

OPIOID ABATEMENT TRUST FUND AND ADVISORY COMMISSION

CHAPTER He-OPI 100 OPIOID ABATEMENT ADVISORY COMMITTEE

Statutory Authority: RSA 126-A:83-:86

PART He-OPI 101 ORGANIZATIONAL RULES

He-OPI 101.01 Definitions

- (a) "Commission" shall mean the opioid abatement trust fund advisory commission.
- (b) "Commissioner" means the commissioner of department of health and human services.
- (c) "Department" means department of health and human services.
- (d) "Trust Fund" shall mean the opioid abatement trust fund established in the state treasury pursuant to RSA 126-A:83, I.

He-OPI 101.02 Meetings of the Opioid Abatement Advisory Committee

- (a) All meetings conducted by the Opioid Abatement Advisory Commission shall be in accordance with RSA 126:83-86 and RSA 91-A.
- (b) Notice of the time and place of each meeting shall be posted on the Commission's internet webpage, in the Department's Brown Building lobby and in the Legislative Office Building.

He-OPI 101.03 Membership of Commission

- (a) All Members appointed to the Commission shall serve in accordance with RSA 126-A:85.
- (b) In accordance with RSA 126-A:85, III, a staggered 2-year terms means that half of the members are reappointed in the first year of reappointment, while the other half of the members are reappointed in the second year of reappointment so that the commission maintains half of its members each year for consistency and continuity.

He-OPI 101.04 Duties of Commission. The commission shall:

- (a) Consult with and advise the commissioner on the administration and management of the trust fund, and approve the selection of eligible fund recipients under RSA 126-A:83, II(b).
- (b) Approve funding awards, revolving loan funds, and matching funds for qualifying projects from the trust fund under RSA 126-A:83, I, in a manner consistent with the enabling statute.

He-OPI 101.05 Records of Official Actions.

- (a) Minutes shall be kept of all commission meetings and all official actions taken by the commission, including records of all funding requests received and funding awards.
- (b) Meeting minutes shall record those members who participate in each vote and separately record the position of any members who choose to dissent, abstain, or concur.

(c) Commission minutes shall be public records and be available for inspection no later than five (5) business days after a commission meeting.

(d) All meeting minutes, attendance rolls and votes, including records of all votes on funding requests, funding requests and awards, and reports of funding by recipients shall be published on the Commission's website.

Opi 101.06 Records.

(a) The department shall be the custodian of the commission's records and respond to requests to examine those portions of the commission's records which are subject to public inspection in accordance with 91-A.

(b) Persons desiring copies of commission records that are not available on the commission's website shall submit a request in writing to the commission which identifies as particularly as possible the information being sought and pay any associated fees to cover the costs of the photocopying and mailing of the requested records.

(1) Written requests shall be sent to: Opioid Abatement Advisory Commission, Department of Health and Human Services, 129 Pleasant Street, Concord, NH 03301

PART He-OPI 102 PROCEDURAL RULES

He-OPI 102.01 Purpose. The purpose of this part is to implement RSA 126-A:83-86 by establishing:

(a) The procedure and criteria applicable to all applicants that apply to the department and the commission for funding for qualifying opioid abatement projects through the trust fund established pursuant to RSA 126-A:83-86;

(b) The requirements for completing and reporting on projects financed through the trust fund; and

(c) The process under which the department and commission accepts and reviews complaints regarding its selection of applicants and its disbursement of funds through the trust fund.

He-OPI 102.02 Scope. This part shall apply to all funds disbursed through the trust fund and all applicants receiving funding through the trust fund.

He-OPI 102.03 Definitions

(a) "Agreement" shall mean a written contract between the state and an applicant setting forth the obligations of the parties under the contract, including, but not limited to, the performance of the work and the basis of payment, reporting requirements, and any supplemental documents identified in the contract or incorporated into the contract.

(b) "Applicant" shall mean a New Hampshire governmental entity or non-profit or charitable organization registered with the Attorney General's Charitable Trusts Unit that applies for funding from the trust fund.

(c) "Application" shall mean a request for funding submitted to the department in response to a request for grant application or request for proposals issued by the department for opioid abatement trust funds.

(d) "Commissioner" shall mean the commissioner of the New Hampshire department of health and human services, or their designee.

(e) "Eligible entity" shall mean (a) a state agency, board, or commission or any political subdivision of the state or (b) any non-profit or charitable organization registered with the Attorney General's Charitable Trusts Unit.

(f) "Department" means the New Hampshire department of health and human services.

(g) "Project" shall mean any approved project outlined in He-OPI 103.04.

(h) "Public interest" means protecting the health and safety of the citizens, curtailing negative financial impact to the state, assisting in investigations, or promoting a competitive application process.

(i) "Request for Grant Application" or "RFGA" means an invitation to submit an application by an eligible entity for qualified projects to the department and the commission.

(j) "Request for Proposal" or "RFP" means "Request for proposal (RFP)" as defined in RSA 21-G:36.

(k) "State" shall mean the state of New Hampshire.

(l) "Trust fund" shall mean the opioid abatement trust fund established in the state treasury pursuant to RSA 126-A:83, I.

PART He-OPI 103 ELIGIBILITY AND APPLICATION REQUIREMENTS

He-OPI 103.01 Eligibility Criteria.

(a) In order to be eligible for a funding award from the trust fund, the applicant shall ensure that the proposed project meets one or more of the criteria identified in RSA 126-A:86, I(b).

(b) The applicant must comply with the application process and supply all required information to be considered for an award.

He-OPI 103.02 Qualified Applicants.

(a) Applicants shall complete, sign, and submit an application in response to a RFGA, available from the department, containing the following information:

- (1) The applicant's name, address, and telephone number;
- (2) Project name;
- (3) The eligibility criteria listed in RSA 126-A:86, I(b) for which a request is being made;

(4) A description of the proposed project and how, specifically, it meets the eligibility criteria of approved uses under RSA 126-A:86, I (b);

(5) A description of the need for the proposed project;

(6) An estimate of project costs;

(7) An estimate of the number of people projected to be served by the project;

(8) Anticipated start and end date for the proposed project; and

(9) Any other information required by the RFGA.

(b) The department shall post an RFGA in the same manner it would post a request for application in accordance with RSA 21-G:36-38.

(c) If the commission chooses to contract through the RFP process rather than submit an RFGA, the RFP process shall follow the requirements of RSA 21-G:36-38.

(d) All information furnished shall be used to determine an applicant's ability to perform the proposed project and include analysis of:

(1) The current work capacity of the applicant and whether it exceeds the estimated value of the proposed project;

(2) Whether the applicant possesses sufficient equipment and human resources to perform the work under the proposed project ~~as well as the projects the applicant has under current contract or agreement~~; and

(3) Whether the applicant has in the past met or exceeded project performance expectations for a state agreement:

a. In the same area of expertise; and

b. For work of similar or greater complexity as the proposed project for which the applicant has requested an application.

(d) All financial information supplied to the department shall be held in strict confidence, and treated as confidential, commercial, and financial information pursuant to RSA 91-A:5.

He-OPI 103.03 Solicitation and Submission of the Application.

(a) The department shall solicit applications for qualifying projects on each occasion that the balance in the trust fund exceeds \$500,000.

(b) The department shall post a solicitation for applications for a minimum of 30 calendar days on the commission's webpage.

(c) By applying for funding through the trust fund, the applicant shall be deemed to have agreed to the following:

Commented [SCM1]: I think we would want to know what projects the applicant is currently required to provide or is getting funding for. That is something that would be a usual requirements in any RFA or RFP.

My concerns in many of these requirements is how they apply to political subdivisions. Do we want to carve out exceptions for them and apply these only to non-profits?

Commented [SCM2R1]: I think we should discuss. I'm just not sure why a political subdivision wouldn't be able to tell us about current contracts or agreements they have related to Opioids.

(1) From the time of first application for funding for a project throughout all stages of implementation, and at any other time while any funding from the trust fund to the applicant is outstanding, the applicant shall provide to the department and the commission for inspection any information requested by the department or the commission to include:

- a. The project and any and all incidental works, areas, facilities, and premises otherwise pertaining to the project for which application is made; and
- b. Any and all books, accounts, records, contracts or other instruments, documents, and other information possessed by the applicant or its contractors, agents, employees or representatives which relate in any respect to the receipt, deposit, or expenditure of funds from the trust fund.

He-OPI 103.04 Department Action on Application

(a) The department shall determine that the applicant's project is eligible for funding from the trust fund if:

- (1) The application is complete;
- (2) The applicant is an eligible entity; and
- (3) The application meets the requirements specified in the RFGA.

(b) The department shall notify the applicant and the commission in writing within 14 days of determining that the application is complete.

(c) If the department determines that the applicant's project is eligible in accordance with (a) above, the department shall compile all information identified in (d) below and submit all information to the commission.

(d) The information submitted to the commission in accordance with (c) above shall include:

- (1) The application along and any and all attachments to the application;
- (2) The Department's assessment and scoring of the application as required through the RFGA process;
- (3) Information on any current grants or financial assistance the applicant is currently receiving from the department apart from the Opioid Abatement Trust Funds that relates to Opioid Abatement and the applicant's request for funding; and,
- (4) Information on any audits, investigations, or adverse action taken against the applicant over the previous three years related to any type of fraudulent activity or misuse of funds;

~~(5) The department's recommendation of grant award dollars based on the response to the RFGA along with the additional information included in this section.~~

(e) Information in (d) above shall be submitted to the commission within 10 days from completion of all tasks required by (d) above.

(f) If the department determines that the application is incomplete, the department shall state the reason(s) for the determination in the notice sent pursuant to (b) above.

Commented [SCM3]: We discussed the Department submitting recommendations to the commission with its submission and the committee seemed comfortable. Could you explain to me the concern? I think since we administer the fund, this would be part of that management.

While the commission might want to seek out recommendations from HHS, especially BDAS, I don't see this as part of HHS management role and do not think it should be included in the rules.

Commented [SCM4R3]: When we have made a determination that the entity has completed all necessary steps and met the requirements of the RFGA, it is much easier and more efficient to send to you all of the paperwork over to the commission with any Department recommendation based on the application and additional information within the Department's knowledge. This would be typical in any selection process for an RFA or RFP we solicit.

I am still of the opinion that it invades the statutory role of the commission.

Commented [SCM5R3]: Since it's only a recommendation, there is no requirement that those recommendations be adopted by the commission and therefore, it is not an invasion of the role of the commission. This is meant only to give the commission the best information possible in making a decision on approving or denying the funding.

(g) In response to being notified that an application is incomplete, the applicant may modify or supplement any information and submit a new application to the department.

(h) A new submission of the application in (g) above cannot occur more than 10 days following the notification of that the application was incomplete.

(i) If a modified or supplemented application is submitted, it shall be treated as a new application and follow the same review process as a new application.

(j) If a modified or supplemented application is again found incomplete after review, the applicant cannot submit a new application

He-OPI 103.05 Commission Review and Approval of Selected Projects

(a) The commission shall meet no later than 30 days after the department's submission of qualifying projects to review the selected projects.

(b) The commission shall vote to recommend to the Governor and Executive Council or deny each selected project by majority vote.

(c) All projects not recommended by a majority vote of the commission shall be denied.

(d) Upon the close of the commission's meeting, the commission shall notify the department of all recommended and denied projects.

(e) For any projects that the commission votes to deny, the commission shall, in writing, specify the reason(s) for denial

(f) The department shall notify each applicant in writing within 30 days of the commission's meeting of whether the commission has voted to recommend the project to the Governor and Executive Council.

(g) A list of recommended and denied projects shall be posted on the commission's website.

He-OPI 103.06 Agreement Documents.

(a) Following commission approval, the department and grant awardee shall execute agreements for the Governor and Executive Council approvals.

(b) All agreements shall contain the statutory procurement and opioid abatement trust fund requirements including:

- (1) Services required as part of the trust fund award;
- (2) Compliance with Federal and State law including anti-fraud and anti-kickback laws; and
- (3) Actions and remedies for breach of contract.

(c) No money shall be distributed from the fund without a signed agreement between the grant awardee and the department.

Opi 103.07 Reporting Requirements

(a) Applicants shall submit an annual report to the department, by August 1st of each year, unless the department, its rules, or agreements require a more frequent submission.

(b) Reports received by the department shall, in turn, be forwarded to the commission.

(b) All reports submitted to the department shall be prepared as follows:

(1) Each report shall be separately and clearly labeled with:

a. The name, mailing address and physical address of the applicant covered by the report;

b. The time period covered by the report;

c. The reporting section in the agreement that requires the report submittal;

d. The type of report, using the name of the report as specified in the reporting condition in the agreement, that is being submitted; and

e. The date the report was prepared;

(c) An applicant who submits a report that is a revision to a previously-submitted report shall clearly identify the previously-submitted report with the information specified in (b), above, and indicate which portions of the report have been revised; and

(d) Each report submitted by or on behalf of an applicant shall be signed by an authorized official.

~~Opi 103.08 Complaint Process/Protest of Intended Award.~~