



Funding Policies for Grant Awards: Information for Applicants & Grantees

Revised June 2020

The Tobacco Region Revitalization Commission (TRRC, formerly known as the Tobacco Indemnification and Community Revitalization Commission) was created under the Code of Virginia in 1999 to revitalize, grow, and diversify the economy of the 34 counties and six cities in Virginia's tobacco-producing region. The Commission accomplishes this goal through several grant programs, each with specific objectives and outcome metrics.

Since 2002 the Commission has adopted policies for grants management that have been periodically updated over the years as needed. This document incorporates those policies and revisions by staff based on best practices and recommendations by auditing agencies. The Funding Policies are intended to provide applicants and grantees with guidance on the general funding policies used by the Tobacco Commission for consideration of new applications for funding and in administration of grant awards.

The Funding Policies reference several of the Commission's guiding documents, grant program guidelines and agreements that can be found on the Commission website (www.revitalizeva.org). Collectively, these documents form the legal basis for the award and use of TRRC funding. Please thoroughly review all relevant documents including:

- The Commission's Strategic Plan
- Guidelines for the specific grant program
- Approved grant application and signed Grant Agreement

Questions about any aspect of the content herein should be directed to the *Southwest Office or Southern Office Regional Director* who serves your locality (see Page 9).

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PRE-APPROVAL POLICIES

I. Commission Priorities for Consideration of Grant Awards

Priority is given to projects with the following characteristics:

- Align with the Commission’s Strategic Plan, and with the objectives and outcomes identified for the specific grant program (e.g. granting of nationally-recognized academic/workforce credentials in Education, creation of net new income for agricultural producers in Agribusiness etc.);
- Are regional in their implementation and impacts (i.e. governance, direct financial participation or service area);
- The appropriate partner organizations have direct involvement and capacity to successfully implement the project;
- Meet or exceed required matching funds and thereby leverage significant other financing;
- Demonstrate that all financing necessary to complete and sustain the project is committed and available;
- That are likely to generate sufficient recurring revenue to service a TRRC loan in lieu of a grant.

Pre-Application – Prospective applicants are encouraged to use the online Grants Pre-Application Form on the Commission’s website. This form is used to submit basic project concepts to the Grants Staff for feedback on the appropriate Commission program, timing of funding cycles, available funds, matching fund requirements and other application issues. *The pre-application is an optional, non-binding means of communicating your project concept to TRRC Staff for feedback and guidance prior to submitting a full application.*

II. Eligible Applicants

Applications for grant funds will only be accepted from public or incorporated non-profit private organizations located in and/or providing economic revitalization programs, services, or facilities in the tobacco region. Eligible applicants including the following:

- Government Entities - Government entities within the Tobacco Region or their duly constituted political subdivisions. This includes the governing body of any city, county or town (“locality”); governing body of a local or regional industrial or economic development authority; regional authority, and other governmental unit.
- Non-Profit Organizations - Incorporated non-profit organizations designated as tax-exempt by the federal Internal Revenue Service, such as 501(c)(3) entities.
- Educational Institutions - Public or private non-profit institutions of higher education, and other education or training institutions constituted and located in Virginia; or entities not constituted in Virginia but with significant, enduring investments and service delivery in the Tobacco Region.

For guidelines and instructions on grant applications submitted by **Regional Partnerships** and for those benefiting **For-Profit Entities**, refer to Section III. Requirements for Applicants.

III. Requirements for Applicants

- **Procedural** - Applications must be submitted in accordance with guidelines and deadlines established by the Commission. Proposals will be reviewed by designated program staff, presented to the Committee responsible for funding recommendations for that program, and to the full Commission for a final funding decision. Applications for projects with a recurring revenue stream may receive a recommendation for consideration of financing through the [TRRC Loan Fund](#).

Unsolicited applications and out-of-cycle requests, will only be heard at the discretion of the Commission. Applications received without an opportunity for adequate staff review will not receive a recommendation.

The Commission may, at its discretion, invite an out-of-cycle application and may take action on that application. Out-of-cycle applications must demonstrate urgency (i.e. such as accommodating an active economic development prospect's site selection timeline) and will only be heard at a regularly scheduled Commission meeting.

- **Operational Sustainability** - Applicants should clearly describe the operational sustainability of the activity for which Commission financing is being requested. Requests for operating support and for acquisition/construction/equipping of facilities that require operating funds for sustainability should provide a pro forma operating budget. This document should detail relevant expenditures and sources of operating revenues once the program/facility is fully operational.
- **Acquisition/Construction/Equipping of Long-lived Physical Assets** – Requests for the acquisition, construction or equipping of long-lived physical assets must provide written costs estimates from independent qualified professional sources, as described below:
 - A request for the **purchase of real estate** must provide a current appraisal of the property by an independent, certified appraiser (“current” is defined as having been completed within the past year), or be based on the local tax assessed value;
 - A request for **construction** must provide a written cost estimate from a licensed architect, engineer or contractor, as appropriate to the project;
 - A request for **purchase of equipment and other long-lived (3+ years of useful life) physical assets** must provide cost quotes from product vendors.
- **Utility Infrastructure** – Requests for utility infrastructure funding should only be submitted to serve clearly-defined economic development objectives and sites. Applicants for utility infrastructure improvements are required at point of application to demonstrate that financing is not available from non-TRRC sources; and to provide a multi-year cash flow analysis for projected increased revenue resulting from the proposed project. This applies to all water and sewer construction projects and other public or private utility infrastructure.
- **Outcomes and Return on Investment (ROI)** - Applicants must describe and be prepared to measure the anticipated ROI (e.g. private sector capital investment, employment and wage outcomes, tax benefits) in relation to proposed Commission investments. Baseline figures, prior to the program or facility becoming operational, are required in the grant applications. A description of the methodology used to calculate estimated outcomes and to measure actual outcomes/ROI must also be provided in the application.

- ***Regional Partnerships*** - Regional partnerships are considered to be projects that will impact several localities, and have active participation of several localities and/or entities representing multiple localities. The Commission will determine if an application from one entity serving multiple localities is considered a regional partnership that meets the program objectives. Applications from regional partnerships require the following additional information:
 - A partnership agreement signed by each entity participating in the project.
 - A description of methodology by which funds will be allocated among participating localities.
 - An indication of which entity will be responsible for project administration and reporting requirements.
 - If not participating directly in the partnership, a letter notifying the chief administrative office of each locality about the proposed design and anticipated impacts of the project.

- ***Use of Funds by For-Profit Entities*** – Applications that will benefit a private entity must have a public purpose and be made by one of the eligible applicants identified in the previous section. The following must be described in the application:
 - The public purpose that will be met by assisting the private beneficiary;
 - Terms of the agreement that will be executed between the governmental unit or nonprofit administrator and the for-profit entity regarding use of funds, ownership of grant-funded assets, and the private entity’s commitment to create and report documented public benefits such as new jobs or taxable private capital investment within three years;
 - The amount of wages and salaries to be paid to employees of the Beneficiary.

Funds may be required to be provided in the form of a loan from the governmental unit or nonprofit administrator to the for-profit entity.

- ***Budget Development and Required Matching Funds*** – Applicants should refer to Section IV. General Non-Eligible Uses of Funds and Section VIII. Specific Type of Expenses Not Eligible for Reimbursement when developing detailed budgets for funding requests.

All Commission grants require matching funds. Language adopted in Code of Virginia in 2015 now requires dollar-for-dollar matching funds for all grants (i.e. at least 50% of the Total Project Costs to be provided from non-TRRC funds), unless otherwise approved by a two-thirds majority of Commissioners. No more than 25% of the required matching funds can be provided from in-kind project contributions. Staff will not recommend funding for any project that does not propose dollar-for-dollar match, and/or proposes more than 25% in-kind match (see further discussion of in-kind in Section IX). In calculating and presenting required matching funds in an application, applicants should refer to Section IX. Matching Funds to determine what project expenses are considered as eligible match. Schedules permitting, the Commission’s Grants Staff will be available to review a draft application and budget when provided in advance of announced grant application deadlines.

IV. General Non-Eligible Uses of Funds

The following list illustrates uses of Commission funds that generally do not align with Commission objectives and should be avoided in grant proposals and requests for grant disbursement. Additional detail about specific non-eligible uses of funds is available in [Section VIII](#) of this document.

- Commission funds should not be used outside the defined Tobacco Region (unless explicitly approved by the Commission).
- Commission funds should not be used to supplant other state or federal funds for which an applicant is eligible. This includes financing options for off-site utility improvements.
- Commission funds should not be used for regularly recurring local responsibilities (e.g. comprehensive plans, K-12 school funding).
- Commission funds should not be used to finance endowments.
- Commission funds should not be used for debt retirement.
- Commission funds should not be used for ongoing operating support beyond a start-up period that has been explicitly approved by the Commission.
- Commission funds should be invested in projects that generate substantial direct and measurable new economic activity in a region. Commission funds should not be used for projects that indirectly affect economic revitalization (e.g. community centers, childcare centers, 4H centers, YMCA or recreational initiatives, airports, local arts and cultural activities, historic preservation, housing and retail development) unless it is demonstrated that the investment will produce significant economic impacts from outside the Commission service area.
- Commission funds should not be used for project administration, indirect project costs or for activities initiated prior to grant approval.
- Commission funds should not be used to acquire or make improvements to privately owned property or to acquire or improve equipment for/in private ownership unless there are defined and documented public purposes met, to include creation of new jobs and new taxable private capital investment, and such expenditures have been explicitly approved by the Commission. (Refer to the Performance Agreement available on the Commission's webpage for the Tobacco Region Opportunity Fund Program (TROF Program) and to the *Use of Funds by For-Profit Entities* paragraph under [Section III. Requirements for Applicants](#) for additional information).

POST-APPROVAL POLICIES

V. Post Approval Steps and General Grant Management

Award Paperwork - After the Commission has approved a grant award, staff in the Richmond office will send the programmatic contact the award documents via (3) separate emails, each of which will provide a link to one of these documents:

- ✓ **Grant Agreement**, which lists terms and conditions for the grant;
- ✓ **Signature Authorization Form**, which designates the individual(s) authorized to request release of grant funds. Should the grantee authorization designations change during the grant, the grantee must submit a revised authorization form;
- ✓ **Federal Form W-9** (Request for Taxpayer Identification Number and Certification)

Once these documents have been completed they are to be uploaded into the Grants Portal.

Revised Project Budgets -- If your award was for less than the requested amount or if there were changes to the project budget during the review and approval process:

- ✓ A revised Budget Worksheet and a line item detailed budget reflecting the approved grant amount and specific use of Commission and matching funds must be submitted. These documents should be sent to the *Regional Director* for review prior to uploading to the Grants Portal. Grant staff must approve the proposed revised budget documents to ensure that they are consistent with the approval granted by the Commission.

For questions regarding the status of award documents, or related to the Grants Portal uploads contact:

Suzette Patterson, *Grants System Manager*
Tobacco Region Revitalization Commission
spatterson@revitalizeva.org
804-897-9662

- ***Detailed Budget*** -- At any point Commission staff at their discretion may request a more detailed budget for approval prior to disbursement of grant funds in order to verify that project expenses are consistent with intent of award and all funding policies. The detailed budget should include the specific use of TRRC funds by line item. For example, under Personal Services there should be a line item detail including employee name, title, time period, and associated pay and/or basis of dollar amount included for each position. Under the Equipment line item, grantees should provide a list of all major equipment items to be purchased and the cost of each. Contractual Services should identify each sub-contract intended to be awarded and for what purpose.
- ***Press Releases or Announcements*** – As a condition of the award, the Commission requires its participation in all press conferences or announcements of the grant or the associated project. Grantees should contact the Commission’s *Public Relations Coordinator*, Jordan Butler, jbutler@revitalizeva.org or 804-786-7692 for coordination of press announcements.
- ***Procurement and Bidding*** – Competitive bidding, public notice, negotiation and other principles of open competition are always encouraged in order to ensure proper use of public funds. As indicated in the Grant Agreement, the Commission expects all grantees, whether public or private non-profit entities, to abide by all laws of the Commonwealth to which the grantee are subject, including the Virginia Public Procurement Act (Virginia Code Section 2.2-4300 *et seq.*, as amended); which covers “Ethics in Public Contracting”.

- ***Standards of Conduct / Conflict of Interest*** – The Tobacco Commission expects all grantees and their representatives to act in the highest standards of conduct with procurements and financial transactions related to the expenditure of public funds, which requires the highest degree of public trust. Persons with any level of authority or responsibility for procurement transactions shall conduct business with vendors in a manner above reproach-- without participation in any transactions that may be beneficial to them, their partner, or a member of their immediate family; and without any appearance of a conflict of interest. Grantees are required to disclose any related interests of parties that may benefit from expenditures of grant funds-- whether it be through personal interest, a family member, or an affiliated business where concerns of a conflict of interest may arise. When concerns of conflict of interest arise, grantees must seek written approval in advance from *TRRC’s Executive Director*, when close dealings between representatives of a grantee organization and family members and/or related businesses may be unavoidable.
- ***Grant Reports*** – Annual Reports must be submitted on the anniversary of the grant approval date. A Final Report is required at the conclusion of the project; and must be submitted with the final payment request and prior to release of grant funds. The Commission’s Grant Reporting Form must be used for Annual & Final Reports. All reports are submitted through the Grants Portal. The Grant Reporting Form and Online Grant Reporting Instructions are available on the Current Grantees page of the TRRC website. Additional reports may be required by the Commission during and after the project period.
- ***“Restricted” versus “Unrestricted” grant funds*** – The Commission awards two types of funds that are derived from the securitization process that created the endowment (restricted and unrestricted). If an award is from “restricted” funds it will be noted in the Grant Agreement. Only qualifying capital expenses may be reimbursed from “restricted” funds.

Financial Electronic Data Interchange – The Commonwealth of Virginia’s Financial Electronic Data Interchange (FEDI) program is a faster, lower cost, secure and efficient alternative to the traditional paper check method of payment. EDI electronically transfers funds from the Commonwealth’s bank account to your organizations designated bank account. The Commonwealth encourages grantees to use this link to enroll for EDI and expedite the payment of funds, <https://www.doa.virginia.gov/forms.shtml#edi>

VI. Reimbursement of Expenses

The Commission adopted Grant Disbursements Guidelines effective July 1, 2002. Grant funds will be provided to the grantee on a reimbursement basis, using the Payment Request Form (Accounting Voucher or “voucher”). Grant funds are provided as reimbursements for eligible project costs, as evidenced by invoices and other records that are submitted with the Payment Request Form.

Request for drawdown of funds should be submitted to the assigned *Regional Director*. In order to consider processing a payment, these items must be received in hard copy format:

1. Payment Request Form (“voucher”), original authorized signature required
2. Budget Drawdown Summary
3. Expense Documentation

The Payment Request Form is available on the Commission’s web site (www.revitalizeva.org) under the Tools and Resources / Current Grantees webpage. Information may be inserted into fields in the electronic version of this form and then printed. The Payment Request Form must be signed by an authorized person (i.e. listed on the Signature Authorization Form) and the original signed copy with all supporting documentation submitted to the assigned *Grants Program Administrator* for processing. Please be

sure to include the grant number on the Payment Request Form. This number can be found in the top, right-hand box of the Grant Agreement.

Requests should only be submitted on a quarterly basis. In extenuating circumstances, such as periods of intense construction activity, reimbursement may be requested more frequently (i.e. monthly).

Requests should include a Budget Drawdown Summary (i.e. spreadsheet or accounting report) showing the budget categories and line items included in the approved project budget. This drawdown summary should be updated with each payment request to show both the amounts previously drawn from each budget line, and the amount of funds that are currently being requested from each budget line.

Grantees can refer to Section VII. Acceptable Expense Documentation to determine what type of expense documentation will be acceptable; and to Section IX. Matching Funds for the records related to match expenditures that are expected to be submitted with each reimbursement request.

All grant payment requests should be mailed to the respective *Regional Director*:

Sarah Capps
Southern Office- Regional Director
50 Claiborne Ave.
Rocky Mount, VA 24151
scapps@revitalizeva.org
540-483-0179, ext. 2139

Sara Williams
Southwest Office- Regional Director
P.O. Box 1987
Abingdon, VA 24212
swilliams@revitalizeva.org
276-619-4325

The required Annual/Final Reports must be submitted for funds to be released. Commission staff reserves the right to withhold all grant payments on all grants to an organization that has overdue grant reports.

VII. Acceptable Expense Documentation

- ***Invoices or receipts*** - The most common form of expense documentation is the invoice or receipt provided by the vendor describing the goods and services purchased by the grantee and including cost details and date of purchase. A packing slip with evidence of payment will be accepted, if an invoice is not available.
- ***Credit card statement plus receipts*** - When purchases are made using a credit card, the credit card statement and the related receipts must be provided.
- ***Payroll accounting*** - Either check stubs or a payroll register / report showing name of employee, pay period, salary and benefits is required for personnel expenditures. General information on work profile and/or job responsibilities for a position may be requested.

Employees Working on Multiple Activities or Cost Objectives – For employees working only a portion of their time on the TRRC supported grant activity, a distribution of the employee’s salaries or wages must be supported by a personnel activity report or equivalent documentation. This personnel activity reporting system is expected to meet these standards:

- (a) Must reflect an after-the-fact distribution of the actual activity of the employee.
- (b) Must account for the total activity for which each employee is compensated.
- (c) Must be prepared at least monthly and coincide with one or more identified pay periods.
- (d) Must be verified by the employee.

- **Land/building acquisition** - Closing statements with signatures of the buyer and seller; and a record of the deed being transferred and recorded following the closing of purchase are required when grant funds are requested for costs associated with land/building acquisition.
- **Travel** – Travel that is essential to accomplish project objectives and is part of the approved project budget will be reimbursed per limitations within the Virginia State Travel Regulations. Grantees are required to use the Federal GSA Per Diem Calculator, <http://perdiemcalc.net/gsa/>, to support reimbursement of meals associated with overnight travel. The GSA calculator also identifies limits for lodging reimbursements, which must be supported by hotel folios for reimbursement. Travel expenses that will exceed state travel policy limits must receive advance approval from TRRC staff.

Refer to the Section XIII. Specific Type of Expenses Not Eligible for Reimbursement, for clarification of travel related expenses that are not reimbursable.

- **Scholarships and other support for education and workforce training** – The Commission’s funding for community college financial aid and GED attainment is limited to assisting Tobacco Region residents only. Other specific support for workforce training is limited to assisting Tobacco Region residents and employees. The Commission expects this support to be “last-dollar” after exhausting all other available financial aid resources, to be focused on tuition and mandatory fees, and for study that will lead to the granting of nationally-recognized, portable and stackable academic or workforce credentials.

Community College Scholarships – Recipients of TRRC Workforce Financial Aid grants will be expected to report, on an individual student basis, the full distribution of all financial aid and/or other funding used to meet that student’s financial responsibility to the college. A report of scholarship recipients including name, address, and scholarship award amount is required for all scholarship reimbursement requests. A record of credit hours may be requested. For programs targeted to specific fields of study, colleges should be able to provide a listing that identifies the declared field of study for each recipient as evidence of eligibility.

GED Attainment / Workforce Training - Documentation for reimbursement of these types of scholarship payments should include:

- A complete listing of all participants and the amount(s) funded for each.
- The date of the training or activity funded; and the basis for the amount.

Additional documentation may be requested depending on the specific nature of the program. Please consult with the *Regional Director* to determine what documentation is necessary.

- **Sub-Contracts** – Expense documentation for sub-contracts involving the transfer or pass-through of Commission funds from the grantee to partner organizations must include.
 - Executed contract between parties outlining the partnership scope, detailed budget and deliverable(s).
 - Expenditure report from the subcontractor detailing transactions with date, vendor name, payment amount, description of goods or services purchased, and corresponding budget line item. If the sub-contract budget includes salary expenses, then the supporting documentation must include the staff name, position, time period, and amount.
 - The actual expense documentation is not typically required, but may be requested for review by TRRC staff if necessary to verify expenses are reasonable and appropriate.

- **Loans** – (This bullet is applicable to TRRC grant awards and not awards made through the TRRC Loan Fund.) TRRC grants are not intended to be used to pay off existing loan obligations or for debt retirement. However, there are certain types of projects where loans may be supported, such as small business lending programs.

Revolving Loan Programs - Reimbursement requests for a small business lending program must include a copy of the approved loan application with closing statements (sensitive information may be marked "confidential"). The lending entity's full funding portfolio may be requested where funds were intended to be used to capitalize a revolving loan program.

VIII. Specific Type of Expenses Not Eligible for Reimbursement

In addition to information provided in Section IV. General Non-Eligible Uses of Funds, the following specific type of expenditures are considered not appropriate or not a priority for the use of public grant funds and will not be reimbursed under the Commission's project grants. If a project cost falls into one of the categories detailed below and is considered a critical cost to the direct implementation of the approved project, then grantees should work with the *Regional Director* to determine if it can be considered for reimbursement. In some cases these project expenses may be considered as eligible for inclusion in the required matching funds, but should be discussed with TRRC Grants Staff.

PERSONNEL EXPENSES

- ***Project Management and Administration*** – Costs for management and administration of a grant project are not allowed from TRRC grant funds but may be considered part of the grantee's contributed matching funds.
- ***Personnel with Primary Work Location Outside the Tobacco Region*** – Grant funds may not be used to pay salaries or wages for employees of grantee organizations, or private sector beneficiaries, whose primary work location is outside of the region (except as permitted under an approved condition of a grant award).
- ***Bonuses*** – Sign on bonuses, incentive bonuses, and other types of personnel bonuses paid to employees of the grantee organization, a private sector company, grant beneficiary, or consultants are the responsibility of the grantee and will not be reimbursed under grants.

TRAVEL RELATED EXPENSES

As discussed in Section VII grantees are expected to limit travel costs to within the limits of the Virginia State Travel Regulations. Additional Commission-specific restrictions for travel expenses which are ineligible for reimbursement under TRRC grants are described below.

- ***Travel to Commission Meetings*** – Travel costs for applicants, grantees, consultants, or beneficiaries for getting to/from Tobacco Commission meetings will not be reimbursed.
- ***Business Meals / Alcohol*** - Business meal expenses for groups are not considered a priority use of grant funds and are generally not allowed. Purchases of alcoholic beverages will not be reimbursed.

- **Mileage Rate** -- Mileage requests in excess of the State Travel Regulations or IRS Standard Rate will not be eligible for reimbursement. Mileage must reflect actual miles traveled.

State Agencies - State agencies must follow mileage reimbursement guidelines detailed in the State Travel Regulations. This includes an analysis of the most cost-effective travel option. When a traveler chooses to drive a personal vehicle over a more cost-effective option of driving a fleet vehicle or using a rental under the state contract with Enterprise Rent-A-Car, the mileage reimbursement is limited to the lower fleet mileage rate.

Non-State Organizations - Organizations other than state agencies are limited to mileage reimbursements up to the current IRS Standard Mileage Rate for Business travel.

- **Out-of-State Travel** – International and out-of-state travel can be very expensive and unless justified as an essential project costs and approved in advance by TRRC staff, such costs are typically not considered critical and will not be reimbursed.
- **Housing Allowances, Moving Expenses, Travel to Tobacco Region** -- Housing allowances for grantee or private beneficiary personnel or consultants working in the region will not be reimbursed. Moving expenses will not be reimbursed. Travel costs for getting to the tobacco region incurred by grantee employees, or private sector beneficiaries, will not be reimbursed.

OTHER EXPENSES, FEES, AND COSTS

- **Giveaways** – Any type of giveaway including promotional items and gift cards - whether for marketing purposes, program incentives or for any other reason - are not allowed.
- **Development Activities / Fundraising** - Personnel and other direct costs for organizational development activities including fund-raising, development of proposals for funding and fund-raising materials, and costs for writing and securing other grant funds are ineligible.
- **Late Fees & Payment Penalties** – Late fees on billing statements, interest on credit card bills, and other penalties associated with late payments will not be reimbursed. It is the grantees' responsibility to remove late fees and penalties from amounts requested for reimbursement.
- **Membership Fees / Dues** – Costs for individual or organizational membership fees or dues to professional organizations, associations, chambers of commerce, and other similar groups are not considered an eligible expense. *An allowance for this type expense may be considered when there is a direct correlation to outcomes and deliverables of a grant, such as when an association fee results in reduced training cost or certifications for a group of participants, or when it is considered a critical start-up cost for a new organization.*
- **Personal education expenses** – Commission funds to assist with personal education expenses may only be applied for last dollar tuition and required fees, within the guidelines of the approved scholarship program(s). Other expenses such as transportation costs to school, books, childcare, computers, tools, uniforms, and incentive payments to students are not eligible for reimbursement.
- **Sponsorship** - Conference and event sponsorships, in the form of donations to organizations for a specific event or opportunity, will not be reimbursed under the project grants.

- **Indirect Costs** – Indirect costs are not reimbursed. Indirect costs are costs incurred for a common or joint purpose that supports one or more cost objective (contract, award, project or program). Indirect costs cannot be directly attributed to a specific project even though they may be assigned to a specific project through a cost accounting system; whereas direct costs are those expenditures that can be identified specifically to a single cost objective.

IX. Matching Funds

Per the Code of Virginia, all Commission grant awards approved after July 1, 2015, require dollar-for-dollar matching funds (i.e. at least 50% of the Total Project Costs to be provided from non-TRRC funds), unless otherwise approved by a two-thirds majority of Commissioners. No more than 25% of the required matching funds can be provided from in-kind project contributions. Staff will not recommend funding for any project that does not propose dollar-for-dollar match, and/or proposes more than 25% in-kind match for satisfying the minimum Match requirement. All matching funds required to complete the approved project are the responsibility of the applicant. Required matching funds must be documented by the grantee and approved by staff at the time of disbursement requests. *Total match contributions for a project are expected to be reported by the grantee in the Annual and Final Reports for the project.*

GENERAL MATCH GUIDELINES

Satisfying Match Requirement - Match requirements must be satisfied during the approved project period through evidence of allowable expenditures incurred by the grantee, project partners, or private beneficiary, from other grants, cash, or in-kind contributions toward the approved project budget. Other Tobacco Commission grants or incentives shall *not* be counted toward satisfying match.

Only Matched Once - Neither cash contributions nor grantee or third party in-kind contributions may count towards satisfying a matching requirement of a Commission grant agreement, if they have been or will be counted towards satisfying a matching requirement of another grant agreement.

Documentation Requirements - Grantees should be prepared to provide evidence of the availability of match at the request of Commission staff. Guidelines for documenting the minimum match requirements for grant awards are detailed below.

- ***Timing of match contributions*** - Match documentation is expected to be submitted with each payment request covering the same time period. The minimum match amount must be documented at the time of each disbursement request. Where this is not feasible based on the source(s) and specific use of matching funds, and where staff has agreed to an alternate schedule, the minimum match expenditures must be documented prior to submission of a final disbursement request and at least by the close of the grant project period.
- ***Detailed accounting report*** - A detailed accounting report including vendor name, payment date, payment amount, invoice and/or purchase order number, and a description (if available) will be accepted in lieu of submission of the actual expense documentation for documenting cash Match contributions. However, Commission staff reserves the right to request any additional details on match expenditures, as needed to determine that match expenditures are reasonable and appropriate. In-Kind Match contributions must be documented by an acceptable method as detailed in the In-Kind Match section below.

CASH CONTRIBUTIONS

Acceptable Cash Match contributions are paid by the grantee for products or services in support of the project; or are cash contributions as identified in the list below. Only new expenditures resulting from the implementation of the project will be considered as a Cash match (i.e. after the grant approval date). Cash contributions can be either the grantee's own funds; federal, state, or private grants; or other cash donations to the project.

[Note: Effective January 1, 2020-- Expenses already included in an annual budget such as personnel and other operating costs, presented as being reallocated for the project (i.e. existing staff), will only be considered as an In-Kind contribution and will count toward the 25% In-Kind limit. See In-Kind Match section below.]

The list below provides additional clarification on certain types of Match contributions that will be accepted by the Commission as a Cash contribution for a project.

- **Transfer Payments With Required Cash Match** – Where grant funds are allocated to support costs under the Transfer Payments budget category, the cash contribution required for participation in the program will be accepted as a Cash Match for the project. The cash contribution by eligible participants must be based on the amount and/or percentage identified in the approved program guidelines.

Examples of project expenses classified as Transfer Payments include agriculture cost-share incentives, education and training assistance in the form of scholarships or tuition assistance, and sub-award grants to other organizations which may include profit-making organizations (such as a business) or non-profit organizations for defined program activities.

- **Private Contributions** – In some instances funds may be awarded for a third-party beneficiary (i.e. private company) which is a party to the Commission's grant agreement. New private investment by the third-party beneficiary for direct costs essential for implementation of the project will be accepted as a Cash contribution. These costs must be identified in the approved line-item detailed budget and should not represent recurring business expenses.
- **Commonwealth Opportunity Fund (formerly the Governor's Opportunity Fund) and Other Business Incentive Program Funds** – If a locality receives state business incentive funds on behalf of a new/expanding business, and the locality commits these funds toward the direct costs for the project being supported by the Commission (as opposed to being transferred to the company), then these funds can be counted as a Cash contribution.

IN-KIND MATCH / THIRD PARTY IN-KIND CONTRIBUTIONS

In-Kind Match refers to the value of non-cash contributions (property or services) that are contributed by a third-party to the project sponsor/grantee without exchange of cash; and that are necessary and reasonable for accomplishment of the project or program objectives.

Effective January 1, 2020-- Expenses already included in an annual budget such as personnel and other operating costs, presented as being reallocated for the project (i.e. existing staff), will only be considered as an In-Kind contribution and will count toward the 25% In-Kind limit.

Where In-Kind contributions are included in the project budget for meeting the Match requirement, grantees must be able to document and verify how the In-Kind value was calculated and be able to document how these costs have been incurred. A description of the donated goods and services including details on the valuation and method must be provided in the project budget.

- **Valuation of Donated Property** – The value of donated property including equipment, land, and buildings for matching funds can be based on either the current fair market value (as established by an independent appraiser) or the value of the remaining life of the property recorded in the accounting records for the property owner at the time of donation.
- **Valuation of Donated Space and Loaned Equipment** – The value of donated space and for loaned equipment must not exceed the fair rental value.
- **Valuation of Donated Services** – Similar to other personnel expenditures grantees must be able to provide documentation of amount of time spent by each individual, during what period, value of time, and details on the work performed.
 - (1) *Employees of other organizations* – When an employee of a partnering organization (not the grantee) furnishes time, free of charge for services in the employee’s normal line of work, the services may be valued at the employee’s regular rate of pay plus an amount for fringe benefits.
 - (2) *Volunteer services* – Unpaid professional and technical personnel, consultants, and other skilled and unskilled labor provided for the project, by individuals for work that is integral and necessary to the approved project, will need to be valued at no more than the rates ordinarily paid for similar work in the same labor market.

The US Bureau of Labor Statistics provides Occupational Employment Statistics based on geographic areas which may be used to identify labor market rates for different occupations. The defined geographic areas include metropolitan areas; and are also available for the Southwest Virginia or Southside Virginia nonmetropolitan area.
https://www.bls.gov/oes/2018/may/oes_va.htm#otherlinks

INELIBLE MATCH

- **Other Tobacco Commission Grants** – Match requirements must be satisfied by non-Commission funding. Other Tobacco Commission grants will not be counted as Match.
- **Prior to Grant Period** – Matching funds are expected to be used concurrently with Commission funds. Expenditures incurred prior to the grant period are not eligible as Match; unless otherwise approved during the application review process.
- **Private Capital Investment for TROF Performance Agreement** – When a grant is intended to benefit a prospect/private company, the private capital investment in assets by the company- for which valuation by the local Commissioner of Revenue would be used towards satisfying the performance agreement under a TROF incentive - is acceptable as Match for the TROF incentive but will not be accepted as Match for a separate but related project grant.

- **Fee Waivers** – Waivers of local taxes and fees such as Equipment and Property Taxes will not be considered eligible match.
- **Indirect Costs** – Because it is difficult to evaluate indirect costs as essential to the project, they are not eligible for meeting the match requirement, unless otherwise approved. Indirect costs are costs incurred for a common or joint purpose that supports one or more cost objective (contract, award, project or program). Indirect costs cannot be directly attributed to a specific project even though they may be assigned to a specific project through a cost accounting system; whereas direct costs are those expenditures that can be identified specifically to a single cost objective.

GRANTS AWARDED PRIOR TO JULY 1, 2015

Minimum required match amounts or percentages for each grant program, or as specified in a condition on the grant award, remain in effect for grants awarded prior to July 1, 2015. Grant awards approved prior to this date, under the **Agribusiness, Economic Development, and Special Projects (Regional Economic Development and Mega-Site)** grant programs required at least 10% match on Total Project Costs (i.e. at least 10% of the Total Project Costs to be provided from non-TRRC funds).

- ***Calculating minimum match amount*** - The minimum match amount is calculated with the Commission grant award representing 90% of Total Project Cost. For example, for a \$225,000 grant award with a 10% match requirement:

$$\begin{aligned} & \$225,000 \text{ Grant} / 0.90 = \$250,000 \text{ Total TRRC Grant } \& \text{ Required Match,} \\ & \$250,000 \text{ Total Minus } \$225,000 \text{ Grant} = \$25,000 \text{ (10\% Required Match)} \end{aligned}$$

X. Advance of Funds

An advance of grant funds may be considered for upcoming project expense in order meet immediate cash flow needs. The Commission, **in its sole discretion**, will consider the advance of funds upon the written request of Grant Recipients. Authorization to make all determination and payments under these guidelines is delegated to the *Executive Director*.

Alternatives to providing Advances will first be given consideration. While the standard reimbursement schedule for grant awards is quarterly, consideration may be given to allow for submission of more frequent payment requests in lieu of issuance of an Advance. This consideration is given particularly during periods when projects have high cash flow needs such as construction that is billed monthly.

Advances are generally limited to no more than 25% of the grant award, for documented financial obligations within the upcoming 90 days.

When an Advance is issued, future payment requests and the final 10% of the grant award, may be held until all advanced funds are fully documented.

REASONS TO MAKE AN ADVANCE REQUEST

- ***Pre-payment*** - If a contract payment schedule requires issuance of a payment prior to the delivery of goods/services, then that portion of the TRRC payment will be recorded and treated as an Advance. The Advance will be considered fully documented following receiving or “acceptance” by the grantee and submission of the final invoice showing full delivery /completion.
- ***Operating Expenses*** –After an initial operating advance, the grantee may request reimbursement of additional grant funds on a quarterly basis, essentially resulting in replenishment of the Advance. Advances for quarterly operating expenses will be documented prior to the end of the project.
- ***Single Purpose Purchases*** -- Advances will be considered for single purpose purchases such as equipment acquisition; and must be documented once the purchase is delivered.
- ***Large Capital Expenses Exceeding 25%*** - Special consideration may be made to allow Advances greater than 25% for large capital purchases such as real estate, major equipment fabrication, etc. Grant staff can provide guidance regarding qualifications for this exception.

DOCUMENTATION

- ***Cash Flow*** - Grantees should be prepared to document their inability to cash flow expenses. This includes sharing their operating budget or financial statements.
- ***Land/Building Acquisition*** - Advances for land/building acquisition require a ratified contract for the purchase with a closing date no later than 90 days from the Advance request. If the Advance includes closing costs a draft settlement statement should be provided.
- ***Major Equipment Purchases*** - Advances for major equipment purchases, where an invoice of the initial purchase installment is not available, requires a copy of the executed purchase contract with the payment terms and schedule clearly defined.

XI. Changes to Project Scope or Budget

Grant funds are provided for the specific use(s) proposed in the application and as approved by the Commission. Changes in the allocation of grant funds from that of the approved project budget and changes in the scope of the project must be evaluated based on consistency with the intent of the original approved project and the program review process that resulted in the grant award.

The Commission is only responsible for reimbursement for eligible project expenses that are within the approved project budget. Changes to use of funds must be requested in writing.

Budget revision requests received after expenses have been incurred will not be considered and are the responsibility of the grantee. Only expenses that occur after the date of the original request for budget adjustments will be eligible for reimbursement under a revised project scope that is approved in writing.

ADMINISTRATIVE PROCEDURE

- Grantees who anticipate a change in the use of funds must contact the *Regional Director* before spending funds on any use or activity that is different from what was originally approved. Grantees must propose any change(s) in writing, and staff must provide written approval before considering a request for reimbursement for revised uses.
- Aggregate shifts of up to 10% of the grant amount, between budget categories or line items per the approved project budget and clearly within the approved scope of the project, can be approved by the *Regional Director*.
- Aggregate shifts greater than 10% of the grant amount or other significant changes to the scope of the project will require a formal letter of approval by the *Executive Director* or the Commission depending on the extent of the changes. Grantees must make a written request for approval of a revised budget detailing the change in use of the funds, clearly identifying the redistribution of project costs from the original approved budget to the revised use, and with an explanation of how this change affects the deliverables and outcomes of the project.
- The *Executive Director*, at his or her discretion, will determine when Commission consideration is necessary due to the change in scope.

XII. Grant Period and Extension Requests

Unless otherwise agreed to by the Commission, grant funds are available for a three year project period following the date the Commission approves the award. Consideration for an extension is at the sole discretion of the Commission. Any consideration will only be made when there are circumstances beyond the control of the Grantee and when appropriate justification is provided.

Grant extensions ***may*** be considered on a case-by-case basis based conditions such as:

- Unforeseeable severe weather conditions preventing project implementation as scheduled;
- Unexpected staff turnover during the project period that requires new personnel to be hired or trained in order to meet project deliverables;
- Unforeseeable delays in obtaining necessary easements, legal documents, construction bids, permits, and delays due to design constraints.

Conditions that ***do not*** warrant a grant agreement extension include but are not limited to:

- Grantees who have failed to make significant progress acceptable to the Commission;
- Project delays or failure to complete project deliverables in accordance with the project schedule resulting from or due to lack of attention;
- Project is not expected to spend all available grant funding and an extension is requested to expend funding balance on current or new activities.

ADMINISTRATIVE PROCEDURE

It is the grantee's responsibility to request an extension at least 30 days prior to the Grant Agreement expiration date. If no request is received, the grant will be closed and any remaining balance de-obligated.

For consideration of an extension the Grantee must provide a written request to the *Regional Director* that specifies:

- 1) Reason for the delay in completing the project activities;
- 2) A general update on the work completed to date and activities remaining;
- 3) Necessary timeline for completing the work that remains.

A written approval for the extension will be issued if the request is deemed reasonable and necessary, and authorized by the *Executive Director* or the Commission.

- Approvals for fourth year extension are made through a letter of approval signed by the Commission's *Executive Director*.
- Requests for extensions beyond a fourth year exceed the staff's authority and must be presented to the Commission for consideration. Such requests should be directed to the Commission's *Executive Director* and copied to the *Regional Director*.

XIII. Management of Grant Funded Assets

The Tobacco Commission has a claim, as required under the Grant Agreement, to all assets where grant funds were invested. The content below provides guidance to grantees on topics related to the management of grant funded assets including transfer of ownership.

- **Ownership** -- All assets purchased with grant funds must be owned by an eligible applicant. In accepting the Grant, the Grantee assigns to the Commission a security interest in all property purchased with the Grant. Per language included in the Commission's grant agreements, grantees are required to execute, provide and sign all documents necessary to establish and/or perfect the Commission's security interest in such property. None of the assets or property acquired, constructed, improved, equipped, and/or furnished as part of the Project shall be leased, sold, exchanged, disposed of, hypothecated, mortgaged or encumbered without the prior written approval of the *Executive Director*.
- **Capital Assets** – Capital assets are defined under major asset categories to include Equipment, and Real Property- Land, Infrastructure, and Buildings. The value of an asset includes all costs required to put an asset into service to make it useable for its acquired purpose (e.g. legal, permitting, A&E, design for real property; and equipment components and attachments).
- **Disposition & Clawback** - Until there is written permission granted from the Commission to alter the ownership of assets, the Commission's security interest and clawback provisions of the Grant Agreement remain in effect. The depreciation schedule for an asset does not diminish the Commission's interest. Requests for disposition of assets must be made in writing to Commission staff and include the intended disposition (e.g. transfer, sale, scrap), to whom, and for what purpose; and should follow the guidelines in the sections below.
- **Hypothecation** - The Commission will consider taking a subordinate position on a lien where other financing is necessary for the success of the project. A hypothecation request must be made in writing once the details of who the other funder will be and the specifics of the subordination request are known. Approval of hypothecation by the Commission will be made in writing.

A. EQUIPMENT

The Commission requires equipment investments to be used in the program or project for which it was acquired, unless otherwise approved. The Commission has a claim to all equipment purchases made under the grants. This claim applies to all assets with a purchase value of \$5,000 or more, and with at least a 3-year useful life. Assets purchased in quantities greater than one, with an aggregate value of \$5,000 or more, are also subject to this requirement (*for example, if fifteen, microscopes or laptops were purchased for \$1,000 each then the aggregate value is \$15,000*). Adequate controls must be in place for equipment management to account for location and custody/ownership of the equipment.

- ***Equipment Property Records / Inventory List*** – Grantees are required to maintain property records for all equipment assets where grant funds were invested. Records should include description - model and manufacturer, serial number or other ID, acquisition date, cost, and percentage of TRRC investments, title information (if provided with acquisition); and the location, use and condition, and any documentation supporting the ultimate disposition.

Requirements of Grantees:

- Accurate records on all acquisitions and dispositions of property acquired with grant funds.
 - Property tags placed on equipment and/or serial number identification.
 - A physical inventory of equipment is periodically taken and compared to property records.
 - Policies are in place for responsibilities of recordkeeping and authorities for disposition.
 - Procedures established to ensure that the Tobacco Commission is notified, and appropriately reimbursed for disposition of property acquired with Commission funds.
- **Calculating Pro-Rata Value** – With the sale of equipment funded assets, where the Commission is owed its pro-rata share of the investment in the equipment, calculating this value should include the original acquisition costs, as well as the following:
 - Any initial modifications, attachments, accessories, or auxiliary apparatus that are necessary to make an item of capital equipment useable for its acquired purpose;
 - Shipping charges, protective in-transit insurance, freight, and installation costs;
 - Upgrades, modifications, or enhancement parts that increase the useful life of the equipment by one year or more or add additional functionality.

Disposition of equipment is accomplished in any one of various ways to maximize either the reutilization or resale value of the property. The Tobacco Commission encourages the maximum reuse of materials and equipment. Disposition may be accomplished in one of the following ways:

- 1) **Change in Use by Grantee Organization** – Organizations are encouraged to reuse equipment by transferring from one activity to another. When grant acquired equipment is no longer needed for the original purpose, it may be used by the grantee or project partners for other activities, projects, or programs currently or previously supported by the Tobacco Commission. This does not require notification being made to the Tobacco Commission.
- 2) **No Cost Transfer of Equipment to Eligible Organization** – Reutilization of surplus equipment between organizations otherwise eligible for Commission funding is encouraged. When equipment is no longer being utilized-- a grantee can seek written approval to transfer ownership, at no cost, to another eligible organization within the Tobacco Region for their use.

An Equipment Transfer Request & Agreement Form is used for these requests and includes the Transferring Organization's Responsibilities and the Receiving Organization Responsibilities; and provides approval by the Commission's Executive Director for the transfer to occur. This form is also used to provide verification from the Receiving Organization that the equipment transfer has been completed. This form is available on the TRRC's Current Grantee's web page or by contacting the *Regional Director*.

- 3) Sales of Equipment to Eligible Organization** – The Tobacco Commission is interested in surplus property having a significant market value and purchase interest being made available at a reasonable price to organizations otherwise eligible for Commission funding.

Proposals may be invited from localities, economic development entities, education institutions, and other eligible organizations, for the sale and use of the equipment assets in connection with economic development related activities. The grantee in coordination with the Commission will determine whether any such proposal(s) presents a viable and beneficial use, and will allow for negotiation of sale of the property to proceed with the selected buyer. The terms of the sale will determine whether the Commission's security interest will remain in effect.

Written verification must be provided to Commission staff that the sale has occurred with a copy of the bill of sale, contract, or other instrument used to finalize the sales transaction.

The Commission share of sales revenue is expected to be refunded within 30-days of the transaction. Refer to the Calculating Pro-Rata Value section on the previous page.

- 4) Sale of Equipment to Private Interests** – When equipment is no longer being used for Commission-approved purposes the grantee is expected to pursue the sale of these assets, and to seek written approval from the Commission prior to completion of the sales transaction.

Effort should be made to seek competition to the highest extent practicable resulting in a sale price reflecting the asset's fair market value. This may be accomplished through public property sale postings, live or on-line auctions, fixed-price sale based on current appraised value, soliciting bids from prospective buyer interests, etc. These actions should be documented with the written request to the Commission to approve the sales transaction and transfer of ownership.

Written verification must be provided to Commission staff that the sale has occurred with a copy of the bill of sale, contract, or other instrument used to finalize the sales transaction.

The Commission share of sales revenues is expected to be refunded within 30 days of the transaction. Refer to the Calculating Pro-Rate Value on the previous page.

- 5) Recycling or Disposal** – Upon the Commission's agreement that property has no re-use value, the disposition of the asset by recycling (e.g. scrap metal) or disposal may be approved. Property may be determined to have no commercial and/or recycling value if the cost associated with the sale/transfer would exceed expected returns. Written permission by the Commission is required prior to recycling or disposal.

B. REAL PROPERTY – LAND, INFRASTRUCTURE, BUILDINGS

The Tobacco Commission has a claim, as required under the Grant Agreement, to all assets where grant funds were invested. Until there is written permission granted from the Commission to alter the ownership of assets, the Commission's security interest and clawback provisions of the Grant Agreement remain in effect. Requests for disposition of real property or real estate, must be made in writing to Commission staff and include the intended disposition (e.g. lease, sale, transfer, donation), to whom, and for what purpose; and should follow the guidelines in the section below.

- **Expectations for Use** – The Commission expects real property to be used for the intended purpose for which grant funds were invested.

For example investments in an industrial park property intended for industrial development, for private sector job creation and investment, would not be appropriate to be used for large box retail development or for a public school or administrative building.

- **Approval of Lease or Sale of Building** – The Commission reserves the right to make a final decision on approval of the lease or sale of assets in which it has invested. Once the details of who the lessor or buyer will be, and the terms of the agreement are known, an approval request for approval must be made in writing. The authority for approval of lease and sales agreements is delegated to the TRRC's *Executive Director*. When appropriate, this approval will be made in writing.
- **Transfer of Ownership at Below Market Value** – As a fundamental rule with publicly funded economic development properties - the offering of a discounted sale or no cost transfer of ownership of an asset should always be tied to a performance agreement. The cash or market value of the property should be established in the agreement. Standard performance metrics for job creation and private capital investment must be included in the agreement in order to assure the public benefit for which the public funds were invested is achieved. If the performance measures are not met to satisfy the public benefit, there is an expectation that the agreement identify the compensation that will be provided by the new owner based on the established value of the property or other appropriate agreed upon terms.
- **Proceeds from Sale of Assets & Pro-Rata Valuation**– When a property is to be sold, which has been improved with Commission funding - whether through on-site improvements and/or essential off-site infrastructure necessary to serve the property - the Commission's share of proceeds from the sale of asset must be refunded following the sales transfer.

The following guidance pertains to pro-rata valuation for the sale of real property, land and buildings, where TRRC funds were invested to improve the value of the property.

- The Commission is owed a return of the pro-rata investment value of underlying property that is sold. In recognizing significant investments having been made by the Commission, a reasonable pro-rata valuation is expected that appropriately maximizes the Commission's return, in the interest of these revenues then being able to be reinvested into new projects.
- The value of any parcel in an economic development site, carries such value because of its location within the overall property. Investments in the whole property such as acquisition, A&E, etc. (not specific to an individual parcel/building); and investments in the infrastructure

servicing the property are investments in the whole. All TRRC investments in the economic development site should be part of the pro-rata calculation for all parcels that are sold.

- Overall site costs – Include all investments in overall site development and infrastructure improvements (on-site and off-site infrastructure where the investment was made to improve site marketability and/or to address capacity needs for economic development purposes, and where recovery of costs is not recaptured through established rate or utility fee structure). The overall site costs would include planning, A&E, land acquisition, site improvements, on-site infrastructure, road access; as well as water, sewer, and broadband infrastructure and capacity expansions that were made to support the intended economic outcomes.
- Site specific investments – Costs such as acquisition of a parcel and/or building, grading of specific lots, shell building construction, and building improvements – should only be included in the calculation when they are for the underlying property being sold.
- Contribution Source(s) – The source(s) of other contributions must be identified (i.e. local, state, federal funds). While these contributions should be recognized, they should only be included in the pro-rata calculation when returns from the investment are expected. Local contributions should always be included.

For example, federal EDA funds may not be required to be paid back, if the purpose of the sales transaction satisfies the purpose of the funds (i.e. transfer to private company for job creation and capital investment). In situations where payback of state or federal funds is required, these amounts should be included in the calculation.

XIV. Outcomes Reporting

Grant Recipients will be expected to provide to the Commission data on actual outcomes accomplished during the project period and for a period beyond. The Commission is currently designing and testing outcome and performance reporting methodologies that align with the anticipated outcomes provided in your grant application. Final design of those methodologies is not yet complete, and Grant Recipients will be contacted by the Commission's Performance Analyst staff at periodic future dates to be determined.

XV. Records Retention

As stated in Commission Grant Agreement, all records pertaining to a TRRC grant should be retained by the Grantee for at least three years after the closing of the grant period. Records pertaining to equipment and real property assets must be maintained for the life of the asset as determined by the Commission.