three drugs distributors and Johnson & Johnson, and a resolution of bankruptcy proceedings involving Purdue Pharma?

North Carolina could receive up to \$850 million over a period of 18 years to support state and local efforts to address the opioid epidemic, in the event of national settlements with the big three drug distributors and Johnson & Johnson, as well as a resolution in the Purdue Pharma bankruptcy proceedings. The settlement payments to North Carolina (and other states) would be front-loaded, with payments in the first three years higher than payments in the remaining 15 years of any such settlement.

18. How many local governments in North Carolina are expected to receive payments as part of any settlement with the big three drug distributors or Johnson & Johnson or bankruptcy resolution involving Purdue Pharma?

Under the NC MOA, all 100 counties – including those that have engaged in litigation against the opioid defendants and those that have not engaged in such litigation – would receive settlement payments.

In addition, 17 municipalities would receive settlement payments – including the eight municipalities involved in the national litigation and nine other municipalities with a population

of 75,000 or greater (based on 2019 population totals). Like the 100 counties, all municipalities receiving settlement funds are subject to the terms and requirements of the NC MOA (including the establishment special revenue funds subject to financial and compliance audits, filing of annual financial and impact reports, and all of the other procedural and reporting requirements described in the NC MOA).

In situations where a county and a municipality within that county receive settlement funds, the portion of the settlement funds awarded to the county has been reduced by the amount awarded to the municipality. Residents of all municipalities in North Carolina – including those that receive settlement funds and those that do not – stand to benefit from county and state programs and services supported with opioid settlement funds.

19. How are settlement or bankruptcy funds allocated among the North Carolina counties and municipalities receiving such funds?

Under the NC MOA, settlement funds are allocated among the 100 counties and 17 municipalities through a formula developed by attorneys representing local governments in national litigation. The resulting percentage allocations are shown in NC MOA Exhibit G.

19A. What formula was used to determine these allocations among the 100 counties and 17 municipalities receiving settlement funds under the NC MOA?

The allocation formula for the NC MOA is derived directly from the allocation model developed at the national level by experts retained by the outside counsel for local governments. The national allocation model is based on three factors:

- A. Opioid Use Disorder (“OUD”). Under this factor, each county is assigned a percentage derived by dividing the number of people in the county with OUD by the total number of people nationwide with OUD. The model uses data reported in the National Survey on Drug Use and Health for 2017, accessible at <https://bit.ly/2HqF554>.
- B. Overdose Deaths. This factor assigns to each county a percentage of the nation’s opioid overdose deaths. The percentage is based on Multiple Causes of Death data reported by the National Center for Health Statistics, the Centers for Disease Control and the U.S. Department of Health and Human Services. The data so reported is then adjusted using a standard, accepted method designed to address the well-established under-reporting of deaths by opioid overdose.
- C. Amount of Opioids. This factor assigns to each county a percentage of the national opioid shipments during 2006-2016 (expressed as morphine molecule equivalents) that produced a negative outcome. This percentage is based on data reported by the U.S. Drug Enforcement Agency in its so-called ARCOS database. Each county’s share of national shipments is multiplied by the higher of two ratios: (1) the ratio of the percentage of people in the county with OUD to the percentage of people nationwide with OUD; or (2) the ratio of the percentage of people in the county who died of an opioid overdose between 2006-2016 to the national percentage of opioid overdose deaths during that time.

The allocation model gives equal weight to each of these three factors. Thus, a hypothetical county with an OUD percentage of .3 percent and an overdose death percentage of .2 percent and an amounts of opioid percentage of .16 percent would receive an overall allocation of .22 percent. [(.3 plus .2 plus .16) then divided by 3 equals .22]

Counties and municipalities that are parties to the national litigation may wish to ask their attorneys for more information on how the national allocation model was developed. More information is available at <https://allocationmap.iclaimsonline.com/>

19B. For the 100 counties and 17 municipalities that would receive settlement payments under the NC MOA, does the allocation model take into account past damages incurred by these local governments?

By incorporating Opioid Use Disorder, overdose deaths, and amount of opioids experienced by each local government, the national allocation model may be seen as a rough proxy for the damages incurred by the local governments that will receive opioid settlement funds.

However, settlement funds will not directly compensate local governments for past damages they have incurred; and a local government may not deposit opioid settlement funds into its general fund as compensation for past expenses. Instead, opioid settlement funds must be used on forward-looking opioid remediation strategies as provided in the NC MOA.

19C. For the 100 counties and 17 municipalities that would receive settlement payments under the NC MOA, does the allocation model take into account whether the county or municipality has retained private counsel and engaged in litigation against the drug companies?

No. Neither the national allocation model nor the NC MOA take into account whether a county or municipality has retained private counsel or engaged in litigation against any of the drug companies.

Here is why the national allocation model and the NC MOA treat litigating and non-litigating local governments the same: We anticipate that the \$26 billion settlement agreement with the big three drug distributors and Johnson & Johnson will set aside \$2 billion to compensate private attorneys involved in the litigation. Of that \$2 billion, \$1.65 billion will be available to compensate private attorneys involved in the litigation on behalf of local governments across the country, ***on the condition that these private attorneys waive all contingent fee contracts with local governments (including the North Carolina counties and municipalities they represent).***

The \$1.65 billion for private attorneys representing local governments will be taken “off the top” of the \$26 billion settlement. This means that all counties and municipalities receiving settlement funds – whether they retained private counsel or not – will in effect be compensating private counsel engaged in the litigation. This is because those local governments will not be receiving the \$1.65 billion going to private attorneys that they would otherwise receive to support opioid remediation efforts.

20. What is the maximum amount a particular county or municipality could receive under the terms of the MOA, and how would that be calculated?

We anticipate that North Carolina could receive up to \$850 million over a period of 18 years in the event of national settlements with the big three drug distributors and Johnson & Johnson as well as a resolution in the Purdue Pharma bankruptcy proceedings, as noted above.

To determine the maximum total amount that could go to any individual county or municipality (under the best-case scenario), the \$850 million total should be multiplied by 80%, to reflect the portion that will be directed to local governments for opioid remediation efforts, and then be multiplied by the percentage allocation for that county or municipality shown in NC MOA Exhibit G. For example, for a local government with a one percent allocation in NC MOA Exhibit G, the expected maximum would be \$850 million multiplied by .80 (eighty percent) times .01 (one percent) for a maximum of \$6.8 million.

In addition to that amount, a county or municipality may receive an additional (smaller) amount in connection with the incentive fund described in Section G to the MOA.

- 20A. If a county is receiving settlement funds and a municipality within the county is also receiving settlement funds, does that result in “double dipping”?

No, there is no double-dipping. In situations where a county and a municipality within that county receive settlement funds, the portion of the settlement funds awarded to the county have been reduced by the amount awarded to the municipality inside the county.

- 20B. How does the five percent incentive fund work?

The NC MOA directs five percent of all settlement funds flowing to the state into an incentive fund that would be divided among those counties (and any municipalities in those counties that stand to receive settlement funds under NC MOA Exhibit G) in which the county itself and any municipality in the county with at least 30,000 residents (based on 2019 population totals) signs the MOA by October 1, 2021. Once it is determined which counties and municipalities are eligible to participate in the incentive fund, funds in the incentive fund will be distributed according to the percentages set forth in NC MOA Exhibit G. (See NC MOA § G.)

- 20C. If a county that signs onto the NC MOA does not have any municipalities with at least 30,000 residents, would that county still be able to participate in the incentive fund?

Yes.

21. Would opioid settlement payments to a county or municipality be spread out equally over 18 years?

No. Settlement payments to local governments are expected to be front-loaded, with payments in the first three years higher than payments in the remaining 15 years of the settlement.

22. What has to happen for North Carolina counties and municipalities to receive the maximum possible amount under the terms of the MOA and any national settlement agreements?

The precise amount that that our state as a whole would receive depends not only on the final terms of the settlement agreements and bankruptcy resolutions but also on whether North Carolina qualifies for incentive structures that would increase the payment amounts as more North Carolina counties and municipalities join the settlement.

For our state to receive the maximum payout under any national settlements with the drug distributors or Johnson & Johnson, all relevant parties – including the state itself, all 100 counties, and all large and medium-sized municipalities – would have to sign onto the NC MOA as well as the national settlement agreements. Conversely, North Carolina stands to lose hundreds of millions of dollars under the national settlement agreements if a significant number of counties or large- to medium-sized municipalities do not sign onto those agreements.

It should be noted that any national settlements with the big three drug distributors or Johnson & Johnson will prohibit ANY payment to ANY county or municipality that does not sign onto the national settlement agreements – and there will be reduced payments to any county or municipality that signs on late (after a yet-to-be-determined deadline).

23. How many local governments need to sign onto the NC MOA for the MOA to take effect?

The NC MOA will become effective when enough local governments have signed on to meet the support level required by one of the national settlement agreements or bankruptcy resolutions. This level of support has not been definitively established. However, we anticipate a requirement that counties and large- and medium-sized cities representing at least half of the state's population will have to sign onto the NC MOU in order for it to take effect.

24. What happens if not enough local governments sign onto the MOA?

If the NC MOA does not become effective, North Carolina's allocation will be governed by the default allocations that we anticipate will be included in the national settlement agreements with the distributors and Johnson & Johnson, and the resolution of the Purdue bankruptcy. We expect the default in the Purdue bankruptcy will provide direct payments to counties with a population above 400,000 (with no direct payments to counties with smaller populations or to municipalities). We anticipate that the default arrangement in the national settlement agreements would provide as little as 15% of state settlement funds in direct payments to local governments and a substantially worse arrangement for local governments than the NC MOA offers.

24A. How can a North Carolina county or municipality sign onto the NC MOA?

The county board, city council, or other governing body can pass a resolution stating its intent to sign onto the NC MOA and directing the county or city attorney to execute relevant documents. Sample resolutions are available from the North Carolina Association of County Commissioners (for counties) and the North Carolina League of Municipalities (for municipalities).

24B. If a local government signs onto the NC MOA, does that mean they automatically sign onto any national settlement with the big three drug distributors or Johnson & Johnson?

No. A local government that signs the NC MOA will have an additional opportunity to review and sign onto (or not sign onto) any national settlement with the big three drug distributors or Johnson & Johnson.

By signing onto the NC MOA, a local government is agreeing to a framework for how settlement funds would flow in the event of a national settlement. The local government is not agreeing to the national settlement itself, which will require separate consideration and deliberation.

ADDITIONAL QUESTIONS

25. What is the NC MOA coordination group?

The NC MOA creates a coordination group to help implement the NC MOA and address certain issues that may arise over the course of the 18-year settlements. (See NC MOA § E.7 and Exhibit D for details.)

26. What is the composition of the coordination group?

The coordination group will have twelve members, including:

- Five local government representatives (a county commissioner, county manager, county attorney, county local health director or consolidated human services director, and municipal manager);
- Four experts appointed by the North Carolina Department of Health and Human Services;
- One expert appointed by the North Carolina Attorney General; and
- Two experts appointed by legislative leaders, including
 - One representative from the University of North Carolina School of Government with relevant expertise appointed by the Speaker of the North Carolina House of Representatives; and
 - One representative from the board or staff of the North Carolina Institute of Medicine with relevant expertise appointed by the President Pro Tempore of the North Carolina Senate.

(See NC MOA Exhibit D for additional details.)

27. What are the responsibilities of the coordination group?

The coordination group will have a variety of responsibilities, including the following:

- To develop certain guidelines for audits required under the NC MOA;
- To make adjustments as needed to certain aspects of the NC MOA, including:
 - The high-impact strategies listed in NC MOA Exhibit A;
 - The collaborative strategic planning process described in NC MOA Exhibit C;
 - The annual financial report described in NC MOA Exhibit E; and
 - The impact information described in NC MOA Exhibit F.
- To work with counties, municipalities, the North Carolina Association of County Commissioners, the North Carolina League of Municipalities, other associations, foundations, non-profits, and other government or nongovernment entities to provide support to Local Governments in their efforts to effectuate the goals and implement the terms of the NC MOA.

(See NC MOA Exhibit D for additional details.)

28. Will counties and municipalities receive opioid settlement funds “up front” or will they have to seek reimbursement for opioid-related expenditures “after the fact”?

A local government that has established a special revenue fund as the NC MOA requires may then receive opioid settlement funds “up front” and expend the funds in a manner consistent with NC MOA requirements.

29. Will a local government have to spend opioid settlement funds during the same fiscal year in which the funds are received?

No. The NC MOA entrusts local governments with spending decisions, so long as they are consistent with the NC MOA. To encourage planning and collaboration, and to ensure that local governments have flexibility to address local needs in a thoughtful and timely manner, the NC MOA places no restriction on the ability of local governments to carry over opioid settlement funds from year to year.

30. What if a local government has funds left even after all settlement funds are received?

This is not a problem. There is no time limit on when a local government may spend opioid settlement funds, so long as the funds are spent in a manner consistent with the NC MOA.

31. Can a local government contract with (or provide a grant to) a third party to implement a program, service, or strategy that is consistent with the terms of the NC MOA on behalf of the local government?

Yes.

32. If a local government selects Option B and undertakes a collaborative strategic planning process that results in a report and recommendations as described in NC MOA Exhibit C, does the county board, city council, or other governing body have to accept the recommendations set forth in the report and recommendations?

No. Under Option B, a local government may fund one or more strategies from the longer list of strategies (described in Exhibit B) after engaging in a collaborative strategic planning process that results in a report and recommendations to its governing body (described in Exhibit C). However, the governing body is not required to accept the recommendations contained in the report and recommendations. For example, the report and recommendations could recommend funding “Strategy X,” but the governing body could decide to fund “Strategy Y” instead.

33. Under Option B, does anyone at the state level have to approve or “sign off” on the local collaborative strategic planning process, the resulting report and recommendations, or the ultimate decision of the governing body on what strategy or strategies to fund?

No.

34. What happens if a county or municipality spends opioid settlement funds in a manner that is inconsistent with the NC MOA?

Local governments are entrusted with the responsibility of spending opioid settlement funds to in a manner consistent with the terms of the NC MOA. In the unlikely event that a local government spends opioid settlement funds in a manner that is not consistent with the terms of the NC MOA, the local government has 60 days after discovery of the expenditure to cure the inconsistent expenditure in one of several ways. In the unlikely event that the local government fails to cure the inconsistent expenditure, future opioid settlement payments may be reduced by the amount of the inconsistent expenditure. (For additional details see NC MOA § E1-3.)