



AGENDA

INCENTIVES AND LOAN COMMITTEE

Electronic Conference Call Meeting

Wednesday, November 4, 2020

9:30 A.M.

If accessing the meeting from the internet via a computer or smartphone, use this link to access the electronic meeting:

<https://virginiatobaccocommission.my.webex.com/virginiatobaccocommission.my/j.php?MTID=m6bcf52169e48976ad31d08521244ba55>

If accessing the meeting by telephone dial: 1-408-418-9388 (US toll) and utilize the meeting number: 132 724 1824# and meeting password: dYfbPmwP379 (39327697 from phones and video systems)

If you have any access issues at the time of the meeting, contact David Bringman via email at DBringman@revitalizeva.org or call 804-894-9659.

Welcome and Call to Order

Evan Feinman, Executive Director

Items Related to Remote Meeting

Andy Sorrell, Deputy Director

Call of the Roll

Evan Feinman, Executive Director

Approval of the 9/28/20 Minutes

(published on website)

TROF Policy Discussion

Evan Feinman, Executive Director

Other Business

Evan Feinman, Executive Director

Public Comments

Adjournment

Tobacco Region Opportunity Fund (TROF) Overview & Policy Discussion

November 4, 2020

Overview

The purpose of the TROF program is to help make localities in the Tobacco Region more attractive to potential business expansion or attraction projects. It accomplishes this goal by providing performance-based monetary grants and loans to localities for the purposes of supporting specific projects.

Projects are evaluated based on job creation, workforce participation rate, community affluence, prevailing community wage, and newly-created taxable assets.

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.

Current Operational Framework

Eligible Applicants - The Commission accepts TROF Grant and Loan applications from localities and other local or regional political subdivisions within the Tobacco Region. TROF performance agreements are three-party agreements typically among the eligible applicant, its industrial or economic development authority (IDA/EDA), the Company and the Commission.

Application Evaluation – TROF applications are evaluated and amounts are awarded commensurate with the project's impact on the community and/or region in which the project is locating. Calculation of award amounts is based on the following criteria: 1) project competitiveness; 2) industry type; 3) provision of a weighted annual average salary above the locality's prevailing wage; 4) number of new or saved jobs; and 5) the amount of private taxable capital investment.

Award Amounts – The award amount varies based upon the parameters of a project and the availability of Commission funds. Staff uses a TROF incentive estimator that takes into account application variables including location, employment, wages and private taxable investment. Larger incentives are typically available for projects that will provide high numbers of jobs above the prevailing average wage with large amount of private taxable capital investment. In order to be an eligible project, an incentive estimate for a grant or loan award must be at least \$10,000.

Type of Awards - TROF awards are typically composed of a grant and a loan portion. The Commission's incentive formula provides a total possible award amount based on the project variables and half of the total award is offered as a grant and half as a zero-interest loan.

Award Disbursement – Currently, TROF grants may be paid in advance before the company has performed, or paid in arrears after the company has performed at the election of the local applicant. Because the purpose of TROF loans is to provide affordable financing to assist with initial development of the project, loans are only offered prior to performance. All TROF awards paid in advance require the local applicant to obtain adequate security to fully cover the amount of award funds if full or partial repayment is necessary.

Performance Periods – The typical performance period is 36-months from the award date of the project. Performance period extension may be requested prior to the end of the period. The first extension may be approved administratively and subsequent extensions require Commission approval.

Performance Evaluation - The Commission utilizes confidential data from the Virginia Employment Commission and local Commissioners of Revenue to verify employment and capital investment. As performance-based grants and loans, the Commission monitors performance and requires repayment if performance targets are not met for projects that receive awards in advance. Projects that choose to receive funds in arrears may receive full or prorated payment at the conclusion of the performance period once the company's actual performance is determined.

Repayment (or "Clawbacks") - In instances when funds are disbursed in advance and the company does not fully attain its performance obligations, the Commission expects to receive repayment of some or all of the disbursed funds. If the company does not make a minimum investment of at least \$1 million (or half of \$1 million when capital investment is less than \$1 million), it must repay the entire grant. If a project meets the minimum investment target, but does not meet its full capital investment and/or job creation targets, it must repay a prorated amount. For TROF loans, if the minimum investment requirement is not met, 5% is added to the remaining loan balance due. If the company refuses or is unable to repay then the local applicant is obligated to make the Commission whole. It is routine to negotiate repayment agreements with localities to avoid negative budget impacts, particularly with smaller or less-affluent localities.

Current Application Process

Incentive Estimate - TROF projects begin with an incentive estimate that may be requested online via the Commission's application portal. In general, these requests come from local and regional economic development staff pursuing a potential project.

TROF incentive estimate requests are evaluated by staff to determine if the project is eligible and if so, what incentive amount may be available. Staff provides incentive estimates via the above application portal and such estimates are valid for 60 days from issuance (and may be renewed upon request).

Although a TROF estimate is not required prior to submitting a TROF application, requesting an estimate is strongly suggested to ensure a proposed project ultimately meets the intent and purpose of the TROF program. To ensure projects are eligible from the very beginning, staff confirms project eligibility at the estimate stage by requiring the following application variables from an applicant:

- 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 will 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.

Application & Commission Review - If a company desires the TROF incentive provided in an estimate and is willing to promise to meet the described project parameters, it will partner with an eligible applicant who submits an official TROF program application via the same above online application portal. Applications are accepted on a rolling basis.

Upon receipt of an eligible and completed application, staff provides the Incentives and Loan Committee (the “Committee”) with a copy of the application and incentive estimate along with a staff recommendation via email. All completed and eligible applications are provided to the Committee for review and comment prior to approval. Staff provides the Committee with several days to review and comment on the application. If no comments or concerns are received and there are no unresolved issues or questions, staff will route the application to the Executive Director for approval. If Committee members have unresolvable questions or other concerns, staff will hold action on the application until the Committee is able to meet and discuss and vote on the application.

In instances in which the award amount is in total (both grant and loan) under \$1 million, the Executive Director has the final approval authority. In instances in which the award amount in total is over \$1 million and under \$3 million, the Committee has final approval authority. For all award amounts over \$3 million, the Full Commission must approve any award.

TROF Policy Questions to Discuss

a) *In advance or only in arrears?* TROF is one of the only state incentives that is still offered in advance (i.e., before the company has performed), though there is an option for offering an award in arrears. Offering incentives in advance can be helpful to a company proposing a capital-intensive project like construction of production facilities – but is riskier because it may involve a return of funds (a “clawback”) if performance metrics are not achieved. The Commission requires an eligible applicant (i.e. a “Locality”) to confirm it has adequate security to repay the full amount of advanced funds in case the company is unable or unwilling to repay the advanced funds. If the company does not provide the clawback, the Locality is required to repay the Commission. In the past, Localities

did not have adequate security (regardless of their assurances to Commission staff) to cover the cost of repayment and repayment has had to come from their general funds or other sources while the Locality pursued time consuming and expensive legal action to recoup funds.

Staff recommends that the Commission continue offering TROF grants both in advance or arrears with adequate security.

b) *Threshold for Prospect Incentive Funds?* Some very large regionally transformative projects don't fit well within the existing incentive estimator framework. The few projects with thousands of jobs and hundreds of millions of capital investment simply command greater attention and competition among states than do smaller projects, which is why the Commission created the additional Prospect Incentive Fund (the "Fund").

Staff recommends that the threshold to access the Fund be competitive projects that:

- Provide at least 400 full-time new jobs; OR
- Provide a taxable capital investment of at least \$250 million dollars.

This threshold is similar to VEDP's MEI (Major Employment and Investment) project definition (though MEI requires both employment and cap ex. to be met), except a project must satisfy either job creation or capital investment criteria as opposed to both. MEI Project is defined as:

"Major Employment and Investment project" or "MEI project" means a high-impact regional economic development project in which a private entity is expected to make a capital investment in real and tangible personal property exceeding \$250 million **and** create more than 400 new full-time jobs, and is expected to have a substantial direct and indirect economic impact on surrounding communities. Va. Code § 2.2-2260.

c) *Expansions of Existing Facilities?* Expansions of existing facilities in a Locality may not always be the most competitive projects because the facility already exists and it often makes sense to expand an existing facility than to build a new one. The Commission always likes to see companies expanding in communities, however, TROF should be reserved for truly competitive projects that are seriously considering other sites outside of Virginia for an expansion.

For facility expansions that otherwise meet TROF parameters, **staff recommends** only incenting expansion projects that demonstrate a true and verified (from the Company in writing) competition for the project.

d) *Minimum Investment Target?*

For TROF grants the minimum investment target is what is required to be invested by the company before any of the grant is earned.

Currently, the minimum investment target is \$1 million for projects with capital investment \$ 1 million or more and for projects with a capital investment of under \$1 million it is half of the capital investment.

For TROF loans a slightly different approach is used. Since TROF loans are disbursed in advance and are repaid, minimum targets of half the capital investment and half of the jobs are used. If the company does not meet the minimum targets by the end of the 36 month performance period, it must repay the remaining outstanding loan balance plus 5% (of the outstanding balance).

Staff recommends that the minimum investment target for TROF grants be:

- \$1 million for projects generating \$2 million or more in private taxable capital investment, and
- Half of the private taxable capital investment for projects generating less than \$2 million in private taxable capital investment.

The above staff recommendation will provide a smaller minimum investment target for projects that have lower capital investment targets.

Staff recommends that the minimum targets for TROF loans remain the same.

e) Minimum Application Parameters?

- 1) Salary - Must provide an average weighted annual salary above the locality's prevailing average wage (not including benefits).
- 2) Sector - Must be in a traded economic sector (i.e., projects bringing in outside capital and jobs)
- 3) TROF Minimum Award Amount – Currently set for projects that the TROF incentive estimator formula is at least \$10,000 (for a grant or a loan).
- 4) Competitive – New projects must be competitive. Expansions must demonstrate verifiable competition for the project.

Staff recommends the above minimum application parameters remain in place.

f) Award Amount Authorizations?

The Committee reviews all eligible submitted any TROF applications regardless of award amounts and unless the Committee has issues or concerns with an application, the following award authorizations are permitted:

- 1) TROF grants and loans up to the lesser of either the amount requested by the applicant or the amount calculated by the incentive estimator (or 150% of that amount if a TROF loan), can be approved by the Executive Director for awards up to \$1 million.
- 2) The Committee must approve all TROF grant or loan awards greater than \$1 million and up to \$3 million.
- 3) The Full Commission must approve all TROF grant or loan awards over \$3 million.

Staff recommends the above wording for TROF award amount authorizations, which remains the same, but includes clarifying language.