

APPROVED AT DECEMBER 6, 2023 SPECIAL MEETING



Oklahoma Opioid Abatement Board *Minutes of the Special Meeting* Wednesday, August 23, 2023

The Oklahoma Opioid Abatement Board held a special meeting on Wednesday, August 23, 2023, at 2:00 p.m., and located at the Office of the Attorney General, 313 N.E. 21st St., Oklahoma City, Oklahoma 73105. OAG staff provided proper notice of the special meeting, as required under the Open Meeting Act, 25 O.S.2021, § 311, to the Secretary of State on July 31, 2023. OAG staff posted the agenda no less than twenty-four hours in advance of the public meeting in prominent public view at the Office of the Attorney General.

Attorney General Gentner Drummond called the meeting to order at 2:04 p.m.

Mr. Thomas R. Schneider called roll and recognized a quorum. At the time of calling roll, the following Board members were present:

AG Gentner Drummond	Ms. Jennifer Needham
Mr. Josh Cantwell	Ms. Lori Parish
Dr. Kelly Dunn	

Members Bryan Cleveland, Scott Martin, Sarah McFadden, and Dr. Atul Walia were not in attendance.

Mr. Schneider noted that the meeting notice and agenda were posted in accordance with the Open Meeting Act, and a majority of members were present.

Members of the OAG staff, including Mr. Thomas R. Schneider, Mr. Brad Clark, and Ms. Carolyn Thompson, were also present to assist the Board.

Review discussion, and possible action regarding minutes from the May 3, 2023 special meeting

The Board members reviewed the minutes from the May 3 special meeting. Without any proposed edits, Ms. Needham moved to approve the minutes of the May 3 special meeting. Ms. Parish seconded the motion. The following members voted in favor of the motion:

AG Drummond	Ms. Needham
Dr. Dunn	Ms. Parish

Mr. Cantwell abstained from voting.

Presentation and discussion regarding the Opioid Abatement Grant Award process, including but not limited to: administrative rules, total funding, grant and award delivery methodology, tiers for awards based on population or students enrolled, appeals and denials, and authorization of subgrantees and partnerships.

Mr. Schneider, Mr. Clark, and Ms. Thompson presented to the Board on proposals for administrative rules, total funding available, grant and award delivery methodology, tiers for awards based on population or enrollment, appeals and denials, and the authorization of subgrantees and partnerships. The Board was also presented a proposed timeline.

The total funding available to the Board for opioid grant was reported as \$24,930,681.43. OAG staff recommended the Board approve \$23,000,000.00 for grant award funding to allow for a \$1,250,000 reserve for appeals. The \$1,250,000 is roughly 5% of the total amount currently in the Opioid Abatement Revolving Fund.

OAG staff also presented to the Board about the grant award delivery methodology. Each of the methodologies have costs and benefits. Ultimately, to protect the integrity of the funds, OAG staff recommended that the Board adopt quarterly distributions as the grant award delivery methodology.

OAG staff next presented on contracting (subcontractors) versus permitting sub-granting. OAG staff further noted that the enabling legislation for the Board (the Political Subdivisions Opioid Abatement Grants Act) does not prohibit subcontracting or sub-granting, but the Act also does not authorize either one. OAG staff emphasized its cognizance that many smaller political subdivisions will need the assistance of mental health experts and providers experienced with grants. There is a cost-benefit analysis when deciding between sub-granting and partnering with contractors. One potential downside in allowing subgrants to private organizations is the potential loss of control over distributed funds and the effort required to recover loss due to misspend funds. OAG staff did not offer a recommendation.

OAG staff also presented on setting maximum grant award amounts by tiers to allow for similarly situated political subdivisions to compete amongst each other for the maximum award in their tier rather than a large political subdivision competing against a very small one. OAG staff recommended that the tiers be separated out by political subdivision type: county, municipality, school district, and technology school district. Public trusts would fall along within the tier that they benefit.

OAG staff also discussed the process for grant award denials. Under current emergency rules, the Board hears all denials, which would be very cumbersome. OAG staff recommended an aggressive appeals process restricting applicants' ability to only appeal: denials of funding for projects; denials of specific fund use requests, and denials of an application. Partial, or incomplete, funding of projects would not be construed as denials.

OAG staff also provided an update on the administrative rules, including the upcoming expiration of the October 2022 emergency rules on September 14, 2023. OAG staff recommended adopting

emergency rules reflecting policy decisions taken by the board and subsequently filing a notice of rulemaking intent for permanent rulemaking.

OAG next presented on when to set the grant term and determine if there should be any limitations on a carryover amount. Because the rollout of funds would occur in the middle or end of FY 2024, award recipients would have difficulty in spending the grant award proceeds by the end of FY 2024. So, OAG staff recommended to the Board that it approve a grant term for July 1, 2024, through June 30, 2025. Further, OAG staff recommended that political subdivisions be allowed to carry over up to forty percent of grant award, requiring the expenditure of sixty percent of the grant award prior to the expiration of the proposed grant term on June 30, 2025.

Board members provided feedback on the presentation including:

- Higher initial grant award distributions with subsequent equal quarterly distributions to act as seed funding to get projects up off the ground,
- Requiring the submission of letters of intent to fix the number of grant recipients and have better awareness of what is possible with the available funds,
- Providing a tier for multiple subdivisions grouping together as a joint effort to maximize the utility of the opioid grant funds,
- Providing robust guidance, including frequently asked questions that can be published on the Abatement Board's webpage on the OAG website,
- Maximize flexibility for the grant terms to ensure political subdivisions have time to spend the grant award and have an ability to carry over money past the grant term expiration, and
- Inserting necessary guardrails in the contract to recoup misspent funds back.

Review and discussion on the following: Opioid Abatement Grant Award Application, Scoring rubric for the Opioid Abatement Grant Award Application, and Opioid Abatement Grant Award Agreement.

The Board reviewed the opioid abatement grant award application, the scoring rubric, and the opioid abatement grant award agreement. The Board recommended adding the political subdivision's CFO or equivalent person on the application as a contact person as opposed to the legal representative or counsel. Board members expressed interest in providing bonus points for securing private matching dollars and sustainability of the project. No substantive feedback was provided on the grant award contract.

Legislative update and outlook.

Mr. Schneider and Ms. Thompson presented to the Board about a number of measures that were signed by the Governor:

- House Bill 1987 excludes drug testing strips possessed by a person for the purposes of determining the presence of fentanyl from the definition for the term "paraphernalia," effective November 1, 2023.
- Senate Bill 711 requires the Department of Mental Health and Substance Abuse Services to distribute emergency opioid antagonists to the Department of Corrections and county jails

subject to available federal funding, and requires DOC and county jails to provide discharged inmates with two doses of an opioid antagonist if the individual has opioid disorder and requires the inmate to complete an opioid overdose education program provided by ODMHSAS, effective November 1, 2023.

- Senate Bill 712 requires the Department of Mental Health and Substance Abuse Services to distribute emergency opioid antagonists to hospitals to provide patients with symptoms of an overdose or an opioid disorder not covered by Medicaid or a health benefit plan two emergency doses, effective November 1, 2023.

Ms. Thompson also informed the Board that the legislative appropriations process did not provide an opportunity for the Legislature to appropriate any portion of the Opioid Lawsuit Settlement Fund to the Abatement Board. This will cause a delay in getting payments to non-litigating political subdivisions in the opioid distributors' settlement. However, OAG staff remains committed to securing additional funds for subsequent grant offerings.

Ms. Thompson also informed the Board that it would be presenting the materials to the chairs of the House and Senate appropriations and budget committees.

Discussion and possible action to reschedule the September 13 Special Meeting

In light of the discussion of the grant process and timeline, OAG staff recommended moving the September 13 meeting due to it landing during the period for collecting letters of intent for the grant award applications.

Ms. Needham moved to reschedule the meeting to a later date in October to be determined by Mr. Schneider in communicating with members, and Ms. Parish seconded the motion. The following members voted in favor of the motion, and none voted against the same:

AG Drummond	Ms. Needham
Mr. Cantwell	Ms. Parish
Dr. Dunn	

Discussion and possible action establishing grant award funding of \$23,000,000 and \$1,250,000 reserve (cumulatively \$24,250,000) and authorizing OAG staff to publish a notice of intent to use funding opportunity to political subdivisions

Following previous discussion on the total funding available and a recommendation from OAG staff, Ms. Needham moved to establish grant award funding of \$23,000,000 and \$1,250,000 in reserve and authorize OAG staff to publish a notice of intent to issue the funding opportunity to political subdivisions and require letters of intent to be submitted within 30 days of publication of the notice of intent to issue funding opportunity. Mr. Cantwell seconded the motion. The following members voted in favor of the motion, and none voted against the same:

AG Drummond	Ms. Needham
Mr. Cantwell	Ms. Parish
Dr. Dunn	

Adjournment

Dr. Dunn moved to adjourn the meeting, and Ms. Parish seconded the motion to adjourn. The following members voted in favor of adjournment:

AG Drummond	Ms. Needham
Mr. Cantwell	Ms. Parish
Dr. Dunn	

The meeting adjourned at 3:27 p.m.