

# Washington



## Total Funds

\$518 million<sup>1</sup>

## Allocation

50% to the state and 50% to participating local governments

## Mechanism

Allocation agreements between the state and local governments ([One Washington Memorandum of Understanding Between Washington Municipalities + Allocation Agreement Governing the Allocation of Funds Paid by the Settling Opioid Distributors in Washington State](#)), legislation ([Laws of 2023, ch. 435, § 5](#))

## Key Takeaways

**Patchwork participation in national settlements.** As of publication, Washington has settled with the “big three” distributors McKesson, AmerisourceBergen, and Cardinal Health, but not with Johnson & Johnson.<sup>2</sup> Its Allocation Agreement applies to settlements from the “big three” only.<sup>3</sup>

**50-50 allocation.** Washington splits its opioid settlement funds evenly between the state and participating local governments.

**Public reporting.** Participating localities must annually report their expenditures to their regional Opioid Abatement Councils (OACs).<sup>4</sup> The OACs must then make these and their own expenditures public on regional dashboards.<sup>5</sup> The state’s 50% share, however, is not subject to similar reporting requirements.<sup>6</sup>

## Background

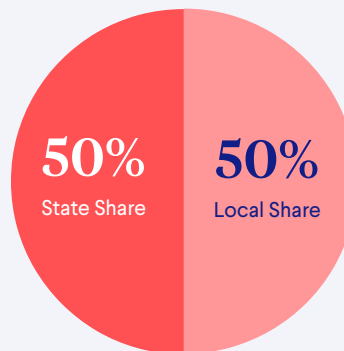
*This resource is current as of 6/5/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>*

Washington’s August 2022 [Allocation Agreement](#) establishes a 50-50 split of settlement funds between the state and local governments.<sup>7</sup> The [One Washington Memorandum of Understanding Between Washington Municipalities](#) (MOU) establishes the regional allocation structure governing the participating local governments’ use of funds.<sup>8</sup> State law establishes the Opioid Abatement Settlement Account (Abatement Account) to hold the state’s share of settlement funds.<sup>9</sup> Both the state and participating local governments must spend their funds on “Approved Purposes” such as to expand prevention, harm reduction, treatment, and recovery services.<sup>10</sup> The state is further required to spend Abatement Account monies on future opioid remediation, as defined by state law and applicable settlement agreements.<sup>11</sup>



## Decision- Making Process

### ALLOCATION OF SETTLEMENT FUNDS



#### 50% STATE SHARE

The state's 50% share of settlement funds are held in the Opioid Abatement Settlement Account (Abatement Account) established by state law.<sup>12</sup> Abatement Account monies must be appropriated by the state legislature and used for future opioid remediation.<sup>13</sup> The legislature is informed by input from a chain of key stakeholders:

1. The [State Opioid and Overdose Response Plan \(SOORP\) workgroup](#) provides recommendations to the SOORP "executive sponsors" (representatives from key state agencies and academia).
2. The SOORP executive sponsors use the workgroup's recommendations to develop their own funding recommendations, which are then provided to the governor's office.<sup>14</sup>
3. The SOORP executive sponsors' recommendations may be integrated into the Governor's budget, which contains funding proposals for the legislature's consideration and approval.<sup>15,16</sup>

#### 50% LOCAL SHARE

The local governments' "LG Share" of funds is held in a Qualified Settlement Fund<sup>17</sup> and distributed to participating local governments by county according to the MOU's [Exhibit B](#).<sup>18</sup> The distribution of funds within each participating county will be determined by regional decisionmaking structures based on the [nine predefined Washington State Accountable Communities of Health \(ACH\) regions](#).<sup>19</sup> Each region is responsible for determining the sub-allocation of funds among its counties, cities, and towns based on regional agreements.<sup>20</sup> In regions without a regional agreement, the MOU provides a default formula for allocating funds within the region(s) based on [Exhibit B](#).<sup>21</sup> Additionally, each region must establish an Opioid Abatement

# Washington



## Decision-Making Process

(Continued)

Council (OAC) to oversee regional distributions and review the expenditures of participating local governments in the region.<sup>22</sup> Ten percent (10%) of each region's funds are reserved for the OAC's administrative costs.<sup>23</sup> Although membership selection and terms are left up to the OAC's themselves, "[a]ll persons who serve on an OAC must have work or educational experience pertaining to one or more Approved Uses."<sup>24</sup>

Regardless of whether funds are sub-allocated via a regional agreement or the default formula, only participating local governments may receive direct distributions of sub-allocated funds;<sup>25</sup> non-participating local governments' portions will be reabsorbed by participating counties.<sup>26</sup> Participating local governments must comply with a set of conditions to receive direct payment.<sup>27</sup> These conditions include, for example, creating processes to collect proposals on the use of funds, gathering community feedback on funding priorities, and reporting their expenditures to the OAC and the public.<sup>28</sup> Participating local governments that comply with these conditions may decide for themselves how to allocate their direct funds on approved uses such as to expand harm reduction and treatment services.<sup>29</sup> If participating local governments choose to forego their direct allocation of settlement funds, the OAC is responsible for directing and administering the distribution of those funds, including by approving or denying funding proposals from participating local governments or community groups.<sup>30</sup>

### LOCAL PLANNING EXAMPLE

An interlocal agreement signed by Clallam, Jefferson, and Kitsap Counties appointed the Salish Behavioral Health Administrative Services Organization (SBH-ASO) as the Opioid Abatement Council for its "[Olympic Community of Health](#)" region. As of January 2023, cities in the region had been approached about joining the OAC but had not responded.<sup>31</sup>

## Tracking Funds and Accountability

- Participating localities must annually report their expenditures to their regional Opioid Abatement Councils (OACs).<sup>32</sup> The OACs must then make these and their own expenditures public on regional dashboards.<sup>33</sup>
- Regional OACs may suspend participating local governments' direct payments if they use funds for non-approved uses, fail to satisfy the MOU's reporting requirements, or fail to meet the conditions for direct payment described above.<sup>34</sup>
- Neither state law, Washington's MOU, nor its Allocation Agreement contain explicit promises to publicly report the state's 50% share.<sup>35</sup>
- Both the state and participating local governments are subject to Washington's [Public Records Act](#).<sup>36</sup>

# Washington



## Engaging in the Process

- Participating local governments' direct receipt of funds is conditioned on a few factors, including gathering community input on funding decisions.<sup>37</sup> Watch for opportunities to provide that input!
- Look out for the regional dashboards that describe spending, which OACs must make public and update annually.<sup>38</sup> Track how expenditures match up against the community input provided to participating local governments.
- Attend monthly [meetings](#) of the Substance Use Recovery Services Advisory Committee (SURSAC), also known as the Blake Committee – a legislatively created body which must include people with lived experience and that was tasked with developing a plan to help people with substance use disorders access care.<sup>39,40</sup> Public comment is encouraged at committee meetings.
- Monitor [meeting materials](#) from the State Opioid and Overdose Response Plan (SOORP) Workgroup. Subscribe to e-mail updates from the Workgroup [here](#).

## Additional Resources

**WASHINGTON STATE HEALTH CARE AUTHORITY**  
[State Opioid and Overdose Response Plan +  
Workgroup Materials](#)

[Washington State Opioid Settlements](#)

[Washington Opioid Settlement Frequently Asked  
Questions](#)

**WASHINGTON ATTORNEY GENERAL**  
[Distributors Washington Settlement](#)



## References

*Last updated June 5, 2023.*

1. From settlements with distributors McKesson, AmerisourceBergen, and Cardinal Health only. Washington is also participating in several settlements that are likely to be finalized later this year, e.g., CVS, Walgreens, Walmart, Allergan, and Teva. See KHN's "[The Right to Know: Where Does Your State Stand on Public Reporting of Opioid Settlement Cash?](#)" interactive transparency map (located mid-article; click "Washington" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. See, e.g., [AG's December 2022 press](#).
3. Alloc. Agrmt. 4. Washington's Allocation Agreement is limited by its definitions to the Distributor Settlements (see Alloc. Agrmt. 1). Its MOU, however, contains no such specificity to Distributors but explicitly excludes bankruptcy settlements. MOU A.14. Note that many states' mechanisms for opioid settlement spending were designed to comply with the requirements of the [Distributor](#) and [Janssen](#) settlement agreements, which require (among other provisions) that a minimum of 85% of settlement funds be spent on opioid remediation expenditures. *Section V.B.1*. Subsequent settlements require varying thresholds of opioid remediation spend; the [CVS](#) and [Walgreens](#) agreements, for instance, require a minimum of 95.5% and 95% opioid remediation spending, respectively. *Section V.B.1*. Keep an eye out for the ways states will amend their spending mechanisms, if at all, to comply with subsequent settlement terms.
4. MOU C.4(g)(vi).
5. MOU C.4(j)(ii),(iv),(v).
6. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures](#)."
7. Alloc. Agrmt. 9.
8. Alloc. Agrmt. 10. The MOU is also attached to Washington's Allocation Agreement as its [Exhibit 3](#).
9. Laws of 2023, ch. 435, § 5(1).
10. Approved Purposes is defined by reference to [Exhibit E](#) of the Distributor and Janssen Settlement Agreements. "Approved Purpose(s) shall mean the strategies specified and set forth in the Opioid Abatement Strategies attached as Exhibit A." MOU A.2. "Exhibit A of the MOU is replaced by Exhibit E of the Global Settlement, which is attached as Exhibit 4 to this Agreement." Alloc. Agrmt. 11.B.
11. Laws of 2023, ch. 435, § 5(1) (opioid remediation is defined as "the care, treatment, and other programs and expenditures, designed to: (a) [a]ddress the use and abuse of opioid products; (b) treat or mitigate opioid use or related disorders; or (c) mitigate other alleged effects of, including those injured as a result of, the opioid epidemic.")
12. Laws of 2023, ch. 435, § 5(1). See also Laws of 2023, ch. 435, § 5(2) (transferring all remaining money in the state opioid settlement account established under RCW 43.88.195 to the opioid abatement settlement account).
13. Laws of 2023, ch. 435, § 5(1) (opioid remediation is defined as "the care, treatment, and other programs and expenditures, designed to: (a) [a]ddress the use and abuse of opioid products; (b) treat or mitigate opioid use or related disorders; or (c) mitigate other alleged effects of, including those injured as a result of, the opioid epidemic.")
14. See, e.g., [2021-22 Opioid Overdose and Response Plan](#).
15. <https://waportal.org/partners/home/washington-state-opioid-settlements/frequently-asked-questions>. See also [Gov's 2023-25 Budget and Policy Highlights; 2023-2025 Proposed Budget - Washington State Health Care Authority \(HCA\)](#) ("In the HCA agency recommendation summary, opioid settlement uses are marked 'DS,'" per this [FAQ](#)); and [2023-2025 Proposed Budget - Department of Health \(DOH\)](#) ("In the DOH agency recommendation summary, opioid settlement uses are marked with 'Settlement,'" per this [FAQ](#)).
16. [Laws of 2023, Chapter 475](#), which contains appropriations from the Opioid Abatement Settlement Account, provides an example of the process' final product.
17. MOU B.1.



## References

(Continued)

18. MOU B.3 and Alloc. Agrmt. 10. The Allocation Agreement amends and adds to the MOU and may be treated as its amendment.
19. MOU B.4, C.1.
20. MOU C.2. Regional agreements may allow for the pooling of funds per MOU C.5, and participating localities may reallocate their shares to their regional OACs per MOU C.4(d).
21. See MOU C.4(a).
22. MOU C.4(h).
23. MOU C.4(b).
24. MOU C.4(i).
25. MOU C.4(f). "Cities and towns with a population of less than 10,000 shall be excluded from the allocation, with the exception of cities and towns that are Litigating Participating Local Governments." MOU C.4(c).
26. MOU C.4(f).
27. MOU C.4(g).
28. MOU C.4(g)(i)-(vi).
29. "Participating Local Governments that receive a direct payment maintain full discretion over the use and distribution of their allocation of Opioid Funds, provided the Opioid Funds are used solely for Approved Purposes." MOU C.4(e).
30. MOU C.4(j)(iii).
31. See also, <https://www.peninsuladailynews.com/news/clallam-county-approves-creating-opioid-abatement-council/>.
32. "As a condition of receiving a direct payment, each participating local government that receives a direct payment agrees to undertake the following actions: ... Reporting to the OAC and making publicly available all decisions on Opioid Fund allocation applications, distributions and expenditures." MOU C.4(g)(vi).
33. "The Regional OAC will be responsible for the following actions: ... Annual review of expenditure reports from [PLJs] within the Allocation Region for compliance with Approved Purposes and the terms of this MOU and any Settlement," "Reporting and making publicly available all decisions on Opioid Fund allocation applications, distributions and expenditures by the OAC or directly by [PLGs]," and "Developing and maintaining a centralized public dashboard or other repository for the publication of expenditure data from any [PLG] that receives Opioid Funds, and for expenditures by the OAC in that Allocation Region, which it shall update at least annually." MOU C.4(j)(ii),(iv),(v). Regional OACs must also collect outcome-related data from PLGs "if necessary." MOU C.4(j)(vi).
34. Alloc. Agrmt. 11.F.
35. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures.](#)"
36. [RCW 42.56](#) et seq. Alloc. Agrmt. 12.
37. MOU C.4(g)(ii).
38. MOU C.4(j)(v).
39. [RCW 71.24.546](#). See also [SB 5476 State v. Blake Behavioral Health Expansion Fact Sheet](#).
40. The SURSAC may propose ways to expend opioid settlement funds. See, e.g., the group's [plan](#), which was submitted to the Governor in December 2022, proposes funding some strategies with opioid settlement funds, including capital construction costs for new opioid treatment programs (OTPs) and expanding the reach of existing OTPs.