

Virginia Tobacco Region Revitalization Commission

Tobacco Region Opportunity Fund

POLICY

Effective June 6, 2019

Last Revised March 9, 2020

Purpose of the Tobacco Region Opportunity Fund

The Tobacco Region Opportunity Fund (TROF) provides performance-based monetary grants and loans 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 in traded sectors.

The Commission has implemented the TROF 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, wages paid for created jobs, taxable capital investment and the competitiveness of projects.

In all circumstances, the Commission favors businesses that are in traded sectors and bring new capital into the Tobacco Region rather than contribute to the velocity of money within the Tobacco Region. In general, this precludes retail and food-service projects, as well as local provision of services and non-competitive projects.

Applications for TROF Grants and Loans

The Commission will only accept TROF Grant and Loan applications from governing bodies, political subdivisions, or their control affiliates within the Tobacco Region, as defined by the Commission.

Applications to the Commission for TROF Grants and Loans 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:

TROF Application Variables:

- name and contact information of the applicant;
- name and contact information of private entity beneficiary (if applicable);
- 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;
- North American Industry Classification System code of the private entity beneficiary (if applicable); and
- Project Competitiveness (*including but not limited to*):
 - Evidence of competition for the project within the region, state or elsewhere;
 - Evidence of a funding gap; and
 - Evidence of community need.

Prior to the submittal of a TROF grant or loan application, an applicant or representative may request in writing an incentive estimate in writing for a grant, loan, or both, from the Commission which is effective for **60 days**. Incentive estimates will only be provided for projects that meet the purpose of the TROF program and once all of the above enumerated “TROF Application Variables” have been provided. When a project remains active but has not yet been confirmed for a period lasting longer than 60 days, the applicant should request from the Commission a new estimate, rather than assuming an expired estimate remains valid.

Although a TROF estimate is not required prior to submitting a TROF application, requesting an estimate is highly suggested to ensure a proposed project ultimately meets the intent and purpose of the TROF program. Upon receipt of a completed application, staff shall provide the TROF committee with an approval or denial recommendations based upon the submitted “TROF Application Variables.”

With consideration of staff’s recommendation, the TROF Committee shall approve or deny the application and the Commission will deliver an action letter in writing. If for an approval of a grant, loan, or both, such approval shall be effective for **90 days** from the date of the letter, after which new approvals are required.

Upon receipt of a completed application, the Commission will deliver an estimate for a

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 or Loans

(a) *Requirements for TROF Grants*. Unless otherwise approved by the Commission, TROF Grants may only be approved when:

- The grant amount calculated in accordance with the Commission’s incentive formula is at least \$10,000; and
- Projects provide a weighted average salary that is equal to or above a locality’s annual prevailing average wage; and

- Projects are in an approved economic sector;
- Projects are competitive; and
- Matching funds from non-Commission sources are committed to the project and evidence thereof is satisfactory to the Executive Director.

(b) Requirements for TROF Loans. Unless otherwise approved by the Commission, TROF Loans may only be approved when:

- The loan amount calculated in accordance with the Commission's incentive formula is at least \$10,000;
- Projects provide a weighted average salary that is equal to or above a locality's annual prevailing average wage;
- Projects are in an approved economic sector;
- Projects are competitive; and
- Matching funds from non-Commission sources are committed to the project and evidence thereof is satisfactory to the Executive Director.

(c) The Executive Director is authorized to approve or deny, on behalf of the Commission, TROF Grants and Loans 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, or 150% of this amount if awarded as a loan, attached hereto as Exhibit B, as the same may be revised from time to time; provided, however, that a TROF Grant or Loan in excess of \$1,000,000 must be approved by the TROF Committee. If the TROF Committee is not able to meet within 10 days of the application, the Executive Director, in consultation with the TROF Committee, is authorized to approve a grant/loan that does not exceed \$2,000,000. The TROF Committee is authorized to approve or deny, on behalf of the Commission, TROF Grants and Loans 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 or Loan in an amount greater than \$3,000,000.

(d) The aggregate amount of TROF Grants and Loans made during any fiscal year shall not exceed the sum of (i) amount set forth in the Commission's approved budget for such fiscal year, and (ii) refunds of prior TROF awards credited to the TROF account without prior approval of the Commission.

Performance Agreement

Unless otherwise approved by the Commission or the TROF Committee, all TROF Grants and Loans 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 A* attached hereto, provided that such Performance Agreement shall contain the appropriate grant/loan and performance information for the TROF Grant or Loan 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;

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. The Executive Director is authorized to negotiate and enter into repayment agreements with entities seeking to make such repayments in installments over a mutually agreed upon period.

The following remedies shall be employed as deemed appropriate by the Executive Director for all grants under which contractual obligations are owed to the Commission and have not been fulfilled within 60 days after delivery of a written demand notice to all parties to the Performance Agreement and its control affiliates:

- A. Freeze all disbursements to the grantee and its control affiliates.
- B. Decline to accept any application for new grants from the grantee or its control affiliates.
- C. Enter the name of the grantee and its control affiliates into the State debt set-off system.
- D. Refer the file to counsel for appropriate steps up to and including collection proceedings.