

**Virginia Tobacco Indemnification and
Community Revitalization Commission**

Policy Resolution
Aug 13, 2013

Whereas, Title 3.2, Chapter 31 of the Virginia Code creates the Virginia Tobacco Indemnification and Community Revitalization Commission (the "Commission") to, *inter alia*, revitalize tobacco dependent communities;

Whereas, in furtherance of such purpose, the Commission has established the Tobacco Region Opportunity Fund grant program (the "TROF Program") to provide performance-based monetary grants to tobacco region localities to assist in the creation of new jobs and investments through new business development and existing business expansion;

Whereas, by prior action the Commission has established the Tobacco Region Opportunity Fund Committee (the "TROF Committee") to assist in the administration of the TROF Program, and the TROF Committee has administered the TROF Program and the making of grants thereunder; and

Whereas, the Commission desires to restate in further detail certain aspects of the TROF Program, as set forth in the Tobacco Region Opportunity Fund Policy (the "TROF Policy"), attached hereto as *Attachment A*, which is by this reference incorporated herein and made a part hereof, to set forth certain policies for the receipt, consideration, approval, processing and making of grants under the TROF Program;

NOW, THEREFORE, BE IT RESOLVED by the Virginia Tobacco Indemnification and Community Revitalization Commission, that

1. The TROF Policy is hereby approved and shall supplement existing TROF Program guidelines, procedures and practices currently in place, and, shall to the extent of any inconsistency or conflict with existing TROF Program guidelines, procedures and practices, supersede and prevail over same. The Commission specifically approves and affirms the delegations of authority to the TROF Committee and the Executive Director set forth in the TROF Policy.
2. All TROF Program grants heretofore approved by the TROF Committee under authority delegated to it by the Commission are hereby approved and ratified in all respects.

**Virginia Tobacco Indemnification and
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Tobacco Region Opportunity Fund

POLICY

Purpose of the Tobacco Region Opportunity Fund

The Tobacco Region Opportunity Fund (TROF) provides performance-based monetary grants to localities in Virginia's tobacco producing regions to assist in the creation of new jobs and investments, whether through new business attraction or existing business expansion.

The Commission has implemented the TROF grant program to support the goal of the Commission to "revitalize the economies of tobacco dependent regions and communities." Under the TROF Program, the Commission will in large part evaluate the effectiveness of its undertaking by reference to job creation, workforce participation rate, wealth, diversity of economy, and taxable assets.

Applications for TROF Grants

The Commission will only accept TROF Grant applications from governing bodies or political subdivisions within the tobacco producing localities of Southside and Southwest Virginia.

Applications to the Commission for TROF Grants are to be submitted in writing in the form set forth from time to time by the Commission, and contain such information as the Commission may request, including but not limited to:

- name and contact information of the applicant;
- name and contact information of private entity beneficiary (if applicable);
- specific dollar amount being requested;
- name of the locality in which the private entity beneficiary is (or is to be) located (if applicable);
- number of new and/or saved jobs;
- average annual wage of new and/or saved jobs;
- amount of private capital investment into taxable assets; and
- North American Industry Classification System code of the private entity beneficiary (if applicable).

TROF Committee

Except as may be provided by the Commission from time to time, the TROF Committee previously established by the Commission shall continue, with such membership, responsibilities and duties as are set forth by the Commission within this Policy.

Approval of TROF Grants

(a) *Minimum Requirements.* Unless otherwise approved by the Commission, all TROF Grants must meet the following minimum requirements:

- Minimum private capital investment of \$1 million required within 36 months;
- Such minimum number of jobs as provided in the incentive formula guidance referred to below;
- Amounts spent to acquire real estate will be counted as capital investment;
- Matching funds from non-Commission sources are not required; and
- Grants are limited to three per governmental entity (including industrial/economic development authorities and towns, but not independent cities) per fiscal year.

(b) Unless otherwise approved by the Commission, TROF Grants of less than \$50,000 will not be offered. The amount of a TROF Grant shall be based on local unemployment rates, prevailing wage rates, capital investment levels and the industry type.

(c) The Executive Director is authorized to approve or deny, on behalf of the Commission, TROF Grants under this Policy that meet the purposes of the TROF Program and the requirements in subsection (a) above in an amount not to exceed the lesser of the amount requested by the applicant(s) or the amount calculated in accordance with the Commission's incentive formula guidance attached hereto as *Exhibit A*, as the same may be revised from time to time; provided, however, that a TROF Grant in excess of \$2,000,000, must be approved by the TROF Committee. The TROF Committee is authorized to approve or deny, on behalf of the Commission, TROF Grants under this Policy that meet the purposes of the TROF Program and the requirements in subsection (a) above in an amount not to exceed \$3,000,000. The Commission must approve a TROF Grant in an amount greater than \$3,000,000. The Commission's incentive formula guidance shall be an index that calculates recommended grant amounts based on such factors as the annual payroll promised, the annual local prevailing wage, the number of jobs (direct, indirect and saved), and capital investment, with a greater premium applied to high unemployment areas, higher capital-to-payroll ratio and higher new-wage-to-prevailing-wage ratio).

(d) The aggregate amount of TROF Grants made during any fiscal year shall not exceed the amount set forth in the Commission's approved budget for such fiscal year without prior approval of the Commission.

Performance Agreement.

Unless otherwise approved by the Commission or the TROF Committee, all TROF Grants are to be disbursed pursuant to a Performance Agreement among the applicant, the Commission, and a private entity beneficiary, which the Executive Director is authorized to negotiate and enter into in substantially the same form as *Exhibit B* attached hereto, provided that such Performance Agreement shall contain the appropriate grant and performance information for the TROF Grant as provided in the Commission's incentive formula guidance.

Acknowledgements

An acknowledgement of the Commission must appear in any publication, announcement, or significant event related to the project.

Audit and Reports

The terms of the Performance Agreement are subject to audit and verification by the Commission.

Repayment/Claw-back of TROF Grant; Withholding as to Other TROF Grant(s)

Unless otherwise approved by the Commission, the Performance Agreement shall require repayment of full or *pro-rata* grant amounts if the specific performance targets set forth therein are not achieved.

Disbursement of all TROF Grants shall be withheld from any grantee (or related party) which has not fulfilled its obligations under previous TROF Grants and the related Performance Agreements.