



Maricopa County Attorney
Rachel H. Mitchell

July 8, 2024

The Honorable Kris Mayes
Arizona Attorney General
2005 N Central Ave
Phoenix, AZ 85004

Re: Request for Attorney General Opinion

Dear Attorney General Mayes,

I write to request a written opinion answering whether opioid settlement funds received by an Arizona political subdivision are subject to the expenditure limitation set forth in Article IX, § 20 of the Arizona Constitution?

By way of background, the Arizona Constitution in Article IX, Section 20 limits the total expenditures of local revenues that a political subdivision of the State of Arizona may authorize. This expenditure limit is based on expenditures made during the 1979-80 fiscal year adjusted for changes in population and cost of living. It was enacted in 1980 by Arizona voters sensitive to unchecked government spending, and it has not been modified. Under this provision, an expenditure is defined as "any authorization for the payment of local revenues," and local revenues are further defined as "all monies, revenues, funds, fees, fines, penalties, tuitions, property, and receipts of any kind whatsoever" received by a political subdivision with specific exceptions. Article IX, § 20(3)(c)-(d).

On December 21, 2018, Maricopa County filed suit in federal court against multiple pharmaceutical companies to compensate the County for substantial costs incurred as a result of the roles they played in perpetuating the opioid epidemic. The lawsuit, *Maricopa County v. Purdue Pharma LP et al.*, is a part of a much larger multi-district litigation. In 2022, every Arizona county and several cities and towns signed the One Arizona Settlement Memorandum of Understanding ("One Arizona Agreement"), a comprehensive allocation agreement for the distribution of funds received from the pharmaceutical companies resulting from national opioid settlement agreements. Under the One Arizona Agreement, counties, cities, and towns receive fifty-six percent of the settlement funds while the State of Arizona receives forty-four percent. Maricopa County receives approximately fifty-nine percent of the funds distributed to Arizona counties, cities, and towns. Maricopa County estimates to receive approximately \$200 million over 18 years.

The One Arizona Agreement restricts the use of the opioid settlement funds to treatment, abatement, and prevention activities necessary to remedy the actions of the opioid companies. These funds are intended to make up for the losses the County suffered because of opioid abuse. They are not the same as RICO funds. Unlike

prosecution and investigation costs recovered for the County from enforcing statutes pertaining to offenses listed in A.R.S. § 13-2301(D)(4) by final judgment or settlement, the funds received from the opioid settlements are compensation intended to make Maricopa County “whole” after costly expenditures already incurred.

To be clear, funds received pursuant to the One Arizona Agreement are the result of litigation between Maricopa County, the State of Arizona, and other Arizona counties, cities, and towns and the pharmaceutical companies to hold the pharmaceutical companies accountable for their malfeasance relating to the unlawful manufacture, marketing, promotion, distribution, or dispensing of prescription opioids. The opioid settlement funds are purpose restricted; they are not to be used for any non-opioid harm mitigation efforts.

Maricopa County, the fourth most populous county in the United States with approximately 4.5 million residents, has felt the profound consequences of the opioid epidemic. Since 2000, more than 400,000 Americans have lost their lives to an opioid overdose. On any given day, 134 people will die from opioid overdoses in the United States. Maricopa County has had to commit considerable resources and substantial amounts to address the opioid crisis. The funds Maricopa County receives under the One Arizona Agreement represent compensation for resources directly spent as a direct result of the pharmaceutical manufacturer and distributors’ aggressive marketing scheme and excessive distribution of prescription opioids.

Maricopa County and other Arizona counties have begun to receive opioid settlement funds. Accordingly, Maricopa County respectfully seeks a written attorney general opinion clarifying if the opioid settlement funds it receives under the One Arizona Agreement are local revenues as defined in Article IX, § 20(3)(c) subject to the Arizona Constitution’s expenditure limitation?

Sincerely,



Rachel H. Mitchell
Maricopa County Attorney