Kansas Fights Addiction Grant Review Board
Unallowable Spending Reference

Kansas Fights Addiction (KFA) Funds recovered by the attorney general pursuant to opioid litigation are to be used to address substance use disorder (SUD) and help ensure addiction services are provided throughout the state. These funds are specifically intended for the long-term remediation of the opioid crisis, and efforts should be focused on community-based strategies directly related to SUD prevention, treatment, recovery, and harm reduction. The KFA grant program is overseen by the Kansas Fights Addiction Grant Review Board (KFAB), on behalf of the Kansas Attorney General's Office. While spending is mostly permissive, it is necessary to determine that project spending and proposed expenditures are linked back to opioid abatement as intended.

Consistent with K.S.A. 75-778(c)(6), KFAB may impose conditions on the use of Kansas Fights Addiction Funds more restrictive than other limitations imposed on opioid recoveries. In rare occasions, KFAB may provide exceptions on a single-grant basis provided the grant applicant can demonstrate the need for an exception and how the excepted use links back to opioid abatement.

This document outlines a non-exhaustive list of costs, expenses, and/or expenditures that are not allowed, along with information on when they might be allowed if certain criteria are met. This document is organized into two sections: general overarching provisions and information by budget categories. This document is subject to regular review and update.

This document is intended to be utilized for KFA grant program applicant organizations and awardees. Municipalities Fight Addiction Fund (MFAF) recipients shall consult with their local legal counsel for consideration of allowability.

For additional examples of allowable uses as defined by the National Settlement Agreements, view Exhibit E and the associated document, *Guide: How Kansas Municipalities Fight Addiction Fund Subdivisions Can Strategically Allocate Opioid Settlement Funds*.

For costs/expenses/expenditures to be allowable for KFA funds, it must benefit (or be allocable to) Kansans and should be expended on strategies focused on SUD prevention, treatment, recovery, and harm reduction. All grant applicants must submit a detailed, itemized budget for KFAB review and approval prior to being allocated, spent, or otherwise obligated.

Kansas Fights Addiction Funds may not be used to supplant or replace existing state or local government funding, reimbursement from other payers, or other grants or funding.

Kansas Fights Addiction Funds must be used in a manner consistent with the terms of the settlements agreements and must comply with statutory law and regulations.

Disclaimer: *Information in this document is not intended to take the place of statutory law, regulations, or guidance documents. No applicant is entitled to a grant, and all grant applications are subject to review by KFAB. The information contained within this document is not legal advice; therefore, please consult with your own legal counsel for legal advice and assistance with your legal matters.*

General Provisions

The following is a general list of unallowable spending. Details on potential exceptions are included.

- Activities that are not science and data-driven, evidence-based, and/or promising practices for SUD abatement;
    - Note: Promising practices are strategies that have preliminary evidence or demonstrated results suggesting effectiveness, but the evidence is not yet sufficiently rigorous or extensive to call it evidence-based.
- Activities that are not SUD abatement related;
- Activities that are funded through other program grants, activities, or otherwise reimbursable, as this would be considered supplantation. All services reimbursed by other funding sources, such as Medicaid and other payors, would be considered supplantation. Expenses for goods or services already otherwise reimbursed, including those covered in whole or in part, are unallowable. This is considered “double dipping”, which violates the Kansas Medicaid Fraud Control Act;
    - Note: Funds may supplement, or expand upon, existing activities. Organizations should clearly detail how KFA funds are supplemental, not supplanting, other funding sources in the applicant organization’s project application and associated progress and financial reporting if awarded.
    - Note: See “Salaries/Personnel and Benefits Categories” for additional details.
- Education or training not specially focused on SUD, crisis intervention, or related behavioral health/mental health topics;
- Services that will occur outside of the grant period (e.g., paying for two (2) years of rent within a grant that is only 12 months or paying a software maintenance contract that extends beyond the grant period);
- Developing infrastructure or purchasing equipment not directly related to SUD prevention, treatment, harm reduction or recovery services;
- Illegal items or expenditures which are prohibited by federal, state, or local law (e.g., syringe exchange programming, drug paraphernalia as defined by K.S.A. 21-5701, etc.);
- Vehicles not directly utilized for SUD abatement strategies (e.g., such as vehicles specifically built or modified for law enforcement use, upfitting of vehicles for law enforcement use, general take-home vehicles for an organization, general use vehicles, etc.);
    - Note: Vehicles solely dedicated to activities directly related to SUD abatement strategies are allowable (e.g., community education and resource vehicles, mobile treatment units, vehicles utilized solely for providing transportation assistance to those with an SUD or in recovery, etc.).
- Law enforcement activities related to prosecution, arrests, interdiction or criminal processing;
    - Note: Community focused or individual focused law enforcement strategies that detail how the activities are aimed at SUD prevention, treatment, linking to care, or providing SUD focused resources to the community are allowable.

- Law enforcement equipment not related to SUD abatement (e.g., guns, vests, batons, uniforms, tasers, radios, K-9 units, drones, ankle monitors, police vehicles/squad vehicles, cell phone extraction software/equipment, weapon accessories, surveillance equipment, automated license plate reader (ALPR) systems and associated surveillance camera networks, polygraph expenses, x-ray devices, GPS trackers, etc.);
- Mass spectrometers for interdiction purposes;
- Handheld narcotics analyzers;
- Advanced imaging technology (e.g., body scanners);
- Hair follicle testing;
- Non-FDA-approved medications related to the treatment of SUD;
  - Note: IRB-approved and/or academically conducted research studies of promising practices may be allowable.
- Medications, medical services, or medical equipment not related to the treatment of SUD or co-occurring mental health conditions. Costs associated with individual medical surgeries or surgical procedures are unallowable, as KFA funding should not be considered as health insurance;
  - Note: Whole person care/integrated care is a priority for KFAB and may be considered for funding.
- Patient accounts deemed uncollectible or those accounts considered eligible for bad debt write-off;
- Automated external defibrillators (AEDs);
  - Note: A device specifically intended to be utilized where the primary population receiving services by the applicant have SUD may be allowable.
- Sub-granting or sub-awarding funds through a grant program;
  - Note: Sub-granting or sub-awarding may be allowable in limited cases and require prior approval.
- Sub-contracting for services unrelated to SUD services or related duties;
  - Note: Sub-contracting may be allowable in specific cases.
- Capital funds cannot be sub-granted or passed through to another organization;
  - Note: All capital expenses must be supported by vendor bids, quotes, or proposals. See Capital Guidelines for more information.
- Direct foster care/kinship care payments;
- Campaign contributions;
- Legal expenses, litigation costs, or attorney fees related to opioid litigation; and
- Administrative costs such as salaries, benefits, office space, or other expenses allocable to individuals not performing opioid remediation activities (i.e., individuals that do not provide any relevant SUD services or duties).
  - Note: See the "Indirect Budget Category" for additional details.

Salaries/Personnel and Benefits Categories

- Executive Directors and other positions providing grant project oversight, in which they do not provide direct services, are limited to a maximum of 10% of salary.
- Total benefits cannot exceed 25% of total salary expenses for all personnel.
    - Note: Limitations on benefits are not negotiable.
- Salaries and benefits of individuals not performing opioid remediation activities, administrative staff, electronic medical records, human resources (HR), office managers, and insurance are considered part of the administration cost and generally are not allowable as a direct line item and can only be considered an indirect cost.
    - Note: See the "Indirect Budget Category" for additional details.
- In general, positions that provide direct billable services or are reimbursable by other payors/insurance providers are not allowed to be covered by grant funds, as this would be considered supplanting. Funding any position that is fully billable/reimbursable is unallowable.
    - Note: Funding a position that is partially reimbursable may be allowable if only the unreimbursed hours or level of effort are allocated to the KFA grant. This should be clearly detailed in the applicant organization's project application and, if awarded, in the associated progress and financial reporting.
- Limitations apply to HR costs such as hiring incentives, recruitment expenses, relocation packages, and bonuses. These expenses must be reasonable and allocable to personnel directly providing SUD abatement services. Proposed incentives should consider alignment with industry standards, job level, need, and level of difficulty in attracting and retaining qualified candidates for the position.
    - Note: The HR costs noted above are not allowed for positions unrelated to SUD abatement.

Consultants/Contractual Category

- Consultants and/or contractual agreements should limit indirect rates to 10% or less.
    - Note: Contractual or consultant costs over $25,000 will require a formal draft Scope of Work describing the services to be provided.

Supplies and Equipment Purchase/Rental Categories

- Kitchen supplies and janitorial supplies (e.g., paper products, cleaning supplies, beverage service, etc.) are not allowed unless they are direct SUD programming supplies.
    - Note: The budget should clearly detail how supplies are connected to SUD programming in the applicant organization's project application and, if awarded, in the associated progress and financial reporting.
- Program supplies (e.g., diapers, wipes, toys, etc.) are not allowed unless it directly relates to SUD abatement purposes.

    - Note: The budget should clearly detail how supplies are connected to SUD programming in the applicant organization's project application and, if awarded, in the associated progress and financial reporting.

Transportation/Travel/Education Category

- Transportation/Travel/Education must be specified in the budget workbook as focused on SUD abatement and be reasonable.

Capital Category

- Capital purchases cannot be used for generating organizational profit. All capital requests are reviewed on a case-by-case basis. See Capital Guidelines for more information.

Miscellaneous/Other Category

This category only includes items that do not align with other budget categories.

- Administrative overhead costs, such as insurance, general accounting and finance, audit, utilities, rent, etc. are generally not allowable as a direct line item and can only be considered an indirect cost.
    - Note: See the "Indirect Budget Category" for additional details.
- Rent directly related to SUD abatement is allowable. Administrative rent is not allowable as a direct line item under occupancy for the administrative department and/or services. Such administrative expenses are considered an indirect cost.
    - Note: See the "Indirect Budget Category" for additional details.
- Incentives and barrier reduction assistance, such as gift cards, will be considered on a case-by-case basis. Grant applications must include reasonable justification including but not limited to the population and eligibility to receive the incentives/gift cards, purpose of and necessity for the incentive/gift cards, the total number to be purchased and provided, incentive/gift card vendor and type, maximum gift card/incentive value, and how incentives/gift cards will be tracked, monitored, secured, and reported on. Gift cards can pose a degree of risk, considering unused balances, lost or stolen cards, and a lack of tracking mechanisms. It is preferred that projects use a voucher system, or a similar process, to best avoid waste/unspent funds.
    - Note: Examples of allowable use include, but are not limited to, participation incentives (e.g., contingency management protocols, recovery court programming, provider training participation, etc.) and barrier reduction for clients (e.g., transportation).
    - Note: Incentives paid directly to a program participant cannot exceed $1,999.00 per participant per calendar year, as this could be considered wages for tax purposes, unless it is a proven expense reimbursement.
    - Note: Issuing payment(s) directly to a client or participant is not recommended. Where feasible, it is encouraged to explore contractual agreements or pay submitted invoices with a service provider, rather than providing direct payment(s) to a client or participant.

Indirect Category

Indirect costs are costs that are not directly tied to a specific program, service, or department. They are necessary for running the business as a whole and are incurred for the benefit of many programs.

- Indirect costs cannot exceed 10% of the total direct costs included in the budget workbook.
  - Note: Limitations on indirect costs are not negotiable.
  - Note: 10% of the total grant award is not the same as 10% of the total direct costs.
- Administrative overhead costs not directly related to the project, but that are essential for the efficient operation of the organization, are allowable as indirect costs. These costs generally include but are not limited to administrative salaries/benefits; business insurance, property and equipment insurance, director and officer insurance, legal/cyber protections, etc.; and utilities and rent related to office space and maintenance.
  - Note: All administrative overhead costs are subject to the allowable 10% indirect rate.
- General organizational finance, accounting, and/or tax expenses are not allowed (e.g., property, income tax, etc.). Grant funds cannot pay for general organizational filings, fees, and/or reporting requirements.